



# STATE OF HAWAI'I

## PROGRAMS AND SERVICES REFERENCE MANUAL FOR PERSONS WITH DISABILITIES

### DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118

Honolulu, HI 96813

Phone: (808) 586-8121

Fax: (808) 586-8129

TTY: (808) 586-8162

Website: <https://health.hawaii.gov/dcab/>

Email: [dcab@doh.hawaii.gov](mailto:dcab@doh.hawaii.gov)

This Manual was originally published by the Commission on Persons with Disabilities in March 1999. The Manual has been updated by the Disability and Communication Access Board in 2003, 2004, 2006, 2008, 2014, 2018, and 2023. All prior versions should be discarded.

APPROVED JULY 20, 2023

## Table of Contents

Introduction and Purpose .....	6
Chapter 1: Who is Protected Under the ADA .....	8
1.1 Individuals Who have a Physical or Mental Impairment.....	8
1.2 Individuals Who have a Record of an Impairment.....	9
1.3 Individuals regarded as having an Impairment.....	9
1.4 Qualified Person with a Disability .....	10
Chapter 2: Customer Service Needs .....	12
2.1 Individuals with Mobility Disabilities .....	12
2.2 Individuals Who are Blind or have Low Vision.....	12
2.3 Individuals Who are Deaf, Hard of Hearing or Deaf-Blind.....	13
2.4 Individuals with Chronic Health Conditions.....	13
2.5 Individuals with Cognitive Disabilities .....	14
2.6 Language and Terminology.....	15
2.7 Customer Service Practices .....	16
Chapter 3: Administrative Requirements .....	22
3.1 Designate an ADA Coordinator .....	22
3.2 Notice of the ADA's Provisions.....	22
3.3 Establishing and Publishing Grievance Procedures.....	23
Chapter 4: General Nondiscrimination Requirements.....	24
4.1 Equal Opportunity to Participate .....	24
4.2 Reasonable Modifications of Policies, Practices, or Procedures .....	24
4.3 Surcharges and Additional Requirements .....	25
4.4 Integrated Settings and Separate Programs .....	26
4.5 Eligibility Criteria .....	28
4.6 Safety Requirements .....	28
4.7 Unnecessary Inquiries .....	29
4.8 Personal Devices and Services.....	30
4.9 Maintenance of Accessible Features .....	31
4.10 Contracting with External Organizations and Procurement Contracts.....	31
4.11 Licensing and Certification .....	31
4.12 Retaliation or Coercion .....	33

4.13 Association.....	33
Chapter 5: Communication Access Requirements	34
5.1. Auxiliary Aids and Services for People Who are Blind or have Low Vision	34
5.2 Auxiliary Aids and Services for People Who are Deaf, Hard of Hearing, or Deaf-Blind	35
5.3 Auxiliary Aids and Services for People with Speech Disabilities .....	35
5.4 Auxiliary Aids and Services for People with Cognitive and Psychiatric Disabilities .....	36
5.5 How to Choose the Type of Auxiliary Aid or Service .....	36
5.6 Companions.....	38
5.7 Use of Accompanying Adults or Children as Interpreters.....	38
Chapter 6: Auxiliary Services.....	39
6.1 Qualified Sign Language Interpreter .....	39
6.2 Realtime Captioning Service Providers .....	43
6.3 Computer-assisted Notetakers.....	43
6.4 Auxiliary Personnel .....	44
6.5 Checklist for Providing Auxiliary Services.....	44
Chapter 7: Printed Information.....	45
7.1 Large Print.....	46
7.2 Braille .....	48
7.3 Audio Recorder.....	49
7.4 Electronic Format.....	50
7.5 Checklist for Ensuring Printed Literature is Accessible .....	50
Chapter 8: Announcements, Notices, and Publicity Materials.....	52
8.1 Sample Statements for Announcements, Notices, and Publicity Materials .....	52
8.2 Checklist for Ensuring Announcements, Brochures, and Publicity are Accessible to Persons with Disabilities .....	54
Chapter 9: Registration for Activities or Events.....	55
9.1 Checklist for Ensuring the Registration Process is Accessible .....	55
Chapter 10: In-Person Events and Activities.....	57
10.1 Facility Access Considerations.....	57
10.2 Catering or Banquet Services .....	57
10.3 Checklist for Ensuring In-person Events and Activities are Accessible.....	59

Chapter 11: Virtual Events and Activities .....	60
11.1 Know Your Audience .....	60
11.2 Interactive Features .....	60
11.3 Platform Features .....	60
11.4 Meeting and Event Notices .....	61
11.5 Presentation Handouts .....	61
11.6 Screen Sharing .....	61
11.7 Prinning the Interpreter.....	62
11.8 Technical Issues.....	62
11.9 Checklist for Ensuring Virtual Events and Activities are Accessible.....	62
Chapter 12: Audio and Audiovisual Communications .....	63
12.1 Video .....	63
12.2 Public Service Announcements.....	64
12.3 Television Programs and Livestream Events .....	65
12.4 Radio Programs.....	66
12.5 Checklist for Ensuring that Audio and Audiovisual Communications are Available.....	66
Chapter 13: Phone Services .....	68
13.1 TTYs (Teletypewriters) .....	68
13.2 Telecommunications Relay Service (TRS) .....	68
13.3 Video Relay Service (VRS) .....	70
13.4 Videophones (VP).....	72
13.5 Regular Phone Contact with the Public .....	72
13.6 Emergency Services.....	73
13.7 Hot Lines and Other “Special Lines” .....	73
13.8 Checklist for Ensuring Telephone Services are Accessible .....	73
Chapter 14: Websites.....	75
14.1 Checklist for Ensuring that Websites are Accessible .....	75
Chapter 15: Social Media.....	76
15.1 Checklist for Ensuring Your Social Media Platform is Accessible.....	76
Chapter 16: Service Animals.....	77

16.1 Checklist for Ensuring a Facility or Site is Accessible to People with Service Animals .....	80
Chapter 17: Facility Access.....	81
17.1 New Construction and Alteration of Buildings, Facilities, and Sites.....	81
17.2 Existing State Buildings and Facilities .....	82
17.3 Private Facilities Leased by the State.....	82
17.4 Components of an Accessible Site for a Program, Service or Activity .....	83
17.5 Checklist to Ensure Facility Access .....	83

## Introduction and Purpose

The State of Hawai'i shall strive to include people who have disabilities in all programs, services, and activities that are available to the general public. The "Programs and Services Reference Manual for Persons with Disabilities" establishes a consistent approach to providing good public service and equal access for people who have disabilities to programs and services offered by the State of Hawai'i consistent with federal and state laws. The purpose of this Reference Manual is to provide program managers and staff with a reference guide for planning a program or service to ensure the inclusion of individuals who have disabilities as customers or program participants.

This Reference Manual is not intended for use when accommodating employees with disabilities, although many of the principles are the same. Contact your Departmental Human Resources Office or Reasonable Accommodation Coordinator for guidance relating to reasonable accommodation for job applicants and employees. The Department of Human Resources Development maintains a list of Reasonable Accommodation Coordinators for the State of Hawai'i's Executive Branch. The list is available at <https://dhrd.hawaii.gov/eo/resources/ra-coord/>.

To obtain this Reference Manual, contact your Departmental ADA Coordinator or:

Disability and Communication Access Board (DCAB)

1010 Richards Street, Room 118

Honolulu, HI 96813

(808) 586-8121

This Reference Manual contains many examples. The examples noted are for illustrative purposes only to highlight a requirement or rule. The examples do not necessarily reflect poor or incorrect past practices of any department or agency mentioned.

The State of Hawai'i is covered in its entirety by the provisions of Title II of the federal Americans with Disabilities Act (ADA), which applies to state and local governments. In addition, programs that receive federal financial assistance are covered by Sections 503 and 504 of the Rehabilitation Act of 1973, as amended. It should be noted that the provisions for both laws are virtually identical, although failure to comply with the latter may result in additional penalties and withdrawal of federal financial assistance. Both laws prohibit discrimination against qualified individuals who have disabilities in accessing programs and services of state and local government.

State law (§368-1.5 (a), Hawai'i Revised Statutes) also states that "[n]o otherwise qualified individual in the State shall, by reason of the individual's disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by state

agencies, or under any program or activity receiving state financial assistance.” Thus, both §368-1.5 (a), Hawai‘i Revised Statutes (HRS) and the ADA may be violated if access to programs and services are not provided to a qualified person with a disability.

The requirements, guidelines, and examples set forth in this Reference Manual are primarily chosen to ensure compliance with federal law, that is, Title II of the ADA. The information in this Reference Manual does not constitute a legal opinion. It represents informal technical assistance and guidance based upon federal documents relating to the ADA, supplemented by relevant state documents and examples. Ongoing technical assistance on aspects of this Reference Manual is available from your Departmental ADA Coordinator or the Disability and Communication Access Board. Legal advice should be obtained from your respective Deputy Attorney General.

Some programs or services may have additional service requirements (e.g., in-class educational or instructional curricula for students with disabilities, housing services for tenants, rehabilitation for incarcerated prisoners) that may be mandated by other laws. This Reference Manual does not intend to cover all aspects of programming for every possible state service. More information can be obtained from the Disability and Communication Access Board in those areas and about laws, such as the Individuals with Disabilities Education Act, Federal Fair Housing Act, Uniform System for Handicapped Parking Act, Twenty-First Century Communications and Video Accessibility Act (CVAA), and Air Carrier Access Act, that impact the civil rights of people who have disabilities. These laws may overlap provisions described in this Reference Manual within certain program areas and may require additional programming.

# Chapter 1: Who is Protected Under the ADA

Federal and state laws prohibit discrimination against any “qualified person with a disability.”

Title II of the ADA protects three categories of individuals with disabilities:

- 1) individuals who have a physical or mental impairment that substantially limits one or more major life activities;
- 2) individuals who have a record of a physical or mental impairment that substantially limited one or more of the individual's major life activities; and
- 3) individuals who are regarded as having such an impairment, whether they have the impairment or not.

## 1.1 Individuals Who have a Physical or Mental Impairment

Physical impairments include physiological disorders or conditions, cosmetic disfigurements, or anatomical loss affecting one or more of the body systems.

EXAMPLES: Orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, attention deficit hyperactivity disorder (ADHD), human immunodeficiency virus (HIV) infection (symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

Mental impairments include mental or psychological disorders.

EXAMPLES: Intellectual/developmental disability, organic brain syndrome, emotional or mental illness, dyslexia, and specific learning disabilities.

Simple physical characteristics such as baldness, left-handedness, the color of one's eyes, hair, or skin or age do not constitute physical impairments. Similarly, disadvantages attributable to environmental, cultural, or economic factors are not impairments. The definition does not include common personality traits such as poor judgment or a quick temper, where these traits are not diagnosed symptoms of a mental or psychological disorder.

Physical or mental impairment does not include homosexuality or bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, other sexual behavior disorders, compulsive gambling, kleptomania, pyromania, and psychoactive substance use disorders resulting from current illegal use of drugs.

Drug addiction is an impairment under the ADA. A department or agency, however, may base a decision to withhold services or benefits in most cases on the fact that an addict is engaged in the “current and illegal” use of drugs. “Illegal use” of drugs means the use of one or more drugs, the possession or distribution



of which is unlawful under the Controlled Substances Act. It does not include use of controlled substances pursuant to a valid prescription, or other uses that are authorized by the Controlled Substances Act or other federal law. "Current use" is the illegal use of a controlled substance that occurred recently enough to justify a reasonable belief that a person's drug use is current, or that continuing use is a real and ongoing problem. Protected individuals include persons who have successfully completed a supervised drug rehabilitation program or have otherwise been rehabilitated successfully and who are not engaging in the current illegal use of drugs. Additionally, discrimination is prohibited against an individual who is currently participating in a supervised rehabilitation program and is not engaging in the current illegal use of drugs.

Alcohol is not a "controlled substance," but alcoholism is considered a disability.

To constitute a "disability" a condition must substantially limit a major life activity. Major life activities include, but are not limited to, activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

## **1.2 Individuals Who have a Record of an Impairment**

Federal and state laws protect not only those individuals with disabilities who actually have a physical or mental impairment that substantially limits a major life activity, but also those individuals with a record of such an impairment. This protected group includes a person who has a history of an impairment that substantially limited a major life activity but who has recovered from the impairment, as well as a person who has been misclassified as having an impairment.

**EXAMPLE:** A person had cancer five years ago. The cancer was significantly limiting in the person's life at that time, with an inability to work due to intensive and severely debilitating chemotherapy and radiation treatments. The cancer is now in remission and the person is now functioning well. This is a person with a record of an impairment (cancer).

**EXAMPLE:** A person with a severe episode of post-traumatic stress disorder at age 20 voluntarily sought psychiatric care. After treatment and in-patient hospitalization, this person is now able to function adequately. Even though this person does not now have an impairment, this person has a record of an impairment (mental illness).

## **1.3 Individuals regarded as having an Impairment**

Federal and state laws also protect individuals who are regarded as having a physical or mental impairment that substantially limits a major life activity, whether or not individuals actually have an impairment.

EXAMPLE: A person with mild diabetes controlled by medication is barred by the staff of a state-sponsored summer camp from participation in certain sports because of this person's diabetes. Even though this person does not actually have an impairment that substantially limits a major life activity, this person is protected under the law because this person is treated as though this person has an impairment.

EXAMPLE: A person is excluded from a state-sponsored soccer team because the coach believes rumors that this person is infected with the HIV virus. Even though these rumors are untrue, this person is protected under the law because this person is being subjected to discrimination by the state based on the belief that this person has an impairment that substantially limits this person's major life activities (i.e., the belief that this person is infected with HIV).

#### **1.4 Qualified Person with a Disability**

In order to be an individual protected under disability discrimination laws, an individual must be a "qualified" individual with a disability. To be qualified, an individual with a disability must meet the essential eligibility requirements for the receipt of services or participation in programs, activities, or services of the state with or without reasonable modifications to a public entity's rules, policies, or practices; removal of architectural, communication, or transportation barriers; or provision of auxiliary aids and services.

The "essential eligibility requirements" for participation in many activities of the state may be minimal.

EXAMPLE: The Department of Taxation provides information about their programs, activities, and services upon request. In such situations, the only "eligibility requirement" for receipt of such information would be a request for it.

However, under other circumstances, the "essential eligibility requirements" imposed by a state entity may be quite stringent.

EXAMPLE: The medical school at the University of Hawai'i may require those admitted to its program to have successfully completed specified undergraduate science courses.

Health and safety factors can be taken into consideration in determining who is qualified. An individual who poses a direct threat to the health or safety of others will not be "qualified." A "direct threat" is a significant risk to the health or safety of others that cannot be eliminated or reduced to an acceptable level by the public entity's modification of its policies, practices, or procedures, or by the provision of auxiliary aids or services. Determination that a person poses a direct threat to the health or safety of others may not be based on generalization or

stereotypes about the effects of a particular disability. The determination must be based on an individualized assessment that relies on current medical evidence, or on the best available objective evidence, to assess the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate or eliminate the risk.

EXAMPLE: An adult individual with active tuberculosis wishes to tutor elementary school children in a volunteer mentor program operated by the Department of Education. The board/department may refuse to allow the individual to participate on the grounds that the mentor's condition would be a direct threat to the health or safety of the children participating in the program only if the condition is contagious, and the threat cannot be mitigated or eliminated by reasonable modifications in its policies, practices, or procedures.

## Chapter 2: Customer Service Needs

This chapter provides information about individuals categorized into five general groupings:

- 1) Individuals with mobility disabilities;
- 2) Individuals who are blind or have low vision;
- 3) Individuals who are deaf or hard of hearing;
- 4) Individuals with chronic health conditions; and
- 5) Individuals with cognitive disabilities.

Although the groupings are not exhaustive or specifically categorized as such in the ADA, the groupings will guide you when anticipating how to provide customer service to individuals with disabilities. Remember that every individual is unique and specific needs will always be personalized. Use the information in this chapter to provide a framework for your planning, but always remember to talk specifically with any individual with a disability who has self-identified in order to provide the best service to his or her unique needs.

### 2.1 Individuals with Mobility Disabilities

Individuals with mobility disabilities include those who use wheelchairs, as well as those who are ambulatory but who have restrictions to mobility.

The primary needs of individuals who have mobility disabilities include:

- accessible facility;
- safe emergency exit;
- access for a service animal; and
- personal assistance handling food, materials, and other items.

If the agency's facility is particularly large, such as a convention center, orientation of the facility by way of a map is important, indicating the location of accessible features, especially if all elements are not accessible.

### 2.2 Individuals Who are Blind or have Low Vision

Individuals who are blind or who have low vision may have a variety of residual visual skills and mobility capabilities. They may utilize a guide dog, white cane, or no assistive mobility device at all; some individuals will prefer a sighted guide to provide mobility and orientation.

The primary needs of individuals who are blind or who have low vision include:

- accessible facility, particularly free from safety hazards and protruding objects, with tactile signage;
- safe emergency exit;

- written information presented in an alternate format such as Braille, large print, audio recorder, or electronic format;
- access for a service animal;
- a well-lit facility to maximize seeing; and
- personal assistance in picking up and handling items such as food and materials.

Regardless of an individual's level of independent mobility, a person who is blind or who has low vision may need some orientation to your facility to navigate the site. The orientation should include the location of the restrooms, telephones, drinking fountains, registration desk, elevators and/or stairs, eating facilities, and guest accommodations, if appropriate. An orientation can be provided by a sighted person navigating the person who is blind or who has low vision through the facility, by an audio recorder explaining the site layout, or by a tactile map of the site. When orienting a person to the site, it is important to note where a person might take their guide dog to be relieved or walked. It is also important to inform a person who is blind or who has low vision of the appropriate emergency exit procedures at the site.

### **2.3 Individuals Who are Deaf, Hard of Hearing or Deaf-Blind**

Individuals who are deaf or hard of hearing have a range of hearing capabilities. The residual hearing of people who are deaf or hard of hearing may vary considerably. Some may not be able to hear any sound, while others may have difficulty with certain decibel levels or being able to distinguish between various types of sound (voice, music, background noise, etc.).

The primary needs of persons who are deaf or hard of hearing include:

- enhancement of spoken information that is presented by using an assistive listening system, sign language interpreter, or captioning;
- an accessible facility, particularly with a text telephone and amplification devices;
- access for a service animal; and
- identifying the nearest emergency exit that may have a visual alarm.

Although some people who are deaf or hard of hearing may have lipreading skills, it is not appropriate to rely upon lipreading for communication. Under the best circumstances of one-to-one communication, a person who is a good lip reader will only understand approximately 30 percent of visible speech. Therefore, it is necessary to plan an alternative to communicate other than relying on lipreading.

### **2.4 Individuals with Chronic Health Conditions**

Persons with chronic health conditions have various needs, each unique to the person's medical condition. Many people with chronic health conditions may not

appear to have a visible disability. When planning your program, service, or activity, you will most likely only know that a person needs arrangements for an auxiliary aid or service, due to disability, by special request. Some of the more common conditions and their requirements include:

- a person with diabetes may need access to refrigeration in order to store insulin;
- a person who is hypoglycemic may need immediate and around-the-clock access to food such as juices or fruit;
- a person who uses a portable respirator or dialysis may need space for treatment;
- a person with a metabolic condition may have special dietary requirements; and
- a person with chemical sensitivity may need a smoke-free or fragrance-free environment.

## **2.5 Individuals with Cognitive Disabilities**

Individuals with learning or cognitive disabilities include people who have intellectual or developmental disabilities, learning disabilities, or traumatic brain injuries. The nature of an individual's cognitive disability will vary according to the specific impairment or neurological deficit. Individuals may have difficulty writing, reading, or speaking (particularly at a fast pace), processing auditory information (particularly complex information), maintaining attention, comprehending directions, or processing input from multiple sources. Similar to individuals with chronic health conditions, people with cognitive disabilities may not appear to be visibly disabled and you will likely only know that a person needs special arrangements by request.

Many of the accommodations or aids which are suitable for individuals with other disabilities will also be appropriate to meet the needs of individuals with cognitive disabilities. Some of the possible accommodations for an individual with a cognitive disability include:

- written materials in an alternate format such as audio recorder, in simplified outline format, summary format, or a document that includes graphics, when possible;
- color coding of materials for easy reference;
- personal assistance in notetaking, providing orientation, etc.;
- permission to use personal audio recorders to record information for later review.

It is important to recognize that the ADA does not expect that the content of your program be changed in order to be understood by a person with a cognitive disability. In fact, there are presentations that are not understood by many people in an audience, not because of a cognitive disability but because of the

sophistication of the content. However, efforts should be made to maximize the ability of a person to understand the content of whatever is being presented if comprehension is the result of an impairment that can be at least partially compensated for by an accommodation or auxiliary aid.

## **2.6 Language and Terminology**

Quality service also involves using language that reflects a sensitivity to current preferred terminology.

### **Why is the correct terminology important when referring to a person with a disability?**

Language is the basis of your thoughts and attitudes about people with disabilities. Terminology continually evolves. Staying current is important, not to show that you are “politically correct,” but to communicate effectively and appropriately on the subject of disability. Without being aware of what is current and appropriate language, a person may inadvertently offend another person or convey a message that they did not intend to convey. Using “people first” language emphasizes the individual and not your perception of any possible limitation caused by the presence of a disability.

### **What does “people first” language mean?**

It means that you refer to a “person” first, then to his or her disability. For example, say a “person with a disability” rather than a “disabled person.” If you refer to an individual’s disability, (i.e., blind person, deaf person, etc.), you inappropriately make that characteristic more important than the person.

### **When should I mention that a person has a disability?**

Use common sense. Let your choice of words be guided by an awareness of how people prefer to be described. Mention a person’s disability only if it is relevant to the issue. If it is not relevant, don’t mention it. Even more importantly, when you know a person’s name, use it first rather than an indirect reference to a “person with a disability.”

### **How do I avoid segregation when talking about people with disabilities?**

Be careful not to use language like “we or they,” which suggests segregation. Avoid grouping all individuals with disabilities together. For example, do not refer to a particular group as “the disabled,” “the deaf,” or “the blind.”

### **I’ve heard so many different ways to describe persons with disabilities. How do I know what is correct?**

Avoid trendy terminology like “challenged,” “handi-capable,” “differently-abled,” or “physically-challenged.” These terms are mostly invented and used by people without disabilities. Some people with disabilities may choose these terms, but

the majority believe these terms are condescending and prefer they not be used. Most people with disabilities prefer to be called a “person with a disability” or a “person who has a disability.”

### **What is the proper way to speak to or write about someone who has a disability?**

In speaking or writing, remember that children or adults with disabilities are like everyone else -- except they happen to have a disability. Therefore, here are a few tips for improving your language related to disabilities:

- speak of the person first, then the disability;
- emphasize abilities, not limitations; and
- don't give unsolicited praise or attention to a person with a disability; don't patronize the person.

### **How are the words “Impairment,” “Disability,” and “Handicap” different?**

Each of these words has a distinctly different meaning. The following are definitions for each:

- Impairment: A deviation from normal development, structure or function. Examples where impairments can occur are: hearing (nerve damage), visual (glaucoma), mobility (crushed vertebrae causing paralysis).
- Disability: Refers to a functional limitation. Examples of disabilities are: 75 percent loss of hearing, tunnel vision, or paralysis from the neck down.
- Handicap: A situational disadvantage that people with disabilities often face. Examples of handicaps would be: a person with tunnel vision not being able to obtain a driver's license, or a handicap for a person with paralysis who uses a wheelchair would be when that person cannot get into a building because the only entrance has stairs.

## **2.7 Customer Service Practices**

Service to customers and other program participants can be greatly enhanced by training your staff on the most appropriate way to interact or communicate with people with disabilities, learning to respect their individual needs and preferences without being patronizing, stigmatizing, or presuming stereotypes.

### **What do I do when a person with a disability enters my program?**

Do not be afraid to make a mistake when meeting someone with a disability. Try following the suggestions below and imagine how you would react if you were in a similar situation. Keep in mind that a person who has a disability is a person and, like anyone, is entitled to the dignity, consideration, respect and rights you expect for yourself.



- **Place the person before the disability** out of respect for individual uniqueness. Say “person with a disability” rather than “disabled person.”
- **Avoid referring to a person by the disability that person has**, e.g., “an epileptic.” A person is not a condition. Rather, the individual is “a person who has epilepsy.”
- **A person is not “bound” or “confined” to a wheelchair.** The individual uses the wheelchair to increase mobility and to enhance independence. It is more accurate to say, “person who uses a wheelchair” or “wheelchair user.”
- **Treat adults as adults.** Address a person with a disability by the person’s first name only when extending the same familiarity to all others present. (Never patronize a person by patting the person on the head or shoulder.)
- **Relax.** If you don’t know what to do, allow the person who has a disability to help put you at ease.
- **If you offer assistance, wait until the offer is accepted.** Then listen for or ask for instructions. Respect the person’s right to indicate the kind of help needed. Do not be offended if your help is not accepted, and you need not insist. Some people may be able to help themselves.
- **Speak directly to the person with the disability.** Even if the individual with a disability is accompanied by a friend or family member, remember that your conversation is with that person, not the friend or family member.
- **Be considerate** of the extra time it may take for a person with a disability to get things said or done.
- **Keep a clipboard handy** at the service counter for an individual unable to reach or to use the counter when signing papers.
- **Know where accessible services are located.** Learn where the accessible restrooms, dressing rooms, drinking fountains, and telephones, including TTYs and telephones with amplification, are located.

The following are some suggestions about how to interact with individuals who have specific disabilities:

### **People with hearing disabilities (Deaf or Hard of Hearing)**

- **Ask** people how they prefer to communicate.
- **To get the attention of a person with a hearing disability**, lightly touch the individual or wave your hand. Look directly at the person and speak clearly and expressively to establish whether or not the person can read your lips. Not all people who are deaf or hard of hearing can lipread. For those who do lipread, be sensitive to their needs by positioning yourself facing them and the light source. Keep your hands or other objects away from your mouth when speaking.

- **Use a normal tone of voice** unless you are asked to raise your voice. Shouting or exaggerating your words will not help.
- **If you cannot understand what is said**, ask the person to repeat it or write it down. Do not act as if you understand unless you do.
- **If the person cannot lipread**, you can try communicating by writing notes. However, an individual who is deaf may not be proficient in written English because American Sign Language (ASL) may be the person's first language.
- **If a person who is deaf uses an interpreter**, always speak directly to the person, not the interpreter. Allow time for the information to be fully interpreted and understood.
- **Clear face masks and clear face shields** may improve communication with people who are deaf or hard of hearing. During a health threat, such as the COVID-19 pandemic, wearing a face mask gives people some protection. At the same time, many masks hide the lips and half of the face, which makes it harder to understand sign language and read lips.

#### **People with speech disabilities**

- **If you have trouble understanding a person's speech**, do not be afraid to ask the person to repeat what the person is saying even three or four times. It is better for the person to know that you do not understand rather than making an error or doing the wrong thing. If you still cannot communicate, try using paper and pen. Communication is your goal.
- **Repeat what you heard back to the person.** Ask if you understood correctly.
- **Speech disabilities do not imply limited intelligence.** A person with a speech impairment does have things to say worth understanding.
- **Do not simplify your own speech or raise your voice.** Remember, the person can hear and understand you.

#### **People with physical disabilities**

- **Shake hands when it is appropriate.** A person with limited hand use or who uses a prosthesis can usually shake hands.
- **Don't lean or hang on to a person's wheelchair.** This is similar to leaning or hanging on a person and is generally considered annoying. The chair is part of the personal body space of the person who uses it. Stand next to the person's wheelchair rather than lean or hold on to it.
- **Ask if the person needs assistance.** If yes, let the person know when you are ready to start pushing his or her chair. Don't go too fast. Be aware of the distance between the chair and other people. It is embarrassing for you and the person to "clip" strangers. When negotiating

up or down steps, ramps, or curbs, ask the person how the person would like to proceed.

- **Try to position yourself at eye level.** When speaking to a person using a wheelchair for more than a few minutes, try to find a seat for yourself so the two of you are at eye level.
- **Ask for permission** before moving someone's cane, crutches, or walker.

### **People with cognitive disabilities**

- **Interact with the person** who has a cognitive disability as a person first.
- **If you are not being understood**, adjust your method of communicating by using concrete rather than abstract terms. Use direct words and/or gestures, easy diagrams, or demonstrations. For example, demonstrating how to use a key card to open the door. Allow time for the information to be fully understood.
- **Present your information** in a clear, concise, concrete and simple manner. Sometimes supplementary forms of visual communication (such as gestures, diagrams, or demonstrations) are helpful.
- **When necessary, repeat information** using different wording or a different communication approach. Allow time for the information to be fully understood.
- **Allow time for people who may respond slowly.** Remember that a slow response or lack of response does not necessarily mean the individual is not aware of you or what you said. Allow time for an individual with an intellectual/developmental disability to respond, in their own manner.
- **When offering help**, wait until your offer is accepted before doing anything.
- **Do not assume a person can read well.** Some people may not read at all.

### **People with visual disabilities (Blind or Low Vision)**

- **Identify yourself** and let the person know you are speaking to them by gently touching their arm. If you leave the individual's immediate vicinity, notify the individual so they will not be embarrassed by talking to empty space.
- **Speak directly facing the person.** Your voice will orient the individual. Your natural speaking tone is sufficient. Blindness is not deafness.
- **When giving directions**, be as specific as possible and describe obstacles in the path of travel. Use clock cues: "The desk is at 6 o'clock."
- **When offering assistance as a guide**, offer your arm and say, "Would you like to take my left (or right) arm?" then allow the individual to decline or accept. Directions should correspond to the way the person is facing.

The movements of your arm will let the person know what to expect. Never grasp or pull the person.

- **When leading an individual through a narrow space** such as an aisle, place the arm the individual is holding behind your back as a signal to walk directly behind you and give verbal instructions to this effect.
- **When guiding an individual through a doorway**, inform the person about whether the door opens in or out and to the right or to the left.
- **Before ascending or descending a step or stairs**, come to a complete stop, inform the individual regarding the direction of the stairs (up or down) and approximately how many steps there are. If a handrail is available, inform the person of its location. Individuals with visual impairments can use escalators, but may prefer using elevators. Ask the individual which option they prefer and whether assistance is necessary.
- **When showing an individual to a chair**, place their hand on the back of the chair. They will not require further assistance in seating.
- **Individuals and their service animals cannot be prohibited from entering the public area of any public facility.** If an individual is using a service animal, the animal's attention should not be diverted, and it is important to not speak to or pet the service animal.
- **It is not necessary** to avoid using common words like "look" or "see" when assisting an individual who is blind or visually impaired.
- **When making change**, count the bills separately and identify each denomination as you hand them back to the person. This is not necessary with coins since they are known by touch.
- **Staff may offer to read the printed information** to the person if the person is alone or with other people who are unable to read. If Braille format is available, offer it to the person, but do not be surprised if the person would rather have the printed information read aloud. Many people who are blind do not read Braille.

### **People with Environmental Illness (EI) or Multiple Chemical Sensitivity (MCS)**

Environmental Illness (EI), or Multiple Chemical Sensitivity (MCS) Syndrome, is an immune system disorder which involves severe reactions to many everyday chemicals and products.

A person with EI has a systemic physical reaction to petrochemicals, formaldehyde and coal-tar derivatives present in auto exhaust, synthetic fabrics, artificial fragrances, cleaning products, fresh paint, new building materials, pesticides, cigarette smoke, (as well as the chemical residue it leaves on clothing and hair). Many people with EI also develop allergies to dust, pollen, animal dander, molds and/or entire food groups as the immune system struggles to cope with the stress of chemical overload.

The following are some suggestions to show consideration for people who have EI:

- **Use unscented** personal care products and unscented laundry preparations.
- **Do not wear perfumes or scents** to an EI accessible event. A person with severe EI may not be able to enter most buildings or attend public functions, since a person with EI needs to reduce their exposure to harmful substances. In order to make an event accessible to people with EI, all who attend should be reminded not to wear perfumes or scented products. Scented products include: soap, shampoo, hair conditioner, hair mousse, lotion, cosmetics, essential oil, deodorant, laundry detergent, fabric softener/antistatic laundry additives (e.g., “Bounce”), hairspray, lip balm, analgesic balm, mothballs, and insect repellent.
- **Realize that a mild fragrance can constitute a toxic exposure for a person with EI.** EI reactions commonly include migraine headaches, fatigue, muscle weakness, gastrointestinal disturbances, arthritic pain, cerebral or behavioral symptoms such as confusion, forgetfulness, agitation, and mood swings, and more familiar allergic symptoms like asthma and hives. Exact sensitivities vary from person to person, and reactions vary in intensity and duration, usually lasting from a few hours to several days. Individual tolerance levels on a given day may be influenced by variables such as humidity, air pollution, stress, and cumulative exposure loads.

## Chapter 3: Administrative Requirements

This chapter explains the administrative requirements of Title II of the ADA, including the mandates to designate an ADA Coordinator, give notice about the ADA's requirements, and establish a grievance procedure.

### 3.1 Designate an ADA Coordinator

If a public entity has 50 or more employees, it is required to designate at least one responsible employee to coordinate ADA compliance.

The ADA Coordinator is responsible for coordinating efforts of the government entity to comply with Title II of the ADA and investigating any complaints that the entity has allegedly violated Title II of the ADA. The name, office address, and telephone number of the ADA Coordinator must be provided to interested persons.

Here are some of the qualifications that help an ADA Coordinator to be effective:

- familiarity with the state or local government's structure, activities, and employees
- knowledge of the ADA and other laws addressing the rights of people with disabilities, such as Section 504 of the Rehabilitation Act, 29 U.S.C. §794
- experience with people with a broad range of disabilities
- knowledge of various alternative formats and alternative technologies that enable people with disabilities to communicate, participate, and perform tasks
- ability to work cooperatively with the local government and people with disabilities
- familiarity with any local disability advocacy groups or other disability groups
- skills and training in negotiation and mediation
- organizational and analytical skills

DCAB maintains a list of Departmental ADA Coordinators. The list is available at <https://health.hawaii.gov/dcab/files/2023/04/State-Department-Coordinator-5.15.2023.pdf>.

### 3.2 Notice of the ADA's Provisions

The ADA notice requirement applies to all state and local governments covered by Title II of the ADA, even localities with fewer than 50 employees.

The notice is required to include relevant information regarding Title II of the ADA, and how it applies to the programs, services, and activities of the public entity. An effective notice states the basics of what the ADA requires of the state or local government without being too lengthy, legalistic, or complicated. It should

include the name and contact information of the ADA Coordinator. The Department of Justice created a model “Notice Under the Americans with Disabilities Act” that includes brief statements about: employment, effective communication, making reasonable modifications to policies and programs, not placing surcharges on modifications or auxiliary aids and services, and filing complaints. The model notice is available at <https://archive.ada.gov/pcatoolkit/chap2toolkit.htm>.

### **3.3 Establishing and Publishing Grievance Procedures**

State and local governments with 50 or more employees are required to adopt and publish procedures for resolving grievances arising under Title II of the ADA. Grievance procedures set out a system for resolving complaints of disability discrimination in a prompt and fair manner.

Neither Title II of the ADA nor its implementing regulations describe what ADA grievance procedures must include. However, the Department of Justice has developed a model grievance procedure that is available at <https://archive.ada.gov/pcatoolkit/chap2toolkit.htm>.

The grievance procedure should include:

- a description of how and where a complaint under Title II may be filed with the government entity;
- if a written complaint is required, a statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such an alternative;
- a description of the time frames and processes to be followed by the complainant and the government entity;
- information on how to appeal an adverse decision; and
- a statement of how long complaint files will be retained.

Once a state or local government establishes a grievance procedure under the ADA, it should be distributed to all agency heads. Post copies in public spaces of public buildings and on government websites. Update the procedure and the contact information as necessary.

## Chapter 4: General Nondiscrimination Requirements

It is the policy of the State of Hawai'i to ensure that people who have disabilities are not denied access to programs and services offered by the State solely on the basis of their disabilities. This policy is based on federal legislation, including the Americans with Disabilities Act (ADA) and Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, and State legislation, Hawai'i Revised Statutes (HRS), Chapter 368. It is reaffirmed by Governor's Administrative Directive 12-06 Accessibility to State Government by Persons with Disabilities.

This chapter discusses the major principles of nondiscrimination as applicable to departments and agencies of the State of Hawai'i.

### 4.1 Equal Opportunity to Participate

In providing access to programs and services of the State of Hawai'i, departments and agencies must ensure that individuals with disabilities are:

- not denied an opportunity to participate in and benefit from any program or service;
- afforded an opportunity that is equal to or as effective as that provided others; and
- not required to meet criteria for participation that screen out people with disabilities either directly or indirectly, unless such criteria are necessary for the provision of the program's activities.

EXAMPLE: An individual who is deaf does not receive an equal opportunity to participate in a public hearing conducted by the state if the individual is unable to hear the proceedings.

EXAMPLE: A student who uses a wheelchair does not receive an equal opportunity to participate in a tour if the site is not accessible to individuals who use wheelchairs.

This policy, consistent with the ADA, requires an equal opportunity to participate, but does not guarantee equality of results.

### 4.2 Reasonable Modifications of Policies, Practices, or Procedures

Departments and agencies of the State of Hawai'i must reasonably modify their policies, practices, or procedures in order to avoid discrimination toward people with disabilities.

EXAMPLE: The Department of Land and Natural Resources maintains parks for the public. There is a 'no pets - no animals' policy when camping in state parks. An individual with a disability is accompanied by a service animal and wishes to have that animal accompany this person when camping. The Department of Land and Natural Resources must



modify the 'no pets - no animals' policy to permit access for this person and the service animal.

EXAMPLE: The Department of Labor and Industrial Relations operates the Unemployment Insurance Program for those individuals displaced from work. The policy requires in-person meetings at the Department's office on a periodic basis to maintain one's eligibility status. For a person with a severe mobility impairment whose disability precludes leaving the house, the Department must modify its policy to permit phone or mail participation or a home visit.

EXAMPLE: The Department of Defense operates a program for veterans through the Office of Veterans Services. This may include assistance with burial for eligible veterans. The application process, however, may be difficult for a person with a mental disability, particularly someone with a mental illness such as post-traumatic stress disorder, who may not be able to successfully complete the application process. In this case, the office has an obligation to make reasonable modifications to its application process to ensure that otherwise eligible individuals are not denied benefits. Modifications to the process may include providing applicants who have mental disabilities with individualized assistance to complete the process.

A modification is NOT required, however, if it would fundamentally alter the nature of the program or activity.

EXAMPLE: A person with a mobility disability asks the Department of Land and Natural Resources to pave all trails so people in wheelchairs are able to travel on a smoother path. This action would likely alter the fundamental nature of the outdoor trail.

EXAMPLE: The King Kamehameha Celebration Commission arranges the annual Kamehameha Day parade and ceremony to drape leis around the statue of King Kamehameha. A person with an environmental disability who cannot tolerate sunlight and is a pa'u (horse) rider wants the program to change its route to be all in the shade. Doing so, especially to avoid the statue of King Kamehameha, located in the sunlight, would fundamentally alter the program.

### **4.3 Surcharges and Additional Requirements**

At times, compliance with equal opportunity laws may require an additional cost. Although an additional cost may be incurred by the department or agency, and the cost may be unforeseen or unbudgeted, the department or agency cannot impose extra charges solely upon people with disabilities to cover the costs of

these expenses for effective communication, program modifications, or access features.

EXAMPLE: The Hawai'i State Library System provides interpreter services to students who are deaf, removes architectural barriers for students who have mobility disabilities, and provides readers for students who are blind or have low vision. A library cannot place a surcharge on an individual student with a disability (such as a single student who is deaf who benefited from interpreter services) or on a group of students who have disabilities (such as all students who have mobility disabilities who benefited from barrier removal).

The program or service may not impose any additional requirements or burdens on people with disabilities that they do not require of all other participants in the program.

EXAMPLE: The Department of Commerce and Consumer Affairs has a 30 page set of administrative rules. When the public asks for a copy, the Department provides a printed copy and charges \$.25 per page for administrative costs, totaling \$7.50. A person with low vision asks for a set in large print. The Department prints a new set on its computer using a larger font, but the large print copy is 90 pages in length. The person may not be charged for 90 pages, but only for 30 pages, the same price charged to other individuals.

#### **4.4 Integrated Settings and Separate Programs**

A primary goal of nondiscrimination legislation is the equal participation and inclusion of individuals with disabilities in the "mainstream" of society. A major principle of mainstreaming is that individuals with disabilities must be integrated to the maximum extent appropriate. Programs, services, or activities must be delivered in the most integrated setting appropriate to the person's level of need.

EXAMPLE: The Department of Health provides a virtual wellness training. The training must be provided in an integrated setting that allows equal participation by individuals with disabilities. The department cannot force an individual who is deaf to attend a separate and individualized training that will accommodate the individual's request for a qualified sign language interpreter.

Separate programs to provide equal opportunity to benefit from the program are permitted only when necessary. Such programs, however, must be specifically designed to meet the individual needs of people who have disabilities for whom they are provided.

EXAMPLE: The Department of Human Services, Division of Vocational Rehabilitation, operates Ho'opono, an adult rehabilitation program for

persons who are blind or have low vision. Special skills, such as mobility orientation, Braille reading, and a low vision clinic are offered. Such a program is permitted, as the services are specifically designed to meet the needs of persons who are blind.

EXAMPLE: The Department of Health operates a residential community at Kalaupapa, Moloka'i, for individuals who have Hansen's Disease. Although segregated, this community is permitted as a specialized program whose services are specifically designed to meet the needs of the residents who have disabilities.

EXAMPLE: The Department of Education, Hawai'i State Public Library System, operates a specialized library, the Library for the Blind and Print Disabled. Because this library specializes in printed materials in alternate format such as Braille, or audio recording, a separate program is acceptable.

EXAMPLE: The State Foundation on Culture and the Arts hosts an exhibit. Viewers are not allowed to touch the exhibits because handling can cause damage to the objects. The Foundation may offer a special tour for individuals who are blind where such individuals are permitted to touch and handle other objects on a limited basis.

However, when separate programs are provided, qualified people who have disabilities still cannot be excluded from participating in the regular program or required to accept special services or benefits. Individuals may not be required to accept special benefits or programs if they choose not to do so.

EXAMPLE: Residents at Kalaupapa, Moloka'i, cannot be forced to stay there, but must be permitted to participate in other programs and services of the Department of Health.

EXAMPLE: People who have disabilities may not be denied access to all state libraries even though the Library for the Blind and Print Disabled exists. Furthermore, they must not be forced to go to a specialized library if they choose not to participate.

EXAMPLE: People who are blind or have low vision may not be denied access from the standard exhibit, although they may be required to abide by the "no-touching" policy for regular exhibit pieces.

Qualified individuals with disabilities are entitled to participate in regular programs, even if the program sponsor does not reasonably believe that the person can benefit from the regular program, assuming there are no health and safety factors to be considered.

EXAMPLE: The Department of Education offers hula classes or photography classes through their adult education program. The instructor may not exclude a person who is deaf from the hula class or a person who has low vision from the photography class. The individual who is deaf may benefit from the vibrations of the music beat and the individual who has low vision may benefit from seeing photographs at close range. Even if they don't, they have a right to participate.

The ability to provide full integration, if separate programs are available, will vary on a case-by-case basis.

EXAMPLE: The University of Hawai'i conducts theater performances for the public at-large. For a single play performed three nights per week for a month, the University decides to provide a performance interpreted in sign language at one show per week. In setting up the schedule, the University consults the deaf and hard of hearing community, decides on a different show time and day each week in order to offer a full range of choices, and publicizes the availability of the interpreted performances. Given this range of choices, it may not be necessary to provide a sign language interpreter at any other performance.

#### **4.5 Eligibility Criteria**

Programs or services of the State of Hawai'i may not impose eligibility criteria that tend to screen out individuals with disabilities unless it can show that such requirements are necessary for the provision of the program, service, or activity or would fundamentally alter the nature of the program, service, or activity.

EXAMPLE: The community college system may not require students who have certain disabilities to be accompanied to class by attendants, when such individuals prefer to attend classes unaccompanied. The policy would have to change unless the college can demonstrate that it is necessary for some compelling reason to adopt such a policy.

EXAMPLE: The community college system may not prohibit people who use wheelchairs from participating in state-sponsored scuba diving classes solely because it believes that individuals who use wheelchairs probably cannot swim well enough to participate. Each student's situation must be considered individually. A blanket exclusion would violate the rights of people who have disabilities. Likewise, requiring only individuals with disabilities to demonstrate swimming competency would be discriminatory.

#### **4.6 Safety Requirements**

Departments and agencies may impose legitimate safety requirements for the safe operation of their services, programs, or activities. However, a specific

program or service must ensure that its safety requirements are based on real risks, not on speculation, stereotypes, or generalizations about individuals who have disabilities, and must apply these safety requirements to others at risk.

EXAMPLE: A community college may establish a legitimate criteria of swimming as a prerequisite to enrolling in a scuba diving class if it can demonstrate that being able to swim is necessary for safe participation in the class. It can require all participants to be individually tested to meet that criteria. This is permitted even if requiring such a test would tend to screen out people who have certain kinds of disabilities.

EXAMPLE: The Department of Human Services may require CPR certification for child care operators, if it can demonstrate the need for the health and safety of the children. It can require all participants to be individually tested to meet that criterion. This is permitted even if the criterion eliminates certain people due to their disabilities (e.g., a person with a tracheotomy, a person who has a severe respiratory disorder, a person who has quadriplegia, all of whom may not physically be able to administer CPR).

#### **4.7 Unnecessary Inquiries**

A program or service may not make unnecessary inquiries into the existence of a disability.

EXAMPLE: A Department of Education recreation program may require parents to fill out a questionnaire and to submit medical documentation regarding their children's ability to participate in various after school and recreation activities. The questionnaire is acceptable, if given to all applicants, and if the Department can demonstrate that each piece of information requested is needed to ensure safe participation in the activity. The Department may not selectively ask only certain children to provide medical documentation based upon a perception of the child's limitation. The Department also may not use this information to screen out children who have disabilities from admittance to the program.

EXAMPLE: A community college program is seeking volunteers to work with at-risk high school students. A person with a disability signs up to be a volunteer. The only eligibility criterion to be a volunteer is to be over 18 years of age and have a high school diploma. The program's application form asks whether the applicant has ever had a history of a physical or mental disability. A much more rigorous investigation is undertaken of applicants who answer "yes." This action would place an additional burden on individuals who have disabilities through unnecessary inquiries because such inquiries are not imposed on others without disabilities.

EXAMPLE: A state office open to the public notices that an individual enters with a dog. The office has a “no pets except for service animals policy,” which is appropriate. Asking a person to show proof of licensure of the dog as a service animal is an unnecessary inquiry.

#### **4.8 Personal Devices and Services**

A program or service is not required to provide individuals who have disabilities with personal or individually prescribed devices, (e.g., wheelchairs, prescription eyeglasses, or hearing aids) or to provide services of a personal nature (e.g., assistance in eating, toileting, or dressing).

EXAMPLE: The Department of Education offers adult education classes in the community. Upon enrolling in a course, one of the students indicates difficulty seeing the chalkboard for instructions. The Department is not required to purchase glasses for the person to enable the individual to see better. However, if the person were to need an auxiliary aid or service, such as materials in alternate format, these aids would not be considered personal services, and therefore, must be considered.

EXAMPLE: The Stadium Authority operates a public event at the Aloha Stadium. A person who is hard of hearing wishes to attend and listen to the information announced over the public address system. The Stadium Authority is not required to buy the person a hearing aid customized to the individual’s hearing loss in order to hear. This is a personal device. However, the Stadium is required to have assistive listening systems and amplification systems that are not customized and can be “checked out” and used by any patron to augment hearing, as a general assistive listening system, not as a personal device or service.

Of course, if personal services or devices are customarily provided to the individuals served by the department or program (such as in a hospital, nursing home, or social service agency), these personal services should also be provided to individuals who have disabilities.

EXAMPLE: The Department of Human Services provides personal care services in its Medicaid Waiver Program. Because it provides services such as bathing, toileting, and grooming to all participants, it must do so for people who have disabilities who are otherwise eligible for the program.

EXAMPLE: The Hawai’i Health Systems Corporation provides in-patient care to persons hospitalized in one of its community hospitals. Because it provides services such as nursing services to all patients, it must do so for people who have disabilities who are otherwise eligible for the service.

#### **4.9 Maintenance of Accessible Features**

Programs or services must maintain, in working order, equipment and features of facilities that are required to provide ready access to individuals with disabilities. Isolated or temporary interruptions in access due to maintenance and repair of accessible features are permitted. Also, when an accessible route is provided to the location of a program, service, or activity, the route must remain accessible and not blocked by obstacles such as furniture, cabinets, or potted plants.

EXAMPLE: The State Department of Defense has a three story building with an elevator. It would not be appropriate if, in order to save energy, the passenger elevator is turned off during the hours when the building is open.

EXAMPLE: The State Department of Accounting and General Services has a lift to provide access for people with mobility disabilities to an auditorium stage. The lift is not working. The Department must take reasonable steps to repair the lift to meet its obligations to maintain accessible features.

#### **4.10 Contracting with External Organizations and Procurement Contracts**

Departments may not discriminate, on the basis of disability, in contracting for the purchase of goods and services or in any procurement contract.

EXAMPLE: The University of Hawai'i, in its contract for food service operations, may not discriminate in its selection of contractors on the basis of disability, either because the company is owned by an individual who has a disability or employs individuals who have disabilities who might be working on campus.

EXAMPLE: The Department of Public Safety, in its solicitation for consultants to provide services to inmates, may not discriminate in its selection of consultants on the basis of disability by eliminating a consultant who uses a wheelchair because the location of the site where the consultant will be working is not accessible.

#### **4.11 Licensing and Certification**

Departments and agencies may not discriminate on the basis of disability in their licensing, certification, and regulatory practices. When the state administers an examination as a requirement toward obtaining a license, it must provide auxiliary aids for applicants who have disabilities and administer the examination in an accessible location. An applicant is a "qualified person who has a disability" if the individual meets the essential eligibility requirements for that license or certification.

EXAMPLE: The Department of Commerce and Consumer Affairs Professional and Vocational Licensing Division administers an examination for persons wishing to be licensed as hearing aid dealers. The examination must be held in a location that permits a person who has a mobility disability to attend. If the examination has a written component and a person who is blind or has low vision wishes to take the exam, auxiliary aids such as a reader, large print, Braille, or audio recorder must be provided. If the examination has an audio or oral component and a person who is deaf or hard of hearing wishes to take the exam, auxiliary aids such as a sign language interpreter or computer-assisted notetaker must be provided.

EXAMPLE: The Public Utilities Commission issues licenses for those entities wishing to operate a vehicle on the street for transportation commerce. In the licensing application process, the agency may have to provide an auxiliary aid or service (e.g., reader, sign language interpreter) or modify the licensing application process.

While many programs and activities of the State of Hawai'i do not have significant eligibility requirements, licensing programs often require applicants to demonstrate specific skills, knowledge, or abilities. Those licensing departments may not discriminate against qualified individuals with disabilities who apply for licenses but may consider factors related to the disability in determining whether a person is qualified.

The department or agency does not have to lower or eliminate licensing standards that are essential to the licensed activity. Whether or not particular requirements are essential must be determined on a case-by-case basis.

EXAMPLE: The Department of Health licenses facilities for adult residential care homes. The Department may have a requirement that operators pass a CPR exam. If a person cannot pass the exam due to a disability, the Department would not have to lower its standards and eliminate the requirement if it is an essential criterion.

EXAMPLE: The Department of Agriculture licenses farm produce dealers. In the licensing application process, the Department may have to provide an auxiliary aid or service (e.g., reader, sign language interpreter) or modify the licensing application process (e.g., to provide additional time). However, the Department is not required to eliminate a requirement to pass a written examination because it is too difficult for an applicant with a disability to complete.

In addition, departments and agencies may not establish requirements for programs that are certified or licensed that have the effect of limiting opportunities for participation or employment of people who have disabilities.



This requirement does not impose a responsibility to regulate the activities of privately-run programs that are merely licensed by the state beyond the administrative requirements set forth by state law or state administrative rules. An activity of a licensee does not become a “program or activity” of the state merely because it is licensed by the state.

#### **4.12 Retaliation or Coercion**

Individuals who assert their rights under disability discrimination laws, or assist others in asserting their rights, are protected from retaliation. The prohibition against retaliation or coercion applies broadly to any individual or entity that seeks to prevent an individual from exercising his or her rights or to retaliate against the individual for having exercised those rights. Any form of retaliation or coercion, including threats, intimidation, or interference, is prohibited, if it interferes with the rights of that person.

EXAMPLE: A department receives a complaint from a person who uses a wheelchair regarding the lack of accessibility at one of its facilities that recently underwent alterations. In fixing the problem, the department official releases the name, address, and phone number of the complainant and tells the staff to make sure they let the person who has a disability know that the individual is a troublemaker. If this has the effect of intimidating the complainant, it may be considered retaliation by the state department.

#### **4.13 Association**

Programs or services may not discriminate against individuals, organizations, or other entities because of their known relationship or association with people who have disabilities. This prohibition applies to cases where the state program or service has knowledge of both the individual’s disability and relationship to another individual, organization, or entity. In addition to familial relationships, the prohibition covers any type of association, if the discrimination is actually based on the disability.

EXAMPLE: A recreation center may not refuse admission to a summer camp program to a child whose sibling is HIV positive.

EXAMPLE: A sports facility refuses to admit an individual with cerebral palsy as well as his sibling, because they are together. In addition to the individual with cerebral palsy, his sibling would have an independent action against the program for discriminating on the basis of association.

## Chapter 5: Communication Access Requirements

Departments and agencies of the State of Hawai'i must provide effective means of communication to people who have visual, hearing, speech, or cognitive disabilities. Communication support must be provided in a manner that enables people who have disabilities to participate on an equal basis with all others, unless to do so would result in a fundamental alteration to the program or activity or would result in an undue financial or administrative burden.

In order to ensure effective communication, state departments and agencies are required to make available appropriate auxiliary aids and services upon the request of a qualified person with a disability. Auxiliary aids and services include a wide variety of equipment, materials, and personal services that may be used to provide effective communication for people who have visual, hearing, speech, or cognitive disabilities. Keep in mind that the preferred auxiliary aid or service will depend on the individual's preferred mode of communication.

### 5.1 Auxiliary Aids and Services for People Who are Blind or have Low Vision

If a program or service provided by the State of Hawai'i transmits or gives information in printed or written format, it may be necessary to provide an alternate format for a person who is blind or has low vision.

Examples of auxiliary aids and services for people who are blind or have low vision include:

- print information provided electronically on USB drive or by email, in Braille and in large print, or read by qualified reader;
- verbal descriptions of action and visual information to enhance the accessibility of performances and presentations; and
- a staff member serving as a guide to enable a person who has limited vision to locate items or to proceed along an unfamiliar route.

Providing a qualified reader does not mean that it is necessary to hire a full-time person for this service. The responsibilities of a reader may often be fulfilled by an employee who performs other duties; alternatively, a freelance reader could be hired on an hourly basis. However, a qualified reader for a person who is blind or has low vision must read well enough to enable the individual to effectively participate in the program or service. A qualified reader means someone who is able to read effectively, accurately, and impartially, using any necessary specialized vocabulary. It would not be an effective auxiliary aid to provide a reader with poor reading skills. This would hinder the participation of the individual who has a disability.

**EXAMPLE:** A person who is blind goes to the Department of Taxation and requests assistance with tax forms. The person may find that having a

staff person read the instructions to determine which forms are appropriate is sufficient to determine what forms to take home. However, when the person needs instructions on how to fill out the form and calculate figures, informal reading may not be enough. Large print, Braille, or audio recorder instructions, as appropriate to the person's skills, would likely be needed.

## **5.2 Auxiliary Aids and Services for People Who are Deaf, Hard of Hearing, or Deaf-Blind**

If a program or service provided by the State of Hawai'i transmits or gives out information in audio or verbal format, it may be necessary to provide an alternate format for a person who is deaf or hard of hearing.

Examples of auxiliary aids or services for people who are deaf or hard of hearing include:

- qualified interpreters (i.e., sign language, oral, cued-speech, or tactile);
- qualified notetakers or computer-assisted notetakers;
- video remote interpreting (VRI);
- written materials;
- realtime transcriptions or video text displays;
- telephone handset amplifiers and hearing aid compatible telephones;
- videotext displays;
- assistive listening systems and devices;
- open or closed-captioning, real-time captioning;
- closed caption decoders and devices;
- TTYs (teletypewriters), TDDs (telecommunication devices for the deaf) or TTs (text telephones);
- videophones, captioned telephones, or other voice, text, video-based telecommunications products; and
- iPad or tablet.

## **5.3 Auxiliary Aids and Services for People with Speech Disabilities**

Providing information, either in print or written format, is not usually a communication barrier to people with speech disabilities, unless there is another disability also present. A person with only speech disabilities typically has difficulty sending, not receiving information. The auxiliary aid or service is intended for the receiver of information, usually the staff of a state program or service, to understand the communication contents of the person with speech disabilities.

The most effective auxiliary aid or service for a person with speech disabilities is usually:

- written material and
- more active and acute listening on the part of the listener.

If communication in writing is not possible, then other options include:

- qualified speech to speech transliterator (a person trained to recognize unclear speech and repeat it clearly);
- communication board or device;
- communication assistants who are familiar with the individual's speech pattern and who repeat the context of the individual's statement in a clear voice;
- notetakers; and
- typewriters or other assistive technology devices such as iPad or tablet with text to voice application.

#### **5.4 Auxiliary Aids and Services for People with Cognitive and Psychiatric Disabilities**

Individuals with cognitive disabilities, a broad term covering a variety of conditions including intellectual or developmental disabilities, head injury, psychiatric disability, and learning disabilities, often have difficulty processing information that is complex or not presented in an easily understood manner. The key to providing effective communication is often to utilize a communication style that is easy to understand, although it is not always possible to have the person understand all of the information presented. Every opportunity should be made to ensure that information is understood by providing an auxiliary aid or service.

Examples of auxiliary aids or services for people with cognitive and psychiatric disabilities include:

- qualified readers;
- communication assistants;
- rewording of information to use clear and concise language or repetition;
- pictograms; and
- graphic presentation of information.

#### **5.5 How to Choose the Type of Auxiliary Aid or Service**

Departments and agencies must provide an opportunity for individuals who have disabilities to request the auxiliary aids and services of their choice and must give "primary consideration" to the choice expressed by the individual. "Primary consideration" means that the state department or agency must honor the choice, unless it can demonstrate that another equally effective means of communication is available, or that using the means chosen would result in a fundamental alteration in the service, program, or activity or in an undue financial or administrative burden.

After receiving a request, departments and agencies should consult with the individual making the request to determine the most appropriate auxiliary aid or service. The individual who has a disability is most familiar with and is in the best position to determine what type of aid or service will be effective. What works for one person who has a disability may not work for another person with the same disability.

EXAMPLE: An individual who is deaf from birth or who lost hearing before acquiring language may use sign language as the primary form of communication and may not be comfortable or proficient with written English, making the use of a notepad an ineffective means of communication. On the other hand, an individual who lost hearing later in life may not be familiar with sign language. For that person, effective communication may be through writing.

EXAMPLE: An individual who is blind from birth and learned to use Braille may find that materials in Braille format are easiest to read and comprehend. The individual may or may not have enough residual vision to read large print materials. On the other hand, an elderly person who loses vision over time may have never learned Braille. For that person, a Braille transcript may not be effective. Large print or audio recorder may be more appropriate.

In general, the longer, more complex and important communications require more analysis on the part of the department or agency to ensure that the highest and most effective communication has been provided.

EXAMPLE: A person who is hard of hearing goes to the Department of Labor and Industrial Relations seeking job assistance. The person may be able to understand a one-to-one conversation in a quiet office setting by lipreading and paper and notepad when asking for enrollment forms in a jobs program. However, once in the job skills class, the individual may not be able to lipread adequately in a group setting, in this case a sign language interpreter or computer-assisted notetaker, or other assistive listening device may be needed.

EXAMPLE: A person who is deaf is having lunch in the cafeteria of a hospital of the Hawai'i Health Systems Corporation while visiting the hospital to discuss medical treatment options. The person is unable to lipread and generally communicates in sign language. For short exchanges with cafeteria employees, a pen and paper or expressive gesturing may be enough to ensure effective communication. Providing a printed menu or menu with pictures would also ensure effective communication. When the person visits a physician to discuss medical

treatment options with a team of doctors, the complex information shared indicates that an interpreter is most likely needed.

## **5.6 Companions**

Departments and agencies are required to provide effective communication for companions who have communication disabilities. In many situations, departments and agencies communication with someone other than the person who is participating in a program or activity.

EXAMPLE: School staff usually talk to a parent about a child's progress. If the parent has a communication disability, the school may need to provide an auxiliary aid or service to ensure effective communication with the parent.

## **5.7 Use of Accompanying Adults or Children as Interpreters**

Departments and agencies cannot require a person to bring someone to interpret for him or her. These people often lack the impartiality and specialized vocabulary needed to interpret effectively and accurately. It is particularly problematic to use people's children as interpreters.

Departments and agencies can rely on an accompanying adult or child to interpret in only two situations.

- 1) In an emergency involving an imminent threat to the safety or welfare of an individual or the public, an adult or minor child accompanying a person who uses sign language may be relied upon to interpret or facilitate communication only when a qualified interpreter is not available.
- 2) In situations not involving an imminent threat, an adult accompanying someone who uses sign language may be relied upon to interpret or facilitate communication when a) the individual requests this, b) the accompanying adult agrees, and c) reliance on the accompanying adult is appropriate under the circumstances. This exception does not apply to minor children.

## Chapter 6: Auxiliary Services

Auxiliary services are tools provided to assist a person with a disability to access a program or service.

### 6.1 Qualified Sign Language Interpreter

A “qualified interpreter” is an individual who is able to interpret effectively, accurately, and impartially, both receptively and expressively using any necessary specialized vocabulary.

The following questions and answers provide guidance on obtaining and working with interpreting service providers.

#### **What credentials should an interpreter have?**

The State of Hawai‘i recognizes three credentials: Hawai‘i Quality Assurance System, National Association of the Deaf, and National Registry of Interpreters for the Deaf, Inc.

#### **What is NOT considered a valid credential of interpreting skills?**

Completion of sign language classes indicates only that the person may know some signs. A signer is not always an interpreter. He or she should not represent him or herself as an interpreter without valid credentials.

If a person identifies him or herself as a child of deaf parents, that does not mean he or she is qualified to be an interpreter. Someone who is a “native speaker” of a language is not necessarily a neutral party who is aware of the ethics or skills an interpreter should possess to provide quality interpreting services for all parties involved.

#### **How to obtain an interpreter?**

Departments and agencies may contact and negotiate with a communication access service provider directly. DCAB maintains a list of sign language interpreters. View the list on DCAB’s website at <https://health.hawaii.gov/dcab/communication-access/>

There are two referral agencies for communication access services in Hawai‘i. Contact a referral service to get a quote and they will send the service provider to the job assignment.

- 1) Hawai‘i Interpreting Services  
Phone: (808) 394-7706  
Website: <https://www.interpretinghawaii.com/>
- 2) Isle Interpret  
Phone: (808) 455-9125  
Website: <https://www.isleinterpret.com/>

There are two contractors under a State Procurement Office (SPO) price list contract for on-demand remote interpreting.

- 1) Corporate Translation Services, Inc. dba Language Link  
Phone: (360) 433-0401  
Website: <https://language.link/naspo-valuepoint/>
- 2) Voiance Language Services, LLC  
Phone: (520) 573-2367  
Website: <https://www.cyracominternational.com/voiance>

Participating jurisdictions may contact a contractor for a quote. These contractors must provide American Sign Language interpreter services via video remote interpreting from anywhere in the United States, 365 days a year, 7 days a week, 24 hours a day. View the contact on SPO's website at <https://spo.hawaii.gov/wp-content/uploads/2022/10/20-17-Price-List-Change-No.-6-part-2-signed.pdf>.

### **What are the performance requirements for video remote interpreting (VRI)?**

To achieve effective communication using VRI services, there are specific ADA performance standards that must be met before your meeting. The four requirements are:

- 1) The real-time full motion video and audio over a dedicated high speed, wide bandwidth video connection or wireless connection that delivers high quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pause in communication;
- 2) A sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the face, arms, hands, and fingers of the person using sign language regardless of his or her body position;
- 3) A clear, audible transmission of voices; and
- 4) Adequate staff training to ensure quick set-up and proper operation.

### **What information should be gathered about the request for an interpreter?**

The following information should be gathered to obtain a qualified interpreter:

- Name of the person who requested interpreting service
- Purpose of the meeting
- Location of the meeting
- Start and end time of the meeting
- Interpreter preference if you use an interpreter referral agency, please provide more than one preferred name if possible
- Name and phone number of the contact person at the meeting
- Name of the agency or staff to be billed for the interpreter services



## **How much does an interpreter cost?**

The Disability and Communication Access Board published the “Hawaii State Agency Recommended Fee Schedule for Hiring Sign Language Interpreters” to inform state agencies of reasonably expected fees payable to sign language interpreters for services to state agencies.

<https://health.hawaii.gov/dcab/files/2020/09/Recommended-Fee-Schedule-8.13.20.pdf>

The recommended fee schedule for sign language interpreters is based upon the level of certification of interpreters. The recommended fee schedule is established for State Executive Branch agencies. Discuss fees with the interpreter before the meeting is scheduled. Fees should be agreed upon by the interpreter and purchaser of the services before the service is rendered. A signed agreement by the agency and interpreter details the scope of work and service charges prior to the event.

It is standard practice for interpreters to charge a two hour minimum even though an assignment may last only 30 minutes to an hour. If an assignment is longer than an hour and a half, the complexity and length of the assignment may require hiring two interpreters.

## **What if a department or agency needs to cancel a request for interpreter services?**

All assignments have a 24 hour cancellation policy that also includes any previously negotiated and agreed upon travel expenses incurred that cannot be recovered. Cancellations after 24 hours are fully billable, minus estimated expenses unless they were already incurred and cannot be recovered. It is customary for longer assignments (more than 4 hours and multiple day events) to have a more stringent cancellation practice. The interpreter or referral company is responsible to inform state agencies of their cancellation policies.

## **What if the consumer or the interpreter doesn't show up?**

The department or agency is responsible for payment to the referral agency or the interpreter if the consumer does not show up for the activity or event. The department or agency is not responsible for payment to the referral agency or the interpreter if the interpreter does not show up for the activity or event.

## **When does a department or agency need to hire an interpreter who is deaf?**

An interpreter who is deaf provides interpreting, translation and transliteration services in American Sign Language and other visual and tactual communication that he or she understands and the consumer's message to you is interpreted to spoken English.

### **When should departments and agencies hire two interpreters for a meeting?**

For a meeting of more than one and one half hours, and with continuous work, two interpreters should be hired. The interpreters actively work for alternate periods of 20 minutes each. If two interpreters cannot be hired, one interpreter with continuous work of more than one and one half hours in length, the state agency shall ensure the interpreter is given breaks as necessary or as negotiated prior to the assignment.

### **Does the interpreter need breaks during a meeting?**

The interpreter and consumers who are deaf, hard of hearing, or deaf-blind will need occasional breaks. This will allow time for the consumer to relieve eye strain caused by focusing on one position for a long period of time and for the interpreter to rest physically. Physical strain is also experienced by both the consumer who is deaf-blind and the tactile interpreter during prolonged interpreting situations, so frequent breaks should be scheduled.

### **What type of lighting should be provided for the interpreter?**

If an interpreting situation requires darkening the room to view slides, or videos, auxiliary lighting such as a small lamp or spotlight may be necessary so the person who is deaf, hard of hearing, or deaf-blind can see the interpreter clearly. If auxiliary lighting is not available, check to see if room lights can be dimmed and still provide sufficient lighting to see the interpreter. If it cannot be arranged onsite, locate another site to host the meeting that is accessible.

### **Should people speak slowly for the interpreter?**

There is a lag time for the interpreter to interpret from spoken English to American Sign Language. Refrain from speaking too slowly or quickly. If necessary, the interpreter or consumer may ask the speaker or signer to slow down, repeat a word or sentence for clarification. Given the nature of the interpreting process, the lag time is to absorb the spoken English structure to American Sign Language structure.

### **Should the meeting host provide the interpreter handouts before the meeting?**

If there is sufficient time, a meeting agenda and/or a vocabulary list (for technical situations) for the interpreter should be provided prior to the assignment or at the job assignment. If the consumer who is deaf, hard of hearing, deaf-blind or hearing is new to the interpreter, it is recommended that they meet a few minutes before the assignment to introduce themselves. This enables the interpreter and the consumer to become accustomed to each other's sign dialect and

preferences. The interpreters and consumers will agree on the best placement for the interpreter (i.e., in sufficient light, not in front of a bright light source, etc.).

### **Who develops rules for state government agencies regarding sign language interpreter services?**

The Disability and Communication Access Board develops administrative rules for providers of communication access services, such as sign language/English interpreters. The rules establish guidelines for State Executive Branch agencies hiring providers, including credentials and recommended fees. Contact the Disability and Communication Access Board for a copy of the rules or for more information about interpreter services.

## **6.2 Realtime Captioning Service Providers**

Realtime captioning is sometimes presented as Communication Access Realtime Translation (CART). Realtime captioners provide simultaneous visible transcription of the speaker's words and are usually trained court reporters. Realtime captioning services are especially useful for people who are deaf or hard of hearing who do not use sign language and for large group events or meetings.

A certified realtime captioner holds a valid certification awarded by the National Court Reporters Association or a state board of certified shorthand reporters.

## **6.3 Computer-assisted Notetakers**

Computer-assisted notetakers (CAN) provide communication access for individuals who are deaf, hard of hearing, or deaf-blind who do not use sign language. The CAN typist provides a summary of a speaker's words or notes typed into a laptop computer and displayed on a screen.

There are no local or national organizations that award credentials for computer-assisted notetakers. It is advisable that a state agency utilize a person who meets all or a majority of the following characteristics in order to provide computer-assisted notetaking services:

- ability to organize and summarize information;
- ability to type at least 60 words per minute;
- familiarity with the subject being discussed and specialized vocabulary;
- experience working with consumers who are deaf, hard of hearing, or deaf-blind;
- working knowledge of laptop computers and word processing software; and
- good auditory, verbal, and spelling skills.

## 6.4 Auxiliary Personnel

Personal assistants are usually utilized to help a person who has limited mobility or who has a visual disability. A personal assistant may perform any of the following functions, depending upon an individual's specific needs:

- provide orientation and mobility assistance for a person who is blind or who has low vision;
- assist with handling books, materials, or other bulky items for someone who has a mobility and/or visual disability;
- assist with cutting up food at a meal or carrying a plate at a buffet meal for someone with limited manual dexterity; and
- assist with opening doors or reaching for items for someone who has a mobility disability.

It is usually not necessary to assign a personal assistant on a one-to-one basis for the entire duration of a training activity. By inquiring in advance of an individual's needs, one personal assistant will often suffice to meet the needs of several individuals who have disabilities. Assistance with toileting, dressing, or other activities of a personal nature need not be provided.

## 6.5 Checklist for Providing Auxiliary Services

- |  |  |
|--|--|
| <input type="checkbox"/> YES <input type="checkbox"/> NO | Appropriate program staff know how to hire a sign language interpreter, appropriate for the situation, if requested.   |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | Appropriate program staff know how to hire realtime captioners, appropriate for the situation, if requested.           |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | Appropriate program staff know how to hire a computer-assisted notetaker, appropriate for the situation, if requested. |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | Appropriate program staff know how to hire auxiliary personnel, appropriate for the situation, if requested.           |

## Chapter 7: Printed Information

Virtually all departments and agencies of the State of Hawai'i prepare materials in printed format. The printed information may describe the type of programs and services offered, eligibility benefits, general promotional information, data and statistics, location of programs and services, phone numbers, and other information.

The printed information may include brochures, fact sheets, newsletters, press releases, annual reports, master plans, or other similar documents.

EXAMPLE: The Department of Taxation prepares brochures for taxpayers to understand the requirements on filing state income taxes.

EXAMPLE: The Department of Business, Economic Development, and Tourism prepares an Annual Statistical Report accumulating data profiling Hawaii's population.

EXAMPLE: The Department of Health develops literature on COVID-19 prevention and aggressively distributes the brochures to health centers, clients, and the general public.

EXAMPLE: The Office of Information Practices issues public opinions regarding the state disclosure law. The opinions are open to the public, upon request.

When departments and agencies offer printed information to the public, the information must be made available in an alternate format (e.g., Braille, large print, audio recorder or electronic), if requested, for use by a person who is not able to read the printed format.

Remember that simply reading some information aloud to a person may be enough to communicate the information written on paper. If this is satisfactory to a person with a visual disability, then producing the document in alternate format may not be necessary. However, if the document is provided in writing to the public and if the person requests it in alternate format, then the department or agency is obligated to provide it.

All materials do not have to automatically be made available in an alternate format, if no request is made. However, you must know how to obtain the alternate format and be willing to do so in a timely manner for a person when requested. You should not convey an attitude that the request is either unwarranted or an imposition. Also, it is not appropriate to question the legitimacy of a request for alternate format or to ask the user to provide proof of documentation of the individual's inability to read standard print prior to fulfilling the request for alternate format.

If your department or agency is sponsoring an event (e.g., a workshop, conference, training session, tour, open house) you should determine several weeks ahead of time what printed materials will be used as part of the event. Arrangements should be made

to provide those materials in an alternate format, if requested, as the time period may be limited.

You may not charge a person who has a disability the cost of producing the material in an alternate format. That is considered a surcharge and it is not permitted. You may charge the same cost for the alternate format material that you charge anyone else for the equivalent amount of printed information.

Alternate format may take several forms. The most common are large print, Braille, audio recorder, and electronic. Each alternate format is different and described below.

## 7.1 Large Print

Large print is an appropriate format for many people with low vision who still have some residual vision. It is also a relatively easy format to produce by altering the computer font size and format, if the original document was generated on the computer.

The following questions and answers provide guidance for producing materials in print format.

### **What is the best type style for printing materials?**

Serif type is a typeset where a fine line projects from a main stroke of a letter at the ends of letters. For persons with low vision who utilize magnification devices or software programs, sans-serif type is usually preferred. To determine if a printing type is serif or sans-serif, look at the letters below. The “T” and the “H” are serif type, while the “M” and the “N” are sans-serif.

**T H M N**

This sentence is printed in serif type, Times font.

This sentence is printed in sans-serif type, Arial font.

Some of the more common fonts with serif type are Times, New Century Schoolbook, or Palatino. In general, fancy types should also be avoided. Text in all uppercase or in orator type is more difficult to read and should also be avoided even in headlines.

### **Serif**

Bookman

Courier

New Century Schoolbook

Palatino

Times

## **Sans Serif**

Arial

Geneva

Helvetica

### **What does “proportional spacing” mean?**

Proportional spacing allows for adjustment between letters to eliminate unneeded and often distracting white (background) space. Proportional spacing is easier to read for all people, but especially so for people with visual impairments. Therefore, a typeface that is proportional, rather than uniform, is suggested.

This sentence is printed in serif type, with proportional spacing, Times font.

This sentence is printed in serif type, with uniform spacing, Courier font.

### **What about type size?**

Most books and documents are prepared with a type size of 10 or 12 point type. Materials for general distribution are usually of the 12 point type. Large print materials are most commonly available in 16, 18, or 24 point type. Type points of 16 or 18 are acceptable for most documents. However, if you are typing original materials and do not have a lengthy document, 24 point type is very desirable.

### **Should paper and color combinations be a consideration?**

Color combinations have an effect on the readability of materials by people with low vision. When printing materials, efforts should be made to maximize the contrast and brightness between the letters and the background, without creating a glare. If black ink is used, as is most typical, printing should be on a pastel (especially light yellow), cream, or white colored paper. If colored print is used, avoid background paper of a shade of the same color. If a reverse printing is used (e.g., white lettering on a dark background), the preferred backgrounds are dark green (such as in highway signs), or dark blue (such as in the International Symbol of Accessibility), rather than black.

Paper with a non-glossy matte finish is preferable to coated shiny paper, to provide the highest level of contrast without glare.

### **What about the text of printed materials?**

A few extra hints will assist in preparing the most readable documents. If you are using a computer to automatically adjust the font on an original document, re-read your document in a larger font prior to printing. Eliminate, if possible, hyphenations on the right margin, as they make concentration more difficult

while reading. Also, if your document has columns, tables, math formulas, drawings, scientific calculations, etc., automatic enlargement on a computer may result in a skewed document due to formatting. It is important to proof your document to ensure that the text has not been distorted due to the enlargement.

When copying large print documents, if your text has a significant amount of bold type or drawings, copying on one side of the paper is preferable to minimize bleeding and distractions seen through the paper, unless heavier weight (60 pound) paper is used.

### **Does enlarging the print document on a photocopier work to produce large print?**

Enlarging a document on a photocopier does not assist a person with limited vision. The text is distorted by the photocopier and the person cannot read the words. Instead, they see individual dots that make up the letters. Do not enlarge documents on a photocopier to make large print documents.

## **7.2 Braille**

Braille is also an appropriate format for some people who are blind. Although only a small percentage of people who are blind are Braille readers, for those who have learned to read Braille, it is highly efficient and desirable. Many people who are born blind have learned Braille since their youth and are as adept and fast at reading Braille as a person who is sighted reading printed materials. Braille readers can also skim material similar to a sighted person skimming printed material. Material in Braille format is also desirable when a reader who is blind would like to have the document for later reference. Producing materials in Braille usually requires special equipment, training, and additional preparation time.

The following questions and answers provide guidance for producing materials in Braille.

### **Can I put my printed information into Braille myself in my office?**

Unlike producing materials in large print, producing materials in Braille usually requires special equipment, training, and additional preparation time. If materials have diagrams, pictures, or charts, translation should be done by a certified Brailleist who has been trained to transfer graphics and pictures to a narrative format. Computer software and printers are available that will automatically translate written information into Braille I or Braille II directly from an electronic format, if the text is straight narrative. This software and the accompanying printer, although technologically available and not too expensive, are still uncommon in most work environments.

### **Where to get materials transcribed into Braille?**



The Library for the Blind and Print Disabled provides transcribing services to have print material, such as meeting agendas, converted into Braille. This transcribing service is free for state and county agencies. Documents should be in MS Word format. Simple documents in the correct format should not take more than one week to transcribe into Braille, but the timeline should be confirmed when requesting transcribing services. The Library for the Blind and Print Disabled may have a backlog due to requests for textbooks and other academic materials for students, and these take priority in their scheduling. Therefore, submitting your document to the Library as early as possible will help in the turnaround time. Also, providing the information in an electronic format reduces the time for Braille, by eliminating the clerical time for inputting data.

Contact the Library for the Blind and Print Disabled for more information at (808) 733-8444, [olbcirc@librarieshawaii.org](mailto:olbcirc@librarieshawaii.org), or visit their website at <https://www.librarieshawaii.org/lbpd/>.

### **7.3 Audio Recorder**

Recording printed material for a person who is blind or who has a learning disability can be done in-house by staff with some general guidance.

If you do not have anyone in your office able to record printed material, or if the material requires complex or descriptive reading skills, the Library for the Blind and Print Disabled has transcribing services that convert print material into audio or they may be able to refer you to a reader.

If you make an audio recording for use onsite, make sure that you provide a portable machine with earphones available, on loan, so that the person is able to listen to the recording thoroughly without disturbing other attendees.

#### **Selecting a reader and location**

Search for a “good reader” among your staff and volunteers. A good reader reads printed material aloud with accuracy, clarity, fluency, interest and “sense.” A good reader is not simply a good speaker. Reading aloud and speaking are often two different skills.

The reader should have a smooth, non-monotonous reading voice. Reading at a fast pace is preferable to a slow pace. Most people who are blind or have low vision are able to listen to a recording at a faster pace without compromising the understanding of the content. A reader should read only as long as he or she is comfortable without losing pace or weakening voice. The reader should select a quiet location that minimizes background noise. Phones, music, voices, animal sounds, machinery noise, or street traffic can be extremely distracting to a person listening to the recording.

#### **Identifying the recording**

Recordings should be identified audibly, in writing, and in Braille, if possible. The recording should begin with information on the title, author, reference, date of publication, and date of the reading. Providing the name of the voice reader is a courtesy and informs the listener to become familiar with a voice so that, if subsequent recordings are to be done, the listener may request a specific reader who is clear and easy to understand (i.e., This is “The History of Music,” authored by John Doe, dated September 1979, read by Jane Smith on October 1, 2022). When the document is completely finished, this should also be announced (i.e., This is the end of the recording of “The History of Music”).

### **Reading the text**

The reader should briefly read the text before recording to become familiar with terms and words. Uncommon words and pronunciations should be looked up prior to recording so that the recording voice is smooth and uninterrupted.

The text should be read as written, even with apparent errors. All the information in a document should be read, including footnotes, bibliographies, cartoons, diagrams, and charts. The reader should note the presence of quotations (“begin quote” and “end quote” respectively), italicized words (“begin italics” and “end italics” respectively), parentheses (“begin paren” and “end paren” respectively), or footnotes (“footnote one”). Footnotes should be recorded at the end of a chapter or other convenient break point, so as not to interrupt the text. Page numbers of the document should be read when they occur.

A reader’s note may be inserted if needed to clarify a point from the reader to the listener. (“Reader’s note: The footnotes to this chapter will be read at the end of the chapter. End of note, return to text” or “Reader’s note: Table A is being read in French. There is no English translation provided. End of note, return to text.”)

Reading cartoons, diagrams, charts, illustrations, scientific or medical documents are often very complex to read. Because descriptive reading is an acquired skill, if your document has many pictures, diagrams, charts, etc., to read, you should consider contracting out the document to a professional reader.

## **7.4 Electronic Format**

Materials in electronic format requested by the person who has a disability can be provided to the person prior to an event.

If materials used are in an electronic format, there is also the option of emailing it ahead of time. The option should be offered to the person who is blind or has low vision. This enables the person to review materials ahead of time.

## **7.5 Checklist for Ensuring Printed Literature is Accessible**

YES  NO      Arrangements have been made to translate printed materials into large print format, if requested.

- YES  NO Arrangements have been made to translate printed materials into Braille, if requested.
- YES  NO Arrangements have been made to translate printed materials onto an audio recording, if requested.
- YES  NO If YES, arrangements have been made to have audio recordings with earphones available, on loan, to listen to the recording.
- YES  NO Arrangements have been made to provide materials to the participant on a recorder or via email, depending on the person's preference.

## Chapter 8: Announcements, Notices, and Publicity Materials

If you are hosting an activity or event (e.g., a tour, open house, workshop, conference, meeting or hearing) and have an announcement, notice, or publicity flyer that invites the public to participate or attend the activity or event.

Your activities or events may come in many different forms or shapes, such as onsite, virtual, or hybrid. Some may require registration while others may not. Some may charge a fee while others may not. Some may simply invite the public to submit testimony or comments on a policy, activity or document that the department or agency is making available to the general public. The State's obligation to provide access is the same whether the State is the sole sponsor or a co-sponsor of the activity or event.

EXAMPLE: The Department of Land and Natural Resources conducts public hearings when it proposes to amend its administrative rules relating to charging fees for use of state parks.

EXAMPLE: The Office of the Governor conducts public town hall meetings for the purpose of the Governor answering questions from constituents.

EXAMPLE: The Department of Hawaiian Home Lands sponsors a public hearing to inform interested persons of a new housing project and eligibility criteria for application.

Announcements, notices, and publicity materials will play an important role in determining how accessible your activity or event is for people with disabilities. They will be the primary means by which you inform people with disabilities that you are including them as part of your audience and will assist in making the activity or event accessible. Your announcements, notices, and other publicity materials need not contain a full description of all the accessibility features of the activity or event. They merely need a statement that a person with a disability may request an auxiliary aid/service or other accommodation to participate in the activity or event and then provide the name of the follow-up contact person, phone number, and email address.

### 8.1 Sample Statements for Placement on Announcements, Notices, and Publicity Materials

If you need an auxiliary aid/service or other accommodation due to a disability, contact [Name] at [phone number and email address] as soon as possible, preferably by [reply date]. Requests made as early as possible have a greater likelihood of being fulfilled.

Upon request, this notice is available in alternate formats.

Or, if no reply date is provided:

If you need an auxiliary aid/service or other accommodation due to a disability, contact [Name] at [phone number and email address] as soon

as possible. Requests made as early as possible have a greater likelihood of being fulfilled.

Upon request, this notice is available in alternate formats.

The questions and answers below provide guidance on the provision of auxiliary aids/services or accommodations due to a disability at public meetings and events.

**Does the activity or event announcement, notice, or publicity material provide a link to information on how to request an auxiliary aid/service or other accommodation?**

Wording on how to request an auxiliary aid/service or other accommodation because of a disability must be placed directly on the document, flyer, notice or other form. Do not require the reader to take an “extra step” to find instructions elsewhere via a link or other research.

**Is a reply by date a firm deadline?**

Any deadline date listed for requesting an auxiliary aid/service or other accommodation for an open event is only a reply by date because the public entity shall continue to try to meet any request up to the scheduled time of the event. A public entity may (1) indicate a reply by date and state that requests made as early as possible have a greater likelihood of being fulfilled; or (2) add a phrase stating that a good faith effort will be made to fulfill requests made after a reply by date. In some cases, due to the limited number of communication access providers, a requested auxiliary aid/service or accommodation may not be obtained for the event even if a request is made (e.g., for a preferred American Sign Language interpreter) prior to the reply by date.

However, if an event has a registration deadline for all participants, such as a conference or workshop, with or without a registration form, then the deadline for requesting an auxiliary aid/service or an accommodation can be firm and can coincide with the deadline for registering for the event itself.

**What should be considered when selecting a reply by date?**

A reply by date should take into consideration the date that the announcement, notice, or publicity material is made available to the public. For example, if an agenda is posted six days prior to the meeting pursuant to Hawai'i Revised Statutes, Chapter 92 (Sunshine Law), then a reply by date to request an auxiliary aid/service or other accommodation cannot require six days advance notice because a reasonable amount of time must be provided to allow persons with disabilities to review the notice and submit a request for an auxiliary aid/service or other accommodation. Alternatively, if a conference program is posted a month in advance, then a reply by date for requests can be set to allow the public entity more time to fulfill the request.

**Does the announcement, notice, or publicity material have to state that an auxiliary aid/service will be provided for the event?**

If an auxiliary aid/service or accommodation will be provided without the need for a request, the announcement, notice, or publicity material should indicate so (e.g., an American Sign Language interpreter will be present).

**8.2 Checklist for Ensuring Announcements, Notices, and Publicity Materials are Accessible to Persons with Disabilities**

- YES  NO      Appropriate wording is used to inform the public that they may request auxiliary aids/services or other accommodation to participate in the activity or event due to a disability.
  
- YES  NO      The name of the follow-up contact person, phone number, and email address is included in the statement.
  
- YES  NO      If a reply by date is required, does it provide a reasonable amount of time to review and request auxiliary aids/services or other accommodations?

## Chapter 9: Registration for Activities or Events

When hosting an event, such as a conference, workshop, tour, etc., you may have a registration process (usually a form or web-based form) for enrollment.

**EXAMPLE:** The Department of Taxation sponsors a one day seminar on the tax code for Certified Public Accountants only. A registration fee is charged and pre-registration is required.

**EXAMPLE:** The Department of Business, Economic Development, and Tourism sponsors an exhibit and exposition on new business opportunities for people interested in starting their own business. There is no fee, but online registration is required.

Although the primary reason for registration is usually to control the capacity of the attendance and to collect registration fees, if applicable, your registration process will also be the key to a successful accessible event by using the registration form to obtain specific information regarding the needs of your audience. Knowing your audience is the one way you can successfully plan for their needs. The registration form offers an opportunity for someone with a disability to identify in advance personal needs for assistance or accommodation.

The registration form is an opportunity to obtain the following information:

- if any participant needs materials in an alternate format;
- if any participant requires a sign language interpreter or other communication access service;
- if any participant requires auxiliary personnel for mobility, eating, or other assistance;
- if any participant has special dietary needs;
- if any participant needs an accessible parking space or route; and
- if any participant has any other needs relating to disability.

Advance registration forms are highly encouraged for events even if you have no registration fee, in order to avoid unanticipated, last minute, or onsite requests for assistance. You cannot require advanced registration solely for people with disabilities who have requests for accommodations or auxiliary aids or services, because that would establish discriminatory eligibility criteria. If you have an advance registration process, you must ask all your attendees to register.

### 9.1 Checklist for Ensuring the Registration Process is Accessible

- YES  NO      Appropriate wording is used to inform attendees that they may request auxiliary aids/services or other accommodation to participate in the activity or event due to a disability.

- YES  NO      The phone number on the registration form is accessible via a TTY and has that TTY number listed.
- YES  NO      If YES, staff knows how to use the TTY.
- YES  NO      If NO, staff knows how to use the Telecommunications Relay Service (TRS) or the Video Relay Service (VRS).
- YES  NO      The registration form is typeset for easy reading.



## Chapter 10: In-Person Events and Activities

When hosting in-person events and activities, departments and agencies should address building access, auxiliary aids, and other services before the event or activity starts.

**EXAMPLE:** People with disabilities may need wheelchair access to parking, the building entrance, stages, and restrooms; service animals must be permitted to accompany the individual with a disability; individuals making use of qualified sign language interpreters may need preferred seating in sight of the interpreter and presenter; and assistive listening devices may need to be available to people who are deaf or hard of hearing.

### 10.1 Facility Access Considerations

When you are selecting a site for a conference, workshop, or other training activity, used on a one-time basis, there are some additional considerations and challenges that must be taken into account. The arrangement in the meeting rooms are important to provide full access and comfort for people with disabilities. The meeting rooms should be set up for your audience to allow people with mobility disabilities, especially wheelchair users, to sit dispersed throughout the audience. The seats should be arranged so that a wheelchair user is able to sit with a companion or work colleague during the session. Staff should be notified to remove chairs, upon request, after the person with a disability chooses his or her seat or location. The chairs should not be removed in advance unless seats are assigned, as such an action would preclude a person who has a disability from choosing a location of personal preference. A very convenient seating style, particularly for classroom set up, is a modified “V” or angled seating pattern because it provides for greater mobility in the middle of the room and improved line of sight to the presentation.

Set up your training with an area to permit a sign language interpreter to be as close to the main speakers as possible. If a sign language interpreter is used, set up reserved seats for people who are deaf or hard of hearing in the line of sight to view the interpreter.

People who are blind or who have low vision will also need to sit up front to have closer access to the speakers and to see visual presentations as well.

The facility manager should be prepared to set up assistive listening systems, if requested by a person who is hard of hearing.

### 10.2 Catering or Banquet Services

The State of Hawai‘i often includes catering of banquet food service as a part of the program, service, or activity conducted. Food service may include formal meals as well as informal receptions and offering of refreshments.

EXAMPLE: The Office of the Governor sponsors a reception for a business group at Washington Place. At the reception, in addition to some speeches, pupus are served in a long banquet-style line for all participants to enjoy.

EXAMPLE: The Department of Accounting and General Services and the Department of Education hold a groundbreaking ceremony for the construction of a new school. The groundbreaking ceremony consists of presentations as well as refreshments for all invited public officials, the media, and affected community members.

EXAMPLE: The Department of Agriculture hosts a conference. During the conference a sit-down luncheon is provided to all attendees as part of the registration fee.

If a department or agency is hosting an activity that will involve food as a part of the program or activity, attention should be paid in the planning to respond to the needs of a person who has a disability. If the activity is a conference, workshop, or training activity with a registration form, the relevant information on an individual's need due to a disability should be made known through the registration process identified in Chapter 9. However, not all catering or banquet services are for events that have a registration form. In those instances, you must be prepared to respond to onsite requests by making the proper contingency plans ahead of time in the event that a request is made.

The manner in which food is served at meals or breaks can affect the participation level of many individuals who have disabilities. If people who are blind or have low vision or have mobility disabilities attend your activity and a meal is provided, a sit-down, rather than buffet-style meal should be discussed with the catering service, because standing in lines and carrying food is difficult. However, if a buffet is planned, arrangements should be made to provide assistance in selecting food and carrying plates for persons having limited manual dexterity or stability in carrying food. Also, banquet and catering staff should be appropriately informed ahead of time if individuals who are blind or who have limited manual dexterity request that their food be cut into smaller portions.

Some people who have disabilities, particularly those with chronic health conditions, have dietary needs, and arrangements should be made with the catering staff to provide special meals (e.g., low sodium, sugar-free, salt-free food), if requested.

**10.3 Checklist for Ensuring In-person Events and Activities are Accessible**

YES  NO Arrangements have been made to provide assistance in selecting food, and/or carrying plates in a buffet-style arrangement, if requested.

YES  NO Arrangements have been made to inform banquet and catering staff of special food or dietary needs, if requested.

## Chapter 11: Virtual Events and Activities

In response to the recent global pandemic, State departments and agencies changed the way they gather, collaborate, discuss, share, and learn from primarily in-person to virtual meetings and events where attendees participate remotely from their homes using virtual platforms, such as Zoom, Microsoft Teams, and Webex. As employees return to their offices, meetings and events are expected to be a hybrid of in-person and virtual/remote participation. Accessibility can and should be seamlessly integrated into your meetings and events to ensure compliance with effective communication requirements. Departments and agencies are required to take appropriate steps to ensure that communications with people with disabilities are as effective as communications with others.

Consider the following when planning your meetings and events:

### 11.1 Know Your Audience

Because no two individuals with a disability experience their disability in the same way, it is important to know the audience. Staff responsible for handling accommodations for the meeting or event should interact with the individual requesting the auxiliary aid/service or other accommodation to determine what can be done to best accommodate their needs.

EXAMPLE: People who are deaf from birth may need a qualified sign language interpreter because sign language is their primary language, while people who became deaf later in life may need captioning because English is their primary language.

### 11.2 Interactive Features

It is important to address the accessibility of interactive features you plan to use during your meeting or event, such as screen sharing, videos, polling, question and answer, and breakout rooms.

EXAMPLE: When an individual who needs a qualified sign language interpreter moves to their breakout room, you need to ensure that an interpreter will be in the same room.

EXAMPLE: When screen sharing a slide deck, the virtual platform should have interactive features that give people the option to resize virtual windows so the interpreter's image is large enough to display the interpreter's face, arms, hands, and fingers, and the face, arms, hands, and fingers of the person using sign language regardless of his or her body position.

### 11.3 Platform Features

Platform features may vary depending on how attendees access your meeting or event (e.g., desktop, tablet, web browser, or phone). Typically, software requiring download and installation is more feature rich.

**EXAMPLE:** People who are blind may call-in to participate in the meeting or event and may not have access to platform features such as raising a hand to ask a question. You should implement meeting management strategies to compensate for weaknesses in the selected platform.

Virtual platforms have increasingly integrated automated speech to text translation into their products. This type of automated captioning by artificial intelligence does not constitute effective communication. This feature lacks a realtime captioner's ability to translate heavily accented speech, acronyms and jargon, and Hawaiian words. Upon request of captioning for a virtual meeting/event, the department/agency must make a good faith effort to provide captioning, unless it can demonstrate that another equally effective means of communication is available.

#### **11.4 Meeting and Event Notices**

Agendas, flyers, registration forms, etc., must be accessible to people who use computer screen-reading software. Wording on how to request an auxiliary aid/service or other accommodation because of a disability must be placed directly on the notice. In addition, these notices should include a call-in number to allow participants who may not have the technology or ability to join the meeting/event via a given virtual platform to participate in the meeting/event by phone.

#### **11.5 Presentation Handouts**

Presentation documents such as PowerPoint, Word, and PDF must be accessible and, whenever possible, distributed ahead of the meeting/event to allow attendees to pre-read or reference documents at their own pace during the meeting.

#### **11.6 Screen Sharing**

By default, virtual meeting platforms only display the visual element selected by the person sharing their screen. Screen sharing is not accessible to persons with vision disabilities, so you should speak as if the meeting/event is being conducted via teleconference and verbally read/describe all visual content, including the slide number, text, and photos. In addition, if the meeting/event will have multiple speakers, speakers should identify themselves when they start talking. When screen sharing webpages, you should share the link. This best practice provides people who use screen-reading software the opportunity to access the web-based content. You should be aware of the various sizes of device screens that may be used by your attendees. Individuals using laptops or

tablets may be unable to view the screen shared document and American Sign Language interpreters in smaller platform windows. When screen sharing a video, you should make every effort to remove flickering, blinking, or flashing, because these effects may affect individuals who are susceptible to seizures.

### **11.7 Pinning the Interpreter**

If the platform allows pinning, you should always pin the American Sign Language interpreter so that they do not disappear from the screen as other people join the meeting or speak.

### **11.8 Technical Issues**

Meetings covered by the Sunshine Law must comply with Hawai'i Revised Statutes, Chapter 92 when meetings held by interactive conference technology have an interruption to audiovisual communication. Additional information about this requirement is available at

[https://www.capitol.hawaii.gov/hrscurrent/Vol02\\_Ch0046-0115/HRS0092/HRS\\_0092-0003\\_0007.htm](https://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0092/HRS_0092-0003_0007.htm).

### **11.9 Checklist for Ensuring Virtual Events and Activities are Accessible**

- YES  NO      Upon a request for captioning of a virtual event, a good faith effort will be made to provide captioning, unless the department or agency can demonstrate that an equally effective means of communication is available.
- YES  NO      Presentation documents such as PowerPoint, Word, and PDF are accessible and, whenever possible, distributed ahead of the meeting/event to allow attendees to pre-read or reference documents at their own pace during the meeting.

## Chapter 12: Audio and Audiovisual Communications

Departments or agencies that broadcast information to the public through audiovisual means must ensure that materials are accessible to individuals with disabilities. These may include videos, public service announcements for either television or radio, or the production or hosting of television or radio shows.

### 12.1 Video

Videos developed for educational or promotional purposes by a department or agency are examples of a program, service, or activity that must be accessible to individuals with disabilities. Because videos are usually developed with a voiced script, they are often not accessible when viewed by an audience that includes people who are deaf or hard of hearing.

EXAMPLE: The Department of Health develops a video for children on Hepatitis B transmission. The video is used as an educational tool in Hepatitis B prevention. This video must be accessible to persons who are deaf or hard of hearing.

EXAMPLE: The Department of Business, Economic Development, and Tourism develops a video that assists business owners in the community to know how to start their own business. This video is loaned out to the public. This video must be accessible to persons who are deaf or hard of hearing.

EXAMPLE: The Natural Energy Laboratory of Hawai'i Authority develops a video that explains new research in developing alternate energy resources in Hawai'i. This video is used for educational purposes, as well as to attract businesses to Hawai'i. This video must be accessible to people who are deaf or hard of hearing.

When you develop a video, consideration should be given to using captions, as well as preparing a written transcript of the video to ensure maximum viewing by all audiences in the future. Captioning will be off-line captioning (because it is not live) and can either be open- or closed captioned. Note that if you choose closed captioning, your video's captions will not show up on most screens unless it is set to show the captioning. Therefore, it is better to open-caption your video so it can be used on any machine. An open-captioned video is also useful for an audience in a noisy setting.

EXAMPLE: The Judiciary posts a video of oral arguments before the court online. The online video is required to provide effective communication. No particular auxiliary aid or service is required, but an auxiliary aid or service must be included with the video, such as closed

captioning or a transcript. Posting such a video without an auxiliary aid or service would violate the ADA.

You may choose to produce videos interpreted by a sign language interpreter, who interprets the content while placed in a bubble inset on the lower corner of the video screen. Although this does provide some access, captioning is the preferred means of access, since a smaller percentage of people who are deaf and hard of hearing have the ability to understand sign language compared to those who may be able to read. In addition, the sign language interpreter in the bubble inset can often be quite small, making the interpreter difficult to view and understand.

When using or buying a video from another source as part of a program, service, or activity, always check to see if there is a captioned version available. As stated earlier, if given the choice, always choose an open-caption, rather than a closed caption version. If no captioned version is available and a deaf or hard of hearing person is a part of the program, provide a sign language interpreter or a written transcript of the video.

## **12.2 Public Service Announcements**

When departments or agencies engage in public awareness and promotional efforts, public service announcements (PSAs) on the television or radio are often used.

**EXAMPLE:** The Department of Health develops a PSA to encourage teenagers to stop smoking. The PSA is to be aired on television stations as part of a month-long campaign to reduce lung cancer. The PSA must be developed to be accessible to persons with disabilities.

**EXAMPLE:** The Office of Elections develops a PSA to inform the public of their right to vote and how to register. The PSA is to be aired on radio stations prior to the elections to encourage voter turnout. The PSA must be developed to be accessible to persons with disabilities.

Similar to the development of videos, if you are developing the PSA for television, consideration should be given to using captions as well as preparing a written transcript of the PSA. The captioning will be off-line (since it is not live) which can either be open- or closed captioned. It is better to open-caption the PSAs. An open-caption PSA is also useful for a hearing audience for viewing in a noisy setting.

If you receive federal funds to produce your video PSA, it must be captioned.

You may choose to have your PSA interpreted with a sign language interpreter, who translates the content while placed in a bubble inset on the lower corner of the screen. Although this does provide some access, captioning is a preferred



means of access, since a smaller percentage of deaf and hard of hearing people have the ability to understand sign language compared to those who may be able to read. In addition, the sign language interpreter in the bubble inset can often be quite small, making the interpreter difficult to view and understand.

If you develop your PSA for airing on the radio, neither captioning (in any form) or the use of a sign language interpreter will convey the message to a person who is deaf or hard of hearing. Thus, the only reasonable ways you can make your PSA accessible is to post it on the department or agency website or have a written transcript or copy of the for-print PSA available, upon request.

### **12.3 Television Programs and Livestream Events**

Television programs and livestream events are produced by several State of Hawai'i departments and agencies, particularly for educational and informational purposes. These shows must be accessible to persons who cannot receive the information in the same format.

**EXAMPLE:** The Office of the Governor routinely holds a broadcast program for airing on television with the Governor's messages or speeches. This program must be made accessible to individuals who are deaf or hard of hearing.

Similar to the development of videos or PSAs, television programs and livestream events must be made accessible to persons with communication limitations. Consideration should be given to using captions as well as preparing a written transcript of the program. The captioning will be off-line if the show is pre-programmed, either as open- or closed captioned. It is better to open-caption the program, which can be viewed on any television screen.

When a program of the State of Hawai'i is aired as a live television program, additional considerations need to be taken in order to provide access for persons with disabilities.

**EXAMPLE:** Hawai'i Public Television offers a live, call in show with two-way interaction with the listening/viewing public. This program must be made accessible to individuals who are deaf or hard of hearing.

A television show or livestream event with audio will not be accessible to a person who is deaf or hard of hearing. Off-line captioning, whether open or closed, will not work for live shows or events, since off-line captioning requires advanced scripting and editing to add the captioning prior to airing. In this case, the program must consider either realtime (live) captioning or the use of a sign language interpreter in the studio. Both options will provide simultaneous communication during the live, possibly unscripted, dialogue of the participants. Livestreaming platforms, such as YouTube, may have an auto-captioning feature

that uses voice recognition software to translate audio to text. Auto-captioning does not constitute effective communication.

Don't forget that if your live television show allows the home viewing audience to call in to ask questions, talk with the participants, donate money to a telethon, etc., you should provide a TTY on the phone line to allow a person who is deaf, hard of hearing, or who has a speech disability to call in. Your staff should be trained to be able to receive incoming calls.

Your responsibility as a State department or agency occurs when the State sponsors or hosts the program. If you are an invited guest speaker or participant on someone else's show, they are responsible for the access obligations.

#### **12.4 Radio Programs**

Some departments or agencies of the State of Hawai'i may develop a program or service on the radio as part of their outreach to the public.

EXAMPLE: The Office of the Governor sponsors a radio show in which the Governor fields questions about government services. The radio show is a program that must be accessible to people who are deaf or hard of hearing.

EXAMPLE: The Department of Health sponsors a program on the radio to teach children sex education. The radio show is a program that must be accessible to people who are deaf or hard of hearing.

If you develop your radio program, neither captioning (in any form) nor the use of a sign language interpreter will convey the message to a person who is deaf or hard of hearing. Thus, the only reasonable ways you can make your program accessible is to post the transcript on the department or agency website or have a written transcript or a copy of the for-print PSA available, upon request.

Your responsibility as a State department or agency occurs when the State sponsors or hosts the program. If you are an invited guest speaker or participant on someone else's show, they are responsible for the access obligations.

#### **12.5 Checklist for Ensuring that Audio and Audiovisual Communications are Available**

YES  NO      Videos and television public service announcements or shows have been captioned or interpreted with a sign language interpreter on the recording.

YES  NO      If "NO," a written transcript is available to accompany the video or television PSA.

YES  NO

Radio PSAs or programs have a transcript posted on the department or agency website or a written transcript is available.

YES  NO

Live television shows with call in options for the public have a TTY with trained staff on the phone line.

## **Chapter 13: Phone Services**

Many departments and agencies provide customer service over the phone. The nature of the customer service may vary, including providing information, applying for programs or benefits, registering for events, or reporting information. The customer may be a specific group of individuals eligible for the program or service, vendors who conduct business with state departments or agencies, or the public at-large.

Since phone services customarily rely upon transmitting information in spoken or oral format and receiving information in aural or auditory format, the phone is not an accessible means of communication for people who are deaf, hard of hearing, or who have speech difficulties, if a TTY is not available. Use of a TTY or the Telecommunications Relay Service (TRS) ensures accessible phone services.

### **13.1 TTYs (Teletypewriters)**

TTYs are also known as Text Telephones (TTs) or Telecommunications Devices for the Deaf (TDDs). The preferred terminology among the deaf community is TTY.

A TTY is a device that is used in conjunction with a phone, which permits a person who is deaf, hard of hearing, or has speech difficulties to type messages that are sent electronically by means of the phone line to the receiver on the other end. The recipient must also have a TTY in order to receive the message on a screen or tape. A TTY is the most direct and effective means of communicating via the phone for a person who is deaf, hard of hearing, or has speech difficulties because it allows direct communication without the need for an intermediary.

Every program or service that has a TTY should ensure that its staff are trained to use the TTY to receive an incoming call and place an outgoing call. If training is necessary, departments and agencies may contact the Disability and Communication Access Board.

### **13.2 Telecommunications Relay Service (TRS)**

Currently, Relay Hawai'i operates the relay service in which a communication assistant serves as an intermediary between a TTY user and a voice user. The Telecommunications Relay Service (TRS), in many circumstances, can provide a means for communication. Every program or service that has public phone access must ensure that all employees who use the phone know how to use the TRS to initiate an outgoing call or receive an incoming phone call, especially if there is no TTY available. Your department or agency must accept TRS phone calls in the same manner as a person without a disability.

The following questions and answers provide guidance on how to use TRS:

**What is the Telecommunications Relay Service (TRS)?**

The Telecommunications Relay Service (TRS) is a telephone service for persons with hearing and speech disabilities to place and receive telephone calls.

### **How do I use the TRS if I am hearing?**

To call a person with a hearing or speech disability without a TTY, dial 711 and you will be connected with a Communication Assistant (CA). Give the CA the phone number you want to call, the CA will dial the number for you. The CA will let you know if the number is ringing, busy, or disconnected. If the call is answered, the CA will start typing on a TTY, identify that this is a TRS phone call and inform the person that you are on the line. Communication is carried out through a three-way process in which you speak to the CA who types what is said for the person who has a hearing or speech disability to read the message on their TTY. The person with the TTY will type a response that the CA reads out loud to you. CAs are prohibited from altering or disclosing the content/conversation.

### **How do I use the TRS if I am a person with a hearing or speech disability?**

If you are a person who is deaf, hard of hearing, deaf-blind or have a speech disability using a TTY to communicate with a hearing person without a TTY, dial 711. TRS is available statewide and nationally.

### **At what times can I make TRS calls?**

The TRS is available 24 hours a day, 7 days a week. There is no time limit on the length of the call, or on the number of calls made. TRS is available statewide and nationally by using the same telephone numbers given above. No charges are made for local TRS calls. Out of state and international calls through the TRS are charged by the carrier of choice. Billing options are direct, collect, person to person, third party, local telephone company calling card, long distance telephone company calling card, or pre-paid card.

### **What if I can speak but can't hear?**

This is referred to as Voice Carry Over (VCO). Communication is handled by using the TRS to type the message to you from the person without a TTY. You then pick up the telephone and respond directly to the person. The CA will then type the person's response to you and the conversation will proceed as described above.

### **What if I can hear but can't speak?**

This is referred to as Hearing Carry Over (HCO). It is the reverse of the process described above. The CA will read your message on the TTY to the other party. You then lift the receiver to hear the response directly from the other party.

### **Are TRS calls private?**

The CA is required to keep all information confidential and cannot interrupt either caller unless the CA needs to clarify a message. The CA is also required to inform either party of background noise, conversations and anything that could be heard by either party, as though both were hearing.

### **Are there any helpful tips to make the TRS call easier?**

- **Speak slowly and clearly** so that the CA can accurately convey your message.
- **Don't interrupt the CA**, but rather wait until you hear or see the letters "GA" before responding to the other party. Let the CA know that you are finished speaking by saying "Go Ahead" or typing "GA" at the end of your message. The CA will then type or say "GA," and the other party will know it is his or her turn to respond.
- **TRS calls do take longer than regular phone calls**, so have all materials that you may need handy in order to keep the call as short as possible.
- **There are also some clues** that you could say or type, such as "HaHa," "Huh," "Ugh," "Umm," "Smile," or other indications of your feelings so that the other party will get an idea of your state of mind (e.g., if you are being sarcastic) during the conversation.
- **When you are ready to end your phone call**, it is polite to say or type "GA to SK," meaning "Go Ahead" to "Stop Keying," which lets the other caller know that the conversation is over and that both parties can now hang up.

### **13.3 Video Relay Service (VRS)**

With advances in technology, deaf people are choosing to use the VRS more than the TRS. With the VRS, the deaf person communicates via a sign language interpreter instead of a Communication Assistant who uses a TTY. The sign language interpreter voices for the deaf caller to the hearing person receiving the phone call, and signs what is said to the deaf person on the call. Using VRS is another type of relay service for the deaf person who uses American Sign Language (ASL) to make a phone call. Your department or agency must accept VRS phone calls in the same manner as a person without a disability.

The following questions and answers provide guidance on how to use TRS:

#### **What is Video Relay Service (VRS)?**

Video Relay Service (VRS) is a form of Telecommunications Relay Service (TRS) that enables persons with hearing disabilities who use American Sign Language (ASL) to place a telephone call through video technology. A person with a hearing disability will call you through his or her own video technology and the phone call is connected to a Video Relay Service Communication Assistant

(VRS CA). The VRS CA is a qualified sign language interpreter. The VRS CA relays the conversation back and forth in sign language to the person with the hearing disability and voices the signed conversation to you. There's no typing or text involved. The VRS is available 24 hours a day, 7 days a week.

### **Who makes a VRS call and what types of video technology is used when placing a VRS call?**

Persons who are deaf, hard of hearing, or deaf-blind use video technology to place a telephone call through the VRS. A VRS provider will issue a ten-digit number attached to their video equipment to place a call.

There are different types of video technology to place a telephone call using the VRS. To use the VRS, all of the video equipment must be connected to high speed internet via cable or DSL modem. High speed internet is recommended to deliver high quality video images that does not produce lags, choppy, blurry, or grainy images or irregular pauses in communication.

A VideoPhone (VP) is video equipment that is connected to a television set or monitor to send audio and video transmissions in real time for users to communicate.

A web cam is a camera that produces images/video and audio that can be transmitted in real time for users to communicate. A web cam is connected to a laptop or computer.

A smart phone with a front facing camera is a mobile phone that produces video and audio, which can be transmitted in real time for users to communicate. A smart phone must have internet connection and an application from one of many VRS providers to place a VRS call.

### **Who provides VRS?**

There are over 20 companies across the nation offering video relay services. None of these providers are located in Hawaii. VRS operates daily, 24 hours a day. A VRS provider may not refuse calls or limit the volume or duration of the call. Regarding 911 calls, a VRS provider must issue the person with a disability a ten-digit number to have their personal location information routed to the appropriate emergency service center.

### **What is a Video Relay Interpreter or Video Relay Communication Assistant?**

A Video Relay Interpreter or Video Relay Communication Assistant is a qualified sign language interpreter who interprets the telephone conversation between the person with a disability and a hearing individual. The telephone conversation is interpreted both in American Sign Language and Spoken English. The telephone call is confidential and may not be intentionally altered. Callers from both parties

will hear or see the Video Relay Interpreter or Video Relay Service Communication Assistant. When a call is placed using VRS, the Video Relay Interpreter or Video Relay Service Communication Assistant must first identify the company providing the service along with their identification number. An example of Video Relay Interpreter identification is Sorenson VRS 6995.

### **Who regulates the VRS?**

In the United States, the Federal Communications Commission (FCC) regulates all VRS providers. For a complaint regarding Video Relay Interpreters, Video Relay Service Communication Assistants or VRS providers, the consumer should first try to resolve the issue with the VRS provider. Consumers not able to resolve the problem with the VRS provider may file a complaint with the FCC. There is no charge or fee for filing a complaint with the FCC.

Consumers have the option to file with the FCC in writing, by phone (888) 225-5322 (voice) or (888) 835-5322 (TTY) or (844) 432-2275 (videophone), email at [dro@fcc.gov](mailto:dro@fcc.gov), or online at [https://consumercomplaints.fcc.gov/hc/en-us/requests/new?ticket\\_form\\_id=36040](https://consumercomplaints.fcc.gov/hc/en-us/requests/new?ticket_form_id=36040).

### **13.4 Videophones (VP)**

A VP is a video communication device that is connected to a TV or monitor. VPs are used by individuals who are deaf or hard of hearing to make and receive telephone calls through video relay services. VPs have additional benefits. They can be used for direct communication between individuals who are deaf and hard of hearing and with their hearing family and friends who know sign language. VPs can also be used by people who are deaf and hard of hearing who do not know sign language, but who benefit from access to visual communication cues, including lip reading.

### **13.5 Regular Phone Contact with the Public**

Most departments and agencies of the State of Hawai'i have some contact with the public by phone. The contact may be infrequent or routine. In these programs, it is up to the program administrator to determine the need for a TTY. A TTY is not required in these programs, although certainly encouraged to provide greater access for people who are deaf, hard of hearing, or have speech disabilities.

EXAMPLE: The Department of Hawaiian Home Lands has a program that has contact with the public through the use of the phone when an individual wishes to know how to apply for a home. A TTY is not required. Use of the TRS would most likely suffice, provided that all people in the program who use the phone are familiar with how to use the TRS. However, the program may wish to consider increasing its access by providing TTY access as an option.



### **13.6 Emergency Services**

Some phone contact within departments or agencies of the State of Hawai'i are considered emergency in nature. Those programs must ensure that contact with people who are deaf, hard of hearing, or speech impaired is direct through the use of a TTY. Use of the TRS is not appropriate for an emergency service.

EXAMPLE: The Hawai'i Health Systems Corporation provides emergency room services at its hospitals. One means of accessing the emergency room services is by phone. A TTY or access to a VP would be required to ensure accessible communication.

### **13.7 Hot Lines and Other "Special Lines"**

Some phone services conducted by departments and agencies of the State of Hawai'i are hotlines, customer complaint lines, or other special lines that are designated for a specific purpose to receive or impart information by an employee with knowledge on how to respond to the inquiries. These phone lines may be accessed through the TRS, although it is highly recommended that programs give serious consideration to the placement of a TTY in those offices due to the confidentiality of the information conveyed or the importance of having a timely response.

EXAMPLE: The Department of Human Services operates a hotline for reporting suspected child abuse and neglect. Social workers are trained to respond to the calls as soon as possible and often discuss confidential information about families or children. Although a TTY is not required, it is highly desirable because of the confidential and private nature of the phone discussion, as well as the urgency of the information to be conveyed.

EXAMPLE: The Department of Health operates an STD/AIDS hotline for the dissemination of information about HIV, AIDS, and other sexually transmitted diseases. Health workers discuss private and confidential medical information. Although a TTY is not required, it is highly desirable because of the confidential and private nature of the phone discussion.

EXAMPLE: The Department of Labor and Industrial Relations has an Affirmative Action Office which, among other things, receives complaints from people with disabilities who believe that they have been discriminated against by the Department of Labor and Industrial Relations. Although a TTY is not required, it is highly desirable because of the confidential and private nature of the phone discussion.

### **13.8 Checklist for Ensuring Telephone Services are Accessible**

YES  NO      All emergency phone services are equipped with a TTY.

YES  NO

All staff handling emergency and non-emergency phone lines that are equipped with a TTY have been trained to use a TTY.

YES  NO

All staff handling non-emergency phone lines that are not equipped with a TTY have been trained to use the TRS or the VRS.

## Chapter 14: Websites

Title II of the ADA requires state and local governments to afford people with disabilities an equal opportunity to benefit from all of their programs, services, and activities, including those offered on the web. A multitude of state services are available online.

EXAMPLE: The Department of Land and Natural Resources has an online service designed to allow individuals to reserve and purchase camping, cabin and pavilion permits

EXAMPLE: The Department of Health has a web service where individuals may order certified copies of birth and marriage/civil union certificates.

Because the Department of Justice does not have regulations setting website accessibility standards, state and local governments can choose how they will ensure their programs, services, and activities provided online are accessible to people with disabilities. The Department of Accounting and General Services, Information and Communication Services Division issued a memorandum that states, "All web-based intranet and internet information and applications should be designed following standards set forth in Section 508 of the Rehabilitation Act of 1973, as amended." This standard applies to departments of the Executive Branch.

The U.S. General Services Administration provides guidance to comply with Section 508 requirements at <https://www.section508.gov/>. Guidance includes:

- policy and management;
- acquisition of accessible products and services;
- creating accessible documents, such as PDFs;
- accessible web design and development;
- accessibility testing for websites and software; and
- training, tools and events.

### 14.1 Checklist for Ensuring that Websites are Accessible

YES  NO      Has a knowledgeable employee been designated to review the existing website and legacy content postings (PDF documents, videos, tables, graphs, charts, slideshows, etc.) to ensure accessibility, including updating or converting legacy documents as needed?

YES  NO      Are the employees responsible for creating new webpages and posting new web content trained to ensure they meet accessibility requirements?

## Chapter 15: Social Media

When the ADA was enacted in 1990, social media platforms such as Twitter, Facebook and Instagram did not exist. Today, State departments and agencies are increasingly using social media platforms to engage with the public, share information, and deliver services more quickly and effectively.

**EXAMPLE:** The Hawai'i Department of Transportation uses Twitter to update the public about the status of roadwork and notify the public about road closures due to a motor vehicle accident.

Despite newer ways to reach people, many people with disabilities face challenges in gaining full access to the content and conversations on social media platforms. State departments and agencies have a responsibility to ensure these digital services are accessible to all, including people with disabilities.

Below are five basic strategies to improve the accessibility of social media content.

- 1) Make your contact information available on your social media account page. List a primary phone number and email address where a user can reach your department or agency with questions or provide a link to your agency website that lists the appropriate contact information.
- 2) Make your social media content available through more than one channel. Some of the most common methods are to post content on your website, provide options to sign up for email updates of social media content, or add social media widgets to your department or agency website.
- 3) Provide links or contact information to official social media support and accessibility teams. Often, social media platforms have their own accessibility tips and support help desks.
- 4) Keep it simple. When possible, write in plain language, use camel case when appropriate (i.e., capitalize the first letters of compound words as in #AccessBoard), and limit use of hashtags, abbreviations, and acronyms. The use of camel case is not only a common practice, but a helpful one that makes multi-word hashtags easier to read, including for those using a screen reader.
- 5) Learn about accessibility requirements, such as Section 508 Standards and Web Content Accessibility Guidelines, and test your social media content with an accessibility checker, screen reader, or other type of assistive technology.

### 15.1 Checklist for Ensuring Your Social Media Platform is Accessible

- YES  NO      Is your primary phone number and email contact available on your social media accounts?
- YES  NO      Are the employees responsible for social media posting aware of best practices for the accessibility of social media posts?

## Chapter 16: Service Animals

The ADA defines a service animal as “any dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.” The work or tasks performed by a service animal must be directly related to the individual’s disability. Hawai‘i law has a similar, but more specific definition.

It relates only to dogs that assist people with disabilities. A companion or comfort animal is not a service dog unless it meets the requirements of the service animal definition and it accompanies a person for the purpose of performing the work or tasks for which it has been trained.

A service animal is not a pet. Furthermore, a service animal must perform specific functions and tasks that the individual with a disability cannot perform for him or herself due to his or her disability. An animal that merely provides companionship and is not trained to perform tasks is not a service animal, but a pet.

The following questions and answers provide guidance on service animals.

### **Where is a service animal allowed?**

A service animal must be permitted to accompany the individual with a disability to all areas of your facility where the public is normally allowed to go. An individual with a service animal may not be segregated from other people. Limitations are rare and only for those areas where health and safety may be compromised or where doing so would result in a fundamental alteration of the nature of the program, activity, or service.

**EXAMPLE:** The Department of Education is hosting a performance in the auditorium of a high school. A person with a disability brings their service dog. However, the animal is disruptive by uncontrolled barking during the performance. The owner may be asked to remove the dog from the premises.

**EXAMPLE:** The Hawai‘i Health Systems Corporation provides in-patient medical services. A patient who is in labor in the delivery room is coached through Lamaze by her husband who has a disability. However, the presence of the animal in the delivery room poses a direct threat to the health of others. The owner may be asked to remove the animal from the restricted area of the hospital.

### **What if my department or agency has a no pets policy?**

As a state department or agency, if you have a “no pets policy,” you must modify your policy to allow the use of a service animal by a person with a disability. This does not mean that the “no pets” policy must be abandoned altogether, but simply that an exception must be made to your general rule for service animals.

EXAMPLE: The Department of Accounting and General Services operates places of voting for elections. Even if pets are not permitted by policy, there must be a modification of the policy to permit service dogs.

EXAMPLE: The cafeteria of the Kapiolani Community College allows faculty, students, and public guests to eat on an individual pay basis. Even if pets are not permitted by policy, there must be a modification of the policy to permit service dogs.

EXAMPLE: The Department of Land and Natural Resources operates camping facilities. Pets are not permitted. However, there must be a modification of the rule to permit service dogs.

### **Can I ask the individual with a service animal for a deposit or maintenance fee?**

A deposit, maintenance fee, or surcharge may not be imposed on an individual with a disability as a condition for allowing a service animal to accompany the individual, even if deposits are routinely required for pets. However, a person with a disability may be charged if a service animal causes damage so long as it is a regular practice to charge customers without disabilities for the same types of damages.

EXAMPLE: The University of Hawai'i operates classrooms for post-secondary instruction. A person with a disability is allowed to bring a service dog to the class. However, the animal jumps on the tables in a laboratory and breaks equipment. The owner may be asked to remove the animal from the premises. The owner may also be asked to pay for the damages caused by the animal, if it is the policy of the University to charge other students who break equipment when they cause damages.

### **How can I tell if an animal is really a service or assistance animal and not a pet?**

Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. If it is not obvious that the person has a disability, you may ask the person who has the animal if it is a service animal required because of a disability. However, an individual generally is not required to show documentation as a condition for providing service to the individual when accessing a government site. Some exceptions are for housing or restricted access areas.

If you have a concern, ask the person who is using a dog and has no obvious disability the following:

- 1) Is this a service animal required because of your disability?  
If the person answers "yes," then a second question may be asked:
- 2) What work or tasks has this animal been trained to perform?

The answer must address tasks the handler and service dog are trained to perform or understand. You should generally accept his or her word as proof unless the animal's behavior indicates otherwise. The animal must be under the control of the handler and housebroken.

EXAMPLE: The Department of Education is hosting a performance in the auditorium of a high school. A person with a disability brings their service dog. However, the animal is disruptive by uncontrolled barking during the performance. The owner may be asked to remove the dog from the premises.

### **What can you expect from a service animal and his or her handler?**

Although a service animal is not necessarily harnessed, it is reasonable to expect that the service animal will remain under the control and direct supervision of the person with a disability and not stray unattended in the facility or site. Otherwise, the animal is not performing its function as an "aide" for the person with a disability. Under state law, if the service animal is a dog, it should be on a leash.

You can expect appropriate, non-disruptive behavior from a service animal. You may exclude any animal, including a service animal, from your facility when that animal's behavior poses a direct threat to the health or safety of others.

EXAMPLE: Any service animal that displays vicious behavior towards other guests or customers may be excluded.

You may not, based on your past experience with other animals, make assumptions about how a particular animal is likely to behave. Each situation must be considered individually.

Although you may exclude any service animal that is out of control, you should give the individual with a disability who uses the service animal the option of continuing to enjoy your goods and services without having the service animal on the premises.

The care or supervision of a service animal is the responsibility of the owner or handler. You, as a state department or agency, are not required to provide care or food or a special location for the animal. However, it is helpful to have an appropriate location designated where a person may be directed to take the service animal if the animal needs to be relieved.

### **Are dogs the only type of animal that can be considered a "service animal"?**

Under the 2010 ADA amendments that took effect on March 15, 2011, a service animal is specifically defined as a "dog." However, there is an exception that addresses miniature horses. A miniature horse does not meet the definition of a "dog," however a state, county, or private entity shall make reasonable modifications to policies, practices or procedures to permit the use of a miniature horse as a service animal. The same provision that applies to a service dog applies to a miniature horse. The facility may assess whether or not it can accommodate the use of a miniature horse based on the

type, size and weight of the animal as well as what types of activities are occurring on a specific day. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public entity shall consider:

- The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- Whether the handler has sufficient control of the miniature horse;
- Whether the miniature horse is housebroken and
- Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

**16.1 Checklist for Ensuring a Facility or Site is Accessible to People with Service Animals**

- YES  NO Does the facility where your program or service is offered have a "no pets policy"?
- YES  NO If YES, is there an exception for service dogs?
- YES  NO Does the staff know how to approach and interact with individuals with service dogs?
- YES  NO Does the facility have a designated area for a person with a disability to take a service dog to relieve itself?
- YES  NO Does the department or agency have a policy that requires the public to pay for damages incurred as a result of their negligence or intent?



## Chapter 17: Facility Access

It is the policy of the State of Hawai'i to ensure that buildings, facilities and sites where we choose to operate our programs, services, or activities do not present architectural barriers that impede utilization by individuals with disabilities. This policy is reaffirmed by Governor's Administrative Directive 12-06 Accessibility to State Government by Persons with Disabilities.

This Chapter provides you with the basic information on both the administrative requirements for construction, as well as the technical design specifications for an accessible facility.

### 17.1 New Construction and Alteration of Buildings, Facilities, and Sites

Title II of the Americans with Disabilities Act (ADA) requires all new construction and alterations of state government buildings, facilities, and sites to be accessible to individuals with disabilities. Hawai'i Revised Statutes §103-50 has a similar requirement. It states that all new construction and alterations of buildings, facilities, and sites by the state, or on behalf of the state, shall be fully accessible to and usable by people with disabilities.

The concept of "fully accessible to and usable by people with disabilities" means that the buildings, facilities, and sites must comply with specific design guidelines, as adopted by a federal enforcing authority. Under federal law, these design guidelines are the Americans with Disabilities Act Accessibility Guidelines, also known as ADAAG. State law also adopts the same federal design guidelines, but gives the state the authority to adopt additional design guidelines that may exceed the federal ADAAG. In addition to the ADAAG, the Disability and Communication Access Board adopted the Federal Fair Housing Amendments Act of 1988, as established under Title 24 Code of Federal Regulations Part 100, Subpart D; and the Hawaii Outdoor Developed Areas Accessibility Guidelines (HODAAG). Additional guidelines may be adopted in the near future.

The State of Hawai'i established a process for the review of state construction and alteration projects by the Disability and Communication Access Board to ensure that the design requirements for people with disabilities are met.

If your department or agency is in the planning or construction phase for a building, facility, or site, whether it is new construction or an alteration, you should ask your Department Capital Improvement Project (CIP) Coordinator or other appropriate facility staff responsible for the new construction or alteration design if the plans have been reviewed for accessibility by Disability and Communication Access Board.

## **17.2 Existing State Buildings and Facilities**

If your program or service is occupying space in a state building or facility not under construction or alteration, but it existed prior to the enactment of the new construction requirements of the ADA, you still have an obligation to make sure your program or service is not excluding people with disabilities due to facility inaccessibility.

If the site of your program, service, or activity is not accessible, you may “solve” the problem by:

- upgrading your building to meet certain minimum facility requirements for program access; or
- making administrative changes, such as relocating programs or services from one site to another, or changing the manner in which the program, service, or activity is offered.

Your department or agency is required to have a transition plan that outlines the physical barriers at all the sites where programs and services are held, and prioritizes the removal of those barriers, with cost estimates. If you are unaware of the existence of a transition plan or want to know when a specific building, facility, or site is being planned for removal of barriers, contact the ADA Coordinator for your department or agency.

## **17.3 Private Facilities Leased by the State**

If your program, service, or activity is being operated in a facility that is not state-owned, but leased from the private sector, you still have an obligation to make sure your program or service is not excluding people with disabilities due to facility inaccessibility.

If the site of your program, service, or activity is not accessible, you may solve the problem by:

- upgrading the building to meet certain minimum facility requirements for program access, either through direct payment by the state or by agreement with the lessor;
- renegotiating the changes into the lease renewal; or
- moving to another, more accessible location.

If negotiation of the lease is necessary or a move to an alternate site is needed, the analysis will be done in conjunction with the Leasing Branch of the Department of Accounting and General Services, which has established minimum standards for accessibility prior to entering or renewing a lease agreement.

## 17.4 Components of an Accessible Site for a Program, Service or Activity

Finding a location that is physically accessible is critical to ensuring equal access for all people who have disabilities. The components of an accessible site include the following features:

- an accessible route from a public transportation stop to an accessible entrance;
- an accessible passenger loading zone with an accessible route to an accessible entrance;
- accessible parking spaces with an accessible route to an accessible entrance;
- accessible interior routes within the building, including elevators, hydraulic wheelchair lifts, ramps;
- an accessible men's and women's restroom or unisex restroom;
- an accessible water fountain along an accessible route;
- an accessible public telephone along an accessible route;
- accessible meeting or event rooms;
- assistive listening systems;
- conveniently located accessible lodging, if overnight stays are involved; and
- an accessible emergency exit(s).

It is important to remember that a site's accessibility features are critical, not only to individuals with mobility disabilities, but also to individuals with visual and hearing disabilities.

You cannot assume that a site is accessible even if staff at the site indicate so. Staff at many properties often incorrectly assume that their location is accessible to people who have disabilities simply because they recall that a prior individual with a disability used the site.

The term accessible means that an element on site meets the requirements of a design guideline, as adopted by an enforcing authority. Newer buildings will tend to be more accessible. It does not mean that new sites should be presumed to be fully accessible, or that older sites should be excluded from consideration simply due to their age, as many older properties have been upgraded for accessibility. When in doubt, check the site yourself.

## 17.5 Checklist to Ensure Facility Access

YES  NO

Planned new construction or alteration: For a building, facility, or site under new construction or undergoing a planned alteration, have the plans and specifications been reviewed by the Disability and Communication Access Board for conformance to appropriate design requirements?

If NO, consult with your Department ADA Coordinator, CIP Coordinator, or Facility Coordinator.

YES  NO

Existing state-owned site: For an existing building or facility with no planned alteration, does the existing building or facility meet minimum requirements for program access for persons with disabilities?

If NO, consult with your Department ADA Coordinator, CIP Coordinator, or Facility Coordinator to ensure that the building or facility has been included in your Departmental Transition Plan for the removal of barriers.

YES  NO

Existing leased site: For an existing leased building or facility with no planned alteration, does the existing building or facility meet minimum requirements for program access for persons with disabilities and the Comptroller's minimum guidelines for leased space?

If NO, consult with your Department ADA Coordinator, CIP Coordinator, or Facility Coordinator to ensure that the building or facility has been included in your Departmental Transition Plan for the removal of barriers or has been scheduled to be moved to another location.

YES  NO

Site for a meeting or activity: For a building or facility scheduled to be used for a one-time workshop, conference, or activity, has the site been surveyed to ensure that it is appropriate and accessible for participants with disabilities?

If NO, select another site.