

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'AINA O KA MOKU'AINA 'O HAWAII




KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

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TO: All Deputies, Division Chiefs, Staff Officers, District Health Officers, and Administrators of Attached Agencies

FROM: Kenneth S. Fink, MD, MGA, MPH 
Director of Health

SUBJECT: Non-Discrimination Program and Policy

The State of Hawai'i Department of Health (HDOH) is committed to providing individuals with disabilities the opportunity for full participation in its programs, services, and activities through its compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendments Act of 2008.¹

HDOH recognizes that individuals with disabilities may need accommodations or modifications² to have equal opportunities to participate in or benefit from HDOH's programs, services, and activities.

It is HDOH's policy that no otherwise qualified individual with a disability will be denied reasonable accommodation to have access to or participate in any program, service, or activity offered by HDOH. HDOH will administer programs, services, and activities in the most integrated setting appropriate to reasonably accommodate the needs of qualified individuals with disabilities.³

HDOH will provide at no cost appropriate auxiliary aids and services as necessary to ensure effective communication or an equal opportunity to participate fully in the

¹ Recipient also prohibits discrimination in employment, including on the basis of disability.

² Section 504 of the Rehabilitation Act refers to reasonable accommodations, while Title II of the ADA refers to reasonable modifications. For purposes of this document, "accommodation" will refer to both.

³ See 40 C.F.R. § 7.55.

programs, services, and activities provided by HDOH in a timely manner and in such a way as to protect the privacy and independence of the individual.

Individuals with disabilities have a right to request reasonable accommodations. Individuals will receive reasonable accommodations appropriate to their needs in order to fully participate in or benefit from HDOH's services and activities in a non-discriminatory, integrated setting.

HDOH and any of its agents will not coerce, intimidate, retaliate against, or discriminate against any individual for exercising a right under the ADA or Section 504, or for assisting or supporting another to exercise a right under the ADA or Section 504.

This program and policy apply to all HDOH subrecipients, agents and contractors.

Definitions

A. Disability means, with respect to an individual:

1. a physical or mental impairment that substantially limits one or more of the person's major life activities;
2. a history of such an impairment; or
3. being regarded as having such an impairment.

B. Qualified Individual with a Disability is someone who (with or without accommodations) meets the essential eligibility requirements for participating in HDOH's programs, services, and activities.

C. Accommodation means adjustments including reasonable modifications to rules, policies, or practices; environmental adjustments such as the removal of architectural, communication, or transportation barriers; or auxiliary aids and services.

Nondiscrimination Coordinator

The Nondiscrimination Coordinator will coordinate HDOH's efforts to comply with Section 504⁴ and ADA⁵, including ensuring the following:

⁴ See 40 C.F.R. § 7.85(g): "If HDOH employs fifteen (15) or more employees, it shall designate at least one person to coordinate its efforts to comply with its obligations under [40 C.F.R. Part 7]."

⁵ Please note that EPA enforces Section 504 of the Rehabilitation Act of 1973, but does not enforce Title II of the ADA. References to ADA have been included because HDOH is obligated to comply with ADA Title II regardless of its status as a recipient of federal financial assistance.

- A. HDOH will adopt and make readily available in suitable formats:
1. a procedure that allows an individual to disclose a disabling condition and request reasonable accommodations believed needed to obtain equal access to and enable participation in HDOH programs, services, and activities;
 2. a procedure for maintaining personal information in a manner that protects the privacy and independence of the individual; and,
 3. a procedure for providing reasonable accommodations.
- B. HDOH will maintain data on the nature and extent of the services provided to individuals with disabilities and develop data collection requirements as part of the operational guidelines for implementing this policy.
- C. HDOH will provide reasonable accommodations to allow individuals with disabilities to participate in or benefit from HDOH and its programs, services, and activities in the most integrated setting appropriate.
- D. HDOH will utilize the grievance procedures set forth in its nondiscrimination program and policy for providing prompt and equitable resolution of complaints alleging any action that would violate Title II of the ADA or Section 504. These procedures should be applicable to any anticipated complaint, including an appeal of a denied accommodation request.
- E. HDOH will provide reasonable services that are required to comply with ADA and Section 504 free of charge.
- F. HDOH will provide periodic in-service training for staff to develop their awareness and understanding of the needs of individuals with disabilities and legal compliance issues.

Facility Accessibility

Consistent with HDOH's self-assessment, HDOH will consider the extent to which any HDOH facilities are "public facilities" or will be used by the public where reasonably feasible. HDOH will operate its programs and activities out of those facilities consistent with 40 C.F.R. § 7.65 so that, when each program or activity is viewed in its entirety, it is readily accessible to and usable by individuals with disabilities or provide other means of reasonable accommodation.

A. Existing Facilities:

1. Structural changes in existing facilities are not required when other methods provide program accessibility. Such methods include:

- a. Redesigning equipment or the facility after case review.
- b. Providing appropriate signage directing people to accessible features.
- c. Reassigning staff, or services to accessible sites.

2. Evacuation procedures will be developed by HDOH for individuals with disabilities.

B. New Construction:

Each facility or part of a facility constructed by, on behalf of, or for the use of HDOH must be designed and constructed in such a manner that the facility is readily accessible to and usable by persons with disabilities. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by individuals with disabilities.

C. Off Campus:

Contractual or lease agreements for the use of non-HDOH facilities should reflect efforts to secure accessibility. Any program, service, or activity in that facility must be accessible or provide other means of reasonable accommodation. If a program, service or activity is not wholly operated by HDOH, HDOH will attempt to assure that these programs, services or activities, as a whole, provide an equal opportunity for the participation of individuals with disabilities.

Accommodations:

No participant with a disability in an HDOH program, service or activity will be denied the benefits of, be excluded from participation in, or be otherwise discriminated against in the provision of services available to all individuals in general.

Each individual is responsible for making requests regarding accommodations to meet his or her particular needs in order to enable HDOH to provide an appropriate response to the accommodation request.

All auxiliary aids, services, or other accommodations used by individuals with disabilities to provide access to HDOH programs, services, and activities need not be on hand or present at all times.

Accommodations are not required that fundamentally alter the nature of the program, service, or activity; require waiver of essential program or licensure requirements; violate accreditation requirements; or pose an undue fiscal or administrative burden on HDOH.

In determining appropriate accommodations, HDOH will give consideration to the wishes of the individual, and in certain appropriate circumstances, for example, the

documentation provided and institutional expertise in working with individuals with disabilities.

HDOH will not require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit under any circumstances.

To request language interpretation for this document, please contact: the HDOH Non-Discrimination Coordinator, located at 1250 Punchbowl Street, Honolulu, HI 96813 (Phone: (808) 586-4400 or email: doh.nondiscrimination@doh.hawaii.gov). Individuals may request oral interpretation services in order to request a written translation of this document.