

## Appendix A

### Acts, Acronyms, and Definitions

#### Rehabilitation Act, Section 504, and Americans with Disabilities Act (ADA)

Section 504 of the Rehabilitation Act and the ADA contain a number of provisions applicable to communications between public benefit programs and individuals with disabilities. Title II of the ADA applies to the programs, services and activities of all state and local governments [ADA Title II, 42 U.S.C. §12131 et seq.; 28 C.F.R. pt.35 (2009)]. Section 504 of the Rehabilitation Act applies to programs receiving federal financial assistance [Rehabilitation Act §504, 29 U.S.C. §794(a)].

Unlike the ADA, which has regulations applicable to all state and local government programs, Section 504 requires executive agencies to promulgate their own Section 504 regulations [e.g., 7 C.F.R pt. 15b (2009)]. U. S. Department of Agriculture Section 504 regulations apply to the SNAP Program [45 C.F.R. pt. 84 (2009)]. U. S. Department of Health and Human Services Section 504 regulations apply to Medicaid and Temporary Assistance for Needy Families Programs [28 C.F.R. pt 41 (2009)]. U. S. Department of Justice Section 504 coordination regulations [id § 41.4(a)], require agency Section 504 regulations to be consistent with Justice Department Section 504 coordination regulations.

Both the ADA and Section 504 require programs to provide meaningful access to DHS programs and services [Alexander v. Choate 469 U. S. 287, 201 (1985)]. Programs must provide an equal opportunity to participate in and benefit from programs and services to people with disabilities. Reasonable modifications in policies and practices must be made when necessary to avoid discrimination against individuals with disabilities.

Methods of program administration may not have a discriminatory effect on individuals with disabilities. These general provisions apply to communication along with other aspects of public benefit programs.

Section 504 and ADA also contain more specific requirements pertaining to communication access. ADA regulations require that DHS take appropriate steps to ensure that communication with individuals with disabilities is as effective as communication with others. Section 504 regulations have similar provisions. The ADA has specific provisions on telephone communication. Interpretive Guidance to the ADA regulations makes clear that public entities do not have to have a TTY to make calls to and receive calls from deaf callers except for telephone emergency services.

Title II of the ADA applies to state and local government programs and services when those services are provided directly and when they are applied indirectly through contractual, licensing, or other arrangements [e.g. id §35 (a),39 (b)(1)(b)(3)]. Call centers and customer service centers operated by contractors for public benefits agencies are part of the public benefit program and thus are subject to the requirements of Title II of the ADA. Likewise, call

centers operated by a public benefits agency receiving federal assistance are a part of DHS public benefit program and are subject to Section 504 [29 U.S. C. § 794(a)]. (Section 504, by its terms applies to entities receiving federal financial assistance).

Section 504 and Title II of the ADA can be enforced by filing an administrative complaint with the appropriate designated Federal agency or by filing a lawsuit in court [42 U.S.C § 12133.28 C. F. R §§35 171, 35 190 (2009)]; [ADA; 29 U.S.C. §794a(a)(2)];[7 C.F. R §15 b.42.45 C.F.R §84.61 (2009) Rehabilitation Act]. The Department of Human Services under Policies 4.10.1, 2, 3 and 4 allow for filing a discrimination complaint based on disability. Additionally, Executive Branch, DHRD Policy 601.001 and 601.002, which covers employment only, provide guidance on employee rights to filing a discrimination complaint and requesting an accommodation.

DHS follows best practices in improving and ensuring effective remote communication with individuals with disabilities by continuing to improve use of voicemail, Auto Attendant, and interactive Voice Response. We strive to ensure that voicemail and response systems are clear and audible and that they are programmed to allow individuals to request more time to make selections or leave messages. When an option is not selected within the allotted time period, a live person should be the default. Bypassing the voice menu system to speak to a live person will also be an option. Other best practices such as creation of release forms, training enhancements, text-based communications for hard-of hearing individuals, and face-to-face communication where possible, are a part of ongoing improvement efforts.

The department strives to provide an equal opportunity to participate in its programs and activities by ensuring that qualified individuals with disabilities are:

1. Not denied an opportunity to participate,
2. Afforded an opportunity equal to or as effective as that provided others, and
3. 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 activities.

For example, an individual who is deaf does not receive an equal opportunity to participate in a public hearing if the individual is unable to hear the proceedings, and a client or applicant who uses a wheelchair does not receive an equal opportunity to participate if he or she cannot enter the building or office because of narrow doors or aisles. (Programs and Services Manual for Persons with Disabilities, DCAB, Chapter 2, March 2014)

Further, DHS makes clear and reaffirms its commitment to provide effective means of communication to people who have visual, hearing, speech, or cognitive disabilities (Governor's Administrative Directive No. 12-06 Accessibility to State Government by Persons with Disabilities). Communication is provided in a manner that enables people who have disabilities to participate on an equal basis with all others unless to do so will result in a fundamental alteration to the program or activity, or would result in an undue financial or administrative burden. DHS does not charge individuals with disabilities for the cost of providing

communication access including the cost of providing auxiliary aids, such as readers, sign language interpreters, and amplification devices. (Programs and Services Manual for Persons with Disabilities, DCAB, Chapter 3, March 2014).

#### Affordable Care Act. Section 1557

The recently passed Affordable Care Act, Section 1557, prohibits discrimination in health care programs on the basis of race, color, national origin, sex, sex stereotypes, gender identity, age or disability. This represents the first time that federal law has prohibited sex discrimination in health care. Health insurers, hospitals, health insurance exchanges, and any other entities that receive federal funds are covered by this law. Section 1557 gives the U. S. Department of Health and Human Services, Office for Civil Rights, the authority and obligation to investigate potential violations of the law and enforce this new civil rights guarantee.

#### Title VI of the Civil Rights Act, as amended

DHS continues to take reasonable steps to provide meaningful access to Limited English Proficient (LEP) individuals in compliance with Title VI of the Civil Rights Act of 1964 and its implementing regulations 45 CFR, Part 80, as well as updated Hawaii Revised Statutes. (For more information see the DHS 2016-2018 Language Access Plan, 2016-2019 Affirmative Plan, and Appendix H Preliminary and Ongoing Assessment Checklist.)

#### Benefit, Employment and Support Services Division (BESSD)

The mission of BESSD is to help economically disadvantaged persons attain self-sufficiency. In an effort to achieve this, BESSD administers the Financial Assistance Program, Supplemental Nutrition Assistance Program, and the Employment and Training Program Office. The division also provides child care reimbursement services for families in which the parent(s) is/are employed or in training. The Homeless Program, which was transferred from the Hawaii Public Housing Authority in 2010, solves problems and provides assistance to homeless individuals in Hawaii.

#### MedQuest Division (MQD)

The mission of MQD is to provide the overall management of the plans, policies and regulations and procedures of the division's medical assistance programs, public information, staff and clerical assistance and support services; to develop and maintain working relationships with health plans, providers, federal and state authorities, community agencies, client advocacy groups and others. This division is also responsible for providing home and community-based support services to disabled children and adults.

#### Social Services Division (SSD)

SSD administers the Child Welfare Services Branch, commonly known as Child Protective Services and the Adult Protective and Community Services Branch (APCSB), commonly known as Adult Protective Services (APS). Working with the Office of Information Technology, the

APCSB is listing its APS e-mails on its APS Reporter Form to promote reporting from the public who are hearing impaired and as another means to report abuses against the disabled and/or elderly.

### Division of Vocational Rehabilitation (DVR)

DVR is divided into the following programs:

1. Vocational Rehabilitation

Provides services to eligible individuals with disabilities who require assistance to prepare for, secure, retain, or regain employment.

2. Ho'opono, Services for the Blind

Provides services to eligible blind, deaf/blind and visually-impaired individuals which include vocational rehabilitation, adjustment classes, public education and blindness prevention activities. Ho'opono also maintains a statewide blind registry.

3. Disability Determination

Determines disability for Social Security Disability Insurance (SSDI) program and Supplemental Security Income (SSI) program benefits.

### Hawaii Public Housing Authority (HPHA)

HPHA administers federal and state public housing and rental subsidy programs and other miscellaneous rental programs. The primary service of these programs is providing safe, decent, and affordable housing to low income families.

### Office of Youth Services (OYS)

OYS was established by the Legislature in 1989 and administratively placed within DHS. OYS provides and coordinates a continuum of services and programs for youth-at-risk to prevent delinquency and reduce the incidence of recidivism. OYS also strives to provide a clear sense of responsibility and accountability for all youth services in Hawaii. Although a core responsibility of OYS is to manage and operate the Hawaii Youth Correctional Facility (HYCF), the agency places great emphasis on providing and supporting "front end" prevention, diversions, and intervention services. OYS focuses on programs that address youth needs from prevention to incarceration and aftercare. OYS administers other programs and services through Purchase of Service providers who are contracted by the OYS, such as, Positive Youth Development, Non-School Hours Programs, Youth Gang Prevention and Intervention, Truancy Prevention, Outreach and Advocacy, Education/Vocation Services, Homeless Youth Services, and Community-Based Residential Services. The HYCF insures public safety by providing programs and services that work toward successful reintegration of incarcerated youths within a safe, secure, and just environment, which promotes adolescent development.

### Commission on the Status of Women (CSW)

CSW is an administratively attached commission. It is a two-person office providing services specific to the needs and status of women.

### Hawaii State Commission on Fatherhood (HSCF)

The mission of the HSCF is to promote healthy family relationships between parents and children by emphasizing the important role fathers play in the lives of their children. The commission serves in an advisory capacity to state agencies and makes recommendations on programs, services, contracts, policies, and laws relating to children and families.

### Support Services (SS)

Six staff offices provide support services to the aforementioned divisions, administratively attached agencies and commissions:

1. Administrative Appeals Office (AAO)
2. Fiscal Management Office (FMO)
3. Office of Information Technology (OIT)
4. Budget, Planning, and Management Office (BPMO)
5. Audit, Quality Control, and Research Office (ACRO)
6. Human Resources Office or Personnel Office (PERS)