

Administrative Policy No. 7.02

Subject: Equal Access to Services for Individuals with Disabilities

Information Contact: Office of Diversity and Inclusion
Mail Stop 45014
ODIMailbox@dshs.wa.gov

Authorizing Source: [Americans with Disabilities Act of 1990 \(ADA\) Public Law 101-336, subtitle A Title II](#)
[Section 504 of the Rehabilitation Act of 1973](#), as amended (29 U.S.C. 794)
[Section 1557 of the Patient Protection and Affordable Care Act](#)
Washington State Law against Discrimination
[Chapter 49.60 RCW](#)
[Title 162 WAC](#)
[EEOC Guidelines](#)
[Administrative Policy 7.20](#)
[Administrative Policy 14.10](#)
[Administrative Policy 18.26](#)

Effective Date: November 1, 1987

Revised: April 15, 2021

Approved By: **Original signed by Lori Melchiori**
Senior Director, Office of Policy and Rules

Purpose

The purpose of this policy is to provide guidance on making services, programs and activities accessible to persons with disabilities, to include state employees, applicants, clients receiving state services, or members of the general public, consistent with state and federal laws.

Scope

This policy applies to all programs, services, and activities provided or made available by DSHS.

Definitions

Auxiliary aids and services mean services and devices to further effective communication. The type of aid or services necessary may vary with the length and complexity of the communication. Examples include, but are not limited to:

- For individuals who are **deaf or hard-of-hearing**; qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, televisions with closed caption features, open or closed captioning, teletypewriters (TTYs), exchange of written notes, etc.;
- For individuals who are **blind, have a visual disability, or a learning disability**; qualified readers, taped text, audio recordings, Braille materials, large print materials, assistance in locating items, etc.;
- For individuals who **have a speech disability**; TTYs, computer terminals, speech synthesizers, communication boards, etc.

Direct-threat means a significant risk to the health or safety of others that cannot be eliminated or reduced to an acceptable level by the modification of policies, practices, procedures, or by the provision of auxiliary aids or services.

Person-with-a-disability means a person who meets one or more of the following:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a condition that is medically recognizable or diagnosable, and who is denied reasonable accommodation or is discriminated against on the basis of that condition;
- Has a record of a physical, mental, or sensory impairment; or
- Is regarded as having a physical, mental, or sensory impairment.

Qualified-person-with-a-disability means a person with a disability who meets eligibility requirements to receive services or to participate in a department program, service, or activity with or without:

- Reasonable modification to rules, policies, or practices;
- Removal of architectural, communication, or transportation barriers; or
- Provision of auxiliary aids and services.

Separate program and **arranged services** are ways to serve a person with a disability who cannot access program services without using an alternative to the usual place or method.

Service animal means any dog or miniature horse that is 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 the service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to:

- Assisting individuals who are blind or have low vision with navigation and other tasks;
- Alerting individuals who are deaf or hard of hearing to the presence of people or sounds;
- Providing nonviolent protection or rescue work;
- Pulling a wheelchair;
- Assisting an individual during a seizure;
- Alerting individuals to the presence of allergens;
- Retrieving items such as medicine or the telephone;
- Providing physical support and assistance with balance and stability to individuals with mobility disabilities; or
- Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

Fundamental alteration and **undue burden** are defenses for not meeting the program access requirements of Title II of the ADA. The Department of Social and Health Services (DSHS) is not required to make a program service or activity accessible if doing so would fundamentally alter the nature of the program, service, or activity, or if it would result in an undue administrative or financial burden.

Policy

A. Program Access

1. DSHS provides equal opportunities to persons with disabilities to participate in or enjoy the benefits of a program, service, or activity regardless of disability or use of a service animal.
2. Programs, services, and activities include, but are not limited to, contracting, purchase of goods and services, licensing, certification, regulatory activities, participation on planning or advisory committees, etc.
3. DSHS provides qualified persons with disabilities an equal opportunity to participate in and enjoy the benefits of programs, services, and activities. Generally, it is the responsibility of the person with a disability to make their access needs known. Program access may be achieved by:
 - a. Providing appropriate and effective auxiliary aids and services;
 - b. Taking appropriate steps to ensure that communications are as effective with applicants, participants, members of the public, and companions with

- disabilities as with others;
 - c. Making reasonable modifications to policies, procedures, and practices; and
 - d. Removing physical barriers so that a program, service, or activity is readily accessible to and usable by individuals with disabilities.
4. When two or more effective accommodations are available that would allow equal access, DSHS will give primary consideration to the preference of the person with a disability but has the right to determine which accommodation will ultimately be provided.
 5. DSHS informs clients and the general public of:
 - a. The right to request auxiliary aids and services;
 - b. How to initiate such a request; and
 - c. Internal complaint procedures and external mechanisms and remedies if an individual believes that DSHS has discriminated on the basis of a disability.
 6. DSHS may not impose eligibility criteria for participation in its programs, services, or activities that would screen out people with disabilities, unless it can be shown that such requirements are necessary for the provision of the program, service, or activity.
 7. DSHS may deny service to a person with a disability that poses a direct threat to the health or safety of others after considering:
 - a. The nature, duration, and severity of the risk;
 - b. The probability that the potential injury will actually occur; and
 - c. Whether reasonable modifications to policies, practices, or procedures mitigate or eliminate the risk.
 8. DSHS must not impose a surcharge on any persons with a disability or group of people with disabilities to cover additional costs of making a program, service, or activity accessible.
 9. DSHS provides all programs, services, or activities in the most integrated setting possible.
 10. DSHS may only offer a separate program or arranged service if:
 - a. It is necessary to provide people with disabilities an equal opportunity to benefit from a program or service;

- b. It is appropriate to the particular individuals; and
- c. A person with a disability is not excluded from the regular program or required to accept arranged services or benefits.

B. Responsibilities

1. The secretary or designee is responsible for the overall implementation of this policy.
2. DSHS is not required to make a program service or activity accessible if doing so would fundamentally alter the nature of the program, service, or activity or if it would result in an undue administrative or financial burden.
 - a. The assistant secretary or designee is ultimately responsible for deciding whether providing an accommodation would result in fundamental alteration in the nature of its programs, services, or activities or would pose an undue financial or administrative burden.
 - b. The assistant secretary or designee's decision must be provided in writing by the administration appointing authority to the individual seeking the accommodation in the event their request cannot be granted.
3. DSHS is required to take measures providing as much access as possible without resulting in a fundamental alteration or undue burden.
4. Each administration is responsible for complying with this policy.
5. Human resources division investigations unit is responsible for reviewing DSHS' compliance with this policy including investigating complaints based on disability.

C. Communications

DSHS must take appropriate steps to facilitate effective communication with a person with a disability by:

1. Giving primary consideration to requests of the person with a disability in determining what type of auxiliary aid or service is necessary; and
2. Furnishing appropriate and effective auxiliary aids and services.

D. Technical Resources

For information or assistance in providing effective accommodations, the following

resources are available:

1. [Department of Enterprise Services Barrier Free Facilities Information](#)
2. [Office of Financial Management State Administrative & Accounting Manual Chapter 50.50](#)
3. [Northwest ADA Center](#)
4. [DSHS Administrative Policy 7.20](#), Communication Access for Persons Who are Deaf, DeafBlind, Hard of Hearing, Late Deafened, Deaf Plus and/or Speech Disabled.

E. Facilities and Virtual Platform:

1. When determining the facility or virtual platform (phone or internet) for programs, services, or activities, DSHS makes selections that allow a person with a disability an equal opportunity to participate in or benefit from the programs, services, or activities.
2. When determining the facility or virtual platform for a meeting, DSHS adheres to [Administrative Policy 14.10](#), Accessible Meetings.
3. DSHS maintains department-owned equipment and features of facilities required to provide ready access to persons with disabilities.
4. DSHS must provide information that directs persons with disabilities to accessible services, activities, and facilities. This includes signage that:
 - a. Directs users to the accessible features of the facility (e.g., path-of-travel, entrances, restrooms, telephones, etc.).
 - b. Complies with appropriate state and federal accessibility standards.

F. Civil Rights:

1. Any person with a disability who feels discriminated against in the application of this policy may file a complaint with any or all of the following:

**Human Resources Division
Investigations Unit**

1115 S. Washington, OB2 - 2nd Floor NE Wing
P.O. Box 45839
Olympia, WA 98504-5839

360-725-5807 or 1-800-521-8060

Toll Free TDD 1-800-521-8061

Washington State Human Rights Commission

Olympia Headquarters Office

711 S. Capitol Way, #402

P.O. Box 42490

Olympia, WA 98504-2490

Fax: 360-586-2282

Toll Free Phone: 1-800-233-3247

Toll Free TTY: 1-800-300-7525

Web site: www.hum.wa.gov

The United States Department of Justice

Civil Rights & Civil Liberties Complaints

Office of the Inspector General

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Room 4706

Washington, D.C. 20530

Web site: <http://www.usdoj.gov/oig/FOIA/hotline2.htm>

Email: inspector.general@usdoj.gov

Hotline: 1-800-869-4499, Hotline Fax: 1-202-616-9898

The United States Health and Human Services Office for Civil Rights

Web site: <http://www.hhs.gov/ocr/discrimhowtofile.html>

Office for Civil Rights

U.S. Department of Health & Human Services

2201 Sixth Avenue – Mail Stop RX-11

Seattle, WA 98121

(206) 615-2290; (206) 615-2296 (TDD)

(206) 615-2297 FAX

2. Additional information on how to file a complaint is contained in [Administrative Policy 18.69](#), Delegation of Authority for Civil Rights Complaint Investigations.
3. DSHS must not retaliate against or coerce any person who exercises their rights, or assists others in exercising their rights, under this policy or federal and state civil rights law.