

Administrative Policy No. 7.02

Subject: Equal Access to Services for Individuals with Disabilities

Information Contact: Human Resources Division - Investigations Unit
MS 45839
Toll Free 1-800-521-8060,
Toll Free TDD 1-800-521-8061

Authorizing Source: Americans with Disabilities Act of 1990 (ADA)
[Public Law 101-336](#), subtitle A Title II
[Rehabilitation Act of 1973](#), as amended ([29 U.S.C. 794](#))
(Section 504)
Washington State Law against Discrimination
[Chapter 49.60 RCW](#)
[Chapter 162.26 WAC](#)
[Governor's Executive Order 96-04](#)
[Administrative Policy 7.20](#)
[Administrative Policy 14.10](#)
[EEOC Guidelines](#)

Effective Date: November 1, 1987

Revised: August 1, 2013

Approved By: Original signed by Glen Christopherson
Senior Director, Human Resources Division

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 the department.

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 impairment, 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 impairment**; 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 guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of a person with a disability. Service animal work may include, but is not limited to:

- Guiding individuals with impaired vision;
- Alerting individuals with hearing loss to intruders or sounds;
- Providing minimal protection or rescue work;

- Pulling a wheelchair; or
- Fetching dropped items.

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. The department 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. The department 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 his/her access needs known. Program access may be achieved by:
 - a. Providing auxiliary aids and services;
 - b. Making reasonable modifications to policies, procedures, and practices; and
 - c. Removing physical and communication 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, the department 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. The department 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 the department has discriminated on the basis of a disability.
6. The department 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. The department 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. The department 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. The department provides all programs, services, or activities in the most integrated setting possible.
10. The department 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/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/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 and/or administrative burden.
 - b. The Assistant Secretary's/Designee's decision must be provided in writing by the administration appointing authority, to the employee, in the event the employee cannot be accommodated.
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 the department's compliance with this policy including investigating complaints based on disability.

C. Communications

The department 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 and/or service is necessary; and
2. Furnishing 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 Disability Access Information Web Page at <http://des.wa.gov/services/facilities/Construction/ForAgencies/Pages/BarrierFreeFacilities.aspx>
2. Northwest Disability Business, Technical Assistance Center 1-800-949-4ADA (4232).
3. [DSHS Administrative Policy 7.20](#), Communication Access for Persons Who are Deaf, Deaf/Blind and Hard of Hearing.

E. Facilities:

1. When determining the site or location of a facility, program, or activity, the department makes selections that allow a person with a disability an equal opportunity to participate in or benefit from programs, services, or activities.
2. When determining the site of a meeting, the department adheres to [Administrative Policy 14.10](#), Accessible Meetings.
3. The department maintains department-owned equipment and features of facilities required to provide ready access to persons with disabilities.
4. The department 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. The department must not retaliate against or coerce any person who exercises his or her rights, or assists others in exercising their rights, under this policy or federal and state civil rights law.