



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

Disability Non-Discrimination Program and Policy

This Disability Non-Discrimination Program and Policy sets forth the policy and procedure by which the State of Hawai'i Department of Agriculture shall provide meaningful access to Department programs and activities for individuals with disabilities.

Sharon Hurd

Sharon Hurd
Chairperson
Hawai'i Board of Agriculture

1/4/2023

Date

The Hawaii Department of Agriculture (HDOA) 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

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

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

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

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.

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 HDOA's services and activities in a non-discriminatory, integrated setting.

HDOA 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 applies to all HDOA 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 HDOA'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.

Non-Discrimination Coordinator

The Non-Discrimination Coordinator will coordinate HDOA's efforts to comply with Section 504⁴ and ADA⁵, including ensuring the following:

A. HDOA 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 HDOA 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.

⁴ See 40 C.F.R. § 7.85(g): "If HDOA 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 HDOA is obligated to comply with ADA Title II regardless of its status as a recipient of federal financial assistance.

- B. HDOA 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. HDOA will provide reasonable accommodations to allow individuals with disabilities to participate in or benefit from HDOA and its programs, services, and activities in the most integrated setting appropriate.
- D. HDOA 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. HDOA will provide reasonable services that are required to comply with ADA and Section 504 free of charge.
- F. HDOA 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 HDOA’s self-assessment, HDOA will consider the extent to which any HDOA facilities are “public facilities” or will be used by the public where reasonably feasible. HDOA 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 HDOA for individuals with disabilities.

B. New Construction:

Each facility or part of a facility constructed by, on behalf of, or for the use of HDOA 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-HDOA 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 HDOA, HDOA 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 HDOA 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 HDOA 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 HDOA 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 HDOA.

In determining appropriate accommodations, HDOA 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.

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

The Hawaii Department of Agriculture is committed to providing meaningful access. To request translation, interpretation, modifications, accommodations, or other auxiliary aids or services, contact the HDOA Office of the Chairperson at (808) 973-9560 or email hdoa.info@hawaii.gov. Please allow sufficient time for HDOA to meet accommodation requests.