

PROCEDURE FOR REQUESTING MODIFICATIONS TO COUNTY OF HAWAI'I FACILITIES, PROGRAMS, OR SERVICES

PURPOSE

The purpose of this procedure is to give any "qualified individual with a disability," as defined by the Americans with Disabilities Act, a way to request a modification to a County facility, program, and/or service to:

- gain,
- use, or
- improve access.

This procedure is not applicable to curb ramps.¹

WHO MAY MAKE A REQUEST?

Any "qualified individual with a disability" (an individual with an impairment that substantially limits a major life activity), who is eligible to receive the service, use the facility, or participate in the program offered by the County, may make a request. In addition, a representative may make a request on behalf of a "qualified individual with a disability."²

HOW CAN AN INDIVIDUAL MAKE A REQUEST?

A "qualified individual with a disability" may request a modification directly from County staff members in charge of the program or the facility for which the modification is requested. County staff members shall immediately notify the ADA Coordinator of the request.

An individual may also telephone the ADA Coordinator in the Department of Human Resources directly at (808) 961-8361 to make a request or complete a Request for Modification Form available from the ADA Coordinator (see below). The form may also be downloaded from the link on the Office of the Mayor's web page on the County of Hawai'i's web site.

The completed form should be submitted to:

ADA Coordinator
Department of Human Resources
101 Pauahi Street, Suite No. 2
Hilo, Hawai'i 96720
E-mail address: tspinolacampbell@co.hawaii.hi.us
Fax: (808) 961-8617
Telephone: (808) 961-8361

WHAT HAPPENS AFTER A REQUEST IS MADE?

The ADA Coordinator shall inform the department head that the request has been received and is being reviewed.

The ADA Coordinator shall determine if the individual who made the request or the individual on whose behalf the request was made is a "qualified individual with a disability." If the individual is not qualified, the individual is not eligible to apply for the modification and shall be notified that no further action will be taken.³

If the individual who made the request is qualified and the request is reasonable, the ADA Coordinator shall notify the appropriate department head or designated departmental staff of the request. The ADA Coordinator shall work with the department to establish a time line for implementation of the request.⁴ The ADA Coordinator may also ask departmental staff members to directly contact the individual who made the request to obtain information regarding implementation of the modification.

The ADA Coordinator shall notify the individual who made the request of the progress of the request and the expected date of implementation either verbally or in writing.

REQUESTS THAT ARE NOT REASONABLE

Requests for modifications which are not considered reasonable shall not be implemented. Modifications are not reasonable if they:

- fundamentally alter the nature of the program or service offered by the County;
- are extremely costly and/or disruptive; and/or
- pose a direct threat or a significant risk of substantial harm to the health or safety of the individual or others that cannot be reduced or eliminated by a reasonable modification. ⁵

In such a circumstance, the ADA Coordinator shall contact the individual to explore if there are any alternate modifications that would offer an equal opportunity to participate or access the County program, service, and/or facility. If the ADA Coordinator and the individual cannot agree upon an alternate modification or if the benefits of the modification are not clear, the ADA Coordinator shall refer the request to the ADA Coordinator's Advisory Committee for review and comment.

THE ADA COORDINATOR'S ADVISORY COMMITTEE

The ADA Coordinator's Advisory Committee shall be composed of individual volunteers with various disabilities from different districts of Hawai'i County who have knowledge and understanding of the Americans with Disabilities Act, who, in the opinion of the ADA Coordinator, have demonstrated an ability to solve problems and exercised sound judgment with respect to disability issues.

The ADA Coordinator's Advisory Committee shall meet on an as-needed basis or conduct meetings by conference call or teleconference, whatever best suits the needs of the committee members. All members of the Committee shall, to the best of their ability, agree to attend any meeting in which voting shall take place.

In the event the ADA Coordinator cannot agree upon a particular modification with an individual, the ADA Coordinator shall present the requested modification to the Advisory Committee. The individual who

made the request may also attend the Advisory Committee meeting to discuss the requested modification with the group. A representative from the impacted department may also be present to provide information and/or to answer any questions relevant to the matter being considered.

The Advisory Committee members shall consider the information provided by all parties and vote to either recommend or deny implementation of the modification. The ADA Coordinator shall consider the information offered by the relevant department and the votes of the Advisory Committee members prior to issuing a final decision. The ADA Coordinator shall inform the individual who requested the modification, the Advisory Committee members, and the head of the relevant department of the final decision.

IMPLEMENTATION OF REQUESTED MODIFICATIONS

If the requested modification is to be implemented, the County must implement the modification within a reasonable timeframe.

A reasonable timeframe shall be determined on a case-by-case basis and shall vary depending upon the nature, extent, and cost of the request for modification. However, the relevant department is responsible to implement approved requests for modifications as soon as possible.

TIME LIMITS ON REQUESTS

Individuals making requests for modifications shall be as clear and specific as possible and cooperate with County staff members as necessary for a successful implementation. For example, if an individual requests the installation of handrails in the hallway of a County facility, the exact location of the handrail with precise starting and ending points shall be provided. Once a Request for Modification has been received and approved, the County shall not take any action to alter or expand that request for five years.⁶

APPEAL

Individuals whose requests are denied may, depending upon the circumstances, file complaints with the Hawai'i Civil Rights Commission, the Department of Justice, or any federal department or agency which has given financial (or other assistance) to the relevant County department.

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- ¹ Requests for curb ramps on County streets must be made directly to the Department of Public Works, Engineering Division, under "Procedures for Requesting New Curb Ramps or Modifications to Existing Curb Ramps within the County Streets." This procedure is available at <http://www.co.hawaii.hi.us/pubwks/adaramp.htm> or telephone (808) 961-8327 for more information.
 - ² Hereafter, use of the term "qualified individual with a disability" also includes reference to the representative, if applicable.
 - ³ The individual may appeal by offering additional information to the ADA Coordinator to demonstrate that s/he is qualified.
 - ⁴ A reasonable request is one that, as noted in ADA Title II §35.164, does not require the County to take any action that would result in a fundamental alteration in the nature of a service, program, or activity, or one which would result in undue financial or administrative burdens. The County of Hawai'i shall not implement any modification requests that would result in a "direct threat" or a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.
 - ⁵ The assessment of direct threat shall be conducted on a case-by-case basis. The factors to be considered include the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm shall occur, and the imminence of the potential harm.
 - ⁶ Appeals for exceptions to this five-year rule should be made to the ADA Coordinator and shall be reviewed on a case-by-case basis. Exceptions may be granted to individuals who can demonstrate change(s) in the limitation(s) that warranted the request, a geographic move that warrants an additional modification, etc.