

 <p>New York State Parks, Recreation and Historic Preservation</p> <p>Section: Diversity, Equity, Inclusion and Access</p>	<p>Procedure Title: Auxiliary Aids and Services</p> <p>Directive: DEIA-PCD-002</p> <p>Effective Date: 02/08/2024</p>
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Summary

The Office of Parks, Recreation and Historic Preservation (OPRHP) will endeavor to communicate effectively with all members of the public with disabilities.

Individuals with disabilities that affect hearing, seeing, speaking, reading, writing, remembering, and understanding, among others may use different ways to communicate than individuals without such disabilities. Whenever possible, OPRHP will provide reasonable auxiliary aids and services to ensure effective communication with individuals with disabilities.

Individuals will have an opportunity to request auxiliary aids and services for themselves or their companions if there is a need for the requested auxiliary aid or service based on a disability that affects the ability to communicate.

OPRHP will not ask individuals to pay or charge for the cost of an auxiliary aid or service needed for effective communication. OPRHP will neither request nor require documentation of disability. OPRHP will never require an individual with a disability to bring another individual to interpret for them unless the individual requests an accompanying adult to interpret for them, the accompanying adult agrees, and reliance on the accompanying adult is appropriate under the circumstances.

OPRHP does not need to offer every possible auxiliary aid or service provided in examples below or the most sophisticated auxiliary aid or service available if the auxiliary aid provided effectively meets the needs of the individual with the disability (i.e., another effective means of communication is already available). However, whenever an effective means of communication is not readily available, OPRHP should give the individual's choice of auxiliary aid or service primary consideration limited only by instances where honoring that choice would: 1) create a direct threat; 2) result in a fundamental alteration; or 3) impose an undue burden.

Procedure

Definitions

Auxiliary aides and services are devices or services that make audible, written and visually represented information accessible to individuals with disabilities. They include, without limitation:

- Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
- Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
- Acquisition or modification of equipment or devices; and
- Other similar services and actions.

The type of auxiliary aid or service necessary to ensure effective communication varies based on:

- The method of communication used by the individual;
- The nature, length, and complexity of the communication involved; and
- The context in which the communication is taking place.

Companions are any family member, friend or associate of an individual seeking access to a program, activity, or service who, along with such individual, is an appropriate person with whom OPRHP should or would communicate.

Direct threat is a significant risk to the health or safety of others that cannot be eliminated or reduced to an acceptable level by reasonable modification of rule, policies, or procedures, or by the provision of auxiliary aids or services. The determination of direct threat must be based on objective evidence and an individualized assessment. The factors to consider are:

- The nature, duration, and severity of the risk;
- The probability that the potential injury will actually occur; and
- Whether reasonable modifications of rules, policies, or procedures will mitigate or eliminate the risk.

Fundamental alteration is a change in or to a program, activity, or service so significant that it alters the essential nature of the program, activity, or service. The determination that providing an individual's choice of auxiliary aids or services is a fundamental alteration is made on a case-by-case basis. Some factors to consider are:

- The feature or function that the that the auxiliary aid or service alters about the program, activity or service;

- Whether that feature or function is essential to the nature of the program, activity, or service;
- The way in which the requested auxiliary aid or service alters this feature or function;
- Whether this auxiliary aid or service has been approved previously to individuals without disabilities or for any other situation and the reasons for such approval; and
- Whether there are alternatives available to allow the individual to participate in the program, activity, or service without undermining the feature or function.

Undue burden is something that creates a significant administrative difficulty or expense. The determination that providing an individual's choice of auxiliary aid or service is an undue burden is made on a case-by-case basis. The factors to consider include:

- The nature and cost of the auxiliary aid or service;
- Overall financial resources available to OPRHP;
- The overall size of OPRHP with respect to the number of its employees and the number, type, location and geographic separateness of its programs and services;
- The number of persons employed at the site for the program, activity, or service;
- The impact of providing the requested auxiliary aid or service on the operation of the program, activity, or service;
- The effect on expenses and resources in providing the auxiliary aid or service;
- Any legitimate safety requirements that are necessary for safe operation of the program or service.

Procedure

1. Whenever possible, OPRHP will attempt to accommodate a request from a patron with a disability for an auxiliary aid or service or alternative format.
2. Any OPRHP staff notified of a patron's disability and request for an auxiliary aid and service that cannot be provided at the date, time, and location as requested, shall inform the patron that the patron may submit such request to the ADA Coordinator and provide the ADA Coordinator's contact information, as set forth above.
3. Individuals with disabilities, or others submitting on behalf of an individual with a disability, may also submit a request for reasonable modification regarding an OPRHP program, activity, or service directly to the ADA Coordinator preferably within fourteen (14) days of the date the requestor will need such auxiliary aid or service.
4. The request must identify the requestor's name, address, telephone, email, preferred contact method, and the name of the individual in need of the auxiliary aid or service, and specify the date, time and location that requestor requires the auxiliary aid or service, the program, activity or service for which it is needed, and the choice of auxiliary aid or service. These requests may be submitted using the Auxiliary Aid or Service Request Form or by any other means accessible to the requestor.
5. Requestor shall make such request to:

Owen Gilbo, ADA Coordinator
NYS Office of Parks, Recreation & Historic Preservation
625 Broadway
Albany, NY 12238
Voice: (518) 402-2648
Email: Owen.Gilbo@parks.ny.gov

6. The ADA Coordinator, or their designee, will review the request within three (3) days of its receipt and contact the requestor by requestor's preferred contact method to consult with the requestor to determine what type of auxiliary aid is needed to ensure effective communication. The ADA Coordinator will consult, as needed, with Counsel's Office and the Finance Bureau.
7. The ADA Coordinator, or their designee, will honor the requestor's choice of auxiliary aid or service unless: (i) there is available at the location on the requested date and at the requested time another effective means of communication, or (ii) honoring the choice of auxiliary aide or service would result in: (a) a direct threat, (b) a fundamental alteration of the nature of the program, services or activity for which it is requested, or (c) create an undue burden.
8. If the ADA Coordinator will honor the request, then the ADA Coordinator will make the necessary arrangements for the provision of the requested auxiliary aid or service and will notify the requestor in writing and in a format accessible to the complainant regarding next steps.
9. If the ADA Coordinator will not honor the request, then the ADA Coordinator must provide a written statement to the requestor within two (2) days of the date requestor needed the auxiliary aid or service. Such written statement will set forth the reasons for reaching that conclusion and offer an alternative that would not result in a direct threat, fundamental alteration, or undue burden.
10. When an individual's choice of auxiliary aide or service cannot be granted, the ADA Coordinator shall ensure that the individual is aware of OPRHP's formal grievance procedures.
11. All OPRHP staff that interact with members of the public or develop communications for the public shall receive annual training on this policy and procedure.
12. The ADA Coordinator or their designee will review this policy annually and update it as needed to ensure continued compliance.
13. The ADA Coordinator will maintain all documents and records regarding requests for auxiliary aides and services and related training pursuant to the applicable retention standard.

Forms

No related forms.

Other Related Information

[28 C.F.R. § 35.160](#) – Nondiscrimination on the Basis of Disability in State and Local Government Services, Communications

OPRHP ADA Grievance Procedure (DEIA-PCD-004)

History

02/08/2024 Procedure created and effective immediately.