

 <p><b>New York State Parks, Recreation and Historic Preservation</b></p> <p>Section: <b>Diversity, Equity, Inclusion and Access</b></p>	<p>Procedure Title: <b>Patron's Request for Reasonable Modifications</b></p> <p>Directive: <b>DEIA-PCD-003</b></p> <p>Effective Date: <b>02/08/2024</b></p>
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## Summary

Title II of the American with Disabilities Act (ADA) and § 296(2) of the New York State Human Rights Law require the Office of Parks, Recreation and Historic Preservation (OPRHP) to make its programs and services accessible to individuals with disabilities. This requirement extends both to providing physical access to facilities, programs, and events and to modifying any policies that may inhibit individuals with disabilities from taking part in or benefiting from OPRHP's program, activities, or services, whenever possible.

OPRHP will ensure that individuals with disabilities have equal opportunity to enjoy its programs and services by providing reasonable modification of rules, policies, procedures whenever possible unless such modification would result in a direct threat, fundamental alteration, or undue burden.

OPRHP may impose legitimate safety requirements necessary for the safe operation of its programs, services or activities based on actual risks, and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

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## Procedure

### Definitions

Reasonable modification is a change in a rule, policy or procedure to enable an individual with a disability to enjoy equal access and equal opportunity to an OPRHP program, activity, or service that does not cause a direct threat, result in a fundamental alteration, or impose an undue burden.

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 rules, 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, and 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. Determining that a reasonable modification of rules, policies, or procedures 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 modification 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 modification alters this feature or function;
- Whether this modification 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 a change that creates a significant administrative difficulty or expense. Determining that a reasonable modification of rules, policies, or procedures is an undue burden is made on a case-by-case basis. The factors to consider include:

- The nature and cost of the requested modification;
- 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, activities, and services;
- The number of persons employed at the site for the program, activity, or service;
- The impact of providing the requested modification on the operation of the program, service, or activity;
- The effect on expenses and resources in providing the reasonable modification;
- Any legitimate safety requirements that are necessary for safe operation of the program, activity, or service.

### **Procedure**

1. Individuals with disabilities may request a reasonable modification regarding an OPRHP program, activity, or service and, if possible, OPRHP staff should immediately grant such request unless the modification presents a direct threat, a fundamental alteration, or an undue burden. If a different modification is available that will not present a direct threat, fundamental alteration, or undue burden, then ORPHP staff will provide that modification.
2. If OPRHP staff cannot immediately grant a requested modification, OPRHP staff shall inform the requestor that the requestor may submit the request for reasonable modification or a grievance to the ADA Coordinator and provide the ADA Coordinator's contact information, as set forth below.
3. Individuals with disabilities 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 would like the reasonable modification.
4. The request should include: (i) the requestor's name, address, telephone, email, and preferred contact method; (ii) the program, activity or service being provided; (iii) the rule, policy, or procedure at issue; and (iv) the requested modification. These requests may be made using the Request for Reasonable Modification Form or by any other means accessible to the requestor.
5. Requests for reasonable modifications should be sent 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](mailto:Owen.Gilbo@parks.ny.gov)

6. The ADA Coordinator shall contact the requestor within three (3) business days of receipt of the request and make a good faith effort to reach an amenable solution consistent with this policy. In reaching a solution, the ADA Coordinator will consult, as needed, with Counsel's Office and the Finance Bureau.
7. In those circumstances where the ADA Coordinator believes that the requested modification would present a direct threat, fundamental alteration, or undue burden, the ADA Coordinator must provide a statement in writing and in a format accessible to the requestor setting forth the reasons for reaching that conclusion and offering any other modification available that would not present a direct threat or result in a fundamental alteration or undue burden.
8. When a modification cannot be granted as requested, the ADA Coordinator shall ensure that the requestor is aware of OPRHP's formal grievance procedures.
9. The ADA Coordinator shall provide to all OPRHP staff that interact with members of the public annual training on this policy and procedure.
10. The ADA Coordinator or their designee will review this policy annually and update it as needed to ensure continued compliance.
11. The ADA Coordinator will maintain all documents and records regarding requests for reasonable modifications and related training pursuant to the applicable retention standard.

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### Forms

No related forms.

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### Other Related Information

[NYS Procedures for Implementing Reasonable Accommodation in Programs and Services for Individuals with Disabilities](#)

OPRHP ADA Grievance Procedure (DEIA-PCD-004)

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### History

02/08/2024 Procedure created and effective immediately.