

# **Hawaii Department of Human Services**

## **2016 Civil Rights Annual Awareness Training**

### **Civil Rights**

#### **Part I**

#### **Overview and Awareness**

#### **Civil Rights and Language Access**

#### **Part II**

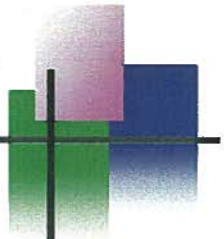
#### **Bias-free Language and Risky Behaviors**

#### **Part III**

#### **Reasonable Accommodation Review**

#### **Part IV**

#### **Tools and Updates**



# Federal Legal Authority

---

- **Civil Rights Act (VI & VII)**
- **Rehabilitation Act (Section 504)**
- **Age Discrimination Act**
- **Americans with Disabilities Act**
- **Genetic Information Act**



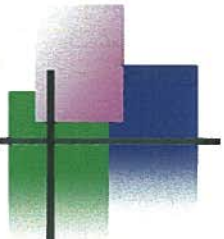
# State Legal Authority

---

- **Hawai'i Revised Statutes**     **Examples**
- **Language Access**

Recipients of state financial assistance, including grants and purchase-of-service contracts, must take reasonable steps to provide meaningful access to their programs, services, and activities for persons with limited English proficiency (LEP).

- **Hawai'i Revised Statutes**     **Breastfeeding in Public Accommodations**
- **Right to Time and Place**
- **Breastfeeding in the work place**



# What does Civil Rights

## Compliance

Mean?

Funding and Enforcing Entities:

USDA	FNS	HCRC
USHHS		EEOC
HUD		OFCCP
SSA		
DOE		
DOJ		



# Part I Overview

---

- Civil Rights Definitions, Goals, and Objectives
- Policies (2014)
  - Discrimination Complaint 4.10.1
  - Harassment Prevention 4.10.2
  - Services and Access 4.10.3
  - Access (language, disability, communication & facilities) 4.10.4
- DHRD Discrimination/Harassment-Free Workplace and Reasonable Accommodation Policies (601.001 and 002)
- Bias-Free Language and Risky Behaviors
- Reasonable Accommodation Overview



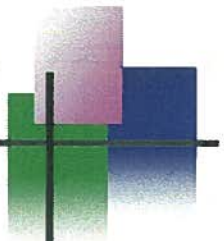
# DHS Civil Rights

---

**Goal: Prevention**

**Objective:**

**To create awareness of our roles in providing workplace and service areas that are free from discriminatory practices toward employees, clients and applicants.**



# What is "Discrimination"?

The word **discrimination** means to "distinguish between". However, **discrimination**, as used in **civil rights**, is more than distinction; it is *action based on prejudice resulting in unfair treatment of other people*. To **discriminate** socially is to make a distinction between people on the basis of a presumed category without regard to individual merit. Examples include race, religion, gender, disability, ethnicity, sexual orientation and age.

Distinctions between people which are based on individual merit (such as personal achievement, wealth, or skill) are generally not considered socially discriminatory.

**In America, each individual's civil rights include the right to be free from government sponsored social discrimination.**



# Unlawful Discrimination

---

- An employment (or service) decision made because of a person's protected class

Employment decisions such as:

- **Recruitment, hiring, assignment of work**
- **Training, compensation, benefits**
- **Evaluations, promotions, demotions**
- **Discipline and termination**

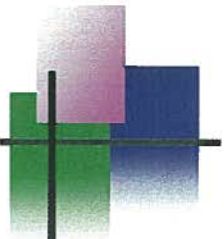




# Awareness

---

- **Protected classes** (Employment and Services)
- **Equal Pay**
- **Age**
- **Harassment**
- **Sex/Gender** (identity, expression, orientation)
- **Race**
- **Retaliation**
- **Discrimination Complaint Process**



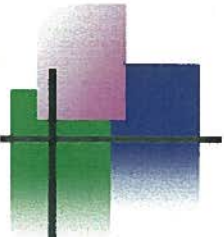
# Protected Areas in Employment

## FEDERAL

- Race**
- Color**
- National Origin**
- Sex** (including gender identity or expression and sexual orientation)
- Religion**
- Disability** (physical or mental)
- Age** (over 40)
- Pregnancy** (and pregnancy related)

## Federal **ONLY**

- Uniformed Service**
- Veteran Status**
- Citizenship Status** (except as permissible by applicable laws)
- Genetic Information**



# Protected Areas in Access to Services

## FEDERAL

National Origin (Language Access)

Political Beliefs\*

Race

Color

Sex

Religion

Disability

Age (over 40)

Ancestry

Breast Feeding

Sexual Orientation and Identity

## STATE

\* Applies to **SNAP** Program (formerly Food Stamp) only



## What's covered? Protected Classes in *Hawaii* in Employment

---

- **Race/Color**
- **National origin**
- **Ancestry**
- **Sex (pregnancy and pregnancy related); Gender identity or expression and sexual orientation**
- **Age (all ages)**
- **Disability (physical and mental)**
- **Religion**
- **Relationship (Marital) status (including civil unions and same sex marriages)**
- **Arrest and court record (except as permitted by applicable laws)**
- **Breastfeeding (act of breastfeeding or expressing milk)**
- **National Guard absence**
- **Child support (income assignment)**
- **Association with a person with a disability**
- **Credit history or report (unless directly related to a bona fide occupational qualification)**
- **Domestic or sexual violence victim status (if the domestic or sexual violence victim provides notice to the victim's employer of such status or the employer has actual knowledge of such status)**



## The **Age** Discrimination in Employment Act (**ADEA**)

---

- Applies to employers with **20 or more employees.**
- Applies to individuals who are age **40 and over.** (Hawaii all ages)



# Age as a Protected Class

## What would you do?

---

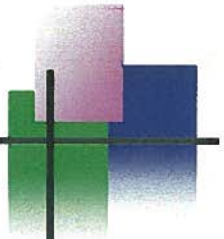
- Kim is the oldest employee in the division where she has worked for 30 years. Her supervisor, Jill, has prevented Kim from performing the more physical tasks because she is afraid Kim will hurt herself. As a result, Kim's co-workers have taken to calling her "Granny." Kim really doesn't like this and asks them to stop. They blow her off and continue using the nickname.
- Jill is right to protect Kim because she is older, but Kim's co-workers shouldn't call her "Granny."
  - **True**
  - **False**
- **If you were Kim what would you do?**
- **If you were Jill what would you do?**



## Age as a Protected Class

---

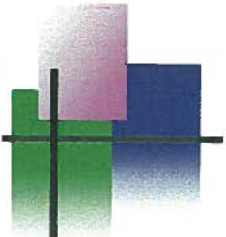
- Jill should not take it upon herself to limit Kim's job duties if Kim can perform them. It doesn't matter how old Kim is. Additionally it has encouraged Kim's co-workers to nickname her because of her age.
- Would this answer be different if Kim were the youngest employee in the office and Jill didn't allow her to perform the more difficult tasks, and her co-workers were referring to her as "Barbie?"



# Harassment Defined

- Any **unwelcome** verbal or physical conduct based on:
  - Race
  - Color
  - Sex (Gender), Identity or Expression
  - Religion
  - National origin - ex: LEP
  - Age
  - Disability - ex: **MENTAL HEALTH**





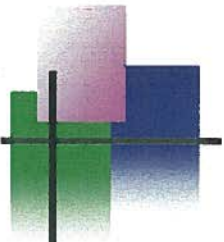
# Harassment

DHS P&P 4.10.2 (2014)

Is **UNLAWFUL**

when:

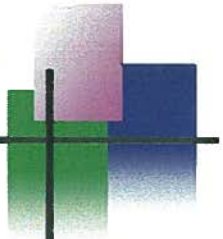
- It is based on a protected factor
- It alters terms and conditions



# DHS Liability

---

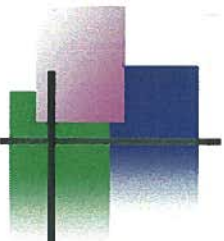
- Affirmative defense
  - No tangible employment action
  - DHS exercised reasonable care to prevent and promptly correct any harassing behavior AND
  - Employee unreasonably failed to take advantage of any preventive or corrective opportunities that were provided
  - DHS duty is triggered when its supervisor knows or should have known of unlawful conduct.



# Identifying and Preventing

## Workplace Harassment

- Educate and Monitor
- Listen and Investigate
- Take **Timely** Corrective Action
- Set the standard; prevent workplace harassment



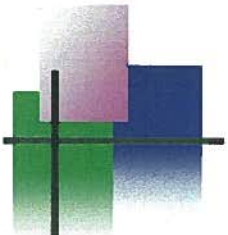
## **DHS' Discrimination Complaint Policy and Procedures 4.10.1**

**Forms available at**

**<http://humanservices.hawaii.gov>**

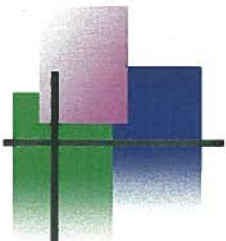
**In the **Civil Rights Corner****

**Discussion/Questions**



# Know the difference

- **Discrimination** is based upon the perception of the client/employee that he/she is discriminated against based on one or more of the protected factors.
- **Workplace violence** is an act of aggression that the victim perceives as a threat to his/her safety, health and well being.
- Contact, PERS/ERS at 586-4984 to discuss your particular situation relative to workplace violence.
- Contact Geneva Watts/PERS/CRCs at 586-4955 to discuss your particular situation relative to discrimination, harassment, retaliation or reasonable accommodation.
- Contact union representative to discuss your particular situation relative to misconduct or Labor Relations Staff (586-4979) if you as a supervisor need technical assistance in handling staff misconduct issues.



# Rights and Responsibilities

**(Access Hawaii Rights & Responsibility  
Brochure - DHS 050, 2014)**

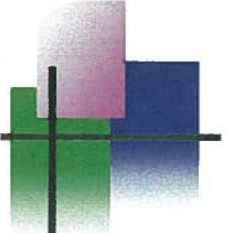
Available in public waiting areas, on employee bulletin boards,  
applications and in the Civil Rights Corner.



# Complaint Process

---

- Individuals who believe they have been subjected to discrimination based on national origin or any protected basis may file a complaint on DHS Forms 6000 and 6006 (2014) <http://humanservices.hawaii.gov>
- CRCS will ask Division Administrator, Executive Director, or Staff Officer, to assign an investigator



# DHS Discrimination Complaint and Consent Release

## DISCRIMINATION COMPLAINT FORM

NAME: \_\_\_\_\_ XXX-XX-XXXX  
SSN (Last Four Digits)

PHONE (Home): \_\_\_\_\_ PHONE (Work/Cell): \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

EMPLOYER (Division/Unit), if applicable: \_\_\_\_\_

JOB TITLE: \_\_\_\_\_

1. BASIS OF ALLEGED DISCRIMINATION: Choose appropriate item(s).

<input type="checkbox"/> Age	<input type="checkbox"/> Genetic Information	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Arrest/Court Records	<input type="checkbox"/> National Guard Absence	<input type="checkbox"/> Veteran Status
<input type="checkbox"/> Breastfeeding	<input type="checkbox"/> National Origin/Ancestry	<input type="checkbox"/> Retaliation for Filing a Complaint or Participating in Complaint Process
<input type="checkbox"/> Child Support Assignment	<input type="checkbox"/> Political Belief	<input type="checkbox"/> Race or Color
<input type="checkbox"/> Citizenship	<input type="checkbox"/> Religion	<input type="checkbox"/> Harassment (Based On)*
<input type="checkbox"/> Credit History	<input type="checkbox"/> Relationship Status	<input type="checkbox"/> Disability (Physical or Mental)
<input type="checkbox"/> Domestic/Sexual Violence	<input type="checkbox"/> Sex/Gender (Expression or Identity)	<input type="checkbox"/> *Must Indicate Protected Class Basis
<input type="checkbox"/> Victim Status		

Explain briefly what, if anything, you have done about the alleged discrimination. (Attach additional sheets if you require more space.)

3. Does your complaint concern alleged discrimination in services delivery?  Yes  No

4. Does your complaint concern alleged discrimination in employment?  Yes  No

5. Is the alleged discrimination against you?  No  Yes. By Whom: \_\_\_\_\_

6. Explain how and why you believe you were discriminated against. Please be SPECIFIC and include any names, dates, witnesses and places of the incident(s). (Attach additional sheets if you require more space.)

7. Is the alleged discrimination against others?  No  Yes. List Name(s), Address(es) and Phone Numbers.

8. What is the specific date or period of time of the alleged discrimination?

9. Please indicate the relief/remedy you are seeking.

10. I will notify the Department of Human Services, Personnel Office, Civil Rights Compliance Staff, P. O. Box 339, Honolulu, Hawaii 96809-0339, if I change my address or telephone number. I swear or affirm that I have read the above statements and that they are true to the best of my knowledge and belief.

**PLEASE COMPLETE REVIEW, SIGN, DATE AND RETURN TO THE ABOVE ADDRESS.**

Signature \_\_\_\_\_ Date \_\_\_\_\_

## CONSENT / RELEASE FORM

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Please read, initial, sign and date this form.

I understand that in the course of a preliminary inquiry or investigation, it might be necessary for the Department of Human Services (DHS), Civil Rights Compliance Staff (CRCS) to reveal my identity to persons at the organization under investigation, including personal information that is gathered as a part of the preliminary inquiry or investigation of my complaint. I understand that as a complainant, I am protected by Federal regulations and DHS policies from retaliation for having taken action or participated in action to secure rights protected by non-discrimination statutes. **Confidentiality cannot be guaranteed.**

<p>Initial here if you give consent.</p>	<p><b>CONSENT GRANTED</b></p> <ul style="list-style-type: none"> <li>I have read and understand the above information and authorize DHS CRCS to reveal my identity to persons at the organization under investigation, and to Federal or State agencies that provide financial assistance to the organization, and/or have responsibility for civil rights compliance.</li> <li>I authorize the DHS to receive material and information pertinent to the investigation of my complaint. This release includes, but is not limited to: applications, case files, personal records and medical records; and will be used only for authorized civil rights compliance and enforcement activities.</li> <li>I understand that I am not required to authorize this release, and I do so voluntarily.</li> <li>This authorization is effective for one year from the date of the authorization.</li> </ul>
<p>OR</p> <p>Initial here if you deny consent.</p>	<p><b>CONSENT DENIED</b></p> <ul style="list-style-type: none"> <li>I have read and understand the above information. I do not want the DHS CRCS to reveal my identity to the organization under investigation, or to review, receive, or discuss material and consent information pertinent to the investigation of my complaint.</li> <li>I understand that by declining consent, it may make the investigation of my complaint more difficult and, in some cases, may result in the investigation to be closed.</li> </ul>

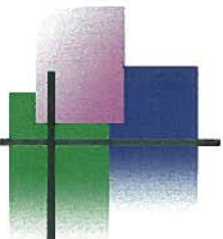
Signature \_\_\_\_\_ Date \_\_\_\_\_

RETURN signed and dated form to:

State of Hawaii  
 Department of Human Services  
 PERS/CRCS  
 P. O. Box 339  
 Honolulu, Hawaii 96809-0339

SEND questions to: [CRHRC@dhs.hawaii.gov](mailto:CRHRC@dhs.hawaii.gov)





# Discrimination Complaint Requirements

---

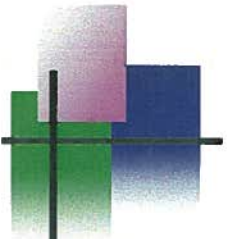
- ❑ Right to file complaint concurrently
- ❑ Must be informed of complaint process in writing
- ❑ Forms, brochures, posters in multiple languages
- ❑ Guidelines should be clear
- ❑ Procedures, processes and forms readily available



# Discriminatory Retaliation is Prohibited

---

- It is unlawful to penalize, punish or deny any **employment status** because that person opposed discrimination or participated in any way (ex: as a witness) in the investigation of a charge
- It is unlawful to penalize, punish or deny (or **delay**) any **services or benefits** because that person opposed discrimination or participated in any way (ex: as a witness) in the investigation of a charge



# Retaliation

---

- Adverse employment action
- In response to or in an attempt to prevent
  - Opposing a discriminatory practice
  - Participating in an employment discrimination investigation or proceeding
  - Making a request for reasonable accommodation



# Retaliation is **NOT**

---

- Petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation
- Snubbing a colleague
- Negative comments that are justified by an employee's poor work performance or history
- Requests by a supervisor to improve or increase work productivity

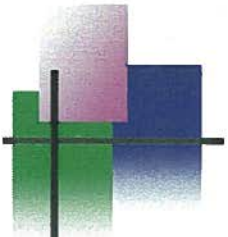


# Retaliation Example

---

- Sam, a painter at DHS, made an internal complaint against his supervisor for race discrimination. Two weeks later, his supervisor reassigned Sam to standard laborer tasks. His pay and working hours did not change

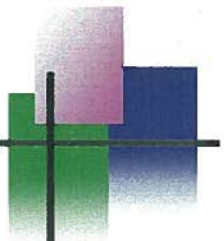
- True
- False



# Retaliation continued

---

- Retaliation can occur:
  - when an employee is transferred to a less desirable work assignment, even if the pay and working hours do not change
  - When a complaint is filed or one has participated as a witness in a complaint investigation process
  - Complainant must meet “but/for” test for cause.



# Language Access National Origin

---

**Language Access  
(Interpretation and Translation)**

**Use Forms: DHS 5000**

**DHS 5050**

**Questions Contact:** Aphirak Bamrungruan (AP)

**LEP Project Manager 586-4898**



# Language Access Requirements

---

Opportunities for clients and applicants, to participate in programs, services and activities.

Clients and program participants shall be informed of their right to:

- ❑ Non-discriminatory service provision
- ❑ Accommodations
- ❑ Free interpreter services
- ❑ Filing a discrimination complaint





# What to do

---

- **Step 1: Determine the primary language spoken.**
  - Check application form
  - Use “I speak” cards <http://www.lep.gov>
  - Telephone Interpreter service (Language Link)  
1 877 650 8014
  - Poster
  - General Interpreter Services 1 888 764 7586
  - \* **SCRIPT and Google Translate (voice)**

Once you have established the primary language you will need to make **timely** arrangements for an interpreter and document your efforts in the case notes/log of contacts.



# How to do it

---

## Step 2: Getting an interpreter.

- Contact a **DHS employee** (preferably familiar with program).
  - **DHS Volunteer**  
For current listing (586-4955 or [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov))
- Contact **Telephone Interpreter** service where available  
Language Link 1 877 650-8014 (code needed)
- Arrange for an interpreter for the formal interview
- There are **other resources** for interpreters that are available to you:
  - DCAB Listing
  - Court Interpreter Listing
  - Google Translate (voice)



## Working with the Interpreter

---

- The interpreter shall read, initial and date the Interpreter Code of Ethics
  - Document in log of contacts/contact notes.
  - Copy and place in case record.
- The interpreter shall provide a Confirmation statement to confirm to his/her qualifications
  - Verify signature on Confirmation and place in case notes or log of contacts.
  - Copy and file in case record or on screen.

# DHS Interpreter Form and Code of Ethics

## INTERPRETER FORM

Name: \_\_\_\_\_ Language: \_\_\_\_\_

Phone No.: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

DHS Division/Branch/Section/Unit: \_\_\_\_\_

DHS Position Title: \_\_\_\_\_

### For DHS Staff Volunteer Interpreter:

I would like to be on the DHS list of volunteer interpreters. I will inform the DHS Personnel Office, Civil Rights Compliance Staff, if I no longer want to volunteer as an interpreter.

I do not want to be on the DHS list of volunteer interpreters; however, I will provide interpreter services for \_\_\_\_\_.

### For Family and Friends Providing Interpreter Services:

Name of Person You Are Interpreting For: \_\_\_\_\_

Your Relationship to the Person You Are Interpreting For: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
(P.O. Box or Number and Street, Apt. No., City, State, Zip Code)

Interpreter Telephone No.: \_\_\_\_\_ (Home Phone) \_\_\_\_\_ (Other)

I state that the following are true:

I have read and understand the Interpreter Code of Ethics (on the back of this form) and agree to follow it when providing interpreter services.

I am 18 years of age or older.

Check as applicable:

I can communicate in English and the language listed above.			
I can interpret to and from English in the language listed above.			
I can translate written English to the language listed above.			
I can translate the written language listed above to English.			

Unless otherwise approved by DHS, I understand that my services are voluntary and I will not receive extra pay from DHS for providing interpreter services.

Signature \_\_\_\_\_

Date \_\_\_\_\_

### Interpreter Code of Ethics

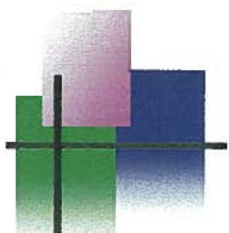
1. Accuracy
  - a. Interpreters shall convey the message and tone of the speakers accurately and completely, without adding or deleting anything.
  - b. Interpreters shall accurately interpret offensive language, obscenities, and sexual terminology and shall maintain composure while interpreting in emotionally charged situations.
  - c. Interpreters shall seek clarification when needed.
  - d. Upon recognizing that a communication may have been misunderstood, interpreters may bring the possible misunderstanding to the attention of the provider, who will decide how to resolve it. (Not to be done in legal proceedings.)
2. Confidentiality
  - a. Interpreters shall keep confidential all assignment-related information and shall not divulge any information obtained through their assignments, including but not limited to information gained through access to documents or other written materials.
3. Impartiality
  - a. Interpreters shall refrain from accepting an assignment when family, personal or professional relationships affect impartiality.
  - b. Interpreters shall reveal any relationship with a party that might be perceived as a conflict of interest.



# Interpreter Services Waiver

---

- When a client declines free interpreter services offered by DHS, document in your **log of contacts**:
  - Your efforts in providing free interpreter services
  - The client's declining such offer and the date and reason.
- The DHS shall provide a **form** and alternate interpreter verification/documentation in client's primary language.
  - If the client is unable to read in primary language, oral **translation** will be necessary.
- As a DHS employee, you shall document your efforts in providing free **appropriate and timely** interpreter services in your log of contacts or case notes.



# Offer and Acceptance or Waiver of Free Interpreter Services

## OFFER AND ACCEPTANCE OR WAIVER OF FREE INTERPRETER SERVICES

Case Name: \_\_\_\_\_ Case Number: \_\_\_\_\_

Interpreter Needed For: \_\_\_\_\_ (Name)

Worker: \_\_\_\_\_ Unit: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

The Department of Human Services (DHS) has offered an interpreter at no cost to me, if English is not my primary language.

1. ENGLISH is my primary language:  YES\*  NO  
\*Sign and date below.

2.  I do not need an interpreter. If you do not need an interpreter go to part 4 and sign below.  
 I need an interpreter for the following language: \_\_\_\_\_  
If you need an interpreter, go to part 3, and check the box that applies to you.

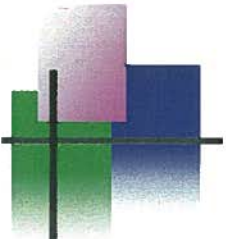
3.  I want DHS to provide an interpreter at no cost to me.  
 I do not want an interpreter provided by DHS, and I will provide my own.

- I understand that DHS may secure an independent interpreter to observe my interpreter to ensure the accuracy of the communications.
- I understand that the use of family or friends as interpreters may not be the most effective way to help me access the benefits and services that DHS provides.
- I understand that DHS does not recommend the use of family members or friends as interpreters and prohibits the use of minors (no one under age 18) as interpreters.
- I understand that if I do not want interpreter services at this time, I have the right to change my mind in the future and have DHS provide free interpreter services at that time or bring an interpreter of my choice.

4. I have read and understand the information on this form. If I have questions or concerns, I can contact the worker listed above.

Print Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Interpreter Requirements

---

- Proficient in more than one language
- Avoid using a client's friend, family, minor children.
- Document client waiver of free interpreter service.
- Arrange before bringing client in whenever possible.
- Use DHS volunteers appropriately.
- Examine credentials (over age of 18)
- Your particular program may require you to provide an interpreter for your use to verify that the communication is correct, accurate and understood by the client or applicant even when the client provides his/her own interpreter.



# National Origin Example

---

- Ashari speaks with a thick accent. Her co-workers occasionally ask her to repeat herself so they can understand what she is saying. One day Mike gets frustrated because he can't understand Ashari and makes fun of the way she talks.
- There is nothing wrong with Mike's behavior because Ashari is in Hawaii and should speak English so everyone can understand her.
  - True
  - False

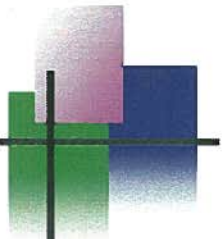




## Protected Class—National Origin

---

- Accents are a component of national origin and/or ancestry therefore discrimination or harassment because of an accent would violate DHRD's Discrimination/Harassment-Free Workplace Policy and DHS Harassment Prevention policy.
- Mike might not have gone as far as to create a hostile or offensive work environment for Ashari, but his conduct would violate Discrimination/Harassment-Free workplace policies.



# Remember

---

- **Inform LEP individuals of their right to free interpreter services**
- **Avoid using a client's/applicant's friend or family member or minor to interpret**
- **Contact one or more interpreter services (phone, e-mail, on-line, in-person)**
- **Use DHS Volunteer Interpreters as appropriate and needed**
- **Provide information on process for filing a Discrimination Complaint and/or a service complaint when service delivery is unacceptable**



## Remember (continued)

---

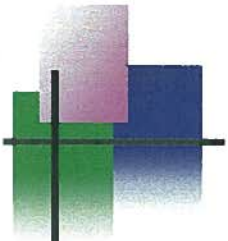
- Document your efforts and the decision of the client to accept or decline the free interpreter service.
- Ensure that LEP applicants, potential applicants and clients are:
  - Given adequate, timely and correct information
  - Understanding of what services and benefits are available
  - Effectively communicating relevant circumstances of their situation
  - Documentation of services provided or client's declination of offered free interpreter service
  - Provided a comprehensive language assistance program, written policies, interpreter and/or translation services and effective communication devices.



**Remember Access to  
Government Services  
is a Civil Right**

**Granted by the U.S. Constitution**

- **Civil rights include the right to:  
free speech,  
privacy,  
equal protection and due process.**
- **The right not to be discriminated in government services falls under equal protection which means that everyone shall be treated equally no matter the race, sex, religion or national origin and other protected factors.**



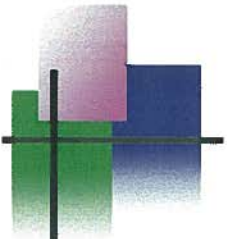
## Part II

---

**Bias Free Language**  
**(Language Matters)**

**and**

**Risky Behaviors**  
**(Do and Don't)**



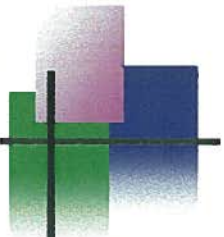
# Bias- Free Language

How Do We Continue to Remove Our

Stereotypes in Communicating with

our

Employees and Clients?



# Bias-Free Language

Chairman	Chair Person
Fireman	Fire Fighter
Waiter	Server
Oriental	Asian (or be specific)
Welfare, inner-city, Underprivileged	Do not use euphemisms for racial groups
Redskins	Washington Football Team



# Guidelines for Achieving Bias-Free Communication

---

**Be aware of words, images and situations that suggest that all or most members of a group are the same.**

Stereotypes often lead to assumptions that are unsupportable and offensive.

**Avoid qualifiers that reinforce stereotypes.** A qualifier is added information that suggests what is being said is an exception to what is expected.





# More Guidelines for Achieving Bias-Free Communication

**Be aware of the negative implications of *color* symbolic words.** Choose words that do not reinforce bias. In some instances, *black* and *yellow* have become associated with the undesirable or negative.

**Examples:** *black* hearted and *yellow* coward

**Avoid patronizing language and tokenism toward any racial or ethnic group.**

**Example:** Once-a-year articles or special editions about a particular group may be interpreted as *cultural tokenism*, especially when such a group constitutes a large part of the community. This approach may suggest that that racial or ethnic group is out of the mainstream.



## More Guidelines for Achieving Bias-Free Communication

---

Substitute substantive information for ethnic clichés.

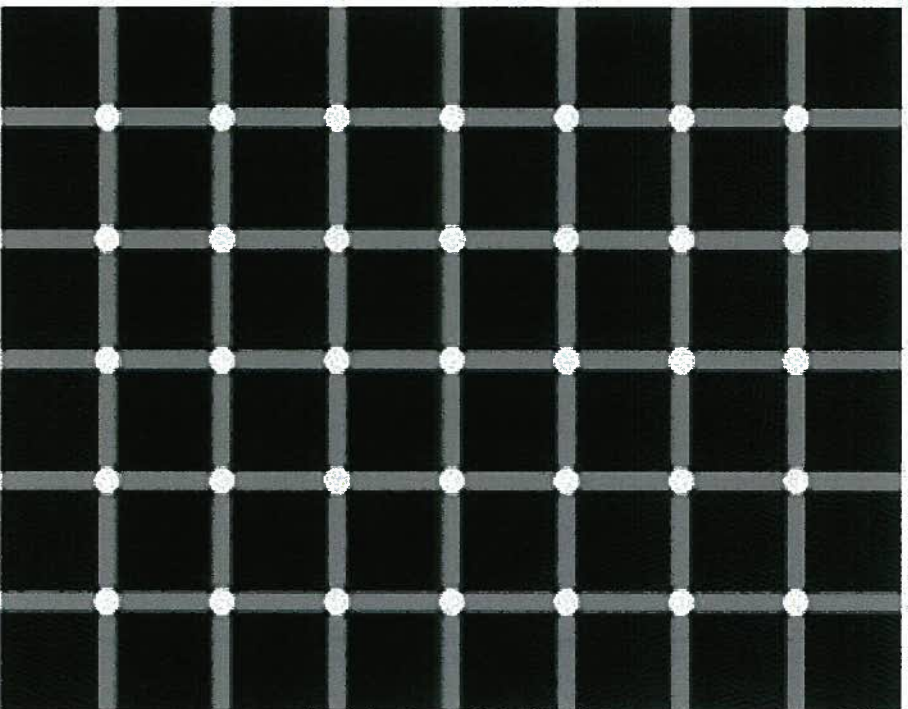
Don't let ethnic clichés substitute for in-depth information.

*Example: A person of Pacific Island heritage might prefer to be asked about family history or real estate experiences than about surfing or dance.*

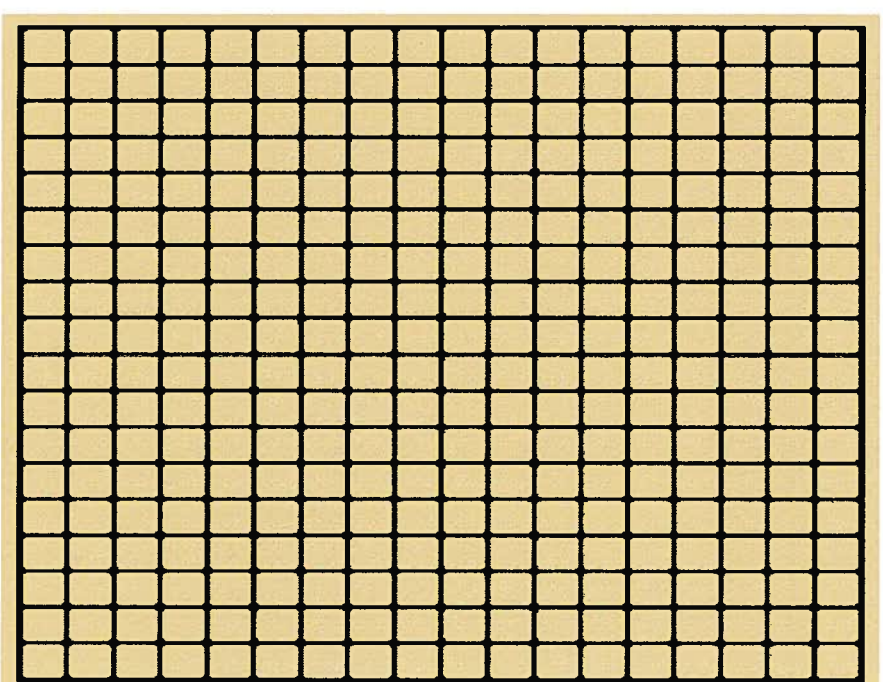
Review marketing media to see if all groups are fairly represented.

*Examples: Are persons portrayed in positions of authority almost invariably Japanese or Pacific Islander or white? Does marketing media provide diverse racial role models?*

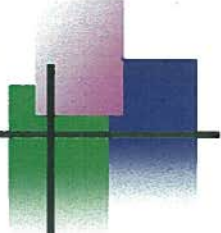
The human mind, naturally  
"discriminates" and can make you  
imagine....



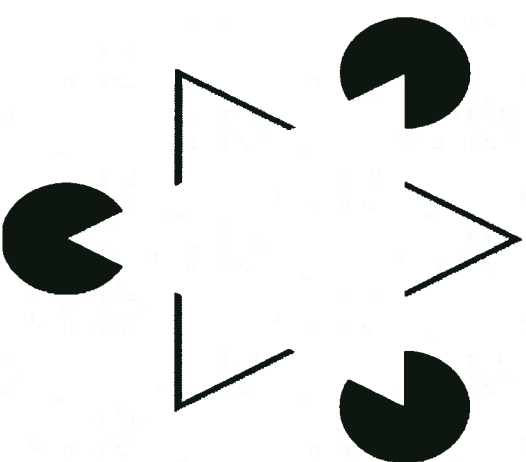
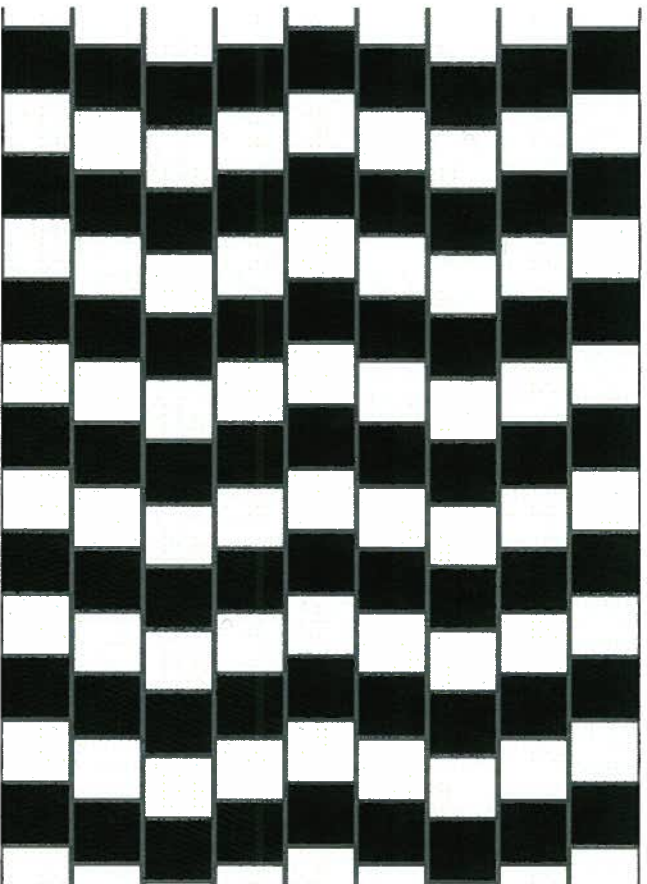
Black Dots



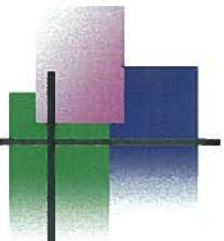
White Dots



...or even make a *straight* line,  
appear crooked...

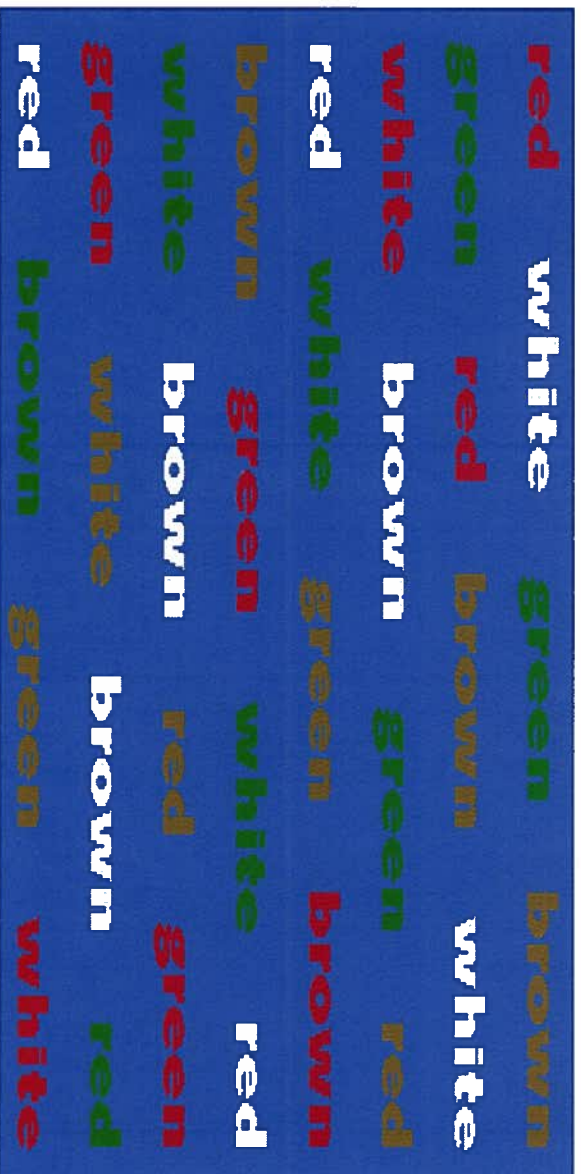


Or a shape that's not even there



# Let's Reinforce the *Written Law*, Not the Person's Color !

Start at the top and say the *actual* color, not the *written* word.



The “Stroop Test,” invented by John Stroop in 1935, psychologically tests our mental ability to stop one response in order to do something else.



## Risky Behaviors--Verbal

- Derogatory comments based on gender, race, national origin, religion, genetics and others
- Suggestive or derogatory comments about clothing or personal behavior
- Colloquial terms such as "ho," "cougar," "breezy," "more local," "kitty"
- Terms of endearment like "honey," "babe"
- References to an adult as "girl" or "boy" or "doll" or "hunk"
- Sexuality or racially charged slurs or jokes
- Profanity





# Risky Behaviors—Verbal

## Continued

---

- Requesting sexual favors in exchange for employment benefits
- Tales of one's partner's sexual inadequacies or prowess
- Grunts, wolf whistles, catcalls, hoots, sucking noises, lip-smacks and animal noises
- Graphic descriptions of pornography
- Obscene phone calls, texts or voicemails
- Lies or rumors about a person's personal or sex life
- Requests for dates or sexual favors
- Sexual innuendos or stories
- Comments about a persons body or body part(s)



# Risky Behaviors--Physical

---

- Sexual assault
- Nonconsensual kissing, hugging, patting, stroking, grabbing
- Leaning over or invading a person's space
- Inappropriately touching a person or person's clothing
- Accidentally brushing sexual parts of the body
- Uninvited neck or shoulder message
- Deliberately touching in a sexual nature, brushing up against, pinching or patting
- Stalking





## Risky Behaviors—Non-Verbal

---

- Staring
- Making facial expressions of a sexual nature, winking, licking lips
- Making derogatory gestures of a sexual nature
- Giving sexually suggestive looks
- Looking someone up and down (elevator eyes)
- Displays of demeaning, insulting or sexually suggestive objects, pictures or photographs (texts, emails, internet materials)



# Part III

---

- Reasonable Accommodation review

## **Pregnancy and Pregnancy Related**

- reasonable amount of time off

## **Expressing milk in the work place**

- clean, safe, private area-- not restroom

## **Disability (Physical or mental)**

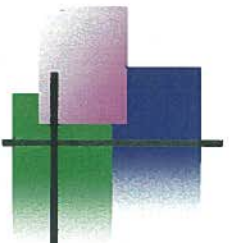
- essential functions of the job

## **Religious Practices or Beliefs**

- flexible work schedules

## **Domestic or Sexual Violence Victims**

- 30 days unpaid leave; flexible schedule



## How to provide Reasonable Accommodations

---

- Making facilities accessible
- Job restructuring, modifying work schedules, reassignment
- Acquiring or modifying equipment or devices
- Adjusting examinations, training materials, or policies
- Providing qualified readers or interpreters



# Title I of the Americans with Disabilities Act

---

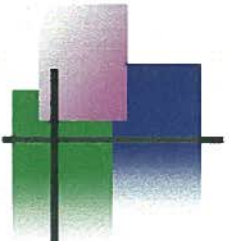
- Prohibits discrimination on the basis of disability, including requirements relative to providing a reasonable accommodation in employment and services for disabled individuals

- 2010 amendments redefined terms and clarified intent Refer to ADAA and Reasonable Accommodation

<http://humanservices.hawaii.gov>

Accessibility to State Government by Persons with Disabilities

- Administrative Directive No. 12-06 Governor Neil Abercrombie



## Definition of a “Disability”

---

- A physical or mental impairment that substantially limits a major life activity
- A record of such an impairment
- Being regarded as having such an impairment

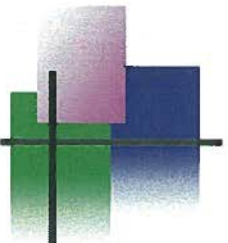


# Disability

## Illegal to:

---

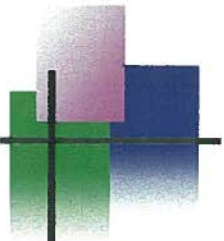
- Refuse to hire, fire, penalize
- Limit, segregate, or classify
- Use prejudices of workers/clients
- Requires time away
- Retaliate



# Disability

## Remember

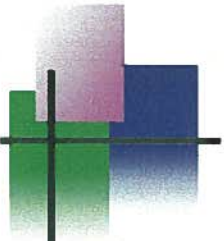
- A qualified person with a permanent physical or mental impairment that substantially limits a major life activity
- Has a right to an effective reasonable accommodation



# REASONABLE ACCOMMODATION

A modification or adjustment to a job, the work **environment**, or the way job **tasks** are usually accomplished, to enable a person with a disability to perform the **essential** functions of a job or position.





## Reasonable Accommodation Review and Update

**What's Covered?**

**What's Reasonable?**

**Who's Responsible?**

# Reasonable Accommodations for Employees and Applicants for Employment (DHRD Policy)

## REQUEST FOR ACCOMMODATION (Confidential) DEPARTMENT OF HUMAN SERVICES

Date of Request: \_\_\_\_\_

Please Check One: I am an  Applicant  Employee

Requester's Name: \_\_\_\_\_  
 Class of Work or Position Title and Level: \_\_\_\_\_  
 Division/Section/Unit: \_\_\_\_\_  
 Worksite Address: \_\_\_\_\_  
 Worksite/Day Phone: \_\_\_\_\_

### APPLICATION

(To be completed by employer/applicant)

1. I am requesting the following accommodation(s): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. It is necessary for me to have this accommodation for the following reasons:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Requester's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### DETERMINATION

Your request of \_\_\_\_\_ for an accommodation has been:

Approved ACCOMMODATION(S) PROVIDED: \_\_\_\_\_

Disapproved REASON(S) DENIED: \_\_\_\_\_

Approved with Modification \_\_\_\_\_

Approved for Trial Period from \_\_\_\_\_ to \_\_\_\_\_  
 Comments: \_\_\_\_\_

If you disagree with this determination, you may present additional information to your immediate supervisor within ten (10) business days of the date this determination was made to further substantiate your request. You may contact Geneva Watts, Civil Rights Compliance Officer, via [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov) or 566-4955 to discuss the above determination.

Departmental Personnel \_\_\_\_\_ Date \_\_\_\_\_  
 Officer Signature: \_\_\_\_\_

## REQUEST FOR ACCOMMODATION (Confidential) Americans with Disabilities Act, As Amended

### General Instructions

This form is meant to simplify the processing and recording of requests for reasonable accommodations for Department of Human Services' (DHS) employees and applicants for employment at DHS who qualify under the Americans with Disabilities Act, as amended.

**General Information: To be completed by DHS Employee or Applicant for DHS employment:**

**Date of Request:** Enter the date the request is made.

**Please Check One:** Current DHS Employee or Applicant for Employment at DHS

**Requester's Name:** Self-explanatory. Name the requester is using for employment with DHS.

**Class of Work or Position Title and Level:** For example Eligibility Worker I

**Division/Section/Unit:** Enter location where employment is current or anticipated.

**Worksite or Mailing Address:** Enter place where mail can be received by Employee or Applicant for Employment

**Day Phone:** Enter a daytime phone number where Employee or Applicant for Employment can be reached.

**Application: To be completed by employee or applicant making request.**

**Requesting Reasonable Accommodation under ADA:**

1. Describe specifically what requester believes is needed. Provide photograph where applicable.

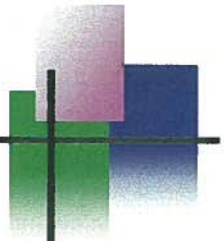
2. Reasons: Describe the functional limitations that make this request necessary and how it relates to the job being or to be performed.

**Requester's Signature:** Self-explanatory. Standard signature that is recognizable.

**Date:** Enter the date application is signed by the requester.

**Questions:** DHS ADA Coordinator, [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov) or (808) 566-4955.

**PLEASE PROCESS IMMEDIATELY. DELAY IS SOMETIMES DENIAL.**



# Pregnancy

- Pregnant women or women affected by pregnancy must be treated in same manner as other applicants or employees with same abilities or disabilities
- Equal treatment
- An accommodation is an adjustment—different treatment
- May be viewed as special treatment, but law requires accommodation.



# Pregnancy or Related

## Illegal to:

---

- Refuse to hire, fire, penalize
- Not allow to express breast milk (similar to smoking breaks)
- Retaliate
- Use prejudices of workers/clients
- Requires time away



# Pregnancy Related Questions and Answers

- **Can DHS fire or require employee to take leave because of performance problems?**

*Only if DHS first makes reasonable accommodation and employee is still unable to perform.*

- **What are some examples of reasonable accommodations?**
  - *Time off from work for doctor appointment/s*
  - *Sit instead of stand*
  - *Excuse from /assist in lifting*
  - *Reassign to a vacancy (not usually recommended)*
  - *Breaks/rest periods; clean/safe place to express milk*
  - *Sick leave*



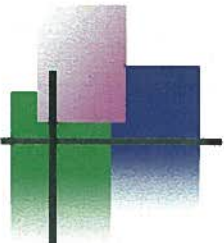
# Disability

## Reasonable Accommodation

### NOT Examples

---

- Eliminating an essential function
- Lowering standards
- Reassigning supervision
- Promoting to a higher or demoting to a lower position
- Providing personal use items
- Creating “light duty” or new jobs



# Disability

## Examples Reasonable Accommodation

---

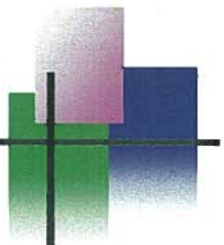
- Restructured job
- Modified or part-time schedule
- Modified policy or procedure
- Purchased/modified equipment
- Readers/interpreters or other auxiliary aids/services
- Leaves of absence
- Reassignment to a vacancy (usually not recommended)



# Physical or Mental Disability

- Jim was born with a club foot that makes him walk with a limp. One day, Jim walked into the break room as one of his co-workers, Tom, is in the middle of imitating the way Jim walks while the other co-workers laugh. Jim complains to his supervisor.
  - Tom's behavior wasn't discriminatory because he didn't mean to imitate Jim while Jim was around.
    - True
    - False
  - Note: It doesn't matter what Tom intended (isolated event; violation of policy)
  - What if you, as Jim's and Tom's supervisor witnessed Tom's imitation of Jim?

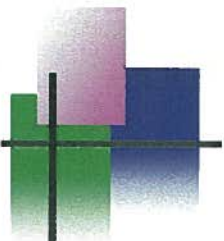




## Religious Practices

---

- Persons who request an adjustment for their bona fide religious practice or belief is due reasonable accommodation
- Bona fide—It is a sincerely held religious practice or belief irrespective of affiliation with an established church or religion.

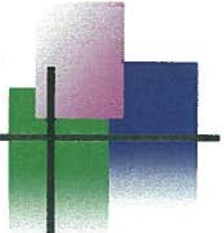


# Religious Practices

## Illegal to:

---

- Force participation or not
- More/less favorably
  - hire to include/exclude
  - use different requirements
  - allow religious expression
- Retaliate – “business as usual”



# Religious Practices

## Questions and Answers

---

- What constitutes an effective accommodation?

*An alternative that eliminates the conflict between a religious practice and an employment/service requirement*

- What are some examples of effective reasonable accommodations?
  - *Leave for religious observances*
  - *Time and/or a place to pray*
  - *Ability to wear religious attire*
  - *Restructuring work/schedules*
  - *Voluntary substitutes*



## Religion

### Protected Class/

### Reasonable accommodation

---

- All aspects of religious observance and practice
- Reasonable accommodation (**hardship not**)
- Inappropriate behavior
  - Antagonizing or ridiculing because of someone's religious beliefs
  - Preaching or proselytizing to an employee and the employee perceives that behavior to be unwanted and offensive



# Religion

---

- Amani, who works in Personnel, files a formal complaint that several co-workers are making fun of the head covering she wears and often refer to her as “camel jockey” or “Arab.”
- The derogatory remarks made by Amani’s co-workers are creating a hostile work environment for her.
  - True
  - False
- What if they were made in front of her supervisor?
- What if the comments were made by her supervisor?
- What if the derogatory comments were made by a customer?

# Domestic or Sexual Violence



## Victim Status

---

- Persons who provide verification and/or is known to be a victim may request a reasonable accommodation, such as:
  - Changing contact information
  - Screening telephone calls
  - Restructuring job functions
  - Changing work location
  - Installing locks/security devices
  - Flexible hours



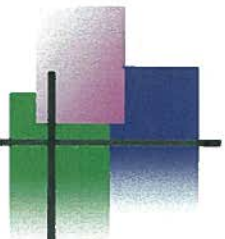
# Domestic or Sexual Violence Victim Status

## Written Verification

---

- DHS may request written verification every 6 months from:
  - Victim services organization
  - Employee's attorney/advocate
  - Attorney/advocate of employee's minor child
  - Medical/health professional
  - Clergy
  - Police/court record
  - After being notified
  - After having actual knowledge
  - After receiving verification

\*If verified by a protective order with an expiration date, request only after expiration of order or extensions, whichever is later.



# Overall Defense

- Undue Hardship—demonstrate that accommodation would be disruptive, fundamentally alter the operation, OR require more than minimal or “administrative” cost: (not generally applicable to State agencies)
  - Nature and cost
  - Financial resources
  - Operations
  - Number needing accommodation
  - Existence of bona fide seniority





# Request for Auxiliary Aid (Services)

**REQUEST FOR AUXILIARY AID (CONFIDENTIAL)  
UNDER TITLE II OF THE AMERICANS WITH DISABILITIES ACT, AS AMENDED  
DEPARTMENT OF HUMAN SERVICES  
CLIENTS AND APPLICANTS FOR SERVICES, PROGRAMS AND ACTIVITIES**

Date of Request: \_\_\_\_\_

Applicant  Client

Please Check One: \_\_\_\_\_  
Requester's Name: \_\_\_\_\_  
Program/Activity or Service: \_\_\_\_\_  
Division/Section/Unit: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Day Phone: \_\_\_\_\_

**APPLICATION**  
(To be completed by client/applicant)

1. I am requesting the following auxiliary aid(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
2. It is necessary for me to have this auxiliary aid(s) for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Requester's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**For INTERNAL USE ONLY  
DETERMINATION**

Your request of \_\_\_\_\_ (Date of Request) \_\_\_\_\_ for an auxiliary aid(s) has been:  
 Approved AUXILIARY AID(S) PROVIDED: \_\_\_\_\_  
 Disapproved REASON(S) DENIED: \_\_\_\_\_  
 Approved with Modification: \_\_\_\_\_  
 Approved for Trial Period from: \_\_\_\_\_ to: \_\_\_\_\_  
Comments: \_\_\_\_\_

If you disagree with this determination, you may present additional information to further substantiate your request by contacting Geneva Watts, Civil Rights Compliance Officer, at 586-4955 or via [GWATTS@DHS.MARYLAND.GOV](mailto:GWATTS@DHS.MARYLAND.GOV)

**REQUEST FOR AUXILIARY AID  
General Instructions**

This form is meant to simplify the processing and recording of requests for auxiliary aids for Department of Human Services clients and applicants for services who qualify under the Americans with Disabilities Act, as amended.

**General Information: To be completed by DHS Client or Applicant for DHS Services**

Date of Request: Enter the date the request is made.

Please Check One: DHS Client or Applicant for Services

Requester's Name: Self-explanatory. Name the requester is using for services with DHS.

Program/Activity or Service: For example: SNAP, EBT Card, Nutrition.

Division/Section/Unit: Enter location where services are provided.

Mailing Address: Enter places where mail can be received by Client or Applicant.

Day Phone: Enter a daytime phone number where Client or Applicant can be reached.

**Application: To be completed by attorneys or non-legal assisting requests.**

Requesting Auxiliary Aid(s):

1. Describe specifically what requester believes is needed. Provide photograph where applicable.

2. Reasons: Describe the functional limitations that make this request necessary.

Requester's Signature: Self-explanatory. Standard signature that is recognizable.

Date: Enter the date each location is signed by the requester.

Questions: Case worker, client or applicant may contact the DHS ADA Coordinator, [gwatts@dhs.maryland.gov](mailto:gwatts@dhs.maryland.gov) or (800) 586-4956.

**PLEASE PROCESS IMMEDIATELY. DELAY IS SOMETIMES DENIAL.**

Page 1 of 3

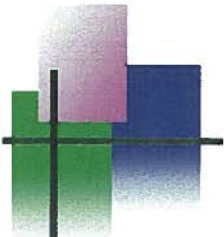
DH-870M-10/07-4



# Overall Keys

---

- Requested
- Case-by-case
- Different
- Not usual and customary
- Not unfair; it is the law
- **Interactive process**
- Consideration of alternatives
- **Effective**



# Remember

---

- These requirements are to provide a balance between DHS' need to operate and society's need to have equality of opportunity, full participation, and contributing members
- It's the law.
- It's your responsibility.



# Responsibilities

## Supervisors and Managers

---

- Maintain a workplace free of harassment, discrimination and retaliation
- Take immediate and appropriate action to ensure any wrongful behavior ceases
- As assigned, investigate complaints of alleged violations of policies



# Managers and Supervisors Responsibilities continued

---

- **Prevent** retaliation against the victim and any witnesses
  - Monitor work environment
  - Instruct complainant and witnesses to report incidents they feel are retaliatory
  - Notices for victim and witnesses for interviews



# Supervisors and Managers

## Responsibilities continued

---

- Know who at DHS is designated to oversee alleged discrimination and retaliation complaints
- Report any alleged discrimination or retaliation complaint to this individual
- Separate accused and alleged victim, if necessary
- Assigned investigator must immediately initiate investigation
- Take effective remedial action
- Document process



# Representing Management

---

- What does representing management mean?
  - Appropriate follow-up
  - Following the chain of command when appropriate
  - Protecting management's interest in harassment prevention and litigation avoidance
- NOT
  - Blind obedience
  - Loyalty at the expense of others
  - Ignoring a situation; hoping it will go away
  - Excessive control
  - Micro managing
  - Creating barriers
  - Silence to protect others



# Employees (non-supervisory)

---

- Alleged harassment, discrimination and retaliation complaints may be made to:
  - Manager/Supervisor
  - Civil Rights Compliance Officer
  - DHRD EEO Manager
  - Hawaii Civil Rights Commission
  - Equal Employment Opportunity Commission
  - Appropriate Funding Agency
- Those receiving alleged discrimination and retaliation complaints must make sure that they are communicated to the DHS Civil Rights Compliance Office.



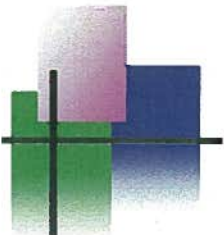


# Part IV

## Tools and Updates

---

- Language Encounter Reports & Tools
  - Request for Auxiliary Aid (Services)
  - Reasonable Accommodation (Employment)
  - Discrimination Complaint Flowchart
  - Investigation Report Template
  - Translated Documents (10 languages)
- <http://humanservices.hawaii.gov> Civil Rights Corner



# Language Encounter Feedback

## DEPARTMENT OF HUMAN SERVICES Language Encounter Report

Division \_\_\_\_\_ Branch \_\_\_\_\_ Section \_\_\_\_\_ Unit \_\_\_\_\_  
Date of Encounter \_\_\_\_\_ Time of Encounter \_\_\_\_\_

*Please check all that apply*

- Language Encountered:
- Cantonese
  - Chuukese
  - Hawaiian
  - Ilokano
  - Japanese
  - Korean
  - Kosraean
  - LEP Hearing Impaired
  - Mandarin
  - Marshallese
  - Phonpeian
  - Portuguese
  - Samoan
  - Spanish
  - Tagalog
  - Thai
  - Tongan
  - Vietnamese
  - Visayan
  - Other \_\_\_\_\_

Was Oral Language Service Provided?  
 YES

- What type of interpreter?
- Paid in-Person Oral Interpreter
  - By Staff
  - Within job duty
  - volunteer from other division or unit

Was Written Language Services (translated document) Provided?  
 YES

- What type of Translator?
- Contracted Interpreter
  - Via Interpreter Agency
  - Independent Interpreter
  - Live Paid Telephonic Interpreter
  - Community Volunteer
  - Other \_\_\_\_\_

Was a written document orally translated for an LEP person?  
 YES

- What type of Translator?
- By Staff
  - Within job duty
  - Volunteer from other division or unit
  - Contracted Translator
  - Via Translation Agency
  - Independent
  - Community Volunteer
  - Other \_\_\_\_\_

Document Title: \_\_\_\_\_

Was the Oral or Written Service(s) Provided: \_\_\_\_\_

\*Please use reverse side to explain how service could be improved.  Outstanding  Acceptable  Not Acceptable\*  
**THANK YOU.**



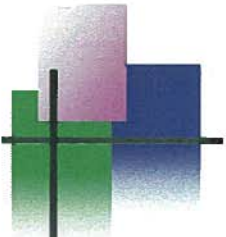
## Further Information

---

- [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov)
- Federal Guidelines <http://www.lep.gov>
- Hawaii Revised Statutes  
<http://www.doh.gov/ola>
- DHS Policy and Procedures 4.10.1-4  
(2014)
  - <http://humanservices.hawaii.gov>  
(Civil Rights Corner)
    - Write: PERS/CRCS

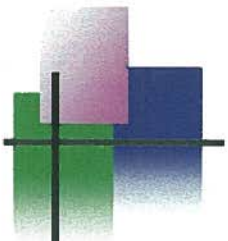
P. O. 339

Honolulu, HI 96809-0339



# What will you do differently?

- What specific actions will you take as a result of increased awareness?
  - How will you change the way you work with clients? Employees?
  - Create a list of what you will do differently and put it into action.



# Civil Rights Compliance Office

- Geneva Watts
- Phone: 808 586-4955
- [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov)
- Fax: 808 586-4990
- [DHSCivilRightsBox@dhs.hawaii.gov](mailto:DHSCivilRightsBox@dhs.hawaii.gov)



# Civil Rights Awareness 2016 Training Confirmation

I confirm that my supervisor and I have reviewed this Civil Rights Awareness Training as required by the Department of Human Services no later than February 29, 2016.

\_\_\_\_\_  
Employee Name (printed)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor's Name (printed)

\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
Date

Please collect by Division and send signed confirmations electronically to [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov) no later than March 31, 2016.  
E-sign is acceptable for staff, supervisor, and Division Administrator.

\_\_\_\_\_  
Division Administrator/Staff Officer  
Signature

\_\_\_\_\_  
Date