

**INTERNAL  
COMMUNICATION FORM**  
DEPARTMENT OF HUMAN SERVICES

Suspense

Subject: DHS Self-Evaluation and Compliance Plan 2016-2019

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PERS/CRCS

To: SOs, DAs, EDs

From: DIR

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Memo No. 1

The Department of Human Services (DHS) Self-Evaluation and Compliance Plan is a three-year plan, effective September 1, 2016 through August 31, 2019, that replaces the existing self-evaluation plan which expired on July 31, 2016. Access Task Force members as well as staff officers and division administrators provided input for the update. A copy of the 2016-2019 plan can be obtained from the Civil Rights folder on the Q Drive as well as the Civil Rights Corner at <http://humanservices.hawaii.gov>.

Significant additions to the 2016-2019 plan are:

- (1) Title VI (Civil Rights Act) compliance requirements and updates as supported by revised regulations from funding agencies, including U. S. Departments of Health and Human Services (USHHS), Agriculture (USDA), and Justice (USDOJ);
- (2) Title VI Compliance Checklist (Appendix H);
- (3) Regulations and requirements under the final rule issued by USHHS to Improve Health Equity Under the Affordable Care Act (Section 1557 - Sex Discrimination, May 13, 2016, Appendix J, Pages 50-53);
- (4) Non-discrimination notice and due process standards recommended by USHHS in compliance with the Rehabilitation Act (Appendix F); and
- (5) Sample Business Associate Partnership Agreement Provisions that are highly recommended by the USHHS (Appendix J, pages 54 through 65) to be used to facilitate compliance by DHS contractors and service providers.

Please inform staff of these additions and replace all existing Self-Evaluation Plans with this 2016-2019 plan which is effective September 1, 2016.

Should you have questions, please contact Geneva Watts of the Personnel Office, Civil Rights Compliance Staff, via [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov) or at 586-4955.



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## Self-Evaluation and Compliance Plan

Title II of the Americans with Disabilities Act (ADA 1990) and  
Title III Regulations to Implement ADA Amendments Act (ADAAA 2008)

Title VI of the Civil Rights Act, as amended

Rehabilitation Act, Section 504

Affordable Care Act, Section 1557

### PROGRAMS, SERVICES, AND ACTIVITIES

Issued and Approved

By the Director

Hawaii Department of Human Services

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Pankaj Bhanot, Director

Effective September 1, 2016

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## **Executive Summary**

This three-year plan, September 1, 2016 through August 31, 2019, is a voluntary effort by the Department of Human Services (DHS) to comply with the Civil Rights Act, Title VI (national origin); Rehabilitation Act, Section 504 (disability); Americans with Disabilities Act, as amended, Title II (disability), and the Affordable Care Act, Section 1557 (race, color, national origin, sex, sex stereotypes, gender identity, age, and disability) as they relate to DHS services, programs and activities. This plan replaces DHS Self-Evaluation Plan which expired July 31, 2016.

The self-evaluation and compliance plan addresses preliminary and ongoing assessment questions related to language access, alleged discrimination complaints, outreach and external support, education amendments covering sex discrimination as applicable to certain programs, faith-based organization funding provisions related to religious activities as applicable, and monitoring of DHS contractor (service provider) practices. See Appendix H for a checklist of assessment areas and questions.

This updated plan addresses requirements and initiatives which became effective recently upon passage of the Affordable Care Act, Section 1557, prohibiting discrimination in health care programs on the basis of race, color, national origin, sex, sex stereotypes, gender identity, age, or disability as well as related Hawaii Revised Statutes recently passed or modified. It also briefly addresses Refugee Resettlement Plans as they relate to change in DHS services, programs, and activities.

Included in appendices to the plan are definitions; policies and procedures; sample Mission, Vision, Pledge, and Services Standards; sample publications, translations, notifications, discrimination complaint procedures, a preliminary and ongoing assessment checklist; description of the Title VI coordinator duties, and a list of some related resources and data source descriptions.

Action steps and goals are identified and updated forms and tools are provided to aid in compliance with applicable federal laws, Hawaii Revised Statutes, rules, regulations and guidance from federal and state funding sources.

This self-evaluation and compliance plan, when signed by the Department of Human Services Director, will become effective September 1, 2016, will be updated as required, and will expire on August 31, 2019.

## I. Introduction

The Department of Human Services (DHS) continues to take reasonable steps to provide meaningful access to Limited English Proficient (LEP) individuals in compliance with Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations 45 CFR, Part 80, as well as applicable Hawaii Revised Statutes (HRS), as amended. See DHS Language Access Plan (2016 to 2018) for details.

The State of Hawaii is covered in its entirety by the provisions of Title II of the federal Americans with Disabilities Act, as amended, which covers both state and local governments. Further, DHS programs which receive federal financial assistance are covered by Sections 503 and 504 of the Rehabilitation Act. Worth noting is that provisions for both laws are virtually identical, although failure to comply with the latter may result in additional penalties and withdrawal of federal financial assistance. Both laws prohibit discrimination against qualified individuals who have disabilities in accessing programs and services of state and local governments.

Further, Hawaii State law, Chapter 368-1-5, HRS also states that “no otherwise qualified individual shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination by state agencies solely by reason of disability.” Thus Chapter 368-1.5 (HRS) Rehabilitation Act, Section 504, and Americans with Disabilities Act may be violated if access to programs and services is not provided to qualified persons with a disability.

Some DHS programs or services may have additional service requirements, i.e., Supplemental Nutrition Assistance Program (SNAP), which may be mandated by other regulations enforced by the U. S. Department of Agriculture, and/or youth prevention and correctional programs (Safe Street Act, for example) by the U. S. Department of Justice, and/or Temporary Assistance for Needy Families (TANF) funded by the U. S. Department of Health and Human Services.

Requirements common to these regulations include reasonable accommodation for employees and clients with disabilities, program accessibility, effective communication with people who have hearing or vision impairments, and accessible new construction and alterations (Americans with Disabilities Act 2010 Standards).

Other federal laws that are applicable include, but are not limited to, the Affordable Care Act and the Older Americans Act. More recently, Section 1557 of the Affordable Care Act prohibits sex discrimination in health care. Health insurers and other entities that receive federal funds are covered by this provision.

DHS Self-Evaluation and Compliance, Language Access, and Affirmative Action Plans provide guidance and technical support for compliance with the federal and state laws and regulations. DHS policies and procedures 4.10.3 (Opportunities to Participate in Programs, Services, and Activities), and 4.10.4 (Access Policy - Language, Facilities and Employment Access to Support Human Services) provide added support for Title VI Civil Rights Act, and Section 504, Rehabilitation Act, compliance efforts.

Departmental policies and procedures on Discrimination Complaints Policy (4.10.1) and Harassment Prevention Policy (4.10.2), which were updated consistent with union consultation with the United Public Workers and Hawaii Government Employee Association, lend further support to compliance with Title VI of the Civil Rights Act. (See Appendix B for DHS Policies and Procedures locations).

Additionally, the Department of Human Resources Development recently issued policies on Discrimination/Harassment Free Workplace Policy (601.001) and Reasonable Accommodations for Employees and Applicants with Disabilities (601.002) lending support to all protected classes under Title VII of the Civil Rights Act (in employment including, but not limited to, national origin and disability).

For further information on Title VI of the Civil Rights Act, Title II of the Americans with Disabilities Act, as amended, Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act, as well as some helpful definitions, please see Appendix A.

## II. Self-Evaluation and Compliance Plan Purpose

State and local governments are required to conduct self-evaluations of services, policies, and practices, in accordance with Title II of the Americans with Disabilities Act, as amended, 42 U.S.C., Section 12101. The purpose of self-evaluation is to identify services, policies and practices that might not comply with Title II requirements and to correct any discrepancies to bring DHS into compliance.

- A. This DHS Self-Evaluation and Compliance Plan is a voluntary effort by DHS, and its attached agencies, to comply with Title II of ADA, as amended, as well as Title VI of the Civil Rights Act, as amended, and Section 1557 of the Affordable Care Act. Purposes of the plan include, but are not limited to:

1. Identifying services, policies, and processes that need attention and/or updating,
  2. Maintaining compliance relative to state-owned and leased facilities, and programs,
  3. Assuring communication access and emergency warning provisions for disabled individuals, and
  4. Updating and disseminating notices and policies to improve access to programs, services and activities as well as preventing discriminatory practices. The three-year plan is general in nature to allow for flexibility in provision of services as well as to allow for changing needs and requirements.
- B. As a part of the SNAP, the Civil Rights Compliance Office provides a progress report to U. S. Department of Agriculture, Office of Civil Rights and other federal agencies as requested. The focus of the report to the U. S. Department of Agriculture in 2014 included six areas as follows:
1. Annual civil rights training,
  2. Unannounced site visits,
  3. Policies and services for LEP clients,
  4. Building and program accessibility for persons with disabilities,
  5. Public notifications and procedures related to filing discrimination complaints,
  6. Process for tracking service delivery complaints, and
  7. Collection of data on the LEP populations in DHS service areas as well as creating a system for tracking translated documents.
- C. Title VI of the Civil Rights Act preliminary and ongoing self-evaluation activities include, but are not limited to:
1. Involve persons with disabilities in access discussions,
  2. Update programs, services and activities for access and compliance purposes,

3. Inform and train sub-recipient service providers,
4. Distribute annual Director's Internal Communication Form (ICF) on non-discrimination and harassment prevention policies,
5. Refresh task force representation annually,
6. Remind supervisors and staff of their role in providing auxiliary aids and modifications on a timely basis,
7. Monitor capabilities of staff in using and offering assistive devices,
8. Monitor and inform about emergency evacuation procedures for persons with disabilities in State-owned and leased buildings,
9. Collect data as required to support integration of individuals with disabilities and/or language barriers into programs, activities and services,
10. Develop and educate staff in policy and procedure changes,
11. Conduct unannounced site visits for facilities and language assessment purposes, and
12. Submit civil rights report to USDA, OCR, as follow-up to SNAP management evaluation.

### III. Elements and Action Steps

#### A. Preliminary and Ongoing Assessment of Needs and Capacity National Origin/Language Access

In 2015, a self-assessment checklist was implemented to assist DHS with identifying needs and for reviewing the department's capacity to meet those needs.

The self-assessment covers provisions of Title VI of the Civil Rights Act, including but not limited to, national origin (language access), Rehabilitation Act, Section 504 and Americans with Disabilities Act (disability), Title IX of Education Amendments relative to sex discrimination; Affordable Care Act, Section 1557, and compliance with other regulations, such as the Safe Streets Act and faith-based organization funding provisions regarding religious activities.

Additionally, a supplement to the self-assessment provides a checklist for monitoring sub-recipient service providers whose programs receive federal funds through DHS and for meeting their reporting requirements relative to Equal Employment Opportunity Plans in accordance with 28 C.F.F., section 42.301-308.

1. Questions relative to needs and capacity regarding language access include:
  - a. Has DHS conducted an assessment of language needs of its general or eligible population in each local service area, for example, the number of LEP individuals, languages spoken and/or linguistically-isolated households? If so, what data sources were used?
  - b. Has DHS conducted an assessment of its capacity to serve its LEP populations? Can we identify languages spoken by DHS staff? Is there a way to measure proficiency level of multilingual staff? Is multilingual staff assigned according to ongoing community language needs?
2. Additional elements and action steps relative to national origin (language access) include questions relative to:
  - a. Implementing a Language Access Plan,
  - b. Evaluating DHS' Language Access Plan,
  - c. Resolving complaints,
  - d. Conducting ongoing outreach to LEP residents, and
  - e. Building external and internal support for equal access policies.
3. The preliminary Title VI self-assessment in September 2015 revealed that the following goals and priorities need some attention during the next assessment period:
  - a. Staff proficiency measurements in interpreting/navigating,
  - b. Roadmap initiative regarding certification of interpreters,
  - c. Cultural competency training (staff and contractors),

- d. Compensation, retention, recruitment of multilingual staff,
  - e. Tracking translated documents,
  - f. Surveying LEP clients relative to services and needs, and
  - g. Funding and buy-in to Title VI compliance efforts.
4. Among these goals, priorities are as follows:
- a. Monitoring contractors,
  - b. Partnerships and outreach,
  - c. Roadmap initiative regarding interpreter certification,
  - d. Cultural competency training,
  - e. Tracking translated documents,
  - f. Surveying LEP clients relative to services and needs, and
  - g. Funding and buy-in to Title VI compliance efforts.

**B. DHS Policies and Procedures (See Appendix B)**

DHS policies 4.10.3 (Opportunities to Participate in Programs, Services, and Activities) and 4.10.4 (Access Policy - Language, Facilities and Employment Access to Support Human Services) provide added support for Title VI, Civil Rights Act, and Section 504 Rehabilitation Act, compliance efforts. Additionally DHS policies on Discrimination Complaints Policy (4.10.1) and Harassment Prevention Policy (4.10.2), which were updated consistent with union consultation with United Public Workers and Hawaii Government Employee Association in 2014, lend further support to compliance with Title VI of the Civil Rights Act. The DHS Discrimination Complaints and Harassment Prevention policies and procedures are reviewed and explained in training sessions. Each of the four-related policies and procedures are disseminated by Division/Agency heads as well as being available to the public at <http://humanservices.hawaii.gov> in the Civil Rights Corner.

1. Preliminary and ongoing self-assessment questions related to DHS Policies and Procedures, for example, include:
  - a. Are there policies for aligning multilingual staff skills with LEP program needs?
  - b. Are there procedures for assessing and certifying individual staff language skills?
  - c. Has DHS developed clear compensation and retention policies for multilingual staff?
  - d. Is DHS staff trained in DHS procedures for obtaining language assistance?
  - e. Has DHS developed procedures for investigating complaints alleging discrimination on the basis of national origin?
  - f. Are complaint procedures translated and accessible to LEP clients?

**C. Notification of Availability (See Appendix F)**

DHS discrimination complaints policy and other notices of availability are available in ten (10) languages at <http://humanservices.hawaii.gov> in the Civil Rights Corner.

1. Preliminary and ongoing self-assessment questions related to notification of availability, for example, include:
  - a. Are there multilingual signs easily visible at reception areas?
  - b. Are there pictorial signs for low literacy/illiterate LEP clients easily visible at reception areas?
  - c. Has DHS partnered with community-based organizations to inform them about linguistic accessibility of each program?

- d. Does DHS solicit feedback from community-based organizations on a regular basis?
- e. Has DHS publicized its program (s) through ethnic media?

**D. Staff and Contractor Training**

Mandatory annual refresher training is available to all employees and contractors at DHS website in the Civil Rights Corner and is reinforced in administrative procedures workshops two times per year to new supervisors and clerical staff. Policies and compliance issues are also discussed in staff meetings and/or during other face-to-face training sessions upon request. Additional mandatory training on specific topics such as discrimination complaints processes, harassment prevention, reasonable accommodation, and investigations is offered by Department of Human Resources Development for all Executive Branch employees. Additional compliance and interpreter training is provided by the Office of Language Access for state departments, agencies and their sub-recipients.

While DHS annual training is available to contractors on line, contractors are asked to tailor their training based on program needs and processes. All DHS staff and contractors are asked to sign a confirmation annually that they have reviewed and discussed contents of the training.

- 1. Preliminary and ongoing self-assessment questions related to DHS staff and contractor training, for example, include:
  - a. Do DHS interpreters possess the appropriate skills for the particular context?
  - b. Is DHS staff trained in policies and procedures for obtaining language assistance?
  - c. Are all staff trained to interact with LEP individuals and their interpreters?
  - d. Does DHS staff receive training in cultural competence?
  - e. Is DHS staff trained on complaint procedures for LEP clients alleging discrimination on the basis of national origin?

- f. Are staff language access trainings scheduled at regular intervals to update staff knowledge and include new employees?

**E. Assessment (Access and Quality)**

- 1. Access and quality assurance questions, for example, include:
  - a. Is there a way to measure proficiency level of multilingual staff?
  - b. Is DHS' website accessible/compliant?
  - c. Is multilingual staff culturally competent?
- 2. A supplement to DHS' preliminary and ongoing, self-assessment is used by DHS contractors (Appendix H, pages 6-10). For example, this supplement covers assessment areas, such as:
  - a. Notifications about nondiscrimination policies,
  - b. Requirements to submit appropriate findings to OCR,
  - c. Training on civil rights laws,
  - d. Need for technical assistance,
  - e. Steps taken to provide meaningful access to LEP individuals,
  - f. Related policies and procedures,
  - g. Complaint/grievance procedures that incorporate due process standards,
  - h. Designation of a person or person(s) to coordinate compliance matters,
  - i. Notification of participants, beneficiaries, employees, applicants and others of nondiscrimination, and
  - j. Reporting requirements.

3. Access and quality assurances are found in vision, mission and standards of service statements, for example as found in Appendix C.

**F. Stakeholder Consultation**

DHS seeks advice and advocacy from a broad spectrum of entities throughout its service programs.

1. Preliminary and ongoing self-assessment questions related to stakeholder consultation, for example, include:
  - a. Does DHS solicit feedback from community-based organizations on a regular basis?
  - b. Does DHS survey its LEP clients on a regular basis?
  - c. Is there a task force or oversight committee that assists DHS in monitoring and implementing its language access efforts?
  - d. When DHS or its contractors provide for or conduct activities as part of programs and services, do we provide services to everyone regardless of religion or religious belief, ensure that we do not use federal funds to conduct inherently religious activities, such as prayer or religious instruction (and that such activities are kept separate in time or place from federally-funded activities), and ensure that participation in religious activities is voluntary for beneficiaries of federally-funded programs?

**G. Outreach**

The department's pledge relative to outreach is as follows:

*We pledge to exemplify our mission, vision and core values, demonstrate service leadership, get involved, get to know others, and cultivate relationships with colleagues. We develop collaborative solutions, embrace our diversity and treat others with respect. We inspire, recognize, and celebrate service excellence in order to make a positive difference to applicants for DHS' services.*

1. Preliminary and ongoing self-assessment regarding outreach include questions such as:
  - a. Has DHS partnered with community-based organizations to inform them about linguistic accessibility of each program?
  - b. Has DHS participated in recruitment programs for multilingual staff?
  - c. Are annual site visits and community forums conducted?
  - d. Has DHS created a plan to disseminate vital translated documents to the broader public?
  - e. Does DHS solicit feedback from community-based entities on a regular basis?
  - f. Does DHS survey its LEP clients on a regular basis?
  - g. Do DHS and its contractors collect data on the number of LEP individuals served?
  - h. Has DHS and its contractors established partnerships and partnership agreements?
  - i. Has DHS established partnerships with community-based or advocacy organizations to advertise multilingual employment opportunities?
  - j. Has DHS publicized its program (s) through ethnic media?

H. On-Line Information/Publications

DHS provides on-line information and publications in English and some are translated into ten (10) languages at <http://humanservices.hawaii.gov> in the Civil Rights Corner. (See Appendices D, E, and F for examples)

1. Preliminary and ongoing self-assessment questions relating to on line information and publications, for example, include:
  - a. Is the department's website multilingual?
  - b. Is the DHS website accessible/compliant?

- c. Does the department's tracking mechanism enable LEP individuals to receive communications and services in their native languages?
  - d. Are complaint procedures translated and accessible to LEP clients?
  - e. What steps have DHS and its contractors taken to provide meaningful access to programs and activities to persons who have limited English proficiency? (For example, posted signs at intake and resource areas, written notices, etc.)
- I. **Provider Assurance, Compliance, and Monitoring**
- 1. Assurances are provided with each DHS contract. Monitoring contractors (service providers who receive federal funds through DHS) is an ongoing process through site visits and telephone contact.
  - 2. Preliminary and ongoing self-assessment questions relating to monitoring contractors can be found in the supplement to Appendix H and are frequently program and funding specific.
- J. **Refugee Resettlement Plans (Change in Services Notification)**
- 1. Health and human services agencies strive to improve staff language capacity, cultural competence, and knowledge of issues associated with immigration status. Approaches involving building bridges between health and human services agencies and informal local organizations that immigrants trust appear to be among best practices.
  - 2. Coordination among key agencies (U. S. Immigration and Customs Enforcement, social service agencies and foreign country consulates) is critical, especially for the provision of child welfare services. Many promising strategies to serve children with detained and deported parents often face limited resources and high staff turnover. Coordination could provide a stronger safety net for these children and families in need.
  - 3. Over several decades, there has been tremendous growth in the number of individuals in the United States who report (U. S. Census data) speaking English less than very well, causing them to

be identified as LEP. Numbers have grown from approximately 11.7 million adults in 1990 to more than 22 million today. Nearly all of this growth has been driven by federal immigration and refugee settlement policies according to the Migration Policy Institute. (MPI, "It is Time for Federal Agencies to Do More to Improve the Provision of Language Access Services," Margie McHugh, October 2015).

4. Many state and local governments and agencies are going to great lengths to meet language access needs created by these federal immigration and refugee resettlement policies. Federal funding agencies must act now and go to similar lengths in exploring all avenues at their disposal-both singly and collectively - to assist their state and local partners in meeting these needs. For example:
  - a. Expand research and development into technologies that can reduce translation and interpretation costs,
  - b. Take responsibility for translating information about their programs into multiple languages, and
  - c. Take new initiatives to meet language access needs of speakers of low-incidence languages (MPI October 2015, <http://www.migrationpolicy.org/news>).
  
5. Local laws, federal civil rights provisions, and vastly different state governments and agency outposts, wrestle with very similar challenges as we design and implement language access - for example, translation and interpretation services. These include basic planning questions, such as:
  - a. Which nodes of DHS interact with the public?
  - b. What types of language demands are associated with these interactions (completion of forms, interviews with caseworkers, public hearings)?
  - c. Which languages, and at what frequency, require translation and interpretation?

6. Capacity challenges and constraints confront most state and local entities and associated cost factors are key as services are designed. Many of us struggle to balance concerns for public health, safety, and equitable access with a razor-thin margin under which we operate.
7. Nonetheless, some preliminary and ongoing self-assessment questions in this area at DHS, for example, include:
  - a. Are frontline staff multilingual?
  - b. Is there a way to measure proficiency level of multilingual staff?
  - c. Has DHS and its contractors established partnerships and partnership agreements to increase participation by identified groups?

## Appendix A

### Acts, Acronyms, and Definitions

#### Rehabilitation Act, Section 504, and Americans with Disabilities Act (ADA)

Section 504 of the Rehabilitation Act and the ADA contain a number of provisions applicable to communications between public benefit programs and individuals with disabilities. Title II of the ADA applies to the programs, services and activities of all state and local governments [ADA Title II, 42 U.S.C. §12131 et seq.; 28 C.F.R. pt.35 (2009)]. Section 504 of the Rehabilitation Act applies to programs receiving federal financial assistance [Rehabilitation Act §504, 29 U.S.C. §794(a)].

Unlike the ADA, which has regulations applicable to all state and local government programs, Section 504 requires executive agencies to promulgate their own Section 504 regulations [e.g., 7 C.F.R pt. 15b (2009)]. U. S. Department of Agriculture Section 504 regulations apply to the SNAP Program [45 C.F.R. pt. 84 (2009)]. U. S. Department of Health and Human Services Section 504 regulations apply to Medicaid and Temporary Assistance for Needy Families Programs [28 C.F.R. pt 41 (2009)]. U. S. Department of Justice Section 504 coordination regulations [id § 41.4(a)], require agency Section 504 regulations to be consistent with Justice Department Section 504 coordination regulations.

Both the ADA and Section 504 require programs to provide meaningful access to DHS programs and services [Alexander v. Choate 469 U. S. 287, 201 (1985)]. Programs must provide an equal opportunity to participate in and benefit from programs and services to people with disabilities. Reasonable modifications in policies and practices must be made when necessary to avoid discrimination against individuals with disabilities.

Methods of program administration may not have a discriminatory effect on individuals with disabilities. These general provisions apply to communication along with other aspects of public benefit programs.

Section 504 and ADA also contain more specific requirements pertaining to communication access. ADA regulations require that DHS take appropriate steps to ensure that communication with individuals with disabilities is as effective as communication with others. Section 504 regulations have similar provisions. The ADA has specific provisions on telephone communication. Interpretive Guidance to the ADA regulations makes clear that public entities do not have to have a TTY to make calls to and receive calls from deaf callers except for telephone emergency services.

Title II of the ADA applies to state and local government programs and services when those services are provided directly and when they are applied indirectly through contractual, licensing, or other arrangements [e.g. id §35 (a),39 (b)(1)(b)(3)]. Call centers and customer service centers operated by contractors for public benefits agencies are part of the public benefit program and thus are subject to the requirements of Title II of the ADA. Likewise, call

centers operated by a public benefits agency receiving federal assistance are a part of DHS public benefit program and are subject to Section 504 [29 U.S. C. § 794(a)]. (Section 504, by its terms applies to entities receiving federal financial assistance).

Section 504 and Title II of the ADA can be enforced by filing an administrative complaint with the appropriate designated Federal agency or by filing a lawsuit in court [42 U.S.C § 12133.28 C. F. R §§35 171, 35 190 (2009)]; [ADA; 29 U.S.C. §794a(a)(2)];[7 C.F. R §15 b.42.45 C.F.R §84.61 (2009) Rehabilitation Act]. The Department of Human Services under Policies 4.10.1, 2, 3 and 4 allow for filing a discrimination complaint based on disability. Additionally, Executive Branch, DHRD Policy 601.001 and 601.002, which covers employment only, provide guidance on employee rights to filing a discrimination complaint and requesting an accommodation.

DHS follows best practices in improving and ensuring effective remote communication with individuals with disabilities by continuing to improve use of voicemail, Auto Attendant, and interactive Voice Response. We strive to ensure that voicemail and response systems are clear and audible and that they are programmed to allow individuals to request more time to make selections or leave messages. When an option is not selected within the allotted time period, a live person should be the default. Bypassing the voice menu system to speak to a live person will also be an option. Other best practices such as creation of release forms, training enhancements, text-based communications for hard-of hearing individuals, and face-to-face communication where possible, are a part of ongoing improvement efforts.

The department strives to provide an equal opportunity to participate in its programs and activities by ensuring that qualified individuals with disabilities are:

1. Not denied an opportunity to participate,
2. Afforded an opportunity equal to or as effective as that provided others, and
3. Not required to meet criteria for participation that screen out people with disabilities either directly or indirectly, unless such criteria are necessary for the provision of the program activities.

For example, an individual who is deaf does not receive an equal opportunity to participate in a public hearing if the individual is unable to hear the proceedings, and a client or applicant who uses a wheelchair does not receive an equal opportunity to participate if he or she cannot enter the building or office because of narrow doors or aisles. (Programs and Services Manual for Persons with Disabilities, DCAB, Chapter 2, March 2014)

Further, DHS makes clear and reaffirms its commitment to provide effective means of communication to people who have visual, hearing, speech, or cognitive disabilities (Governor's Administrative Directive No. 12-06 Accessibility to State Government by Persons with Disabilities). Communication is provided in a manner that enables people who have disabilities to participate on an equal basis with all others unless to do so will result in a fundamental alteration to the program or activity, or would result in an undue financial or administrative burden. DHS does not charge individuals with disabilities for the cost of providing

communication access including the cost of providing auxiliary aids, such as readers, sign language interpreters, and amplification devices. (Programs and Services Manual for Persons with Disabilities, DCAB, Chapter 3, March 2014).

#### Affordable Care Act. Section 1557

The recently passed Affordable Care Act, Section 1557, prohibits discrimination in health care programs on the basis of race, color, national origin, sex, sex stereotypes, gender identity, age or disability. This represents the first time that federal law has prohibited sex discrimination in health care. Health insurers, hospitals, health insurance exchanges, and any other entities that receive federal funds are covered by this law. Section 1557 gives the U. S. Department of Health and Human Services, Office for Civil Rights, the authority and obligation to investigate potential violations of the law and enforce this new civil rights guarantee.

#### Title VI of the Civil Rights Act, as amended

DHS continues to take reasonable steps to provide meaningful access to Limited English Proficient (LEP) individuals in compliance with Title VI of the Civil Rights Act of 1964 and its implementing regulations 45 CFR, Part 80, as well as updated Hawaii Revised Statutes. (For more information see the DHS 2016-2018 Language Access Plan, 2016-2019 Affirmative Plan, and Appendix H Preliminary and Ongoing Assessment Checklist.)

#### Benefit, Employment and Support Services Division (BESSD)

The mission of BESSD is to help economically disadvantaged persons attain self-sufficiency. In an effort to achieve this, BESSD administers the Financial Assistance Program, Supplemental Nutrition Assistance Program, and the Employment and Training Program Office. The division also provides child care reimbursement services for families in which the parent(s) is/are employed or in training. The Homeless Program, which was transferred from the Hawaii Public Housing Authority in 2010, solves problems and provides assistance to homeless individuals in Hawaii.

#### MedQuest Division (MQD)

The mission of MQD is to provide the overall management of the plans, policies and regulations and procedures of the division's medical assistance programs, public information, staff and clerical assistance and support services; to develop and maintain working relationships with health plans, providers, federal and state authorities, community agencies, client advocacy groups and others. This division is also responsible for providing home and community-based support services to disabled children and adults.

#### Social Services Division (SSD)

SSD administers the Child Welfare Services Branch, commonly known as Child Protective Services and the Adult Protective and Community Services Branch (APCSB), commonly known as Adult Protective Services (APS). Working with the Office of Information Technology, the

APCSB is listing its APS e-mails on its APS Reporter Form to promote reporting from the public who are hearing impaired and as another means to report abuses against the disabled and/or elderly.

### Division of Vocational Rehabilitation (DVR)

DVR is divided into the following programs:

1. Vocational Rehabilitation

Provides services to eligible individuals with disabilities who require assistance to prepare for, secure, retain, or regain employment.

2. Ho'opono, Services for the Blind

Provides services to eligible blind, deaf/blind and visually-impaired individuals which include vocational rehabilitation, adjustment classes, public education and blindness prevention activities. Ho'opono also maintains a statewide blind registry.

3. Disability Determination

Determines disability for Social Security Disability Insurance (SSDI) program and Supplemental Security Income (SSI) program benefits.

### Hawaii Public Housing Authority (HPHA)

HPHA administers federal and state public housing and rental subsidy programs and other miscellaneous rental programs. The primary service of these programs is providing safe, decent, and affordable housing to low income families.

### Office of Youth Services (OYS)

OYS was established by the Legislature in 1989 and administratively placed within DHS. OYS provides and coordinates a continuum of services and programs for youth-at-risk to prevent delinquency and reduce the incidence of recidivism. OYS also strives to provide a clear sense of responsibility and accountability for all youth services in Hawaii. Although a core responsibility of OYS is to manage and operate the Hawaii Youth Correctional Facility (HYCF), the agency places great emphasis on providing and supporting "front end" prevention, diversions, and intervention services. OYS focuses on programs that address youth needs from prevention to incarceration and aftercare. OYS administers other programs and services through Purchase of Service providers who are contracted by the OYS, such as, Positive Youth Development, Non-School Hours Programs, Youth Gang Prevention and Intervention, Truancy Prevention, Outreach and Advocacy, Education/Vocation Services, Homeless Youth Services, and Community-Based Residential Services. The HYCF insures public safety by providing programs and services that work toward successful reintegration of incarcerated youths within a safe, secure, and just environment, which promotes adolescent development.

### Commission on the Status of Women (CSW)

CSW is an administratively attached commission. It is a two-person office providing services specific to the needs and status of women.

### Hawaii State Commission on Fatherhood (HSCF)

The mission of the HSCF is to promote healthy family relationships between parents and children by emphasizing the important role fathers play in the lives of their children. The commission serves in an advisory capacity to state agencies and makes recommendations on programs, services, contracts, policies, and laws relating to children and families.

### Support Services (SS)

Six staff offices provide support services to the aforementioned divisions, administratively attached agencies and commissions:

1. Administrative Appeals Office (AAO)
2. Fiscal Management Office (FMO)
3. Office of Information Technology (OIT)
4. Budget, Planning, and Management Office (BPMO)
5. Audit, Quality Control, and Research Office (ACRO)
6. Human Resources Office or Personnel Office (PERS)

## APPENDIX B

### DEPARTMENT OF HUMAN SERVICES POLICIES AND PROCEDURES

4.10.1 Discrimination Complaint can be found at:

<http://humanservices.hawaii.gov/wp-content/uploads/2014/10/Policy-4.10.1-Disc-Complaint.pdf>

4.10.2 Harassment Prevention can be found at

<http://humanservices.hawaii.gov/wp-content/uploads/2014/10/Policy-4.10.2-Harassment-Prevention.pdf>

4.10.3 Opportunity to Participate can be found at:

<http://humanservices.hawaii.gov/wp-content/uploads/2014/10/Policy-4.10.3-Oppor-to-Participate.pdf>

4.10.4 Access can be found at:

<http://humanservices.hawaii.gov/wp-content/uploads/2014/10/Policy-4.10.4-Access.pdf>

## APPENDIX C

### SAMPLE VISION, MISSION, PLEDGE, AND STANDARDS OF CONDUCT

#### Our Vision

We model strategic leadership, excellence in service, transparency, cooperation, and integrity so that we may best serve and support management and line workers as they empower clients to change their lives and enrich our community.

#### Our Mission

We recognize that our dedicated staff work to empower clients to change their lives and enrich our community every day. We hold ourselves accountable for partnering with stakeholders to develop processes that assist our talent in achieving our mission. We provide leadership in attracting, developing, recognizing, and training a diverse workforce within a supportive environment. Particular emphasis is placed on providing outstanding customer service, enhancing employee engagement, and collaborative labor relations. Leading an outstanding talent management initiative, and implementing technology solutions to streamline and improve the delivery of services.

#### Our Standards of Service

We are committed to the delivery of excellent customer service. We will deliver service in a prompt, professional, and courteous manner as defined by our pledge.

#### Our Pledge

We pledge to promote a welcoming, supportive environment that empowers clients and colleagues through superior service, outreach, and support service. We pledge to maintain a professional and courteous attitude at all times as we deliver seamless service across divisions, agencies, and in the community. We know our duties and our unit's services, will be responsive to all requests, provide accurate information, follow up and follow through. We will take pride in the service we provide and attempt to exceed expectations.

#### Outreach

We pledge to exemplify our mission, vision, and core values; demonstrate service leadership, get involved, get to know others, and cultivate relationships with colleagues. We will develop collaborative solutions, embrace our diversity and treat others with respect; inspire, recognize, and celebrate service excellence department wide in order to make a positive difference in our clients' lives.

## Support

We pledge to take the initiative to resolve issues, take ownership of challenges, foster creativity and innovation, and be flexible and willing to help others. We will develop our talents and empower others to do so. We will encourage decision making at all levels, be mindful of timing and be team players.

## Confidentiality and Communication

We will steadfastly maintain confidentiality, promote clear communication channels, and seek professional development opportunities to leverage our knowledge and expertise across all functional areas. In modeling service excellence, we pledge to respond to inquiries within two business days where possible.



Department of Human Services

**BASIS FOR THE POLICY**

This fundamental policy concerning equal services opportunity must be applied within the parameters of Title VI of the Civil Rights Act of 1964; Title VIII of the Civil Rights Act of 1968; Title IX of the Education Amendment of 1972; Section 504 of the Rehabilitation Act of 1973; Title II of the Americans With Disabilities Act of 1990, as amended; and related Hawaii Revised Statutes.

**QUESTIONS**

Write, email or call the Civil Rights Compliance Staff, Department of Human Services at:

Civil Rights Compliance Office  
Queen Liliuokalani Building  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

Phone: 586-4955  
TTY: 586-4950  
Fax: 586-4990

Email: [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov)

Discrimination complaints may be filed concurrently with the following agencies:

- U.S. Department of Health & Human Services, Region IX  
Office for Civil Rights  
90 7<sup>th</sup> Street, Suite 4-100  
San Francisco, CA 94103-6705  
(*Financial & Medical Assistance*)
- U.S. Department of Agriculture  
Director OCR, Room 326-W, Whitten  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410  
Phone: (202) 720-5964  
(*Supplemental Nutrition Assistance Program-SNAP*); OR
- U.S. Department of Agriculture  
Regional Office  
90 7<sup>th</sup> Street, Ste. 10-100  
San Francisco, CA 94103  
(*Supplemental Nutrition Assistance Program - SNAP*)
- U.S. Department of Education  
Region IX, Office of Civil Rights  
915 Second Avenue, #3310  
Seattle, WA 98174-1099  
(*Vocational Rehabilitation Services*)
- U.S. Department of Justice  
Office for Civil Rights  
810 7<sup>th</sup> Street, NW  
Washington, D.C. 20531  
(*Youth Services*)
- U.S. Department of Housing and Urban Development  
Office of Civil Rights  
451 7<sup>th</sup> St., SW  
Washington, D.C. 20410  
(*Housing/HPHA*)

**ACCESS HAWAII**

**Your Rights  
Our Responsibilities**

**Civil Rights Brochure**

**For alternative formats, call:  
586-4955**

**JULY 2014**

**DHS 050**

## DHS POLICY

It is the policy of the Department of Human Services (DHS) that all individuals must be provided an equal opportunity to participate in programs, activities and services of the DHS without regard to race, color, national origin, age, disability, gender, religion and other areas protected by Federal and State laws, as amended periodically.

This policy applies to all organizational divisions, agencies and/or commissions and organizations that receive State or Federal funds through contracts or other arrangements with the DHS.

State and Federal-funded programs must be planned and administered such that they do not have the effect of denying services and/or participation in the program to any particular person or groups of persons.

## DISCRIMINATION

There are many forms of discrimination, both overt and subtle, that could adversely affect individuals' or groups' opportunity to gain equal access to services. These include, for example:

- treating individuals differently in the determination of eligibility for services;
- subjecting individuals to separate services or different treatment, which does not provide equal access to services;

- failing to provide language interpreter services for limited or non-English speaking individuals or sign language interpreters for persons with hearing or speech impairments; and
- establishing hours of service that have an adverse effect on certain groups of individuals.

## EMPLOYEE RESPONSIBILITIES

All employees are responsible for the implementation of the DHS' equal service opportunity policy (4.10.3). This includes, and is not limited to:

- treating all individuals equally and courteously; and
- informing persons of their rights to equal service opportunity; to free interpreter services; to file a discrimination complaint when they feel their civil rights have been violated; and/or to file an internal complaint when they feel they have been treated unfairly.

*Any employee who intentionally obstructs the DHS' objective of providing equal access to services will be subject to disciplinary action according to appropriate collective bargaining agreement.*

**Program Administrators** are responsible for determining the needs of the population they service, considering language, culture, and

physical accessibility needs. Program Administrators are also responsible for planning programs that are consistent with those needs and in compliance with laws.

**Supervisors** are responsible for ensuring that their staffs are aware of their responsibility to treat all clients equally and fairly, and to provide assistance to persons with special needs. Supervisors must ensure that clients are informed of their right to non-discriminatory services.

## DISCRIMINATION COMPLAINT PROCEDURES

Persons, who feel they have been discriminated against based on a protected factor, may file an alleged discrimination complaint (DHS Forms 6000 & 6006). Concurrent complaints may be filed with appropriate Federal and State Agencies within stated timeframes.

Written formal alleged discrimination complaints may be filed with:

Department of Human Services  
Personnel Office  
Civil Rights Compliance Staff  
P.O. Box 339  
Honolulu, Hawaii 96809-0339

E-mail: gwatts@dhs.hawaii.gov  
Fax: (808) 586-4990

**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: \_\_\_\_\_

Please Check One:                     Applicant                     Client  
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: \_\_\_\_\_

<b>For INTERNAL USE ONLY DETERMINATION</b>	
Your request of _____	for an auxiliary aid(s) has been:
(Date of Request)	
<input type="checkbox"/> Approved	AUXILIARY AID(S) PROVIDED: _____
<input type="checkbox"/> Disapproved	REASON(S) DENIED: _____
<input type="checkbox"/> Approved with Modification:	
<input type="checkbox"/> 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 <a href="mailto:gwatts@dhs.hawaii.gov">gwatts@dhs.hawaii.gov</a> .	

DHS 6008 (06/2014)

Maaaring sabay-sabay na iharap ang mga reklamo ng diskriminasyon sa mga sumusunod na ahensiya:

- U.S. Department of Health and Human Services, Region IX  
Office for Civil Rights  
90 7<sup>th</sup> Street, Suite 4-100  
San Francisco, CA 94103-6705  
(*Financial & Medical Assistance*)
- U.S. Department of Agriculture  
Director OCR, Room 326-W, Whitten  
1400 Independence Avenue, SW  
Washington, D.C. 202-50-9410  
Phone: (202) 720-5964  
(*Supplemental Nutrition Assistance Program - SNAP*); 
- U.S. Department of Agriculture  
Regional Office  
90 7<sup>th</sup> Street, Ste. 10-100  
San Francisco, CA 94103  
(*Supplemental Nutrition Assistance Program - SNAP*)
- U.S. Department of Education  
Region IX, Office for Civil Rights  
915 Second Avenue, #3310  
Seattle, WA 98174-1099  
(*Vocational Rehabilitation Services*)
- U.S. Department of Justice  
Office for Civil Rights  
810 7<sup>th</sup> Street, NW  
Washington, D.C. 20531  
(*Youth Services*)
- U.S. Department of Housing and Urban Development  
Office for Civil Rights  
451 7<sup>th</sup> St., SW  
Washington, D.C. 20410  
(*Housing/HPHA*)

## BATAYAN NG PATAKARAN

Dapat mailapat sa loob ng mga parameter o sukatan ng Title VI ng Civil Rights Act of 1964, Title VIII ng Civil Rights Act of 1968, Title IX ng Education Amendment of 1972, Section 504 ng Rehabilitation Act of 1973, at Title II ng Americans With Disabilities Act of 1990, na sinusagan at may kaugnayan sa Hawaii Revised Statutes ang pangunahing patakaran tungkol sa pantay na oportunidad sa mga serbisyo.

## MGA TANONG

Sumulat, mag- email o tumawag sa Civil Rights Compliance Staff, Department of Human Services sa:

Civil Rights Compliance Office  
Queen Liliuokalani Building  
1390 Miller Street  
Honolulu, HI 96813

Telepono: 586-4955  
TTY: 586-4950  
Fax: 586-4990

E-mail: [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov)



Department of Human Services

# ACCESS HAWAII

Ang Inyong mga  
Karapatan

Ang Aming mga  
Pananagutan

Polyeto ng Karapatang Sibill

Para sa mga naiibang pormat,  
tumawag sa: 586-4955

TAGALOG

JULY 2014

DHS 050 TGL

## PATAKARAN NG DHS

Patakaran ng Department of Human Services (DHS) na mabigyan ng pantay-pantay na pagkakataon ang lahat ng taong sumali sa mga programa, aktibidad at serbisyo ng DHS nang walang pagsasaalang-alang sa lahi, kulay, bansang pinagmulan, edad, kapansanan, kasarian, relihiyon at iba pang larangang protektado ng mga batas-Pederal at Estado, na binabago sa pana-panahon.

Inilalapat ang patakaran ito sa lahat ng mga dibisyong organisasyonal, ahensiya at/o komisyon at samahang tumatanggap ng pondo mula sa Estado o Pederal sa pamamagitan ng mga kontrata o iba pang kasunduan sa DHS.

Debat planuhin at pangasiwaan ang mga programang pinopondohan ng Estado at Pederal sa paraang hindi magkaroon ng epelkong pinagkakaitan ng serbisyo at/o pagkakataong sumali sa programa ang sinumang partikular na tao o pangkat.

## DISKRIMINASYON

Maraming anyo ng diskriminasyon, lantaran at palihim, na maaaring makaapekto sa oportunidad ng mga tao o grupong magkaroon ng pantay-pantay na paggamit sa mga serbisyo. Kabilang dito ang sumusunod na halimbawa:

- magkakaibang trato sa mga tao sa pagpapasiya kung sino ang karapat-dapat sa mga serbisyo;
- pagsasailalim sa mga tao sa magkakaibang trato sa serbisyo o magkakaibang trato, na hindi nagbibigay ng pantay na pagkakataon sa serbisyo;

- kabiguang magbigay ng tagasalin o interpreter ng wika para sa mga taong may limitadong kaalaman sa Ingles o ng mga tagasalin sa lengguwaheng senyas (sign language) para sa mga taong mahina ang pandinig at may kapansanan sa pagsasalita; at

- pagtataka ng mga oras ng serbisyong may masamang epekto sa ilang pangkat ng tao.

## TUNGKULIN NG MGA KAWANI

Tungkulin ng lahat ng kawaning ipatupad ang patakaran ng DHS (4.10.3) sa pantay-pantay na oportunidad sa serbisyo; at hindi ito limitado sa:

- pantay-pantay at magalang na pagtrato sa lahat ng tao; at
- pagpapatid sa mga tao ng kanilang mga karapatan sa pantay-pantay na oportunidad sa serbisyo; sa libreng serbisyo ng tagasalin; sa paghaharap ng reklamo ng diskriminasyon sakaling nakita nilang nalabag ang kanilang karapatang sibi; at/o paghahalin ng reklamong panloob kung ipinapalagay nilang hindi makatarungan ang trato sa kanila.

*Sasalalim sa aksiyong pandisiplina ang sinumang kawaning tuwirang hahadlang sa layunin ng DHS na magkaloob ng pantay na paggamit sa serbisyo, batay sa naaangkop na kolektibong bargaining agreement.*

Tungkulin ng mga Tagapangasiwa ng Programa na pagpasiyahan ang mga pangangailangan ng populasyong kanilang pinaglikingkurang nang isinasalang-alang ang lengguwahe, kultura, gayundin ang mga pangangailangang pisikal sa

aksesibilidad. Responsable rin ang Tagapangasiwa ng Programa na planuhin ang mga programang kasang-ayon ng mga pangangailangang iyon at sumusunod sa mga batas.

Pananagutan ng mga Superbisor na tiyaking alam ng kanilang mga tauhang dapat nilang tratuhin nang pantay-pantay at makatarungan ang lahat ng kliyente, at tumulong sa mga taong may natatanging pangangailangan. Dapat tiyakin ng mga superbisor na naipabatid sa mga kliyente ang karapatan nila sa mga serbisyong walang diskriminasyon.

## PARAAN NG REKLAMONG PANDISKRIMINASYON

Maaaring magharap ng paratang (DHS Forms 6000 & 6006) ang mga taong nakaramdam ng diskriminasyon batay sa mga protektadong dahilan. Maaaring sabay na iharap ang reklamo sa mga angkop na ahensiyang Pederal at Pang-estado batay sa itinakdang panahon.

Maaaring iharap ang mga kasulatang pormal ng reklamo sa paratang na diskriminasyon sa:

Department of Human Services  
Personnel Office  
Civil Rights Compliance Staff  
P.O. Box 339  
Honolulu, HI 96809-0339

E-mail: [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov)  
Fax: (808) 586-4990

**REQUEST FOR AUXILIARY AID (CONFIDENTIAL)**

申請輔助裝備 (保密)  
根據美國殘疾人法案第 II 部分, 經修訂  
申請服務, 項目和活動的客戶和申請人

申請日期: \_\_\_\_\_

請選一個:  申請人  客戶  
申請者名稱: \_\_\_\_\_  
項目/活動或服務: \_\_\_\_\_  
分部/區/單元: \_\_\_\_\_  
郵寄地址: \_\_\_\_\_  
白天電話: \_\_\_\_\_

**申請**  
(由客戶/申請人完成)

1. 我申請如下輔助裝備: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. 如下輔助裝備對我有必要, 因為下述原因:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

申請者簽名: \_\_\_\_\_ 日期: \_\_\_\_\_

<b>僅供內部用 決定</b>	
你對於輔助裝備的申請	_____ 已經被: (申請日期)
<input type="checkbox"/> 通過	提供輔助裝備: _____
<input type="checkbox"/> 不通過	拒絕原因: _____
<input type="checkbox"/> 經修改後通過:	_____
<input type="checkbox"/> 通過試用, 期限為	_____ 到: _____
評論:	_____ _____
如果你不同意這個決定, 你可以提供更多資訊, 以便進一步證實你的申請, 請聯繫 Geneva Watts, Civil Rights Compliance Officer, 公民權利投訴官員, 電話 586-4955 或通過電子郵件 <a href="mailto:gwatts@dhs.hawaii.gov">gwatts@dhs.hawaii.gov</a> .	

## Appendix F

### Notice

#### PROGRAM ACCESSIBILITY FOR PERSONS WITH DISABILITIES Section 504 Rehabilitation Act

The Department of Human Services and all of its programs and activities are accessible to and useable by persons with disabilities, including persons who are deaf, hard of hearing, or blind, or who have other sensory disabilities. Access features include:

- Convenient off-street parking designated specifically for persons with disabilities,
- Curb cuts and ramps between parking areas and buildings,
- Level access into first floor level with elevator access to all other floors,
- Fully accessible offices; meeting rooms, bathrooms, public waiting areas; cafeteria; patient treatment areas, including examining rooms; and patient wards,
- A full range of assistive and communication aids provided to persons who are deaf, hard of hearing, or blind, or with other sensory disabilities. There is no additional charge for such aids. Some of these aids might include, for example:
  - Qualified sign language interpreters for persons who are deaf or hard of hearing,
  - A twenty-four (24) hour telecommunication device (TTY/TTD or Relay Service), which can connect the caller to all extensions within the facility and/or portable (TTY/TDD) units, for use by persons who are deaf, hard of hearing, or have speech impairments,
  - Readers and taped material for the blind and large print materials for those who are blind or have low vision,
  - Flash Cards, Alphabet boards and other communication boards,
  - Assistive devices for persons with manual impairments.

If you require any of the aids listed above, please let the receptionist or your team worker or nurse know.

## APPENDIX F

### NOTICE

#### THE AMERICANS WITH DISABILITIES ACT PROHIBITS DISCRIMINATION

The Department of Human Services (DHS) does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. DHS does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Titles I and II of the Americans with Disabilities Act (ADA) of 1990, as amended in 2010. Questions, concerns, complaints, or requests for additional information regarding the ADA may be forwarded to the DHS Civil Rights Compliance Staff, the department's ADA Coordinator.

Name: Geneva Watts  
Office: DHS/Personnel Office/Civil Rights Compliance Staff  
Address: P. O. Box 339  
Honolulu, Hawaii 96809-0339  
E-mail: [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov)  
Phone: (808) 586-4955 (Voice or TDD)  
Business Hours: Monday through Friday (Except Holidays)  
7:45 a.m. to 4:30 p.m.

Individuals who need auxiliary aids and/or an interpreter for effective communication in programs and services of the DHS are invited to make their needs and preferences known to the worker, supervisor, or to the department's Civil Rights Compliance Staff.

Note: Posting of public notices on the state calendar at <http://hawaii.gov> relating to accessibility and persons with disabilities requires:

1. Entire agenda to be entered into test body (attaching .PDF or entering a link to a .PDF is not acceptable).
2. If an event status is "handicap access" or "hearing impaired" when creating a calendar event, provide the ADA Coordinator's name and phone number listed above for DHS events.

This notice is available in large print or audio tape from the DHS, Civil Rights Compliance Staff.

## Appendix F

### NOTICE

#### NONDISCRIMINATION

As a recipient of federal financial assistance, the Department of Human Services (DHS) does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, national origin, disability, or age (or any other basis that might be added by federal or state law periodically) in admission to, participation in, or receipt of the services and benefits under any of its programs and activities, and in staff and employee assignments to patients, whether carried out by DHS directly or through a contractor, service provider, or any other entity with which DHS arranges to carry out its programs and activities.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (nondiscrimination on the basis of race, color, national origin), Section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the basis of disability), the Age Discrimination Act of 1975 (nondiscrimination on the basis of age), and regulations of the U. S. Department of Health and Human Services issued pursuant to these three statutes at Title 45 Code of Federal Regulations Parts 80, 84, and 91 as well as Hawaii Revised Statutes and DHS and Department of Human Resource Development policies.

Additionally, in accordance with Section 1557 of the Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 18116, DHS does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of sex (including gender identity) in admission to, participation in, or receipt of the services and benefits under any of its health programs and activities, and in staff and employee assignments, whether carried out by DHS directly or through a contractor or any other entity with which DHS arranges to carry out its programs and activities.

In case of questions, please contact Geneva Watts, Civil Rights Compliance Office (CRCS)

**Section 504 Coordinator**

Department of Human Services  
Human Resources Office  
P. O. Box 339  
Honolulu, Hawaii 96809-0339  
E-mail: [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov)  
Phone: 586-4955 (Voice or Relay)  
Business hours: Monday through Friday  
(Except Holidays) 7:45 a.m. to 4:30 p.m.

## APPENDIX F

### NOTICE OF DUE PROCESS STANDARDS

#### Section 504 Rehabilitation Act

It is the policy of the Department of Human Services (DHS) not to discriminate on the basis of disability. DHS has adopted an internal discrimination complaint procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U. S. C. 794) of the U. S. Department of Health and Human Services regulations implementing the Act.

Section 504 prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance. The law and regulations may be examined in the DHS Civil Rights Compliance Staff Office, 1390 Miller Street, Honolulu, Hawaii 96813 or by contacting the Section 504 Coordinator, Geneva Watts, at (808) 586-4955 or via email at [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov), who has been designated to coordinate the efforts of DHS to comply with Section 504.

Any person who believes she or he has been subjected to discrimination on the basis of disability may file a discrimination complaint under this procedure. It is against the law for DHS and its service providers to retaliate against anyone who files a discrimination complaint or cooperates in the investigation of a discrimination complaint.

- Discrimination complaints must be submitted to the Section 504 Coordinator within 90 calendar days of the date the person filing the discrimination complaint becomes aware of the alleged discriminatory action.
- A discrimination complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- The Section 504 Coordinator (or designee) shall conduct an investigation of the discrimination complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Section 504 Coordinator will maintain the files and records of DHS relating to such discrimination complaint for a minimum of three years.
- The Section 504 Coordinator, through the Departmental Human Resources Officer, will issue a written decision on the discrimination no later than 180 calendar days after its filing.

- The person filing the discrimination complaint may appeal the decision of the Section 504 Coordinator by writing to the Hawaii Civil Rights Commission within 15 days of receiving the Section 504 Coordinator's decision.
- The availability and use of this discrimination complaint procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U. S. Department of Health and Human Services, Office of Civil Rights.

DHS will make appropriate arrangements to ensure that persons with disabilities are provided accommodations, if needed, to participate in the discrimination complaint process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinator will provide technical assistance to the division/agency that will be responsible for such arrangements.

DHS Discrimination Complaint (DHS 6000) and Consent/Release (DHS 6006) forms for convenience in filing a discrimination complaint and granting or denying consent to use his or her name in an investigation are available at <http://humanservices.hawaii.gov>, may be attached to an e-mail by request to [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov) or by calling (808) 586-4955.

## APPENDIX G

STATE OF HAWAII

DEPARTMENT OF HUMAN SERVICES

### DISCRIMINATION COMPLAINT FORM

NAME	XXX-XX	PHONE (Home)	PHONE (Work/Cell)
	SSN (Last Four Digits)		
ADDRESS	CITY	STATE	ZIP CODE

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

1. JOB TITLE: \_\_\_\_\_
2. 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"/> Harassment (Based On)*
<input type="checkbox"/> Citizenship	<input type="checkbox"/> Race or Color	
<input type="checkbox"/> Credit History	<input type="checkbox"/> Religion	
<input type="checkbox"/> Disability (Physical or Mental)	<input type="checkbox"/> Relationship Status	
<input type="checkbox"/> Domestic/Sexual Violence Victim Status	<input type="checkbox"/> Sex/Gender (Expression or Identity)	

\*Must Indicate Protected Class Basis

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 \_\_\_\_\_

The purpose of this form is to assist you in filing a complaint with the Department of Human Services. You are not required to use this form; a letter with the same information is sufficient. **HOWEVER, THE INFORMATION REQUESTED ABOVE MUST BE PROVIDED, WHETHER THE FORM IS USED OR NOT.**

(PLEASE READ THE ATTACHED NOTICE OF DISCRIMINATION COMPLAINTS  
AND NON-RETALIATION REQUIREMENT)

NOTICE TO INDIVIDUALS FILING DISCRIMINATION COMPLAINTS

Individuals alleging discriminatory treatment in services and/or employment have a right to file a complaint using the Department of Human Services (DHS) DISCRIMINATION COMPLAINT FORM, DHS 6000 (Rev. 06/2014). A letter with the same information requested on the form can be used if necessary. The complaint should be sent to:

STATE OF HAWAII  
Department of Human Services  
Personnel Office/Civil Rights Compliance Staff  
P. O. Box 339  
Honolulu, Hawaii 96809-0339  
Tel: (808) 586-4955 TTY: (808) 586-4950

[gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov)

Individuals also have a right to seek redress for their complaint through the appropriate:

1. Collective Bargaining Unit
2. State or Federal Compliance Agencies, and/or
3. Civil Court action.

**Confidentiality:** All information shall be held with strictest confidentiality, and release of information shall be allowed only when necessary to resolve the issue(s) in the complaint. A complainant consent release form (DHS 6006) will be required to begin an investigation.

**Non-retaliation:** Section 704(a) of the Civil Rights Act of 1964, as amended, states:

"It shall be an unlawful employment practice for an employer to discriminate against any of his/her employees or applicant(s) for employment (or services) because he/she has opposed any practice by this title, or because he/she has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title."

Additionally, laws enforced prohibit recipients of Federal financial assistance from intimidating or retaliating against anyone because he or she has either taken action or participated in action to secure rights protected by these laws. Individuals seeking services and/or employment with the Department of Human Services are advised of this non-retaliation requirement and are instructed to notify the Department's Personnel Office/Civil Rights Compliance Staff, if any attempt at retaliation is made as a result of filing a complaint.

**Rights and Responsibilities:** The following list highlights some rights and responsibilities and is NOT all inclusive:

1. You have the right to have an attorney represent you, at your own expense, or to have any other personal representative of your choice at any level of a grievance or discrimination complaint. Such representative shall not be a departmental, State or Federal equal employment opportunity representative or personnel specialist.
2. You have the right to discontinue your complaint at any time by submitting a written statement of withdrawal (DHS 6007).
3. You have the right to be notified of each of the steps taken in the complaint procedure, to be notified ahead of time of any inquiry or conference, and to be notified in writing of the decision reached at any level.
4. You have the right to reasonable accommodations, including and not limited to, language interpreters/translators, auxiliary aids and/or facilities and parking for individuals with disabilities. You are responsible for requesting required accommodations.
5. At any point in time, you have the right to file your complaint with the State or Federal agencies listed in this notice as appropriate. You are responsible to inquire directly with these agencies regarding the steps necessary for redress.

The following is a list of additional entities where you might file a complaint as appropriate:

State of Hawaii  
Hawaii Civil Rights Commission  
830 Punchbowl Street, Room 411  
Honolulu, HI 96813  
Telephone: (808) 586-8636

U. S. Department of Justice  
Office of Civil Rights  
810 7<sup>th</sup> Street, NW  
Washington, DC 20531  
Telephone: (202) 307-0690

U. S. Department of Labor  
Office of Contract Compliance Programs  
Prince Kuhio Federal Building, Room 7326  
300 Ala Moana Boulevard  
Honolulu, HI 96850  
Telephone: (808) 541-2933

U. S. Department of Housing and Urban Development  
Office of Civil Rights  
451 7<sup>th</sup> Street, SW  
Washington, DC 20410  
Telephone: (202) 708-1112 TTY: (202) 708-1455

U. S. Department of Health and Human Services  
Office of Civil Rights, Region IX  
90 7<sup>th</sup> Street, Suite 4-100  
San Francisco, CA 94103-6705  
Telephone: (415) 437-8324

U. S. Department of Education  
Region IX, Office of Civil Rights  
915 Second Avenue, #3310  
Seattle, WA 98174-1099

U. S. Department of Agriculture  
Office of Civil Rights, Room 326-W, Whitten Building  
1400 Independence Avenue, SW  
Washington DC 20250-9410  
Telephone: (202) 720-5964

Office of Civil Rights, Food and Nutrition Service Western  
Region  
OR 90 7<sup>th</sup> Street, Suite 10-100  
San Francisco, CA 94103  
Telephone: (415) 705-1322 TTY: (800) 735-2922

#### NOTICE OF NON-RETALIATION REQUIREMENT

Section 704(a) of the Civil Rights Act of 1964, as amended, states:

"It shall be unlawful employment practice for an employer to discriminate against any of his/her employees or applicant(s) for employment...because he/she has opposed any practice made an unlawful employment practice by this title, or because he/she has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title."

Persons filing charges of employment discrimination are advised of this non-retaliation requirement and are instructed to notify the Department's Civil Rights Compliance Staff at (808) 586-4955 if any attempt at retaliation is made as a result of their filing this complaint.

**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.**

	<b>CONSENT GRANTED</b>
Initial here if you give consent.	<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>

**OR**

	<b>CONSENT DENIED</b>
Initial here if you <u>deny</u> consent.	<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: [gwatts@dhs.hawaii.gov](mailto:gwatts@dhs.hawaii.gov)



**TITLE VI CIVIL RIGHTS COMPLIANCE CHECKLIST  
PRELIMINARY AND ONGOING SELF-ASSESSMENT**  
Department of Human Services

ASSESSMENT AREA		YES	NO	N/A
c.	Is multilingual staff culturally competent?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Has DHS developed clear compensation and retention policies for multilingual staff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Has DHS participated in recruitment programs for multilingual staff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	Are language navigators available in most offices?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Obtaining competent and qualified interpreters:			
a.	Are DHS interpreters fluent in both languages and familiar with relevant vocabulary?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Do DHS interpreters possess the appropriate skills for the particular context?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Do DHS interpreters understand applicable ethical principles?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Are DHS interpreters culturally competent?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Are there procedures to ensure that DHS interpreters are available in a timely manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	Have DHS interpreters read and signed the Code of Ethics?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Training DHS Staff:			
a.	Is DHS staff trained in DHS policies and procedures for obtaining language assistance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Is all staff trained to interact with LEP individuals and their interpreters?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Does staff receive training in cultural competence?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Is DHS staff trained on complaint procedures for LEP clients alleging discrimination on the basis of national origin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Are staff language access trainings scheduled at regular intervals to update staff knowledge and include new employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	Are annual site visits conducted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Translating Written Documents:			
a.	Are there procedures in place for identifying vital documents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Are there procedures in place for ensuring that translations are accurate and understood by target populations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Is there a mechanism to track and update translated documents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Has DHS created a plan to disseminate vital translated documents internally?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Has DHS created a plan to disseminate vital translated documents to the broader public?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS: _____				
<b>Evaluating DHS' Language Access Plan</b>				
9.	Ongoing Monitoring, Feedback and Improvement:			
a.	Is DHS staff dedicated to monitoring or providing technical assistance to Language Access Plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Are evaluations scheduled at regular intervals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Does DHS solicit feedback from community-based organizations on a regular basis?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Does DHS survey its LEP clients on a regular basis?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

TITLE VI CIVIL RIGHTS COMPLIANCE CHECKLIST  
PRELIMINARY AND ONGOING SELF-ASSESSMENT  
 Department of Human Services

ASSESSMENT AREA	YES	NO	N/A
10. Ongoing Data Collection: a. Are DHS staff and contractors dedicated to collecting program data? b. Do DHS and its contractors collect data on the number of LEP individuals served? c. Do DHS and its contractors collect demographic data on LEP individuals served or number of encounters? d. Do DHS and its contractors monitor how much is spent on its LEP plan?  11. Is there a <u>Task Force or Oversight Committee</u> that assists DHS in monitoring and implementing the Language Access Plan?  COMMENTS: _____ _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
<b>Resolving Complaints</b> 12. Establishing Complaint Procedures: a. Has DHS developed procedures for investigating complaints alleging discrimination on the basis of national origin? b. Are complaint procedures translated and accessible to LEP clients? Posted signs at intake areas Resource areas Client file Written notices Explained during orientation/intake Other (Specify) _____  COMMENTS: _____ _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Conducting Ongoing Outreach to LEP Residents</b> 13. Has DHS and its contractors established partnerships with community-based or advocacy organizations to increase LEP participation? 14. Has DHS established partnerships with community-based or advocacy organizations to advertise multilingual employment opportunities? 15. Has DHS publicized its program(s) through ethnic media?  COMMENTS: _____ _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Building External and Internal Support for Equal Access Policies</b> 16. Are there funds dedicated to providing language access services at DHS? 17. Is middle and senior management aware of and dedicated to providing language access to LEP individuals?  COMMENTS: _____ _____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>



**TITLE VI CIVIL RIGHTS COMPLIANCE CHECKLIST  
 PRELIMINARY AND ONGOING SELF-ASSESSMENT  
 Department of Human Services**

ASSESSMENT AREA	YES	NO	N/A
21. Contact information for person(s) responsible for completing this Self-Assessment:			
Last Name _____			
First Name _____			
Street Address _____			
City, State, Zip Code _____			
Mailing Address:			
<i>(If Different From Above)</i> _____			
Telephone Number _____			
Fax Number _____			
E-Mail Address _____			
_____			
Signature		Date	

TITLE VI CIVIL RIGHTS COMPLIANCE CHECKLIST  
PRELIMINARY AND ONGOING SELF-ASSESSMENT  
Department of Human Services

POLICIES, PROCEDURES, PROCESS COMPLIANCE - MONITORING CONTRACTORS

Contract Number \_\_\_\_\_ Total Award Amount \_\_\_\_\_

Contract Period \_\_\_\_\_ Date \_\_\_\_\_

Contractor Name & Address \_\_\_\_\_  
\_\_\_\_\_

1. Do DHS and its contractors have written policies or procedures in place for notifying program beneficiaries how to file complaints alleging discrimination with the HCRC, EEOC and OCR?  YES  
 NO  
 N/A

2. How does DHS and its contractors notify program participants and beneficiaries that they do not discriminate on the basis of race, color, national origin, religion, sex, disability, and age in the delivery of services?

COMMENTS: \_\_\_\_\_

3. How do DHS and its contractors notify employees that they do not discriminate on the basis of race, color, national origin, religion, sex, and disability in employment practices?

COMMENTS: \_\_\_\_\_

4. Has DHS complied with the requirements to submit to the appropriate OCR any findings of discrimination against DHS or its contractors issued by a federal or state court or federal or state administrative agency on the basis of race, color, religion, national origin, or sex?  YES  
 NO  
 N/A

5. Do DHS and its contractors conduct any training for their employees on the requirements under federal civil rights laws?  YES  
 NO  
 N/A

6. Do DHS and its contractors need any civil rights training or technical assistance regarding its duties to comply with applicable civil rights laws:  YES  
 NO  
 N/A

7. What steps have DHS and its contractors taken to provide meaningful access to its programs and activities to persons who have limited English proficiency (LEP)?

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_

TITLE VI CIVIL RIGHTS COMPLIANCE CHECKLIST  
PRELIMINARY AND ONGOING SELF-ASSESSMENT  
Department of Human Services

POLICIES, PROCEDURES, PROCESS COMPLIANCE - MONITORING CONTRACTORS (CONTINUED)

8. Do DHS and its contractors have a written policy on providing language access services to LEP persons?  YES  
 NO  
 N/A

Please provide below contact information for person responsible for submitting any findings of discrimination to the appropriate Office of Civil Rights (OCR):

- a. WATTS, D. Geneva Phone: (808) 586-4955  
Civil Rights Compliance Officer Fax: (808) 586-4990  
Department of Human Services E-Mail: gwatts@dhs.hawaii.gov  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

9. DHS has more than 50 employees and receives DOJ funding of \$25,000 or more. Has DHS and its contractors taken the following actions:
- a. Adopted grievance procedures that incorporate due process standards and provide for prompt and equitable resolution of complaints alleging violation of DOJ regulations implementing Section 504 of the Rehabilitation Act of 1973, found at 28 C.F.R. Part 42, Subpart G., which prohibits discrimination on the basis of a disability in employment practices and in delivery of services?  YES  
 NO  
 N/A
- b. Designated a person to coordinate compliance with the prohibitions against disability discrimination contained in 28 C.F.R. Part 42, Subpart G?  YES  
 NO  
 N/A
- c. Notified participants, beneficiaries, employees, applicants, and others that DHS and its contractors do not discriminate on the basis of disability?  YES  
 NO  
 N/A

10. DHS operates an education program or activity. Has DHS and its contractors:
- a. Adopted grievance procedures that provide for prompt and equitable resolution of complaints alleging violation of DOJ regulations implementing Title IX of the Education Amendments of 1972, found at 28 C.F.R. Part 54, which prohibits discrimination on the basis of sex?  YES  
 NO  
 N/A
- b. Designated a person to coordinate compliance with the prohibitions against sex discrimination contained in 28 C.F.R. Part 54?  YES  
 NO  
 N/A



TITLE VI CIVIL RIGHTS COMPLIANCE CHECKLIST  
PRELIMINARY AND ONGOING SELF-ASSESSMENT  
Department of Human Services

POLICIES, PROCEDURES, PROCESS COMPLIANCE - MONITORING CONTRACTORS (CONTINUED)

Comments About Goals: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 12. During this monitoring period has DHS and its contractors submitted a current Equal Employment Opportunity Plan (EEOP) in accordance with 28 C.F. R., section 42.301-308?  YES  
 NO  
 N/A
  
- 13. Has DHS and its contractor submitted an EEOP Short form to the Office of Civil rights, if required by 28 C.F.R., Section 42.301-308?  YES  
 NO  
 N/A
  - a. If DHS or its contractors are not required to submit an EEOP Short Form to the appropriate OCR, have they submitted a certification form to the OCR claiming a partial or complete exemption from the EEOP requirements?  YES  
 NO  
 N/A
  
  - b. If DHS or its contractors prepared an EEOP Short form, on what date did DHS or its contractor prepare it?  YES  
 NO  
 N/A

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TITLE VI CIVIL RIGHTS COMPLIANCE CHECKLIST  
PRELIMINARY AND ONGOING SELF-ASSESSMENT  
Department of Human Services

POLICIES, PROCEDURES, PROCESS COMPLIANCE - MONITORING CONTRACTORS (CONTINUED)

14. Please provide the contact information for the person responsible for completing this checklist:

Last Name \_\_\_\_\_  
First Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
*(If Different From Above)* \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_

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

## APPENDIX I

### TITLE VI COORDINATOR DESCRIPTION SUMMARY

- The Department of Human Services (DHS) Title VI Coordinator is a Human Resources Specialist V who also serves as the Title VI and VII Coordinator, ADA and EEO Coordinator. She provides technical assistance to division administrators, executive directors, and supervisors in civil rights matters. She is responsible for responding to inquiries from external agencies, including but not limited to the EEOC, HCRC, DOJ, USHHS, and USDA and responding to discrimination and retaliation charges.
- She represents the DHS at State of Hawaii Executive Branch meetings such as at the ADA and EEO meetings. She is responsible for DHS policy development, implementation and revisions, requiring union consultation with HGEA and UPW, including but not limited to, DHS policy 4.10.1-4 relative to discrimination complaints, harassment prevention, opportunities to participate in programs and activities and access to facilities, programs, activities, and employment.
- She is responsible for developing, implementing and updating DHS Affirmative Action, Self-Evaluation, and Title VI Compliance plans, which includes data gathering analysis, and synthesis, as well as periodic site visits statewide, for example.
- Developing and presenting training materials related to civil rights matters is a key function in both employment and service areas.
- Notifications required in public accommodations and employment are the responsibility of the Title VI and VII Coordinator also.

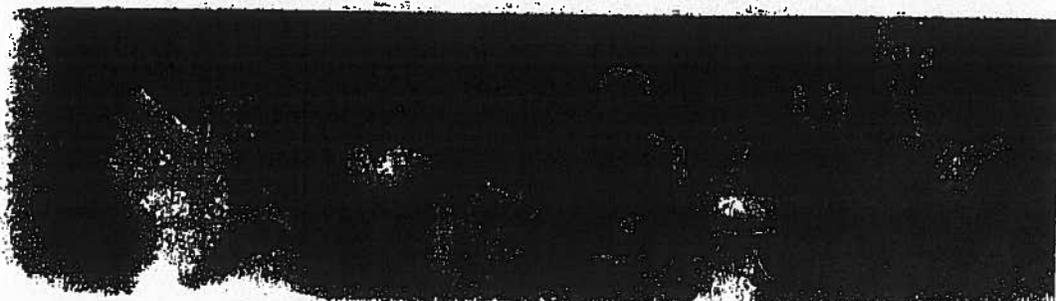
## APPENDIX J

**Watts, Geneva**

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**From:** OCR-CIVIL RIGHTS DIVISION- LISTSERV <OCR-CIVILRIGHTS-LIST@LIST.NIH.GOV> on behalf of OCR Civil Rights Listserv (HHS/OCR) <OCRCivilRightsLists@HHS.GOV>  
**Sent:** Friday, May 13, 2016 7:46 AM  
**To:** OCR-CIVILRIGHTS-LIST@LIST.NIH.GOV  
**Subject:** HHS finalizes rule to improve health equity under the Affordable Care Act

# HHS Office for Civil Rights in Ac



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**May 13, 2016**

## **HHS finalizes rule to improve health equity under the Affordable Care Act**

*Final rule prohibits discrimination based on race, color, national origin, sex, age or disability; enhances language assistance for individuals with limited English proficiency; and protects individuals with disabilities*

The Department of Health and Human Services (HHS) today issued a final rule to advance health equity and reduce health care disparities. Under the rule, individuals are protected from discrimination in health care on the basis of race, color, national origin, age, disability and sex, including discrimination based on pregnancy, gender identity and sex stereotyping. In addition to implementing Section 1557's prohibition on sex discrimination, the final rule also enhances language assistance for people with limited English proficiency and helps to ensure effective communication for individuals with disabilities. The protections in the final rule and Section 1557 regarding individuals' rights and the responsibilities of many health insurers, hospitals, and health plans administered by or receiving federal funds from HHS build on existing federal civil rights laws to advance protections for underserved, underinsured, and often excluded populations.

The *Nondiscrimination in Health Programs and Activities* final rule implements Section 1557 of the Affordable Care Act, which is the first federal civil rights law to broadly prohibit discrimination on the basis of sex in federally funded health programs. Previously, civil rights laws enforced by HHS's Office for Civil Rights (OCR) broadly barred discrimination based only on race, color, national origin, disability, or age.

"A central goal of the Affordable Care Act is to help all Americans access quality, affordable health care. Today's announcement is a key step toward realizing equity within our health care system and reaffirms this Administration's commitment to giving every American access to the health care they deserve," said HHS Secretary Sylvia M. Burwell.

The final rule helps consumers who are seeking to understand their rights and clarifies the responsibilities of health care providers and insurers that receive federal funds. The final rule also addresses the responsibilities of issuers that offer plans in the Health Insurance Marketplaces. Among other things, the final rule prohibits marketing practices or benefit designs that discriminate on the basis of race, color, national origin, sex, age, or disability. The final rule also prohibits discriminatory practices by health care providers, such as hospitals that accept Medicare or doctors who participate in the Medicaid program.

The final rule prohibits the sex discrimination in health care including by:

- Requiring that women must be treated equally with men in the health care they receive. Other provisions of the ACA bar certain types of sex discrimination in insurance, for example by prohibiting women from being charged more than men for coverage. Under Section 1557, women are protected from discrimination not only in the health coverage they obtain but in the health services they seek from providers.
- Prohibiting denial of health care or health coverage based on an individual's sex, including discrimination based on pregnancy, gender identity, and sex stereotyping.

It also includes important protections for individuals with disabilities and enhances language assistance for people with limited English proficiency including by:

- Requiring covered entities to make electronic information and newly constructed or altered facilities accessible to individuals with disabilities and to provide appropriate auxiliary aids and services for individuals with disabilities.
- Requiring covered entities to take reasonable steps to provide meaningful access to individuals with limited English proficiency. Covered entities are also encouraged to develop language access plans.

While the final rule does not resolve whether discrimination on the basis of an individual's sexual orientation status alone is a form of sex discrimination under Section 1557, the rule makes clear that OCR will evaluate complaints that allege sex discrimination related to an individual's sexual orientation to determine if they involve the sorts of stereotyping that can be addressed under 1557. HHS supports prohibiting sexual orientation discrimination as a matter of policy and will continue to monitor legal developments on this issue.

The final rule states that where application of any requirement of the rule would violate applicable Federal statutes protecting religious freedom and conscience, that application will not be required.

For more information about Section 1557, including factsheets on key provisions and frequently asked questions, visit <http://www.hhs.gov/civil-rights/for-individuals/section-1557>.

To learn more about non-discrimination and health information privacy laws, your civil rights, and privacy rights in health care and human service settings, and to find information on how to file a complaint, visit us at [www.hhs.gov/ocr](http://www.hhs.gov/ocr).

Follow OCR on Twitter at <http://twitter.com/HHSOCR>.

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This email is being sent to you from the OCR-Civil Rights Division-Listserv, operated by the Office for Civil Rights (OCR) in the US Department of Health and Human Services.

This is an announce-only list, a resource to distribute information about civil rights laws enforced by OCR that prohibit discrimination in health care and social services. For additional information on a wide range of topics about the Federal civil rights laws and how to file a civil rights complaint with OCR, please visit the OCR Civil Rights Division website at <http://www.hhs.gov/ocr/civilrights/index.html>.

If you feel a health care provider, or state or local government agency, has discriminated against you (or someone else) based on race, national origin, disability, or age, you may file a civil rights complaint. OCR can investigate disability-based discrimination complaints against programs operated by HHS. Under certain statutes and regulations, OCR also has limited authority to investigate complaints of discrimination based on sex and religion. For additional information about how to file a complaint, visit OCR's web page at <http://www.hhs.gov/ocr/civilrights/complaints/index.html>.

To subscribe to or unsubscribe from the listserv, please go to: <https://list.nih.gov/cgi-bin/wa.exe?SUBED1=OCR-CIVILRIGHTS-LIST&A=1>

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## Section 1557 of the Patient Protection and Affordable Care Act

Section 1557 is the nondiscrimination provision of the Affordable Care Act (ACA). The law prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities. Section 1557 builds on long-standing and familiar Federal civil rights laws: Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975. Section 1557 extends nondiscrimination protections to individuals participating in:

- Any health program or activity any part of which received funding from HHS
- Any health program of activity that HHS itself administers
- Health Insurance Marketplaces and all plans offered by issuers that participate in those Marketplaces.

Section 1557 has been in effect since its enactment in 2010 and the HHS Office for Civil Rights has been enforcing the provision since it was enacted. If you believe you have been discriminated against on one of the bases protected by Section 1557, you may file a complaint with OCR.

### **Issuance of the Final Rule**

On May 13, 2016, the HHS Office for Civil Rights issued the final rule implementing of Section 1557. To read the full text version, visit [www.federalregister.gov](http://www.federalregister.gov).

### **Read the Press Release**

*[This information will be translated into additional languages and will be made available on this webpage.]*

### **Summary of the Final Rule**

*[This information will be translated into additional languages and will be made available on this webpage.]*

### **Factsheets on Key Provisions**

- **Protecting Individuals against Sex Discrimination**

*[This information will be translated into additional languages and will be made available on this webpage.]*

- **Ensuring Meaningful Access for Individuals with Limited English Proficiency**  
*[This information will be translated into additional languages and will be made available on this webpage.]*
- **Ensuring Effective Communication with and Accessibility for Individuals with Disabilities**  
*[This information will be translated into additional languages and will be made available on this webpage.]*
- **Coverage of Health Insurance in Marketplaces and Other Health Plans**  
*[This information will be translated into additional languages and will be made available on this webpage.]*

#### **Frequently Asked Questions on Final Rule**

*[This information will be translated into additional languages and will be made available on this webpage.]*

#### **Translated Resources for Covered Entities**

HHS Office for Civil Rights offers downloadable samples of translated materials for use by covered entities. **For translated materials, go here.**

#### **Enforcement of Section 1557: Sex Discrimination Case Examples**

The HHS Office for Civil Rights has been enforcing Section 1557 since it was enacted in 2010. **Read case examples that highlight OCR's enforcement results in complaints alleging sex discrimination.**

#### **Background on the Section 1557 Notice of Proposal Rulemaking (NPRM)**

OCR issued the Notice of Proposed Rulemaking for Section 1557 in the Federal Register on September 8, 2015 and invited public comment on the proposed rule through November 9, 2015.

#### **Information and materials issued for the NPRM.**

Content created by Office for Civil Rights (OCR)

<http://www.hhs.gov/civil-rights/for-individuals/section-1557>

# HHS.gov

## Health Information Privacy

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U.S. Department of Health &amp; Human Services

### Business Associate Contracts

#### SAMPLE BUSINESS ASSOCIATE AGREEMENT PROVISIONS

(Published January 25, 2013)

##### Introduction

A "business associate" is a person or entity, other than a member of the workforce of a covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to protected health information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate. The HIPAA Rules generally require that covered entities and business associates enter into contracts with their business associates to ensure that the business associates will appropriately safeguard protected health information. The business associate contract also serves to clarify and limit, as appropriate, the permissible uses and disclosures of protected health information by the business associate, based on the relationship between the parties and the activities or services being performed by the business associate. A business associate may use or disclose protected health information only as permitted or required by its business associate contract or as required by law. A business associate is directly liable under the HIPAA Rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of protected health information that are not authorized by its contract or required by law. A business associate also is directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule.

A written contract between a covered entity and a business associate must: (1) establish the permitted and required uses and disclosures of protected health information by the business associate; (2) provide that the business associate will not use or further disclose the information other than as permitted or required by the contract or as required by law; (3) require the business associate to implement appropriate safeguards to prevent unauthorized use or disclosure of the information, including implementing requirements of the HIPAA Security Rule with regard to electronic protected health information; (4) require the business associate to report to the covered entity any use or disclosure of the information not provided for by its contract, including incidents that constitute breaches of unsecured protected health information; (5) require the business associate to disclose protected health information as specified in its contract to satisfy a covered entity's obligation with respect to individuals' requests for copies of their protected health information, as well as make available protected health information for amendments (and incorporate any amendments, if required) and accountings; (6) to the extent the business associate is to carry out a covered entity's obligation under the Privacy Rule, require the business associate to comply with the requirements applicable to the obligation; (7) require the business associate to make available to HHS its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the business associate on behalf of, the covered entity for purposes of HHS determining the covered entity's compliance with the HIPAA Privacy Rule; (8) at termination of the contract, if feasible, require the business associate to return or destroy all protected health information received from, or created or received by the business associate on behalf of, the covered entity; (9) require the business associate to ensure that any subcontractors it may engage on its behalf that will have access to protected health information agree to the same restrictions and conditions that apply to the business associate with respect to such information; and (10) authorize termination of the contract by the covered entity if the business associate violates a material term of the contract. Contracts between business associates and business associates that are subcontractors are subject to these same requirements.

This document includes sample business associate agreement provisions to help covered entities and business associates more easily comply with the business associate contract requirements. While these sample provisions are written for the purposes of the contract between a covered entity and its business associate, the language may be adapted for purposes of the contract between a business associate and subcontractor.

This is only sample language and use of these sample provisions is not required for compliance with the HIPAA Rules. The language may be changed to more accurately reflect business arrangements between a covered entity and business associate or business associate and subcontractor. In addition, these or similar provisions may be incorporated into an agreement for the provision of services between a covered entity and business associate or business associate and subcontractor, or they may be incorporated into a separate business associate agreement. These provisions address only concepts and requirements set forth in the HIPAA Privacy, Security, Breach Notification, and Enforcement Rules, and alone may not be sufficient to result in a binding contract under State law. They do not include many formalities and substantive provisions that may be required or typically included in a valid contract. Reliance on this sample may not be sufficient for compliance with State law, and does not replace consultation with a lawyer or negotiations between the parties to the contract.

### **Sample Business Associate Agreement Provisions**

Words or phrases contained in brackets are intended as either optional language or as instructions to the users of these sample provisions.

### **Definitions**

### **Catch-all definition:**

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

- (a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Business Associate].
- (b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Covered Entity].
- (c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

**Obligations and Activities of Business Associate**

Business Associate agrees to:

- (a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;

(c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

[The parties may wish to add additional specificity regarding the breach notification obligations of the business associate, such as a stricter timeframe for the business associate to report a potential breach to the covered entity and/or whether the business associate will handle breach notifications to individuals, the HHS Office for Civil Rights (OCR), and potentially the media, on behalf of the covered entity.]

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(e) Make available protected health information in a designated record set to the [Choose either "covered entity" or "individual or the individual's designee"] as necessary to satisfy covered entity's obligations under 45 CFR 164.524;

[The parties may wish to add additional specificity regarding how the business associate will respond to a request for access that the business associate receives directly from the individual (such as whether and in what time and manner a business associate is to provide the requested access or whether the business associate will forward the individual's request to the covered entity to fulfill) and the timeframe for the business associate to provide the information to the covered entity.]

(f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;

[The parties may wish to add additional specificity regarding how the business associate will respond to a request for amendment that the business associate receives directly from the individual (such as whether and in what time and manner a business associate is to act on the request for amendment or whether the business associate will forward the individual's request to the covered entity) and the timeframe for the business associate to incorporate any amendments to the information in the designated record set.]

(g) Maintain and make available the information required to provide an accounting of disclosures to the [Choose either "covered entity" or "individual"] as necessary to satisfy covered entity's obligations under 45 CFR 164.528;

[The parties may wish to add additional specificity regarding how the business associate will respond to a request for an accounting of disclosures that the business associate receives directly from the individual (such as whether and in what time and manner the business associate is to provide the accounting of disclosures to the individual or whether the business associate will forward the request to the covered entity) and the timeframe for the business associate to provide information to the covered entity.]

(h) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and

(i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

#### **Permitted Uses and Disclosures by Business Associate**

(a) Business associate may only use or disclose protected health information

[Option 1 – Provide a specific list of permissible purposes.]

[Option 2 – Reference an underlying service agreement, such as "as necessary to perform the services set forth in Service Agreement."]

[In addition to other permissible purposes, the parties should specify whether the business associate is authorized to use protected health information to de-identify the information in accordance with 45 CFR 164.514(a)-(c). The parties also may wish to specify the manner in which the business associate will de-identify the information and the permitted uses and disclosures by the business associate of the de-identified information.]

(b) Business associate may use or disclose protected health information as required by law.

(c) Business associate agrees to make uses and disclosures and requests for protected health information

[Option 1] consistent with covered entity's minimum necessary policies and procedures.

[Option 2] subject to the following minimum necessary requirements: [Include specific minimum necessary provisions that are consistent with the covered entity's minimum necessary policies and procedures.]

(d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity [if the Agreement permits the business associate to use or disclose protected health information for its own management and administration and legal responsibilities or for data aggregation services as set forth in optional provisions (e), (f), or (g) below, then add " , except for the specific uses and disclosures set forth below."]

(e) [Optional] Business associate may use protected health information for the proper management and administration of the business associate or to carry out the legal responsibilities of the business associate.

- (f) [Optional] Business associate may disclose protected health information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the disclosures are required by law, or business associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (g) [Optional] Business associate may provide data aggregation services relating to the health care operations of the covered entity.

#### **Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions**

- (a) [Optional] Covered entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate's use or disclosure of protected health information.
- (b) [Optional] Covered entity shall notify business associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect business associate's use or disclosure of protected health information.
- (c) [Optional] Covered entity shall notify business associate of any restriction on the use or disclosure of protected health information that covered entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect business associate's use or disclosure of protected health information.

#### **Permissible Requests by Covered Entity**

[Optional] Covered entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity. [Include an exception if the business associate will use or disclose protected health information for, and the agreement includes provisions for, data aggregation or management and administration and legal responsibilities of the business associate.]

### **Term and Termination**

(a) Term. The Term of this Agreement shall be effective as of [Insert effective date], and shall terminate on [Insert termination date or event] or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement [and business associate has not cured the breach or ended the violation within the time specified by covered entity]. [Bracketed language may be added if the covered entity wishes to provide the business associate with an opportunity to cure a violation or breach of the contract before termination for cause.]

(c) Obligations of Business Associate Upon Termination.

[Option 1 -- if the business associate is to return or destroy all protected health information upon termination of the agreement]

Upon termination of this Agreement for any reason, business associate shall return to covered entity [or, if agreed to by covered entity, destroy] all protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, that the business associate still maintains in any form. Business associate shall retain no copies of the protected health information.

[Option 2—if the agreement authorizes the business associate to use or disclose protected health information for its own management and administration or to carry out its legal responsibilities and the business associate needs to retain protected health information for such purposes after termination of the agreement]

Upon termination of this Agreement for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:

1. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
2. Return to covered entity [or, if agreed to by covered entity, destroy] the remaining protected health information that the business associate still maintains in any form;
3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;
4. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at [Insert section number related to paragraphs (e) and (f) above under "Permitted Uses and Disclosures By Business Associate"] which applied prior to termination; and
5. Return to covered entity [or, if agreed to by covered entity, destroy] the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.

[The agreement also could provide that the business associate will transmit the protected health information to another business associate of the covered entity at termination, and/or could add terms regarding a business associate's obligations to obtain or ensure the destruction of protected health information created, received, or maintained by subcontractors.]

(d) Survival. The obligations of business associate under this Section shall survive the termination of this Agreement.

#### **Miscellaneous [Optional]**

(a) [Optional] Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) [Optional] Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

(c) [Optional] Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

[Learn more about business associates](#)

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Guidance Materials for Covered Entities

- [Summary of the Privacy Rule](#)
- [Guidance on Significant Aspects of the Privacy Rule](#)
- [Fast Facts for Covered Entities](#)
- [Provider Guide: Communicating With a Patient's Family, Friends, or Other Persons Identified by the Patient](#)
- [Guidance on the Application of FERPA and HIPAA to Student Health Records](#)
- [Sample Business Associate Contract](#)
- [Misleading Marketing Claims](#)
- [Sign Up for the OCR Privacy Listserv](#)

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## APPENDIX J

### SAMPLE DATA SOURCE DESCRIPTIONS

As a sample of description of population data, DHS utilizes an April 2016 report by the State of Hawaii, Department of Business, Economic Development and Tourism (DBEDT), Research and Economic Analysis Division, describing the “Non-English Speaking Population in Hawaii.” For example, major findings in that report, which was based on the American Community survey data collected for five years (2010-2014), are:

- About one – in – four Hawaii residents aged five and older spoke a language other than English at home,
- The number of non-English speakers at home in Hawaii increased by 44% from 1980 to 2014. As the total population in Hawaii grew at a similar rate during the period, the proportion of non-English speakers to the total population remained about the same,
- Non-English language speaking at home was more prevalent in Honolulu County than in the neighbor island counties. The proportion of non-English speakers was highest in Honolulu County at 28% and lowest in Hawaii County at 19%,
- Ilocano, Tagalog, and Japanese were the top three most common non-English languages spoken at home in Hawaii. Speakers of these three languages made up about half of non-English speakers at home in Hawaii,
- The growth in the use of each language was not shared evenly among various languages over the last three decades. The two most outstanding trends were found in the use of Japanese and Ilocano. The Japanese speaking population decreased to 45,500 in the 2010-2014 period, which was a little over half of its level in 1980. On the other hand, Ilocano speaking population in Hawaii almost tripled from 1980 to 2014,
- English proficiency of the non-English speaking population varied substantially by language,
- Compared with the adult population, the proportion of non-English speakers was lower and English proficiency was better in the five to 17 school-age children group,
- The most distinctive characteristic of the non-English speaking population from the English-only speaking population was their nativity (i.e., 63% were foreign born),
- A key determinant of a person’s language use at home was the person’s nativity. The chance of a foreign-born person to speak a language other than English at home was 84%,
- The chance to speak a non-English language at home also varied by age, education, and race,

- English proficiency had strong impacts on an individual's economic activities,
- English proficiency also played a role in the selection of occupation,
- Earning disparities among various English proficiency groups were evident, and
- The earning disparities among various English proficiency groups include both direct effects of English proficiency on earnings and indirect effects through other characteristics correlated with English proficiency. A multivariate regression analysis showed that the impacts of English proficiency on earnings were still significant even when all related factors were controlled. The regression results suggest that the earnings of non-English speakers can be 10 to 34% lower than that of the English-only speakers due to lack of English proficiency although they have the same amount of education and experience, are subject to the same race and gender, and work in similar occupations.

The DHS Language Access Plan (2016-2018), Component 1: Assessment of LEP Population Requirements, speaks to DHS efforts to provide effective and meaningful access to LEP applicants and clients, for example. DHS looks at the totality of circumstances, including the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee,
2. The frequency LEP individuals come in contact with the program,
3. The nature and importance of the program, activity, or service provided to people's lives, and
4. The resource available to the grantee/recipients and costs.

DHS currently uses two approaches to identify its target population to include both potential and current clients. In addition to various data sources, such as school and U. S. Census data, DHS uses a combination of the federal census data and the Hawaii state income level data below 200% federal poverty level to determine its target population's linguistic needs.

DHS has implemented a specific language identification field for staff to enter an individual's primary language into the Hawaii Automated Welfare Information System (HAWI) and the Kauhale On-Line eligibility Assistance System (KOKEA) for data collection and quantitative statistical analysis.

According to the most recent data from HAWI as of March 2016, there are 121,278 unique clients who are eligible for public benefits (non-medical). Of those, 61,903 or 13.9% reported their English proficiency as "minimum command or below." The top six non-English languages are Cantonese, Ilocano, Korean, Vietnamese, Chuukese, and Marshallese.

Furthermore, according to the most recent data from KOLEA as of March 2016, there are 328,484 unique clients who are eligible for medical assistance. Of those, 11,026 or 3.6% indicated other non-English languages as their preferred spoken language. The top six non-English spoken languages are Ilocano, Korean Vietnamese, Cantonese, Chuukese, and Marshallese.

Under this analysis, DHS compared census data with its own internal data. Tracking the language needs of its users, the department determined that the most common languages spoken by LEP persons who are eligible for DHS benefits are Chinese (Cantonese), Chuukese, Ilocano, Korean, Marshallese, and Vietnamese. The department's assessment of language needs is in line with the top four state-wide languages (Korean, Vietnamese, Chinese, and Ilocano) as reported by DBEDT.