

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?