

Civil Rights Compliance for Clericals

Module 2



Commentary

Key
Words

State Laws

Federal
Laws and
Issues

Content

Policies
Forms
Notices

Best Practices

- ADA
- Language
Translation

Frequently
Asked
Questions

Read Me First



General Provisions

Objectives

- **Clients rights and their importance**
 - **Discrimination complaint procedure**
 - **Information available to the public**
 - **Civil rights requirements**
- 

Clients' Rights

- Discuss any action concerning their case with worker and/or supervisor
- Notified in advance of their benefits being reduced or discontinued (I7-649-3)
- Ask for an administrative appeal (fair hearing) (I7-610-4, 17-602-1)
- Record kept confidential (I7-601)
- Bilingual or sign-language interpreter (I7-610-9)
- File a discrimination complaint (17-610-3,4) (Forms 9004 and 9006), 2007



Why are Client Rights Important?

- **Meaningful access to programs/services**
- **Reasonable access to programs/services**
- **How you are received by the client and public affects you**
- **How you are received by the public affects the Department of Human Services**
- **How you are received by the public affects the future**



Objectives



- 1. Understand what constitutes discrimination*
- 2. Recognize and Prevent Harassment*
- 3. Understand your role in providing workplace and service areas that are free from discriminatory practices*
- 4. Recognize and understand civil rights laws affecting workplace and service provisions*

Civil Rights Compliance for Clerical Staff at DHS



AIM: To provide relevant CRC information in efforts to prevent and eliminate discriminatory practices in employment and services at DHS

- GOALS:**
- * Create awareness and appreciation
 - * Comply with applicable laws and agreements
 - * Prevent discriminatory practices
 - * Promote additional recognition and respect
 - * Refine DHS discrimination complaint process
 - * Understand Roles, Rights and Responsibilities

Civil Rights Compliance

means ensuring that

- ✓ *All individuals are provided the right to equal employment opportunity*
- ✓ *All clients are provided equal access to services*



Prominent Civil Rights Legislation

- *Civil Rights Act of 1866*
- *Civil Rights Act (CRA) of 1964*
- *Rehabilitation Act of 1973*
Americans with Disabilities Act (ADA) of 1990
- *Civil Rights Act of 1991*
- *Hawaii Revised Statutes (HRS), § 378 and 371 (2006),*



Protected Areas in Employment

FEDERAL

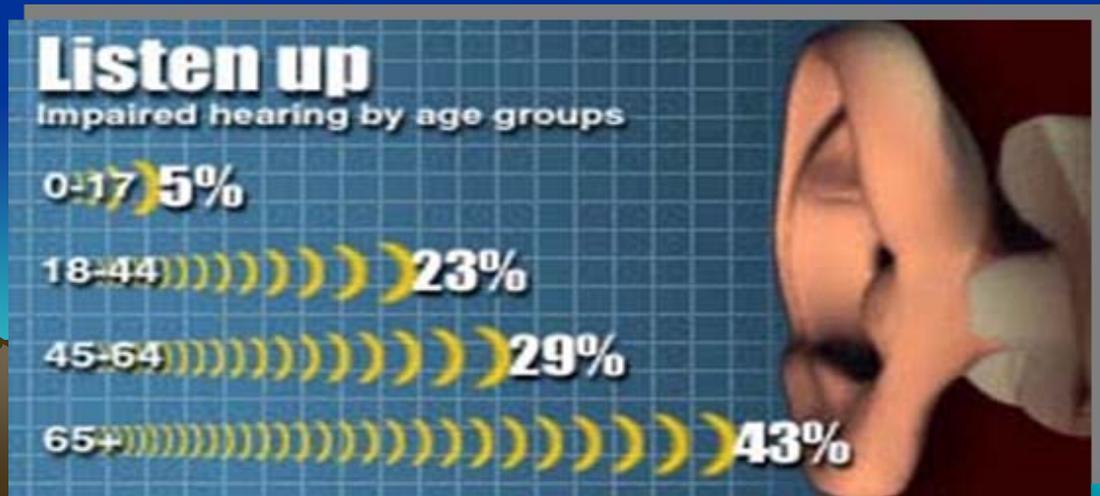
Race
Color
National Origin
Sex
Religion
Disability
Age
Uniformed Service
Citizenship Status

Ancestry
Marital Status
Arrest and Court Record
Sexual Orientation
Child Support Obligations
National Guard Absence
Breast Feeding

STATE

Title I of the Americans with Disabilities Act (ADA)

- Prohibits discrimination on the basis of disability, including the requirement to provide a reasonable accommodation to persons with physical and/or mental limitations.



Qualified Individual with a Disability

- *Has a physical or mental impairment*
- *Has record of an impairment*
- *Is regarded as having an impairment*





REASONABLE ACCOMMODATION

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



REASONABLE ACCOMMODATION

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



Request for Reasonable Accommodation

Department of Human Services

Date: _____ Please check one: I am an ___Employee ___Applicant ___Client
My name is: _____ I can be reached at: Phone: _____
My home address is _____ E-mail _____
My work or service address is: Division : _____ Section: _____ Unit: _____
My supervisor is: _____ My case worker is: _____

Comments:

APPLICATION (to be completed by employee, applicant or client)

I am requesting the following **specific**

accommodation(s): _____

It is necessary for me to have this accommodation for the following reason/s: _____

It will help improve DHS services by _____

It will improve my job performance by _____

Requestor Signature

Date

DETERMINATION: Your request of _____ for a reasonable accommodation is:
date

___ **Approved** Specific approved accommodation: _____

Approx. Cost: _____ (from Division/Section funds)

___ **Disapproved*** Reason/s Denied: _____

Immediate Supervisor Signature

Date

Administrator Signature

Date

*If you disagree with this determination, you may present additional information within 10 (ten) business days of the date that this determination is made to further substantiate your request.

Please call me at _____ discuss the above decision.

___ Approved

___ Disapproved

Specifics: _____

Personnel Officer _____ Date: _____

FACT SHEET

Reasonable Accommodation

What is meant by “reasonable accommodation”

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

(applies to employees, applicants for positions and individuals receiving or seeking DHS services.)

What does providing a reasonable accommodation involve?

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

How do I request a reasonable accommodation?

- (a) Employee or applicant completes, signs and dates Form RA-1 (dated 03/08)
- (b) describing what is needed and why
- (c) describing the disability and functional limitations which make the request necessary.

Immediate supervisor **recommends** approval or disapproval, estimates cost, signs and dates; explains reason denied, if not approved.

Division Administrator **reviews**, signs, dates and **reserves funds** if approval is recommended. If approval is not recommended, reason denied must be given. Forward to Personnel Office for review and approval/disapproval.

Departmental Personnel Officer reviews, **approves or disapproves**, signs/dates
Individual has 10 (ten) business days to provide additional information if request is disapproved.

When request is approved completed, signed RA-1 is returned to immediate supervisor/case worker for purchase from divisional/program funds.

Immediate supervisor notifies Civil Rights compliance office gwatts@dhs.hawaii.gov when accommodation is complete/purchased.

What are some examples of reasonable accommodations?

Readers, laptops, notebooks, interpreter/translator, assistive devices, audio/video materials, chairs, lifts and others as justified.

Comments	
A.	Complete, sign & date RA-1 (03/08)
B.	Describe need and why
C.	Describe functional limitations which make the request necessary

Harassment

Is UNLAWFUL when:

- *Based on a protected factor*
- *Alters terms and conditions*
- *Creates hostile work environment*



Identifying and Preventing Workplace Harassment



Harassment

- Any unwelcome verbal or physical conduct based on:
 - Race
 - Color
 - Sex
 - Religion
 - National origin
 - Age
 - Disability

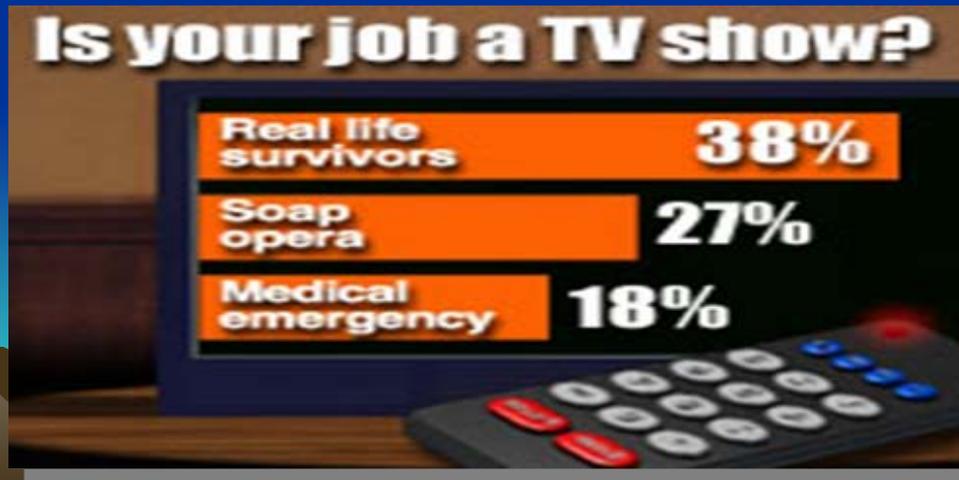


Two Types of Harassment

1) Tangible Employment Action

- ❖ Only supervisors and managers can subject an employee to tangible employment action harassment because only supervisors and managers have the authority needed to take a tangible employment action.

(hiring, benefits, promotion, demotion, discharge)



Sexual Harassment



Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature

- *Quid Pro Quo – something promised in exchange for something else*
- *Hostile work environment - conduct interferes with employee's ability to perform his/her job, or creates an offensive, hostile or intimidating work environment*

2) Hostile Work Environment

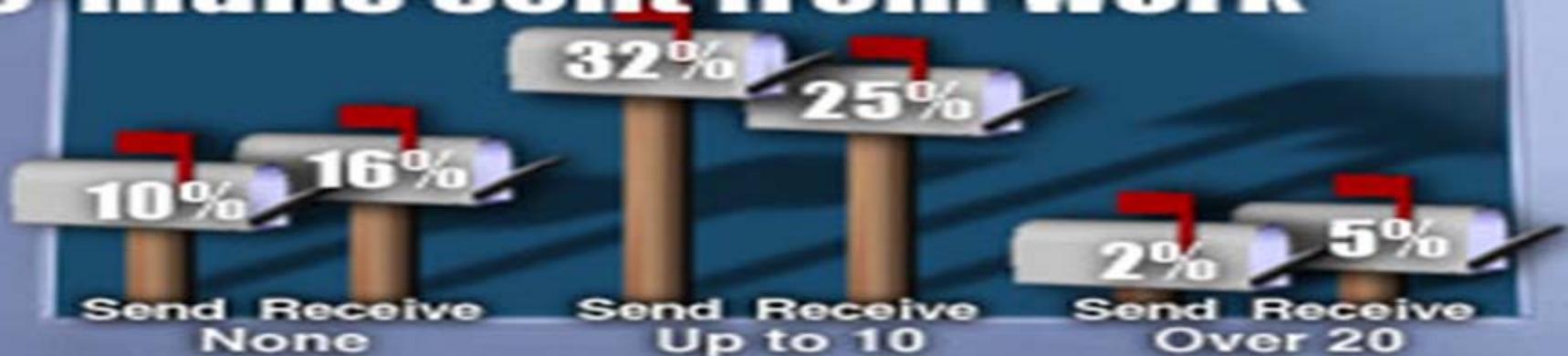
- ❖ Unwelcome comments or conduct based on race, color, sex, religion, national origin, age or disability unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive work environment.
- ❖ A hostile work environment can be created by a supervisor, manager, co-worker or non-employee.
- ❖ Includes, jokes, gestures, touching, graffiti, demeaning names or expressions, mocking behavior.



Retaliation is Prohibited

- It is unlawful to penalize, punish or deny employment, benefit, OR SERVICE because that person opposed discrimination or participated in any way (ex: as a witness) in the investigation of a charge.

The number of personal e-mails sent from work



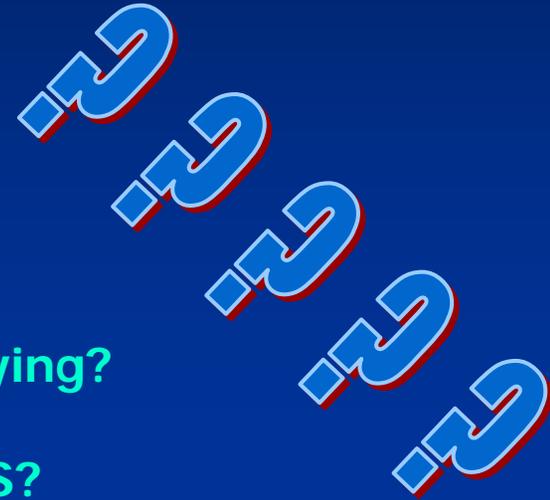
Questions or Concerns

What questions do you have?

(about reasonable accommodation retaliation, harassment, documentation?)

Frequently asked questions

- * What is reasonable accommodation?
- * What constitutes retaliation?
- * How do I stop the harassment or bullying?
- * What is considered misconduct at DHS?
- * What do I need to document?
- * Why do I have to be subjected to these behaviors?



DHS

Policies and Procedures



Non-Discrimination in Employment and Services

Discrimination Complaint Procedure (4.10.1)

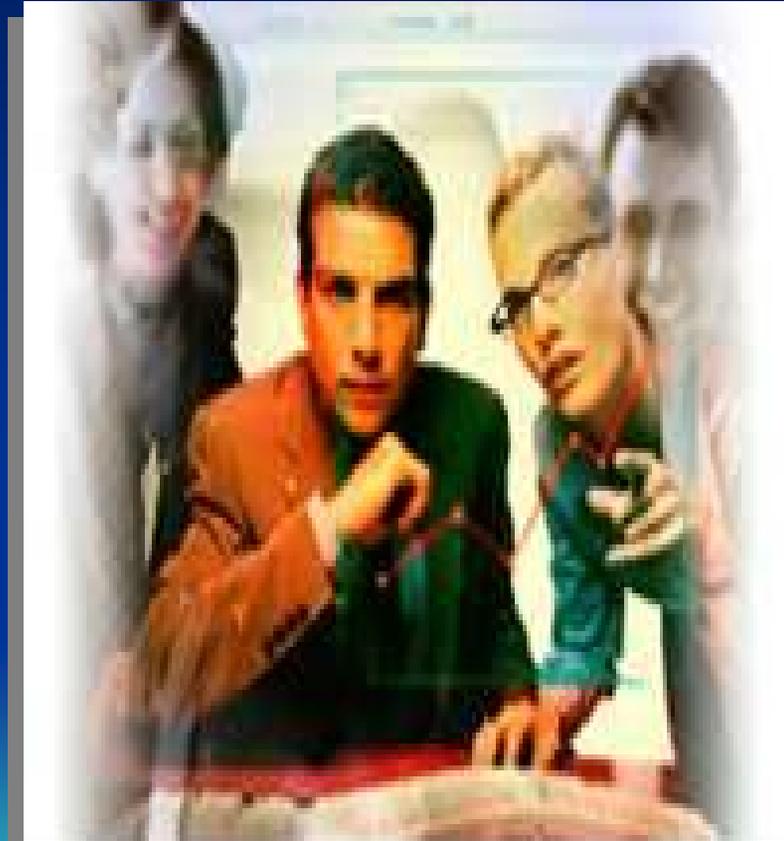
Harassment (4.10.2)

Opportunity to Participate in Programs, Services and Activities

(4.10.3)

Participation in Investigations

- Internal
 - Branch/Division
 - Departmental
- External
 - Hawaii Civil Rights Commission (HCRC)
 - EEOC
 - HHS
 - USDA/FNS
 - US Justice Department



What is the truth?

Fact

Reality

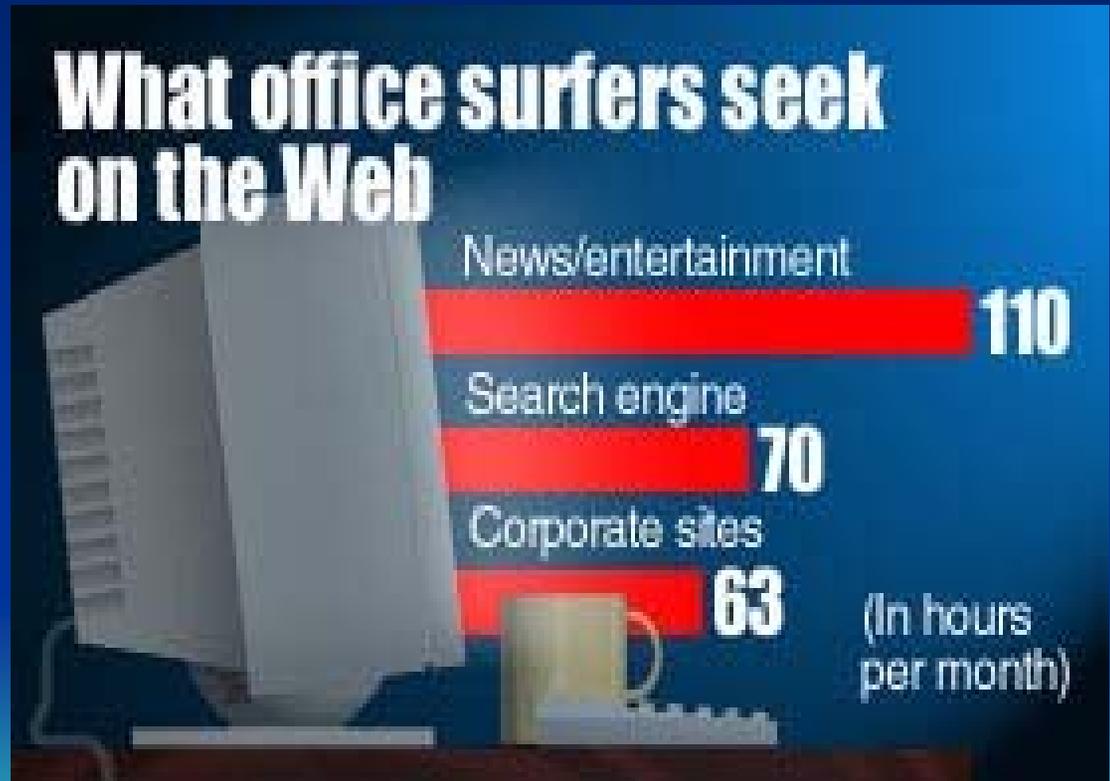
Perception

Analysis

Findings

Conclusions

Action



*Opportunity
to Participate in Programs,
Services, and Activities*



Protected Areas in Access to Services

FEDERAL

National Origin

*Political Beliefs **

Race

Color

Sex

*Religion **

Disability

Age

Ancestry

Breast Feeding

STATE



** Applies only to Food Stamp Program applicants and recipients*

Applicants, clients and program participants should be informed of their right to:

- *Non-discriminatory service provision*
- *Accommodation*
- *Free sign or other language interpreters*
- *File a complaint*
- <http://hawaii.go11.18v/dhs/main/Folder.2007-10-09.2339/Document.2007-10-51>



What is L E P?

L is for Limited

Speaking
Reading
Writing
Understanding

E is for English

Language
Verbal
Nonverbal
Written

P is for Proficiency

(at levels that permit
effective interaction)



Summary of Problem

- While English is the predominant language in the United States, over 32 million people in the country have Limited English Proficiency.
- L E P Individuals face many barriers to critical health and social services.
- **We need to remove the barriers!**



Language Barriers

- Breaking Them Down (DVD)
- Providing Interpreter Services
- Translating Forms and Brochures
- Reporting
- Monitoring
- **ACCESS** Task Force

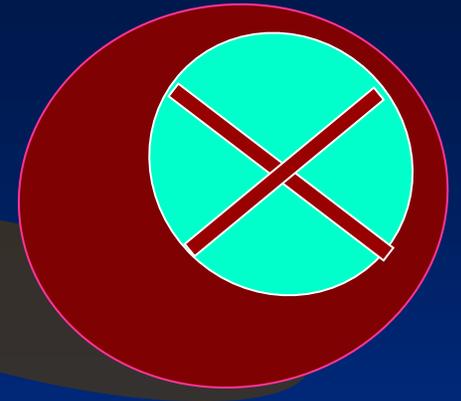


Breaking Down the Barriers

<C:/documents and settings/gwatts/mydoc/myvideos>



Federal Law



□ Title VI of the Civil Rights Act

Excerpt: ...may not directly or through contractual or other arrangements because of...national origin:

-Deny an individual any service, financial aid, or other benefit provided by a program,

-Use criteria or methods of administration which have the effect of subjecting individuals to discrimination or have the effect of defeating or substantially impairing accomplishment of objectives of a program.

State Statute

- Hawaii Revised Statutes, Title 21
Labor and Industrial Relations
Chapter 371, Part II 371-31 to 37
Act 290 Effective July 10, 2006
- **Language Access**
 - Points to Remember
 - Revised Statute



Points

Language Access

Points

Points to Remember
(State Law 290, Rev. 2006)

- Applies to all State public contact activities
 - Limited English Proficiency (LEP) individuals are entitled to same level of access as those who speak English
- Self-identified LEP**
- Ensure competent, timely, free interpreter services
 - Use four-factor analysis to determine needs for written translation
 - Develop a Language Access Plan
 - Established State level Office of Language Access (DOLIR)
 - Eleven-person language Access Advisory Council

DHS Policy and Procedures



- **DHS Policy and Procedure 4.10.3 Opportunity to Access Programs, Services and Activities** (Revised 2007)
- Our policy says that we will provide, free of charge, language interpreters for applicants and clients who have limited English proficiency.

(Please see January 2008 Interpreter List also.)

B. Personnel Office
Civil Rights Compliance Staff
P. O. Box 339
Honolulu, Hawaii 96809-0339

C. Discrimination complaints may also be filed concurrently with the following agencies:

U. S. Department of Health & Human Services, Region IX
Office of Civil Rights
90 7th Street, Suite 4-100
San Francisco, CA 94103-6705
(Financial & Medical Assistance)

U. S. Department of Agriculture
Food & Nutrition Service
Office of Civil Rights
Western Region
90 7th Street, Suite 10-100
San Francisco, CA 94103
(Food Stamp Program)

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 of Civil Rights
810 7th Street, NW
Washington, D.C. 20531
(Youth Services)

BASIS FOR THE POLICY

This fundamental policy concerning equal Services opportunity shall 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, and the Hawaii Revised Statutes, including and not limited to, 371 and 378, as revised In 2006.

QUESTIONS?

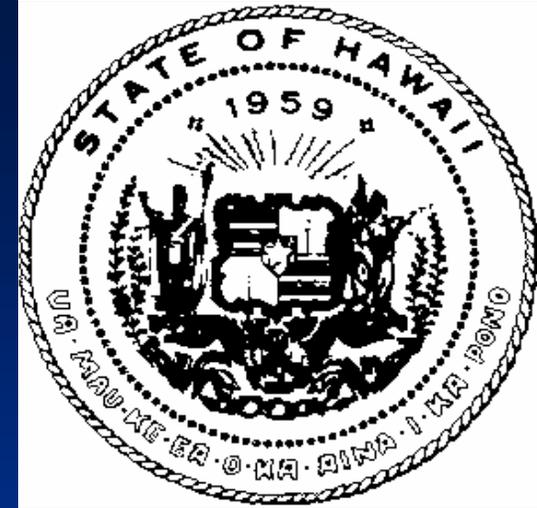
Write or call the Department of Human Services Civil Rights Compliance Staff:

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

Phone: 586-4955
TTY: 586-4959
Fax: 586-4990

E-mail: gwatts@dhs.hawaii.gov

March 2008
DHS 050



ACCESS HAWAII

Services to the Public:

Your Rights

Our Responsibilities

Civil Rights Brochure
Department of Human Services

DEPARTMENT OF HUMAN SERVICES' POLICY

It is the policy of the Department of Human Services (DHS) that all individuals shall be provided an equal opportunity to participate in programs, activities and services of the DHS without regard to race color, national origin, age, disability, sex, political beliefs or religion.

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 Federally-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. For example, materials such as notices and brochures written only in English, may have the effect of denying services or participation in a program to limited and non-English speaking persons. Similarly, architectural barriers to DHS offices may have the effect of preventing persons with disabilities from accessing our services.

DISCRIMINATION

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

- treating individuals differently in the determination of eligibility for services;
- segregating or 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 right to equal service opportunity and their right to free interpreter service as well as their right to file a discrimination complaint when they feel their civil rights have been violated and/or 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 shall be subject to disciplinary action.

Program Administrators are Responsible for determining the needs of the population they serve considering language, culture, and physical accessibility needs, and planning programs that are consistent with those needs and in compliance with the law.

Supervisors are responsible for ensuring that their staff are aware of their responsibility to treat all clients equally and fairly, and to provide assistance to persons with special needs. Supervisors shall also ensure that clients are informed of their right to nondiscriminatory services.

COMPLAINT PROCEDURES

4.10.1

Persons who feel they have been treated unfairly because of their race, color, national origin, age, disability, sex, political beliefs or religion, may file a discrimination complaint (DHS forms 9004 & 9006). Concurrent complaints may be filed with appropriate Federal and State Agencies within stated timeframes. Written complaints may be filed with:

A. the respective Program Administrator w/ copy to Director;

Can Do:

Yes!

- Ensure that LEP persons are:
 - Given adequate and correct information
 - Understanding of what services and benefits are available
 - Effectively communicating relevant circumstances of their situation
- Provide a comprehensive language assistance program, written policies, interpreter and/or translation services and effective communication devices.

Interpreter Requirements

- Proficient in more than one language
- Avoid using friends, family, minor children
- Document client declination
- Arrange before bringing client in
- Use DHS volunteers appropriately
- Examine credentials, including certification, of interpreters



Resources

Technology

- Audio, video, tel-video phones
- Live on-line; web casts

Personnel

- Face-to-face interaction required
- Verbal-written

Aids

- Recorder, transcriber, voice recognition
- American Sign Language
- Multiple language forms/brochures
- Large print (nothing smaller than 12 pt)

External

- Bi-lingual Access Line
- Language Department (Colleges and Universities)
- Charities

<http://www.lep.gov/faqs/faq.html>
Limited English Proficiency



Contacts

➤ Geneva Watts, DHS, CRCS,
P. O. Box 339
Honolulu, HI 96809-0339

(808) 586-4955

TTY (808) 586-4959

➤ USDA
Director, Office of Civil Rights
1400 Independence Avenue, S.W.
Washington, D. C. 20250-9410

(800) 795-3272

TTY (202) 720-6382

➤ U.S. Department of Health and Human Services
Director, Office of Civil Rights, Room 506-F
200 Independence Avenue, S.W.
Washington, D. C. 20201

(202) 619-0403

TTY (202) 619-3257

➤ U. S. Department of Education
Office of Civil Rights, Seattle Office
915 Second Avenue, Room 3310
Seattle, WA 98174-1099

(206) 220-7900

Fax (206) 220 7887

➤ U. S. Department of Justice
Office of Civil Rights
810 7th Street, NW
Washington, D. C. 20531

(202) 307-0690

➤ Hawaii Civil Rights Commission
830 Punchbowl Street, Room 411
Honolulu, HI 96809

(808) 586-8636



Summary

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



Questions ? ? ? ? ? ?

- What questions do you have?
- What specific actions will you take as a result of this knowledge?
Please read, think and act.
- ~~Please read, think and act.~~ What, if any, additional training and/or information do you need?

Frequently Asked Questions



? ? ? ? ? ? ? ? ? ? ? ?

- Where can I find an American Sign Language Interpreter?
- What is the hourly rate for interpreters?
- Can we cover travel expenses?
- Do interpreters need to be certified? If so, By whom?
- Can we contact the courts for interpreters?
- Why can't an applicant bring a family member?

Civil Rights Compliance Staff (CRCS)

586-4955

gwatts@dhs.hawaii.gov



- ✓ Serves as departmental liaison for all civil rights related matters
- ✓ Investigates civil rights complaints
- ✓ Provides technical and advisory services to the department regarding standards and requirements of civil rights laws, rules and regulations
- ✓ Develops departmental policies, procedures and plans

586-4955



***THANK
YOU***

gwatts@dhs.hawaii.gov

