

# Supervisor's Module



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*Administrative Procedures for*

# *Supervisors*

# Overview

*Geneva Watts*



# Civil Rights Compliance for Supervisors at DHS



**AIM:** To provide relevant CRC information to all DHS Division Administrators and Staff Officers 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

# *Overall 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 for employees, clients, and applicants including and not limited to individuals with Limited English Proficiency (LEP)*
- 4. Recognize and understand civil rights laws affecting workplace and service provisions*

# *Training Objectives*



- 1. Understand your role in providing workplace and service areas that are free from discriminatory practices***
- 2. Recognize and understand civil rights laws affecting workplace and service provisions***

# *Prominent Civil Rights Legislation*

- *Civil Rights Act of 1866*
- *Civil Rights Act (CRA) of 1964*
- *Age Discrimination in Employment Act (ADEA) of 1967*
- *Rehabilitation Act of 1973*  
*Americans with Disabilities Act (ADA) of 1990*
- *Civil Rights Act of 1991*
- *Hawaii Revised Statutes (HRS), § 378 and 371 (2006),  
Act 290*



# *Civil Rights Compliance*

*means ensuring that*

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



# *Protected Areas in Employment*

**FEDERAL**

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

**STATE**

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

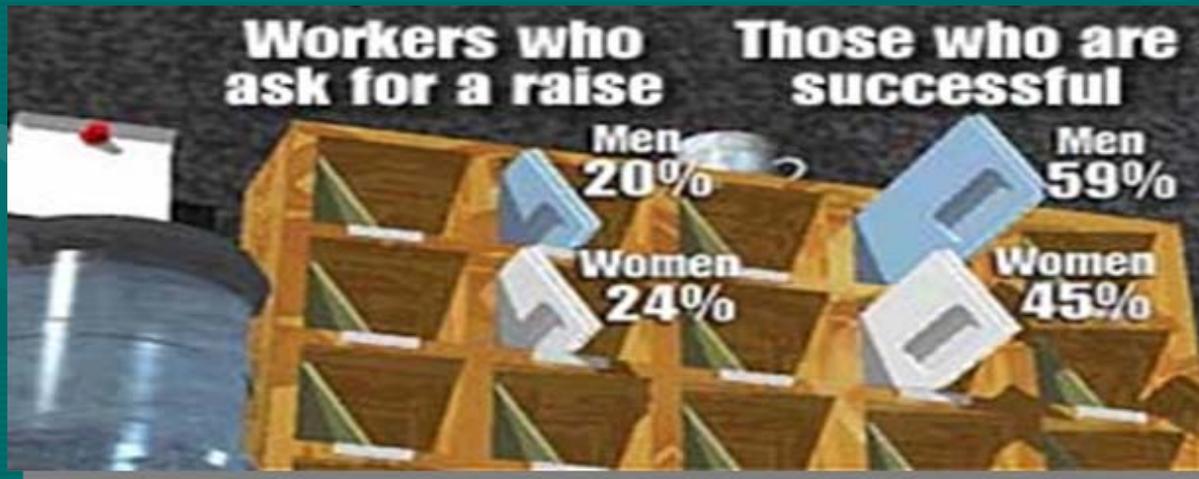
# The Age Discrimination in Employment Act (ADEA)

- Applies to employers with 20 or more employees.
- Applies to individuals who are age 40 and over.



# The Equal Pay Act (EPA)

- Prohibits sex-based wage discrimination
- Includes fringe benefits
- Applies when men and women perform substantially equal work



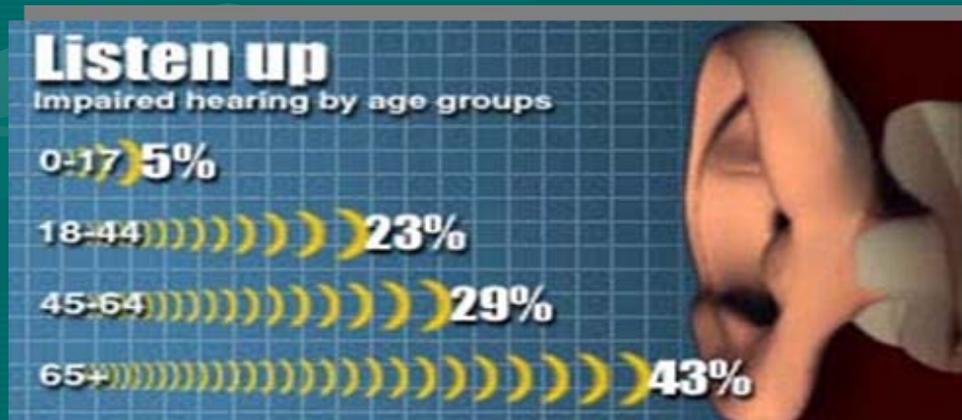
# Americans with Disabilities Act (ADA)



Reasonable Accommodation

# 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.*

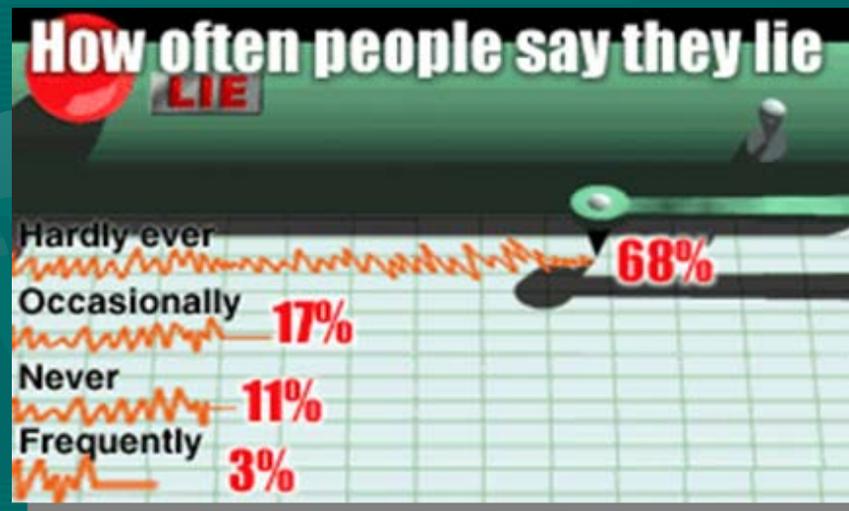
# *REASONABLE ACCOMMODATION*

- *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*



# Medical Records and Information--

- Medical information about applicants and/or employees in a confidential medical file that is separate from the personnel, payroll and employment action in a locked file cabinet.



# 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

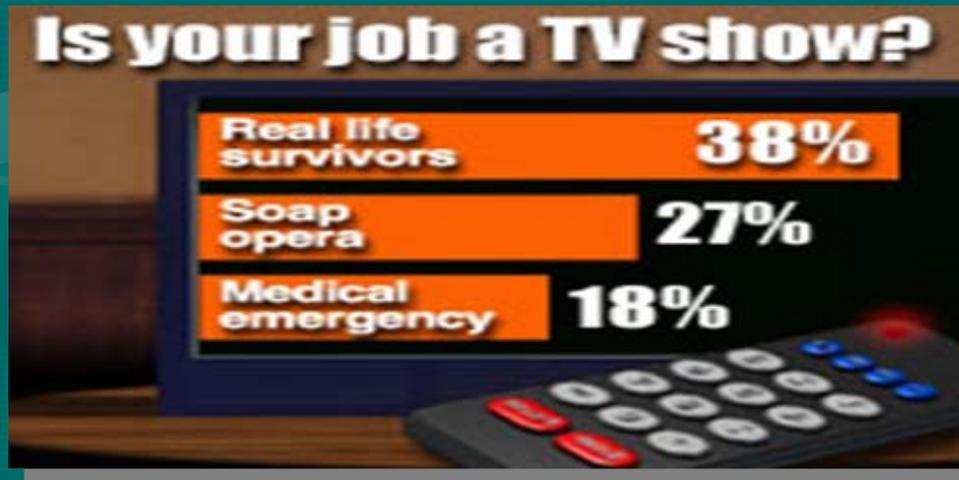


# Two Types of Harassment

## 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*

# Avoiding Harassment

- Educate and Monitor
- Listen and Investigate
- Take Corrective Action



*As a supervisor you set the standard*

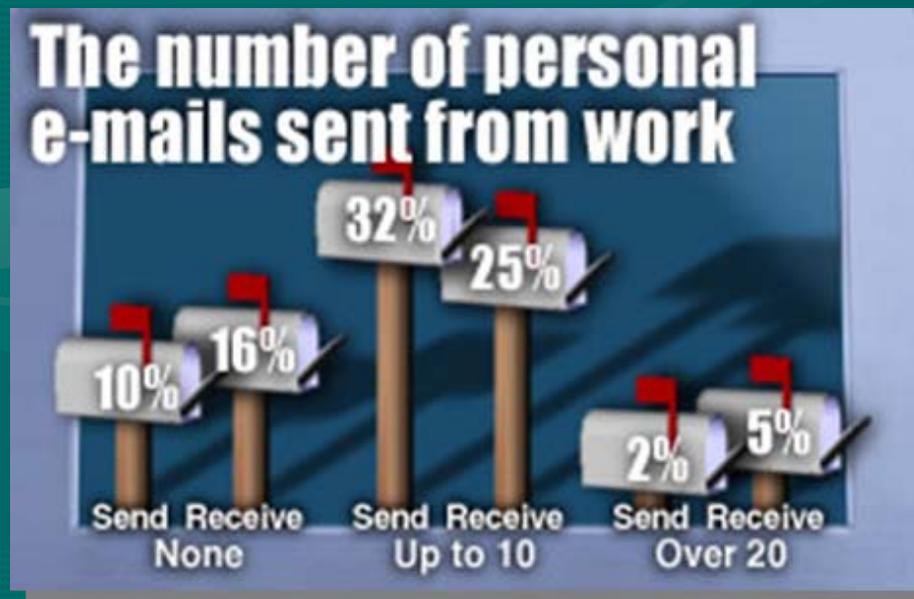
## 2) Hostile Work Environment

- ❖ 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.



# Recordkeeping Requirements

- Payroll, personnel and employment action records
  - Employers can **SUPPORT COMPLIANCE** with all of the laws by retaining all payroll, personnel and employment action records for 3 years.
  - **SUPERVISORS** do you have any ....

## DOCUMENTATION ?



# 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?

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# DHS

## Policies and Procedures



*Non-Discrimination in Employment and Services*

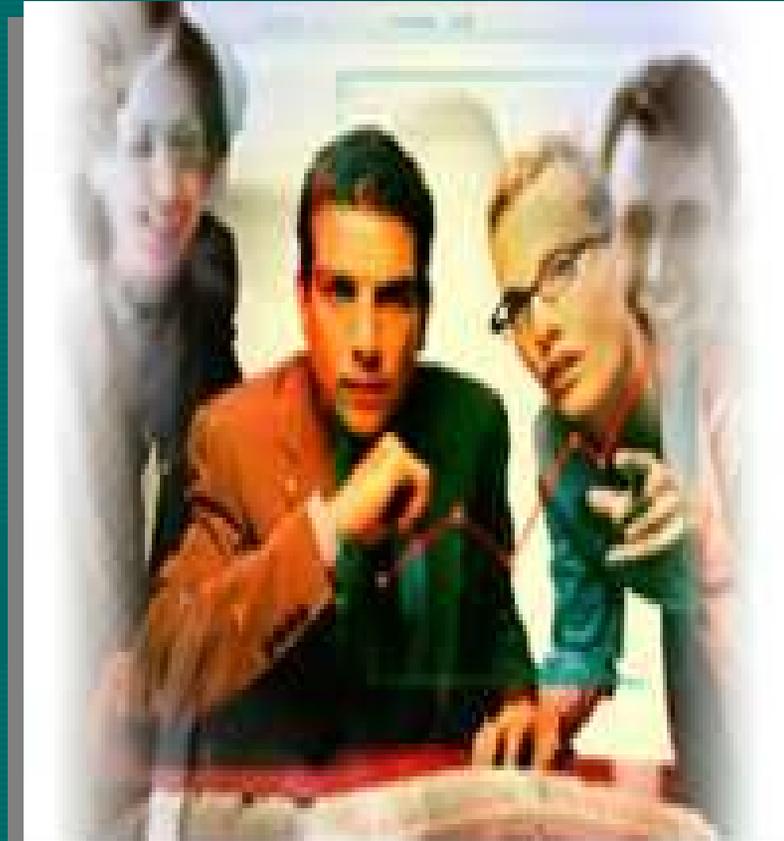
*Discrimination Complaint Procedure (4.10.1)*

*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

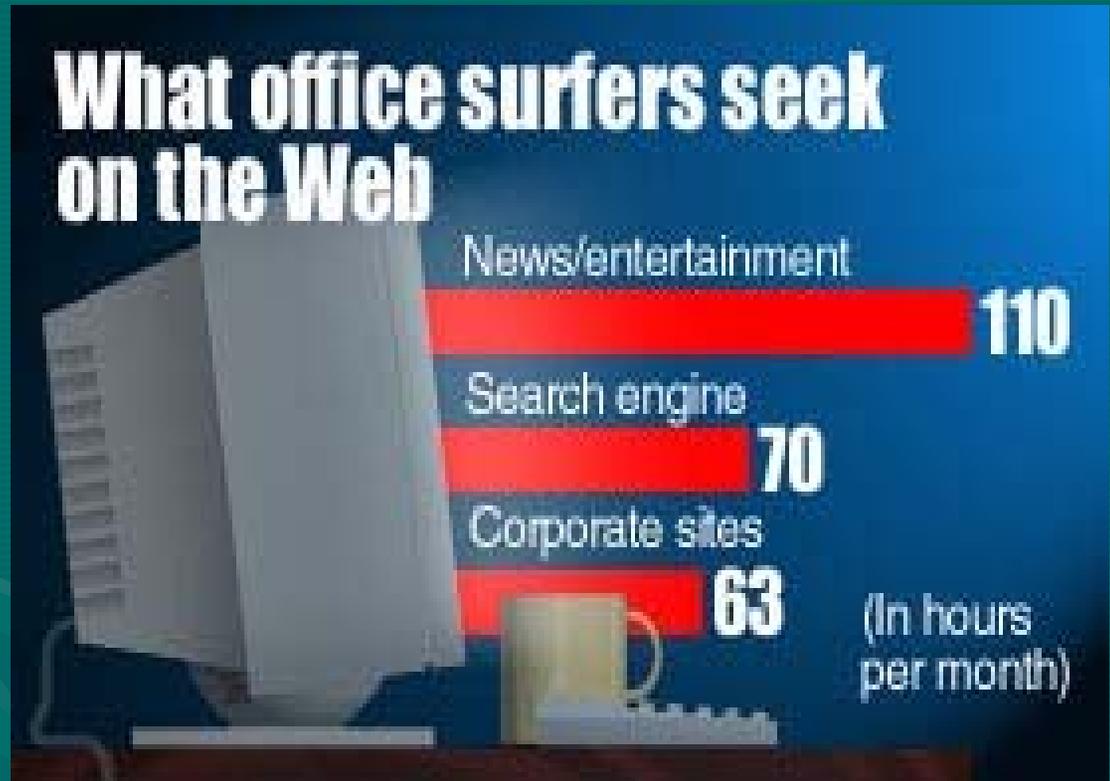
Perception

Analysis

Findings

Conclusions

Action



# Rights and Responsibilities

- Supervisors' Rights
  - Employee Rights
  - Everybody's Rights
- 
- Supervisors' Responsibilities
  - Employee Responsibilities
  - Everybody's Responsibilities



*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*

# *Access Requirements*

*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*



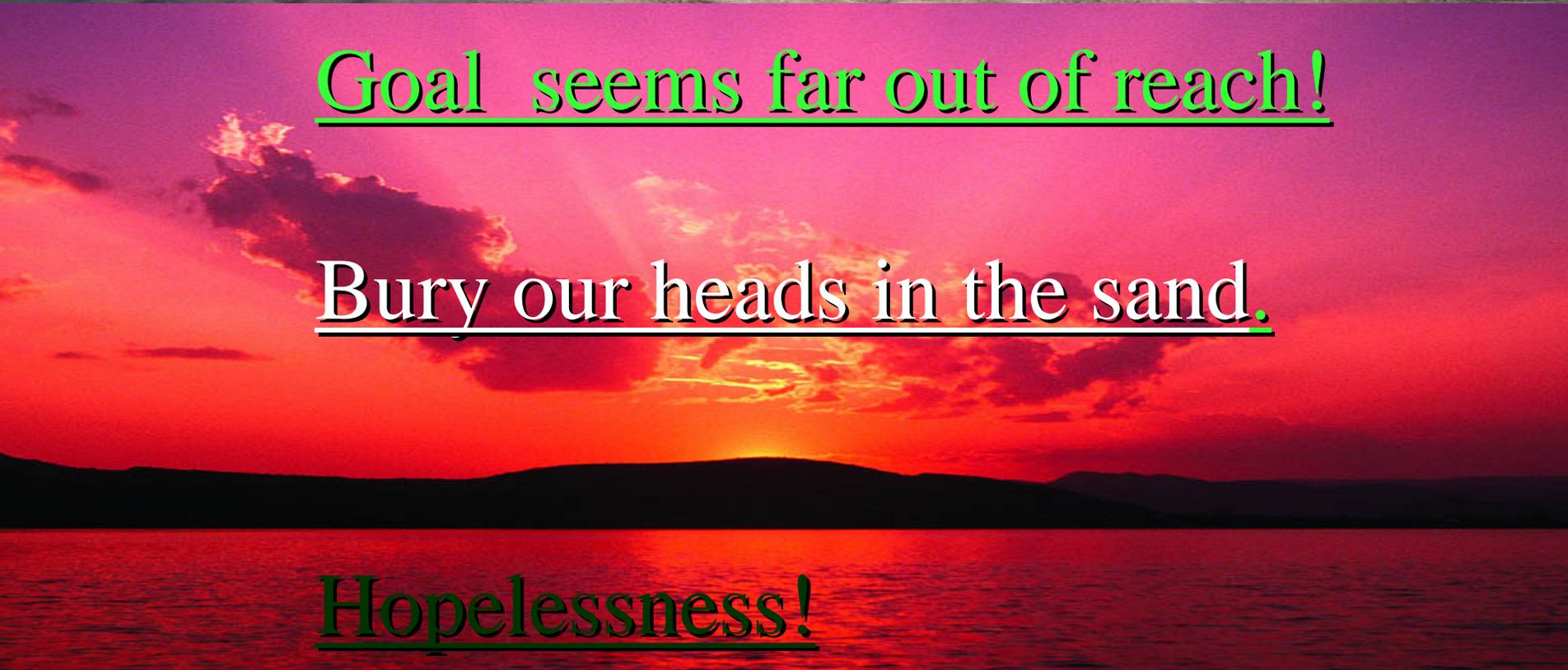
# *Limited English Proficiency*

A white dove stands on a sandy beach, casting a shadow to its left. The background is a vast expanse of sand with some faint tracks.

Goal seems far out of reach!

Bury our heads in the sand.

Hopelessness!

A vibrant sunset scene with a bright orange and red sky. The sun is low on the horizon, casting a glow over a dark silhouette of mountains and a body of water in the foreground.

# 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!



## Example

**The U. S. Department of Health and Human Services found that frequently LEP persons are unable to obtain basic knowledge of how to access benefits and services for which they are eligible.**

**Such benefits and services include and are not limited to: Food Stamps, Medicare, Medicaid, TANF (Temporary Assistance to Needy Families), SCHIP (State Children's Health Insurance Program), and others.**

# Goals



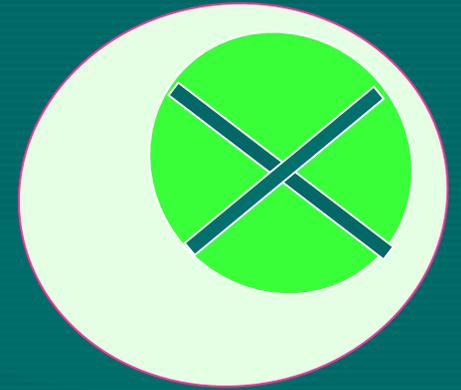
- **Prevent National Origin Discrimination**
- **Take affirmative steps to ensure that individuals with language needs understand their rights and our services**
- **Enhance communication by providing specific interpreter and translation services free of charge to individuals who need it**

# Opportunities



- We have an opportunity to ensure that we provide LEP individuals with meaningful access to DHS programs and services
- As a recipient of Federal funds we are prohibited from discriminating against clients, applicants, potential applicants and employees based on national origin as it affects persons with LEP.
- We at DHS have an opportunity and obligation to provide services that are free from discriminatory practices.

# 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.

# Assurances

Applicant assures and certifies that:

**It will comply and assure the compliance of all its **SUBGRANTEES AND CONTRACTORS....****

**It will comply, and its contractors will comply, with nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968 (and other Federal and State civil rights statutes and regulations).**

**In the event a Federal or State court or administrative agency makes a finding of discrimination AFTER A DUE PROCESS HEARING ON THE GROUND OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX OR DISABILITY against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.**

**It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for \$500,000 or more.**

# 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

- 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
  - Extended to 15 in 2008

# 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 April 2008 Interpreter List also.)**

# 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

# Complaint Process



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

# 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



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

# Additional Resources

## Who you gonna call?

- Bi-lingual Access Line
- Languages Unlimited  
<http://www.languagesunlimited.com>  
[language60@aol.com](mailto:language60@aol.com)
- FreeTranslation.com <http://ets.freetranslation.com>
- Alameda County Telelanguage, Inc.
- American Telesource, Inc. [Cmetinko@cctimes.com](mailto:Cmetinko@cctimes.com)
- <http://www.justcommunication.co.uk> (deaf communication)
- Pacific Gateway

# 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

# 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 7<sup>th</sup> Street, NW  
Washington, D. C. 20531

(202) 307-0690

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

(808) 586-8636



# Questions



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

**Please read, think and act.**

Please read, think and act.

# 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?

# Summary

- What we learned
- Ways we can apply what we learned
- Next Step/s (action plan)
- Feedback (verbal)
- Reactions (written)



# Please lend a hand!

**Together** we can prevent and/or eliminate discriminatory practices in employment and in meeting service needs of clients, applicants and potential applicants.



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*THANK  
YOU*



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