

Resolution Agreement
Hawaii State Department of Education
OCR Case No. 10121037

I. INTRODUCTION

The Hawaii State Department of Education (HIDOE) voluntarily agrees to resolve the allegations in OCR Reference No. 10121037 filed with the U.S. Department of Education, Office for Civil Rights, under Title VI of the Civil Rights Act of 1964 (Title VI).

II. RESOLUTION PROVISIONS

A. Design and Implementation of the Alternative Language Program at Kealakehe High School (KHS)

1. HIDOE will review and revise its procedures, as necessary, to ensure that all eligible ELL students at KHS receive alternative language services until the students meet HIDOE's criteria to exit the alternative language program. At a minimum, these revisions will include guidelines for: placing ELL students into ELD courses based on proficiency level; placing ELL students into sheltered instruction and/or general education content courses based on proficiency level; and documenting the reason for any ELL student who is not placed into alternative language program in accordance with the procedures.
2. HIDOE will review, revise and/or develop, as necessary, its procedures regarding the provision of services to ELL students who opt out of HIDOE's alternative language program. Specifically, these procedures will include, but need not be limited to, the following: (a) notification to each ELL student's parent/guardian, in a language they understand, about the results of the assessment of the student and the potential benefits derived from participation in the KHS alternative language program; (b) the process by which the student's parent/guardian may decline ELL services, such as receipt of a written request from the parent/guardian; and (c) the process HIDOE will use to monitor the academic progress of ELL students whose parents opt out of the alternative language program, to ensure that the students are able to participate meaningfully in the regular instructional program, which may include offering additional support, such as tutoring, as appropriate.
3. **Reporting Requirements:**
 - a) By **June 3, 2019**, HIDOE will submit to OCR, for its review and approval, a draft of the procedures developed in accordance with sections II.A.1 and 2. If OCR requires revisions to the procedures, HIDOE will re-submit the procedures to OCR within 30 days of receiving notice of the revisions. OCR and HIDOE will follow this process until OCR approves the procedures.

- b) By **[January 6, 2020]**, HIDOE will submit to OCR documentation of its implementation of the procedures in section II.A.1 and 2 during the 2018-2019 school year.
 - c) By **[May 29, 2020]**, HIDOE will submit to OCR documentation of its implementation of the procedures in section II.A.1 and 2 during the 2019-2020 school year.
 - d) By **[June 1, 2021]**, HIDOE will submit to OCR documentation of its implementation of the procedures in section II.A.1 and 2 during the 2020-2021 school year.
4. HIDOE will establish one or more placement teams at KHS to review each ELL student's pertinent information and make placement determinations regarding the student's participation in or exit from HIDOE's alternative language program, including content courses. The members of the placement team will, at a minimum, meet annually, and include an ELD teacher, a counselor, and a campus administrator (e.g., principal, assistant principal). The team will have the authority to determine the type and amount of language development services to be provided to each student, including whether the student will be placed in an ELD class and sheltered instruction or general education courses. The team should also consider graduation requirements and normal sequencing of courses (i.e. Algebra 1, Geometry, Algebra 2) when making course selections for the student. If general education courses required for graduation, or otherwise available to non-ELL students, are not available in a sheltered instruction format, the team will consider the amount of support the student will receive in the general education content course.
 5. HIDOE will convene a placement team for each student at KHS who was eligible for alternative language services during the 2018-2019 school year and make placement decisions and course selection for the 2019-2020 school year. This action will include any student currently enrolled at KHS and any incoming 9th graders from other HIDOE schools.
 6. HIDOE will convene an initial placement team meeting for each newly enrolling ELL eligible student at KHS for the 2019-2020 school year.
 7. Annually, HIDOE will convene a placement team for each eligible ELL student at KHS and make placement and course selection for the upcoming school year.
 8. **Reporting Requirements:**
 - a) By **[September 16, 2019]**, HIDOE will provide to OCR documentation demonstrating that HIDOE convened a placement team for each ELL student to review the students' pertinent information and make placement determinations

regarding the student's participation in HIDOE's alternative language program for the 2019-2020 school year.

- b) By **[September 16, 2020]**, HIDOE will provide to OCR documentation demonstrating that HIDOE convened a placement team for each ELL student to review the students' pertinent information and make placement determinations regarding the student's participation in HIDOE's alternative language program for the 2020-2021 school year.
9. HIDOE will develop a system to maintain records for all ELL students at KHS, which will include each ELL student's name, school, grade level, assessment results, proficiency level, whether the student has opted out of HIDOE's ELL program, and the provision of appropriate language services, including the type, amount, and time of services to be provided, the sheltered instruction content courses in which the student is enrolled, the general education courses in which the student is enrolled and the type and amount of support services for the student in those general education content courses.
10. **Reporting Requirement:** By **[September 16, 2019]**, (for the 2019-2020 school year) and by **[September 16, 2020]**, (for the 2020-2021 school year), HIDOE will submit to OCR the updated roster of all ELL students at KHS and the following information:
 - a) The total number of ELL students enrolled by grade level and proficiency level;
 - b) The total number of ELL students who receive alternative language program services;
 - c) The total number of ELL students exited from HIDOE's alternative language program from the previous school year;
 - d) The total number of ELL students who are opted out of HIDOE's alternative language program;
 - e) For each ELL student provided alternative language program services, the student's grade level, proficiency level, and services provided (including duration of services, e.g., 45 minutes/5 times a week) and class schedules;
 - f) For each ELL student not included in the alternative language program, the student's grade level, proficiency level, class schedules, reason for not receiving services, and a statement of the language support services being provided to the student and description of the student's academic progress and whether they are able to participate meaningfully in the general education program.

- g) For each ELL student who is provided alternative language services in a manner that deviates from HIDOE's chosen alternative language program, the student's grade level, proficiency level, services provided, class schedules, and reason for deviating from the chosen alternative language program.

B. Course Offerings and Graduation Requirements at KHS

1. HIDOE will convene a committee of teachers (to include ELD, sheltered instruction, and general education teachers), counselors, and administrators at KHS to review KHS's current sheltered instruction course offerings. The committee will determine whether there is a need to expand KHS's sheltered instruction course offerings, and if so, develop a plan for such expansion. The committee will consider graduation requirements and the normal sequence of courses (e.g., Algebra 1, Geometry, Algebra 2) when making its decisions.
2. **Reporting Requirement:** By [**June 3, 2019**], HIDOE will submit to OCR documents relevant to the committee's work, including, but not limited to: a list of all committee members and their titles, the dates of all meetings, minutes or all meetings, any reports created or utilized by the committee when making their decisions, and the final recommendations of the committee.
3. KHS will implement the committee's recommendations.
4. **Reporting Requirement:** By [**August 5, 2019**], HIDOE will submit to OCR documentation demonstrating that KHS has implemented the committee's recommendations.

C. Staffing for the Alternative Language Program at KHS

1. HIDOE will ensure that there are a sufficient number of appropriately certified and trained teachers for providing ELD services at KHS.
2. HIDOE will ensure that the teachers assigned to sheltered instruction courses are appropriately certified to teach that course and are provided adequate training or have appropriate expertise to provide sheltered content instruction to ELL students.
3. To the extent HIDOE does not have the necessary certified, trained teachers for its ELD and sheltered instruction courses for the 2019-2020 school year, HIDOE will identify and describe the interim steps it will take to provide staffing for the alternative language program, including: the continuing efforts HIDOE is making to recruit certified, trained staff members to implement the alternative language program; and the steps HIDOE will take to ensure the availability and placement of certified, trained staff members to implement the alternative language program. This

may include using current teaching staff members who have the credentials to teach in the alternative language program.

4. **Reporting Requirement:** By [August 5, 2019], HIDOE will provide OCR with documentation describing how it will staff its alternative language program, including staffing of ELD and sheltered content courses, for the 2019-2020 school year. This shall include the names and qualifications of teachers at KHS (including their certification and training as ELD and/or sheltered content teachers) as well as their projected daily schedules and number of ELL students for each ELD and sheltered content classroom period identified. Additionally, if HIDOE does not have an appropriate number of certified and trained teachers to adequately staff its alternative language program for the 2019-2020 school year, HIDOE will explain the interim steps it will take to provide adequate staffing for its alternative language program. By [May 29, 2020], HIDOE will provide documentation regarding the interim steps taken during the 2019-2020 school year.

D. Reclassification and Exiting of Students at KHS

1. HIDOE will identify and describe the criteria that it will use to determine when an ELL student has obtained sufficient proficiency in English to exit the alternative language program, including both ELD and sheltered content courses. At a minimum, these criteria will provide for the following: (a) the determination of English language proficiency is based on objective standards by using language proficiency test scores, in which HIDOE can demonstrate that students meeting those standards will be able to participate meaningfully in the general education classroom; and (b) the ELL students exiting alternative language services exhibit English reading, writing, speaking, and comprehension skills that would indicate they can participate meaningfully in HIDOE's general education program.
2. **Reporting Requirement:** By [June 3, 2019], HIDOE will submit to OCR the exiting criteria being implemented by HIDOE as outlined in section II.D.1.
3. HIDOE will implement the criteria with respect to placement decisions for individual ELL students as outlined in Section II.A.4 above.
4. **Reporting Requirement:** By [June 17, 2020] and [June 17, 2021], HIDOE will provide to OCR a list of students who have exited the alternative language program during the preceding school year, their proficiency test scores, and course schedules.

E. Program Evaluation and Modification at KHS

1. HIDOE will review, revise and/or develop, as necessary, a procedure to measure the effectiveness of its alternative language program at KHS. The procedure

- will include an evaluation of its chosen alternative language program with cohort longitudinal data comparing ELL versus non-ELL students, and ELL students in the program versus ELL students not in the program. Factors to be compared will be, at a minimum, student performance, proficiency levels, attendance, retention, and graduation rates.
2. **Reporting Requirement:** By **June 17, 2019**, HIDOE will submit to OCR a copy of its procedure to measure the effectiveness of its alternative language program. If OCR requires revisions to the procedure, HIDOE will re-submit the procedures to OCR within 30 days of receiving notice of the revisions. OCR and HIDOE will follow this process until OCR approves the procedures.
 3. HIDOE will evaluate its alternative language program pursuant to its procedure to measure the effectiveness of its alternative language program.
 4. **Reporting Requirement:** By **September 16, 2020**, (for the 2019-2020 school year) and by **September 16, 2021** (for the 2020-2021 school year) HIDOE will submit to OCR a copy of its evaluation and any modifications made to its alternative language program as a result of the evaluation. If OCR identifies concerns with HIDOE's evaluation and modification of its alternative language program, HIDOE will address OCR's concerns within 30 days of receiving notice of the concerns. OCR and HIDOE will follow this process until OCR approves HIDOE's evaluation and modification.

F. Parental Communication at KHS

1. HIDOE will review, revise and/or develop, as necessary, its policies, procedures and practices at KHS with respect to communicating with national origin minority limited-English-proficient (LEP) parents to ensure that such parents are notified, in a language understood by the parents, of school activities and other information and matters that are called to the attention of other parents. Specifically, the procedures will include the following:
 - a) A description of how HIDOE will provide language assistance services, including interpreters and written translations, to LEP parents, including parents from less predominant language groups.
 - b) A description of how HIDOE will identify and track LEP parents who require communication in a language other than English, including ensuring that teachers, administrators, and central office personnel are notified of these LEP parents.
 - c) A description of how HIDOE will inform HIDOE staff of how they may obtain, in a timely manner, language assistance services, including qualified translators or interpreters as needed (this could include through the use of various services, such as onsite translators/interpreters, telephonic translators/interpreters, and effective

translation programs); the process will also notify appropriate staff of the applicable record keeping procedures and reporting requirements; HIDOE's means for providing these services must be well-publicized and accessible to staff.

- d) A description of how HIDOE will provide notice to LEP parents, in a language that the parents can understand, of the availability of free language assistance services (as described in c. above) with respect to school programs and activities and information as to how this assistance may be obtained. The notice will, at a minimum, be published on KHS's website, in the student and parent handbooks, and in any school-based newsletters. The notification will also provide parents with a contact person who can answer any questions regarding parental communication and assist parents to access interpreter services or translated documents.
 - e) A description of how HIDOE will ensure that all of its interpreters and translators are competent to provide interpretation and translation services and have been appropriately trained on the role of an interpreter and translator, the ethics of interpreting and translating, and the need to maintain confidentiality.
 - f) A description of how, when HIDOE generates and sends commonly used documents to parents of students enrolled in KHS, KHS will send the documents to identified LEP parents in a language they can understand; and, where translation is impractical due to the low incidence of the language, how HIDOE will advise parents of who to contact in HIDOE if they need assistance in understanding notices and will provide oral interpretation as necessary for the parents.
2. **Reporting Requirement:** By **[June 17, 2019]**, HIDOE will submit to OCR a copy of its revised policies and procedures concerning parental communication. If OCR requires revisions to the procedures, HIDOE will re-submit the procedures to OCR within 30 days of receiving notice of the revisions. OCR and HIDOE will follow this process until OCR approves the procedures.
 3. HIDOE will adopt and begin implementing the procedures.
 4. **Reporting Requirement:** By **[May 29, 2020]** and **[June 1, 2021]**, HIDOE will submit to OCR documentation of its implementation of the policy or procedure in action item II.F.1 for the proceeding school year. Documentation shall include but is not limited to copies of notices sent to LEP parents of the availability of free language services, list of individuals who requested such services and description of when and what services were provided, and the name and credentials of all interpreters and translators.
 5. HIDOE will provide training to HIDOE administrators and other staff members

involved in the provision of interpreter and translation services on the revised procedures.

6. **Reporting Requirement:** By **[September 16, 2019]**, HIDOE will submit to OCR documentation of the training HIDOE provided administrators and other staff members involved in the provision of interpreter and translation services on the revised procedures, including copies of training schedules, a brief description of the training, the name and credentials of the individual responsible for providing the training, and the names and titles of those in attendance.
7. HIDOE will provide notice to LEP parents of the changes to the procedures and submit to OCR a copy of the notice provided to LEP parents.
8. By **[September 16, 2019]**, HIDOE will provide to OCR documentation of the notice HIDOE provided to LEP parents of the changes to the procedures and submit to OCR a copy of the notice provided to LEP parents.

III. GENERAL PROVISIONS

- A. HIDOE understands that by signing the Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, HIDOE understands that during the monitoring of the Agreement, if necessary, OCR may visit HIDOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether HIDOE has fulfilled the terms of the Agreement. Upon HIDOE's satisfaction of the commitments made under the Agreement, OCR will close the case.
- B. HIDOE understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR will give HIDOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

April 3, 2019

Dr. Christina M. Kishimoto
Superintendent
Hawaii State Department of Education

Date