

## RESOLUTION AGREEMENT

### I. INTRODUCTION

The Hawaii Department of Education (“Hawaii DOE”) enters into this agreement to resolve the allegations in complaints (Reference Nos. 10151163 and 10161066) filed with the Office for Civil Rights (OCR) of the U.S. Department of Education, under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and Title II of the Americans with Disabilities Act of 1990 (“Title II”).

### II. REMEDIAL AND REPORTING PROVISIONS

- A. Nondiscrimination notice. Hawaii DOE shall ensure that its notice of nondiscrimination based on disability is included in its A+ After-School Plus Program Parent Handbook, both in electronic and print form. Hawaii DOE shall also ensure that Kama’aina Care, Incorporated, doing business as “Kama’aina Kids,” provides a copy of the A+ After-School Plus Program Parent Handbook to parents enrolled in a “Kama’aina Kids” A+ programs and provides a link to the same on the “Kama’aina Kids” website.<sup>1</sup>

#### Reporting Provision

Within 90 calendar days of the date of this agreement, Hawaii DOE will submit to OCR the text of the nondiscrimination notice, evidence of the publication of the nondiscrimination notice in accordance with section II.A. of this agreement, and a description of how and where the nondiscrimination notice was published.

- B. Training. Within 180 calendar days of the date of this agreement, Hawaii DOE shall deliver training to all Hawaii DOE West Hawaii Division principals whose schools have an A+ program run by Kama’aina Kids, and all West Hawaii DOE district A+ program coordinators, about all Hawaii DOE A+ program regulations, policies, and procedures related to children with disabilities (including those related to termination or suspension, modifying the program, and providing accommodations). Hawaii DOE will ensure that Kama’aina Kids delivers the same training to its A+ program administrators, managers, supervisors, and site coordinators.

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<sup>1</sup> In August 2018, OCR approved Hawaii DOE’s nondiscrimination notice based on disability for the notice Hawaii DOE submitted to OCR for another case, OCR Reference No. 10115003.

Reporting Provision

Within 30 calendar days of the date of delivering the training required by section II.B. of this agreement, Hawaii DOE will submit to OCR documentation that the training has been delivered. The documentation will include a list of invitees and attendees and their position titles, a description of the training content, and the presenters' credentials for providing such training.

- C. A+ Program Visitation Checklist. Hawaii DOE shall include in its After-School Plus (A+) Program Visitation Checklist for Private Providers and other evaluation material a requirement that the program be evaluated for compliance with Section 504, Title II, and all Hawaii DOE A+ program regulations, policies, and procedures related to children with disabilities. Within 30 calendar days of receiving OCR's approval of the checklist and other evaluation material, Hawaii DOE will implement and disseminate the checklist and other evaluation material.

Reporting Provisions

1. Within 180 calendar days of the date of this agreement, Hawaii DOE will submit, for OCR's review and approval, the proposed A+ program visitation checklist and other evaluation material required by section II.C. of this agreement. If OCR requires any changes to the A+ program visitation checklist and other evaluation material, Hawaii DOE will make the changes and resubmit the A+ program visitation checklist and other evaluation material within 20 calendar days of receiving OCR's required changes. OCR and Hawaii DOE will follow the same process until OCR approves the checklist and other evaluation material.
  2. Within 45 calendar days of receiving OCR's approval of Hawaii DOE's A+ program visitation checklist and other evaluation material, Hawaii DOE will provide OCR with copies of the checklist and other evaluation material and documentation of their dissemination and implementation.
- D. Self-Evaluation of Significant Assistance. Hawaii DOE shall conduct a self-evaluation of whether it is providing "significant assistance" to Kama'aina Kids within the meaning of the Section 504 implementing regulation at 34 C.F.R. § 104.4(b)(1)(v) or the Title II implementing regulation at 28 C.F.R. § 35.130(b)(1)(v) by allowing the operation of intersessions and summer day

camp programs held at XXXXXXXXXXXX Elementary School. If Hawaii DOE determines that it is providing significant assistance to the Kama'aina Kids intersessions and summer day camp programs—after analyzing financial support, provision of tangible resources (e.g., staff, equipment, and facilities), intangible benefits (e.g., recognition and approval), the terms under which Hawaii DOE provides similar privileges and resources to other organizations, and whether the relationship is occasional and temporary or permanent and long-term—Hawaii DOE will extend the substantive and reporting requirements contained in sections II.A. and II.B. of this agreement to the Kama'aina Kids programs in the same manner as it carries out those requirements as they relate to the A+ program, to ensure that Kama'aina Kids' intersessions and summer day camp programs do not discriminate against students based on disability.

#### Reporting Provision

Within 90 calendar days of the date of this agreement, Hawaii DOE will submit a report to OCR containing a description of the self-evaluation it conducted consistent with section II.D of this agreement, including any documents Hawaii DOE reviewed, and Hawaii DOE's determination regarding whether it is providing significant assistance to the Kama'aina Kids intersessions and summer day camp programs held at XXXXXXXXXXXX Elementary School. If OCR requires any additional information regarding Hawaii DOE's determination, Hawaii DOE will submit the additional information within 20 calendar days of receiving OCR's request for the additional information. OCR and Hawaii DOE will repeat this process until OCR approves Hawaii DOE's self-evaluation and determination.

- E. Individual student. Hawaii DOE shall send a letter to the parents of the student who is the subject of the complaints that includes an assurance of Hawaii DOE's commitment to respond appropriately to complaints of discrimination based on disability in any Hawaii DOE program, service, or activity and the steps it will take as part of this agreement.

#### Reporting Provisions

1. Within 90 calendar days of the date of this agreement, Hawaii DOE will submit, for OCR's review and approval, the letter required by section II.E. of this agreement. If OCR requires any changes to the letter, Hawaii DOE

will make the changes and resubmit the letter within 20 calendar days of receiving OCR's required changes. OCR and Hawaii DOE will follow the same process until OCR approves the letter.

2. Within 30 calendar days of receiving OCR's approval, Hawaii DOE will submit to OCR the approved letter, evidence of the letter having been sent to the parents and a description of the method for sending the letter (such as by mail or e-mail).

### III. GENERAL PROVISIONS

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

This agreement will become effective immediately upon the signature of Hawaii DOE's representative below.

\_\_\_\_\_/s/\_\_\_\_\_  
Dr. Christina M. Kishimoto  
Superintendent  
Hawaii Department of Education

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October 5, 2018  
Date