

VOLUNTARY RESOLUTION AGREEMENT

Hawaii Department of Education (HDOE) voluntarily agrees to take the following actions to resolve the allegations in a complaint (Reference No. 10171046) filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), under Title VI of the Civil Rights Act of 1964 (Title VI) and Title IX of the Education Amendments of 1972 (Title IX).

A. Review of Policies, Procedures and Practices

Action Items

1. HDOE will review, revise and/or develop, as necessary, its policies, procedures and practices (procedures) at XXXXXXXX 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 HDOE 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 HDOE 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.
 - c. A description of how HDOE 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.
 - d. A description of how HDOE will provide notice to LEP parents, in a language that the parents can understand, about the availability of free language assistance services 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 HDOE's website, in the student and parent handbooks, and in any district-wide or 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.

2. HDOE will review, revise and/or develop, as necessary, its procedures at XXXXX with respect to communicating with English-Language Learner (ELL) students regarding the provision of interpretation and/or translation services as necessary to ensure meaningful participation in school or district discipline, complaint, or grievance investigations and proceedings. The procedures will describe how HDOE will identify and track the ELL students who may require translation or interpretation services in order to meaningfully participate in such proceedings, and how HDOE will ensure such services are provided in a prompt and effective manner.
3. HDOE will adopt and begin implementing the procedures.

Reporting Requirements

4. By January 15, 2019, HDOE will submit to OCR for review and approval a draft of the proposed procedures developed in accordance with sections A.1 and A.2. If OCR requires changes to the procedures, HDOE will re-submit the procedures to OCR for review and approval within 30 days of receiving notice of the revisions required by OCR. OCR and HDOE will follow the same process until OCR approves the procedures.
5. Within 30 days of receiving OCR's approval of the procedures, HDOE will provide documentation to OCR demonstrating its compliance with section A.3, including a copy of the finalized procedures and documentation establishing that they have been adopted and that HDOE is implementing them. The documentation shall include copies of notices sent to LEP parents regarding the availability of free language services, a list of individuals who requested such services, when the services were provided, what services were provided, and the name and credentials of all interpreters and translators who provided each requested service.

B. Training

Action Items

1. HDOE will develop training materials and provide training for administrators and other staff members at XXXXXX involved in the provision of interpretation and translation services to LEP parents, including all principals, vice principals, front/main office staff and teachers with ELL students at the school. The training will include, but need not be limited to, the following topics:

- a. An overview of HDOE's obligation under Title VI to provide language assistance services, including interpreters and written translations, to LEP parents, including parents from less predominant language groups.
 - b. Information regarding the specific steps that school staff are responsible for implementing under HDOE's procedures to secure language assistance services for LEP parents, including ensuring that all interpreters and translators are competent to provide interpretation and translation service, and the need to maintain confidentiality.
 - c. Information regarding how HDOE 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.
 - d. Information regarding how HDOE will provide notice to LEP parents of the availability of free language assistance services with respect to school programs and activities.
 - e. Information regarding who school staff members may contact if they have questions regarding communication with LEP parents and access to interpretation services or translated documents;
2. HDOE will develop training materials and provide training for all HDOE staff at the school, including all principals, vice principals, front/main office staff and teachers with ELL students at the school. The training will include information regarding how HDOE will ensure that ELL students are afforded an equitable opportunity to participate in investigatory and disciplinary proceedings, how HDOE will identify and track the ELL students who may require translation or interpretation services in order to meaningfully participate in such proceedings, and how HDOE will ensure such services are provided in a prompt and effective manner.

Reporting Requirements

3. By January 15, 2019, HDOE will submit to OCR for review and approval a draft of training materials developed in accordance with sections B.1, B.2 and B.3 and the name(s) and credentials of the individual(s) who will be providing the trainings. If OCR requires revisions to the training materials, HDOE will re-submit the training materials to OCR for review and approval within 30 days of receiving notice of the revisions required by OCR. OCR and HDOE will follow the same process until OCR approves HDOE's training materials.

4. Within 120 days of receiving OCR's approval of HDOE's training materials, HDOE will provide documentation to OCR demonstrating that it has provided the trainings in accordance with sections B.1, B.2 and B.3, including a copy of all training materials, the date of the training(s), a copy of the attendance sheet, and the name, title, and qualifications of the trainer.

C. Student-Specific Actions

Action Items

1. HDOE will send a letter to the student's parents, in English and in Spanish, inquiring whether they wish to have HDOE proceed with a further investigation of the student's complaint of sexual violence. The letter will allow the student's parents no less than 30 days to respond. Upon receiving a timely affirmative response, HDOE will (1) immediately reinstate an investigation into the student's complaint and (2) within 60 days of the receipt of the affirmative response issue a written determination of its findings, in English and Spanish, setting forth the following: (a) whether sexual harassment or sexual violence occurred; (b) appropriate remedies, if any, for the student—including counseling or academic services—per HDOE's findings regarding sexual harassment or sexual violence; and (c) the steps to be taken, as applicable, to prevent the recurrence of sexual harassment or sexual violence and notice of the student's appeal rights (if applicable under HDOE procedures). If steps are identified as being necessary to prevent the recurrence of sexual harassment or sexual violence, HDOE will (3) develop an action plan for taking the necessary steps as well as reasonable timeframe(s) for their delivery.
2. HDOE will provide the appropriate remedies, if any, to the student and take the steps deemed necessary to prevent the recurrence of sexual harassment by the date identified in its action plan, unless an amendment is approved by OCR in accordance with the process outlined in section C.3. Should OCR approve an amendment to HDOE's action plan, HDOE will provide the appropriate remedies, if any, per the amendment(s) approved by OCR.

Reporting Requirements

3. By October 1, 2018, HDOE will submit to OCR a copy of HDOE's letter to the student's parents. If the student's parents timely requested that HDOE proceed with a further investigation of the student's complaint of sexual violence, HDOE will also submit its written findings and action plan as required under section C.1.

Should HDOE determine that remedies and preventative steps are not appropriate for the student based on HDOE's findings regarding the occurrence of sexual harassment or sexual violence, then, in lieu of an action plan, HDOE will provide to OCR a description of any and all information considered by HDOE in reaching its decision (including copies of any academic, behavioral, or attendance records reviewed), the names and titles of the individuals consulted as part of the deliberative process (including the student and/or student's parents), and a narrative explanation of why remedies and/or preventative steps were deemed to be inappropriate.

If OCR requires revisions to HDOE's submissions, HDOE will re-submit them to OCR for review and approval within 30 days of receiving notice of the revisions required by OCR. OCR and HDOE will follow the same process until OCR approves HDOE's submissions. If, after obtaining OCR's approval of its submissions, it becomes necessary to amend the nature or duration of services set forth in HDOE's action plan, or the timeframe(s) for their provision, HDOE will submit a written amendment to OCR for review and approval, including any documentation necessary to support the amendment.

4. Within 30 days of the timeframe(s) specified in HDOE's action plan or as amended per section C.3, HDOE will provide documentation to OCR demonstrating its compliance with section C.2, including a copy of any and all records, receipts, logs, or other documentation generated in the course of implementing the action plan.

D. General Monitoring Principles

1. HDOE 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, HDOE understands that during the monitoring of the Agreement, if necessary, OCR may visit HDOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether HDOE has fulfilled the terms of the Agreement. Upon HDOE's satisfaction of the commitments made under the Agreement, OCR will close the case.

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2. HDOE 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 HDOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Signed:

/s/

September 12, 2018

Dr. Christine M. Kishimoto
Superintendent
Hawaii Department of Education

Date