INTRODUCTION

The Department of Human Services (DHS) will strive to provide meaningful access to its programs, services, activities, facilities, and employment.

This policy has legal authority pursuant to 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, Titles I and II of the Americans With Disabilities Act of 1990, among others, as well as the Hawaii Revised Statutes, including and not limited to Chapters 371 and 378 as amended.

State and Federally-funded programs must be planned and administered such that they do not have the effect of denying or delaying services, facilities access, or employment, to any particular person or groups of persons.

1.0 PURPOSE/S

The primary purpose of this policy is to reduce barriers and improve availability of and access to human services at the DHS by providing and maintaining reasonable and meaningful language, facilities and employment access to support human services.

2.0 REFERENCES, ACRONYMS AND DEFINITIONS SEE APPENDIX A

3.0 POLICY

It is the policy of the Department of Human Services (DHS) that all individuals shall be provided equal access to programs, services, activities, facilities and employment in all DHS functions. The goal of this policy is to remove and prevent any barriers to equal access.

4.0 SCOPE

This policy applies to all DHS organizational divisions and their units, agencies, commissions, individuals, and organizations that receive State and/or Federal funds through contracts or other arrangements with the DHS.

5.0 RESPONSIBILITIES

Administrative Appeals Office is responsible for developing, implementing and evaluating Fair Hearing procedures and processes in provision of DHS services.

Civil Rights Compliance Staff/Personnel Office is responsible for developing and coordinating DHS' Language Access, Self-Evaluation, and Affirmative Action Compliance Plans. Also serves as liaison between Federal and State agencies and other stakeholders, such as advocacy groups and/or potential applicants; provides technical assistance to divisions, administratively attached agencies, and commissions; responds to inquiries from the Equal Employment Opportunity Commission, Hawaii Civil Rights Commission, U. S. Department of Housing and Urban Development and others, as well as performing other duties relative to Civil Rights compliance in programs, services, activities, facilities and employment, such as reporting, training and development. The Civil Rights Staff shares responsibility with divisions, agencies and commissions for DHS policies and procedures, compliance reporting, training, and the development of tools, notices/documents, processes and training modules relating to civil rights compliance. This office may share with divisions the responsibility for developing private/public partnerships to facilitate access.

Director The DHS Director is responsible for leading and monitoring the implementation and prevention of barriers to language, facilities and employment access at the Department of Human Services. The Director may delegate any portion to a deputy director, staff officers and/or division administrators.

Employees All DHS employees are responsible for complying with Federal and State laws, relating to civil rights, including and not limited to treating all individuals equally and courteously, informing persons of their right to equal access to programs, facilities and employment as well as their right to free interpreter service, reasonable accommodation as justified, and a 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. Employees are responsible for notifying clients of their right to a fair hearing when there has been an adverse action such as a denial of benefits.

DHS Organizational Division and Unit Administrators and Officers are responsible for determining the needs of the population they serve, considering language, culture, and physical accessibility to facilities and employment that are consistent with those needs in compliance with Federal and State Laws. Other responsibilities include, but are not limited to: (l) distributing to appropriate staff members policies and procedures regarding access, a desk guide, required notices, and a list of available language and other assistance services, (2) consulting with the Civil Rights Compliance Staff on the development and implementation of staff training, (3) collecting and analyzing internal and external data, and (4) notifying and monitoring sub-recipients of compliance with Federal and State Laws and assurances (5) performing other duties as identified in DHS policies and procedures,

including seeking external funding and partnerships as needed and appropriate in coordination with the Civil Rights Compliance Staff.

Sub-Recipients are responsible for complying with civil rights, and other Federal and State laws and assurances, including and not limited to, informing clients and potential clients of their right to free interpreter service, reasonable accommodation as justified, and a right to file a discrimination complaint when they feel their civil rights have been violated or an interpreter has not been provided.

Contractors and sub-contractors are responsible for providing reasonable, meaningful access to their services and for posting required notices.

Supervisors are responsible for ensuring that their staff are aware of their responsibility to treat all clients and applicants equally and fairly, and to provide assistance to persons with special needs. Supervisors shall also ensure that clients, applicants, recipients, and employees are informed of their right to nondiscriminatory services and employment, reasonable accommodations as justified, and right to file a discrimination complaint and/or request a fair hearing. Supervisors are responsible for assuring that their staff are adequately trained, and for monitoring, posting, and updating of required notices.

## 6.0 IMPLEMENTATION

With the approval of this Access Policy by the Director, DHS' policy shall be implemented and will remain in effect until such time it is cancelled or superseded by order of the Director.

APPROVED: Lillian B. Koller

Lillian B. Koller, Director

## 7.0 PROCEDURES

### 7.1 LANGUAGE ACCESS

The Department of Human Services (DHS) recognizes that Limited English Proficient (LEP) individuals need language assistance services to access and fully participate in programs and services as well as employment and other activities. DHS is, therefore, committed to providing competent language assistance at no cost and in a timely manner to LEP individuals. This includes ensuring effective communication between DHS staff members and/or sub-recipients and LEP individuals. Procedures and processes will be developed by the Department. Divisions, sections, units and administratively attached agencies, commissions, and sub-recipients will assist the Civil Rights Compliance Staff by taking the following steps:

(1) Assessing and determining linguistic needs of population served
(2) Providing timely and competent language assistance
    a. Providing language assistance Resources, such as "I Speak" cards
    b. Determining language need of each LEP Individual
    c. Notifying LEP individuals of availability of free language assistance
    d. Requesting an American Sign Language (ASL) interpreter
    e. Requesting oral language interpreters
    f. Translating written documents as required by law or DHS contract
(3) Distributing and complying with interpreter standards set by funding agencies
(4) Using family, friends, and other volunteer interpreters when qualified and appropriate only

The Department has taken or will take the following steps:

(1) Develop a reporting system designed to obtain key information about the LEP population who use DHS services or have the potential for doing so
(2) Compile comprehensive listing of bilingual/multilingual DHS employees
(3) Send notices of available interpretation/translation services to LEP individuals
(4) Provide interpretation/translation services for qualified LEP individuals
(5) Designate a LEP Coordinator, Access Task Force to include representatives from divisions, administratively attached agencies and commissions
(6) Designate a representative from the Attorney General's office as needed
(7) Train DHS staff in Language Access
(8) Seek stakeholders' input in review and revision of its LEP Plan

Procedures and processes are delineated in DHS' LEP Plan, and include input from DHS' Access Task Force which is composed of a representative from all divisions, and administratively attached agencies or commissions, and the LEP Coordinator.

## 7.2 FACILITIES ACCESS

### Non-discrimination

No qualified individual with a disability is excluded from participation, denied the benefit of, or is otherwise subjected to discrimination by any program, service or activity (including and not limited to employment services) of the DHS on the basis of a disability.

### Self-Evaluation

State and local governments are required to conduct self-evaluations of services, policies and practices in accordance with Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. Section 12101. The purpose of self- evaluation is to determine whether DHS services, policies and practices are in compliance with Title II.

DHS' Self-Evaluation Plan (2008-2009) delineates procedures and processes for facilities assessment, including some program access options involving people with disabilities, making reasonable program modifications, and contracting with external organizations, as well as communication access, including Telecommunication Devices for the Deaf (TDD), Communications and Emergency Warning Systems as related to provisions for persons with disabilities.

## 7.3 EMPLOYMENT ACCESS

### Practice

The DHS provides equal opportunity in all terms and conditions of employment and services. The intent of this policy is to prevent discrimination and promote full realization of employment.

### Scope

This employment access policy applies to, and must be an integral part of, every aspect of human resource practice in the employment, development, advancement, and treatment of employees and applicants for employment at DHS.

Procedures

Related procedures and processes are delineated in DHS' Affirmative Action Compliance Plan (2008-2010) and include, but are not limited to:

(1) Administrative Guidelines
(2) Resolution of Discrimination Complaints
(3) Internal Auditing and Reporting System
(4) Development and Execution of Program

Appendices to the Affirmative Action Compliance Plan include, but are not limited to, procedures for:

(1) Self-identification
   a. Qualified Individuals with Disabilities and Qualified Protected Veterans
   b. Individuals with Limited English Proficiency
(2) Job Qualification Standards (Physical and Mental)
(3) Reasonable Accommodation (Physical and Mental)
(4) Vendor Relations
(5) Posting of Notices
(6) Discrimination Complaints including Consent/Release of Information and Complaint Withdrawal

## 2.0 REFERENCES, ACRONYMS, AND DEFINITIONS

### 2.1 REFERENCES

Title VI and VII of the Civil Rights Act of 1964, as amended
Title VIII of the Civil Rights Act of 1968, as amended
Equal Pay Act of 1963
Age Discrimination in Employment Act of 1967 and 1975 (Services)
Title IX of the Education Amendment of 1972
Rehabilitation Act of 1973, Sections 503 and 504
Vietnam Era Veterans' Readjustment Assistance Act of 1974, Section 402
Civil Rights Restoration Act of 1988
Fair Housing Act of 1968, as amended
Executive Order 11246, 30 Fed. Reg. 12319, as amended
Executive Order 13166, 65 Fed. Reg. 50121, as amended
Americans With Disabilities Act of 1990, (ADA), as amended
Hawaii Revised Statutes, Chapter 371, Part II, and 378, Part I, as amended
Department of Human Services Administrative Directives Update

### 2.2 ACRONYMS

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| AACP | AFFIRMATIVE ACTION COMPLIANCE PLAN |
| ADA | AMERICANS WITH DISABILITIES ACT, AS AMENDED |
| ASL | AMERICAN SIGN LANGUAGE |
| DCAB | DISABILITY AND COMMUNICATIONS ACCESS BOARD |
| DHS | DEPARTMENT OF HUMAN SERVICES |
| DIR | DIRECTOR, DEPARTMENT OF HUMAN SERVICES |
| DDIR | DEPUTY DIRECTOR, DEPARTMENT OF HUMAN SERVICES |
| LEP | LIMITED ENGLISH PROFICIENCY |
| OCR | OFFICE OF CIVIL RIGHTS |
| OLA | OFFICE OF LANGUAGE ACCESS (STATE OF HAWAII) |
| PCP | PUBLIC CONTACT POSITIONS |
| USHHS | UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES |
| SEP | SELF EVALUATION PLAN |
| TDD | TELECOMMUNICATION DEVICES FOR THE DEAF |

2.3 DEFINITIONS

**Access**: Reasonable, meaningful access to employment and services at DHS

**Affirmative Action Compliance**: A voluntary plan and effort to prevent under-representation of protected groups (groups protected by Federal and State laws) and, to provide reasonable, meaningful access in the Department of Human Services workforce and services

**Auxiliary aids and services**: Equipment, materials and services that are used to provide effective communication for people who have visual, hearing, speech or cognitive disabilities

**Bilingual/Multilingual**: Any individual who has demonstrated proficiency in both spoken English and at least one other language, and who can interpret accurately, impartially, and effectively to and from such language and English using any specialized terminology necessary for effective communication

**Complaint**: An informal or formal (written) claim of discrimination which indicates that a person or group of persons were treated differently, or adversely impacted by action/s of the DHS, based on one or more memberships in protected groups (protected by Federal and State laws)

**Complainant**: Any person who alleges discrimination in employment and/or provision of DHS services and/or benefits

**Department or DHS**: the Hawaii Department of Human Services, including its administratively attached agencies and commissions

**Director**: Director of the Hawaii Department of Human Services

**Discrimination**: Any action/s or lack of action/s by the DHS, which results in disparate treatment or has an adverse impact on a person or group of persons, on the basis of one or more memberships in protected groups (groups protected by Federal and State laws)

**External Enforcement Agencies**: Government agencies that enforce statutes prohibiting discrimination, and which are responsible for receiving, investigating and adjudicating discrimination complaints. Federal external enforcement agencies include, but are not limited to, the U.S. Equal Employment Opportunity Commission, U. S. Department of Justice, U. S. Department of Labor, U. S. Office of Federal Contract Compliance Programs, U.S. Department of Health and Human Services, U. S. Department of Housing

and Urban Development, U. S. Department of Education, U.S. Department of Agriculture, Social Security Administration. State external enforcement agencies or commissions include the Hawaii Civil Rights Commission and the Department of Labor and Industrial Relations, Office of Language Access (OLA).

**Facility:** Any building or space where DHS programs, services, activities, employment or other functions occur

**Factors Protected by Law:** Characteristics of a person or group of persons, which are protected under civil rights and other laws. For employment, these factors include race, color, national origin, sex, religion, age, disability, arrest and court records, sexual orientation, marital status, veteran status and assignment of income for the purpose of child support obligations for services these factors include race, color national origin, age, sex, religion, disability status and political beliefs.

**Frequently-Encountered Language:** Language spoken by a significant number or percentage of the population eligible to be served, employed by or directly affected by DHS programs, services, activities and functions

**Interpreter:** A bilingual or multilingual individual who understands interpreter ethics and client confidentiality needs. A person who has rudimentary familiarity with a language other than English shall not be considered an interpreter. Generally, an interpreter is trained in interpretation and has proficient knowledge and skills in English and at least one other language and who uses those skills and training to make possible communication in one language by orally converting what is said to another language while retaining the same meaning.

**Interpretation:** Interpretation means the oral rendition of a spoken message from one language to another, preserving the intent and meaning of the original message

**LEP Plan:** DHS' state-approved language access plan required by Hawaii Revised Statutes 371-34. as amended.

**Limited English Proficient (LEP) Person**: Any individual who does not speak English as his or her primary language and who has a limited ability to read, write, speak or understand English in a manner that permits him or her to communicate effectively with DHS and have meaningful access to and an equal opportunity to participate fully in services, activities, programs, employment, or other benefits administered by the Department of Human Services

**Organizational Units:** All administratively attached agencies and commissions, staff offices and divisional segments that comprise the Department of Human Services

**Participant:** Any person who has applied for and is receiving benefits

**Protected Group:** An individual identified in a group that is protected by Federal and State Laws, as amended.

**Person with a Disability:** An individual who has a physical or mental impairment that substantially limits one or more of the person's major life activities, has a record of such impairment, or is regarded as having such and impairment

**Primary Language:** the language that an LEP individual identifies as the language that he or she uses to communicate effectively, and is the language which the individual has indicated the individual would prefer to use to communicate with the Department of Human Services

**Public Contact Positions:** DHS positions that require public contact daily or weekly.

**Respondent/s:** Any person or group of persons alleged to be responsible for discrimination

**Self-Evaluation:** A voluntary plan and effort to assess programs, services, activities, facilities and employment access at the Department of Human Services.

**Service Applicant/Recipient:** Any person applying for, having the potential for applying, or receiving program benefits or services provided by the Department of Human Services

**Service Provider:** Any person, or group of persons, agency, organization, institution, political subdivision, that delivers a program, service or activity with Federal or State financial assistance through contractual, licensing or other arrangements with the Department of Human Services

**Sight Translation:** Occurs when an interpreter reads written text and orally converts what is written to another language while retaining the same meaning.

**Sub-Recipient:** Any entity that expends Federal or State assistance received as a pass-through from the DHS to carry out a program in which the sub-recipient provides services to and has contact with applicants and participants in the same manner as DHS if DHS were to administer the program directly, but does not include an individual applicant or participant who is a beneficiary of a program. For example, Medicaid payments to a contractor or provider for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended unless the State requires the funds to be treated as Federal awards expended because

reimbursement is on a cost-reimbursement basis (OMB Circular A-133-- Guidance on distinguishing between a sub-recipient and a vendor is provided in .210)

**Translate:** Translate means to convert written materials from one language into an equivalent written document in another language while maintaining the same coherence and meaning. Translation means an activity comprising the interpretation of the meaning of a document in one language and the production, in another language, of a new, equivalent document.

**Vital Documents:** include, and are not limited to: applications, consent forms, complaint forms, letters or notices pertaining to eligibility for benefits, letters or notices pertaining to the reduction, denial or termination of services or benefits or that require a response, written tests that test competency for a particular license, job or skill, documents that must be provided by law; and notices regarding the availability of free language assistance services.