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MEMORANDUM

DATE: May 23, 2019

TO: John Morton, Vice President for Community Colleges

FROM: Bernadette Howard, State Director for CTE

A handwritten signature in cursive script that reads "Bernadette Howard".

SUBJECT: Leeward Community College CTE Civil Rights Compliance Review

I would like to express appreciation and thanks to you and the Leeward Community College (Leeward CC) administration, faculty, staff, and students for cooperating with our recent career and technical education (CTE) civil rights review of Leeward CC and its programs and facilities. This review was conducted in accordance with our state's Methods of Administration (MOA) Program under the direction of the US Department of Education (US DOE), Office for Civil Rights (OCR), to evaluate and assist the college, as a recipient of federal funds, with its continuing obligation to comply with federal civil rights laws and regulations.

We are issuing this Letter of Findings (LOF) of our civil rights review of Leeward CC and its CTE programs. The purpose of the LOF is twofold. First, it discusses issues of civil rights noncompliance and concern. Second, it is a formal directive to submit a Corrective Action Plan (CAP) to this office to specify the remediation for violations identified. Various remedies may exist and you may prefer to propose a particular one for our consideration. As such, we request your department submit an initial draft within 60 days for review. The CAP must: (1) describe specific steps which will be taken to resolve noncompliance; (2) establish a specific timetable for corrections with estimated completion dates (corrections should be completed within three months to one year for smaller alterations and two years for larger alterations); (3) describe how our office may verify the corrective action such as follow-up visitation or review of documents, pictures, etc., upon request; and (4) identify and provide contact information for personnel responsible (by name) for each corrective action. A CAP cannot be accepted where the completion or correction of any item is made contingent upon funding or another event. The final version of the CAP must be approved with the signature of a person with the authority to make the plan binding, such as the president or a vice president of the university.

Please submit your final CAP by August 21, 2019.

We remind you of your continuing obligation to comply with federal civil rights requirements. While the civil rights review did identify areas of noncompliance, there may be other civil rights violations and issues not identified in this letter. Please do not hesitate to contact Ryan Tanaka, CTE Educational Technology and Civil Rights Specialist, for technical assistance at ryan.tanaka@hawaii.edu or (808) 956-4052.



An Equal Opportunity / Affirmative Action Institution

LETTER OF FINDINGS

The Office of the State Director for Career and Technical Education (OSDCTE) conducted an on-site civil rights review of the CTE programs at Leeward CC on March 6 to 8, 11 to 14, and 21, 2019. We formally closed the review on March 24, 2019 upon the college's transmittal of initially requested information, though follow up inquiry occurred intermittently thereafter.

The civil rights review was conducted to determine compliance with the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), Title IX of the Educational Amendments of 1972 (Title IX), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act (ADA), and the Age Discrimination in Employment Act of 1975 (Age Discrimination Act). US DOE Guidelines for Elimination of Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Disability in Vocational Education Programs (Guidelines), which are Appendix B to the regulations implementing Title VI, explain many of the civil rights responsibilities of those recipients offering CTE programs.

Leeward CC was selected for an on-site civil rights compliance review based upon application of our targeting methodology and criteria in assessing the enrollment data and other information relating to each college of the University of Hawaii Community Colleges (UHCC) System. We determined that Leeward CC was most likely to have unaddressed civil rights noncompliance, based largely upon it being the last UHCC campus that we had yet to review since 2012.

OSDCTE conducted a comprehensive review through an analysis of documents and materials collected from the campus. During our on-site visit to Leeward CC, we met with the college's administrators, counselors, CTE faculty, and other college personnel; inspected facilities for accessibility; and examined recruiting media and other records, materials, and documentation.

After completing an analysis of the information gathered, OSDCTE concluded that Leeward CC had made extensive efforts to meet many of the needs of its diverse student body. We would particularly like to commend Leeward CC for its spirit in publication of nondiscrimination policies and grievance procedures. We would also like to commend the college for proactively remediating various accessibility issues identified during the course of the review, as well as implementing recommendations we made to other UHCC campuses.

OSDCTE found the campus to be meeting many of its obligations with regards to the requirements of the Guidelines and regulations as to the issues examined. However, OSDCTE did identify many areas of noncompliance and issues of concern during the review.

The following contains the regulatory requirements, corresponding findings, and issues of concern that will help the campus address its compliance responsibilities and provide a nondiscriminatory learning environment for its students.



JURISDICTION, ISSUES AND STANDARDS

OSDCTE is responsible for ensuring that Hawaii's institutional recipients of Federal financial assistance through the US DOE do not discriminate against beneficiaries on the basis of race, color, national origin, sex, age, or disability condition in programs and activities required for CTE participation and program completion.

At issue in this review was whether or not Leeward CC provides opportunities in CTE, including its related administrative, employment, and student service activities, in a manner which is free of discrimination based on race, color, national origin, sex, age, or disability.

The standards applicable to the review are found in the Guidelines, and in the regulations implementing Title VI, Title IX, Title II of the ADA, Section 504, and the Age Discrimination Act. The applicable legal standards include, but are not limited to, the following:

1. Administrative Requirements

- a. Public notification [Title VI: 34 CFR 100.6(d) and Guidelines IV(O); Title IX: 34 CFR 106.8(a) and 106.9; Section 504: 34 CFR 104.8, 104.22(f), and 104.32; Title II ADA: 28 CFR 35.106; Age Discrimination Act: 34 CFR 110.25]
- b. Grievance procedures [Section 504: 34 CFR 100.7 and 104.7(b); Title IX: 34 CFR 106.8(b); Title II ADA: 28 CFR 35.107(b); Age Discrimination Act: 34 CFR 110.25 and 110.31]

2. Recruitment, Admissions, and Counseling

- a. Recruitment activities and promotional materials [Title VI: 34 CFR 100.3(b)i-vi and Guidelines V(C and E); Title IX: 34 CFR 106.23; Section 504: 34 CFR 104.42; Title II ADA: 28 CFR 35.130]
- b. Admissions [Title VI: 34 CFR 100.3 and Guidelines IV(A, K, and N); Title IX: 34 CFR 106.21, 103.31, and 106.35; Section 504: 34 CFR 104.21 and 104.43; Title II ADA: 28 CFR 35.130]
- c. Community of national origin minority students of Limited English Proficiency [Title VI: 34 CFR 100.3(b) and Guidelines IV(L and M) and V] and sensory impaired [Title VI Guidelines Section V(B), Section 504: 34 CFR 104.4, Title II ADA: 28 CFR 35.130]
- d. Counseling [Title VI: 34 CFR 100.3(b)(i, iv, and v) and Guidelines V; Title IX: 34 CFR 106.36, Section 504: 34 CFR 104.43 and 104.47(b), Title II: 28 CFR 35.130]



An Equal Opportunity / Affirmative Action Institution

3. Accessibility

- a. General provisions [Title II ADA: 28 CFR 35.130 and 35.163; Section 504: 28 CFR 104.4 and 104.21]
- b. Existing facilities [Section 504: 34 CFR 104.22; Title II ADA: 28 CFR 35.150]
- c. New construction and alterations [Section 504: 34 CFR 104.23; Title II ADA: 28 CFR 35.151]
- d. Maintenance of accessible features [Title II ADA: 28 CFR 35.133]
- e. Information, signage, and notice [Section 504: 34 CFR 104.22(f) and 104.32(b); Title II ADA: 28 CFR 163]

4. Comparable Facilities

- a. Separate courses, programs, or facilities [Title VI: 34 CFR 100.3(b)(iii) and Guidelines VI(A); Title IX: 34 CFR 10.34; Section 504: 34 CFR 104.44; Title II ADA: 28 CFR 35.130(4)]
- b. Changing rooms, showers, and other facilities [Title VI: 34 CFR 100.3(b)(iv and vi) and Guidelines VI(D); Title IX: 34 CFR 106.33; Section 504: 34 CFR 104.4(b); Title II ADA: 28 CFR 35.130(4)]

5. Services for Students with Disabilities

- a. Nondiscrimination for students with disabilities [Title VI: Guidelines IV(N) and VI (A); Section 504: 34 CFR 104.43-44; Title II ADA: 28 CFR 35.130 and 35.149]
- b. Supplementary Aids, Services, and Support [Title VI: Guidelines VI(A); Section 504: 104.44; Title II ADA: 28 CFR 35.130(d)]

6. Financial Assistance [Title VI: 34 CFR 100.3(b) and Guidelines VI(B); Title IX 34 CFR 106.37; Section 504: 34 CFR 104.46; Title II ADA: 28 CFR 35.130]

7. Work study, cooperative CTE programs, and job placement [Title VI: 34 CFR 100.3(b) and Guidelines VII; Title IX: 34 CFR 106.31(d); Section 504: 34 CFR 104.4(b), 104.46(b) and 104.47(b); Title II ADA: 28 CFR 35.130]

8. Employment [Title VI: 34 CFR 100.3(c)(D)(3) and Guidelines VIII(B); Title IX: 34 CFR 105.51-61; Section 504: 34 CFR 104.8 and 104.11; Title II ADA: 28 CFR 35.140; Age Discrimination Act: 34 CFR 110]



REQUIREMENTS, FINDINGS, AND CONCLUSIONS

1. Administrative Requirements

The basic administrative requirements include annual and continuous notices of nondiscrimination, which necessitate the designation of person(s) to coordinate activities and handle inquiries and complaints under Title IX and Section 504. Nondiscrimination grievance procedures must also exist to provide avenue and guidance as to how concerned parties may address concerns or seek resolution of alleged discrimination.

OCR recognizes the variations among the regulations governing notice requirements and understands that educational institutions may wish to use one statement to comply with the different requirements of the regulations implementing Title VI, Title IX, Section 504, Title II of the ADA, and Age Discrimination Act.

OCR encourages combined notices for the regulations. A combined nondiscrimination notice should contain two basic elements: (1) a statement of nondiscrimination that specifies the basis for nondiscrimination; and (2) identification by name or title, address, telephone number and email address of the employee or employees responsible for coordinating the compliance efforts. Since inclusion of a person's name in a nondiscrimination notice may result in an overly burdensome requirement to republish the notice on printed materials if a person leaves the coordinator position, it is recommended for a recipient to identify its coordinator only through a position title and if possible, assigning a general email address such as TitleIX@campus.edu or 504coordinator@campus.edu that can be set to forward or otherwise redirect emails to the appropriate employee(s) serving as Title IX and/or Section 504 coordinator, respectively. OCR expects, however, that the institution's Web site will be updated to reflect complete and current information on the designated coordinators and the coordinator responsibilities will always be assigned.

Annual and continuous notices of nondiscrimination

OCR requires recipient institutions, at least annually prior to the beginning of the academic year, to notify students, parents, and the general public that CTE opportunities will be offered without regard to race, color, national origin, sex, disability, or age. This annual notice of nondiscrimination may be done, for example, in local newspapers, campus Web site, and other media that reach the general public. This notification must include a summary of the CTE program offerings and admission criteria. The annual notice must also state that lack of English language skills will not be a barrier to admission and participation in CTE programs. Further, the annual notice must provide the contact information of the Title IX and Section 504 coordinator(s). Also, if there are national origin communities in the recipient's service area



An Equal Opportunity / Affirmative Action Institution

whose people may have an interest in the educational institution but have limited English proficiency (LEP), then the annual notice of nondiscrimination must be translated into the languages of those national origin communities. Finally, the institution must devise and implement a calculated plan of distribution implemented to broadcast, disseminate, or otherwise provide the notice to the English-speaking general public and LEP national origin communities within the service area, in their respective languages.

Sample annual notice: The [institution] does not discriminate on the basis of age, race, sex, color, national origin, or disability in its programs and activities. Career and Technical Education Programs of Study are offered in the areas of [pathways, groups, or names of programs of study] and there are admission criteria that include [provide criteria or indicate if none]. The lack of English proficiency will not be a barrier to admission or participation in CTE programs. For more information or inquiries regarding these policies, please contact [Position titles for personnel serving as Section 504 and Title IX coordinators, along with contact information].

The regulations also require that recipients provide notification of nondiscrimination policies on a continuous basis. The continuous notice reiterates to stakeholders that the educational institution does not discriminate on the basis of race, color, national origin, sex, disability, or age, and provides contact information for Title IX and Section 504 coordinators. The continuous notice is not required to be translated, except upon request. OCR expects the continuous notice to be included within or otherwise provided with all media that may have significant impact upon or be used to make decisions concerning admission, participation, or financial consideration by, of, or from, students, employees, or other stakeholders of the educational institution. Such media would include traditional, direct recruitment materials (presentations, postings, etc.). It would also include other media that have indirect recruiting impact or set participation expectations, such as applications for admission, employment, or financial aid; student and employee handbooks, student planners and other publications that include policies and procedures, or codes of conduct; course catalogs, schedules of classes, program completion requirement pamphlets and other guides; newsletters and newspapers published or administered by the institution; and campus Web site.

Sample continuous notice: The [institution] does not discriminate on the basis of age, race, (post-secondary) sex, color, national origin, or disability in its programs and activities. For more information or inquiries regarding these policies, please contact [Position titles for personnel serving as Section 504 and Title IX coordinators, along with contact information].



An Equal Opportunity / Affirmative Action Institution

The aforementioned sample annual and continuous notices address the minimum combined notification requirements. Institutions may have more expansive nondiscrimination policies. In these instances, notifications may include additional information or protected groups to the extent that concerned parties would still be able to identify the groups protected by federal law and contact information for the appropriate coordinators should they have any questions or wish to file a complaint. Similarly, in instances where “short form” nondiscrimination policies are utilized due to limited publication space or when all campuses within a multi-campus system utilize shared policy materials or media, the institution’s students and other stakeholders must be able to readily locate, identify, and understand the policy, procedures, and personnel applicable to their protected status and without undue burden.

The campus must ensure that the proper continuous notice of nondiscrimination is included within or provided with any media that may have a recruitment purpose which reasonably impacts or is relied upon for decision-making concerning admission, participation, or financial consideration by, of, or from, students, employees, or other stakeholders of the campus. These notices not only serve as reminders and reiterate the institution’s adherence to civil rights laws but also direct interested stakeholders to obtain accommodations and information, or resolve problems or pursue complaints, if necessary.

Grievance procedures requirements

The regulations require that recipients adopt grievance procedures which incorporate due process standards and provide a prompt and equitable means of resolving complaints by students, employees, or employment applicants alleging discrimination on the basis of sex, disability, or age. These grievance procedures must be available to current or prospective students and employees, or upon request, of the educational institution.

Determination on Administrative Requirements:

OSDCTE finds Leeward CC noncompliant with civil rights administrative notification requirements, including the Guidelines at IV(O), Section 504 at 34 CFR 104.8 and 104.22, Title II ADA at 28 CFR 35.106, and Title IX at 34 CFR 106.8(a) and 106.9, regarding publication of nondiscrimination policy, both on an annual and continuous basis.

REQUIRED CORRECTIVE ACTION: Yes

As a college within the UHCC System, Leeward CC is largely reliant upon its Web site to provide its campus community and other stakeholders with administrative notices, program information, details regarding policies and procedures (including Title IX and Section 504 grievance procedures), and information regarding many other services and activities. Within the global footer of its Web site, Leeward CC does perpetually provide a continuous notice of



An Equal Opportunity / Affirmative Action Institution

nondiscrimination that includes the required federally protected classes, along with Title IX and Section 504 coordinator contact information.

We would like to commend the college in providing continuous notices of nondiscrimination with the printer-friendly versions of Course Descriptions made available through the Leeward CC Web site. We would recommend similar inclusion of the continuous notice with other downloadable materials that may be shared or distributed by email or hardcopy, such as the respective Degree and Certificate Requirements subpages from the *2017-2018 Leeward Community College Catalog*. While the catalog itself does have a continuous notice, we believe there is a likelihood and potential that current or prospective students may share, receive, and/or review those Degree and Certificate Requirements downloaded, emailed, or separately printed pages without much consideration of the catalog in its entirety. In these cases, each printer-friendly Degree and Certificate Requirements generated printout or file is akin to a standalone document that should have its own continuous notice of nondiscrimination.

Although the campus appears to be largely reliant upon its campus Web site as a medium for communicating information and disseminating nondiscrimination policy, we found two programs to have provided students with certain program information, including a program application and student handbook, which were hosted apart from the Leeward CC Web site or otherwise made separately available such as through Google Docs, in a manner where a continuous notice of nondiscrimination was found missing. The items of noncompliance include, the separately hosted Web site for the Teacher Education Program and its CTE Candidate Handbook, as well as the 2019 Ford ASSET_Booklet (student handbook and program application).

While Leeward CC does perpetually provide a continuous notice of nondiscrimination on its campus Web site, it does not do so for its annual notice of nondiscrimination. In approximately 2013, the UHCC system office, with technical assistance from OSDCTE, developed an annual notice of nondiscrimination brochure, both in English and translated into the 13 languages of the national origin communities of its colleges' service areas. This single brochure was originally developed to serve as the annual notice of nondiscrimination for all seven of the UHCC campuses and includes the respective contact information for Section 504 and Title IX coordinators designated for each college. The brochure has been recently revised and re-printed to include contact information for current Title IX and Section 504 coordinators. However, while this brochure was developed for hardcopy distribution and posted on many building bulletin boards at the Leeward CC campus, we found through our discussions with campus personnel that the college did not further distribute this nondiscrimination notice in a calculated manner to existing and prospective students to meet the dissemination requirements of annual notification prior to the first day of the academic year. Additionally, we found that the Leeward CC Automotive Technology Program, and the related Ford ASSET Program, require students to possess a valid driver's license as a criterion for admission and continued enrollment in the programs. This program admission criterion is not noted on the annual notice of



An Equal Opportunity / Affirmative Action Institution

nondiscrimination.

Issue of Concern:

In reiterating our commendation of Leeward CC's provision of a continuous notice of nondiscrimination in the global footer of its campus Web site, we would also like to recommend the occasional placement of the nondiscrimination notice within the main body. The current placement in the Web site global footer can easily be overlooked as visitors navigate the main content of pages on the site and potentially overlook the important information made available in the site footer. Although potentially redundant, we recommend the college provide that nondiscrimination policy and coordinator contact information in a more prominent manner on two pages – the How to Apply page for prospective students and the KI Program (disabilities services office) – where visitors to the Web site may be interested in that information but easily overlook its placement in the footer.

The How to Apply page provides access to the University of Hawaii online application system. The application system itself does not provide a continuous notice of nondiscrimination. Instead, each page of the online application process includes a hyperlink, "An Equal Opportunity, Affirmative Action Institution" that would redirect users to the University of Hawaii System's policies. Interested parties would then need to search to find the respective campus Title IX coordinator contact information. While the linked policy information, under Disability Access, does provide a subsequent "EEO/AA Coordinator" hyperlink, the intended menu and hyperlink for the 504 Coordinators is missing. Our office directly submitted a message to the system's Information Technology Services ITS Web Group on May 14, 2019, to address this missing menu/hyperlink. However, even once that error is corrected, we still believe it would be appropriate to include a more prominent continuous notice of nondiscrimination and Leeward CC-specific coordinator contacts on the How to Apply page that may be beneficial to certain applicants prior to their proceeding to the online application system.

In the case of the KI Program page, we also believe it to be appropriate to include a more prominent continuous notice of nondiscrimination and Leeward CC specific coordinator contacts, in particular, the campus Section 504 Coordinator. This would assist interested parties with filing an appeal to an offered program accommodation, or to voice other concerns.

2. Recruitment, Admissions, and Counseling

Civil rights laws provide that recruitment, admissions, and counseling for CTE programs may not lawfully discriminate on the basis of race, color, national origin, sex or disability.

Recruitment



Under the Guidelines, student recruitment activities must be conducted so as to not exclude or limit opportunities on the basis of race, color, national origin, sex, or disability. This includes the use of promotional efforts (e.g., career days, program showcase events, etc.) or materials that may create or perpetuate stereotypes. To the extent possible, the curricula and programs should cover a broad range of career opportunities. Moreover, use or portrayals of students or members of industry should include a broad range of people, including underrepresented groups of nontraditional genders, minorities, and those disabled. Additionally, according to Title IX, recruiting in a nondiscriminatory manner includes recruitment that is not focused primarily or exclusively at institutions which predominantly admit students of one gender.

Also, under the Guidelines, if there are national origin communities with LEP in the service area, then promotional materials are required to be translated into the languages of those communities. We would add, however, that in 2015, OCR and the Department of Justice clarified in a joint advisory letter¹ that education institutions are required to provide persons with LEP with meaningful access to programs, as offered to persons without LEP. Providing written translations of promotional materials and other vital documents is therefore one means to address meaningful access. This is particularly necessary if a given LEP national origin group within the eligible service area population is significant. For LEP populations that are not present in significant numbers or percentages, the requirement to provide meaningful access still remains but could be addressed through means such as providing written notice in the language LEP individuals will understand, of the right to receive oral interpretation or written translation services, at no cost to them.

Admissions

The Guidelines further prohibit applying any admissions criteria (including tests, academic performance standards, recommendations, etc.) which have the effect of excluding protected groups on any of these bases and cannot be used unless they are validated as being essential to participation in the program, and alternative, non-exclusionary criteria are not available. An introductory course may be established as a prerequisite for a program only if the course is available without regard to race, color, national origin, sex, and disability. A course that was previously only available on a discriminatory basis may be made a prerequisite for admission to a program if the recipient can demonstrate that the course is essential to participation in the program and is presently available in a nondiscriminatory manner. Where a recipient finds a particular CTE course or program enrolls a substantially disproportionate number of individuals of one gender, race, color, or national origin, or a minute number of students with disabilities or LEP relative to its general enrollment, the recipient must review its recruitment materials,

¹ US Department of Justice, Civil Rights Division, and US Department of Education, Office for Civil Rights. *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents*. January 7, 2015. Pp. 15, 18-19.



An Equal Opportunity / Affirmative Action Institution

counseling activities, and other processes to ensure such disproportion is not the result of discriminatory practices.

Counseling

Similarly, counseling activities such as appraisal, guidance, and use of advising resources must not discriminate on the basis of race, color, national origin, sex, and disability. Discrimination includes assigning students to specific CTE programs. Institutions must take affirmative steps to open all CTE programs to all students and be able to demonstrate that a concentration of students within protected groups in one or a few programs is not the result of discriminatory limitations upon the opportunities available to such students. Recipients must ensure that counselors do not direct or urge students to enroll in a particular CTE program or make an assessment of a student's likelihood of success in a program or upon its completion, on a discriminatory basis.

Educational institutions may not screen students out of certain CTE programs as a result of a student having a disability or being within a protected group. An exception is if the accommodations necessary would fundamentally alter the program or prevent the meeting of safety requirements based on actual risks – not speculations, stereotypes, or generalizations of individuals with disabilities. Access to CTE programs or courses may not be denied to disabled students based on the perceived or actual employment opportunities for persons with disabilities. However, while academic requirements demonstrated as essential to a program of instruction or directly related licensing requirements are not regarded as discriminatory, educational institutions must adjust those requirements to the needs of particular disabled students where possible. If counselors or others with advising roles use different assessment instruments or alternative resources, it must be in effort to eliminate gender bias, address disproportionate enrollment, or to overcome barriers to communication.

Intake and counseling of students with sensory impairments or Limited English Proficiency

In addition to sensory impairments, barriers to communication include being a member of a national origin minority with LEP. Under the Guidelines, having interpreters available for LEP students and the hearing impaired satisfy the requirements in counseling activities. Title II of the ADA is clear that educational institutions must provide auxiliary aids or otherwise make reasonable accommodations for those with disabilities in its policies, practices, and procedures to avoid discrimination unless such accommodations would fundamentally alter the program. Moreover, the cost of such aids to communication and other accommodations are the burden of the educational institution and may not be passed on to the student. Procedures must exist to provide oral translation or written interpretation services when necessary, to both students and/or parents/guardians of minor students. Educational institutions have the responsibility to notify national origin students and parents/guardians of minor students of activities and opportunities provided to other students so that they make well-informed decisions, and such notice, along



An Equal Opportunity / Affirmative Action Institution

with marketing and recruiting materials, may need to be provided in languages other than English.

Also, under the Guidelines, applicants to CTE programs may not be restricted on the basis of having LEP, regardless of whether students may not be able to participate in and benefit from CTE programs to the same extent as students whose primary language is English. Educational institutions are responsible for identifying interested students as LEP, assessing prospective students' ability to participate in CTE programs, and take steps to ensure equal access to CTE programs via rapid remediation or language support services.

The Guidelines state that acceptable means of identification of students with LEP include self-identification by the student in postsecondary or adult programs, or appropriate diagnostic procedures, if necessary.

If an institution finds a student to have LEP to an extent that severely restricts his or her ability to participate in CTE programs in a manner comparable to other students without LEP, the institution must provide immediate remediation that will allow the English language learner (ELL) student to participate, providing a comparable alternative CTE program (even if informal), or taking other steps to ensure national origin LEP students receive the opportunities and benefits of participation in CTE programs comparable to their non-LEP peers.

Also, in the 2015 joint advisory letter² by OCR and the Department of Justice, was clarification that it is not sufficient for educational institutions to utilize support staff who are merely bilingual and may be available to assist with national origin individuals with LEP. Staff or outside resources used to serve as translators or interpreters to provide language assistance must be appropriate and competent in both languages including any specialized terms or concepts in the communication of concern. Those individuals relied upon to provide language assistance must also be appropriately trained to provide that assistance and understand the confidentiality and ethical issues relating to their role as a translator or interpreter.

Determination on Admissions, Recruiting, and Counseling:

OSDCTE finds Leeward CC in violation of the Guidelines IV(K and L) and V regarding its responsibility to provide language interpretation or translation assistance for those prospective applicants and admitted national origin students who are LEP to have meaningful access to CTE programs and counseling.

REQUIRED CORRECTIVE ACTION: Yes

² US Department of Justice, Civil Rights Division, and US Department of Education, Office for Civil Rights. *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents*. January 7, 2015. P. 12.



An Equal Opportunity / Affirmative Action Institution

Leeward CC is one of ten campuses in the University of Hawaii system. Admission to Leeward CC is generally based upon the UHCC open admissions philosophy enabling persons who meet one of the following conditions to enroll:

1. High school diploma or equivalent;
2. Attainment of 18 years of age or older; or
3. Ability to benefit requirement if receiving financial assistance.

Applicants are expected to submit an admission application by published deadlines. Applicants may complete a University of Hawaii online common application for any of the university's campuses. This form requests the applicant's gender, ethnicity, race, and citizenship. International students may gain admittance into Leeward CC either by achieving and providing scores from the Test of English as a Foreign Language (TOEFL) that exceed the college's TOEFL minimum or enrolling in Leeward CC's remedial English Learner courses.

After conducting a review of the existing ethnic based community organizations, church facilities and religious activities, availability of non-English print media, social media support groups and activities, and other indicators suggesting presence of immigrants and persons likely to have a primary language other than English, we determined there to be Chinese, Filipino, Japanese, Korean, Micronesian, Native Hawaiian, Samoan, Tongan, and Vietnamese national origin communities in the college's service area. However, we also found that neither the recruiting materials and information or materials to register for the program were found to be available in the language of persons with LEP from those communities.

The college does not provide any notification to its LEP or other students concerning the availability of written translation or oral interpretation services. Such mechanisms must be in place to respond to the requests and concerns of national origin persons in a timely manner in a language he or she understands and will ensure that the lack of English proficiency will not be a barrier to admission into the institution and its CTE programs, or for other vital processes. These mechanisms are particularly necessary at the point of inquiry and application to the college and for financial aid, to receive advising and counseling, and to otherwise gain meaningful access to academic programs. One important document in which such a notification would be necessary is the college's course catalog. If Leeward CC provides direct Web links and/or printer-friendly portions of its course catalog pertaining to specific programs, these extracted and separately available or distributed documents need to also be made available in a language its national origin community members with LEP can understand, whether by prior translation or notice of language assistance at no cost. Prior direct translations or language assistance notification would also be necessary on the college's Web site, whether in its global site template or specific pages that deal with admissions, recruitment, counseling, and other vital processes.

In speaking with Leeward CC administrators and other student services personnel, we found that



An Equal Opportunity / Affirmative Action Institution

there is no specific process or designated entity to assist prospective student applicants or other persons having LEP and making admission inquiries or engaging in other vital processes within the college. Those personnel have or would refer such persons with LEP to either the college's International Programs or Language Arts office, as both were deemed most likely to be capable given their employ of certain bilingual personnel and program activities that service English Learners, though neither office or other entity has been formally designated to coordinate such assistance on a campus-wide basis.

We would like to clarify that although Leeward CC, similar to other UHCC campuses, has fluency and proficiency testing, along with English Learner courses, the college still has responsibility to ensure that persons with LEP have meaningful access to recruiting materials, academic programs, and vital processes in a language that they can understand. As such the college would need to ensure that current and prospective students can access recruitment materials and engage in admission inquiries, including advising/counseling, that may necessitate translation of written materials, oral interpretation, or a combination thereof.

Also, at issue are situations in which LEP individuals bring a friend or family member to serve as an interpreter, particularly for counseling or to obtain admissions-related assistance. It is the obligation of Leeward CC to make interpreters available for admissions and counseling at no cost to the student with LEP. This situation is of concern for several reasons. First, a student's request to have a friend or family member provide language assistance during counseling or discussions of their academic records needs to be recognized by the college as implied notification that the student has LEP and likely may have difficulty with oral and/or written English communication. Second, the college cannot rely upon bilingual individuals who may not be appropriate, competent, confident, or trained to provide language assistance. Friends or family members brought by a person with LEP to provide language assistance may well also be LEP, but just slightly more English proficient.

3. Accessibility

Accessibility requirements primarily fall under Section 504 of the Rehabilitation Act of 1973, covering nondiscrimination on the basis of disability in education, and Title II of the Americans with Disabilities Act (ADA), addressing nondiscrimination by state and local governments. Both Title II of the ADA and Section 504 provide protections to ensure that a student with a disability is not at a disadvantage to those without disabilities and can access programs and services in an equitable manner.

Facilities accessibility

Construction standards addressing accessibility were first adopted in 1961 by the American



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National Standards Institute (ANSI), a nongovernmental national association, through its *American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, The Physically Handicapped*. Referenced as ANSI A117.1-1961, these construction standards applied to construction or alteration initiated between June 4, 1977, and January 17, 1991. These ANSI standards formed the technical basis for the first accessibility standards required by federal and state governments. Subsequently, as accessibility standards evolved for different types of buildings and facilities under the purview of different federal agencies, *Uniform Federal Accessibility Standards (UFAS)* were statutorily required under the Architectural Barriers Act of 1968 for buildings and facilities designed, constructed, altered, or leased using federal funds. Generally meeting or exceeded ANSI standards, UFAS apply to construction or alterations initiated from January 18, 1991, through March 14, 2012, unless a more recent, acceptable accessibility standard was selected during the time of design and construction.

As part of the Rehabilitation Act of 1973, Congress created an independent government agency, now referred to as the US Access Board, to oversee accessibility for people with disabilities. To provide the scoping and technical requirements for the Americans with Disabilities Act (ADA) of 1990, the Access Board published the ADA Accessibility Guidelines (ADAAG) in 1991. For construction and alterations initiated from January 27, 1992, through March 14, 2012, institutions were allowed to select between UFAS and ADAAG as the accessibility standards they would follow for buildings and facilities designed, constructed, altered, or leased using federal funds.

On September 15, 2010, the US Department of Justice adopted updated ADA accessibility standards. These 2010 ADA Standards became the required accessibility standards for construction and alterations initiated on or after March 15, 2012. In the interim, institutions could select between UFAS, 1991 ADAAG, or 2010 ADA Standards.

Existing facilities

For buildings and facilities constructed or altered predating the ANSI standards implementation date of June 4, 1977, federal civil rights laws do not require recipients of federal funds to make each or every part of a facility accessible to and usable by persons with disabilities. Instead, programs receiving federal funds must be *readily accessible*. Making a program readily accessible means that an educational institution will take steps to ensure as integrated environment as possible for those with disabilities through such actions including equipment redesign, classroom reassignment, provision of aides, or other means to make a program accessible to a person with a disability. Though an educational institution is not required to make structural changes to buildings and facilities to make a program readily accessible to persons with disabilities, key elements of the buildings and facilities, including restroom, drinking fountain, and classrooms and its hardware and equipment that may be used by students



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participating in the program, must be sufficiently accessible and to a comparable extent as that for the general student population.

Facilities leased by public agencies are treated similarly as those considered to be existing facilities; whereby the programs within those facilities must be made readily accessible.

New construction and alterations

New construction and alterations initiated on or after June 4, 1977, must have adopted one set of the acceptable accessibility standards. Additionally, there must be an accessible *path of travel* to the added or altered facilities unless the cost of providing the path of travel is disproportionate (> 20%) to the cost of the added or altered facility. The accessible routes and access points to accessible buildings and facilities must be comparable in location and distance to that provided for the general public.

In the forthcoming chart identifying areas of noncompliance or concern relating to accessibility, specific code requirements for accessibility will be provided for ANSI A117.1-1961 (“ANSI”), UFAS, 1991 ADAAG (“ADAAG”), and 2010 ADA Standards. These referenced code requirements comprise only a limited portion of the overall requirements. Where a readily accessible or unknown standard (due to unknown date of construction or alteration, or unknown selection from the available standards), relevant standards will be provided to serve as a benchmark standard of reference.

Determination on Accessibility:

OSDCTE finds Leeward CC in violation of Title II of the ADA and Section 504 for multiple instances and locations of program and building/facility inaccessibility as noted in the chart below.

REQUIRED CORRECTIVE ACTION: Yes. Any further alteration or new construction to address the issues of noncompliance identified must adhere to the most recent 2010 ADA Standards, which took effect on March 15, 2012, even though the basis for identifying a site or element as noncompliant may have been an older standard.

Area	Date of construction or alteration	Applicable accessibility standard	Accessibility requirements	Issue of noncompliance
Campus Center (CC) Culinary Program	Approximate dates of	Title II ADA - 28 CFR 35.130; and	A student with a disability shall not be denied any aid,	There are no wheelchair accessible counters



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<p>1st floor bake shop and 2nd floor kitchen</p> <p>Issue of Concern: PS214 accessible work station sink (the one connected to the other work stations; not the one along the wall)</p>	<p>original construction: Campus Center (1973 Physical Sciences PS (1968); PS214 alteration (2018)</p>	<p>Section 504 - 34 CFR 104.4, 104.21 and 104.22</p> <p>ADAAG 4.24; UFAS 4.24 provide readily accessible benchmarks of reference</p>	<p>benefit, or service of a program or be denied any right, privilege, opportunity, or advantage as enjoyed by others without disabilities.</p> <p>Sinks shall be accessible with counter no higher than 34” and provide knee clearance at least 27” high, minimum, minimum 8” depth at 27” high and 11” depth at 9” high, and 30” wide underneath with maximum sink depth of 6-1/2”. Tapered skirting of piping allowed but clear toe space shall be provided minimum 9” above floor for a minimum 19” depth from front edge of sink/counter. (Note: 2010 ADA</p>	<p>or sinks that allow front approach in the Culinary bake shop or kitchen. The Culinary program is therefore not accessible to students in wheelchairs.</p> <p>Issue of concern: The PS214 accessible work station sink has tapered skirting that has not been properly installed with sufficient taper to allow 11” depth at 9” high (the bottom of the skirt) from the front of the sink counter. The skirt has been installed too vertically and only provides about 10” clear depth at the bottom of the skirt.</p>



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			sets toe clearance maximum depth of 25".)	
<p>Campus garden areas adjacent to Auto Tech Complex (Building ET) and access road; Ho`oulu `Aina Plant Propagation Facility and fenced learning space adjacent to outdoor courts; also non-accessible wooden structure with restroom facility (including shower and locker room) with stairs next to outdoor courts.</p>	<p>Unknown, but nearby portable restrooms constructed 1969</p>	<p>Title II ADA - 28 CFR 35.130; and Section 504 - 34 CFR 104.4, 104.21 and 104.22</p> <p>ANSI 5.6 provides readily accessible benchmark of reference</p> <p>ANSI 4.2 and 5.1; ADAAG 4.3.and 4.5; and UFAS 4.3 and 4.5 provide readily accessible benchmarks</p>	<p>A student with a disability shall not be denied any aid, benefit, or service of a program or be denied any right, privilege, opportunity, or advantage as enjoyed by others without disabilities.</p> <p>An appropriate number of toilet rooms shall be made accessible to persons with disabilities, including those using wheelchairs.</p> <p>Accessible walkways shall be of continuous common surface that is stable, slip-resistant and free of abrupt change in height over 1/2".</p> <p>Gratings in walking surfaces</p>	<p>The Plant Biology & Tropical Agriculture Program is not accessible to students with mobility impairments to independently travel to and within the outdoor gardens and facilities. The program's garden areas, the Ho`oulu `Aina Plant Propagation Facility and other activities held in the fenced learning space, as well as the nearby restroom (and shower/locker) facility are not accessible due to highly deteriorated roadways and walkways comprised largely of asphalt with significant cracks, abrupt level changes,</p>



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Area	Date of construction or alteration	Applicable accessibility standard	Accessibility requirements	Issue of noncompliance
		of reference	<p>shall not have openings greater than 1/2" in one direction.</p> <p>Any part of an accessible route with a slope greater than 1:20 (5% grade) shall be considered a ramp and require handrails.</p> <p>Nowhere shall cross-slope of an accessible route exceed 1:50. (Note: maximum allowable cross slope is 1:48 under 2010 ADA Standard 403.3)</p>	<p>noncompliant drainage gratings, excessive slope and cross-slope, and stairs to the restroom facility. The walkway adjacent to the courtyard has abrupt level changes as much as 1-1/2" high. Dirt and gravel along the walkway, as well as within the gardens themselves, do not provide stable surfaces for standing or those with assistive devices. Also the asphalt walkway along the outdoor courts include two 40"x40" drainage gratings with openings 1-1/2" wide. As the asphalt walkway adjacent to the courts transitions to the concrete walkway for the garden area and observatory, there is about 1-1/2"</p>



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				level change and the initial portion of that concrete walkway has variable slope and cross-slope, with as much as 6.1% running grade and 8.1% across the walk. Finally, while a wooden structure with restroom, shower, and locker is available, the exterior stairs do not make the facility accessible to students in wheelchairs, and the interior toilet room and shower accommodations would not meet accessibility requirements even if access via wheelchair ramp were provided.
Stairwells providing access to/from lower campus at the following locations:	Approximate dates of original construction: Central stairways	Title II ADA 28 CFR 35.130 and 35.163; and Section 504 34 CFR	Provide information and signage directing interested users to locations of accessible facilities.	There is an overall lack of signage to communicate the accessible route and accessible site facilities (parking,



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<p>Additional Issues of Concern:</p> <ul style="list-style-type: none"> - OCEWD Building CE access points from parking lot. - Ramp in back of Theater 		<p>accessible benchmarks of reference</p> <p>ADAAG 4.7; and UFAS 4.7 directly apply or provide readily accessible benchmarks of reference</p>	<p>Curb ramp slope shall not exceed 1:12 slope (8.33% grade). Flared sides shall not exceed 1:12 slope (8.33% grade), except where the non-flared portion of curb ramp connects to at least 48" level surface, in which case flared sides may be up to 1:10 slope (10% grade).</p>	<p>These walkways technically qualifying as ramps include the walkway between the parking lots in front of Buildings ED and LA (7.1% to 8.4% grade). The two walkways leading from the main parking lot in front of Library Building LC leading up on both sides of the Da Spot food facility (44' long at 5.5% to 7.0%, grade and 45' long at 9.0% to 12.7% grade) are not accessible. The walkway from the covered seating/table area towards the electric vehicle (EV) charging stations is also not accessible as the two curb ramps are too steep to utilize or walk across since both have flared sides at 13% to 17% grade and also do not connect to 48"</p>



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				<p>level top surface to allow individuals to bypass the curb ramp. The walkway from Buildings MS and BS leading to the parking lot in front is also too steep (bottom is 5.8% to 7.0% grade).</p> <p>The accessible walkways under 5% grade are the ones leading to Building T from the accessible parking in the lot in front, the walkways immediately adjacent to the flag pole, and the walkways immediately outside the front of the buildings.</p> <p>Though directional signage is provided to identify the elevator for Building ED, the sign along the parking lot is not appropriate due to the aforementioned</p>



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				<p>walk having excess slope, while another elevator sign is poorly placed out of view alongside the exterior stairway to the top floor of Building ED. Instead of the elevator directional sign being placed at the front of the stairway, it is placed about 10' back from the first riser and on the side nearest Building T.</p> <p>The Nursing portable has two walkways to access the facility, only the one nearest the Building DA chair lift is accessible and needs to be identified as such. Signage is also needed to direct disabled persons to that accessible walkway, away from the Ewa 7' long ramp that has 14.3% grade.</p>



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				<p>There is no signage at the top and bottom of the Building DA chair lift (though the lift is currently inoperable) that communicates who to contact for access. There also is no signage at the 2nd floor of Building LC, at the library interior stairwells to communicate where and how the elevator can be accessed.</p> <p>Numerous restrooms on campus have been renovated to provide accessibility. There are a few restrooms that are still not accessible that need signage directing interested persons to the nearest accessible restroom.</p>



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				<p>Issues of Concern: At OCEWD Building CE portables, there is no directional signage at the stairs and variable 11% to 18% grade ramp to/from the parking lot to communicate the accessible route is via the wheelchair ramp between Buildings DH-C and DH-E, with second ramp at middle of DH-E. Also, there is a 9'-6" ramp at 26.6% grade behind the Theater likely for transport of Theater equipment that is a safety hazard warranting signage or gating to redirect or prevent unauthorized usage</p>
Routes between Plant Biology & Tropical Agriculture Program garden and outdoor facilities, Auto Tech Complex (Building ET), and the Nursing Portables, as well as	Approximate dates of original construction: Asphalt routes (1970s)	Title II ADA 28 CFR 35.133 ANSI 4.2, 5.1 5.5, and 5.13;	Maintenance of accessible features in operable working condition Accessible walkways shall be of continuous	Students currently are unable to travel on their own, except by vehicle, between the Plant Biology & Tropical Agriculture Program garden



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<p>from any of these areas to the upper or lower campus (e.g., 1st or 2nd floor of Building MS).</p> <p>Walkways between Building LA 2nd floor and Diamond Head curb ramp from main parking lot, particularly near stairs to Theater and in line with LA227/228, including around a utility box cover. There is another area of deteriorated walkway in line with the security office. Also, the walkway between the flag pole and nearby stairwell.</p> <p>Walkways on first floor along the mauka rock walls, adjacent to Buildings LC and PS. Also, first floor walkway in front (Mauka) and side (Ewa) of Building CC.</p> <p>Issue of Concern: Walkways in line with LA227, LA228,</p>	<p>between Plant Biology garden, Building ET and MS, and Nursing Portables.</p> <p>Walkway near Building LA (1970s),</p> <p>Walkways (1970s) near Buildings CC, LC, and PS</p>	<p>ADAAG 4.1.6, 4.3, and 4.8: and UFAS 4.1.6, 4.3, and 4.5 provide readily accessible benchmarks of reference</p>	<p>common surface that is stable, slip-resistant and free of abrupt change in height over ½”.</p> <p>Any part of an accessible route with a slope greater than 1:20 (5% grade) shall be considered a ramp and require handrails. Nowhere shall cross-slope of an accessible route exceed 1:50. (Note: maximum allowable cross slope is 1:48 under 2010 ADA Standard 403.3)</p> <p>Ramps with slopes from 1:12 up to 1:10 (= 10% grade) are allowed for max rise of 6” and slopes of 1:10 up to 1:8 (= 12.5% grade) for max rise of 3”. Ramps steeper than 1:8 are prohibited.</p>	<p>and outdoor facilities, Auto Tech Complex (Building ET), and the Nursing Portables, as well as from any of these areas to the upper or lower campus (e.g., 1st or 2nd floor of Building MS).</p> <p>The chairlift from the 1st floor of Building DA to the Nursing portable is inoperable.</p> <p>The old concrete walkway alongside the Nursing portable that leads down to the Auto Tech Complex has noncompliant slope (as much as 22.3% running grade) and/or cross-slope (as much as 6.4% grade across). Use of the roadway would not provide accessibility as the road turns on as much as 11.2% grade, then</p>



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<p>and the nearby security office are highly deteriorated.</p>				<p>continues down at about 8% grade before leveling off.</p> <p>The walkway between 2nd floor of Building LA and the main parking lot has several areas where the concrete is not continuous and/or has abrupt changes in height posing hazards to those using these walkways. In line with Diamond Head wall of Building LA and LA227, there is a crevice in the walk, 56" across, with areas as much as 1-1/2" deep and 1-3/4" wide. There is also a utility box near the curb ramp that has portions with 1-3/4" gaps to the surrounding concrete walkway. Nearby and in line the LA227 entry door, there is a deeply chipped triangular area, 4"</p>



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				<p>long x 3” wide and 1-1/2” deep. Further past Da Spot food truck and near the main stairway adjacent to the flag pole, there is a 70” wide portion of the walkway chipped/sunken up to 1-1/2”. In front of the stairway, a significant portion of concrete surrounding the drainage grate has deteriorated as much as 1” deep. Other areas nearby, including in line with the security office, are significantly deteriorated.</p> <p>There are hanging chain and moss rock drainage system/features that could pose a hazard for those traversing the lower level of the Leeward CC campus. There are five of these rock and chain features</p>



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				<p>along the lower level mauka rock walls adjacent to Buildings LC and PS, as well as seven of these rock and chain features around the Mauka front and Ewa side of Building CC. One of these intended features, in front of the Building CC Culinary elevator, does not have any rocks and the empty catchment presents an abrupt change in level of approximately 2” without any warning indicators other than the hanging chain. It is therefore found to be an accessibility violation.</p> <p>Issue of Concern: The remaining of the aforementioned rock and chain features have rocks filling their catchment to varying degrees.</p>



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				<p>The catchments across LC110 and in front of Uluwehi Café and Building CC are concerns due to lack of rocks in certain areas to sufficiently fill the catchment. Also of concern is that as these features are located in some areas in the middle of the circulation path and/or not always well lit, they pose a potential hazard for the visually impaired or those otherwise inattentive.</p>
<p>Various walkways intended to provide an accessible route:</p> <p>Waianae Moku sidewalk to Kulaaupuni Street sidewalk to provide access to public way</p> <p>Walkway connecting the parking lots in front of Buildings ED and T</p>	<p>Approximate dates of original construction:</p> <p>Waianae Moku (2001)</p> <p>Walkway (date unknown) connecting the parking lots in front</p>	<p>ANSI 4.2, 5.1 5.5, and 5.13; ADAAG 4.1.6, 4.3, and 4.8; and UFAS 4.1.6, 4.3, and 4.5 provide readily accessible benchmarks of reference</p>	<p>Any part of an accessible route with a slope greater than 1:20 (5% grade) shall be considered a ramp and require handrails. Nowhere shall cross-slope of an accessible route exceed 1:50. (Note: maximum allowable cross</p>	<p>The Waianae Moku campus facility is not accessible to mobility impaired pedestrians from Kulaaupuni Street public way. The 16' Waianae Moku sidewalk is between 5.5% and 6.8% grade without handrails.</p>



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<p>Walkway from the Ewa parking lot towards Buildings MS and BS</p> <p>Walkway at bottom of Building DA chair lift</p>	<p>of Buildings ED and T</p> <p>Walkway (1970s) from the Ewa parking lot towards Buildings MS and BS</p> <p>Walkway (1970s) at bottom of Building DA chair lift</p> <p>OCEWD (2016)</p>		<p>slope is 1:48 under 2010 ADA Standard 403.3)</p> <p>Ramps with slopes from 1:12 up to 1:10 (= 10% grade) are allowed for max rise of 6” and slopes of 1:10 up to 1:8 (= 12.5% grade) for max rise of 3”. Ramps steeper than 1:8 are prohibited.</p>	<p>The 15’-2” portion of walkway connecting the parking lots in front of Buildings ED and T is a ramp without handrails with grade between 7.1% and 8.4%. Signage at the front entrance stairs to ED direct disabled persons to an elevator by utilizing this route.</p> <p>The bottom portion of approximately 14’-8” of the walkway from the Ewa parking lot towards Buildings MS and BS has between 5.8% and 7.0% grade without handrails.</p> <p>The 11’ long walkway at the bottom of the Building DA chair lift is at 6.4% to 7.1% grade and lacks handrails.</p> <p>Issue of Concern: The above-</p>



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				mentioned walkway from the chairlift leads to the OCEWD Nursing Lab, but does so on 10.2% grade.
<p>Protruding objects throughout campus exterior walkways and some interior circulation paths.</p> <p>Water fountains:</p> <ul style="list-style-type: none"> - Outside Auto Tech Complex (ET) restrooms - Outside LA 2nd floor restrooms - Outside BE227 - Outside PS 2nd floor restrooms - Outside GT 2nd floor restrooms - Outside BS 1st floor restrooms - Outside PS107 - Outside PS108 - Building LC, 1st floor exterior elevator nook, near all-gender restroom - Outside AM 1st floor restrooms - Outside BE105 - Outside LA 1st floor restrooms 	<p>Approximate dates of original construction:</p> <p>Auto Tech (1979); Building LA (1972); Building BE (1972); Building PS (1968); Building GT (1971); Building LC (1970); Building AM (1972); Nursing / Health Sciences (2009); Theater (1974), Building FA (1974); Building CE/OCEWD (2016);</p>	<p>ANSI 5.13.4; ADAAG 4.4.1; and UFAS 4.4.1 provide readily accessible benchmarks of reference</p>	<p>Objects projecting from walls with their leading edges between 27” and 80” above the finished floor shall protrude no more than 4” into walks, halls, corridors, passageways, or aisles.</p> <p>Freestanding objects mounted on posts or pylons may extend a maximum of 12” from 27” to 80” high.</p>	<p>Water fountains protrude into walkway:</p> <ul style="list-style-type: none"> - Outside ET restroom, protrudes 18” from 34” to 40” high - Outside LA 2nd floor restroom, protrudes 11” to 19” deep, from 32” to 36” high - Outside BE227, protrudes 11” to 18” deep, from 34” to 39” high - Outside PS 2nd floor restrooms, protrudes 11” to 18” deep, from 35” to 40” high - Outside GT 2nd floor restrooms, protrudes 11” to 18” deep, at 33” to 37” high - Outside BS 1st floor restrooms, protrudes 11” to



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<ul style="list-style-type: none"> - Building GT 1st floor, next to chair lift - Outside Nursing Health Sciences restrooms <p>Emergency call boxes:</p> <ul style="list-style-type: none"> - 1st floor MS near BS restrooms - 1st floor AM - 1st floor LA - Outside Theater, near LA105 <p>CC 2nd floor pylon mounted fire hose boxes (2) near Student Life and Culinary Kitchen</p> <p>Lavatory (nearest restroom entrance) in Waianae Moku men's restroom</p> <p>Issues of Concern: Building CE (OCEWD) rail at bottom of stairs outside OCEWD passport office; water fountain outside FA214 and FA 1st and 2nd floor restrooms;</p>	<p>Building CC (1973); Waianae Moku (interior alteration 2017)</p>			<ul style="list-style-type: none"> - 18" deep, at 33" to 37" high - Outside PS107, protrudes 11" to 18" deep, at 30" to 34" high - Outside PS108, protrudes 15" deep, at 33" to 38" high - Outside LC 1st floor all-gender restroom, protrudes 18" deep, at 29" to 36" high - Outside AM 1st floor restrooms, protrudes 11" to 18" deep, at 32" to 37" high - Outside BE105, protrudes 11" to 18" deep, at 29" to 34" high - Outside LA 1st floor restrooms, protrudes 11" to 18" deep, at 33" to 38" high - Outside Theater by LA105, protrudes 19" deep, at 29" to 41" high - Building GT next to chair lift,



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<p>shelf inside FA 2nd floor restrooms</p> <p>Additional Issue of Concern: Protruding paper towel dispensers in various restrooms</p>				<p>protrudes 11” to 18” deep, at 30” to 34” high</p> <ul style="list-style-type: none"> - Outside Nursing HS restrooms, protrudes 18” deep, from 30” to 40” high. <p>Emergency call boxes protrude into walkway:</p> <ul style="list-style-type: none"> - 1st floor MS call box protrudes 7” to 8” deep, at 44” to 57” high - 1st floor AM call box protrudes 6” deep, at 48” to 68” high - 1st floor LA call box protrudes 6” deep, at 43” to 56” high - 1st floor AD call box protrudes approximately 7” to 8” deep at near 48” high (exact measurements could not be obtained due to renovation barriers).



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				<p>Building CC 2nd floor fire hose boxes extend 15” on each side of their pylon, at 29” to 70” high. (Note: Though the campus has other similar fire hose boxes, the Building CC 2nd floor fire hose boxes were the only two deemed to protrude into the path of circulation.)</p> <p>Waianae Moku men’s restroom lavatory protrudes 18” deep at 30” to 34” high</p> <p>Issue of Concern: Rail outside OCEWD passport office protrudes 12” at 34” to 37” high; water fountain outside FA214 and 2nd floor restrooms, protrudes 11” to 18” deep at 33” to 38” high; fountain outside FA 1st floor restrooms protrudes 18” deep at 34” to</p>



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				<p>38" high; shelf inside FA 2nd floor men's and women's restroom protrudes 8" at 35" high</p> <p>Additional Issue of Concern: Paper towel dispensers in various restrooms are protruding objects if not for custodial staff placing trash bins beneath in order to provide cane detection; however, that is still a work-in-progress and certain trash bins were moved from day-to-day, allowing the dispensers to protrude without can detection below.</p>
<p>Interior doors at: Waianae Moku TV production studio (Building BE) Building ED</p>	<p>Original construction or applicable alteration date: Waianae Moku (2001</p>	<p>2010 ADA Standards 404.2.9 directly apply to Building ED and Waianae Moku</p>	<p>Interior hinged, gated, folding, and sliding doors may not require more than 5 lbf. to open</p>	<p>Waianae Moku interior doors require more than 5 lbf to open: - Women's restroom 12 lbf - Men's restroom 18 lbf</p>



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	<p>original construction, 2017 interior alterations)</p> <p>Building BE (1972); ED (2014)</p>	<p>ADAAG 4.13.11; and UFAS 4.13.11 provide accessible benchmarks of reference for Building BE</p>		<ul style="list-style-type: none"> - Rm 122 Classroom 13 lbf - Rm 123 Classroom 15 lbf - Rm 111 Computer lab 18 lbf - Rm 113 Math lab 13 lbf. <p>TV Production studio interior doors (2) require 15 lbf to open.</p> <p>Building ED interior doors require more than 5 lbf to open:</p> <ul style="list-style-type: none"> - 1st floor all-gender restroom 14 lbf - 1st floor women's restroom 14 lbf - 1st floor men's restroom 15 lbf - 2nd floor women's restroom 12 lbf - 2nd floor men's restroom 12 lbf. - ED210 ED Program Office entrance 20 lbf



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				<ul style="list-style-type: none"> - ED210H Student Resource Center 12 lbf - ED210G Workroom 15 lbf - ED201A Lecture Hall double doors 20 lbf and 21 lbf - ED301 Case Study 27 lbf.
<p>Accessible lavatory in restrooms:</p> <ul style="list-style-type: none"> - LC Library 2nd floor women's restroom <p>Paper towel dispensers in various restrooms:</p> <ul style="list-style-type: none"> - Building ED 1st floor women's, men's, and all-gender - Building ED 2nd floor women's and men's - Building LA 2nd floor men's and women's restrooms - Building AM 2nd floor men's and women's restrooms 	<p>Approximate dates of original construction:</p> <p>Building LC Library (1970); Building ED (2014), Building LA (1972); Building BE (1972); Building PS (1968); Building GT (1971); Building LC (1970); Building AM (1972); Nursing / Health</p>	<p>ADAAG 4.23.7 and 4.27.4; UFAS 4.23.7 and 4.27.4</p>	<p>Accessible elements, including lavatory and sink handles, shall have operable parts that allow use with one hand and not require tight pinching, grasping, or twisting of the wrist.</p>	<p>LC Library 2nd floor women's restroom accessible lavatory has twist handles.</p> <p>Paper towel dispensers require two hands and tight pinching to pull paper towels. The restroom locations noted did not have alternate dispensers or baskets making paper towels available in an accessible manner.</p>



An Equal Opportunity / Affirmative Action Institution

Area	Date of construction or alteration	Applicable accessibility standard	Accessibility requirements	Issue of noncompliance
<ul style="list-style-type: none"> - Building PS 2nd floor men's and women's - Building CC 1st and 2nd floor men's and women's - Building GT 2nd floor men's and women's - Building BS 2nd floor men's and women's - Building LA 1st floor men's and women's - Nursing HS portable men's and women's - (Issue of concern: Building CE men's and women's; and Building FA 2nd floor men's and women's) 	Sciences (2009); Theater (1974), Building FA (1974); Building CE/OCEWD (2016)			
Restrooms and toilet rooms: <ul style="list-style-type: none"> - Building ED 1st floor women's - LC Library 2nd floor men's - LC 1st floor all-gender Nursing Health Science (HS) labs	Original construction or applicable alteration date: Nursing HS portable (2009), Building LC Library (1970),	ANSI 3.3 and 5.10; ADAAG 4.2.5 and 4.2.6; and UFAS 4.2.5 and 4.2.6	Maximum forward reach is 48" high when unobstructed, or if obstruction is not more than 20" deep, and 44" high if obstruction is between 20" to 25" deep. Reach depth is 25" maximum.	Paper towel dispenser lever is too high, above the 54" unobstructed side reach limit: <ul style="list-style-type: none"> - ED 1st floor women's at 55" high - LC 2nd floor men's at 56" and 61" high



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Area	Date of construction or alteration	Applicable accessibility standard	Accessibility requirements	Issue of noncompliance
	Nursing Health Science (2009)		Maximum side reach is 54” high, unobstructed, or 48” high with obstruction not more than 24” deep.	<ul style="list-style-type: none"> - LC 1st floor all-gender at 56” high - Nursing HS portable labs 58” high over 18” deep sink.
<p>Building CC 1st floor women’s restroom outside of Bookstore</p> <p>Issue of Concern: Building CC entrance to “The Pearl” dining facility</p>	<p>Approximate date of original construction:</p> <p>Building CC (1973)</p>	<p>ADAAG 4.30; and UFAS 4.30 provide readily accessible benchmark of reference</p>	<p>Signage featuring the universal symbol of accessibility shall include characters and symbols that contrast with their backgrounds</p>	<p>International symbol of accessibility on push button for motorized door lacks contrast.</p>
<p>Waianae Moku men’s restroom</p> <p>Nursing Health Science (HS) portable men’s and women’s toilet rooms</p>	<p>Original construction or applicable alteration date:</p> <p>Waianae Moku (2001 original construction, interiors altered 2017)</p> <p>Nursing HS portable (2009)</p>	<p>2010 ADA Standard 603.3 directly apply to Waianae Moku</p> <p>ADAAG 4.19; and UFAS 4.19 directly apply to Nursing HS portable</p>	<p>If mirrors are provided, at least one shall have reflective edge not more than 40” above finished floor.</p>	<p>Waianae Moku men’s restroom has two mirrors, both have bottom reflective surface at 48” above finished floor.</p> <p>Nursing portable toilet men’s and women’s toilet rooms both have one mirror with bottom reflective surface at about 44-1/2” above finished floor.</p>



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Area	Date of construction or alteration	Applicable accessibility standard	Accessibility requirements	Issue of noncompliance
Restrooms and toilet rooms: - Auto Tech men's - Nursing portable women's	Original construction or applicable alteration date: Auto Tech ET Complex (1979) Nursing HS portable (2009)	ADAAG 4.16.5; and UFAS 4.16.5 directly apply or provide readily accessible benchmark of reference	Water closet (toilet) flush controls shall be mounted on the wide side of open access to the water closet.	The water closet flush control is mounted opposite of the wide side of open access to the water closet.
Rubber expansion joint between BS208B and PS201B Concrete walkway around the garden and tree between the central stairway and flag post at three areas: the walkway from the flag post, directly in front of the bench under the tree, as well as further towards the stairway around the drainage grate. Drainage grates throughout campus, as follows:	Approximate date of original construction: Building LC Library (1970); Building AD (1970); Building ED (2014), Building LA (1972); Building BE (1972); Building PS (1968); Building GT (1971); Building BS (1968); Building AM (1972);	Title II ADA 28 CFR 35.133 ANSI 4.2 and 5.1; ADAAG 4.3; UFAS 4.3, provide readily accessible benchmarks of reference	Maintenance of accessible features in operable working condition Accessible walkways shall be of continuous common surface that is stable, slip-resistant and free of abrupt change in height over 1/2".	Rubber expansion joint is 1-1/2" high when approaching towards end nearest parking lots. Concrete walkway around the garden and tree between the central stairway and flag post is cracked and sunken, uplifted, or otherwise in state of disrepair with 1/2" to 1-1/2" level change in three locations. Approx. 30" long portion of concrete walkway outside Building GT slopes aggressively



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Area	Date of construction or alteration	Applicable accessibility standard	Accessibility requirements	Issue of noncompliance
<p>Concrete surrounding drainage grate outside BS204</p> <p>14” round grate at bottom of central stairway between Buildings LC and AD</p> <p>8” round grate near pillar bench between Da Spot food facility and Building LC (in line with LC “Open” sign)</p> <p>10” x 10” square concaved grates near:</p> <ul style="list-style-type: none"> - Theater T225 - Adjacent to LA226 (3 of 4 grates, but not the 3rd from T225) - BE227 - LA201 (2 grates) - BE229A (2 grates) - LA restrooms on 2nd floor (2 grates) - LA restrooms, call box, and stairway on 1st floor (4 grates) - LA106 - LA107 - LA108 - LA110 - LA115 	<p>Theater (1974)</p>			<p>towards the drainage grate outside BS204, with up to 1-1/2” abrupt level change.</p> <p>Drainage grate (14” round, green) at bottom of central stairway between LC and AD is lowered 1-1/2” within surrounding concrete.</p> <p>Drainage grate (8” round, green) between Da Spot and LC is unstable (loosely rotating) and sunk as much as 1” on one side within surrounding concrete.</p> <p>10”x10” drainage grates are concaved with abrupt height change of 3/4” to 1” that may cause loss of balance. (Issue of Concern: many other of these 10”x10” grates exist but not all are significantly</p>



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Area	Date of construction or alteration	Applicable accessibility standard	Accessibility requirements	Issue of noncompliance
<ul style="list-style-type: none"> - Outside 1st floor AM elevator and restrooms (4 grates) - LA101 (1 of 2 grates, the grate nearer the theater) - BE109 <p>Issue of concern: There is an irrigation valve box cover that is cracked and slightly sunken nearest the Diamond Head front parking lot at the intersecting walkways adjacent to the lot and leading to the OCEWD parking and facility.</p>				<p>concaved or within the circulation path, including those near AM201, AM203, and two grates near AM101.)</p>
<p>Building ED elevator</p>	<p>Approximate date of original construction:</p> <p>Building ED (2014)</p>	<p>2010 ADA Standard 407.2.2.3</p>	<p>Elevator shall provide audible signals at the hall call button, sounding once for up direction and twice for down direction, or verbally indicate the direction of elevator car travel.</p>	<p>Elevator does not provide audible signal at the hall call button.</p>
<p>Building ED 1st floor women's restroom</p>	<p>Approximate date of</p>	<p>2010 ADA Standard 703.4.2</p>	<p>Signage is to be installed on the latch side of</p>	<p>Accessible signage is on the hinge side.</p>



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Area	Date of construction or alteration	Applicable accessibility standard	Accessibility requirements	Issue of noncompliance
	original construction: Building ED (2014)		single doors.	
Curb ramp next to electric vehicle (EV) charging stations	Approximate date of original construction or alteration: Curb ramp near EV stations (2010s)	ADAAG 4.7; and UFAS 4.7	Curb ramp slope shall not exceed 1:12 slope (8.33% grade). Flared sides shall not exceed 1:12 slope (8.33% grade), except where the non-flared portion of curb ramp connects to at least 48" level surface, in which case flared sides may be up to 1:10 slope (10% grade). The minimum width shall be 36", exclusive of flared sides. Walkways shall not have gradient of more than 5%.	The curb ramp next to the EV parking has flared sides at 13% and 16% grade.

4. Comparable Facilities

Separate courses, programs, or facilities



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Courses, programs, and facilities should generally not be segregated solely based upon protected group status.

Changing rooms, showers, and other facilities

Students with disabilities must be afforded the opportunity for private and accessible shower and changing facilities that are generally comparable to those serving persons without disabilities. Separate facilities serving one gender must be similar in size, quantity, quality, and convenience to that serving the other gender. Classrooms or other facilities for LEP students must be comparable to those provided for students without LEP. Any separate facilities should be located in similar proximity to the associated classrooms or facilities for their peers.

Transgender students and other students may assert their gender identity or express themselves in a manner that does not meet stereotypical notions or expectations of masculinity or femininity of others. Under the sex-based protections afforded by Title IX, recipients shall not discriminate and provide comparable facilities. Moreover, OCR interprets Title IX in a manner that requires recipients to allow individuals to use the gender-specific facilities consistent with the gender of which he or she may identify with or express him or herself as, regardless of how fluid or recent the transition between genders of identification or expression.

Determination on Comparable Facilities:

OSDCTE found no evidence of noncompliance by Leeward CC concerning comparable facilities.

REQUIRED CORRECTIVE ACTION: None

5. Services for Students with Disabilities

Section 504 requires that no qualified person with a disability be denied the benefits of, excluded from participation in, or otherwise be discriminated against in any program or activity. The educational institution must not restrict access to its courses, programs, and activities for those persons with disabilities because of architectural barriers, equipment barriers, or the need for auxiliary and other aids and services. Title II prohibits denying or otherwise limiting those with disabilities from enjoying any right, privilege, advantage, or opportunity compared to others receiving the aid, benefit, or service.

Nondiscrimination for students with disabilities

Nondiscrimination for students with disabilities must extend to all aspects of students'



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participation, endeavors, seeking of benefits and aid, and involvement in procedural or administrative processes involving the educational institution, even if the activity or matter of concern is handled all or in part by another entity in conjunction with or on behalf of the educational institution. The recipient must operate its program or activity in the most integrated setting appropriate. Educational institutions must provide academic adjustments and modifications to its academic requirement to ensure nondiscrimination. However, academic requirements that can be proven as essential to the instruction pursued or directly related licensing requirements will not be considered discriminatory. If necessary, such adjustments and modifications include modifying instructional equipment or the manner in which the courses are offered, changes in location or to facilities to ensure accessibility, providing auxiliary aids that effectively make lectures and course materials available to postsecondary students with disabilities, or providing related aids or services that assure secondary students an appropriate education.

Supplementary Aids, Services, and Support

Educational institutions must provide auxiliary aids, services, and support, if needed to allow the appropriate integration of the student into the academic environment. Such supplementary assistance includes taped texts, interpreters to make orally delivered content available to students with hearing impairments, readers to make printed content available to students with visual impairments, assistive technology in the classroom for students with physical impairments, or other similar support or actions. While institutions need not provide attendants or other devices or services of a personal nature, the recipient may not impose restrictions that have the effect of limiting the participation of students with disabilities.

Accessible information systems and technology

Section 504 and Title II of the ADA both prohibit discrimination on the basis of disability. Institutional Web sites, informational systems, and technology that contain barriers to access for people with disabilities thereby deny them an equal opportunity to participate in programs, services, or activities, as well as effective communication for full participation in those programs, services, or activities. One fairly recent OCR Resolution Agreement included a definition of “accessible” incorporating technology:

“Accessible” means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use. The person with a disability must be able to obtain the information as fully, equally and independently as a person without a disability. Although this might not result in identical ease of use compared to that of persons without disabilities, it still must ensure equal opportunity to the educational benefits and



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opportunities afforded by the technology and equal treatment in the use of such technology.³

Determination on Services for Students with Disabilities

OSDCTE found no evidence of noncompliance by Leeward CC regarding services for students with disabilities.

REQUIRED CORRECTIVE ACTION: None

Note that we did not review aspects of the college's Web or electronic media accessibility as the University of Hawaii System entered into a Voluntary Resolution Agreement with OCR on February 9, 2018, OCR Reference No. 10172117, to implement system-wide corrective action in that regard.

6. Financial Assistance

Recipients shall make available and award financial assistance in a nondiscriminatory manner. Honors, awards, and scholarships shall not be limited on the basis of race, color, national origin, sex, or disability unless such targeting is done to take affirmative action and the overall effect of such restricted awards does not lead to discrimination in access to the total financial assistance available.

Determination on Financial Assistance:

OSDCTE found no evidence of noncompliance by Leeward CC concerning financial assistance to its students.

REQUIRED CORRECTIVE ACTION: None

7. Work Study, Cooperative CTE Programs, and Job Placement

Recipient institutions are not only responsible for providing services without discrimination, but they also must ensure that private entities partnered with to provide employment or work-based learning opportunities also do so in a nondiscriminatory manner.

The Guidelines require that a recipient must ensure that it does not discriminate in making

³ Staat, Darrel W. *Resolution Agreement: South Carolina Technical College System, OCR Compliance Review No. 11-11-6002*. February 28, 2013. P. 1.



An Equal Opportunity / Affirmative Action Institution

available opportunities for cooperative education, work-study, job placement, and apprenticeship programs, and that students participating in such programs are not discriminated against by employers or prospective employers. Written agreements between recipients and employers concerning referral of students for employment must contain assurances of nondiscrimination. Recipients may not honor employer's requests for students, which are restrictive on the basis of race, color, national origin, sex, or disability.

Sample assurance of nondiscrimination: The [institution] does not discriminate on the basis of race, color, national origin, sex, or disability in its programs and activities. By participating as an employer providing cooperative education, work-study, job placement, apprenticeship, or other work-based opportunities for students of [institution], [employer] hereby agrees that participating students will be accepted and assigned to jobs, or otherwise treated, without regard to race, color, national origin, sex, or disability. Should the employer have any questions or concerns regarding these policies, it may contact [contact information for Title IX and Section 504 coordinators].

Determination on Work Study, Cooperative CTE Programs, and Job Placement:

OSDCTE found Leeward CC noncompliant with the Guidelines at Section VII(A) concerning the failure to include an assurance of nondiscrimination by the employer within certain program work-based learning agreements.

CORRECTIVE ACTION REQUIRED: Yes

We reviewed various Leeward CC work-based learning agreements. We found that the Business, Health Information Technology, and Substance Abuse program agreements did contain employer assurances of nondiscrimination that addressed the federally protected classes.

We also found that other programs that do require or allow for work-based learning either do not utilize an employer agreement, has an employer agreement that does not address nondiscrimination, or do not sufficiently or properly address the protected classes. Specifically, we found that the TV Production program no longer has an employer handbook or agreement. Meanwhile, the Ford ASSET (Automotive Technology) Program utilizes a Ford Motor Company agreement form between the student and Ford dealership that did not address nondiscrimination. There is also a Ford ASSET Policy and Procedure Manual that included a Memorandum of Understanding between Leeward CC and Ford Motor Company that likewise did not address



An Equal Opportunity / Affirmative Action Institution

nondiscrimination. For the Teacher Education Program, we reviewed a Preparation Program Affiliation Agreement between Leeward CC and the Hawaii State Department of Education (HSDOE) that agrees upon accessibility, nondiscrimination, and civil rights in general terms without reference to any protected class. We would also note that while both Leeward CC and HSDOE have nondiscrimination policies that include the federally protected classes – race, color, national origin, age, sex, and disability – Leeward CC and its university system specify additional protected groups not covered by the HSDOE. Finally, while the Culinary program does have a work-based learning agreement, the protected classes need rephrasing – “sex” rather than “gender,” “disability” rather than “handicap,” and also include “age.”

Issue of Concern:

While the scope of this civil rights review is based upon federal civil rights requirements, we would be remiss to acknowledge that the University of Hawaii System has included additional protected classes beyond those federally required, in its statewide, system policy. As Leeward CC may take this opportunity to develop a standardized employer assurance of nondiscrimination for its programs’ work-based learning activities, we recommend consideration of those additional protected classes.

8. Employment

Recipients are prohibited from engaging in any practices that discriminate against any employee or applicant on the basis of age, race, color, national origin, sex or disability. Every source of faculty must be informed of the employer does not discriminate on the basis of age, race, color, national origin, sex or disability. Employment issues and practices such as recruitment, hiring, promotion, firing, compensation, treatment, harassment, reasonable accommodation, and affirmative action, must be addressed in a nondiscriminatory manner.

Determinations on Employment:

OSDCTE finds no evidence of noncompliance by Leeward CC regarding notices of nondiscrimination in job advertisements or other areas reviewed that pertain to employment.

REQUIRED CORRECTIVE ACTION: None