



## **Non-Public/Private School Equitable Services Complaint, Resolution, and Appeal Process**

### **Introduction**

Pursuant to the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA) (Sections 1117 and 8501), and the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Section 18005), the Hawai'i State Department of Education (HIDOE) is required to provide eligible non-public/private school children, teachers, and families services that are equitable to those provided to eligible public schools after timely and meaningful consultation with non-public/private school officials. HIDOE's ESEA Equitable Services State Ombudsman along with the ESEA and CARES Act program managers are able to assist non-public/private schools with all equitable services concerns.

In the event of unresolved disputes, HIDOE has established the following Non-Public/Private School Equitable Services Complaint, Resolution, and Appeal Process for non-public/private school officials, school students, teachers, and families ("complainant") to facilitate the State Ombudsman's statutory duty to "monitor and enforce" the equitable services provisions under the ESEA and CARES Act.

### **Complaint**

To file a formal complaint with HIDOE, the complainant should complete and submit the [Complaint Form](#) to the State Ombudsman at [ombudsman@k12.hi.us](mailto:ombudsman@k12.hi.us).

1. Complainants should ensure that the complaint and all supporting documentation are complete before submitting a complaint. No additions or corrections may be made to the written complaint once the complaint has been submitted unless requested or agreed to by HIDOE.
2. Upon receipt of a complaint, the written complaint will be promptly acknowledged and investigated. HIDOE will send a copy of the complaint to all parties involved. Those entities will be allowed to respond to the complaint in writing within fifteen (15) calendar days of receipt.
3. Appropriate program staff, including the State Ombudsman, will conduct a review of the complaint. If necessary, an on-site review may be conducted. If appropriate, additional information may be gathered and forwarded to other appropriate offices or organizations. If additional information is needed, the complainant and program manager will be contacted.

Within forty-five (45) calendar days of receipt of the complaint, the State Ombudsman will investigate and send a written finding to the complainant and the program manager.

### **Informal Mediation**

After discussing the concerns with the program manager, and prior to filing a complaint, the complainant may request informal mediation via the State Ombudsman in HIDOE. The State Ombudsman will assess the issue(s) and, if appropriate, will arrange an informal mediation to attempt to resolve the issue.

### **Resolutions**

Listed below are possible resolutions to the complaint:

1. HIDOE may require the program manager to take actions necessary to bring the State in compliance with the ESEA and CARES Act equitable services requirements.
2. HIDOE may identify issues that hinder the delivery of services. The State Ombudsman will meet with the parties to resolve the issues and develop a plan to ensure timely and meaningful delivery of services. All parties will be informed of required actions and timelines.
3. HIDOE may determine the program manager is compliant with the equitable services provisions of the ESEA and CARES Act.
4. The State Ombudsman, along with a review team that is comprised of ESEA or CARES Act program managers, may determine direct delivery of services should be provided.
  - a. If determined, HIDOE will provide equitable services for the fiscal year to the eligible complainant through third-party contracts with public or private agencies, organizations, or institutions [ESEA Section 1117(b)(6)(C)].
  - b. Once direct services have been provided for the fiscal year, the appropriate program manager will be invoiced for the services provided, including any administrative fees.
  - c. HIDOE will provide technical assistance to the program manager involved to ensure that HIDOE meets the requirements of the ESEA Sections 1117 and 8501 or CARES Act Section 18005 in subsequent years.

### **Appeal**

If the complainant does not feel that the issue has been resolved through the HIDOE complaint process or HIDOE fails to resolve the complaint within the forty-five (45) day time limit, the complainant can appeal to the U.S. Secretary of Education.

- a. The complainant can appeal the decision by filing an appeal with the U.S. Secretary of Education within thirty (30) calendar days after the resolution of the complaint. If the forty-five (45) day time limit for response by the State Ombudsman has passed without a decision, the deadline for filing an appeal is thirty (30) calendar days after the forty-five (45) day deadline.
- b. The appeal to the U.S. Secretary of Education must be accompanied by a copy of the resolution by the State Ombudsman and a complete statement of the reasons for an appeal.
- c. The U.S. Secretary of Education shall investigate and resolve the appeal no later than ninety (90) calendar days after receipt of the appeal.