



ISSUE TYPE: SUGGESTIONS/OTHER

Questions and Comments

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REPORT DETAILS

Report Submission Date

8/15/2023

Reported Company/Branch Information

Location Civil Rights Compliance Branch (CRCB)
State of Hawaii Department of Education
1390 Miller St.
City/State/Zip: Honolulu, HI, 96813, United States)

Relationship to the Company or Organization?

Former Employee

Please identify the person(s) engaged in this behavior:

Ladona "Beth" Schimmelfennig - Executive Director, State of Hawaii Department of Education (HI-DOE) Civil Rights Compliance Branch
Keith Hayashi - HI DOE Superintendent
Wilma Roddy - Principal, Naalehu Elementary School

Do you suspect or know that a supervisor or management is involved?

Yes

If yes, then who?

Beth Schimmelfennig, Executive Director, State of Hawaii Department of Education (HI-DOE) Civil Rights Compliance Branch (CRCB)
Keith Hayashi, Superintendent, HI-DOE
Stacey Bello, Complex Area Superintendent, HI-DOE Kau-Keaau-Pahoa Complex

Is management aware of this problem?

Yes

What is the general nature of this matter?

1) The DOE is violating the Americans with Disabilities Act.

DOE Teacher, Suzanne M. Aina, filed a lawsuit for several violations of the ADA in 2015. In 2016, the DOE (via Deputy Attorney General Bosco Petricevic) granted several disability accommodations. One was assignment to an ADA-compliant classroom that would fit Ms. Aina's wheelchair; then Principal, Darlene Javar (retired May 2022) selected Room 11 as a classroom large enough to meet ADA requirements for wheelchair egress.

May 2, 2023, current Na'alehu Elementary School Principal, Wilma Roddy violated the agreement and assigned Ms. Aina to a non-ADA compliant classroom, Room 5 which is very small and the most unsafe room on the campus for a person in a wheelchair. Ms. Aina told Ms. Roddy that she objected to the room change. Ms. Roddy contacted the CRCB and confirmed May 31, 2023 that Ms. Aina was to be assigned to Room 11. I contacted Beth Schimmelfennig July 26, 2023 when Ms. Aina returned to school and was not assigned to Room 11. August 2, 2023, Ms. Aina was reassigned to Room 8. Room 5 and Room 8 were both filthy. Neither Room 5 nor Room 8 are safe for someone in a wheelchair if there was a fire in the only path for wheelchair escape.

Ms. Schimmelfennig has done nothing about Ms. Aina's emergency, which was of Ms. Schimmelfennig's creation because the CRCB had, for years, refused Ms. Aina's requests for CRCB documentation of the granted accommodations. August 1, 2023, I contacted Ms. Schimmelfennig's supervisor, State Superintendent Keith Hayashi. Neither of these two people has bothered to respond and the violation continues as of this ethics complaint, filed the evening of August 15, 2023.

2) The CRCB does not maintain easily-accessible records of accommodations granted to DOE employees in their personnel files. Therefore, if there is regime change, the employee (as in this case) has to start the RDA process from scratch.

3) Ms. Schimmelfennig and the CRCB have not responded *at all* to my 3rd-party request for ADA accommodations for Ms. Aina that I submitted two and a half weeks ago (12 work days have passed). Neither Ms. Schimmelfennig nor the CRCB acknowledged receipt of the request much less taken appropriate action.

This is unprofessional and unconscionable behavior in a crisis so dramatically affecting Ms. Aina's work life and her students' learning environment. She cannot easily get to all her students at their desks to teach them, and all day long she must break the children's concentration asking students to push in their chairs so the teacher in the wheelchair can pass through the non-ADA compliant pathway in a tiny classroom.

What do you estimate the monetary value of this matter to be?

USD USD<99

Where did this incident or violation occur?

This continuing violation, in which the CRCB and State Superintendent are complicit by ignoring, is being committed by Principal Wilma Roddy at:

Naalehu Elementary School

Log Off

95-5547 Mamalahoa Hwy
Naalehu, Hawaii 96772

Please provide the specific or approximate time this incident occurred:

ADA violation is an ongoing violation every day that Ms. Aina is not assigned to a classroom that can adequately accommodate her wheelchair.

Violation started May 9, 2023 when Principal Roddy announced School Year 2023-2022 room assignments, and Ms. Aina was moved from Room 11 (settled by attorneys in 2016) into a classroom too small to accommodate her wheelchair, thus ignoring the 2016 agreement.

How long do you think this problem has been going on?

3 months to a year

How did you become aware of this violation?

Other

If other, how?

I assisted Ms. Aina filing ADA discrimination complaints since 2012. I assisted her attorney, Lunsford Phillips, as paralegal from 2015 to 2022, so I know the history in detail; I have thousands of pages document the history of Ms. Aina's ADA rights being violated.

I'm aware of the current ADA violation because she told me about it in mid-July. So, I visited Ms. Aina's currently assigned classroom (Room 8). On Sunday, July 30, 2023, I took measurements and pictures which prove her newly-assigned classroom is NOT ADA-Compliant.

Please identify any persons who have attempted to conceal this problem and the steps they took to conceal it:

Beth Schimmelfennig, Executive Director, CRCB.

Ms. Schimmelfennig has ignored the 3rd-Party Request for Disability Accommodations I submitted on Ms. Aina's behalf on July 26, 2023 and my subsequent letters. Ms. Schimmelfennig was involved in the Aina v. DOE lawsuit that lasted seven years and ended November 2022, and is fully aware that Ms. Aina was already granted the Room 11 assignment accommodation in 2016. Ms. Schimmelfennig refuses to respond to my communications. Ms. Schimmelfennig refuses to use her authority to ensure that Principal Roddy is honoring DOE accommodations agreements and abiding by the ADA.

Keith Hayashi, State Superintendent.

Mr. Hayashi is Ms. Schimmelfennig's immediate supervisor. I have written several letters to Mr. Hayashi about Ms. Schimmelfennig not doing her job and blatantly ignoring the accommodation agreement. I have called his office several times asking to speak to him. Mr. Hayashi has ignored me and refused to communicate with me.

Stacey Bello, Kau-Keaau-Pahoa Complex Area Superintendent.

First contacted on July 26, 2023 concerning Wilma Roddy's violation of the ADA. Subsequently, Ms. Bello has been cc'ed on correspondence to Keith Hayashi and three Deputy Superintendents. Ms. Bello has ignored me and refused to communicate with me.

Wilma Roddy, Principal, Naalehu Elementary School. When assigned to the tiny classroom, Room 5, on Ms. Aina voiced her objections to Ms. Roddy, informing her that this was ignoring the reasonable accommodation granted in 2016 (assignment to Room 11 was the compromise, even though there are even larger classrooms at the school).

I got involved July 26, 2023 when I wrote to Ms. Schimmelfennig asking her to honor the prior agreement. I was cc'ing Ms. Roddy on correspondence to Mr. Hayashi, Ms. Schimmelfennig, and the Complex Area Superintendent until August 7, 2023. That is when Ms. Roddy, upset that I had been posting the facts of this violation on my Facebook page and contacting DOE officials about the problem, had a conference with Ms. Aina.

During the conference, Ms. Roddy expressed dissatisfaction with Ms. Aina for telling me what had been going on, and that State Representative Jeanne Kapela had called Ms. Roddy about the problem. Ms. Roddy expressed dissatisfaction that Ms. Aina was not discussing the problem with her, though Ms. Aina has tried, but that approach has been completely ineffective. Ms. Roddy expressed dissatisfaction that I had come onto campus with Ms. Aina on a Sunday and took pictures that I posted on my Facebook page and website. She told Ms. Aina not to bring me on campus at any time, and Ms. Roddy stated she would be issuing a "no trespass" notice to me. Ms. Roddy does not understand that it is a violation of the ADA to punish someone for pursuing their ADA rights. Not allowing Ms. Aina's friend to come to campus to help the teacher when other teachers may bring their friends is one form of punishment. Another is the indirect by very real threat that Principal Roddy will accuse Sue of insubordinate for telling people what is happening to her at the school. This is probably a clear violation of several Whistleblower statutes. So, I have ceased keeping Ms. Roddy informed of my communications with DOE and BOE members.

Details

See the uploaded file: Documentation-of-Accommodation-Agreement.pdf

Also, see the recent communications I have written to Beth Schimmelfennig and/or Keith Hayashi since July 26, 2023. They are all posted, in order, on my website here:

<https://freespeech4us.com/screwing-the-handicapped>

Other witnesses:

Lunsford Phillips

Attorney for the Plaintiff in Aina v. DOE.

Work from home phone: 808-263-0646

Email: lunsfordphillips@icloud.com

Bosco Petricevic
2016 attorney the Defendant in Aina v. DOE
work phone: 402-301-3716
Email : boskolaw@gmail.com
web site: https://boskolaw.com

Karen Veriato
work email: karen.veriato@k12.hi.us
personal email: kveriato@hotmail.com
[Ms. Veriato is a teacher at Na'alehu Elementary School who has been an elected HSTA School Level Leader for over a decade. Over the years, Ms. Veriato has served as the school level HSTA Grievance Rep. I believe she was the Grievance Rep in 2016 when the Room 11 accommodation was granted.]

Uploaded Files

1. Attorneys-Room11-Agreement.pdf
2016 Agreement with DOE that Room 11 assignment is a granted, ADA reasonable disability accommodation.
2. Documentation-of-Accommodation-Agreement.pdf
Documentation of ADA accommodations agreement.

Follow-Up Notes

There are no additional notes for this report.

Follow-Up Questions/Comments

There are no questions asked or comments from the organization.

Chat Transcripts

There are no chat transcripts for this incident.

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