

**UNANSWERED CORRESPONDENCE FROM MS. OTT TO DOE JULY 26 – AUGUST 4, 2023
REGARDING CIVIL RIGHTS COMPLIANCE BRANCH’S TREATMENT
OF HANDICAPPED TEACHER SUE AINA**

SUMMARY

DATE	TIME	TO:	CC:'ED	METHOD	SUBJECT:
26-Jul-2023	8:27 AM	Beth <u>Schimmelfennig</u> , Executive Director, Civil Rights Compliance Branch	Sue <u>Aina</u> , Handicapped Teacher	Email	Asking you to rectify emergency situation at Naalehu Elementary School - more ADA violations
26-Jul-2023	9:18 AM	Stacey <u>Bello</u> , Complex Area Superintendent	Schimmelfennig; Aina; Wilma <u>Roddy</u> , Na‘alehu Elementary School Principal	Email	Asking you to rectify emergency situation at Naalehu Elementary School.
30-Jul-2023	4:42 AM	Schimmelfennig	Aina; Erik <u>Ott</u> , community member	Email	Reasonable Disability Accommodation Request
1-Aug-2023	6:55 AM	All Board Members	Aina	Email	DOE Civil Rights Violations Need Immediate and Long-Term Attention
1-Aug-2023	7:47 AM	Keith <u>Hayashi</u> , State Superintendent	Shimmelfennig; Aina; E. Ott	Email	EMERGENCY! Beth Schimmelfennig is violating the Americans with Disabilities Act
1-Aug-2023	3:39 PM	Hayashi	n/a	phone call	Left message. See my email. Please call me or fix problem.
2-Aug-2023	9:58 AM	Hayashi	Shimmelfennig; Aina; E. Ott	Email	EMERGENCY! Teacher in wheelchair not getting support from CRCB
2-Aug-2023	3:08 PM	Hayashi	n/a	phone call	Left message. See my email. Please call me or fix problem.
3-Aug-2023	3:09 PM	Hayashi	n/a	phone call	Left message. Please call me.
4-Aug-2023	10:28 AM	Hayashi	State Deputy Supintendents: Heidi <u>Armstrong</u> , Curt <u>Otagura</u> , Tammi <u>Chun</u> ;	Email	Re: EMERGENCY! Why isn't CRCB enforcing the accommodation for

DATE	TIME	TO:	CC:'ED	METHOD	SUBJECT:
			Shimmelfennig; Aina; E. Ott		handicapped teachers that was already granted?
7-Aug-2023	8:25 AM	Hayashi	Armstrong, Chun, Otagura, Schimmelfennig, <u>Bello</u> (CAS), <u>Roddy</u> (Principal), Aina	Email	Documentation of Sue Aina's ADA Accommodation: Assignment to Room 11 is the Agreement
7-Aug-2023	10:05 PM	Hayashi	Armstrong, Chun, Otagura, Schimmelfennig, Bello, Roddy, Aina	Email	Thanks for the room cleaning, but WHEN is DOE Going to Honor its ADA Accommodations Agreements?

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From: Vanessa Ott <msvott@gmail.com>

Date: Wed, Jul 26, 2023 at 8:27 AM

Subject: Asking you to rectify emergency situation at Naalehu Elementary School - more ADA violations

To: <beth.schimmelfennig@k12.hi.us>

Cc: Sue Aina <sueaina100@gmail.com>

Ms. Schimmelfennig,

I am writing to you to give you an opportunity to create a good ending to the story of ADA violations at Na‘alehu Elementary School (*The Story*). You have a very large role in *The Story* dating back to 2008 when you were the Compliance Officer who handled my ADA Reasonable Disabilities Accommodation requests (RDA). We are at another fork in *The Story*, and I am interested to see how this latest chapter will end.

Unless you fix the problems in the next day or two, Sue Aina will send yet *another* RDA request to the CRCB asking for accommodations that she and I both thought were *already* granted. I am going to start writing *The Story*, starting with this latest chapter, and although I’m the author, you are the main character creating how this chapter plays out.

Perhaps there is a miscommunication between you or the CRCB and Wilma Roddy (the current Principal of Na‘alehu Elementary & Intermediate School). It is our understanding that Ms. Aina was granted these two accommodations that Ms. Roddy has refused to implement:

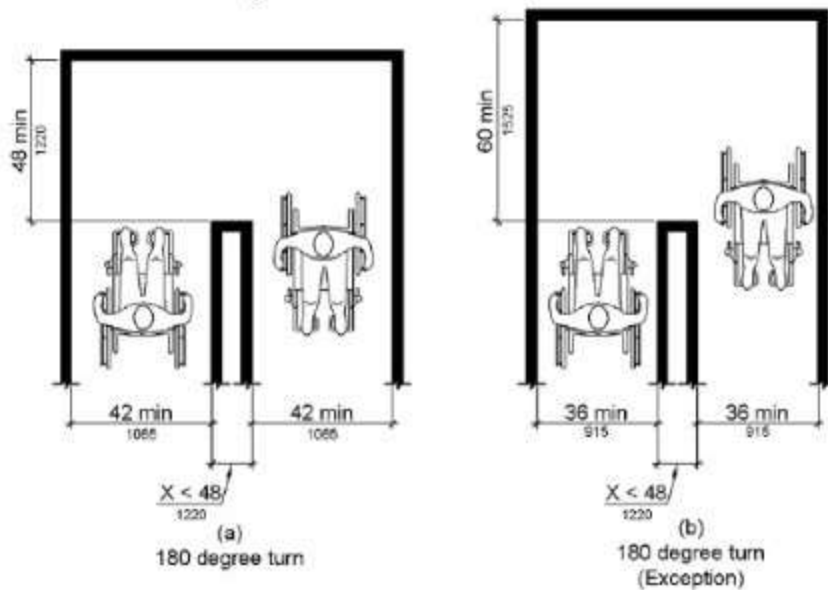
1. The Administration shall establish an evacuation procedure for Ms. Aina and her students that:
 - a. Provides optimum for Ms. Aina safety as well as the students; *and*
 - b. Does not discriminate against Ms. Aina by segregating from the rest of the school during an evacuation (or drill), and enables her to perform her job duties during evacuations.
2. Assignment to a classroom that is large enough to accommodate her wheelchair.

Wilma Roddy has assigned Ms. Aina to a classroom that does not provide enough room for Ms. Aina to maneuver with her wheelchair. Ms. Roddy has not rectified the situation. The teachers’ first day of school is in 6 more days, and teachers need to set up for the school year.

So, are you going to inform Ms. Roddy that she is required to adhere to the ADA Accessibility Standards, Chapter 4 - Accessibility Routes, for employees in wheelchairs? The specifications for minimum clearance required for all state buildings here: <https://www.access-board.gov/ada/#ada-403>

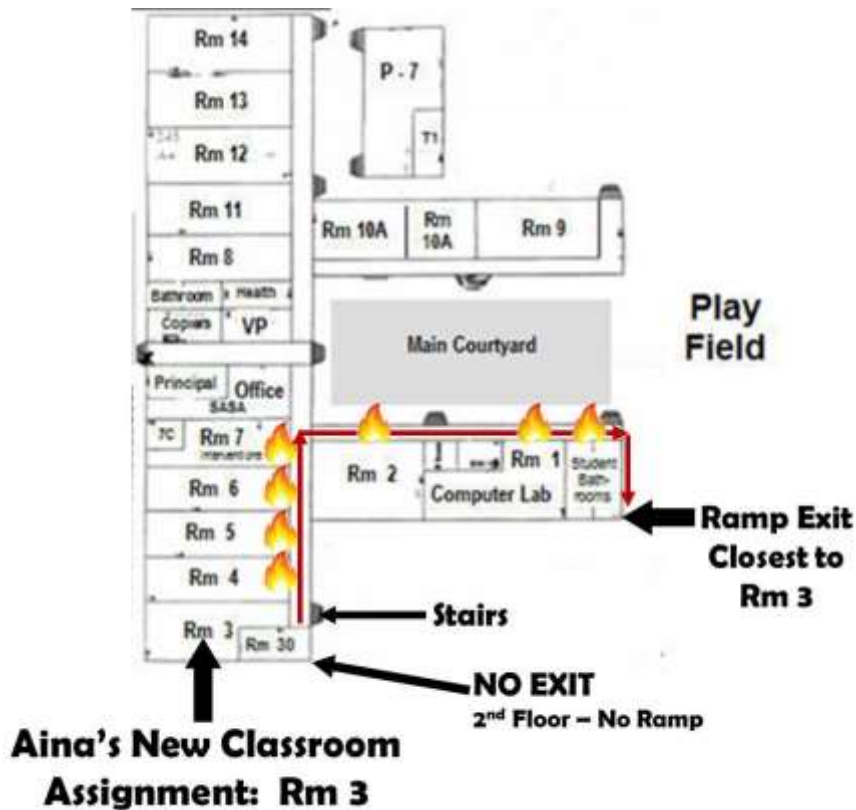
If Ms. Roddy denies that the room is does not provided ADA-required egress, she can easily prove it by taking measurements with Ms. Aina present to authenticate the data. I am certain that the data will prove yet another violation of the ADA by school administrators.

Figure 403.5.2 Clear Width at Turn



Perhaps Ms. Roddy is unaware of the battles Ms. Aina endured to get the RDA of an emergency evacuation procedure that is safe and does not discriminate against her by segregating her from the rest of the school. Ms. Roddy has assigned Ms. Aina to an extremely unsafe room for someone in a wheelchair. Look at the pictures below. If there is a fire in Rooms 4, 5, 6, 7, or 2, Ms. Aina would be trapped.





So, how are you going to write the ending to this chapter of *The Story*? Are you going to ignore me and do nothing? Are you going to fix these problems and restore Ms. Aina's right to working conditions suitable for someone in a wheelchair? I'm on pins and needles.

I think I'll set up an entire section of my website to share all the chapters of *The Story* that began 15 years ago when you denied me the RDA of a gate key so I could work weekends and after hours. Right now, this chapter is a cliffhanger. What will Ladona "Beth" Schimmelfennig do or not do next?

I hope this latest story has a better ending than those of the past.

I look forward to your response.

Sincerely,

Vanessa Ott
808-854-1018

From: Vanessa Ott <msvott@gmail.com>

Date: Wed, Jul 26, 2023 at 9:18 AM

Subject: Asking you to rectify emergency situation at Naalehu Elementary School

To: Stacey Bello Stacey.Bello@k12.hi.us

Cc: <beth.schimmelfennig@k12.hi.us>, <wilma.rodgy@k12.hi.us>, Sue Aina sueaina100@gmail.com

Aloha Ms. Bello,

Please read the email I sent to the Director of the Civil Rights Compliance Branch, Beth Schimmelfennig, regarding Principal Wilma Roddy's decision to assign a handicapped teacher, Sue Aina, to a classroom that is unsafe and too small for a person in a wheelchair. I ask that you, in your capacity as Ms. Roddy's supervisor address, this urgent matter post haste because teachers need to start setting up their classrooms for the upcoming school year.

Mahalo,
Vanessa Ott
808 - 854 -1018

From: Vanessa Ott <msvott@gmail.com>

Date: Sun, Jul 30, 2023 at 4:42 PM

Subject: Reasonable Disability Accommodation Request

To: <beth.schimmelfennig@k12.hi.us>, CRCB <CRCB@k12.hi.us>

Cc: Sue Aina <sueaina100@gmail.com>, Erik Ott otterik@gmail.com

Ms. Schimmelfennig,

I decided to start the *The Story* by making my email to you sent July 26th available online. [Click here to read it](#). As I said, you're an integral part of this story, and the ball's in your court as to what happens next. Note that since you are responsible for the current crisis at Naalehu Elementary School, not only will Ms. Aina be inconvenienced, but so will the other teacher with whom she will have to exchange rooms if my campaign to tell the truth about what's going on is successful, and Ms. Aina is re-granted the reasonable accommodations she had before.

Per the [EEOC guidelines](#), attached is my 3rd-Party request for reasonable accommodations for DOE employee Suzanne M. Aina.

Mahalo,
Vanessa Ott
808 - 854 -1018

p.s. In addition to Ms. Aina, I'm cc:'ing my husband who financed the lawsuit, and has an interest in this issue.

**DEPARTMENT OF EDUCATION REASONABLE DISABILITY ACCOMMODATION (RDA)
REQUEST & APPROVAL FORM**

Date of Request: July 31, 2023
 School/Complex/Office: Na'alehu Elementary / Kau-Keaau-Pahoa Complex Area
 Disabled Person's Name: Suzanne Marie Aina
 Disabled Person is: ☐ Job Applicant ☒ Employee
 If an Employee, list:
 Employee's Position Title and Level: Teacher
 Employee's Worksite Address: 95-5547 Mamalahoa Hwy, Naalehu, Hawaii 96772
 Employee's Work Phone & Extension: school phone 808-313-4000
 Requestor's Name: Vanessa Ott
 Requestor is: ☐ Disabled Person ☒ Third-Party
 Requestor's Address: _____
 Requestor's Email Address (optional): MsVOtt@gmail.com
 Requestor's Primary Phone: 808-854-1018 Requestor's Secondary Phone: _____

APPLICATION

- 1) In order to assist the Civil Rights Compliance Branch in making a determination, information describing the nature of the disability is:
☒ In Employee's Personnel Record (*not first RDA request*) ☐ Described in attached Form RA-3

- 2) The following reasonable accommodation(s) are requested:
 - A.) The employee shall be assigned to a classroom workspace that offers two routes of exit, both to the left *and* to the right once out the door, so that she will not be trapped should there be an obstruction to the right or the left respectively.
 - B.) The employee shall be assigned to a classroom workspace, as she was before, that provides an evacuation route that enables her to maintain control of her students *and* minimize wear and tear on her wheelchair from monthly drills.
 - C.) The employee shall be assigned to a classroom workspace at Na'alehu Elementary School that is large enough to accommodate her wheelchair per per the ADA Accessibility Standards Chapter 5 section 403.5.2 so that she is able to access all of her students, and navigate the workspace *while students are seated at their desks*.

3) The Disabled Person needs to have the reasonable accommodation(s) for the following reasons:

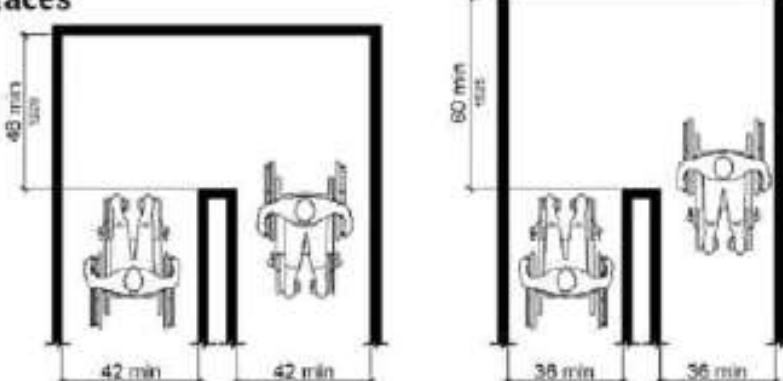
- A.) These accommodations meet the ADA criteria as "reasonable" because they pose no undue hardship to the employer. They cost nothing and will not disruption business operations unless the CRCB is negligent, and refuses to act now.
- B.) The employee has a right to a safe workplace.
- C.) The employee has the right to not be discriminated against which occurs when she is segregated from the school during evacuations, and demeaned by the implication that she is unable to perform her job duties because of her disability as has occurred in the past, prior to being afforded this accommodation that has now disappeared.
- D.) The employee has the right to an evacuation drill procedure that does not put unnecessary wear and tear on her wheelchair.
- E.) The employee has a right to a workplace that adheres to the Americans with Disabilities Act Accessibility Standards.

Americans with Disabilities Act
Accessibility Standards

Chapter 4: Accessible Routes

403 Walking Surfaces

403.5 Clearances



403.5.2 Clear Width at Turn

Where the accessible route makes a 180 degree turn around an element which is less than 48 inches (1220 mm) wide, clear width shall be 42 inches (1065 mm) minimum approaching the turn, 48 inches (1220 mm) minimum at the turn and 42 inches (1065 mm) minimum leaving the turn.

- F.) The employee was granted these accommodations in the past, or at least that was what the Defense represented to the Court in *Aina v. Department of Education*

Hawai'i First Circuit Court Case No. 1CC191000694. Based on Findings of Fact which included the representation by CRCB Executive Director Schimmelfennig that these accommodations had been granted, the judgement was against the employee, Ms. Aina, on November 10, 2022. Less that a year later, those accommodations have disappeared, and the ADA violations resume. There is something very unethical about this, and the accommodations need to be restored for all the arguments given over the last decade and the reasons stated above.

G.) Not granting these very reasonable disability accommodations is discriminatory.



Requestor's Signature

July 31, 2023

Date

DETERMINATION
(For Civil Rights Compliance Branch Use ONLY)

☐ Individual has a disability that substantially limits a major life activity.

☐ Individual does NOT have a disability that limits a major life activity.

The request for reasonable accommodation is:

☒ **Approved by Civil Rights Compliance Branch.** Type of reasonable accommodation agreed upon:

☐ **Disapproved by Civil Rights Compliance Branch.** Reason(s) reasonable accommodation was denied:

Civil Rights Compliance Branch Director

Date

B-1

FORM RA-1

RS 10-1566, June 2010

From: Vanessa Ott <msvott@gmail.com>

Date: Tue, Aug 1, 2023 at 6:55 AM

Subject: DOE Civil Rights Violations Need Immediate and Long-Term Attention

To: <warren.haruki@boe.hawaii.gov>, <makana.mcclellan@boe.hawaii.gov>, Bill Arakaki <bill.arakaki@boe.hawaii.gov>, Shanty Asher

<shanty.asher@boe.hawaii.gov>, Kaimana Barcarse

<kaimana.barcarse@boe.hawaii.gov>, <ken.kuraya@boe.hawaii.gov>,

<kahele.dukelow@boe.hawaii.gov>, <lauren.moriarty@boe.hawaii.gov>

Cc: Sue Aina <sueaina100@gmail.com>

Aloha Board of Education Members,

Please read the attached letter about what the Board of Education can do to fix a serious moral and legal problem concerning the DOE Civil Rights Compliance Branch.

Mahalo,

Vanessa Ott

808 - 854 -1018



Vanessa Ott

P.O. Box 825, Na‘alehu, HI 96772

FreeSpeech4us.com

(808) 854-1018

MsVOtt@gmail.com

August 1, 2023

To: All State of Hawai‘i Board of Education Members

warren.haruki@boe.hawaii.gov, makana.mcclellan@boe.hawaii.gov, bill.arakaki@boe.hawaii.gov,
shanty.asher@boe.hawaii.gov, kaimana.barcarse@boe.hawaii.gov, ken.kuraya@boe.hawaii.gov,
kahele.dukelow@boe.hawaii.gov, lauren.moriarty@boe.hawaii.gov

re: **DOE Civil Rights Compliance Branch (CRCB) Has Serious Problems**

Aloha Board of Education Members,

“The moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; those who are in the shadows of life, the sick, the needy and the handicapped.”¹

By this test, the DOE Civil Rights Compliance Branch is a complete moral and legal failure. I am asking the Board to create policies that provide oversight and accountability of CRCB operations. I have many suggestions for improvement, but they are meaningless until you understand the problem. I’ll begin with a couple true, illustrative examples.

BACKGROUND STORIES

My education and early career is in audio engineering and information technology. In my forties, I decided to become a public school teacher in a high need area of Hawai‘i, so I got a teaching certificate from California State University and became a fully-licensed teacher in 2007 at Na‘alehu Elementary School, the Southernmost public school in the U.S. on Hawai‘i Island. In 2008, I asked for a reasonable disability accommodation. The CRCO (Civil Rights Compliance Office, as the CRCB was named back then) Compliance Officer, Beth Schimmelfennig, denied the requested accommodation. Ms. Schimmelfennig is now the Executive Director of the CRCB and continuing to deny reasonable disability requests (RDAs) for handicapped employees.

The RDA I’d requested was simply a key to the parking gate so that I could work in my classroom after 4:30 pm M-F (when the staff locked the school driveway gate) and on weekends. I’m handicapped. In rural Na‘alehu, the school parking gate is along Mamalahoa Highway and the school is set back over 600 feet. When the request was denied, I filed a discrimination complaint with the CRCO. What ensued thereafter were several years of harassment and retaliation of which, of course, I complained about, and Ms. Schimmelfennig did nothing to

¹ Hubert Humphrey, November 1, 1977

rectify. The HSTA was not very helpful. At first, my UniServ tried to say it wasn't a grievance issue, which was wrong. The HSTA eventually filed a grievance, but the Uniserv was ignorant of the ADA laws, and the HSTA would not allow me to pay for an attorney to take the ADA violations before a court of law. Eventually, in December 2011, an arbitrator decided that indeed I should have the gate key, but I would have to reapply. More hassles. The retaliation wasn't going to go away, so I quit working for the DOE. Being a DOE teacher was, by far, the worst job I have ever had in my life because of how I was treated when I asserted my ADA rights.

Ms. Schimmelfennig had been questioned during the arbitration proceedings for my grievance, and that's when I learned that she has no formal legal training in civil rights. Apparently, she's just stuck around so long that now she's the Executive Director of the State DOE Civil Right Compliance Branch. This is not good for all disabled DOE employees, not until she gets more legal training and is held accountable for the actions of the CRCB. But, accountability? Hah! How many years has the public been screaming for accountability in all areas of the DOE yet it's *still* not forthcoming?

In 2012, another teacher at the same school, Sue Aina, who is far more disabled than I, requested the same accommodation (a key to the gate). Ms. Schimmelfennig denied it again, completely ignoring the arbitrator's decision regarding my grievance. Then, for the next several years, Ms. Aina endured harassment and retaliation while Ms. Schimmelfennig did nothing.

Around 2014, a lawyer, kind enough to assist but who turned out to be very incompetent at trial, filed a lawsuit with Ms. Aina as Plaintiff. That's when accommodations she had requested and fought for finally began to materialize. The lawsuit concluded on November 10, 2021. Based on "Findings of Fact," the First Circuit bench trial judgment of *Aina v. Department of Education* was entered in favor of the DOE. I was a paralegal assisting Ms. Aina's attorney, and know this case intimately. I agree that, *at that time* (November of last year), the findings of fact were in the DOE's favor, but they were entirely based on the fact that Ms. Aina had been granted these reasonable disability accommodations. But now that the trial is over, Ms. Schimmelfennig has allowed the new Principal to take away the accommodations!

I wish I could say this unbelievable, but it's par for the course. The Na'alehu Elementary school Principal is back to discriminating against Ms. Aina, and Beth Schimmelfennig is once again not doing her job, and not following the law ([click here² to read my recent correspondence to Ms. Schimmelfennig](https://freespeech4us.com/screwing-the-handicapped) on this matter).

WHY THE BOE MUST CHANGE THE STATUS QUO

Over the years while fighting for ADA rights for myself and Ms. Aina, and the education rights of a SpEd student I tutored for five years, I've learned some valuable information you're not likely to get from the DOE but, as our State's Education Policy makers, you should know.

² <https://freespeech4us.com/screwing-the-handicapped>

Last year, I made several UIPA³ requests to the DOE and William S. Richardson School of Law and discovered that *none* of the DOE CRCB employees has sufficient, formal legal training in the Americans with Disability Act or Civil Rights law in general. Please read the results of that research by [clicking here](#).⁴ The CRCB Executive Director, Ms. Schimmelfennig, herself, has no formal legal training.

As it stands in Hawai‘i, it is impossible to have legal violations of the ADA by the DOE properly addressed. First of all, when it comes to requests for reasonable workplace disability accommodations (RDAs), RDAs should be granted – period -- unless too expensive or impractical (called an “undue hardship”). Support the handicap not with platitudes, but with reasonable accommodations. But, that apparently is not part of the Schimmelfennig CRCB mission. In all my years, and Sue’s years, being denied several simple RDAs, it is not common practice for the CRCB to not even talk to the disabled employee at all before issuing its denial. The CRCB always sides with the administrator, there are administrators who don’t want to be bothered with handicapped employees and they use RDA denials as a way to make the handicapped employee’s work life more difficult. The ADA exists to prevent this kind of abuse, but if the CRCB isn’t going to abide by the ADA, whatcha gonna do? Get screwed. The Principal obviously intends to make Ms. Aina’s work life as difficult as possible. The lawsuit is over so now, Ms. Aina, who has to use a wheelchair at work, has been assigned to work in a classroom that’s too small and unsafe. The details are in [my letter to Ms. Schimmelfennig](#) last week I posted online.⁵ She is doing nothing to fix the problem.

Second of all, agencies which are supposed to help, do nothing. The HSTA is ineffective in protecting disabled teachers’ rights. The Hawai‘i Civil Rights Commission is not interested in what they consider “labor” disputes. The EEOC does nothing except issue a Notice of Right to Sue, usually a year after a complaint is made. I’ve not been able to get any information from EEOC-Hawai‘i if they have EVER done *anything* to address *any* ADA complaints against the DOE. I know Sue and I can’t be the only ones.

Third, civil rights law in the State of Hawai‘i is practically nonexistent. Most of the attorneys in this state are educated at the William S. Richardson School of Law which doesn’t have *any* classes in civil rights law which includes the ADA (affecting all DOE employees) and the IDEA – Individuals with Disabilities Education Act. Not one class, much less an entire program. No wonder the people employed in the CRCB are clueless about how to follow the law.

Fourth, of the few civil rights attorneys that actually are lurking around in Hawai‘i, they’re all on Oahu, and will not take cases related to the outer islands. At least, that was status as of 8 years ago. The only reason an attorney took Ms. Aina’s case was because I volunteered to do the work necessary to interface with the attorney on Oahu because I rented an apartment there from 2012 to 2023. Besides, what DOE teacher do you know who can afford to hire an attorney?

³ UIPA – Uniform Information Practices Act. The HI State equivalent of the Federal FOIA (Freedom of Information Act).

⁴ <https://freespeech4us.com/hawaii-doe-civil-rights>

⁵ <https://freespeech4us.com/screwing-the-handicapped>

Lastly, there are significant challenges to justice when our Department of the Attorney General interprets its duty to “protect the interest of the state” as defending the misguided and unlawful CRCB decisions instead of advising the CRCB how to follow the law, and get all disabled teachers any low-cost, reasonable accommodation they need to succeed.

WHAT THE BOE HAS THE POWER TO DO

The Board of Education has the power to set policies which require that a certain percentage of CRCB employees must have legal training and experience in Civil Rights law, and the Executive Director must be one of those that meet this requirement. If that means we have to hire outside of Hawai‘i, then that’s what must be done. Also, all CRCB employees must have ongoing civil rights training. The EEOC offers many training programs. This is just like requiring teachers to have a certain type and level of education to be employed long term, and doing ongoing trainings to recertify their license every certain number of years.

The BOE has the power to set policies that require greater accountability and oversight of the CRCB. In written testimony for BOE General Business Meeting on August 18, 2023, I offer several standard, time-tested business practices for better communication, organization improvement, and oversight that can be applied to oversight of CRCB operations and “customer” satisfaction. [Click here to read that treatise.](#)⁶

The BOE also has the power to evaluate Superintendent Hiyashi each year. I think it’s important to include in Superintendent Hiyashi’s year-end evaluation how he addresses Ms. Schimmelfennig’s ADA violations in the short term and the long term. I would expect that any Superintendent worth his weight would do two things:

- 1.) Instruct Ms. Schimmelfennig to follow the ADA and explain to the Principal that she’s required to provide a classroom for Ms. Aina large enough to accommodate her wheelchair. Ms. Aina can just go back to the classroom she had last year; and,
- 2.) Investigate CRCB operations over the coming months, and include in next year’s strategic plan (which should be completed before Mr. Hiyashi’s evaluation) specific steps for improving the civil rights education of CRCB employees as well as oversight for the branch’s operations.

Mahalo for your consideration,


Vanessa Ott

cc: Keith Hayashi, Superintendent, State of Hawai‘i Department of Education.

⁶ <https://freespeech4us.com/dear-hawaii-boe#f8f94e93-90ca-4aef-97d9-074aaca43186>

From: Vanessa Ott <msvott@gmail.com>

Date: Tue, Aug 1, 2023 at 7:47 AM

Subject: EMERGENCY! Beth Schimmelfennig is violating the Americans with Disabilities Act

To: Keith Hayashi <Keith.Hayashi@k12.hi.us>

Cc: Sue Aina <sueaina100@gmail.com>, <beth.schimmelfennig@k12.hi.us>, Erik Ott <otterik@gmail.com>

Aloha Superintendent Hiyashi,

Your direct report, the CRCB Executive Director, Beth Schimmelfennig is violating the ADA. I've written to her about it and she has refused to respond to me. Her inaction has created a crisis for handicapped teacher Suzanne M. Aina. It is your responsibility to make sure your direct reports do their jobs properly. Therefore, it is now your responsibility to fix this emergency problem and that Ms. Schimmelfennig does her job, tells Principal Wilma Roddy how to follow the ADA, and makes sure Ms. Aina is not harassed any more by being forced to work in a classroom that is too small to accommodate her wheelchair.

You can read the letter and the 3rd-Party Request for Disability Accommodation I sent to Ms. Schimmelfennig on my website here: [Screwing The Handicapped \(freespeech4us.com\)](https://freespeech4us.com)

Attached is the letter I sent to the Board of Education this morning. It explains the serious problems in the CRCB that have been going on for over a decade and, as far as I'm concerned, are completely Ms. Schimmelfennig's fault. Now that I have brought this to your attention, she has become your problem, too. As I said in my closing statements to the BOE members,

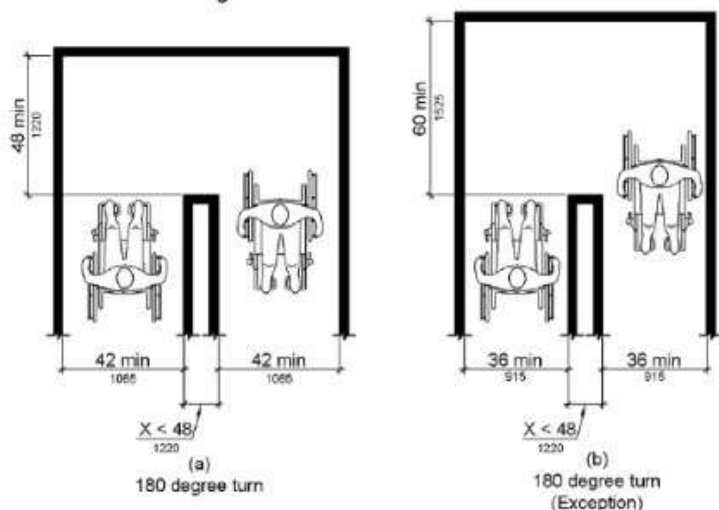
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1.) Instruct Ms. Schimmelfennig to follow the ADA and explain to the Principal that she's required to provide a classroom for Ms. Aina large enough to accommodate her wheelchair. Ms. Aina can just go back to the classroom she had last year; and,

2.) Investigate CRCB operations over the coming months, and include in next year's strategic plan (which should be completed before Mr. Hiyashi's evaluation) specific steps for improving the civil rights education of CRCB employees as well as oversight for the branch's operations.

At this immediate juncture, I ask that you immediately override Ms. Schimmelfennig's inaction, contact Principal Wilma Roddy at Naalehu Elementary School and tell her to make sure that Ms. Aina is assigned to a classroom large enough to fit all the students seated at their desks with ADA wheelchair compliant egress. The teachers are setting up their new classrooms as I write this.

Figure 403.5.2 Clear Width at Turn



Mahalo,
Vanessa Ott
808 - 854 -1018

From: Vanessa Ott to Keith Hayashi
Date: Tue, Aug 1, 2023
Time: 3:29 pm
Subject: Please call regarding EMERGENCY!

OUTCOME: Left a message with receptionist.

Date	Time	Destination	Number	Call type	Minutes
08/01/2023	03:29 PM	HONOLULU	808-784-6161	Peak	3 minutes

From: Vanessa Ott <msvott@gmail.com>
Date: Wed, Aug 2, 2023 at 9:58 AM
Subject: EMERGENCY! Teacher in wheelchair not getting support from CRCB
To: Keith Hayashi Keith.Hayashi@k12.hi.us
 Cc: Sue Aina <sueaina100@gmail.com>, <beth.schimmelfennig@k12.hi.us>, Erik Ott <otterik@gmail.com>

Aloha Superintendent Hayashi,

Ms. Schimmelfennig is still discriminating against Suzanne Aina by not approving a reasonable ADA accommodation Ms. Aina was granted years ago! Ms. Aina is purposely being harassed as a form of constructive discharge. Ms. Aina still has not been assigned to a classroom large enough to meet the minimum ADA accessibility requirements.

When are you going to fix this emergency issue and get Ms. Aina the support she needs?

Mahalo,
Vanessa Ott
808 - 854 -1018

From: Vanessa Ott to Keith Hayashi
Date: Tue, Aug 2, 2023
Time: 3:08 pm
Subject: Please call regarding EMERGENCY!

OUTCOME: Left a message with receptionist.

Date	Time	Destination	Number	Call type	Minutes
08/02/2023	03:08 PM	HONOLULU	<u>808-784-6161</u>	Peak	2 minutes

From: Vanessa Ott to Keith Hayashi
Date: Tue, Aug 3, 2023
Time: 3:09 pm
Subject: Please call regarding EMERGENCY!

OUTCOME: Left a message with receptionist.

Date	Time	Destination	Number	Call type	Minutes
08/03/2023	03:09 PM	HONOLULU	<u>808-784-6161</u>	Peak	7 minutes

From: Vanessa Ott <msvott@gmail.com>

Date: Fri, Aug 4, 2023 at 10:28 AM

Subject: Re: EMERGENCY! Why isn't CRCB enforcing the accommodation for handicapped teachers that was already granted?

To: Keith Hayashi <Keith.Hayashi@k12.hi.us>, Heidi Armstrong <Heidi.Armstrong@k12.hi.us>, curt.otaguro@k12.hi.us <curt.otaguro@k12.hi.us>, <tammi.chun@k12.hi.us>

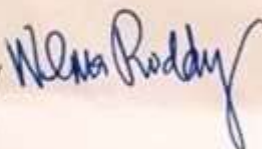
Cc: Sue Aina <sueaina100@gmail.com>, Erik Ott <otterik@gmail.com>, <beth.schimmelfennig@k12.hi.us>

Aloha Superintendent Hiyashi and Deputy Superintendents Armstrong, Chun, and Otaguro,

Students start school on Monday. Ms. Aina has to prep her classroom. She needs SOMEBODY to make sure she gets her room assignment moved back to where it was

STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
NAALEHU ELEMENTARY SCHOOL
P.O. BOX 170
NAALEHU, HAWAII 96772
TEL: (808) 313-4000 FAX: (808) 939-2419

TO: Suzanne Aina

FROM: Wilma Roddy 

DATE: May 31, 2023

SUBJECT: SUMMARY OF CONFERENCE HELD ON 05/30/2023 REGARDING CLASSROOM CONCERNS AND SUPPORTS NEEDED

CONFERENCE PARTICIPANTS: Suzanne Aina, Teacher; Wilma Roddy, Principal

You shared that you thought "not lifting 10 lbs" was part of your accommodations. I told you that I would check on that and contacted CRCB. They responded and shared what accommodations were in place and that included:

1. Ms. Aina's room is cleaned during the summers only. She needs more time to pack/unpack/set up.
2. She is allowed to pick up her classroom keys 5 days prior to other teachers. It is up to Ms. Aina to call for her keys. She may start earlier but she is not required to. All "early" days for all teachers are voluntary, at teachers' discretion. At the end of the year Ms. Aina is allowed extra days to pack up.
3. For fire drills and off campus evacuation Ms. Aina's students are assisted by someone from P7 or another trained staff member. The fire drill starts as normal with students going straight out to the field accompanied by another adult while Sue goes along the road way to wait at the opening in the fence. After all students for the school are accounted for on the field as signaled by a bell, Ms. Aina's students are escorted to her at the fence.
4. Ms. Aina stores her wheel chair in room 35 near parking.
5. Her set of homeroom keys includes a gate key and room 35 key to access her chair.
6. As a homeroom teacher Ms. Aina is assigned room 11, the largest room in the building.

for the past six years, Room 11 at Naalehu Elementary School. This needs to be done today so she can get the room ready for the students on Monday. Being assigned to Room 11 was an accommodation that was granted in 2016. See item #6 in the excerpt of a Summary of Conference written by Principal Wilma Roddy this past May documenting Ms. Aina's ADA reasonable disability accommodations.

Room 11 is the only room in the old building that can accommodate Ms. Aina's wheelchair. She fought for this accommodation for years! Beth Schimmelfennig is well aware of this. Why isn't she doing her job and enforcing the accommodation? Why isn't the Superintendent mankind sure Ms. Schimmelfennig abides by the ADA and fixes this teacher's emergency?

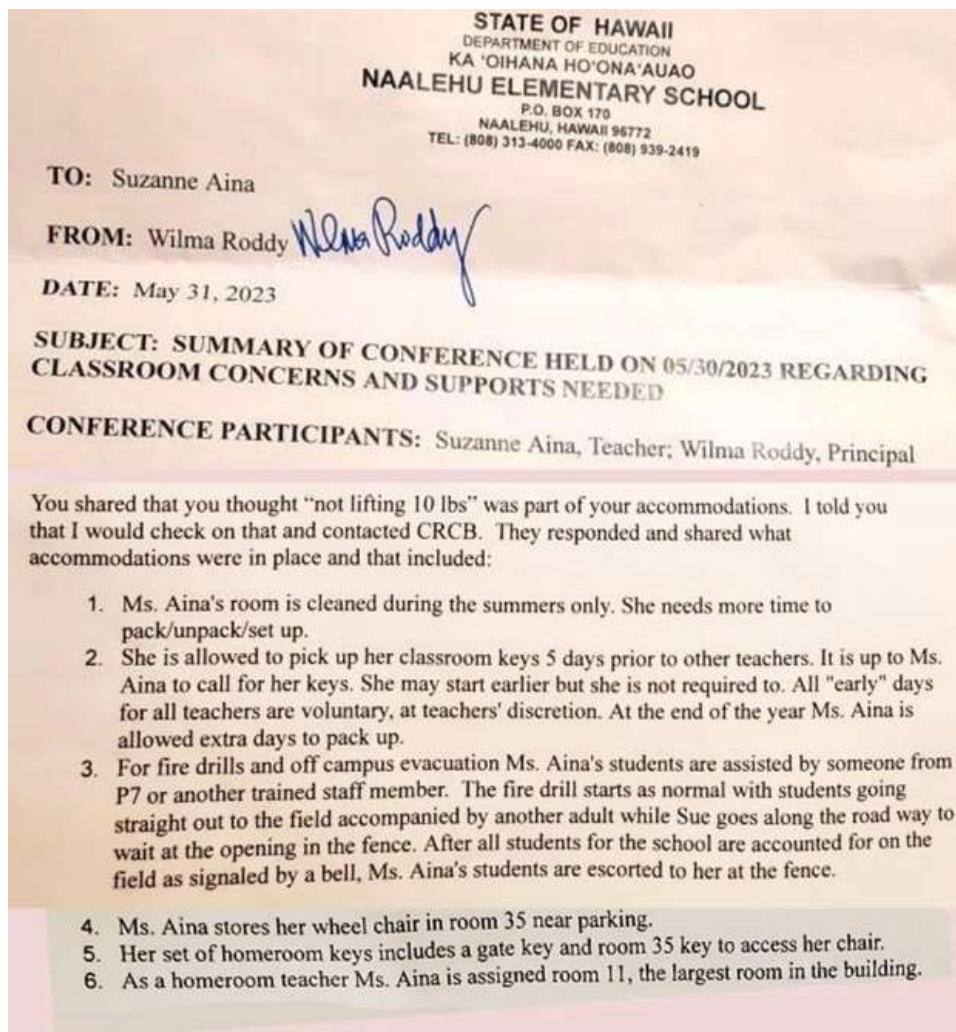
Mahalo,
Vanessa Ott
808 - 854 -1018

From: Vanessa Ott <msvott@gmail.com>
Date: Mon, Aug 7, 2023 at 8:25 AM
Subject: Documentation of Sue Aina's ADA Accommodation: Assignment to Room 11 is the Agreement
To: Keith Hayashi <Keith.Hayashi@k12.hi.us>
Cc: Heidi Armstrong <Heidi.Armstrong@k12.hi.us>, <curt.otaguro@k12.hi.us>, <tammi.chun@k12.hi.us>, <beth.schimmelfennig@k12.hi.us>, Stacey Bello <stacey.bello@k12.hi.us>, <wilma.rodgy@k12.hi.us>, Sue Aina <sueaina100@gmail.com>

Aloha DOE Gang of People in Power,

This is a Facilities issue (wheelchair ramp, fire hazard safety, cleanliness), an HR issue (ADA rights in the workplace and teacher support), and Student Achievement issue (clean classrooms and supplying teachers with basic needs so they can best serve students). And, of course, a Civil Rights issue. I don't know who is responsible for fixing the problems, but it has to be one of you.

Sue Aina's granted disability accommodations includes being assigned to Room 11 at Naalehu School. It is not the largest classroom at the school. (The largest two classrooms are located in the new wing, but Sue's requests to be assigned to either one was never granted by the previous Principal.) Room 11 was the best Ms. Aina could get, and it's the Room she needs for her classroom to be ADA-compliant. Attached is a copy of Principal Roddy's summary of her May 31, 2023 conference with Ms. Aina; it includes a list of the accommodations granted to Ms. Aina (after years of fighting for them).



THE EASIEST ADA-COMPLIANT SOLUTION to this ENORMOUS PROBLEM

The agreement since 2016 has been that Ms. Aina is to be assigned to Room 11 because it can accommodate her wheelchair so she can get to all her students' desks, and does not pose a safety hazard in case of fire. Therefore, the DOE should honor its agreement, and move Ms. Aina back to Room 11 without further delay. If the Principal wants Ms. Aina to teach Grade 2, Sue can do it in Room 11.

DOCUMENTATION OF ACCOMMODATION: ASSIGNMENT TO LARGER ROOM

Sue was able to find the piece of paper that documents her accommodations. (The CRCO never issued one.) It is Principal Wilma Roddy's Summary of Conference on May 31, 2023 (attached). **The picture below shows the list of Ms. Aina's granted accommodations.** Item #6 clearly states that Ms. Aina is supposed to be assigned to larger Room 11.

MORE INFO ABOUT GRADE REASSIGNMENT

Who replaced Ms. Aina in Grade 5, Room 11? It is a new, younger, physically-abled teacher who was a substitute last year. Probably not fully certified yet.

What was Ms. Roddy's reason for the Grade Level reassignment? According to Ms. Aina, Ms. Roddy's justification is this is for Ms. Aina's benefit to help her be more well-rounded. Well, what legitimate business purpose is served by retraining a teacher to teach another grade level when she is soon to retire? Training is expensive and an investment in the future. It's an extremely poor business decision to start retraining an employee who is soon to retire. Likewise, it is unwise to not take advantage of a teacher's experience and knowledge teaching a specific Grade level for over a decade.

I think anyone with a grain of common sense should be able to see that Principal Roddy's is not a sound business decision because it merely a pretext for making Ms. Aina's work life as difficult as possible.

MORE INFO ABOUT CONDITION OF ROOM 5

Yesterday, I measured the clearances in Room 5 (new room for Sue). **Room 5 definitely does *NOT* meet the minimum ADA standards.**

Also, Room 5 is filthy. Here's a few pictures of the disgusting mess under the sink; louvered windows caked in dust; the entire walls and carpets covered in dust; and dust so thick on the filing cabinet and shelves, you could write in it. Click on each picture to see the detail.



Below are two panoramic pictures of Room 5. Ms. Aina has spent several days "getting her room ready" by cleaning taking books and papers off of shelves to clean off the layers of dirt. And she's doing this while in a wheelchair in a room that's too small. Ms. Aina left Room 11 in good condition and ready to be cleaned with books stacked up and shelves cleared off.





When are you going to honor the DOE agreement with Ms. Aina and move her back into Room 11?

Mahalo,
Vanessa Ott
808 - 854 -1018

From: Vanessa Ott <msvott@gmail.com>
Date: Mon, Aug 7, 2023 at 10:05 PM
Subject: Thanks for the room cleaning, but WHEN is DOE Going to Honor its ADA Accommodations Agreements?
To: Keith Hayashi Keith.Hayashi@k12.hi.us
Cc: Heidi Armstrong <Heidi.Armstrong@k12.hi.us>, <curt.otaguro@k12.hi.us>, <tammi.chun@k12.hi.us>, <beth.schimmelfennig@k12.hi.us>, Stacey Bello <stacey.bello@k12.hi.us>, <wilma.rodny@k12.hi.us>, Sue Aina <sueaina100@gmail.com>

Aloha DOE Powers That Be,

Update:

1. Today, Principal Roddy got someone in to clean some of the filth out of Room 5.
2. Room 5 still does not meet the minimum ADA egress requirements for Ms. Aina's wheelchair. Ms. Aina was granted an ADA accommodation to be in a classroom large enough to accommodate her wheelchair. In 2016, that was Room 11.
3. Ms. Aina was also granted an ADA accommodation that provided safety for herself and her wheelchair during evacuations and monthly evacuation drills, *and* an evacuation procedure that enabled her to maintain supervision of her students as well has not be segregated from the rest of the school due to her

disability. Placement in Room 5 strips these accommodations away, and Principal Roddy has done nothing to replace the old evacuation procedure with a new one that does not discriminate against Ms. Aina.

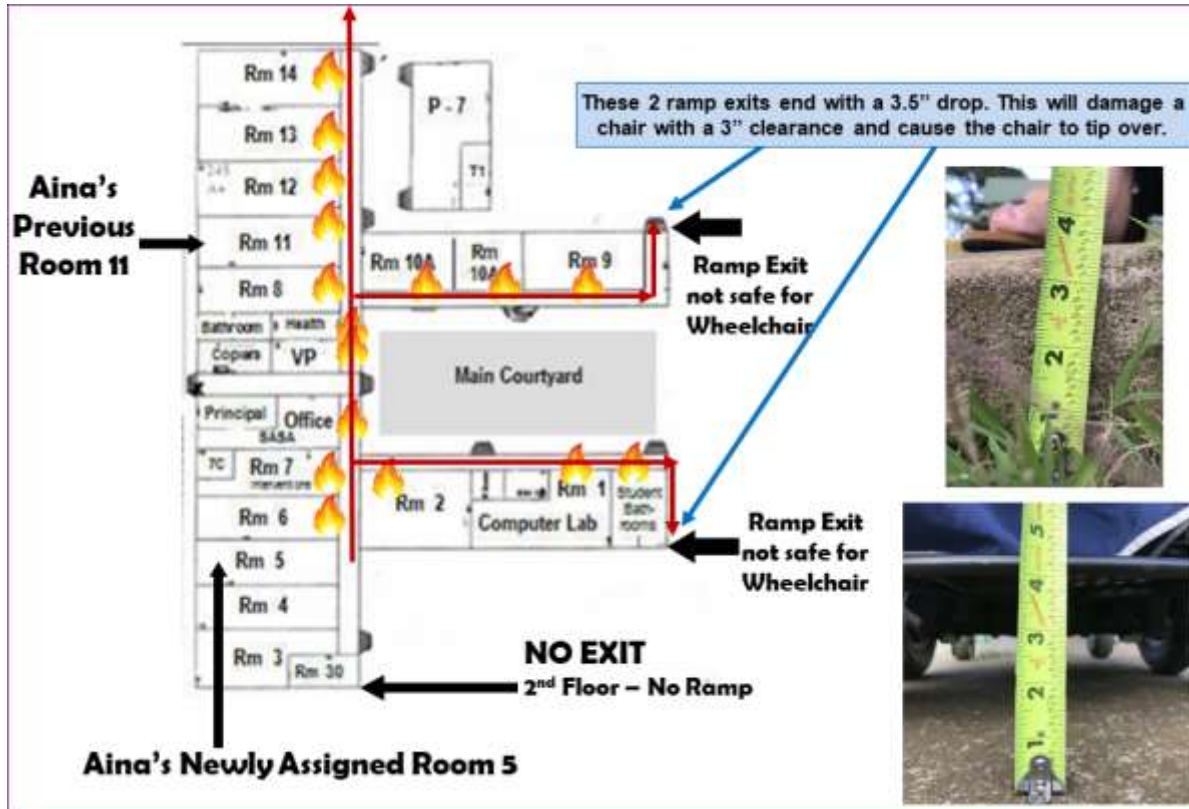
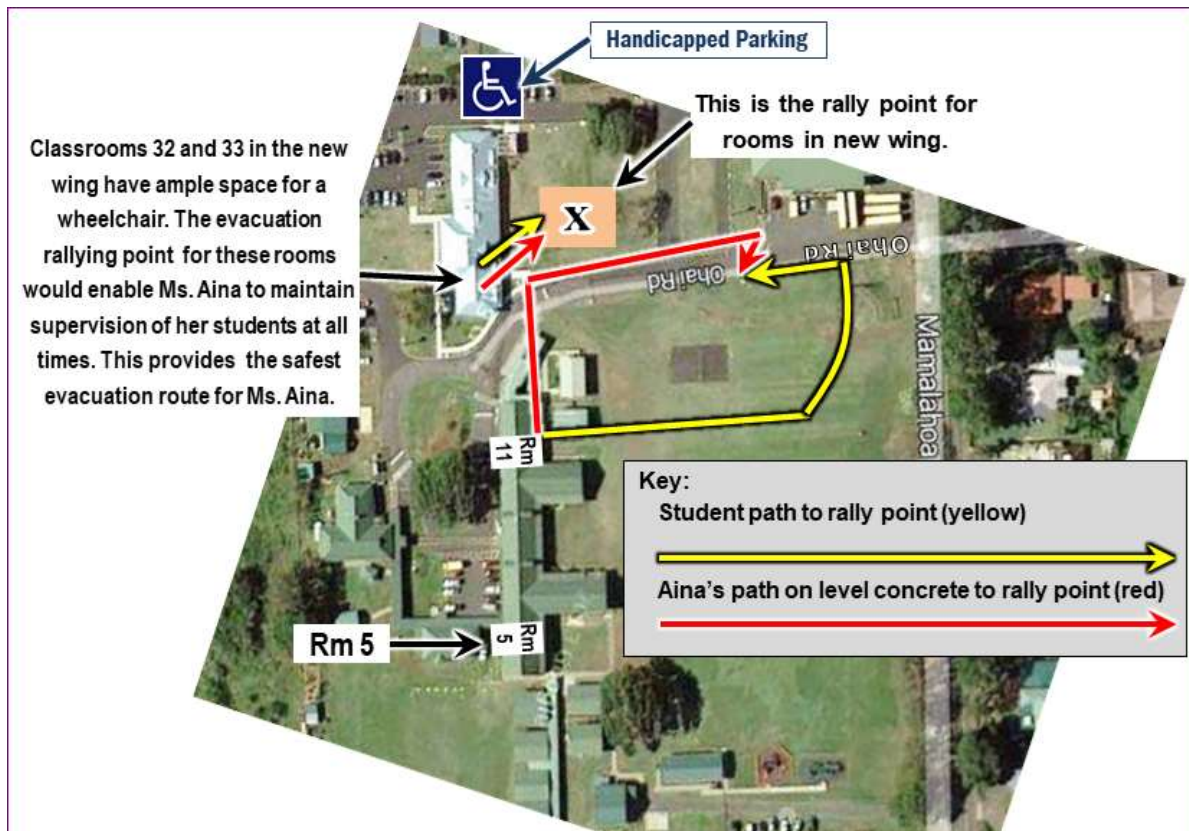
4. No one has responded to any of the emails or phone calls I've made thus far.

As for the [Nā Hopena A'o \("HĀ"\) strategic plan](#), I don't think items 2-4 above exhibit the following cultural competencies listed in the [Handout](#). Are these competencies that only students are required to learn and practice, or does it apply to administrators, too? If so, then let's get to it, ok?

- I am able to interact respectfully for the betterment of self and others.
- Care about my relationships with others.
- Am open to new ideas and different ways of doing things.
- Understand how actions affect others.
- I willingly carry my responsibility for self, family, community and the larger society.
- I am mindful of the values, needs and welfare of others.
- Make good decisions with moral courage and integrity in every action.
- See failure as an opportunity to learn well.
- Assess and make improvements to produce quality work.
- I show care and respect for myself, families, and communities.
- A sense of Aloha is demonstrated through empathy and appreciation for the symbiotic relationship between all.
- I am able to build trust and lead for the good of the whole.
- Make others feel comfortable and welcome.
- Respond mindfully to what is needed.
- Spread happiness.

The following three pictures clearly illustrate what's going on. At least I think so. If you have a hard time figuring it out, please contact me.

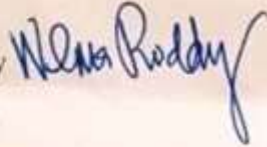
Mahalo,
Vanessa Ott
808 - 854 -1018



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
NAALEHU ELEMENTARY SCHOOL
P.O. BOX 170
NAALEHU, HAWAII 96772
TEL: (808) 313-4000 FAX: (808) 939-2419

TO: Suzanne Aina

FROM: Wilma Roddy



DATE: May 31, 2023

**SUBJECT: SUMMARY OF CONFERENCE HELD ON 05/30/2023 REGARDING
CLASSROOM CONCERNS AND SUPPORTS NEEDED**

CONFERENCE PARTICIPANTS: Suzanne Aina, Teacher; Wilma Roddy, Principal

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