

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. DR-05-70
)	
HERMAN AIZAWA, Superintendent,)	ORDER NO. 1598
Department of Education, State)	
of Hawaii,)	ORDER DENYING HAWAII STATE
)	TEACHERS ASSOCIATION'S
Petitioner.)	MOTION FOR LEAVE TO
)	INTERVENE POST-DEADLINE;
)	NOTICE OF BOARD CONFERENCE

ORDER DENYING HAWAII STATE TEACHERS
ASSOCIATION'S MOTION FOR LEAVE TO INTERVENE
POST-DEADLINE; NOTICE OF BOARD CONFERENCE

On December 17, 1997, HERMAN AIZAWA, Superintendent, Department of Education, State of Hawaii (AIZAWA) filed the instant Petition for Declaratory Ruling with the Hawaii Labor Relations Board (Board). On December 18, 1997, the Board issued a notice of the receipt of the petition and notice of deadline for filing petitions for intervention in the proceedings. The deadline was set as December 30, 1997.

Thereafter, on January 29, 1998, the HAWAII STATE TEACHERS ASSOCIATION (HSTA), by and through its attorneys, filed a motion for leave to intervene post-deadline with the Board. HSTA's counsel states in an affidavit that the HSTA offices were closed from December 19, 1997 through January 4, 1998. HSTA's counsel states that no personnel was present at the offices during that time period. HSTA's counsel states that he did not receive the notice until January 28, 1998 and permitting the filing of a petition to intervene at this time would not delay the proceedings or prejudice any party.

On February 9, 1998, Petitioner AIZAWA, by and through his counsel, filed a motion to strike or in the alternative to deny the HSTA's motion for leave to intervene post-deadline with the Board. AIZAWA contends that there is no good cause to justify allowing the HSTA to file a petition one month after the scheduled deadline passed. AIZAWA contends that even if the HSTA offices were closed until January 4, 1998 the HSTA did not deny receiving the notice on or before the deadline date. Moreover, even if the HSTA did not receive the notice until January 4, 1998, the HSTA did not present any good cause for its failure to file a petition until January 29, 1998. Thus, AIZAWA argues that HSTA's counsel's failure to receive notice until January 28, 1998 is not a good excuse to warrant the granting of the HSTA's motion. AIZAWA then argues that the HSTA failed to show that it is a necessary party because it has not established that its interest will be adversely affected if the Board declares the instant Settlement Agreement binding. AIZAWA contends that the HSTA failed to show how its interest will be affected in the event the Board declares the Settlement Agreement binding and final.

After reviewing the arguments and the record in this case, the Board notes that the notice of petition was issued on December 18, 1997 and according to the Return Receipt in the Board's files, the notice was received at the HSTA offices on December 19, 1997. HSTA's counsel however states in his affidavit that the HSTA offices were closed until January 4, 1998 and he did not receive a copy of the notice until January 28, 1998. Under these facts, even if the notice was not received until January 4, 1998, Petitioner correctly points out that HSTA offers no good

reason for its delay in filing its motion from January 4 to January 29, 1998. Thus, the Board hereby denies HSTA's motion to file a petition to intervene in these proceedings post-deadline.

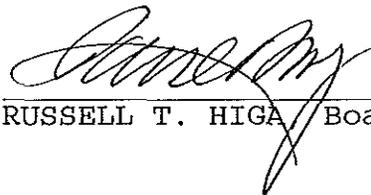
YOU ARE HEREBY NOTIFIED that the Board will conduct a conference on the instant petition on March 11, 1998 at 1:30 p.m. in the Board's hearings room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. The purpose of the conference is to clarify the issues before the Board, discuss further procedural aspects, and to determine whether a hearing is necessary to resolve the issues presented.

DATED: Honolulu, Hawaii, February 27, 1998.

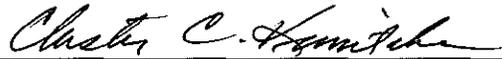
HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson



RUSSELL T. HIGA, Board Member



CHESTER C. KUNITAKE, Board Member

Copies sent to:

Maria C. Fidelino-Cook, Deputy Attorney General
Vernon Yu, Esq.
Joyce Najita, IRC