

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. DR-05-70
)	
HERMAN AIZAWA, Superintendent,)	ORDER NO. 1603
Department of Education, State)	
of Hawaii,)	ORDER DISMISSING PETITION
)	FOR DECLARATORY RULING
Petitioner.)	
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ORDER DISMISSING PETITION FOR DECLARATORY RULING

On December 17, 1997, HERMAN AIZAWA filed a petition for declaratory ruling with the Hawaii Labor Relations Board. Petitioner alleges that the Hawaii State Teachers Association, on behalf of the Aiea Intermediate School teachers filed a Step 1 grievance alleging a violation of the Memorandum of Understanding, contained in the 1993-95 Unit 05 collective bargaining agreement. Petitioner alleges that the grievance was resolved at Step 1 and the parties entered into a settlement agreement dated January 23, 1997 and signed by the representatives on March 17, 1997. Petitioner further alleges that on March 19, 1997, David C. Forrest, HSTA's representative, notified District Superintendent Hokama that the members of the HSTA had rescinded the settlement agreement. Thereafter, the HSTA filed a complaint at Step 2 and demanded arbitration to litigate the grievance.

Petitioner seeks a declaration that the settlement agreement is valid and binding. Petitioner requests an interpretation of § 89-8, Hawaii Revised Statutes (HRS) and the Board's decision in Decision No. 325, Paul Sapla, 5 HLRB 82 (1992).

At the Board conference held on March 11, 1998, counsel for Petitioner AIZAWA represented to the Board that the instant grievance was in arbitration, that an arbitrator had been selected, and that the arbitrator had stayed the proceedings pursuant to AIZAWA's request pending the resolution of the instant petition to determine whether the settlement agreement is binding on the parties. After reviewing the record in this case, the Board notes that under Article V(E) (2) (e) of the 1995-97 Unit 05 contract, if the Employer disputes arbitrability of the grievance, the Arbitrator shall first determine the question of arbitrability. Here, Petitioner submitted the settlement agreement for the Board's review and also alleged that the HSTA informed the Petitioner that the agreement was rescinded. While the agreement may appear valid on its face, the HSTA made efforts to repudiate the agreement and processed the grievance to arbitration. Based upon the record in this case, there are insufficient facts upon which the Board can determine whether the agreement is binding and defers to the contractual process to resolve the question of arbitrability.

Accordingly, the Board declines to issue a declaratory order in this case and hereby dismisses AIZAWA's petition for declaratory ruling.

DATED: Honolulu, Hawaii, March 19, 1998.

HAWAII LABOR RELATIONS BOARD

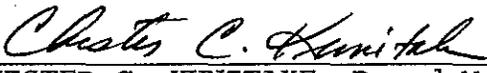


BERT M. TOMASU, Chairperson

HERMAN AIZAWA, Superintendent, Department of Education, State of
Hawaii; CASE NO. DR-05-70
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RUSSELL T. HIGA, Board Member



CHESTER C. KUNITAKE, Board Member

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