

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. CE-05-352
	)	
HAWAII STATE TEACHERS	)	ORDER NO. 1476
ASSOCIATION,	)	
	)	ORDER DENYING RESPONDENT'S
Complainant,	)	MOTION FOR PARTICULARIZA-
	)	TION AND NOTICE OF PREHEARING
and	)	CONFERENCE AND HEARING ON
	)	PROHIBITED PRACTICE COMPLAINT
VIVIAN MARK, Principal, Waiakea	)	
Intermediate School,	)	
	)	
Respondent.	)	
	)	

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ORDER DENYING RESPONDENT'S MOTION FOR  
PARTICULARIZATION AND NOTICE OF PREHEARING  
CONFERENCE AND HEARING ON PROHIBITED PRACTICE COMPLAINT

On May 20, 1997, Complainant HAWAII STATE TEACHERS ASSOCIATION filed a prohibited practice complaint against the above-named Respondent with the Hawaii Labor Relations Board (Board). Complainant alleged that Respondent failed and or refused to comply with a settlement agreement. Thus, Complainant contends that Respondent wilfully violated §§ 89-13(a)(5) and (8), Hawaii Revised Statutes (HRS).

On May 28, 1997, Respondent VIVIAN MARK, Principal, Waiakea Intermediate School (MARK), by and through her attorneys, filed a Motion for Particularization with the Hawaii Labor Relations Board (Board). In her motion, MARK contends that Complainant failed to identify the particular provision of the collective bargaining agreement (contract) which Respondent allegedly violated pursuant to § 89-13(a)(8), Hawaii Revised Statutes (HRS). Thus, Respondent requests that Complainant

identify the particular provision of the contract which was allegedly violated. In addition, Respondent contends that Complainant failed to specify the particular facts which support the alleged violations of §§ 89-13(a)(5) and (8), HRS. Accordingly, Respondent requests that Complainant specify the particular facts which support the violation of each section.

On June 3, 1997, Complainant filed a response to the motion for particularization with the Board. Although Complainant contends that the Complaint is clear and requests that the motion be denied, Complainant also specifies that Article V of the collective bargaining agreement was violated. In addition, the Complainant clarified its allegations of the violations of §§ 89-13(a)(5) and (8), HRS.

Based upon a review of the Complaint and the record herein, the Board finds that the Complaint as drafted fails to specify the contract provision allegedly violated. In addition, the Complaint does not specify the facts which support the separate statutory violations. However, as the Complainant has provided the information requested in Respondent's motion, there is no further need to particularize the Complaint.

As such, the Board hereby denies Respondent's Motion for Particularization as Complainant's allegations have been clarified by its response to Respondent's motion.

Respondent is directed to file with this Board the original and five (5) copies of her Answer, with proof of service upon Complainant, no later than 4:30 p.m. of the fifth working day after service of this order. The failure of Respondent to timely

file her Answer may constitute an admission of the material facts alleged in the Complaint and Particularization and a waiver of a hearing.

YOU ARE HEREBY NOTIFIED that the Board, pursuant to § 89-5(b)(4), HRS, and Administrative Rules § 12-42-47, will conduct a prehearing conference on the above-entitled prohibited practice complaint on June 24, 1997, 1997 at 9:00 a.m., in the Board's hearings room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. The purpose of the prehearing conference is to arrive at a settlement or clarification of issues, to identify and exchange witness and exhibit lists, if any, and to the extent possible, reach an agreement on facts, matters or procedures which will facilitate and expedite the hearing or adjudication of the issues presented. The parties shall file a Prehearing Statement which addresses the foregoing matters with the Board two days prior to the prehearing conference.

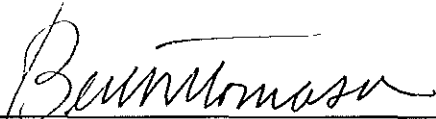
YOU ARE ALSO NOTIFIED that the Board will conduct a hearing, pursuant to §§ 89-5(b)(4) and 89-14, HRS, and Administrative Rules §§ 12-42-49 and 12-42-8(g) on the instant complaint on July 8, 1997 at 9:00 a.m. at a location to be further noticed. The purpose of the hearing is to receive evidence and arguments on whether Respondent committed prohibited practices as alleged by the Complainant. The hearing may continue from day to day until completed.

The parties shall submit to the Board four copies of all exhibits identified and offered into the record. Additional copies for opposing counsel shall also be provided.

All parties have the right to appear in person and to be represented by counsel or other representative.

DATED: Honolulu, Hawaii, June 6, 1997.

HAWAII LABOR RELATIONS BOARD

  
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BERT M. TOMASU, Chairperson

  
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RUSSELL T. HIGA, Board Member

  
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CHESTER C. KUNITAKE, Board Member

Copies sent to:

Sean Kim, Esq.  
Kris N. Nakagawa, Deputy Attorney General  
Joyce Najita, IRC