

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of )  
 )  
JOHN EDWARD MUSSACK, )  
 )  
 )  
Complainant, )  
 )  
and )  
 )  
LEA ALBERT; WENDELL STASZKOW; )  
DEPARTMENT OF EDUCATION, Wind- )  
ward District, Office of the )  
District Superintendent, State )  
of Hawaii; and PAUL G. LEMAHIEU, )  
Superintendent, Department of )  
Education, State of Hawaii, )  
 )  
Respondents. )

CASE NO. CE-05-448

ORDER NO. 1897

ORDER CONSOLIDATING CASES  
FOR DISPOSITION; NOTICE TO  
RESPONDENTS OF AMENDED PRO-  
HIBITED PRACTICE COMPLAINT

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In the Matter )  
 )  
JOHN EDWARD MUSSACK, )  
 )  
 )  
Complainant, )  
 )  
and )  
 )  
SAM MOORE, Uniserv Director, )  
Windward Oahu, Hawaii State )  
Teachers Association and )  
HAWAII STATE TEACHERS ASSOCIA- )  
TION, )  
 )  
Respondents. )

CASE NO. CU-05-168

ORDER CONSOLIDATING CASES FOR DISPOSITION; NOTICE  
TO RESPONDENTS OF AMENDED PROHIBITED PRACTICE COMPLAINT

YOU ARE HEREBY NOTIFIED that on June 30, 2000, JOHN EDWARD MUSSACK (MUSSACK) filed an amended prohibited practice complaint with the Board in Case No. CE-05-448, a copy of which is attached, alleging that LEA ALBERT, WENDELL STASZKOW, Office of the District Superintendent, and PAUL G. LEMAHIEU, Superintendent, DOE,

have engaged in or are engaging in prohibited practices in violation of § 89-13(a)(8), Hawaii Revised Statutes (HRS).

Thereafter on July 3, 2000, MUSSACK filed a prohibited practice complaint with the Board in Case No. CU-05-168, a copy of which is attached, alleging that SAM MOORE, Uniserv Director, Windward Oahu, Hawaii State Teachers Association (HSTA) and the HSTA (collectively Union) have failed to represent Complainant in the grievance process. Complainant alleges that the Union has engaged in or are engaging in prohibited practices in violation of §§ 89-13(b)(1) and (5), HRS.

As these complaints involve substantially the same parties and issues, the Board finds that consolidation of the proceedings would be conducive to the proper dispatch of business and the ends of justice and will not unduly delay the proceedings. Pursuant to Administrative Rules § 12-42-8(g)(13), the Board hereby consolidates these complaints and the proceedings thereon for disposition.

YOU ARE DIRECTED to file with this Board the original and five (5) copies of your answer, with proof of service upon Complainant, no later than 4:30 p.m. of the tenth day after service of the amended complaint. If you fail to timely file and serve an answer, such failure may constitute an admission of the material facts alleged in the amended complaint and a waiver of a hearing.

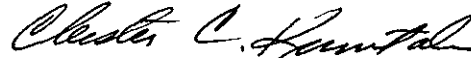
DATED: Honolulu, Hawaii, July 7, 2000.

HAWAII LABOR RELATIONS BOARD

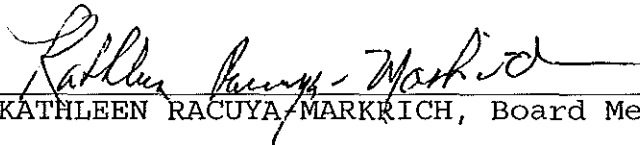
  
\_\_\_\_\_  
BRIAN K. NAKAMURA, Chairperson

JOHN EDWARD MUSSACK and LEA ALBERT; et al.  
CASE NO. CE-05-448  
JOHN EDWARD MUSSACK and SAM MOORE; et al.  
CASE NO. CU-05-168  
ORDER NO. 1897

ORDER CONSOLIDATING CASES FOR DISPOSITION; NOTICE TO RESPONDENTS OF  
AMENDED PROHIBITED PRACTICE COMPLAINT



CHESTER C. KUNITAKE, Board Member



KATHLEEN RACUYA MARKRICH, Board Member

Copies sent to:

John Edward Mussack  
Lea Albert  
Wendell Staszko  
Paul G. LeMahieu  
James E. Halvorson, Deputy Attorney General  
Sam Moore  
Hawaii State Teachers Association  
Joyce Najita, IRC

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

PROHIBITED PRACTICE COMPLAINT

'00 JUN 30 P4:13 CE-05-448  
CASE NO.

HAWAII (AMENDED)

LABOR RELATIONS BOARD

INSTRUCTIONS. Submit the original and five copies of this Complaint to the Hawaii Labor Relations Board, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

1. The Complainant alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board proceed pursuant to Sections 89-13 and 89-14, Hawaii Revised Statutes, and its Administrative Rules, to determine whether there has been any violation of Chapter 89, Hawaii Revised Statutes.

2. COMPLAINANT

- a. Name, address and telephone number.

JOHN EDWARD MUSSACK  
1420 WILDER AVENUE, APARTMENT 30  
HONOLULU, HAWAII 96822-4363  
(808) 947-0858

- b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

3. RESPONDENT (Public Employer or His or Her Agent and/or Employee Organization or its Agents Against Whom Complaint is Filed)

a. Name, address and telephone number.

LEA ALBERT AND WENDELL STASZKOW, OFFICE OF DISTRICT SUPERINTENDENT  
46-169 KAMEHAMEHA HIGHWAY, KANEOHE, HAWAII 96744 (808) 233-5700

PAUL G. LEMAHIEU, SUPERINTENDENT, DOE  
1390 MILLER, HONOLULU, HAWAII 96813 (808) 586-3230

b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

MR. JAMES E. HALVORSON 5457  
DEPUTY ATTORNEY GENERAL  
235 S. BERETANIA STREET, SUITE 1501  
HONOLULU, HAWAII 96813  
ATTORNEY FOR RESPONDENTS

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4. Indicate the appropriate bargaining unit(s) of employee(s) involved.

HAWAII STATE TEACHERS ASSOCIATION, BARGAINING UNIT 05

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5. ALLEGATIONS

The Complainant alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in a prohibited practice or practices within the meaning of Section 89-13, Hawaii Revised Statutes. (Specify in detail the particular alleged violation, including the subsection or subsections of Section 89-13, Hawaii Revised Statutes, alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.)

Section 89-13 (8)

Agreement between HSTA and BOE, Art. V, D, Step I (c), Step II (a)  
Complainant filed a grievance on 01/26/00 with District Superintendent Lea Albert. On Ms. Albert's behalf, Personnel Officer Wendell Staszkw erroneously returned grievance and required complainant to initiate the process again. Complainant refiled grievance on 2/24/00, whereupon Ms. Albert placed it in abeyance. The hearing was not held until 03/14/00; decision was not delivered until 03/21/00. The agreement requires delivery of Step I decision within five days of receipt of grievance. Complainant filed a Step II grievance on 03/23/00. Dr. LeMahieu's office scheduled the meeting for 06/15/00. The agreement requires Step II meeting within five days of receipt of grievance. The 06/15 meeting was placed in abeyance; as of 06/30/00 it still has not been rescheduled. DOE has not even communicated directly or in writing 2 with complainant about Step II.



STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

00 JUL -3 P4:30

PROHIBITED PRACTICE COMPLAINT

HAWAII  
LABOR RELATIONS BOARD

CASE NO. CU-05-168

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INSTRUCTIONS. Submit the original and five copies of this Complaint to the Hawaii Labor Relations Board, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

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1. The Complainant alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board proceed pursuant to Sections 89-13 and 89-14, Hawaii Revised Statutes, and its Administrative Rules, to determine whether there has been any violation of Chapter 89, Hawaii Revised Statutes.
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2. COMPLAINANT

- a. Name, address and telephone number.

JOHN EDWARD MUSSACK  
1420 WILDER AVENUE, APARTMENT 30  
HONOLULU, HAWAII 96822-4363  
(808) 947-0858

- b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

3. RESPONDENT (Public Employer or His or Her Agent and/or Employee Organization or its Agents Against Whom Complaint is Filed)

a. Name, address and telephone number.

SAM MOORE, UNISERV DIRECTOR, WINDWARD OAHU, HSTA  
2828 PAA STREET, SUITE 2050  
HONOLULU, HAWAII 96819  
(808) 833-2711

b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

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4. Indicate the appropriate bargaining unit(s) of employee(s) involved.

HAWAII STATE TEACHERS ASSOCIATION, BARGAINING UNIT 05

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5. ALLEGATIONS

The Complainant alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in a prohibited practice or practices within the meaning of Section 89-13, Hawaii Revised Statutes. (Specify in detail the particular alleged violation, including the subsection or subsections of Section 89-13, Hawaii Revised Statutes, alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.)

Section 89-13, (b) 1 and 5  
Agreement between HSTA and BOE, Art. V, D, Step I (c), Step II (a)  
Mr. Moore and HSTA have failed adequately to represent Complainant in his grievance against employer, resulting in delays and frustration of the grievance process. Complainant filed a Step I grievance on 01/26/00; employer improperly delayed it. Then, on 02/26/00, Mr. Moore agreed with employer to place it in abeyance, without consulting Complainant. Hearing took place on 03/14/00; Step II grievance filed 03/23/00. Mr. Moore agreed with employer to schedule the Step II hearing for 06/15/00, without consulting Complainant. Mr. Moore later agreed with employer to place it in abeyance again, without consulting Complainant; as of 07/03/00 it still has not been rescheduled. The agreement requires Step I decision within five days; it requires Step II meeting within five days.



6. Provide a clear and concise statement of any other relevant facts. Complainant has a related complaint against employer--CE-05-448. The grievance concerns reprisals against Complainant by principal of Benjamin Parker School, Jean Davidson. Complainant was a special-education teacher at Parker School. During the delay of the grievance process, Dr. Davidson escalated her reprisals; she also used her position as principal to jeopardize Complainant's job status at the District level. Both DOE and District are refusing to clarify job-related issues for Complainant, citing the pending grievance as justification for their silence. Complainant hopes the grievance will quickly be resolved so that he can resume communication with the employer and clarify his job-performance status.

STATE OF HAWAII )  
 ) ss.  
 CITY AND COUNTY OF )

JOHN EDWARD MUSSACK, being first duly sworn on oath, deposes and says: that HE is the Complainant above named, or HIS representative, and that HE has read the above Petition consisting of this and NO additional page(s), and is familiar with the facts alleged therein, which facts HE knows to be true, except as to those matters alleged on information and belief, which matters HE believes to be true

John Edward Mussack  
 (Signature)  
Complainant  
 (Title)

Subscribed and sworn to before me  
 this 3rd day of July, 19 2000

Janette M. Do  
 Notary Public, 1st Circuit  
 State of Hawaii

My commission expires: Dec 16, 2000

U.S.