

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII STATE TEACHERS
ASSOCIATION,

Complainant,

and

BENJAMIN J. CAYETANO, Governor, State
of Hawaii and BOARD OF EDUCATION,
State of Hawaii,

Respondents.

CASE NO. CE-05-475

ORDER NO. 2067

ORDER GRANTING HSTA'S
MOTION TO ALTER OR AMEND
DECISION NO. 431

In the Matter of

BENJAMIN J. CAYETANO, Governor, State
of Hawaii,

Complainant,

and

HAWAII STATE TEACHERS
ASSOCIATION,

Respondent.

CASE NO. CU-05-185

ORDER GRANTING HSTA'S
MOTION TO ALTER OR AMEND DECISION NO. 431

On February 15, 2002, Complainant HAWAII STATE TEACHERS ASSOCIATION (HSTA) filed a Motion to Alter or Amend Decision No. 431 with the Hawaii Labor Relations Board (Board). The HSTA alleged a controversy between the parties has arisen because Conclusion of Law #4 states:

4. On April 23, 2001 an agreement existed between the parties for the purposes of HRS § 89-10 which included a provision to pay a three percent (3 %) differential for teachers holding a professional or masters of education

degree estimated to cost the DOE \$6 million from excess impact aid funds.

The HSTA contends that BENJAMIN J. CAYETANO, Governor, State of Hawaii and BOARD OF EDUCATION, State of Hawaii (collectively Employer) have narrowed the class of teachers to receive the P-Track differential to teachers with Masters of Education degrees. The HSTA noted that Finding of Fact #36 provides:

36. Among the provisions reviewed without any substantive correction was the following language related to P-Track:

Effective the first day of the 2001-2002 school year, supplementary pay shall be amended to reflect the following:

* * *

4. Teachers with doctorates in their teaching field from an accredited college or university in Class VI shall receive a six (6) percent differential calculated on their current salary each year.
5. Teachers who hold professional certificates based on a Masters degree or a Professional Diploma shall receive a three percent (3%) differential calculated on their salary each year. (emphasis added.)

In addition, in footnote 18, the Board stated:

At the hearings, there appeared to be substantial controversy regarding the class of teachers who would qualify for a P-Track differential. This issue is not before the Board and accordingly will not be addressed. Inasmuch as the collective bargaining agreement between the parties contain a grievance and arbitration provision designed to address such differences in contractual interpretation, the Board anticipates that the parties will utilize this mechanism if they are unable to resolve their differences through bargaining. [Emphasis added.]

The HSTA therefore requested that the Board alter or amend its Conclusion of Law #4 to reflect the fact that the issue of the class of teachers entitled to the first year of the P-Track differential was not addressed and had not been determined by the Board.

Thereafter on February 20, 2002, the Employer filed a memorandum in opposition to the HSTA's motion. The Employer contends that the Board's conclusion is consistent with the evidence in the record and the Union's argument is not supported by the pleadings or the record in the case.

On February 27, 2002, the HSTA filed a supplemental memorandum in support of its motion. The HSTA contends that its position is consistent with the evidence and the parties' failure to address the issue in their respective written briefs indicates that the matter was not submitted to the Board.

The Board conducted a hearing on the instant motion on March 1, 2002. The parties were represented by counsel and had full opportunity to present evidence and argument to the Board. At the hearing, the HSTA also requested that the Board accordingly amend Finding of Fact #20.

Based upon a consideration of the arguments presented and consistent with footnote #18 of Decision No. 431, the Board hereby grants the HSTA's motion to amend its Finding of Fact #20 and Conclusion of Law #4 to reflect the Board's determination that the eligible class was not an issue necessary or relevant to the determination of this case. Finding of Fact #20 is amended to read:

20. The offer to pay for P-Track made by LeMahieu to avert a strike was proposed as a one-time bonus for teachers with professional and masters degrees using \$6 million from excess federal impact aid funds. Although the use of impact aid funds was mentioned, HSTA insists no single-year or \$6 million cap was associated with the proposal. After April 3, 2001, Husted had no other discussion with LeMahieu or the State's negotiating team about LeMahieu's offer to pay for P-Track.

Conclusion of Law #4 is also amended to read:

4. On April 23, 2001 an agreement existed between the parties for the purposes of HRS § 89-10 which included a provision to pay a three percent (3 %) differential for teachers holding a professional or masters degree estimated to cost the DOE \$6 million from excess impact aid funds.

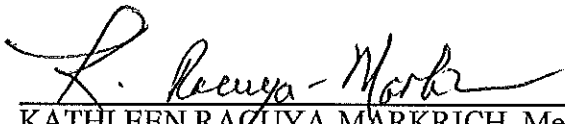
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DATED: Honolulu, Hawaii, March 7, 2002

HAWAII LABOR RELATIONS BOARD


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