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STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of
EUGENE OPUNUI SEMINAVAGE,

Complainant,

and

KA WAIHONA O KA NA`AUAO, Public
Charter School; HAWAII STATE
TEACHERS ASSOCIATION; and
DEPARTMENT OF EDUCATION, State of
Hawaii,

Respondents.

CASE NOS.: CE-05-648
CU-05-260

ORDER NO. 2477

ORDER AMENDING CAPTION TO
INCLUDE THE DEPARTMENT OF
EDUCATION, STATE OF HAWAII AS A
PARTY RESPONDENT; AND NOTICE OF
PREHEARING/SETTLEMENT
CONFERENCE AND HEARING ON
PROHIBITED PRACTICE COMPLAINT

ORDER AMENDING CAPTION TO INCLUDE THE
DEPARTMENT OF EDUCATION, STATE OF HAWAII AS
A PARTY RESPONDENT; AND NOTICE OF PREHEARING/SETTLEMENT
CONFERENCE AND HEARING ON PROHIBITED PRACTICE COMPLAINT

On October 29, 2007, Complainant EUGENE OPUNUI SEMINAVAGE (Complainant), pro se, filed a prohibited practice complaint (Complaint) with the Hawaii Labor Relations Board (Board). Complainant alleged, inter alia, that Respondent KA WAIHONA O KA NA`AUAO, Public Charter School (KA WAIHONA), improperly terminated his employment as a special education teacher. Complainant also alleged that the Department of Education, State of Hawaii (DOE) thereafter failed to hire him. Complainant contended that his employer committed prohibited practices in violation of Hawaii Revised Statutes (HRS) §§ 89-13(a)(1), (2), (3), (6), (7), and (8).

Complainant also alleged that Respondent HAWAII STATE TEACHERS ASSOCIATION (HSTA) and its representatives failed to represent him in presenting his concerns to his employer and during the grievance process. Complainant contended that the HSTA thereby committed prohibited practices in violation of HRS §§ 89-13(b)(1), (2), (3), and (4).

In its Notice to Respondents of Prohibited Practice Complaint issued on October 30, 2007, the Board did not include the DOE as a party respondent in the caption of this case as it was not designated as a Respondent in the Complaint. However, the Complainant refers to his nonhire by the DOE and the HSTA's performance in resolving his

claim as issues in this proceeding. HRS § 377-9(b)¹ and Hawaii Administrative Rules (HAR) § 12-42-42(e)² provide that the Board may bring in additional parties by service of the complaint. In this case, on or about October 30, 2007, the Board served copies of the complaint on Patricia Hamamoto, Superintendent of Education, State of Hawaii as well as her attorney Mark Bennett, Attorney General. On November 13, 2007, the DOE filed an answer to the complaint. Accordingly, as there appears to be no prejudice to the DOE, the Board, sua sponte, amends the caption of this case to designate the DOE as a party respondent.

Notice of Prehearing/Settlement Conference and Hearing

NOTICE IS HEREBY GIVEN that the Board, pursuant to HRS §§ 89-5(i)(4) and (i)(5) and HAR § 12-42-47, will conduct a prehearing/settlement conference on the above-entitled prohibited practice complaint on **November 29, 2007 at 9:00 a.m.** in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. The purpose of the 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.

¹HRS § 377-9 concerns the prevention of unfair labor practices and is applicable to the Board in this proceeding pursuant to HRS § 91-14. HRS 377-9(b) provides, in part:

Any party in interest may file with the board a written complaint, on a form provided by the board, charging any person with having engaged in any unfair labor practice. The board shall serve a copy of the complaint upon the person charged, hereinafter referred to as the respondent. If the board has reasonable cause to believe that the respondent is a member of or represented by a labor union, the service upon an officer of the union be deemed to be service upon the respondent. Service may be by delivery to the person, of by mail or by telegram. Any other person claiming interest in the dispute or controversy, as an employer or employee or their representative, shall be made a party upon proof of the interest. The board may bring in additional parties by service of a copy of the complaint. [emphasis added.]

²HAR § 12-42-42(e) provides:

(e) The board may bring in additional parties by service of a copy of the complaint.

NOTICE IS ALSO GIVEN that the Board, pursuant to HRS §§ 89-5(i)(4), 89-5(i)(5), and 89-14, and HAR § 12-42-8(g), will conduct a hearing on the instant complaint on **December 18, 2007 at 9:00 a.m.** in the above-referenced hearing room. The purpose of the hearing is to receive evidence and arguments on whether Respondents 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.

Auxiliary aids and services are available upon request. Call Mrs. Nora Ebata at (808) 586-8610, (808) 586-8847 (TTY), or 1 (888) 569-6859 (TTY neighbor islands) for assistance. A request for reasonable accommodations should be made no later than ten working days prior to the needed accommodation.

DATED: Honolulu, Hawaii, November 16, 2007.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



EMORY J. SPRINGER, Member



SARAH R. HIRAKAMI, Member

Copies sent to:

Eugene Opunui Seminavage
James E. Halvorson, Deputy Attorney General
Richard H. Thomason, Deputy Attorney General
Vernon Yu, Esq.