

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of
JANET WEISS,

Complainant,

and

WIL OKABE, President, Hawaii State
Teachers Association; LEROY SIMMS,
UniServ Specialist, West Hawaii, Hawaii
State Teachers Association; and HAWAII
STATE TEACHERS ASSOCIATION,

Respondents.

CASE NO. CU-05-321

ORDER NO. 2920

ORDER GRANTING
RESPONDENTS' MOTION TO
STRIKE COMPLAINANT'S NOTICE
OF ACTIVITIES - UPDATED ON
NEW HSTA GRIEVANCE #WH1208 -
JANET WEISS'S LOSS OF
TECHNOLOGY LINE, DEMOTION
TO PE LINE FOR SY 2013-14 and
ALSO EEOC MAY 2ND FILING: J.
WEISS VS. DOE: FEPA NO. WH-
17578; EEOC NO. 486-2013-00217,
FILED ON MAY 24, 2013

ORDER GRANTING RESPONDENTS' MOTION TO STRIKE COMPLAINANT'S
NOTICE OF ACTIVITIES - UPDATED ON NEW HSTA GRIEVANCE
#WH1208 - JANET WEISS'S LOSS OF TECHNOLOGY LINE, DEMOTION TO
PE LINE FOR SY 2013-14 and ALSO EEOC MAY 2ND FILING: J. WEISS VS.
DOE: FEPA NO. WH-17578; EEOC NO. 486-2013-00217, FILED ON MAY 24, 2013

On March 22, 2013, Complainant JANET WEISS (Weiss or Complainant) filed a prohibited practice complaint (Complaint) against the above-named Respondents with the Hawaii Labor Relations Board (Board). On April 4, 2013, Respondents filed a motion to dismiss complaint and, in the alternative, for summary judgment (motion to dismiss) with the Board. On April 10, 2013, Complainant filed her Prehearing Statements; Complainant's Motion for Summary Judgment.

At the prehearing conference held on April 15, 2013, the Board set deadlines for responses or answering affidavits to the two pending motions. Complainant was asked to file a document entitled: Complainant's Memorandum in Opposition to Respondent's Motion to Dismiss Complaint and in the Alternative for Summary Judgment filed on April 4, 2013, on or before April 23, 2013. Respondents were to file their opposition to Complainant's motion for summary judgment on or before April 23, 2013. The Board also scheduled the hearing on the motions on April 29, 2013.

On April 23, 2013, Complainant filed a Memorandum in Opposition to Respondent's Memo to Dismiss, and in the Alternative, for Summary Judgment and

Respondents filed their Memorandum in Opposition to Complainant's Motion for Summary Judgment with the Board.

On April 29, 2013, the Board convened a hearing on the foregoing motions. After hearing arguments, the Board informed the parties that it would take the motions under advisement and issue an order and decision.

On May 19, 2013, Complainant filed Complainant's Notice of Activities - Updated on New HSTA Grievance #WH1208 - Janet Weiss's Loss of Technology Line, Demotion to PE Line for SY 2013-14 and Also EEOC May 2nd Filing: J. Weiss vs. Doe: FEPA No. WH-17578; EEOC No. 486-2013-00217, with four exhibits attached (Complainant's Notice of Activities).

On May 24, 2013, Respondents filed a Motion to Strike Complainant's Notice of Activities (Motion to Strike). Respondents contended that Complainant's filing was submitted after the close of hearing on the cross motions of the parties to dismiss and/or for summary judgment and that the Board established specific limits to the briefing on the pending cross motions at the April 15, 2013 pre-hearing conference.

Complainant did not file a response to Respondents' Motion to Strike.

After reviewing the record and the submissions of the parties, the Board finds that Respondents' Motion to Strike requests the Board to exclude Complainant's Notice of Activities as a supplemental filing to Complainant's Memo in Opposition to Respondents' Motion to Dismiss because said document was filed after the April 23, 2013 deadline imposed by the Board and after the April 29, 2013 hearing on the motion. We agree. Hawaii Administrative Rule (HAR) § 12-42(g)(3)(C)(iii)¹ governs all answering affidavits to motions filed with the board. The Board finds that Complainant's Notice of Activities was filed on May 19, 2013 after the deadline imposed by the board and the hearing on the dispositive cross motions on April 29, 2013. Based on the foregoing, the Board hereby grants the Respondents' Motion to Strike.

DATED: Honolulu, Hawaii, June 12, 2013.

¹ Hawaii Administrative Rule (HAR) § 12-42-8(g)(3)(iii) states:


- (iii) Answering affidavits, if any shall be served on all parties and the original and five copies, with certificate of service on all parties, shall be filed with the board within five days after service of the motion papers, unless the board directs otherwise. (Emphasis added)

CU-05-321 Janet Weiss and Wil Okabe, President, HSTA, et. al.

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NOTICE OF ACTIVITIES - UPDATED ON NEW HSTA GRIEVANCE #WH1208 - JANET
WEISS'S LOSS OF TECHNOLOGY LINE, DEMOTION TO PE LINE FOR SY 2013-14 and
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486-2013-00217, FILED ON MAY 24, 2013

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair

SESNITA A.D. MOEPONO, Member

ROCK B. LEY, Member

Copies sent to:

Janet Weiss

Rebecca L. Covert, Esq.