STIPULATION FOR TEMPORARY RESTRAINING ORDER

IT IS HEREBY STIPULATED BY AND BETWEEN Complainant HAWAII STATE TEACHERS ASSOCIATION ("HSTA") and the Respondents, STATE OF HAWAII BOARD OF EDUCATION and KATHRYN MATAYOSHI, Superintendent Department of Education, State of Hawaii (collectively "Respondents"), by and through their attorneys, Colleen W. Hanabusa.

HAWAII STATE TEACHERS ASSOCIATION, Complainant,

and


CASE NO. CE-05-852

STIPULATION FOR TEMPORARY RESTRAINING ORDER; ORDER NO. 3057

EFiled: Mar 27 2015 11:20AM HAST
Transaction ID 56990108
Case No. CE-05-852
Hanabusa for the HSTA and Russell A. Suzuki, Deputy Attorney General for the Respondents as follows:

WHEREAS, on March 23, 2015, the HSTA filed a prohibited practice complaint against Respondents, Case No. CE-05-852 with the HAWAII LABOR RELATIONS BOARD ("HLRB");

WHEREAS, Respondents were given ten (10) days in which to file a written answer to said complaint;

WHEREAS, the HLRB has set a Prehearing and Settlement Conference for Thursday, April 28, 2015 at 9:00AM;

WHEREAS, the issue of the prohibited practice complaint is use of teachers’ mailboxes in the upcoming election, set for ballots to be transmitted on April 13, 2015 with voting closing on April 24, 2015;

WHEREAS, the HSTA elections are conducted once every three (3) years;

WHEREAS, the election will be closed prior to the Case No. CE-05-852 receiving a Prehearing and Settlement Conference;

WHEREAS, the parties agree that the use of teachers’ mailboxes for union election purposes has been allowed for forty-three (43) years;

WHEREAS, the parties agree that Respondents are complying with the Hawaii State Ethics Commission’s Executive Director’s informal Advisory Letter in disallowing the use of the teachers’ mailboxes for this election;

WHEREAS, the HSTA takes issue with the Ethics Commission’s Executive Director’s informal Advisory Letter, however, the matter cannot be timely decided on the merits by the HLRB;
WHEREAS, the parties agree that in the interest of justice and fair play, it is in their interest to permit the 2015 elections to proceed maintaining the status quo of permitting the use of teachers' mailboxes for the dissemination of campaign materials for the union election:

WHEREAS, the parties agree that by the filing of the prohibited practice complaint, they are engaged in a contested case hearing; and

WHEREAS, the parties call upon HRS § 91-9(d) which permits them by stipulation to modify or waive procedure in a contested case. The parties so stipulate and agree that the HLRB should approve this Stipulation and grant this Temporary Restraining Order.

NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE that a temporary restraining order be issued, enjoining Respondents and their agents, employees, attorneys, from prohibiting Complainant and its members from utilizing the teachers' school mailboxes for the purposes of disseminating HSTA candidate campaign information for the upcoming HSTA union elections.

IT IS FURTHER STIPULATED AND AGREED that this temporary restraining order be in effect until April 24, 2015.

IN ADDITION, THE PARTIES STIPULATE AND AGREE that they will jointly request that the HLRB stay action on this prohibited practice complaint until such time that the Hawaii State Ethics Commission can consider the informal Advisory Letter of March 12, 2015, issue by its Executive Director.
ON THIS 27th day of March, 2015, the parties through their respective attorneys have entered in this Stipulation for Temporary Restraining Order and respectfully request the HAWAII LABOR RELATIONS BOARD, expeditiously approve this Stipulation As To Form and Order that Respondents are enjoined from prohibiting Complainant and its members from using teachers' mailboxes for the dissemination of campaign materials for the HSTA union elections until April 24, 2015.

RUSSELL A. SUZUKI  3/26/2015
Deputy Attorney General
Attorney for Respondents

COLLEEN W. HANABUSA  3/26/15
Attorney for Complainant

APPROVED AS TO FORM AND ORDER
HAWAII LABOR RELATIONS BOARD

ORDER NO. 3057
DATED: March 27, 2015

JAMES NICHOLSON, CHAIR

SESSION A.D. MOEPOHO, MEMBER

ROCK B. LEY, MEMBER