



**EFiled: Nov 30 2016 03:11PM HAST
Transaction ID 59894090
Case No. 16-CU-05-346**

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

JULIE CANDELARIA-LAWRENCE,

Complainant,

and

HAWAII STATE TEACHERS
ASSOCIATION,

Respondent.

CASE NO. 16 CU-05-346

ORDER NO. 3213

ORDER CONSOLIDATING CASES FOR
HEARING AND DISPOSITION; NOTICE
OF HEARING ON RESPONDENTS'
MOTION TO DISMISS THE PROHIBITED
PRACTICE COMPLAINT; AND NOTICE
OF HEARING ON THE MERITS AND
SETTING DEADLINES

In the Matter of

JULIE M. CANDELARIA-LAWRENCE,

Complainant,

and

DEPARTMENT OF EDUCATION;
MARK HACKLEBERG, Principal;
Kealakehe Intermediate School,
Department of Education, State of Hawaii;
HANNAH LOYOLA, Vice Principal;
Kealakehe Intermediate School,
Department of Education, State of Hawaii;
and GENA BONACCORSI, Department
Head, Kealakehe Intermediate School,
Department of Education, State of Hawaii,

Respondents.

CASE NO. 16 CE-05-888

**ORDER CONSOLIDATING CASES FOR HEARING AND
DISPOSITION; NOTICE OF HEARING ON RESPONDENTS' MOTION
TO DISMISS THE PROHIBITED PRACTICE COMPLAINT;
AND NOTICE OF HEARING ON THE MERITS AND SETTING DEADLINES**

On November 14, 2016, Complainant JULIE M. CANDELARIA-LAWRENCE (Complainant), filed two Prohibited Practice Complaints, Case No. 16-CU-05-346 and Case No. 16-CE-05-888, with the Hawaii Labor Relations Board (Board) utilizing the File & ServeXpress electronic filing system. However, the Prohibited Practice Complaint (Complaint) in Case No. 16-CE-05-888 consisted of Statement of Facts, and supporting documents but did not include the Board's prohibited practice complaint form, Form HLRB-4.

On November 17, 2016, Complainant, utilizing the File & ServeXpress system, filed a first amended prohibited practice complaint (First Amended Complaint) in Case No. 16-CE-05-888 against the above-named DEPARTMENT OF EDUCATION; MARK HACKLEBERG, Principal; Kealakehe Intermediate School, Department of Education, State of Hawaii; HANNAH LOYOLA, Vice Principal; Kealakehe Intermediate School, Department of Education, State of Hawaii; and GENA BONACCORSI, Department Head, Kealakehe Intermediate School, Department of Education, State of Hawaii (collectively Respondent DOE) utilizing the Board's Form HLRB-4.

On November 21, 2016, the Board notified the HAWAII STATE TEACHERS ASSOCIATION (Respondent HSTA) by mail of receipt of the Complaint in Case No. 16-CU-05-346.

On November 21, 2016, the Board notified the Respondent DOE, by mail of receipt of the Complaint Case No. 16-CE-05-888. The Board received the signed USPS Form 381 Return Certificate of Postal Service from the Respondent DOE on November 25, 2015 indicating delivery by the Postal Service on November 23, 2016.

On November 21, 2016, the Board issued Order No. 3210 accepting the First Amended Prohibited Practice Complaint in 16-CE-05-888.

On November 29, 2016, the Board held the Prehearing Conference on the Complaint in Case No. 16-CU-05-346 at 9:00 am in the Board Hearing Room, as noticed by the Board on November 21, 2016 to the Complainant and the Respondent HSTA, through its Deputy Executive Director Andrea Eshelman. The Complainant participated in the Prehearing conference via telephone conference call. The Respondent HSTA was not present at the Prehearing Conference; therefore, the Prehearing Conference in Case No. 16-CU-05-346 was adjourned. The Respondent HSTA had not responded to the Complaint filed on November 14, 2016. A search by the Board

of the USPS Certified Mail tracking number indicated the Respondent HSTA receiving the Board Notice of November 21, 2016 on Monday, November 28, 2016.

On November 29, 2016, the Board held the Prehearing Conference on the Complaint in Case No. 16-CE-05-888 at 9:15 a.m. in the Board Hearing Room, as noticed by the Board on November 21, 2016 to the Complainant and the Respondent DOE, as noticed in Board Order No. 3210 on November 21, 2016. The Complainant participated in the Prehearing via telephone conference call. The Respondent DOE was represented by counsel in the person of W. Max Levins, Deputy Attorney General.

PART I

ORDER CONSOLIDATING CASES FOR DISPOSITION

At the Prehearing Conference on the Prohibited Practice Complaint in Case No. 16-CE-05-888 held on November 29, 2016, the Board took judicial note of the Board's right on its own initiative, pursuant to § 12-42-8(g)(13), Hawaii Administrative Rules (HAR), to "*...consolidate for hearing or other purposes or may contemporaneously consider two or more proceedings which involve substantially the same parties or issues if it finds that such consolidation of proceedings or contemporaneous consideration will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings.*"

After reviewing Case Nos. 16-CU-05-346 and 16-CE-05-888, the Board finds that the complaints involve substantially the same parties and embody identical issues, facts, and matters of law. The Board also 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 § 12-42-8(g)(13), HAR.

The Board HEREBY ORDERS the consolidation of Case No. 16-CU-05-346 and Case No. 16-CE-05-888.

Part II

NOTICE OF HEARING ON RESPONDENTS' MOTION TO DISMISS THE PROHIBITED PRACTICE COMPLAINT

On November 28, 2016, the Respondent DOE filed RESPONDENT'S MOTION TO DISMISS PROHIBITED PRACTICE COMPLAINT FILED NOVEMBER 14, 2016 (Motion).

NOTICE IS HEREBY GIVEN that the Board will conduct a hearing on the Motion on December 5, 2016 at 10:00 a.m. in the Board's hearing room.

Part III

NOTICE OF HEARING ON THE MERITS AND SETTING DEADLINES

NOTICE IS HEREBY GIVEN that, pursuant to HRS §§ 89-5, 89-14, and 91-9, the Board will conduct a Hearing on the Merits of Case No. 16-CU-05-436 and Case No. 16-CE-05-888 on December 21, 2016 at 9:00 a.m. in the Board Hearing Room. The purpose of the hearing is to receive evidence and arguments on whether Respondents committed prohibited practices as alleged by Complainant, and the issues are as contained in the Complaints and the parties' prehearing statements

Deadlines for the Hearing on the Merits are as follows:

- | Deadline for: | Due by Noon on: |
|---|------------------------|
| <p>1. Application for the issuance of subpoenas of Complainant's first three witnesses and subpoena duces tecum
If subpoenas are issued, then the Board requests that the parties send a courtesy copy to all opposing parties and file the proof of service with the Board by the next business day following service.</p> | 12/7/16 |
| <p>2. Exchange of Witness List
The witness list shall include, in the interest of judicial economy, a brief but meaningful summary or general statement of the nature of the testimony expected, and the order in which the witnesses are expected to be called. The summary or general statement for each witness shall include sufficient information for the Board to determine whether the proposed testimony will be irrelevant, immaterial, or unduly repetitious to any other witness testimony; <u>see</u>, Hawaii Revised Statutes (HRS) § 91-10(1) and HAR § 12-42-8(g)(8)(B).</p> | 12/14/16 |
| <p>3. Exchange of Exhibit Lists:
Complainant's exhibits shall be marked using numbers (e.g., 1, 2, 3, etc.). Respondent DOE's exhibits shall be marked using letters of the alphabet (e.g., A, B, C, etc.). The Board will mark for identification purposes Respondent DOE's Exhibits A-B contained in its Motion for Summary Judgment. Respondent HSTA's exhibits shall be marked using R and numbers (e.g., R1, R2, R3, etc.).</p> | 12/14/16 |

4. Copies of proposed exhibits shall be provided to the Board as follows:

12/19/16

- a. On the Due Date, a party may file its proposed exhibits with the File & ServeXpress eFiling system by uploading each exhibit individually. On the day of Hearing, one (1) hard copy of the Party's proposed exhibits shall be provided to the Board for use by the witness;
- b. Or, on the Due Date, a Party may file with the Board a CD or DVD containing its proposed exhibits in one (1) searchable pdf file and bookmarked, or in individual searchable pdf files. On the day of the Hearing, one (1) hard copy of the Party's proposed exhibits shall be provided to the Board for use by the witness.

Any party may retain counsel if the party so desires, and an individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation or trust or association may represent the corporation, trust, or association.

Auxiliary aids and services are available upon request by calling Ms. Nora Ebata, Board Secretary, at (808) 586-8616, (808) 586-8847 (TTY), or 1 (888) 569-6859 (TTY neighbor islands). A request for reasonable accommodations should be made no later than ten business days prior to the needed accommodation.

The parties should be aware that the Board is located in a secured State of Hawaii building, and that any party, representative, counsel, witness, or other person attending the hearing will need to present a government-issued identification for entry.

DATED: Honolulu, Hawaii, November 30, 2016.

HAWAII LABOR RELATIONS BOARD





KERRY M. KOMATSUBARA, Chair

JULIE M. CANDELARIA-LAWRENCE v. HSTA

CASE NO. 16-CU-05-346

JULIE M. CANDELARIA-LAWRENCE v. DOE, ET AL.

CASE NO. 16-CE-05-888

ORDER CONSOLIDATING CASES FOR HEARING AND DISPOSITION; NOTICE OF
HEARING ON RESPONDENTS' MOTION TO DISMISS THE PROHIBITED PRACTICE
COMPLAINT; AND NOTICE OF HEARING ON THE MERITS AND SETTING
DEADLINES

ORDER NO.


SESNITA A.D. MOEPONO, Member


J.N. MUSTO, Member

c: Julie M. Candelaria-Lawrence
Andrea Eshelman, Deputy Executive Director, HSTA
Corey Rosenlee, Executive Director, HSTA
W. Max Levins, Deputy Attorney General