

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII GOVERNMENT EMPLOYEES
ASSOCIATION, AFSCME, LOCAL 152,
AFL-CIO,

Complainant,

and

CHRISTINA M. KISHIMOTO,
Superintendent, Department of Education,
State of Hawai'i,

Respondent.

CASE NO(S). 20-CE-02-947a
20-CE-03-947b
20-CE-04-947c
20-CE-06-947d
20-CE-09-947e
20-CE-13-947f

ORDER NO. 3638

MINUTE ORDER

MINUTE ORDER

On May 8, 2020, Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) filed a prohibited practice complaint (Complaint) with the Board. Among other things, the Complaint alleges that Respondent CHRISTINA M. KISHIMOTO, Superintendent, Department of Education, State of Hawai'i (Respondent or DOE) committed certain prohibited practices in violation of Hawai'i Revised Statutes (HRS) §§ 89-13(a)(1), (2), (5), (7), and (8) and violated HRS § 89-1(b)(2), § 89-3, § 89-8(a), §§ 89-9(a) and (c), and § 89-10(d).

On May 21, 2020, DOE filed Respondent's Motion to Dismiss in Lieu of Answer to Prohibited Practice Complaint (Motion to Dismiss) which argues, among other things, that "HGEA [lacks] standing to contest the agreements reached between the employer and another union...Moreover in this case the harm claimed by HGEA related to the DOE...[is] speculative at best." HGEA opposed the Motion to Dismiss on July 7, 2020ⁱ. The Board heard oral argument on the Motion to Dismiss on July 14, 2020.

Based on the entire record, including the Motion to Dismiss, HGEA's Opposition, and the oral argument heard on July 14, 2020, the Board hereby **GRANTS** the Motion to Dismiss on the limited grounds that HGEA lacks standing to bring the Complaint at this time, as it has alleged a speculative injury, rather than an actual injury.

Accordingly, the Board orders the DOE, as the prevailing party, to file a Proposed Findings of Fact, Conclusions of Law, and a Proposed Decision and Order (DOE Proposed Decision and Order) with the Board by **August 31, 2020 at 4:30 p.m.** The DOE Proposed Decision and Order must contain relevant findings of fact and conclusions of law, including pertinent case law and analysis.

After the DOE files the DOE Proposed Order, HGEA will have **ten days** in which to submit any exceptions to the DOE Proposed Order (Exceptions).

Upon receipt of the DOE Proposed Order and consideration of any Exceptions filed by HGEA, the Board will issue its final Decision and Order.

DATED: Honolulu, Hawai'i, August 10, 2020.

HAWAI'I LABOR RELATIONS BOARD



Marcus R. Oshiro

MARCUS R. OSHIRO, Chair

Sesnita A. D. Moepono

SESNITA A.D. MOEPONO, Member

J.N. Musto

J.N. MUSTO, Member

Copies sent to:

Stacy Moniz, HGEA
Claire W.S. Chinn, Deputy Attorney General

ⁱ In its Opposition, HGEA did not respond to the allegation that the Board rests this decision on. Accordingly, the Board questioned HGEA regarding this allegation at oral argument and took its responses into consideration when making this decision.