

STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

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

Complainant,

and

DAVID Y. IGE, Governor, State of Hawai'i;  
CATHERINE PAYNE, Chairperson, Board of  
Education; HAWAI'I STATE BOARD OF  
EDUCATION; CHRISTINA KISHIMOTO,  
Superintendent, Department of Education; and  
BRANDON LEE, Administrator, Labor  
Relations Section, Department of Education;  
DEPARTMENT OF EDUCATION, State of  
Hawai'i,<sup>1</sup>

Respondents.

CASE NO. CE-06-859

ORDER NO. 3687

ORDER GRANTING, IN PART, AND  
DENYING, IN PART, HGEA/AFSCME'S  
MOTION FOR AN AWARD OF  
ATTORNEY'S FEES AND COSTS AND  
DISMISSING AND CLOSING THE CASE

ORDER GRANTING, IN PART, AND DENYING, IN PART,  
HGEA/AFSCME'S MOTION FOR AN AWARD OF ATTORNEY'S  
FEES AND COSTS AND DISMISSING AND CLOSING THE CASE

On May 5, 2015, the HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA/AFSCME or Complainant) filed a prohibited practice complaint with the Hawai'i Labor Relations Board (Board) against DAVID Y. IGE, Governor, State of Hawai'i; CATHERINE PAYNE, Chairperson, Hawai'i State Board of Education; HAWAI'I STATE BOARD OF EDUCATION; CHRISTINE KISHIMOTO, Superintendent, Department of Education; BRANDON LEE, Administrator, Labor Relations Section, Department of Education; and DEPARTMENT OF EDUCATION (collectively referred to as Respondents).

After a hearing on the merits, the Board issued Decision No. 483 on June 28, 2016, finding that the Department of Education wilfully committed a prohibited practice. On July 28, 2016, the Respondents appealed Decision No. 483 to the Circuit Court (Civil No. 16-1-1460-07 RAN). On April 19, 2017, the Honorable Rhonda Nishimura issued Order Affirming Hawai'i Labor Relations Board Decision No. 483 and entered Judgment.

On May 8, 2017, Complainant filed HGEA/AFSCME'S MOTION FOR AN AWARD OF ATTORNEY'S FEES AND COSTS (Motion for Attorney's Fees). On December 24, 2020, Complainant filed HGEA/AFSCME MOTION FOR BOARD DECISION ON HGEA/AFSCME'S MOTION FOR AN AWARD OF ATTORNEY'S FEES AND COSTS FILED HEREIN ON MAY 8, 2017 (Complainant's Motion for Board Decision).

On December 31, 2020, Respondents filed RESPONDENTS' MEMORANDUM IN OPPOSITION TO HGEA/AFSCME MOTION FOR BOARD DECISION ON HGEA/AFSCME'S MOTION FOR AN AWARD OF ATTORNEY'S FEES AND COSTS FILED ON MAY 8, 2017. Respondents argued in their opposition that they had not received a copy of Complainant's Motion and requested an opportunity to file objections to the Complainant's Motion for Attorney's Fees.

On January 15, 2021, the Board held a hearing on Complainant's Motion for Board Decision. The parties were represented by their respective counsels. After hearing all the arguments and reviewing all the pleadings on this matter, the Board orally ruled that Respondents would have an opportunity to file their objections by January 22, 2021 to Complainant's Motion for Attorney's Fees. The Board also scheduled a hearing on Complainant's Motion for Attorney's Fees on January 29, 2021 at 9:00 a.m. A notice was electronically filed on January 15, 2021 memorializing the Board's oral orders.

On January 28, 2021, Complainant filed a Declaration of Peter Liholiho Trask for the purpose of informing the Board that the parties agreed to a sum of \$35,362.50 for attorney's fees and \$1,666.28 for General Excise Tax for a total of \$37,028.78. The Complainant requested the Board for an award of \$37,028.78 based on this agreement.

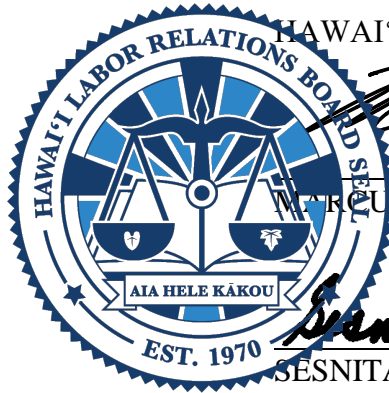
On January 29, 2021, the Board held a hearing on Complainant's Motion for Attorney's Fees. The parties were represented by their respective counsel. Respondents confirmed that the parties have agreed to a settlement of an award for attorney's fees for a total amount of \$37,028.78. The parties also asked that the Board dismiss and close the case. The Board orally granted the parties' requests.

After hearing all the arguments and a review of the pleadings, the Board hereby GRANTS, IN PART, AND DENIES, IN PART, the Complainant's Motion for Attorney Fees and Costs, filed on May 8, 2017. The Board grants the Complainant's Motion for Attorney Fees and Costs to the

extent that Complainant is entitled to attorney's fees and waives the costs. However, the Board denies the request for \$42,553.96 in attorney's fees based on the parties' representation that they have agreed to modify the amount to \$37,028.78. Therefore, the Board awards the sum of \$37,028.78 for attorney's fees to Complainant HGEA/AFSCME to be paid by Respondents.

This case is dismissed and closed.

DATED: Honolulu, Hawai'i, \_\_\_\_\_ February 3, 2021 \_\_\_\_\_.



HAWAI'I LABOR RELATIONS BOARD

*Markus R. Oshiro*

MARKUS R. OSHIRO, Chair

*Sesnita A. D. Moepono*

SESNITA A.D. MOEPONO, Member

*J.N. Musto*

J.N. MUSTO, Member

Copies sent to:

Peter Liholiho Trask, Esq.

James E. Halvorson, Deputy Attorney General

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<sup>1</sup> The Hawai'i Labor Relations Board has applied the Hawai'i Rules of Civil Procedure (HRCPP) where its administrative rules are silent. Dep't of Safety, State of Hawaii v. United Public Workers, AFSCME, Local 646, AFL-CIO, Board Case No, CU-10-322, Order No. 2944 at \*2 n. 2 (2013). HRCPP Rule 25(d)(1) provides that "When a public officer is a party to an action in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party."