

STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

ANTHONY JONES,

Complainant,

and

JON HENRY LEE, Department of Education,
State of Hawai'i; SEAN TAJIMA,
Department of Education, State of Hawai'i;
and CHRISTINA KISHIMOTO,
Superintendent, Department of Education,
State of Hawai'i,

Respondents.

CASE NO(S). 21-CE-06-960

ORDER NO. 3748

PRETRIAL ORDER AND NOTICES

- (1) NOTICE TO RESPONDENT(S) OF PROHIBITED PRACTICE COMPLAINT;
- (2) NOTICE TO PARTIES OF EXTRAORDINARY CIRCUMSTANCES
- (3) NOTICE OF FILING REQUIREMENTS;
- (4) NOTICE OF APPEARANCE AND ACCESSIBILITY OR ACCOMMODATIONS;
- (5) NOTICE OF STRUCTURE FOR REMOTE HEARINGS BEFORE THE BOARD
- (6) NOTICE OF PREHEARING CONFERENCE
- (7) NOTICE OF PRETRIAL CONFERENCE
- (8) NOTICE OF WITNESS REQUIREMENTS WHILE TESTIFYING REMOTELY
- (9) NOTICE OF HEARING ON THE MERITS; AND
- (10) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES

PRETRIAL ORDER AND NOTICES

THE PARTIES ARE HEREBY NOTIFIED AND ORDERED TO COMPLY WITH THIS PRETRIAL ORDER AND NOTICES. The Hawai'i Labor Relations Board (Board) may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this Pretrial Order and Notice if the parties or attorneys have not shown good cause for failure to comply or a good faith effort to comply.

This document controls the course of proceedings and may not be amended except by the Board through an Order or Notice, by a written request by a party with written consent of all the parties (stipulation), or by an order granting a motion filed with the Board. The use of singular, plural, masculine, feminine, and neuter pronouns include the others as the context may require.

(1) NOTICE TO RESPONDENTS OF A PROHIBITED PRACTICE COMPLAINT

The attached prohibited practice complaint (Complaint) was filed with the Board by the above-named Complainant(s) on: **May 17, 2021**.

PURSUANT TO HAWAI'I REVISED STATUTES (HRS) § 377-9(b) AND HAWAI'I ADMINISTRATIVE RULES (HAR) § 12-42-42: NOTICE IS HEREBY GIVEN TO RESPONDENT(S) that the above-named COMPLAINANT(S) filed a prohibited practice Complaint with the Board, a copy of which is attached, alleging that you have engaged in or are engaging in prohibited practices in violation of HRS Chapter 89.

YOU ARE DIRECTED to file a written answer to the Complaints within ten (10) days after service of the Complaints. One copy of the answer must be served on each party, and the original with certificate of service on all parties must be filed with the Board no later than 4:30 p.m. on the tenth day after service of the Complaint. If you fail to timely file and serve an answer, that failure constitutes an admission of the material facts alleged in the Complaint and a waiver of hearing. (HAR § 12-42-45(g))

(2) NOTICE OF EXTRAORDINARY CIRCUMSTANCES

Due to the current concerns regarding COVID-19, the Governor of the State of Hawai'i (Governor) issued a series of Emergency Proclamation, with the first being signed on March 5, 2020. These proclamations, among other things, gave agencies the ability to conduct certain hearings by telephone or video conference without the physical presence of the parties at the same location, and suspend certain rules, statutory requirements, and administrative hearing procedures as needed to deal with the emergency situation brought on by COVID-19.

On March 29, 2020, the Governor issued Executive Order No. 20-02, which, among other things, gave the Board the sole discretion to waive the requirement in HRS § 377-9 to hold a

hearing on the complaint not more than 40 days after the filing of the complaint or amendment thereof. The Board hereby waives this requirement in this case.

Accordingly, the Board is holding remote, videographic hearings and is mandating electronic filing during the emergency period, unless terminated by separate proclamation, whichever occurs first. (See Order Nos. 3605 and 3647)

(3) **NOTICE OF FILING REQUIREMENTS**

1) **Electronic Filing**

All filings in this case must be made electronically through the Board's filing service FileandServeXpress (FSX). There is no charge to the parties for use of this electronic filing service. Should any party not have access to the Internet, or for any other concerns or complications, please contact the Board via electronic mail or (808) 586-8616.

To register, a party is required to complete and submit the Board Agreement to E-File (Form HLRB-25), as amended, which is available at <http://labor.hawaii.gov/hlrb/forms/>.

Questions regarding the Board's electronic filing system should be directed to the Board's staff at (808) 586-8616.

2) **Filing Requirements Regarding Protection of Social Security Numbers and Personal Information**

Before a party files or submits any pleading, correspondence, or other document (Documents) to the Board, whether electronically or manually, the party must make certain that all social security numbers and personal information are redacted or encrypted. "Personal information" includes social security numbers, home addresses, dates of birth, bank account numbers, medical and health records, and any other information in which a person has a significant privacy interest. To the extent any personal information is relevant to the Board's consideration of this case, the submitting party must submit the confidential information by means of a Confidential Information Form that substantially conforms to Form 2 of the Hawai'i Court Records Rules, as amended.

If a party submits a document that requires redaction of a page(s), the party must, by motion, request permission from the Board to withdraw and replace the original document, in its entirety, with a redacted copy of such document, pursuant to HAR § 12-42-8(g)(11), "The Board may permit withdrawal of original documents upon submission of properly authenticated copies to replace such document."

The Board may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this provision where the parties or attorneys have not shown good cause for failure to comply or a good faith attempt to comply.

(4) NOTICE OF APPEARANCE AND ACCESSIBILITY OR ACCOMMODATIONS

All parties have the right to appear and to be represented by counsel or any other authorized person in all Board proceedings, subject to the Extraordinary Circumstances set forth in Section (2) above. Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai‘i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, including language access, please call the Board at (808) 586-8616, at least seven (7) days prior to a Board proceeding.

The parties should be aware that the Board is in a secured State of Hawai‘i building, which may not be accessible to the public during the emergency period referenced in the Notice of Receipt of Notice of Contest.

(5) NOTICE OF STRUCTURE FOR REMOTE HEARINGS BEFORE THE BOARD

The Board currently uses Zoom as its platform for online proceedings. The Board hereby orders all parties to follow the requirements laid out in this Order for all Remote Zoom Hearings before the Board.

Parties and representatives should familiarize themselves with Zoom in preparation for all online Board proceedings. For security purposes, the Board will utilize the “waiting room” function.

Prior to the hearing:

1. The Board will provide Zoom login information to the parties in advance of the hearing.
2. A party who shares the Zoom login information with any other group or individual (Sharing Party) must provide the Board and the other party/parties with a complete list of participants they have invited to attend the proceedings, including any support staff and witnesses. This list must be emailed to the Board at dlir.laborboard@hawaii.gov.
3. Any Sharing Party must inform non-witness participants:
 - 1) that they must keep their microphones muted at all times; and
 - 2) that they must keep their cameras off at all times.
4. Any Sharing Party must inform **all** participants:

- 1) that they must submit their full name as their username when requesting entry to the Zoom conference, to allow the Board to ensure compliance with the witness exclusion rule, unless the party sets up a device specifically for witness use only, in which case that device may log in with the username “witness”; and
- 2) that they may not record, screen shot, record conversations, and/or use third party software to record the proceeding.

(6) NOTICE OF PREHEARING CONFERENCE

PURSUANT TO HRS § 89-5(i)(4) and (i)(5), and HAR § 12-42-47:

NOTICE IS HEREBY GIVEN that the Board will conduct a Prehearing Conference on the date listed below and in the Schedule of Deadlines and Hearing Dates (Schedule) in this document.

DATE AND TIME: May 28, 2021 at 9:00 a.m.

LOCATION: Remote Zoom Hearing

The purpose of the Prehearing Conference is to clarify the issues, if any; to the extent possible, to reach an agreement on facts, matters, or procedures that will facilitate and expedite the hearing or adjudication of the issues presented; to establish deadlines for prehearing briefing; to identify witnesses and file applications for the issuance of subpoenas; and for such other matters as may be raised.

All parties have the right to appear at the Prehearing Conference telephonically and to be represented by counsel or any other authorized person. Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai‘i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, including language access, please call the Board at (808) 586-8616, at least seven (7) days prior to a Board proceeding.

(7) NOTICE OF PRETRIAL CONFERENCE

PURSUANT TO HRS §§ 89-5(i)(4) and (i)(5), and 377-9:

NOTICE IS HEREBY GIVEN that the Board will conduct a Pretrial Conference on the date listed below and in the Schedule in this document.

DATE AND TIME: June 17, 2021 at 9:00 a.m.

LOCATION: Remote Zoom Hearing

1) Pretrial Statement

Both the Complainant(s) and the Respondent(s) must file a Pretrial Statement with the Board as listed in the Schedule set forth below. The Pretrial Statement must include the following:

1. Statement of Issues
2. Witness List

The witness lists must include, in the interest of judicial economy, a brief but meaningful summary of the nature of the testimony expected, and the order in which the witnesses are expected to be called upon, subject to the witness' availability.

The summary for each witness must include sufficient information for the Board to determine whether the testimony will be irrelevant, immaterial, or unduly repetitious to any other witness testimony; see HRS § 91-10(1). The summary, therefore, must include sufficient information to show the Board that the testimony of each witness will be different, and so the summary for each witness must be individualized.

Failure to include individualized summaries for any witness may be grounds for the Board to strike that witness and not allow them to testify at the *de novo* hearing.

The witness list must also include information regarding the location where the party expects the witness to testify from. This location may include the witness' home, a party's office, or any other location from which the witness can testify remotely, without assistance or interference from any other party, and can access the relevant exhibits.

If a party intends to file a request for a subpoena for a witness, that request must be concurrently filed with the Pretrial Statement, and a notation that a request is being made must be listed in the witness list.

3. Exhibit List

The exhibit lists must include copies of the proposed exhibits. The parties are required to use the File & ServeXpress eFiling system to file the exhibits before or by 4:30 p.m. (HST) on the deadline day, as ordered in Board Order No. 3605. The exhibits must be combined and filed in a searchable portable document format (PDF) not exceeding 10 megabytes, with each exhibit bookmarked.

If a party intends to file a request for a subpoena duces tecum for any of its exhibits, that request must be concurrently filed with the Pretrial Statement, and a notation that a request is being made must be listed in the exhibit list.

The Complainant must identify his exhibits using alphabetical letters (A, B, C, D, etc.). Union Respondent(s) must identify its exhibits using numerical designations preceded by U (e.g., U-1, U-2, U-3, etc.).

If there are any duplicative exhibits, the parties must designate them as Joint Exhibits, the parties must designate one party to file these exhibits, and the Exhibits must be marked with numerical designations preceded by J (e.g., J-1, J-2, J-3, etc.).

All Exhibits are to be bates-stamped in the upper right-hand corner.

Additionally, the Exclusive Representative, unless no Exclusive Representative is party to the case, in which case the Employer, must submit to the Board the full applicable collective bargaining agreement(s), including any Memoranda of Understanding, Memoranda of Agreement, or any other supplemental agreement that has any bearing on these proceedings. These documents must be marked as Board Exhibit 1 or Board Exhibit 1a, 1b, 1c, etc. and must be bates-stamped in the upper-right hand corner.

2) Pretrial Conference

At the pretrial conference, the Parties must be prepared to discuss, raise, and present their position regarding the presentation of the anticipated evidence (witnesses, exhibits) to be introduced at the Hearing on the Merits (HOM), including but not limited to any stipulations, evidentiary issues, objections, or confidentiality issues that require protection from public disclosure and the narrow tailoring of methods to protect that information (e.g. sealing or redaction).

While all parties have the right to appear at the Pretrial Conference and to be represented by counsel or any other authorized person, all parties are required to either appear or have a representative appear. Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, please call the Board at (808) 586-8616.

(8) NOTICE OF WITNESS REQUIREMENTS WHILE TESTIFYING REMOTELY

Due to the situation with COVID-19, unless otherwise ordered by the Board, all witnesses must testify videographically. Accordingly, the Board **orders all parties** to inform their witnesses that, unless otherwise directed or allowed, when the witness testifies:

1. The witness must be in a location without anyone else in the room with them, and there should be no one at the location who can overhear their testimony;
2. The device from which the witness appears must be used during the witness' testimony solely for the purpose of the witness appearing by video;
3. The witness may not consult with anyone during testimony;
4. The party calling the witness must ensure that the witness has access to all exhibits in the case;
5. The witness must not look at or make reference to notes or any other documents or materials other than the exhibits, and may look at the exhibits only when directed to do so by a party or the Board;
6. At all times while testifying, the witness must be clearly visible, face the camera, and speak directly and audibly into the microphone;
7. The witness may not use a virtual background; and
8. The witness must not have any communication with third parties while they are on the stand and under oath.

(9) NOTICE OF THE HEARING ON THE MERITS

NOTICE IS HEREBY GIVEN, pursuant to HRS §§ 377-9, 89-5(i)(3), (4), (5), and 89-14, and HAR §§ 12-42-46 and 12-42-49 that the Board will conduct an HOM on the instant Complaint at the place, time and date listed below and in the Schedule set forth below. The purpose of the HOM is to receive evidence and arguments on whether Respondent(s) committed prohibited practices as alleged by Complainant(s).

DATE AND TIME: June 24, 2021 at 9:00 a.m.

LOCATION: Remote Zoom Hearing

Subject to the Board's discretion due to the Extraordinary Circumstances listed above in Section 2, all parties have the right to appear at the Hearing on the Merits and to be represented by counsel or any other authorized person. **All parties, representatives, and witnesses must appear at the hearing on the merits.** Please note that this requirement may be altered due to the Extraordinary Circumstances listed above in Section 2 by Board Order.

Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, please call the Board at (808) 586-8616.

(10) **SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES**

<u>DATES AND DEADLINES</u>	<u>DATE</u>	<u>TIME</u>
<u>Prehearing Conference</u>	5/28/21	9:00 a.m.
<u>Dispositive Motion Deadline</u>	6/3/21	
<u>Response to Dispositive Motion Deadline</u>	6/10/21	
<u>Pretrial Statement; Exchange of Exhibits; Subpoena Deadline</u>	6/10/21	
<u>Pretrial Conference and Hearing on Dispositive Motions</u>	6/17/21	9:00 a.m.
<u>Hearing on the Merits</u>	6/24/21	9:00 a.m.

All submissions must be filed on or before 4:30 p.m. on the deadline date.

DATED: Honolulu, Hawai'i, _____ May 17, 2021 _____.

HAWAI'I LABOR RELATIONS BOARD

MARCUS R. OSHIRO, Chair

EXCUSED
SESNITA A.D. MOEONO, Member

J N. MUSTO, Member

Copies sent to:

Anthony Jones, Self-Represented Litigant
Jon Henry Lee, Department of Education
Sean Tajima, Department of Education
Christina Kishimoto, Superintendent, Department of Education
James Halvorson, Deputy Attorney General



**EFiled: May 17 2021 10:20AM HAST
Transaction ID 66607696
Case No. 21-CE-06-960**

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

FORM HLRB-4

INSTRUCTIONS. Submit the original¹ of this Complaint to the Hawaii Labor Relations Board, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

1. The Complainant alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board proceed pursuant to Hawaii Revised Statutes Sections 89-13 and 89-14 and its Administrative Rules, to determine whether there has been any violation of the Hawaii Revised Statutes, Chapter 89.

2. COMPLAINANT Please select one that describes the Complainant:

Public Employee Public Employer Public Union (public employee organization)

a. Name, address and telephone number.

b. Name, address, e-mail address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

¹ Notwithstanding Board rule 12-42-42(b), the Board only requires the original of the complaint.

3. RESPONDENT Please select one that describes the Respondent:

- Public Employee Public Employer Public Union (public employee organization)

a. Name, address and telephone number.

b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

4. Indicate the appropriate bargaining unit(s) of employee(s) involved.

5. ALLEGATIONS

The Complainant alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in a prohibited practice or practices within the meaning of the Hawaii Revised Statutes, Section 89-13. (Specify in detail the particular alleged violation, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13, alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.)

6. Provide a clear and concise statement of any other relevant facts.

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

DECLARATION IN LIEU OF AFFIDAVIT

(If the Complainant is self-represented, then the Complainant must sign this Declaration).

Please select one:

- the Complainant
- the Complainant's principle representative
- the person described below

I, _____,
do declare under penalty of law that the foregoing is true and correct.

Date: _____

The person signing above agrees that by signing his or her name in the above space with a "/s/ first, middle, last names" is deemed to be treated like an original signature.

Signor's email address

If you are not the Complainant or listed as the principle representative in #2(b) and you are signing above, then please complete the contact information below.

Your address:

Your phone number: _____

Your relationship to the Complainant:

If the Complainant or principal representative is registered with File and ServeXpress (FSX), then you may proceed to electronically file this complaint.

If the Complainant or the principal representative is not registered with FSX and would like to electronically file this complaint through FSX, then complete the Board Agreement to E-File, FORM HLRB-25. (Form HLRB-25 is on the HLRB Website at labor.hawaii.gov/hlr/forms.) Email the completed form to the Board at dlir.laborboard@hawaii.gov.



STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

Princess Keelikolani Building, 830 Punchbowl Street, Room 434, Honolulu, Hawaii

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I, as the Complainant I feel, given my below experiences and allegations against State of Hawaii Department of Education and its representatives, as I also believe my allegations have merits i.e., Principal of James Campbell High School; Jon Henry Lee, his current DOE Supervisor; Sean Tajima; Superintendent of Leeward District and current DOE Superintendent Dr. Christine Kishimoto, I have experienced they have each engaged in or is (are) engaging in a violations of prohibited practice or practices within the meaning of the Hawaii Revised Statutes, Section 89-13 and 14. I have specified my allegations in detail of the particular alleged violations below, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13, as I allege to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper, unwarranted and without justified merits but more so actions against me out of retaliations against me, for me having filed EEOC claims, as well as HGEA Union grievance complaints filed against them, and other upper DOE management. In your reading of my timeline complaints against each of the named DOE respondents, you should clearly notice from the initial acts against me of "Constructive Termination" (July 25, 2018-April 23, 2021) to respondents named eventual "Termination" act against me (on April 23, 2021), as it is my experience and belief that each act is jointly mirrored, sequentially connected and also relative, within each below timeline, from the initial act of "Constructive Termination, to the current, ultimate act of "Termination" against me. Given such, both the "Constructive Termination" and "Termination" against me should be considered timely filed with the Hawaii Labor Relations Board, against the DOE and its named representatives.

Though after more than a year of requesting HGEA to file grievances against DOE and its representatives, which reflected DOE and its representatives violating my HGEA CBA Rights (reflect constructive termination) over more than a year and a half, HGEA eventually, filed three grievances, (Step 2 completed, DOE chose not resolved) no decision by HGEA Union for arbitration and recently a fourth grievance step 1 against the termination, against the DOE and named respondents. Nevertheless, since July 25, 2018 to current May 2021, HGEA and its representatives intentionally afforded my employer; State of Hawaii Department of Education and its representatives to continue to commit violations against my HGEA CBA Rights, which transitioned from "Constructive Termination" to eventual DOE acted on a "Recommendation For Termination" against me, as of recently, April 23, 2021, to which I believe also violates sections of Hawaii Revised Statutes 89-13 and 14, as well as my HGEA CBA Rights. Given such, I am provoked and steered to petition to the State Of Hawaii Labor relations Board to review my claims, allegations and matter against the DOE and its named representatives, as I believe and continue to experience them having violated Hawaii Revised Statutes, Section 89-13 and 14 listed below, as well as State of Hawaii Unfair Fair Labor Practices Under HRS Chapters 89 and 377 also listed below. Given such, both the "Constructive Termination" and "Termination" against me should be considered timely filed with the Hawaii Labor Relations Board and also within the Hawaii Labor Relations Board Jurisdiction, on the allegations filed prior and now, as I believe they have merits, pertaining HGEA and its representatives, and similarly, allegations filed, believe to have merits, pertaining to DOE and its representatives. Within my below allegations, numbers 2 through 21 reflects DOE and its named representatives violations and acts of "**Constructive Termination**" against me, from July 24, 2018 through April 23, 2021, which resulted in an ultimate act of "**Termination**" against me, from the DOE, which both reflects violation of my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

Give such, I am claiming that the State of Hawaii DOE and its named representatives committed violations of "Unfair Labor Practices" against me, as they violated The Labor Relations Act (LRA) in three general categories of conduct I consider to be unfair labor practices: retaliation, wrongful pressure, and termination while under collective bargaining agreements...as actions deemed retaliation are prohibited. What is a prohibited or unfair labor practice? Claims of unfair labor practices that DOE and its named representatives deemed to have violated: Under HRS Chapters 89 and 377, it is unlawful for:

- a) the employer/employee or employee organization to interfere with or restrain the employee's rights guaranteed under the respective chapters (HRS 377-6(1), 377-7(1), 89-13(a)(1) or 89-13(b)(1));
- b) the employer to dominate or interfere in the formation, existence, or administration of an employee organization (HRS 377-6 and 89-13(a)(2));
- d) the employer to discharge or discriminate against an employee because the employee has signed or filed a petition or complaint or given testimony under the respective chapter (HRS 89-13(a)(4) and 377-6(8));
- e) the employer or the union to refuse to bargain collectively in good faith (HRS 89-13(a)(5) and 377-6(4));
- f) the union to violate the provisions of the chapter, including the responsibility to represent the interests of all employees without discrimination (HRS 89-13(b)(4), 89-8(a), and 378-51); and
- g) the employer, the union or employee to violate the terms of the collective bargaining agreement (HRS 89-13(a)(8), 89-13(b)(5), 377-6(6), and 377-7(3)).

I am also alleging that DOE and its named representatives also violated the following §89-13 Prohibited practices; evidence of bad faith. (a) It shall be a prohibited practice for a public employer or its designated representative wilfully to:

- (1) Interfere, restrain, or coerce any employee in the exercise of any right guaranteed under this chapter;
- (2) Dominate, interfere, or assist in the formation, existence, or administration of any employee organization;
- (3) Discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition, or complaint or given any information or testimony under this chapter, or because the employee has informed, joined, or chosen to be represented by any employee organization;
- (4) Refuse to bargain collectively in good faith with the exclusive representative as required in section 89-9;
- (5) Refuse to participate in good faith in the mediation and arbitration procedures set forth in section 89-11;
- (7) Refuse or fail to comply with any provision of this chapter;
- (8) Violate the terms of a collective bargaining agreement;
- (b) It shall be a prohibited practice for a public employee or for an employee organization or its designated agent wilfully to:
 - (1) Interfere, restrain, or coerce any employee in the exercise of any right guaranteed under this chapter;

- (2) Refuse to bargain collectively in good faith with the public employer, if it is an exclusive representative, as required in section 89-9;
- (3) Refuse to participate in good faith in the mediation and arbitration procedures set forth in section 89-11;
- (4) Refuse or fail to comply with any provision of this chapter; or
- (4) Violate the terms of a collective bargaining agreement. [L 1970, c 171, pt of §2; gen ch 1985; am L 1992, c 214, §3; am L 2003, c 3, §2]

1. April 30, 2018, while attempting to intervene between two students that mutually agreed to fight, I received knee injuries, which was discovered medically, after I visited the hospital the next day. Medically, the doctor returned me back to work, while placing me on crutches. Medically, I was never prohibited or denied from reporting to work. To the contrary, I was released medically to report to back work.

2. July 24, 2018, DOE Principal; Jon Henry Lee, via a sent voice mail placed me on DDL (Department Directed Leave) with pay from July 25, 2018-December 2018, as he vowed to send a written notice to reflect such but he never produced the notice. Jon Henry Lee Directed me to turn my DOE work items i.e., work keys, ID badge, cell phone and laptop, which is a violation of my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377.

3. July 30, 2018, DOE Superintendent of Leeward District; Sean Tajima sent me a formal letter, with HGEA Executive Director; Randy Perreira Cc'd, as he placed me on DDMRL (Department Directed Leave), on top of Jon Henry Lee prior July 24, 2018 voicemail notice to me, placed me on DDL. In his letter, Sean Tajima directed me to not report to work, stay away from DOE properties, turn in my work items i.e., keys, ID badge, cell phone and laptop and also directed me to a psychological evaluation...all without affording me due process, no just cause, no merits and also without DOE supportive policies, rules or regulations and a violation of my HGEA CBA Rights and violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

4. October 2018, I sent DOE Sean Tajima a written certified mail rebuttal to Jon Henry Lee mentioned voicemail DDL and his mentioned DDMRL and directives. I also Cc'd HGEA Executive Director; Randy Perreira in my mentioned communication, with no follow-up from Randy Perreira, which allowed DOE to continue to violate my HGEA CBA rights, as Randy Perreira allowed DOE and its representatives to continue to violate my HGEA CBA Rights and violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

5. November 2018, DOE Sean Tajima held a meeting with me, which included HGEA Union Representative Joy Bulosan and my church pastor, as he directed me to turn in the mentioned work items the next day morning by 10 A.M. and if not, he threaten disciplinary actions against me. Joy Bulosan requested me to follow Sean Tajima request to turn in the mentioned work items, though it violated my HGEA CBA Rights. HGEA Joy Bulosan informed me a grievance could be filed if DOE Sean Tajima acted on disciplinary actions against me but at that time, disciplinary actions were not taken by the DOE against me. I request Joy Bulosan to file a grievance against DOE mentioned actions of violations against my HGEA CBA Rights but she never did, which allowed DOE to continue to violate my CBA rights a violation of my HGEA CBA Rights and violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

6. December 2018, HGEA Stacy Moniz was assigned as my new HGEA representative. January 14, 2019, he initially and formerly met with me, as my church pastor attended on my behalf, as my spiritual support. Stacy Moniz then informed me that he will file a formal grievance against DOE and its representatives for their mentioned actions against me, which violated my HGEA CBA Rights, for reasons that DOE and its representatives, as he also mentioned they (DOE) should not have taken the mentioned actions against me and it denied me my due-process rights.

7. January 2019, though Stacy Moniz vowed to file a formal grievance against the DOE and its representatives for their mentioned actions against me, which included added January 2019 'recall' of direct-deposit wages from my bank accounts, after depositing and also stop pay of my wages and also discontinued paying my DOE health benefits monthly premium. This violation of my CBA Rights against me, from the DOE and its representatives also provoked me to have to personally pay for my DOE monthly insurance premium payments, out of pocket. These are considered continued afforded violations of my HGEA CBA Rights and violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

8. February, 2019, DOE and its representatives placed me on Workers Compensation, while it had already placed me on DDMRL, after I under- went medical surgery from a DOE work related injury in April 2018, to which I was never placed off work by any medical physician for the injury, even after I reported to the hospital the next day, in April 2018, after the injury. I did report this information to HGEA Stacy Moniz, as I asserted that DOE and its representatives violated my CBA Rights, as I should not have placed me on Worker's Compensation, while having been already placed me on DDMRL, by the DOE, This reflects continued violations against my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

9. July 2019, DOE Sean Tajima changed my DDMRL leave to a DDL, without due process or just cause, which are additional violations of my HGEA CBA Rights. He also directed me to report to DOE Leeward District to sign-in at 10 A.M. each morning, starting August 21, 2019. While placing me on a new DDL, from DDMRL, he also optioned me to take sick leave, using DOE form 300-001. Given I was under physician care, I did provide medical documentation and sent it to Sean Tajima and written communication dated August 19, 2019 and another August 20, 2019 communication that I was medically not able to report to DOE Leeward District as he directed me to. In return, DOE Sean Tajima intentionally "Turned-a-blind-eye" and as of August 21, 2019, he swiftly placed me on another type of leave, which was ULWOP (Unauthorized Leave Without Pay), which are continued violations against my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

10. July 2019, HGEA Stacy Moniz, via a phone call to me mentioned that he had great news for me that he spoke with DOE representatives and got them to agree to allow me to return back to work, only if I have my primary physician to generate a letter, releasing, approving me to return back to work, to the DOE. I immediately rebuked such offer, as I mentioned that it is DOE and its representatives that used their subjective educational credentials to medically remove me from work. Therefore, it was not my primary physician that removed me from work from the DOE. Given such, I went on to communicated to Stacy Moniz that my primary physician should not be required or expected to write a letter to approved me to return back to work to the DOE, which are continued violations against my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

11. In a letter to me dated August 20, 2021 and August 21, 2021, DOE Jon Henry and DOE Sean Tajima sent me communication that they were placing me on ULWOP without pay, until further notice which are continued violations against my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

12. In October 2019, DOE Sean Tajima, directed me to attend what Stacy Moniz called a "Pre-disciplinary" meeting scheduled for early November 2019, for not having turned in the work related items, as directed prior, i.e., keys, id badge, cell phone and lap-top, which had been deemed by Stacy Moniz of HGEA to be violation of my HGEA CBA Rights and was also without any DOE supported policy, rule or regulation, as a violation, which is also which are continued violations against my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

13. In the November 2019 "Pre-disciplinary" with DOE Sean Tajima, with both HGEA Stacy Moniz and my church pastor in attendance, Sean Tajima mentioned that he would either suspend me or Superintendent Christine Kishimoto would demote me, for not having turned in work related items, as directed. I then requested of him which DOE policy will he use against me. He stated he would apply HRS-89-9. I then inquired if it's a rule that's applied to all DOE employees. He then mentioned it is not. I then inquired of Sean Tajima, with HRS 89-9 not being a rule that DOE presents to all of its employees, how is it available to all of DOE employees. He then stated that it is out there somewhere for them to access, which is an additional, violations of my HGEA CBA Rights. Stacy Moniz did state to me that any disciplinary actions taken against me, from DOE Sean Tajima and/or Superintendent Christine Kishimoto or DOE that he would file a forth formal Step 1 grievance against the DOE and its representatives on my behalf, as he went on to mention that such actions against me are continued allowed violations of my HGEA CBA Rights. This is not only continued violations against my HGEA CBA Rights, it is also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

14. In late November 2019, Stacy Moniz finally held the three formal grievance hearing with DOE Sean Tajima and his then DOE assistant Jackie and I, with my church pastor in attendance. Sean Tajima vowed to generate a written record of each of the grievance hearings, which were to consist of DOE responses to each grievance. But to date, Sean Tajima and the DOE never generated a written response to any of the three Step 1 grievance hearings, nor did they provide written copies, which are additional violations of my HGEA CBA Rights, also are violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

15. December 31, 2019, Instead of DOE Sean Tajima generating and sending his DOE written responses from the three November 2019 Step 1 grievance hearings, I received a shocking 40 plus page 'Recommendation For Termination' letter from him dated December 31, 2019, which included a directive to meet with DOE Superintendent Christine Kishimoto on January 9, 2020. In concert with this notice, I also received an email reply from HGEA Stacy Moniz that he was not available from December 31, 2019 through January 23, 2020, which is continued, additional violations of my CBA rights, which are continued violations against my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

16. Throughout December 2019, I sent HGEA Stacy Moniz communications for update of DOE Sean Tajima responses to each of the Step 1 grievance hearings held in November 2019. In his reply, he stated that he extended DOE response time, beyond the CBA allotted 7 day timeline. He claimed this was allowed to afford DOE time to research grievance claims but nevertheless, to date DOE Sean Tajima, nor the DOE ever provided written response to each of the three Step 1 grievance hearings, held November 2019, which are additional violations of my HGEA CBA Rights, and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

17. January 7, 2020, I sent a written request with medical documentation to DOE Sean Tajima and Superintendent Christine Kishimoto to postpone the RFT meeting, as I was not able to attend. My request was honored.

18. January 6, 2020, HGEA Stacy Moniz finally generated and filed the Step 2 grievances on my behalf, against the DOE and its representatives and sent me a copy of each. Given his continued intentionally reluctance to file throughout prior years of 2018-2019, which are continued violations against my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

19. From March 2019, April 2019, May 2019 and June 2019, Stacy Moniz arranged for his HGEA administrative secretary assistant Margie Abe to communicate via email, with him Cc'd, as she arranged to reschedule DOE Sean Tajima RFT meeting with DOE Superintendent Christine Kishimoto, from its original scheduled date of January 9, 2020. Stacy Moniz also had Margie Abe to schedule my three Step 2 grievance hearings, as my second meeting and DOE RFT as my first meeting. I refuted such with Stacy Moniz, as I informed him that it is my understanding that my three Step 2 grievances held high priority over the DOE RFT meeting with DOE Superintendent Christine Kishimoto. Nevertheless, after acknowledging this to be true, Stacy Moniz continued to intentional disregard this fact, as he continued to have HGEA Margie Abe to arrange the DOE RFT meeting as my first scheduled meeting and my three Step 2 HGEA grievances hearings afterwards as my second scheduled meeting. In late May 2019, early June 2019, I had to attend to my medical issues and was not able to attend either of the mentioned meetings, as I informed Stacy Moniz, but such notification should not have prohibited him from scheduling and attending my three Step 2 grievance hearings but he intentionally selected not to, for one year and a few months, which are continued allowed, additional violations of my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

20. In late December 2020, while off-island, in Tennessee, caring for my father, given his medical issues, I noticed a email communication from HGEA Stacy Moniz, as he mentioned DOE had rescheduled the RFT meeting with DOE Superintendents designees, for January 15, 2021. I immediately generated a certified mail communication to Stacy Moniz, informed him that I was of island caring for my father, given his medical issues and that I requested him and DOE to postpone the RFT meeting. Stacy Moniz sent me a response email, in early January 2021, weeks before January 15, 2021, as he informed me he received my communication about me being off island and caring for my father, given his medical issues and was not able to attend the DOE January 15, 2021 RFT meeting against me. He told me he will inform the DOE and its representatives. Stacy Moniz sent me a follow-up email, a week and half prior to the January 15, 2021 DOE RFT meeting against me to inform me that DOE denied my request and reason for postponing the DOE RFT meeting against me. He also stated the DOE RFT meeting needed to be held and will occur with or without my attendance. I sent him another certified mail rebuttal and also a medical note from my father's doctor confirming that I had been in Tennessee since December 4, 2020, to current January 2021 caring for my father, given his medical issue. I also informed Stacy Moniz that he, HGEA and DOE will be violating my 'Due Process' Rights, in they conduct the RFT meeting, despite my just reason for not being able to attend. Regardless, Stacy Moniz and DOE and its representative conducted the RFT meeting, which are allowed, additional violations

of my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

21. After attending the January 15, 2021 DOE RFT meeting against me, Stacy Moniz sent me subsequent emails through April 2021 to inform me the RFT meeting occurred and named those that attended the meeting and mentioned he was awaiting DOE Superintendent Christine Kishimoto decision to take action on the RFT to 'terminate' me from the DOE or not. He went on to mention he would file a fourth grievance against the termination, once it is acted on, which are additional allowed violations of my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

22. April 13, 2021, HGEA Stacy Moniz sent me an email, which contained a formal letter from DOE Superintendent Christine Kishimoto where she acted on the RFT (Termination) against me, of "Terminating me from the DOE and designated it to be an official act, as of April 23, 2021. He then mentioned he will be filing a grievance against the DOE Superintendent Christine Kishimoto designee termination action against me. I then, in my response reminded Stacy Moniz of my prior mentioned concerns of him, HGEA and DOE violating my 'Due Process' Rights for conducting the meeting, regardless of my communications and medical doctor's note to him, explaining I was off island in Tennessee caring for my father, given his medical issues, which resulted in my reasonable request of him and DOE Superintendent Christine Kishimoto and designees to postpone the RFT meeting against me, but they intentionally pressed in disregard, as they conducted the RFT (Termination) meeting without me. This is continued violations against my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.

Given these arbitrary, capricious and retaliatory continued act against me, from the State of Hawaii Department of Education and its representatives, it is my claim and experiences that they continued violations against my HGEA CBA Rights and also violations of State of Hawaii Labor Relations Board Unfair Labor Practices Under HRS Chapters 89 and 377, and a violation of Hawaii Revised Statutes, Section 89-13, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13.