

STATE OF HAWAI'I  
HAWAI'I LABOR RELATIONS BOARD

In the Matter of

ERIN K. KUSUMOTO,

Complainant(s),

and

HAWAII GOVERNMENT EMPLOYEES  
ASSOCIATION, AFSCME, LOCAL 152,  
AFL-CIO; and DEPARTMENT OF  
EDUCATION, State of Hawai'i,

Respondent(s).

CASE NO(S). 20-CU-06-379  
20-CE-06-940

ORDER NO. 3794

ORDER GRANTING COMPLAINANT'S  
REQUEST TO WITHDRAW AND  
GRANTING HGEA/AFSCME'S MOTION  
TO CONTINUE HEARING ON THE  
MERITS; NOTICE OF CONTINUED  
HEARING ON THE MERITS

**ORDER GRANTING COMPLAINANT'S REQUEST TO WITHDRAW AND  
GRANTING HGEA/AFSCME'S MOTION TO CONTINUE HEARING ON THE MERITS**

Complainant ERIN K. KUSUMOTO (Complainant or Kusumoto) filed a Motion to Amend Complaint on August 7, 2021 (8/7 Motion to Amend), which both Respondent HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) and Respondent DEPARTMENT OF EDUCATION, State of Hawai'i (DOE) opposed. Complainant subsequently requested to withdraw the 8/7 Motion to Amend, based on the Hawai'i Labor Relations Board's (Board) requirements for amendment in its administrative rules.<sup>i</sup>

On April 11, 2021, HGEA filed a Motion to Continue the Hearing on the Merits (HOM) previously scheduled for August 26, 2021. DOE submitted a statement of no opposition, and Kusumoto did not respond to the Motion to Continue within the five days provided for in Hawai'i Administrative Rules (HAR) § 12-42-8(g)(3)(C)(iii)<sup>ii</sup>.

The Board, after review, GRANTS the Request to Withdraw and the Motion to Continue. The HOM previously scheduled for August 26, 2021 is continued to the dates in the notice below.

**NOTICE OF CONTINUED HEARING ON THE MERITS**

NOTICE IS GIVEN, per Hawai'i Revised Statutes §§ 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 at the place, time and date listed below.

The Board has bifurcated the instant proceedings. Therefore, the purpose of this continued HOM is to address Kusumoto's claim that HGEA breached its duty of fair representation.

The Board will continue the HOM as follows:

DATE AND TIME: September 21, 2021 at 9:00 a.m.  
September 23, 2021 at 9:00 a.m.  
September 24, 2021 at 9:00 a.m.

LOCATION: Remote Zoom Hearing

All parties have the right to appear at the HOM and to be represented by counsel or any other authorized person. All parties, representatives, and witnesses must appear via the Remote Zoom Hearing at the hearing on the merits, unless permission is otherwise requested and granted. For the purposes of HAR § 12-42-8(g)(5), witnesses will be considered to appear in person if they appear via videoconference in compliance with Order No. 3756.

Should any party share the Remote Zoom Hearing information with any other person, that sharing party is responsible for ensuring that that the Board's orders regarding such hearings are complied with. The Board will hold parties or representatives responsible for actions by any party that they share the Remote Zoom Hearing information with. See Order No. 3756.

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.

DATED: Honolulu, Hawai'i, August 23, 2021.

HAWAI'I LABOR RELATIONS BOARD

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MARCUS R. OSHIRO, Chair

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J N. MUSTO, Member

Copies sent to:

Miles Miyamoto, Esq.  
Peter Liholiho Trask, Esq.  
Miriam Loui, Deputy Attorney General

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<sup>i</sup> Kusumoto has since filed a separate Motion to Amend, which the Board will address after the Respondents have had the opportunity to respond.

<sup>ii</sup> HAR § 12-42-8(g)(3)(C)(iii) states:

Answering affidavits, if any, shall be served on all parties and...shall be filed with the board within five days after service of the motion papers, unless the board directs otherwise.

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