



HAWAII STATE TEACHERS ASSOCIATION

Teaching Today for Hawaii's Tomorrow

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January 10, 2022

Via Email

Keith Hayashi

Interim Superintendent

Hawaii State Department of Education

keith.hayashi@k12.hi.us

Catherine Payne

Chairperson

Board of Education

boe.hawaii@boe.hawaii.gov

Dear Mr. Hayashi and Chair Payne:

Re: Notice to Commence Bargaining, Related to Changes in Working Conditions School Year 2021-2022

Hawaii State Teachers Association (HSTA) recognizes the herculean efforts of teachers, administrators, and other educational support personnel to address the ongoing impacts of the coronavirus pandemic in our schools. Despite the best efforts of the Hawaii Department of Education's (HIDOE) employees, the HSTA was very concerned to learn of the rapidly deteriorating staffing situation through local media. The Hawaii Department of Health (DOH) officials are reporting a rapid and large increase in COVID-19 cases in the last month, attributing the cause to the spread of the Omicron variant of COVID-19. According to the American Academy of Pediatrics, the number of positive cases among children has increased 64% for the week ending December 30, 2021.

The number of positive cases on school campuses has required hundreds of students and staff to quarantine. The Department of Education reported that 1,812 or over 14% of the state's 12,800 teacher workforce was absent on January 7 due to quarantine and other absences. The HSTA is also concerned that the HIDOE's [January 3 Return to Work and School](#) criteria for quarantine and isolation does not accurately reflect the current Centers for Disease Control (CDC) and Hawaii Department of Health (DOH) guidance. These quarantines have resulted in many schools directing staff of all types to cover teacher vacancies and requests by administrators for teachers to violate their collective bargaining agreements and substitute for other teachers. The rising numbers of positive cases, as well as quarantined staff and students, have also resulted in schools moving with little to no notice to full distance instruction.

Despite a December 10 HIDOE memo from the Office of Talent Management reminding HIDOE leaders they are "required to engage in the Consult and Confer (C&C) process with the Exclusive Representatives (Unions)" and "reasonable efforts to consult with Unions on all matters affecting employee relations" including but not limited to "hours, wages, or terms and conditions employment" there seems to be a complete disregard for bargaining unit 05 employees and HSTA who serves as their exclusive representative. Last week, on January 4 and 6, Interim Superintendent Hayashi issued two memos that directly impact bargaining unit 05 employees' terms and conditions of employment without any notice or even courtesy copy to HSTA. The HSTA learned of the memos from members who saw them posted on the HIDOE memos portal and sent the memos to our attention.

- The January 4, memo (Subject: Response to the Impact of the Coronavirus Disease 2019 for the Second Semester of School Year 2021-2022) provided additional directives to school and worksite administrators regarding scenarios and planning for changes to the working conditions for bargaining unit 05 employees.
- The January 6 memo (Subject: Emergency Assignment of Teachers) provided directives to administrators which wholly misinterpret a rarely used school code provision to violate the HSTA agreement around teachers substituting for other absent teachers.

HSTA has already received word that based on the January 4 and 6 memos, administrators are unilaterally changing working conditions without negotiations or consultation, in violation of both the HDOE policy and HRS §89.

Therefore, pursuant to HRS §89-9 scope of negotiations; consultation, the HSTA demands negotiations in regards to the related changes in bargaining unit 05 employee's terms and conditions of employment. Please contact me to discuss scheduling the negotiations meeting.

In addition, to effectively prepare for representing HSTA members in collective bargaining and the processing of COVID-19 related grievances, pursuant to Article IV – Association Rights, the following information:

1. Teacher absence information - provide the number of bargaining unit 05 employees, by school or worksite, who are on sick leave or quarantine leave for January 3, 2022 and each subsequent day. This information is necessary to determine the additional workload placed on other bargaining unit employees.
2. Student absentee information - provide the following, broken down by school – this information is necessary to determine the additional workload placed on teachers to provide students make-up work.
 - a. The total number of students who were absent on January 4 and each subsequent school day.
 - b. The total number of students who are absent on January 4 and each subsequent school day due to quarantine or isolation.
3. Provide a list of all available COVID-19 testing on HDOE campuses and worksites. The list should include the following: location, type of tests provided, dates and times provided, any limitations on availability.

The following requests for information are specific to the January 4 memo.

4. Copies of the decision-making and communications protocols which are cited on page 2, including but not limited to guidance for principals as they determine the “operational features, such as facilities and staffing, [and] impact [to] the capacity to adhere to health and safety guidelines.”
5. Identify the state-level offices and personnel; (by name, title, and responsibility) who are authorized to work with the Department of Health and other agencies to provide support and direction to complex areas and schools regarding health and safety.
6. Provide information and the specific guidance provided to school administrators regarding thresholds and staff to student ratios which would determine a need to “close classrooms due to the lack of supervision of students as a result of staff absences.”
 - a. HSTA also seeks to understand if adequate supervision only includes bargaining unit 05 employees,

- b. if not what other employee types are authorized to provide supervision and/or instruction to students.
7. Provide information, explanation, and definition of the term “closure” used on page 3.
 - a. Does this apply to individual classrooms and/or full campuses?
 - b. Does this mean the students are sent home and are or are not provided instruction? If so, how is this to be accomplished?
8. Provide any guidance and information related to what type of student work must be provided to students who are part of the anticipated “rolling absences” referenced on page 3.
9. Provide the written “plan,” as outlined on page 3, for each of the HIDOE campuses for continuous learning for school closures beyond 1 day.
 - a. For schools planning an “alternate location” or “learning hub” please include those plans.
10. Please provide an explanation of what it means when schools are “responsible for meeting the needs of all students” and how that will impact the workload of bargaining unit 05 employees.
11. Provide information and details regarding the metrics and thresholds the superintendent will utilize in determining a need for a “statewide disruption” as described on page 3.

The HSTA also requests that the HIDOE provide copies of any other memos related to COVID-19 response which have not been transmitted to the union, and the HIDOE continue to update the HSTA on any modifications or changes to the HIDOE’s COVID-19 response.

We request the information be provided no later than Friday, January 21. This information is critical for HSTA to assess all the possible impacts of HIDOE actions to bargaining unit 05 employees.

The HSTA reserves its right to request additional information, please contact me to discuss scheduling the negotiations meeting and any clarifications needed in regards to the information request. I can be contacted at (808) 840-2233 or by email at aeshelman@hsta.org. The information can be transmitted via e-mail.

Sincerely,



Andrea Eshelman
Deputy Executive Director

- C: Sean Bacon, Interim Assistant Superintendent, Office of Talent Management (OTM)
Ainoa Naniole, Interim Personnel Director, Employee Relations Branch, OTM
Wilbert Holck, Executive Director, HSTA