



1200 Ala Kapuna Street • Honolulu, Hawaii 96819
Tel: (808) 833-2711 • Fax: (808) 839-7106 • Web: www.hsta.org

Osa Tui, Jr.
President

Logan Okita
Vice President

Lisa Morrison
Secretary-Treasurer

Wilbert Holck
Executive Director

January 10, 2022

Via Email
Keith Hayashi
Interim Superintendent
Hawaii State Department of Education
keith.hayashi@k12.hi.us

Dear Mr. Hayashi:

Re: Response to Emergency Assignment of Teachers memo dated January 6, 2022

On January 7, 2022, the Hawaii State Teachers Association (HSTA) learned of a memo dated January 6, 2021, issued to the Deputy Superintendent, Complex Area Superintendents, and Principals, providing them with “pertinent regulatory excerpts from the HSTA Bargaining unit 5 (BU05) Collective Bargaining Agreement and School Code Regulation 5108(i), which may be invoked in order to ensure the safety and welfare of students in the event of staffing shortages.”

HSTA has serious concerns regarding the interpretation of the aforementioned “pertinent regulatory excerpts” and school code. The January 6 memo provides directives to administrators which wholly misinterprets 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 memo, administrators are unilaterally changing working conditions without negotiations or consultation, in violation of the contract.

Please consider this correspondence as notification of our request for an informal meeting to discuss and attempt to settle the matter, correcting the contractual violation.

Article VI (N) regarding substitute teachers is the provision of our current Collective Bargaining Agreement (CBA) which prohibits teachers substituting for other absent teachers. In short, it should not be done.

School Code Regulation 5801(i) relates to “relieving” a teacher of classroom duties, not simply reassigning at the discretion of the Principal. The “emergency” relates to the students’ welfare, not the urgency of the Principal to fill absences.

HSTA understands the unprecedented turn of events with the Omicron variant of COVID-19. We note, however, that HDOE has now had over 20 months to establish procedures to manage absences and shortages. HSTA also notes that when we raised this issue on December 17, 2021 in a COVID19 monthly meeting, specifically noting the highly contagious nature of the Omicron variant, we were met with less than concerned responses, with the Interim Director of Employee Relations noting that the matter had been raised in leadership meetings.

Your correspondence to administrators seems to be a complete disregard to the memo issued to Assistant Superintendents and Complex Area Superintendents on December 10, 2021 from Sean Bacon, which provided a summary and guidance of the Consult and Confer process. The first three bullet points under the heading “Examples of proposed actions may include, but are not limited to:

- Changes in work location;
- Creation or modification of programs impacting employee workload or working conditions;
- Realignment of functions”

All three of these bullet points are modified through your “Emergency Assignment of Teachers memo dated January 6, 2022.”

HSTA asserts that any modification of the implementation of Article VI (N) must be negotiated between the parties. We note that the memo improperly invokes the use of school code 5108(i) specifically targeting reassignment of non-classroom teachers (NCT). While we can appreciate the creative nature of your efforts, this interpretation is erroneous and not relevant to the intention of that section of school code 5801(i). Prior to our informal meeting, which we strongly suggest should take place before this Friday, January 14, 2022, we request the following information:

- Daily Teacher absences, by school, from December 13, 2021 to current date including:
 - Daily total absences requiring substitute teacher
 - Daily total absences unfilled by a substitute teacher
- A list by complex area and school of the specific teachers which have been affected by this memo authorizing principals to use school code 5801(i) as a reason to direct bargaining unit 05 teachers to cover the absence of another teacher.
 - Include name, regular assignment (as listed on the master schedule), and position covering, dates of coverage

We request the information be provided no later than Thursday, January 13. This information is critical for HSTA to assess all the possible impacts of HDOE actions to bargaining unit 05 employees. The HSTA reserves its right to request additional information, please contact me to discuss scheduling the informal 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
Ainoa Naniolo, Interim Personnel Director, Employee Relations Branch, Office of Talent Management
Wilbert Holck, Executive Director, HSTA