

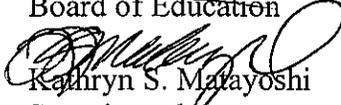


STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

May 15, 2012

TO: The Honorable Donald G. Horner
Chairperson
Board of Education

FROM: 
Kathryn S. Matayoshi
Superintendent

SUBJECT: Post Public Hearing Discussion/Decision-Making Relating to the Promulgation
of New Chapter 8-66, Hawaii Administrative Rules, Relating to Part-time
Temporary Employees

1. RECOMMENDATION

The public hearing on the aforementioned proposed rules was held by the department on Tuesday, April 24, 2012, at 2:00 p.m. at the Queen Liliuokalani Building, 1390 Miller Street, Room 404, Honolulu, Hawaii, 96813. The department has considered all testimonies provided at the public hearing and recommends that no changes be made to the proposed rules and that the Board of Education approve the proposed rules for submission to the Governor for final approval.

2. SUMMARY OF COMMENTS AND TESTIMONIES FROM THE PUBLIC HEARING

a. Favorable to the proposed rules

None.

b. With concerns or in opposition to the proposed rules

i. An individual who contends the pay rates for the proposed part-time teachers are both inappropriate and unfair in that it is on par with the pay rate for substitute teachers who are more qualified. A copy of the written submittal is attached.

- ii. A law firm that represents part-time employees of the Department in the Dianne Kawashima v. State of Hawaii, Department of Education class action suit contends that the rule change is illegal because part-time teachers are entitled pursuant to Hawaii Revised Statutes Chapter 89 to have their pay tied to that of substitute teachers. The firm also contends that the rule is unfair because it substantially reduces part-time teachers' pay. A copy of the written submittal is attached.

3. DEPARTMENT'S RESPONSE TO THE COMMENTS AND TESTIMONIES RECEIVED IN ITEM 2.b.

The new rule implements the same amounts that part-time employees have actually been paid since 2005. The department believes those amounts are fair and does not believe that part-time teachers' pay must or should be tied to that of substitute teachers.

4. NEW IMPLICATIONS NOT PREVIOUSLY REPORTED

- a. Educational

None.

- b. Personnel

None.

- c. Facilities

None.

- d. Financial

None.

5. OTHER SUPPLEMENTARY INFORMATION

None.

KSM:jo

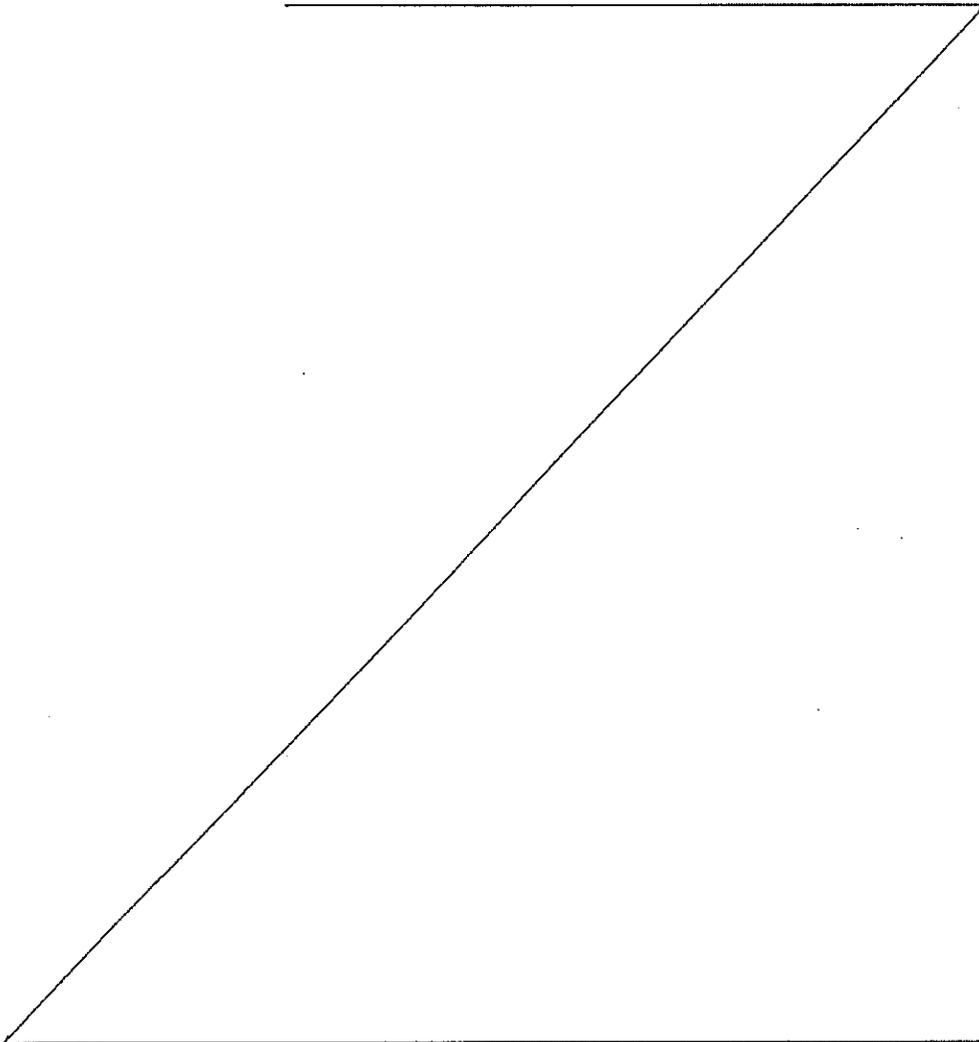
Attachments: Chapter 8-66, Hawaii Administrative Rules
Department of Education Notes and Applicable Written Testimonies Submitted to
the Public Hearing (Attachments J and K)

c: Office of Human Resources

DEPARTMENT OF EDUCATION

Adoption of Chapter 8-66
Hawaii Administrative Rules

1. Chapter 8-66, Hawaii Administrative Rules, entitled "Part-time Temporary Employees", is adopted to read as follows: _____



"HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 2

PART 1

PUBLIC SCHOOLS

CHAPTER 66

PART-TIME TEMPORARY EMPLOYEES

Subchapter 1 General Provisions

- §8-66-1 Applicability
- §8-66-2 Purpose
- §8-66-3 Definitions
- §§8-66-4 to 8-66-6 (Reserved)

Subchapter 2 Part-time Temporary Teachers

- §8-66-7 Compensation classes
- §8-66-8 Compensation rates

Subchapter 3 Certain Other Part-time Temporary
Employees

- §8-66-9 Summer school teacher
- §8-66-10 Summer school director
- §8-66-11 Summer school assistant director
- §8-66-12 Summer school support staff
- §8-66-13 Coordinator, project director, or assistant
project director
- §8-66-14 Specialty instructor

SUBCHAPTER 2

PART-TIME TEMPORARY TEACHERS

§8-66-7 Compensation classes. A part-time temporary teacher shall be assigned to a compensation class based on the academic qualifications of the individual. The two classes of compensation are:

- (1) Class A for part-time temporary teachers with a minimum of a bachelor's degree from an accredited institution of higher learning; and
- (2) Class B for all part-time temporary teachers not included in Class A.
[Eff _____] (Auth: HRS §302A-1112)
(Imp: HRS §302A-1112)

§8-66-8 Compensation rates. The hourly rate for the classes of part-time temporary teachers are as follows:

- (1) Class A: \$22.43 per hour; or
- (2) Class B: \$20.67 per hour.
[Eff _____] (Auth: HRS §302A-1112)
(Imp: HRS §302A-1112)

SUBCHAPTER 3

CERTAIN OTHER PART-TIME TEMPORARY EMPLOYEES

§8-66-9 Summer school teacher. A summer school teacher's compensation shall be determined on the same basis as set forth in sections 8-66-7 and 8-66-8 relating to part-time temporary teachers; provided that if the rates indicated do not permit a summer session to be self-supporting, summer school teachers' compensation may be adjusted downward, and further provided that written approval is obtained from the

compensable hours for the summer session plus a percentage differential equal to one-half of the summer school director's differential. [Eff] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-66-12 Summer school support staff. Summer school employees that provide services including, but not limited to, part-time or full-time library, instructional material, or data processing support shall have their compensation determined on the same basis as set forth in sections 8-66-7 and 8-66-8 relating to part-time temporary teachers. [Eff] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-66-13 Coordinator, project director, or assistant project director. A part-time temporary employee designated as a coordinator, project director, or assistant project director shall be compensated at an hourly rate of \$24.00 per hour. [Eff] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-66-14 Specialty instructor. A specialty instructor shall be compensated at an hourly rate of \$25.00 per hour." [Eff] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

2. The adoption of chapter 8-66, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

Chairperson, Board of
Education

APPROVED AS TO FORM:

Deputy Attorney General

STATE OF HAWAII
Department of Education
Administrative Rules - Public Hearing
Board of Education Conference Room
Tuesday, April 24, 2012

Department of Education Staff:

Galen Onouye, Esq.
Randy Kawamoto
Donna Kagawa
Wilfred Keola

Also Present:

Douglas K. Murata
Kerry Tom
Sean Bacon
Presley Pang, Esq.
Leiomalama Desha
Holly Shikada, Esq.
James Halvórson, Esq.
Iris Tomita
Donna Kagawa
Annette Anderson
Lisa Asato
Noe Noe Tom
Sandra Yeh
Janet Offner
Lynn Young
Sharon Nishihira

I. Call to Order

The public hearings meeting for the proposed changes to Hawaii Administrative Rules (HAR) Title 8, Chapters 8-63, 8-65, and 8-66 was called to order by Mr. Galen Onouye at 2:03 p.m.

Mr. Onouye, hearings officer, stated that the location of the hearing is 1390 Miller Street, Hawaii State Board of Education (Board) Conference Room. He further stated that staff from the Department of Education (DOE) are also in attendance and will be introducing themselves during their presentations.

Mr. Onouye stated that the hearing was being conducted and properly noticed in accordance with Hawaii Revised Statutes, Chapter 91, for purposes of receiving testimony relating to the proposed revisions and adoption of the HAR Title 8, Chapters

8-63, 8-65, and 8-66. At the conclusion of the hearing, the record of the hearing and all testimonies received will be forwarded to the Board for review and action on May 15, 2012.

Mr. Onouye called upon Mr. Randy Kawamoto, Office of Human Resources (OHR), to begin the discussion on Title 8, Chapter 8-63.

II. Chapter 63

Mr. Kawamoto spoke to Chapter 63 and its proposal for a new chapter on civil service rules. He stated that the proposed rules apply to all positions and employees of the civil service of the DOE and unless otherwise specified does not apply to positions and employees exempt from civil service. He stated that the proposed rules set forth civil service personnel policy for certain key functions including recruitment, examination, certification appointment, classification, compensation, exemptions from civil service, leaves, medical examinations, internal complaint procedures, and resignation.

Mr. Onouye stated that he would take testimony at this time. He stated that testimony would be limited to five minutes and that a buzzer would sound at four minutes, followed by a second buzzer at five minutes. He asked testifiers to state their name and to speak loudly and clearly. He further stated that all comments should be addressed to him and should not be of a personal nature.

Mr. Onouye asked if anybody would like to testify regarding Chapter 8-63. Hearing none, the meeting moved to Chapter 8-65.

Mr. Onouye called upon Ms. Donna Lum Kagawa, Professional Development and Educational Research Institute (PDERI).

III. Chapter 65

Ms. Kagawa spoke on the proposal to promulgate Chapter 65, Alternative Routes to Certification. She stated that to satisfy the federal Race to the Top (RTTT) grant requirements related to alternate certification, the proposed rules set forth alternative routes to certification to be a school administrator in the DOE. She stated that the proposed rules define the requirements and components of an alternate certification program and define the entry requirements that applicants must meet to be accepted into an alternate certificate program.

Mr. Onouye asked Mr. Zachary DiIonno to please step forward to testify on Chapter 65.

Mr. DiIonno, former middle school special education teacher at Ilima Intermediate School in Ewa Beach, testified in support of the adoption of the proposed Chapter 8-65, HAR, regarding alternative routes to certification for principals and vice principals. He stated that he taught a traditionally high-need community that struggled to fill positions at the teaching and administrative levels. He understood the importance of providing an alternative pathway to certification. He stated that he came to Hawaii in 2007 with

the Teach for America (TFA) program without any prior experience teaching and lacking teaching credentials; however, the DOE, the Board, and the University of Hawaii worked together to ensure that he and his fellow TFA colleagues would be able to achieve their licensure through an alternative certification process while teaching full time.

He stated that the implementation of an alternative certification program for vice principals serves a dual purpose. It fulfills the assurances made in Hawaii's RTTT application, but also seeks to fill vacant administrative positions in high-need schools with high-quality candidates.

Mr. DiIunno stated that under proposed rule 8-65-8(c) "Candidate requirements for enrollment in an alternative certification program," he would like the Board to consider extending the candidates' length of commitment for serving within the DOE after graduation from three years to four years, at minimum. A problem he observed as a teacher was the high attrition rate of teachers and school-level administrators. This "revolving door" effect prevents teachers, administrators, and other school personnel from establishing a sense of community, cohesion, and consistency that benefits not only collaboration amongst faculty, but also stability in students' learning environment and expectations. By requiring candidates for the alternative certification program to remain at the school for at least four years, the Board will ensure that: 1) the certification program attracts candidates who are dedicated to serving a long-term commitment in a school, 2) newly-minted administrators will be able to fully absorb into the cultures of their schools, and 3) teachers have the opportunity to work with their reporting office for a significant amount of time.

Regarding the residency aspect under HAR 8-65-12; he would like the Board to consider requiring candidates to complete a capstone project upon the completion of their residency. This project would require the candidates to apply the methods, approaches, observations, and perspectives studied throughout their residency to produce a seminar paper that recognizes an observed issue/area of focus, provides an analysis of that focus, and sets forth actionable steps towards a viable solution. This may help candidates think critically about issues that they are likely to face as administrators. Candidates could use these seminar papers directly toward their practices. He included other suggestions in his submitted testimony. (Attachment A)

Mr. Onouye noted for the record that written testimony in support of Chapter 8-65 was received from Ms. Sasha Hamada (Attachment B), Ms. Lianne Lee (Attachment C), Mr. Daniel Ellis (Attachment D), Ms. Serena Podish (Attachment E), Mr. Christopher St. Sure (Attachment F), Ms. Connie Yonashiro (Attachment G), and Mr. Brian Tongg (Attachment H). Mr. Onouye stated that Mr. Alex Cyran's email (Attachment I) does not indicate support or against but reflects several concerns which will be made part of the record.

Hearing no further request for testimony, Mr. Onouye moved to Chapter 8-66.

IV. Chapter 66

Mr. Wilfred Keola, Jr., OHR, presented the proposal to promulgate a new Chapter 66, Part-time Temporary Employees. He stated that the purpose of the proposed rule is to set forth the compensation for part-time temporary teachers and certain other part-time temporary and casual employees of the DOE.

Ms. Mei Fei Kuo, Esq. from the law firm of Alston, Hunt, Floyd and Ing, testified on behalf of part-time teachers (PTTs) they represent in a lawsuit of Dianne Kawashima vs. State of Hawaii. She testified on behalf of the part-time employees (PTEs) opposing proposed HAR Chapter 8-66 which unlawfully seeks to reclassify PTEs and reduce their compensation to hourly rates that are lower than what they are entitled to under the law.

Ms. Kuo stated that in the Kawashima class action, the Court granted summary judgment motion on behalf of the PTEs which held that the prior efforts of the DOE, its Superintendent, and the Board to try to amend and reduce the hours for PTEs were unlawful and ineffective. Therefore, from 1976 to the present date, the PTEs' hourly rates are governed by Regulation 5203 which provided that their compensation "shall be based on the most current per diem rates established for substitute teachers." (Attachment J with exhibits)

She stated that for decades, the PTEs' pay has been linked to the pay for substitute teachers to ensure they were receiving equal pay for equal work and that concept is recognized in the DOE School Code and in Chapters 76 and 89 (HAR). They object to the proposed Chapter 8-66. Ms. Kuo highlighted two of the reasons. Part-time teachers and part-time employees are entitled to equal pay for equal work and their classification and compensation system should continue to be tied to the rates paid substitute teachers. At a minimum, their hourly rates should not be reduced. Currently, under Regulation 5203, the PTTs are entitled to the hourly rates that range between \$22.56 an hour to \$26.50 an hour. With the proposed Chapter 8-66, the classification of the part-time teachers and part-time employees are being reduced to \$20.67 and \$22.43 an hour which will result in a significant pay cut for the part-time employees which will range between 9 percent and 19 percent depending on the classification of the part-time teachers and part-time employees. Additionally, they object to the proposed changes to Chapter 8-66 because the DOE is attempting to set PTEs pay at the illegal rate that it was in 2005 even though the pay that has been given to other teachers and substitute teachers under the same compensation scheme has increased. The 2005 levels violate Chapter HRS 89(c)(2) which requires the DOE to make adjustments for excluded employees that are not less than those provided under collective bargaining agreements to employees hired on a comparable basis. After decades of having the part-time teachers and part-time employees pay linked to the pay of the teachers in Bargaining Unit 5, it is wrong at this point to deny the part-time teachers and part-time employees fair wages that are increased in the manner of how the law had contemplated it to be.

Mr. Onouye stated that Ms. Kuo's testimony would be noted as part of the record and submitted to the Board.

Mr. Onouye noted that testimony was received from Mr. Neil Okuna in opposition which will be made part of the record. (Attachment K)

The meeting was recessed at 2:18 p.m. and reconvened at 2:45 p.m.

Mr. Onouye stated that the recess was taken for purposes of providing additional time for late-comers.

Mr. Onouye stated that testimony was received from Mr. Jarrett Keohokalole in support of Chapter 65 and will be part of the record. (Attachment L)

Mr. Onouye asked if there were any other testimonies. Hearing none he stated that all materials will be forwarded to the Board and will be acted upon at the Board meeting on Tuesday, May 15, 2012.

V. Adjournment

The public hearing meeting adjourned at 2:47 p.m.

ATTACHMENTS

Attachment A	Written Testimony of Mr. DiIonno
Attachment B	Written Testimony of Ms. Sasha Hamada
Attachment C	Written Testimony of Ms. Lianne Lee
Attachment D	Written Testimony of Mr. Daniel Ellis
Attachment E	Written Testimony of Ms. Serena Podish
Attachment F	Written Testimony of Mr. Christopher St. Sure
Attachment G	Written Testimony of Ms. Connie Yonashiro
Attachment H	Written Testimony of Mr. Brian Tongg
Attachment I	Written Testimony of Mr. Alex Cyran
Attachment J	Written Testimony of Alston, Hunt, Floyd & Ing Lawyers
Attachment K	Written Testimony of Mr. Neil Okuna
Attachment L	Written Testimony of Mr. Jarrett Keohokalole



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April 23, 2012

Via Hand-Delivery

Department of Education
State of Hawaii
1390 Miller Street, Room 404
Honolulu, Hawaii 96813

Re: **State of Hawaii, Department of Education Public Meeting –
April 24, 2012 at 2 p.m., 1390 Miller Street, Room 404**

**Testimony of Alston Hunt Floyd & Ing, Opposing Proposed
Hawaii Administrative Rules 8-66 Establishing
Compensation for Part-Time Teachers and Part-Time
Employees**

I represent Part-Time Employees (collectively, "PTEs") employed by the State of Hawaii, Department of Education ("DOE") in the *Dianne Kawashima v. State of Hawaii, Department of Education* (Civ. No. 06-1-0244-02) class action (hereinafter, "*Kawashima class action*").

I am presenting testimony this afternoon, on behalf of the PTEs, opposing proposed Hawaii Administrative Rules Chapter 8-66 ("Proposed Chapter 8-66"), which unlawfully seeks to reclassify PTEs and reduce their compensation to hourly rates that are lower than what they are currently entitled to under the law.

Recently, in the *Kawashima class action*, the Court granted summary judgment on behalf of the PTEs and held that the prior efforts of the DOE, its Superintendent, and the Board of Education ("Board") to amend and reduce the hourly rate for PTEs were unlawful and ineffective. Therefore, from 1976 to the present date, the PTEs'

hourly rates are governed by Regulation 5203 (version as amended in August 1990 and attached as Exh. "A"), which provided that their compensation "shall be based on the most current Per Diem Rates established for Substitute Teachers." See attached Exh. "B", Order Granting Summary Judgment for Plaintiffs, filed August 29, 2011, and Exh. "C", Order Denying the Defendants' Motion for Reconsideration, filed September 23, 2011.

For decades, the PTEs' pay has been linked to the pay for Substitute Teachers to ensure they were receiving equal pay for equal work. That concept is recognized in the School Code and in HRS Chapters 76 and 89. The "Introduction" to the "School Code, Personnel Series # 5000" states that "[t]he Personnel Series is intended to assure that employees are treated in a comparable manner." Exh. "D", Introduction to DOE's School Code. The classification and compensation of PTEs and substitute teachers are based on Collective Bargaining Unit 5, which relates to "[t]eachers and other personnel of the department of education".

Although PTEs and substitute teachers are excluded from collective bargaining, the merit principles in HRS §§ 89-9 and 76-1 are nonetheless relevant. Under HRS § 89-9, "[t]he employer and the exclusive representative shall not agree to any proposal which would be inconsistent with the merit principle or the principle of equal pay for equal work pursuant to section 76-1 or which would interfere with the rights and obligations of a public employer. . . ." (Emphasis added). In turn, HRS § 76-1 states that "[e]qual pay for equal work shall apply between classes in the same bargaining unit among jurisdictions for those classes determined to be equal through systematic classification of positions based on objective criteria and adequate job evaluation, unless it has been agreed in accordance with chapter 89 to negotiate the repricing of classes." (Emphasis added).

We object to Proposed Chapter 8-66 for the following reasons:

- (1) The PTEs are entitled to equal pay for equal work and their classification and compensation system should continue to be tied to the rates paid substitute teachers. At the minimum, their hourly rates should not be reduced. Currently, under Regulation 5203, the PTTs are entitled to the following hourly rates:

PTT Class I (without BA)	\$22.53/hour
PTT Class II (with BA)	\$24.52/hour
PTT Class III (with BA and 30 Semester Hours or Master's Degree)	\$26.50/hour

However, the Proposed Chapter 8-66 changes the classification of PTTs and PTEs and reduces the hourly rates of the PTTs as follows:

Class A (with BA):	\$22.43
Class B (No BA):	\$20.67

Adopting these rates will result in a significant pay cut for the PTEs: (1) PTT Class I – difference in hourly pay of \$ 1.86 (9%); (2) PTT Class II difference in hourly pay of \$ 2.09 (11%); and (3) PTT Class III difference in hourly pay of \$ 4.07 (19%). There is no principled justification for paying them so little; these rates deny equal pay for equal work.

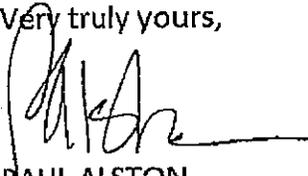
(2) Proposed Chapter 8-66, sets the PTEs' pay at the same rates the DOE illegally attempted to impose in 2005—even though the pay given people under the same compensation scheme (*i.e.*, teachers and substitutes) has risen substantially. Setting the PTEs' rates at 2005 levels without regard to how employees in bargaining unit 5 are paid violates the DOE's obligation under H.R.S. § 89C-2 to make adjustments for excluded employees that are not less than those provided under collective bargaining agreements to employees hired on a comparable basis. After decades of

State of Hawaii, Department of Education
Testimony of Paul Alston for
April 24, 2012 Public Meeting
Page 4

linking PTEs' pay to the pay of people in bargaining unit 5, it is entirely wrong for the DOE to deny PTEs fair wage increases in the manner now being contemplated.

Thank you for your time and the opportunity to submit this testimony.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Paul Alston', with a long horizontal flourish extending to the right.

PAUL ALSTON

PA:rjkg

cc: William J. Wynhoff, Esq.
James E. Halvorson, Esq.

COMPENSATION
ADMINISTRATIVE REGULATIONS

PAY SCHEDULE FOR PART-TIME CERTIFICATED EMPLOYEES

A. Summer School Teachers*

1. Summer school teachers shall be classified and compensated as Part-time Temporary Teachers (Academic) based on hourly pay rates.
2. If the rates indicated do not permit a summer session to be self-supporting, teachers' salaries may be adjusted downward, provided written approval is obtained from the district superintendent and from the teachers before the session starts.

B. Summer School Director

1. The director shall normally receive (1) a salary equal to the hourly rate for Class III Part-time Temporary Teachers multiplied by the number of compensable hours for the summer session, and (2) an appropriate percentage differential as determined below.
2. The percentage differential shall be determined by multiplying the summer school director's salary by percentages as follows:

<u>Number of Teachers</u>	<u>Percentage Differential</u>
1 - 5	25
6 - 10	30
11 - 15	35
16 - 25	40
26 and over	45

*For the purpose of this regulation, "teachers" refers to teachers, school librarians, counselors, registrars and other similar school level certificated personnel.

Compensation - Pay Schedule for Casual
Certificated Employees (continued)

3. In schools of five or less teachers, the director will usually serve as one of the regular teachers. However, if the director so chooses, s/he may serve on a non-teaching basis with compensation limited to only the differential.
4. In schools of six or more teachers, the director shall serve on a non-teaching basis and shall receive the director's salary and the appropriate percentage differential.

C. Summer School Assistant Director

1. An assistant director may be employed for summer schools with more than 500 pupils.
2. The assistant director shall receive (1) a salary equal to the director's salary, and (2) a percentage differential equal to one-half of the director's differential.

D. Summer School Supportive Staff

Staff to provide part or full-time library and/or instructional materials services may be employed within the limits of available funds.

E. Part-time Temporary Teachers (Academic and Non-Academic)

EFFECTIVE SEPTEMBER 1, 1976:

Pay rates for Part-time Temporary Teachers (Academic and Non-Academic) employed on an hourly basis shall be based on the most current Per Diem Rates established for Substitute Teachers as follows:

Class I	Per Diem Rate for Substitute Teacher
Class II	Per Diem Rate for Substitute Teacher
Class III	Per Diem Rate for Substitute Teacher

Compensation - Pay Schedule for Part-time
Certificated Employees (continued)

Hourly Rates shall be derived from Per Diem Rates in accordance with the following formula:

$$\text{*Hourly Rate} = \text{Per Diem Rate} \div 6 \text{ average working hours per day}$$

F. Part-time Certificated Employees Designated as Coordinators, Project Directors or Assistant Project Directors

EFFECTIVE SEPTEMBER 1, 1976:

Part-time Certificated Employees designated as project coordinators, project directors or assistant project directors shall be compensated in accordance with the appropriate hourly or daily rate for Certificated Part-time Temporary Teacher (Academic) or Part-time Temporary Teacher (Non-Academic) plus an 8% differential.

G. Per Diem Pay Rates for Substitute Teachers

Per diem rates for substitute teachers shall be based on the annual salary rate established for the appropriate salary class and step on the most current teachers' salary schedule as follows:

Substitute Teacher I	Class I, Entry Step
Substitute Teacher II	Class II, Entry Step
Substitute Teacher III	Class III, Entry Step

Per Diem rates shall be derived from annual rates in accordance with the following formula:

$$\text{Per Diem Rate} = \text{Annual Salary Rate} \div 12 \text{ Months} \div 21 \text{ Average Working Days Per Month}$$

*NOTE: Hourly rate is based on student contact time exclusive of preparation time, lunch break, recess, etc.

Compensation - Pay Schedule for Part-time
 Certificated Employees (continued)

H. Principals/Supervisors of Adult Education Summer Program

The existing compensation guidelines for principals/supervisors of Adult Education Summer Programs shall remain in effect with the modification that the teacher hourly pay rate used for this computational purpose shall not exceed \$7.50 per hour.

I. Compensation for Specialty Instructors.

Compensation for specialty instructors for the teaching services per period/unit/course shall be determined by the Department.

J. Daily Pay Rates for Substitute School Administrators and Substitute
 Twelve-Month Educational Officers

Effective July 1, 1989, daily pay rates for substitute school administrators and substitute twelve-month educational officers shall be based on the annual salary rates from the current educational officers' salary schedules as follows:

10-Month Salary Schedule

Vice Principals:	Appropriate Salary Range For Position, Entry Step
Principals:	Appropriate Salary Range For Position, Entry Step

12-Month Salary Schedule

District and State Educational Officers:	Appropriate Salary Range For Position, Entry Step
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Daily pay rates shall be derived from the annual salary rates in accordance with the following formula:

$$\text{Daily Pay Rate} = \frac{\text{Annual Salary Rate}}{12 \text{ Months}} \div 21 \text{ Average Working Days Per Month}$$

Substitute educational officers who work one-half of the regular work day shall be paid one-half of the daily pay rate.

Revised 9/1/70; Amended 10/74; Amended 8/75; Amended 8/76; Amended 5/77; Amended 6/86; Amended 11/88; Amended 11/89; Amended 8/90

ALSTON HUNT FLOYD & ING
Attorneys at Law
A Law Corporation

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

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KAWASHIMA, Individually and on
Behalf of All Those Similarly Situated

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

DIANNE KAWASHIMA, individually
and on behalf of all others similarly
situated,

Plaintiff,

v.

STATE OF HAWAII, DEPARTMENT
OF EDUCATION; PATRICIA
HAMAMOTO, in her official capacity
as Superintendent of Schools;
DARWIN CHING, MARY COCHRAN,
MAGGIE COX, BREENE HARIMOTO,
CEC HEFTEL, LEI AHU ISA, KAREN
KNUDSEN, DENISE MATSUMOTO,
SHIRLEY A ROBINSON, LAURA
THIELEN, GARRETT TOGUCHI,
HERBERT WATANABE, AND
RANDALL YEE, in their official

) Case No. 06-1-0244-02 (ECN)
) (Class Action)
)

) **ORDER GRANTING PLAINTIFF**
) **DIANNE KAWASHIMA'S (1)**
) **MOTION TO LIFT THE STAY**
) **ORDER AND (2) MOTION FOR**
) **SUMMARY JUDGMENT, FILED**
) **APRIL 4, 2011**

) HEARING

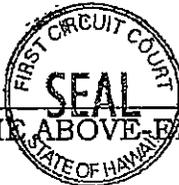
) DATE: April 25, 2011
) TIME: 2:00 p.m.
) JUDGE: Edwin C. Nacino

EXHIBIT B

good cause, IT IS HEREBY ORDERED that (1) Plaintiff's Motion to Lift the Stay Order is GRANTED and (2) Plaintiff's Motion for Summary Judgment is GRANTED.

DATED: Honolulu, Hawaii, AUG 26 2011

 BERT LAYABE
JUDGE OF THE ABOVE-ENTITLED COURT

A circular seal for the First Circuit Court of the State of Hawaii. The seal features the text "FIRST CIRCUIT COURT" around the top inner edge and "STATE OF HAWAII" around the bottom inner edge. In the center of the seal, the word "SEAL" is printed in a bold, serif font.

Kawashima vs. State of Hawaii, Department of Education, et al; Civil No. 06-1-0244-02 (ECN);
**ORDER GRANTING PLAINTIFF DIANNE KAWASHIMA'S (1) MOTION TO LIFT THE STAY
ORDER AND (2) MOTION FOR SUMMARY JUDGMENT, FILED APRIL 4, 2011.**

2011 SEP 23 PM 2:19

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Attorneys for Plaintiff DIANNE
KAWASHIMA, Individually and on
Behalf of All Those Similarly Situated

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

DIANNE KAWASHIMA, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

STATE OF HAWAII, DEPARTMENT OF
EDUCATION, *et. al.*

Defendants.

) Civil No. 06-1-0244-02 (ECN)
) (Class Action)
)
)

) **ORDER DENYING DEFENDANTS'**
) **MOTION FOR RECONSIDERATION**
) **OF ORDER GRANTING PLAINTIFF**
) **DIANE KAWASHIMA'S MOTION**
) **FOR SUMMARY JUDGMENT, FILED**
) **AUGUST 10, 2011.**

) HEARING
) DATE: September 14, 2011
) TIME: 9:30 a.m.
) JUDGE: HON. EDWIN C. NACINO
)

EXHIBIT C

ORDER DENYING DEFENDANTS' MOTION FOR RECONSIDERATION OF ORDER GRANTING PLAINTIFF DIANE KAWASHIMA'S MOTION FOR SUMMARY JUDGMENT, FILED AUGUST 10, 2011

Defendants' Motion for Reconsideration of Order Granting Plaintiff Diane Kawashima's Motion for Summary Judgment, filed on August 10, 2011 ("Motion for Reconsideration"), came on for hearing before the Honorable Edwin C. Nacino on September 14, 2011. Paul Alston and Mei-Fei Kuo appeared on behalf of Plaintiff Dianne Kawashima and the class of part-time teacher and part-time employees ("PTEs"). William J. Wynhoff and James E. Halvorson appeared on behalf of Defendants.

The Court has considered the memoranda and documents filed by the Parties relating to the motion and has heard the arguments of counsel. For good cause, the Motion for Reconsideration is DENIED because the Court's original ruling was correct.

DATED: Honolulu, Hawaii, SEP 22 2011

EDWIN C. NACINO



JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:



JAMES E. HALVORSON
WILLIAM J. WYNHOFF
Attorneys for Defendants

Kawashima vs. State of Hawaii, Department of Education, et al.; Civil No. 06-1-0244-02 (ECN);
ORDER DENYING DEFENDANTS' MOTION FOR RECONSIDERATION OF ORDER GRANTING
PLAINTIFF DIANE KAWASHIMA'S MOTION FOR SUMMARY JUDGMENT, AUGUST 10, 2011.

SCHOOL CODE

PERSONNEL SERIES #5000

INTRODUCTION

The School Code, Certificated Personnel Policies and Regulations (5000 Series), was approved by the Board of Education on June 19, 1986. While the material provided is for the information and use of all Department of Education employees, it is more specifically intended to place at the fingertips of administrative personnel the knowledge needed to carry out personnel management functions and programs.

In its broader application, the School Code is a means of communicating to certificated employees their rights, privileges, benefits, obligations, responsibilities, and associated procedures.

The Personnel Series is intended to assure that employees are treated in a comparable manner. To this end, the Department of Education's personnel policies, regulations and procedures are predicated on the philosophy that they should be standard and uniformly applied throughout the State, unless a cogent reason exists for exception.

The School Code is also a "living" document which is subject to revision due to changes in departmental programs and practices, negotiated labor agreements and amendments to federal and State statutes. Therefore, recipients of the School Code may expect notices from time to time to revise, add or delete portions of this series. At such times, to keep the School Code up to date, just take a moment to place the new sheets in it the day they arrive. Be sure to destroy the old version of a page when you add its new replacement.

Neil N. Okuna
2750A Lowrey Ave.
Honolulu, HI 96822
nnokuna@gmail.com

April 17, 2012

Department of Education
Office of Human Resources
1390 Miller St.
Honolulu, HI 96813

To whom it may concern,

I am testifying today in opposition to the promulgation of a new chapter 66, Part-time Temporary Employees--specifically §8-66-8; Compensation Rates for Part-time Temporary Teachers.

While the proposed classification based on academic qualifications is necessarily simplified, I don't believe that the proposed compensation schedule is appropriate. Based on the current per diem rates for substitute teachers of \$147.10 for teachers with bachelor's degrees and \$135.20 for teachers without bachelor's degrees (based on information listed on your website), the pay rate for the proposed Part-time teachers would be on a par with the Substitute teachers who have been required to pass a 30-hour Substitute Teacher Course. This calculation is based on a six and a half hour workday.

My expectation is that Substitute teachers would be paid more than Part-time teachers because they should be more qualified to be in the classroom. In addition, Substitute teachers without bachelor's degrees (Class I) are required to "meet specific employment requirements set by the department", whereas the new Compensation class as defined in §8-66-7 makes no mention of any requirements other than the basic academic ones.

My intent is not to disparage Part-time teachers, but to point out that fairness dictates that those who have made the effort to take a 30-hour course specific to the teaching profession should be compensated at a higher rate than those who have not. My hope is that Substitute teachers get an increase in their per diem rate, as opposed to a reduction in the proposed Part-time teacher hourly rate.

Thank you very much for your kind attention,

Neil N. Okuna