

BEFORE THE STATE ETHICS COMMISSION

STATE OF HAWAII

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STATE ETHICS COMMISSION

Charge No. 13-Cg-2) Charge Nos. 13-Cg-2 and
HAWAII STATE ETHICS) 13-Cg-3
COMMISSION,)
) [Consolidated for Contested
Complainant,) Case Hearing Purposes Only]
) vs.)
) AMENDED NOTICE OF HEARING;
DIANA OSHIRO,) CERTIFICATE OF SERVICE
) Respondent.)

Charge No. 13-Cg-3)
HAWAII STATE ETHICS)
COMMISSION,)
) Complainant,)
) vs.)
) KURUMI KAAPANA-AKI,)
) Respondent.)

TO: Leslie H. Kondo, Esq.
Susan D. Yoza, Esq.
Megan Y. S. Johnson, Esq.
Lori S. Nishimura, Esq.
Hawaii State Ethics
Commission
1001 Bishop St., Ste. 970
Honolulu, Hawaii 96813

Kenneth J. Shimozone, Esq.
1130 N. Nimitz Hwy., Ste. B-200B
Honolulu, Hawaii 96817

Attorney for
Respondent Diana Oshiro
in Charge No. 13-Cg-2

Charge Counsel
for Complainant

Eric A. Seitz, Esq.
820 Mililani Street, Ste. 714
Honolulu, Hawaii 96813

Attorney for
Respondent Kurumi Kaapana-Aki
in Charge No. 13-Cg-3

AMENDED NOTICE OF HEARING

A. Charge No. 13-Cg-2

On February 26, 2013, the Hawaii State Ethics Commission ("Commission") issued Charge No. 13-Cg-2 against Diana Oshiro ("Respondent Oshiro"), Principal of Myron B. Thompson Academy ("MBTA"), a public charter school, and, in furtherance of the Charge, the Commission, on September 18, 2013, issued a Further Statement of Alleged Violation against Respondent Oshiro pursuant to Hawaii Revised Statutes ("HRS") section 84-31(b). On September 23, 2013, a copy of the Charge and the Further Statement of Alleged Violation were served upon Respondent Oshiro pursuant to HRS section 84-31(b). On October 21, 2013, Respondent Oshiro filed an Answer to the Further Statement of Alleged Violation.

B. Charge No. 13-Cg-3

On February 26, 2013, the Commission issued Charge No. 13-Cg-3 against Kurumi Kaapana-Aki ("Respondent Kaapana-Aki"), Vice Principal of MBTA, and, in furtherance of the Charge, the Commission, on September 18, 2013, issued a Further Statement of Alleged Violation against Respondent Kaapana-Aki pursuant to HRS section 84-31(b). On September 23, 2013, a copy of the Charge and the Further Statement of Alleged Violation were served upon Respondent Kaapana-Aki pursuant to HRS section 84-31(b). On

October 21, 2013, Respondent Kaapana-Aki filed an Answer to the Further Statement of Alleged Violation.

C. Order of Consolidation

The Charge and the Further Statement of Alleged Violation against Respondent Oshiro arise out of the same factual situation asserted in Charge No. 13-Cg-3 and the Further Statement of Alleged Violation issued against Respondent Kurumi Kaapana-Aki, and involve similar issues. Accordingly, in order to avoid unnecessary delay and duplication of effort by all parties involved, and in the interest of judicial economy, the Commission -- after concluding that there was probable cause to believe that violations of HRS chapter 84, the State Ethics Code, had been committed by Respondent Oshiro and Respondent Kaapana-Aki (collectively, "Respondents") -- issued an order on December 11, 2013, consolidating Charge Nos. 13-Cg-2 and 13-Cg-3 for purposes of a contested case hearing.

D. Original Notice of Hearing

On December 19, 2013, pursuant to HRS section 84-31(c), the Commission issued a Notice of Hearing that a formal contested case hearing on the Further Statements of Alleged Violation would be held before the Hawaii State Ethics Commission on Monday, March 17, 2014,¹ beginning at 9:00 a.m. and continuing, if necessary, on

¹ The Notice of Hearing issued on December 19, 2013, erroneously stated the year of the hearing date as "2013" instead of "2014."

subsequent days as ordered or directed by the Commission. On January 8, 2014, Respondents, through their attorneys, requested a continuance of the hearing. On February 26, 2014, the Commission issued an order granting Respondents' request.

E. Amended Notice of Hearing

Pursuant to the Order Granting Respondents' Request for Continuance of Hearing, NOTICE IS HEREBY GIVEN that a formal contested case hearing on the Further Statements of Alleged Violation will be held before the Hawaii State Ethics Commission on **TUESDAY, OCTOBER 7, 2014**, beginning at **9:00 a.m.** and continuing, if necessary, on subsequent days as ordered or directed by the Commission. The hearing shall be held at the Commission office's Conference Room, Suite 960, 1001 Bishop Street, Honolulu, Hawaii 96813.

The hearing will be held under the authority of HRS section 84-31 and will be subject to the procedures set forth thereunder, in particular HRS section 84-31(c), as well as the relevant procedures set forth in Hawaii Administrative Rules, Title 21 (Administrative Rules of the Hawaii State Ethics Commission).

The issues at the hearing will involve whether Respondents violated HRS section 84-13, the Fair Treatment section of the

State Ethics Code, and whether Respondent Kaapana-Aki also violated HRS section 84-13(3), a subsection of the Fair Treatment section.

(1) Re: Respondent Oshiro

The issues with regard to Respondent Oshiro involve whether she violated HRS section 84-13 by:

- (a) granting, approving, and/or authorizing compensatory time to Respondent Kaapana-Aki that Respondent Kaapana-Aki was not entitled to earn;
- (b) authorizing Respondent Kaapana-Aki's absences during school hours without requiring Respondent Kaapana-Aki to account for those absences and/or by authorizing Respondent Kaapana-Aki to use unearned compensatory time; and
- (c) allowing Respondent Kaapana-Aki to receive a salary from MBTA without reduction of Respondent Kaapana-Aki's accrued leave benefits when Respondent Kaapana-Aki was absent during school hours as a result of Respondent Kaapana-Aki's work as a Hawaiian Airlines ("HAL") flight attendant and other HAL travel.

Additionally, with regard to Respondent Oshiro's approval of various personal leave forms submitted by Respondent Kaapana-Aki

after the Charges were served on Respondents, the issues involve whether Respondent Oshiro violated HRS section 84-13 by misusing her position to:

- (d) attempt to retroactively account for Respondent Kaapana-Aki's unauthorized leave;
 - (e) create the misimpression that Respondent Kaapana-Aki's requests for personal leave were submitted and approved before the leave was taken;
and
 - (f) provide a defense to the allegations in the Charges.
- (2) Re: Respondent Kaapana-Aki

The issues with regard to Respondent Kaapana-Aki involve whether she violated HRS section 84-13 and/or 84-13(3) by using her position to secure for herself unwarranted privileges, exemptions, advantages, and treatment that enabled her to work as a HAL flight attendant or otherwise be absent during school hours without accounting for those absences. Additionally, with regard to Respondent Kaapana-Aki's submission of various personal leave forms after the Charges were served on Respondents, the issues involve whether Respondent Kaapana-Aki violated HRS section 84-13 by misusing her position to:

- (a) attempt to retroactively account for her unauthorized leave;
- (b) create the misimpression that her request for personal leave were submitted and approved before the leave was taken; and
- (c) provide a defense to the allegations in the Charges.

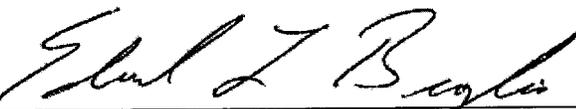
The above-stated issues and the facts alleged in support thereof are set forth in the Further Statements of Alleged Violation, dated September 18, 2013, and are incorporated herein by reference.

Pursuant to HRS section 84-31(c), the hearing shall be in accordance with HRS chapter 91 and shall be open to the public.

Dated: Honolulu, Hawaii, February 26, 2014.

HAWAII STATE ETHICS COMMISSION

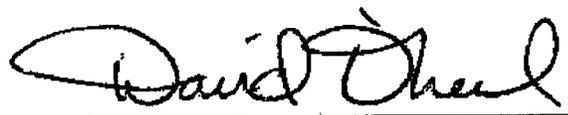

Cassandra J. Leolani Abdul, Chair


Edward L. Broglio, Vice Chair

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Susan N. DeGuzman, Commissioner



David O'Neal, Commissioner

Note: Commissioner Ruth Tschumy recused herself from these
Charges.

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STATE OF HAWAII

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DIANA OSHIRO,)	
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Respondent.)	
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<u>Charge No. 13-Cg-3</u>)	
HAWAII STATE ETHICS)	
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Complainant,)	
)	
vs.)	
)	
KURUMI KAAPANA-AKI,)	
)	
Respondent.)	
)	
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CERTIFICATE OF SERVICE

I hereby certify that on this date, a true and correct copy of the foregoing document, Amended Notice of Hearing, was served by email and by U.S. first class mail upon the following individuals:

Kenneth J. Shimosono, Esq.
1130 N. Nimitz Highway, Ste. B-200B
Honolulu, Hawaii 96817

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Respondent Diana Oshiro
in Charge No. 13-Cg-2

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Attorney for
Respondent Kurumi Kaapana-Aki
in Charge No. 13-Cg-3

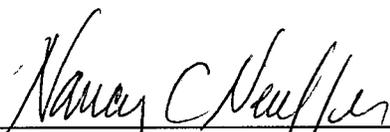
I also hereby certify that on this date, a true and correct copy of the foregoing document, Amended Notice of Hearing, was served by email and by personal delivery upon the following individuals as noted below:

Leslie H. Kondo, Esq.
Susan D. Yoza, Esq.
Megan Y. S. Johnson, Esq.
Lori S. Nishimura, Esq.
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Email: MBTA-chargecounsel@hawaiiethics.org

Charge Counsel for Complainant

DATED: Honolulu, Hawaii, February 26, 2014.



Nancy C. Neuffer
Virginia M. Choak
Commission Counsel for
Hawaii State Ethics Commission