

To: Mr. Leslie Kondo and Mr. Stanley Chong

From: Kurumi Ka'apana-Aki

Re: Response to Charges dated September 18, 2013

'13 OCT 21 P3:51

STATE OF HAWAII
STATE ETHICS COMMISSION

Answers to Allegations:

16. Incorrect statement. Principal Oshiro is responsible for granting personal leave, vacation leave, compensatory time, and other excused leave for MBTA employees. Vice-Principal, COO, Kaapana-Aki, is responsible for granting personal leave, compensatory time, and other excused leave for MBTA Elementary staff. Vacation leave for clerical staff is the responsibility of SASA Gwen Higgins.

Sick leave and other leave requests that are not planned, not predicted, or untimely, is submitted after the fact, to SASA Higgins, who then delivers applicable form to Oshiro or Ka'apana-Aki. Example: Teacher X attends family emergency in Utah, leaves Friday evening, returns to work a week later. She completes form and submits form to SASA upon return to school. It is also a common practice that SASA Higgins will complete form for employee based on information given by employee via phone or e-mail message.

19. Incorrect statement. "Temporary Contract Employee" Agreements were signed by Respondent for the specified Fiscal School Years, which run from July 1st to June 30th. This time frame is indicated for the sole purpose of establishing the applicable fiscal school year, and for no other purpose. Such is the understanding of Principal Oshiro and all MBTA employees entering in such agreements.

20. Incorrect statement. The amount paid by MBTA to Respondent under the TCE agreement was NOT in addition to her salary as the Vice Principal. It is a differential that makes up the difference from her teacher salary paid to her directly from the Department of Education. The Department of Education system does not recognize Respondent as a "Vice-Principal." The Department of Education system will not allow Respondent certification as a "Vice-Principal" since she is employed at a "Charter School." Therefore, Respondent reserves her right to re-entry as a teacher, into the traditional Department of Education system, as she will not be able to transition into a traditional Department of Education Administrative position.

24. Incorrect statement. Respondent and other TCE employees, never agreed, nor were they ever expected to be 12-month employees with MBTA. The dates stipulated ("beginning July 1 and ending June 30") were only to identify the fiscal school period.

27. Incorrect statement. HAL acknowledges that all flight crew members (flight attendants, pilots, inflight mechanics) are off-duty as soon as they exit customs from international flights or as soon as all passengers have disembarked from domestic flights.

36. Incorrect statement. Respondent was legitimately absent during those school hours, using earned compensatory time (time worked during those peak intense-work periods during the summer; i.e., new families intake, orientations, curriculum planning/ordering, and intercession periods; i.e., end of quarter tasks and new quarter scheduling.) It is only fair that Respondent be compensated with off days, for those days that she worked that were not official work days.

37. Incorrect statement. Respondent was NOT absent from MBTA because of her work as a flight attendant. Respondent did however choose to take certain flights on days she legitimately earned through compensatory time.

38. Incorrect statement. Respondent DID account for all absences during school hours by communicating with SASA Higgins and Principal Oshiro. Respondent, as a teacher, does not have "vacation leave." Absences such as illness, personal leave, and emergency leave have not been specifically identified as one or the other by Respondent, as SASA Higgins has instructed that they are all deducted from the same leave account. At all times, through the years of Respondent's employment at MBTA, SASA Higgins and Principal Oshiro have been fully aware of the extensive work time; weekends, school breaks, evenings, early mornings, that Respondent has dedicated to fulfilling her responsibilities as the Vice-Principal/COO of MBTA, and that any absences were taken in return for days worked, since financial compensation is and was never an option.

39. Incorrect statement. Respondent's salary and employment benefits should not be reduced or affected by her absences from MBTA as she was entitled to those days off. Each year, Respondent has put in more time, working at MBTA during "non-school hours/days" than she has actually used as compensatory time.

In answer to the further alleged violations regarding **Creation of Application for Leave of Absence Forms In Response to Charges**, it was apparent to Respondent from the initial Charge No. 13-Cg-3, that the Hawaii State Ethics Commission did not fully understand 1) the informality and inconsistency of the sign-in sheets, leave record-keeping, 2) common operations and practiced procedures of a charter opportunity, (i.e., not an 8:00 to 4:00 school, no students continually on campus, Monday through Friday, different faculty members working at different venues, including the home, borrowing/improvising DOE traditional school documents to make it appropriate for our unique environment), 3) the need for EVERYONE on staff to give more than their DOE and/or union stipulated share just to make the school successful; i.e., working extra hours, days off, and assuming different/multiple tasks, and 4) the honesty and integrity that we continue to uphold despite the accusations of a few disgruntled employees with private agendas.

It was also apparent that the Hawaii State Ethics Commission insisted upon accounting for minutes, and/or hour-for-hour in explanation on Respondent's part. But due to the inadequate, occasional inaccurate, and/or non-existent record-keeping at MBTA, Respondent sought the assistance of other staff and their recollection and other stored documents.

Unbeknownst to Respondent prior to the HSEC inquiry, Principal Oshiro did have a personal calendar noting days she believed were used as personal leave days. However, Respondent had originally

communicated these days to Mrs. Higgins as compensatory time prior to each absence. As a result of the recently discovered discrepancy, correction was made to reflect that those days were designated personal by the administrator and not compensatory time. These corrections do not *"demonstrate Respondent's attempt to retroactively account for her unauthorized absences,"* as all absences were authorized by communication with both, Principal Oshiro and SASA Higgins. The designation of "personal" or "compensatory" does not change the fact that these days were taken legitimately, as Respondent has earned them through her negotiated right as a teacher or for having worked for them.

In addition, completing the Leave Forms after the fact, is not "unacceptable" nor is it an uncommon practice. It was also not an attempt to deceive anyone, but a correction for the record. In fact, the state database records the time of all submissions.