NO. SCPW-12-0000825

IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

HAWAIʻI STATE TEACHERS ASSOCIATION, Petitioner,

vs.

HAWAIʻI LABOR RELATIONS BOARD; JAMES B. NICHOLSON, Chairperson of the Hawaiʻi Labor Relations Board; and ROCK B. LEY, Member of the Hawaiʻi Labor Relations Board (2012-017),

and

NEIL ABERCROMBIE, Governor of the State of Hawaiʻi; KALBERT YOUNG, Director of the Department of Budget and Finance of the State of Hawaiʻi; NEIL DIETZ, Chief Negotiator of the Office of Collective Bargaining of the State of Hawaiʻi; KATHRYN MATAYOSHI, Superintendent of the Department of Education of the State of Hawaiʻi; DONALD G. HORNER, Chairperson of the Board of Education of the State of Hawaiʻi; JAMES D. WILLIAMS, Member of the Board of Education of the State of Hawaiʻi,

and

UNIVERSITY OF HAWAIʻI PROFESSIONAL ASSEMBLY
Respondents.

ORIGINAL PROCEEDING
(CASE NO. CE-05-781)

ORDER
(By: Recktenwald, C.J., Nakayama, Acoba, and Pollack, JJ., and Circuit Judge Chang, in place of McKenna, J., recused)

On September 28, 2012, petitioner Hawaiʻi State Teachers Association filed a petition for a writ of mandamus

seeking an order directing the Hawai‘i Labor Relations Board to issue an order or decision on its prohibited practice complaint and motion for interlocutory relief in Case No. CE-05-781.

A writ of mandamus and/or prohibition will not issue unless a petitioner demonstrates a clear and indisputable right to relief and a lack of other means to redress adequately the alleged wrong or obtain the requested action. See Kema v. Gaddis, 91 Hawai‘i 200, 204, 982 P.2d 334, 338 (1999). Mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other remedy is available. In re Disciplinary Bd., 94 Hawai‘i 363, 368, 371, 984 P.2d 688, 693, 695 (1999) (citations omitted). Upon consideration of the petition, the documents attached thereto and submitted in support thereof, and the record,

IT IS HEREBY ORDERED that with respect to the HSTA's request for a decision on the prohibited practice complaint, the petition for a writ of mandamus is denied at this time without prejudice in light of the extended duration of the evidentiary proceeding and the voluminous record.

IT IS FURTHER HEREBY ORDERED that with respect to the HSTA's request for a decision on the motion for interlocutory relief, the respondents shall file an answer to the petition within twenty days from the date of this order.

IT IS ALSO HEREBY ORDERED that the appellate clerk shall serve a copy of this order upon the respondents, as required by HRAP Rule 21(c).

DATED: Honolulu, Hawai‘i, October 19, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Richard W. Pollack

/s/ Gary W.B. Chang