

KAMEHAMEHA SCHOOLS FACULTY ASSOCIATION
P.O. Box 894163 Mililani, Hawai'i 96789

August 29, 1998

Mr. Michael McGuire
Michael McGuire and Associates
700 Richards Street, Suite 705
Honolulu, Hawai'i
96813

Dear Mr. McGuire,

This letter responds to your faxed letter of August 26, 1998. Regrettably our comments reflect our serious and fundamental concerns regarding KSBE's, and in particular, your approach to these negotiations. It has always been our belief, given Kamehameha Schools' educational-mission, that mutually beneficial negotiations are preferable to the antiquated, traditional approach which you are forcing us to engage in.

KSBE has taken, and continues to take, actions regarding KSFA that are clearly dilatory and punitive rather than productive and which do nothing to facilitate the "healing" process that people of good will know is best for the school. Denying KSFA the use of campus facilities and taking the ludicrous position that teacher's duties are "managerial" are two good examples. Such actions adversely affect the institution by demoralizing the faculty and wasting valuable time and resources. Wasting resources defending untenable positions and implementing punitive policies are practices that, in many cases, fall well outside societal norms and / or standard practice. Some of these practices have been found to be unfair if not illegal. In any case, they perpetuate the "perverse" and "dysfunctional" management style that plays a major part in the current controversy surrounding the school.

More specifically, we address questions and comments about four issues contained in your faxed letter of August 26, 1998 that also serve as examples of your legendary albeit obsolete and adversarial negotiating style. Three of these issues regard ground rules and the last is about our contract proposal.

I. Ratification (Ground Rule Item 9)

As you are "unpersuaded" that there is a compelling argument for having the Trustees ratify the contract first, we will describe our main reasons in detail so that you may respond point by point.

A. It is easier for the five Trustees to review the contract and approve or disapprove it. As you are employed by the trustees, we assume you are keeping them abreast of negotiations and receiving guidance from them on the proposals.

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By the time we have reached tentative agreement on most of the articles, we see no reason why the Trustees can't be fully knowledgeable on all the articles we have agreed upon and have a good grasp on many of the alternatives being considered.

Therefore, by the time we reach an agreement on the total package, it should be a simple process to get a Trustee decision on the package. This is not the case for the bargaining unit. While we are keeping our members abreast of the general content of the contract, their level of specific knowledge about the content of the contract cannot approach that of the Trustees. We don't want to put their expectations through a roller coaster ride of ups and downs as we have agreed that all items are tentative until the total package is agreed upon. As a result, after the total package is agreed upon, KSFA will have to do a lot of educating and explaining in addition to conducting the ratification process. Finally, it should be obvious that the ratification process takes time and energy away from what could be spent on the education process. Since it involves approximately 240 teachers, that means student learning will be affected. It would be a serious waste of teacher time and student opportunities to ratify a contract which the Trustees subsequently reject. Having the Trustees ratify or reject the contract first will prevent that loss of energy and opportunity with little or no adverse consequences to KSBE.

B. Trustee rejection of a contract ratified by the bargaining unit would have serious negative consequences for Kamehameha Schools. Aside from how the NLRB would view the action, the teachers would be extremely disappointed with such bad faith bargaining and morale could be extremely low. While this may seem desirable from your perspective, try to remember that Kamehameha Schools is an educational institution where teachers strive to be inspirational. Unnecessarily destroying their morale is not a sound management practice and would not be good for the students.

C. You haven't identified any serious problem that would result from having the Trustees ratify the contract first.

II. Off the Record Comments (Ground Rule Item 5)

You are right. We are "honing in" on something in your ground rules which we think has the potential for abuse. Your rules do not require mutual agreement before "off the record" treatment is provided certain information. According to your language, once "either side notes" in advance that something is "off the record", it is. This wording would allow a party to walk into the room and note that all comments, proposals and transmittals from now on are "off the record". This is why we stated that your suggested revision has the net effect of giving you the unilateral power of implementing your original proposal. If KSBE wants to make "off the record" comments, they need to be limited to specific topics and times which we mutually agree upon. Perhaps as trust is built, procedures for a more liberal invoking of "off the

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record" comments can be agreed upon.

III. Location (Ground Rule Item 2)

While your willingness to "consider" our suggested modification was noted, your unwillingness to respond to our reasons for wanting a campus location is a matter of major concern to us. When we take a position and support it with our reasons, we believe you are obliged to respond to those reasons if you disagree with our position. Agreeing to meet at the FMCS is a major concession on our part as it will greatly extend the day of our full-time teachers who are often exhausted by the end of the day. Your insistence on dragging them downtown through rush hour traffic while they look forward to preparing for the next day at school is not my idea of compromise and fair play. Therefore, you can look forward to our view of this situation as temporary. We certainly hope that our modification of your ground rules to allow for a mutually agreeable alternative location is acceptable to you as you still retain control of the location issue even if we continue to ask you to discuss it.

IV. Our Contract Proposal

You have rejected our repeated requests for any comments on the draft contract which we delivered to you well over one month ago, at your suggestion (per your letter of July 2, 1998), "that we may use our time efficiently at the table." If we don't receive your comments prior to the first meeting, most of that meeting will be wasted while KSFA studies your counter proposal and seeks expert guidance. This is the very situation which you previously avoided by requesting and obtaining our proposal "in anticipation of our first negotiating session." Your refusal to give us the same chance to prepare for the meeting which we freely provided you, paired with your awareness of the consequences, leads us to conclude that you want those consequences: more wasted time and more delay.

Your explanation that we must wait until September third because our proposals deserve the benefit of elucidation and supporting background information just doesn't make sense to us. Yes, we want you to address our contract proposals but we want it done in advance. If it's in writing, then you can fax it to us and we can study it before the meeting. By responding to our issues, you can help everyone make the most efficient use of time.

We do agree with your assessment of the ratification issue, as it relates to all remaining points in disagreement. Namely, "while mutuality of agreement... would make for a cordial beginning for our ensuing negotiations, it is not absolutely necessary." We therefore agree to disagree on these remaining points. We look forward to the benefit of your "elucidation and supporting background information" in receiving your cogent and substantive comments on the issues presented by this letter and our contract proposal, preferably before our initial meeting on September 3, 1998.

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Regardless of your intentions to the contrary, be advised that your archaic negotiating style strengthens our resolve to protect the welfare of our students while providing them with an educational environment free from distractions and recriminations.

In conclusion, we continue to seek creative and mutually beneficial approaches to negotiating and encourage your positive proposals in this regard. We invite you to re-evaluate your methodology. Join us in "forging a new atmosphere on campus" that is conducive to positive change, strengthens morale, and that will help "remove the dark shadow cast by the current controversy."

If you have any questions, comments, or concerns regarding this letter, please call me at 279-6432 (pager) / 941-3638 / 638-8484 / 638-0338 (fax) / 486-2724 (fax).

Sincerely,

Larry McElheny
President, KSFA

cc: Dr. Michael J. Chun, President
Kamehameha Schools
Mr. Ken Kawamoto, Commissioner
Federal Mediation & Conciliation Service