

CLARE E. CONNORS 7936
Attorney General of Hawaii

CARON M. INAGAKI 3835
JOHN M. CREGOR, JR. 3521
Deputy Attorneys General
Department of the Attorney
General, State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813
Telephone: (808) 586-1494
Facsimile: (808) 586-1369
Email: John.M.Cregor@hawaii.gov

Attorneys for Defendant
HAWAII STATE DEPARTMENT
OF EDUCATION

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

A.B., by her parents and next friends,
C.B. and D.B., and T.T., by her parents
and next friends, K.T. and S.T.,

Plaintiffs,

vs.

HAWAII STATE DEPARTMENT OF
EDUCATION and OAHU
INTERSCHOLASTIC ASSOCIATION,

Defendants.

CIVIL NO. CV18-00477 LEK-RT
[CIVIL RIGHTS ACTION]

DEFENDANT HAWAII STATE
DEPARTMENT OF EDUCATION'S
ANSWER TO PLAINTIFFS'
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF;
CERTIFICATE OF SERVICE

[CLASS ACTION]

TRIAL: None Set

DEFENDANT HAWAII STATE DEPARTMENT OF EDUCATION'S
ANSWER TO PLAINTIFFS' COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

Defendant HAWAII STATE DEPARTMENT OF EDUCATION

("Defendant State"), by and through its counsel, Clare E. Connors, Attorney General of the State of Hawaii, Caron M. Inagaki and John M. Cregor, Jr., Deputy Attorneys General, hereby answers Plaintiffs' Complaint for Declaratory and Injunctive Relief ("Complaint"), filed December 6, 2018, as follows:

INTRODUCTION

The Complaint in this case contains 237 numbered paragraphs. Much of the pleading consists of commentary, background information, opinions or other surplusage rather than the required "short and plain statement of the claim showing that the pleader is entitled to relief." FRCP Rule 8(a)(2). Pursuant to FRCP Rule(a)(3), Defendant State denies all allegations except those specifically admitted, to wit:

1. Answering Paragraph 1 of the Complaint, Defendant State admits that James Campbell High School ("Campbell") is part of the Department of Education in the State of Hawaii.

2. Answering Paragraphs 8, 9, 10, 13, 15, and 48 of the Complaint, Defendant State admits the allegations contained in said Paragraphs.

3. Answering Paragraphs 29, 30, and 31, Defendant State admits only that HRS § 302A-461 became law and speaks for itself.

4. Answering Paragraph 49, Defendant State admits only that Campbell is the largest high school in the system.

5. The Defendant State denies each and every allegation not specifically responded to above.

FIRST DEFENSE

Plaintiffs' Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE (Admissions and Denials)

Responses included in the Introduction.

THIRD DEFENSE (Sovereign Immunity)

Some or all of Plaintiffs' Complaint is barred by the doctrine of sovereign immunity, which has not been waived, including but not limited to any claims for punitive damages and intentional and/or wanton acts.

FOURTH DEFENSE (11th Amendment)

To the extent authorized by law, some or all of the Plaintiffs claims are barred by the Eleventh Amendment to the United States Constitution and sovereign immunity.

FIFTH DEFENSE (Failure to Meet Class Action Requirement)

On information and belief, Plaintiffs are not proper class representatives.

SIXTH DEFENSE

There exists no ancillary jurisdiction of non-federal claims.

SEVENTH DEFENSE (Statute of Limitations)

All or part of the Plaintiffs' claims are barred by the applicable statutes of limitations.

EIGHTH DEFENSE (Mootness)

All or part of the Plaintiffs' claims are moot.

NINTH DEFENSE (Accommodation)

The Department of Education has made and continues to make the required reasonable efforts to accommodate Plaintiffs.

TENTH DEFENSE (No Retroactive Injunctive Relief)

Plaintiffs are not entitled to injunctive or declaratory relief to remedy any alleged retroactive claims.

OTHER DEFENSES

The Defendant State reserves the right to amend its Answer or to otherwise plead other defenses which may be revealed during continuing discovery in this action.

Wherefore, Defendant State pray as follows:

- A. Class Certification be denied.

B. That the Complaint be dismissed, or in the alternative, that Plaintiff takes nothing by the Complaint from Defendant State;

C. That Defendant State be awarded reasonable attorneys' fees and costs incurred in defending this action;

D. That the Court award such further relief as may be just and proper under the circumstances;

CLARE E. CONNORS
Attorney General of Hawaii

/s/ John M. Cregor
JOHN M. CREGOR, JR.
Deputy Attorney General

Attorney for Defendants
HAWAII STATE DEPARTMENT OF
EDUCATION