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GOVERNOR

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LIEUTENANT GOVERNOR

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OFFICE OF THE LIEUTENANT GOVERNOR
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LESLIE H. KONDO
DIRECTOR

November 2, 2006

VIA FACSIMILE – 586-3433

Mr. Randall M.L. Yee
Chair-Board of Education
1390 Miller Street, Room 405
Honolulu, Hawaii 96813

RE: Appeal from Denial of Access to Executive Session Minutes
(APPEAL 07-9 and APPEAL 07-13)

Dear Mr. Yee:

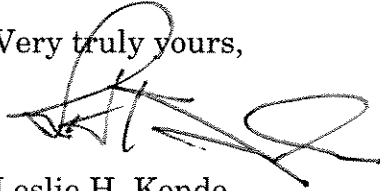
We understand that the Board of Education ("BOE") wishes to consult with its attorney concerning the Office of Information Practices' Decision dated October 30, 2006, concerning disclosure of the minutes of BOE's September 7, 2006 executive meeting ("Minutes") relating to its evaluation of Dr. James Shon. It is our further understanding that, for that reason, BOE has not disclosed the Minutes in accordance with the Decision.

We have discussed BOE's position with Attorney General Mark J. Bennett. From our discussion with Attorney General Bennett, we understand his concern to be that certain limited portions of the Minutes determined by OIP to be public may be privileged communications between BOE and its attorney. Given this concern and the public interest in timely disclosure, we believe that it is appropriate to revise the Decision to immediately require BOE to provide only those portions of the Minutes reflecting the motions made regarding Dr. Shon and the votes by individual member on those motions. More specifically, it is our determination that BOE cannot withhold and must immediately disclose the Minutes, as redacted by OIP, starting with the motion reflected on page 3 through page 6, with the exception of the statement by Mr. Vierling reflected on page 5.

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With respect to the remaining portions of the Minutes that OIP had determined were public, OIP will address those portions of the Minutes with Attorney General Bennett once he has had an opportunity to consult with BOE.

Very truly yours,

A handwritten signature in black ink, appearing to be 'L. Kondo', written over a horizontal line.

Leslie H. Kondo
Director

cc: Mr. Galen Onouye, Board of Education (via facsimile)
The Honorable Mark J. Bennett, Attorney General (via facsimile)
Ms. Linda Smith, Office of the Governor (via e-mail)
David Rizor, Ph.D. (via e-mail)
Mr. Larry Geller (via e-mail)