

Kamehameha Schools Faculty Association

P.O. Box 894163, Mililani HI 96789

Hotline Number: 539-2450

Welcome our new Rep. Assembly members

At last May's General Membership Meeting, the KS faculty elected new KSFA Representative Assembly members to a terms of two years.

When you see them, please welcome the new and returning members of your Representative Assembly. They are your voices — make use of them!

UNIT KES:

Marilyn Broadbent, Sylvie Fields, Pete Gerum, Ronnie Kopp, Diane Tanner-Cazinha

UNIT 7/8:

Leimomi Akana, Marcy Clark, Don Kroessig, Judy Rasmussen

UNIT 9/10:

Bill Follmer, Larry Hagman, Debbie Johnson, Larry McElheny, Nathan Nishimura, Brian Riggs

UNIT 11/12:

Jan Becket, Clare Ho, Sara Keahi, Larry Mordan, Joyce Nielsen, Judy Pearce, Holoua Stender

While you are at it, please thank the departing members of the Assembly for two years of grueling work that at times seemed thankless. Because of these folks (and a few others), we now have our second collective bargaining agreement!

MAHALO ME KE ALOHA

Roy Alameida, Ruth Canham, Tom Chun, Judy Cramer, Deane DeCastro, Mark Ewald, Paul Fradale, Rick Heyd, Moana Leong, Guy Ontai, Becky Tesch, Elizabeth Truesdell, Maryalice Woody.

Good news / bad news

The good: We can fax, phone, etc

KSFA has been allowed the use of some KS equipment, in addition to the meeting space and mailboxes that had previously been opened to us. Below is the text of a letter, dated 6/24/00, from Dr. Chun to KSFA President Larry McElheny:

This is in response to KSFA's letter dated June 21, 2000 regarding its request to use Kamehameha Schools' equipment. As a management decision, separate and apart from the collective bargaining agreement, I authorize KSFA's use of KS' equipment under the following conditions:

A. Use of equipment is limited to KS' telephones, fax machines, computers, photocopiers, e-mail, and audio-visual equipment. Use of KS' telephones and fax machines are limited to local calls/faxes to avoid long distance charges.

B. Such access is limited to equipment located on the Kapalama campus.

C. Use of KS' equipment is limited to legitimate

what's inside?

KSFA

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2Extended contracts, trustee selection

3Proposed mandatory drug testing

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communications with Covered Employees or members of Kamehameha Schools' negotiating team.

D. Any Kamehameha Schools' use of its equipment has priority over any use by KSFA.

E. Use shall not interfere with Kamehameha Schools' operations and comply with KS' acceptable use policies and procedures.

F. KS equipment shall not be removed from the school premises.

G. The charge for use of any KS copier shall be at the rate of \$.10 per page to be submitted to the Principal's secretary at the time of copying. This charge may be modified from time to time.

H. The authorization for use of any of the equipment items listed above in item A above may be revoked at any time.

The bad news: no extended employment contracts — for now

In an additional memo dated the same day, Dr. Chun also relayed to KSFA that KS at this time is "not considering extended term employment for teachers because the SLE's and strategic plan may have some impact on staffing in the future." However, Dr. Chun went on to comment that "My Academic Council and I are willing to explore this topic over the next year. We will invite KSFA to participate in these discussions." The memo also comments that final decisions are made by the entire Executive Management Team and by the Board of Trustees.

Trustee selection comments due soon

Final public comments on permanent trustee selection are due by 4 p.m., October 3rd. Address your written comments to:

Trustee Screening Committee
 c/o Inkinen and Associates
 1001 Bishop St. Pauahi Tower Suite #477
 Honolulu, HI 96813.

The public is also welcome to contact the

Mark your calendars

Below is the tentative 2000-2001 Representative Assembly meeting schedule. Meetings are open to teachers, and are held in the woodworking classroom in the Technology Building (Larry McElheny's room). Just to be sure of the date and place, check with your representative before attending a meeting. We are planning on refreshments at meetings. Come share them with us!

September 5	February 7
October 4	March 6
November 14	April 4
December 6	May 8
January 9	

Rep. Assembly votes on goals for the year

The KSFA Rep. Assembly voted at its 9/5 meeting to adopt these as our goals for the coming school year:

- 100% voluntary payment of dues
- Negotiate:
 - a. extended employment agreement
 - b. multi-year collective bargaining agreement
 - c. increased compensation with further compression of salary schedule
 - d. improve retirement benefits
 - e. clarify and improve "terms and conditions"
- Increase proactive initiatives

Screening Committee in these ways:

phone: 521-2331
 fax: 521-2380
 e-mail: kinkinen@inkinen.com

Members of the Screening Committee emphasize that all comments will be transmitted to the Probate Court. The committee will organize them into categories for the court.

Representative Assembly Discusses Drug Testing Policy

NOTE: Since this meeting, and possibly as a consequence of these discussions, Human Relations has significantly revised and clarified various parts of the proposal. Copies of the proposal are included with this newsletter. Please let your representative know your thoughts on this significant policy.

A highlight of the September 6th meeting of the KSFA Representative Assembly was an informal presentation and discussion of the Administration's intention to propose a modification of the policy on drug and alcohol abuse. Carol Koza from the Human Relations Department presented a broad overview of the proposed policy change which would include the testing of faculty suspected of drug or alcohol abuse based upon documented observations of behavior, appearance, and/or job performance that would support a 'reasonable belief' of drug abuse. The spirited discussion that followed touched upon several areas of concern:

There is no description of how 'false positives' will be treated. Considering that the policy allows an employee to be suspended without pay simply based upon suspicion alone, the consequences of fallible technology and/or poor laboratory procedures could be devastating to the person and career of an employee.

The policy provides no consequences or legal remedies if a supervisor falsely accuses an employee, irreparably damaging that person's reputation. Presumably, the only recourse the employee might have is to bring suit against the accuser and/or the school.

Testing based upon 'reasonable belief' requires a far less rigorous rationale than the more stringent standard of 'probable cause' meaning that the factual basis for deciding to test an employee does not have to be as legally sound as that required of law enforcement agencies.

A well reasoned and rational justification of

this proposed policy change has not been presented. Is there evidence that a drug problem exists among KS faculty? Is the current policy insufficient? Would upper level management receive the same scrutiny, especially since the only publicly documented case of a drug problem in the past has been at these levels?

Human Relations cited precedents for the drug testing of teachers in two court cases, one in a public school system and the other in a private school, to support their proposed policy change. These cases defined teachers as part of the 'safety sensitive' workforce which includes bus drivers who are subjected to random drug testing. The relevance of these cases to the proposed policy change is not clear since the rationale in both cases involved a the suspicion of drug use based upon wide-spread use in the community.

This point led to a lively discussion of the apparent belief that teachers are less worthy of respect than other professionals. Some members felt that urinating a bottle was professionally and personally demeaning. There was much concern for the effect such a policy change might have on the morale of the faculty.

What protections are there against invasion-of-privacy concerns if an employee must divulge private, confidential information about his or her medical condition? While it is clear that certain over-the-counter and prescription medications can confound the test systems, there were no assurances that irrelevant information might also be requested.

The proposed policy change suggests a continuing penetration of the Education Division by the top-down corporate mentality which got KS in trouble a few years ago. What happened to shared decision making?

Further discussion of this issue between your KSFA negotiators and the Administration are certain since drug policies are a required element of negotiation of any collective bargaining agreement. Please let your unit representative(s) know how you feel about this issue.

KSFA attorney Dean Choy responds to the KS proposal

Enclosed are copies of four cases that illustrate the current state of the law regarding faculty drug testing. In summary, these cases uphold faculty drug testing based upon reasonable cause. The Kamehameha Schools (KS) drug testing policy is based upon reasonable cause and would, conceptually, probably withstand Kamehameha Schools Faculty Association (KSFA) legal challenge.

The enclosed cases involve public school teachers that have Fourth Amendment protection against unreasonable searches, which protection is unavailable to KSFA members. On the other hand, KSFA members have a right to privacy under the Hawaii Constitution. In light of the reasoning in the enclosed cases and the unsuccessful challenge

to drug-testing by the UPW (whose members have both Fourth Amendment and Hawaii Constitutional protections), it is unlikely that a KSFA legal challenge based upon the right of privacy would prevail.

I assume KS management is aware of these legal standards and would not concede the threshold issue of implementing a drug testing program, regardless of KSFA's arguments. These cases also illustrate, however, that bargaining over the particulars of the program, such as the blood-alcohol culpability level, can be viably pursued to make the program as fair and palatable as possible to KSFA members.

—Dean Choy, KSFA Attorney

Mandatory faculty drug tests: some background

A recent Honolulu Advertiser article (8/28/00) commented on national trends in drug testing: *"Companies are quietly dropping controversial employment tests such as drug screenings, medical exams and psychological exams—a sharp reversal from the early 1990s when such testing was the rage."* In 1997, 62% of companies nationwide were requiring drug tests, but only 47% do now. One reason is that drug use among employees has dropped to its lowest level in 11 years, according to the article.

Despite this nationwide trend, KS Human Relations has made it clear that KS intends to implement mandatory drug testing as soon as possible. In a few court cases where drug testing based on what is called "reasonable suspicion," school districts have prevailed over teachers and unions protesting these policies. *"On balance, the public interest in attempting to ensure that school teachers perform their jobs unimpaired is evident, considering their unique in loco parentis obligations and their immense influence over students. These public interests clearly outweigh the privacy interests of the teacher not to be tested..."* (Knox county education Association vs Knox county Board of Education).

In fact, just two school districts in the United States have imposed mandatory drug tests for teachers, both in the South: Knox county, Tennessee and the Orleans Parish School Board. The court decision in the Orleans case states that *"males must face a urinal in the presence of a monitor. Females may repair to a stall where the monitor remains separated by a visual barrier but able to hear the sounds of the person urinating."*

However, a similar case in the District of Columbia resulted in a much narrower application of mandatory drug tests. *"In summary, then, we hold that it is not unreasonable for the School System to require drug testing of its employees where: a) the employees' duties have a direct impact on the physical safety of young school children; b) the testing is conducted as part of a routine, reasonably required, employment-related medical examination; and c) the test employed is one that has a nexus to the employer's legitimate safety concern."* (Juanita M. Jones vs Floretta d. McKenzie, Superintendent of Schools, District of Columbia).

The National Education Association national office reports that none of its thousands of affiliated schools, anywhere in the nation imposes mandatory drug tests on teachers.

—Jan Becket, Unit 11-12

New faculty members (and a few old ones): please consider filing out and sending this form to Personnel. auto dues deduction saves our treasurer time and effort.

AUTHORIZATION FORM FOR DEDUCTION OF UNION DUES/SERVICE FEE OUT OF WAGES

I, _____, an employee of Kamehameha Schools (“KS”) voluntarily agree to have KS take out of my wages regular monthly dues as established by the Kamehameha Schools Faculty Association (“KSFA”) in accordance with its Constitution and Bylaws, or a regular monthly Service Fee not to exceed KSFA’s regular monthly dues for its members as certified to you in writing by KSFA, and to turn over to KSFA any and all such monies on the following conditions:

1. This authorization shall become effective upon the date set forth below and cannot be cancelled for a period of one year from this date or until the termination of the existing collective bargaining agreement between KS and KSFA, whichever occurs sooner, unless cancelled sooner as provided in Section 2 below.

2. I agree and direct that this authorization shall be irrevocable for successive periods of one year each, or for the period of each succeeding applicable collective bargaining agreement between KS and KSFA, whichever shall be shorter unless:

(a) I cancel this authorization by written notice to KSBE at any time or within ten days after the expiration of any such one year period; or

(b) In the case of the expiration of any applicable collective bargaining agreement between KS and KSFA during any such one year period, I cancel this authorization by written notice to KS at any time during the period following the expiration of the applicable collective bargaining agreement and ten days after the effective date of any new agreement.

3. This authorization is subject to sufficient wages being available to comply with all other required deductions and existing federal and state laws. This authorization shall be suspended during any period in which there is no collective bargaining agreement in effect between KS and KSFA. This authorization shall end if my employment with KS ends. This authorization is made pursuant to the provisions of Section 302(c) of the Labor Management Relations Act of 1947.

Date: _____ Employee Signature: _____

Mailing Address: _____

SS# _____

Receipt of the foregoing authorization is acknowledged:

Employer _____

Viewpoints

Items on these pages do not represent official positions taken by KSFA

Mandatory faculty drug tests: Do we really want to go there?

Just a few questions about the drug testing proposal:

- **Why?** Those teachers who know about the proposal are asking why KS feels the need for such extreme measures when no teacher drug problem exists, and when we already work under a strict zero-tolerance drug policy.

- **Why now?** Questions have also been raised about the timing of the proposal, just before the selection of permanent trustees. KSFA, of course, is asking why discussions about the policy cannot be made part of the normal spring bargaining meetings, and why any change to the existing policy cannot be implemented with a new contract next year.

- **If one, why not the other?** Psychological tests, like mandatory drug tests, are not uncommon in a business

environment. A psychological screening test (since discontinued) required of employees at Rent-A-Center, according to the Advertiser article cited above, asked questions about employees' belief in God, about their ability to start or hold bowel movements and about any "unusual sex practices" they might engage in. Arguments for mandatory drug tests also apply by logical extension to psychological tests, which might screen out unstable teachers who could pose even more of a danger to students than teachers who use drugs.

- **Do we walk the walk?** The recent strategic planning process modeled inclusiveness and collaborative decision-making, ending up with a statement we can all be proud of. One of the guiding principles in the 8/29 draft (still to be approved by the trustees) is this: "*We will regard our Kame-*

hameha Schools 'ohana as a precious resource. We will treat each other with respect, nurture expertise and talents, and recognize the contributions of all." Aside from its conflict with common sense and current business practices, is the proposal in alignment with the Strategic Plan?

- **Why break a few eggs when no one wants the omelet?** No apology could adequately compensate or appease a teacher falsely accused. If no drug problem exists now, any application of the proposed policy would lead to an unacceptably high risk of unfounded accusation. Since a false allegation could taint a teacher's career forever, we feel any such risk is unacceptably high. Voltaire once said it is better to let ten guilty men go free than to condemn an innocent man falsely. If we agree that no one is guilty, the innocent ones are all that are left to condemn.

- **What case histories really matter?** We may have been too busy correcting papers, but where are all the news stories about drugged-out high school teachers convincing entire classes to throw off their clothes, worship the devil in the forest and then jump off cliffs? We all want our airline pilots tested (frequently), but are high school teachers really in the same league, with respect to physical safety?

- **Who is minding the chickens?** The past few years are painful to recall, and no one wants to rehash them. However, drug abuse was openly tolerated for several years in at least one case involving a well-connected upper level administrator, now departed. Without much effort, many teachers can come up with instances of harassment or rules applied selectively — one reason we unionized. Our institution does not have a good track record in the impartial application of policies.

- **Why (almost) nowhere else?** Why have other public and private schools in Hawai'i and in the rest of the nation not imposed similar policies?

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***Administer the empire by
engaging in no activity.***

...

***The more laws and orders
are made prominent,
the more thieves and robbers
there will be.***

—Tao-te Ching, verse 57

Viewpoints

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KES language arts teachers describe philosophy

Recently, scholars and researchers have debated the merits of a phonics-based program and a whole-language approach to literacy. Contrary to the common belief that phonics is not taught in whole-language classrooms, teachers integrate phonics, grammar, and conventions of writing in meaningful ways when there is a functional purpose to learn these skills. Studies show that children learn skills most readily when they are meaningful and taught in context, not in isolation. This helps students enjoy reading and writing as purposeful, productive, and creative pursuits, engaging them as independent thinkers.

The recent National Reading Panel report on April 13, 2000, states:

It is important to recognize that the goals of phonics instruction are to provide children with key knowledge and skills and to ensure that they know how to apply that knowledge in their reading and writing. In other words, phonics teaching is a means to an end. ... Programs that focus too much on the teaching of letter-sound relations and not enough on putting them to use are unlikely to be very effective. In implementing systematic phonics instruction, educators must keep the end in mind and ensure that children understand the purpose of learning letter sounds and that they are able to apply these skills accurately and fluently in their daily reading and writing activities.

— *Teaching Children to Read: An Evidence-Based Assessment of the Scientific Research Literature on Reading and its Implications for Reading Instruction*

As KES, we apply a balanced literacy program to challenge ourselves and students, striving to reach skills in an integrated and consistent way through the reading and writing processes. Specific phonics and grammar skills are taught in mini-lessons

as part of learning to read, spell, revise, edit and craft finished pieces of writing. Quality literature is used as models to learn about literary elements such as genres, picturesque language, interesting leads, voice, character and story structures.

As teachers, we continually strive to update our professional skills, building a comprehensive repertoire of teaching strategies and “best practices.” As a result, we have come to understand the reading and writing processes and how children learn. According to Paul LeMahieu, teachers need to be “sophisticated consumers,” choosing strategies that are best for students based upon their individual strengths and needs. Therefore, we do not use a basal program at KES, as one-size-fits-all paradigm. Kent Keith (former president of Chamanade University), a recent symposium Thought Leader, parallels this paradigm to a “factory model” approach to teaching. Instead, our goal is to keep childrens’ interests and motivation high, by using engaging materials to foster a love for reading and writing. Our hope is to light their fires, so that they will then carry the torch as lifelong learners!

— *Moana Leong, KES*

Regenerate a forest, regeneratate an instituion

Below is the text of a petition circulated near the end of school last spring. Some faculty members may have heard about it, but not seen the full text of the document. Approximately eighty faculty members signed it.

Dear Dr. Chun:

As teachers and staff members at Kamehameha we would like to make a proposal for the valley behind the main gate. We would like to ask that the school dedicate a significant portion of the cam-

Viewpoints

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pus to regenerating a native forest. Specifically, we would like to have the Estate permanently set aside the valley behind the main gate for that purpose.

As you know, teachers, staff members and students currently travel to the Big Island to plant koa seedlings. All feel that this is an important part of their experience at Kamehameha. In fact, it is so important that we would like to have this experience much more readily available to a greater number of students and staff at Kamehameha. Since the construction of the new water tank above Waonahale Rd., the only remaining undeveloped part of our campus is that valley. Now is the time to set it aside — permanently.

The strategic planning process is currently reaffirming the identity of our school as a Hawaiian institution, It is also reaffirming the importance of our natural resources as educational assets. We hope to see the school turn this resource into an educational asset that will benefit the entire campus, K-12, and will create a model for the other campuses and for the rest of the state.

Experts on Hawaiian forests have told us that this project is feasible if the school dedicates a relatively modest amount of resources to it over a period of several decades. Attached is an article describing a similar effort at Punahou School, in partnership with groups such as the Nature Conservancy. We hope that the school and our students can all benefit from similar partnerships.

The project carries a positive symbolic value. Working together to create a native dryland forest would help bring us all together at a time when the institution needs healing. Please give this proposal your enthusiastic support and help us work to implement it.

(petition signed by 80 faculty members)

Dr. Chun's response

Dr Chun sent the letter below, dated 6/19, to those who signed the petition supporting a native forest project:

Mahalo nui loa for sharing your thoughts regarding establishing a Native Hawaiian forest in the valley above the main gate. I appreciate the sense of stewardship you feel towards our beautiful Kamehameha campus and the need for such a project.

I am delighted to endorse the concept of a Native Hawaiian forest on campus. Ever since I returned to Kamehameha, it has been my dream to transform our entire campus into a garden in which our students and staff could learn and enjoy. I can think of nothing more exciting than to walk out of the classroom and feel, touch, and smell the beautiful plants and trees that once occupied these slopes.

Regarding the valley itself, we need to engage in a larger discussion of our school community to understand better the competing needs for this valuable resource. As you know, for a number of years, we have been looking for a place to locate a baseball diamond. The lower part of this valley has been identified as such a site. Thus, while I endorse the concept of a Native Hawaiian forest, my decision regarding where this will take place must await further discussion.

I intend to convene a small group of staff and faculty with expertise in Native Hawaiian Forestry and horticulture. I will be asking them to describe the opportunities such a project will present as well as any limitations, constraints, and challenges of which we need to be aware. This information will be helpful in our discussion regarding placement of this project. Hopefully, this discussion can begin to take place when school resumes this fall.

In closing, I pray you will have a wonderful summer, one that is restful and rejuvenating at the same time. God bless.

Viewpoints

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Might there be something about the basic nature of the educational environment and of the kumu-haumana relationship that makes this a *really* bad idea?

- **Methinks thou doth protest too much.** Already speculation exists among students about which teachers might be subject to drug tests; while these opinions might lead to an interesting discussion on stereotyping and critical thinking, more often they invite a disregard for diversity and eccentricity. Under the guidelines of the drug test policy, Albert Einstein, Joan of Arc, and Sir Thomas More would be lined up daily outside our bathroom stall, waiting to prove their purity once again.

- **Do as we say, not as we do?** Ultimately doesn't the proposed policy send a double message to the children about their kumu and about the kind of society they might want to help build once they leave Kamehameha? Each time they enter the campus gates, teachers would lose some of the civil rights they hold as American citizens. Under the policy, school authorities would not have to meet the normal legal standard of "probable cause" — just the much lower corporate/military standard of "reasonable belief." If the school cannot offer any model in its own governance but that of an authoritarian mini-state, students will leave with no model but that one. Ultimately, the deeds of the institution drown out the words of the kumu.

- **Finally, to pee or not to pee?** If we required our teachers to wear armored vests, the community would assume we have some serious safety concerns. If we quarantined all of our students at the end of each day, the community would assume we have some serious health concerns. It doesn't appear we need to do that. We wonder what the community will assume if we require our teachers to take drug tests. Do we need to do that?

- **Some modest proposals:** Drug abuse is indeed a serious threat to our students. Not wanting to seem entirely negative, we offer a few suggestions for a comprehensive KS drug policy.

- We suggest that each KS campus be declared a drug-free zone, with no alcohol, tobacco or other

drugs allowed in any dwelling or residence, anywhere, at any time on any campus. Surely that would set a wonderful example to our students; as educators, we all know that it is far better to teach by example than by decree.

- To help set this example for the institution, we suggest a voluntary public pledge of zero alcohol and tobacco use at any time in all circumstances by trustees, CEOs, administrators, employees in Human Relations and others who advocate across-the-board, mandatory drug tests.

- If these suggestions seem absurd, imagine how teachers feel about the drug testing proposal. The decision of the judge in the District of Columbia (see page 4) offers us all a middle path. Declare an institution-wide policy mandating drug tests based on "reasonable suspicion." However, limit those affected to by the policy to KS personnel "having a direct impact on the physical safety" of the students. Bus drivers would be affected, but so would coaches and teachers transporting students to and from school events, or shop teachers operating machinery which might injure students. Anything more extreme than this suggests motives for the policy other than those related to concern for the well-being of the students.

— Jim Slagel, Jan Becket, Unit 11/12

In keeping with the new open spirit at Kamehameha, the Faculty Forum at the end of each newsletter is open to those who wish to communicate with the rest of the faculty. Please feel welcome to submit a piece. Viewpoints expressed here do not represent official positions taken by KSFA.