

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS.:	S-03-34a
	)		S-04-34b
JOHN WAIHEE, III, Governor,	)		S-13-34c
State of Hawaii,)		
	)	ORDER NO.	1042
Petitioner,)		
	)	ORDER APPROVING STIPULATION	
and	)	OF PARTIES; EXHIBIT A	
)		
HAWAII GOVERNMENT EMPLOYEES)		
ASSOCIATION, AFSCME, LOCAL 152,)		
AFL-CIO,)		
)		
Exclusive)		
Representative.)		
_____)		

ORDER APPROVING STIPULATION OF PARTIES

Petitioner JOHN WAIHEE, III, Governor, State of Hawaii (Employer) and Exclusive Representative HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) have stipulated and agreed that certain employees are essential pursuant to § 89-12, Hawaii Revised Statutes, and are therefore prohibited from participating in a strike against the Employer.

The Hawaii Labor Relations Board (Board), as part of its investigation, has reviewed the stipulation of parties and finds that the positions identified by the parties in their stipulation are essential to protect the health and safety of the public. Accordingly, the Board hereby orders that the positions identified in the stipulation of parties, attached hereto as Exhibit A, and incorporated by reference herein, are essential and are required to be staffed in order to avoid an imminent or present danger to the health and safety of the public.

GENERAL ORDERS

The Board further orders the following in the event of a strike by Units 03, 04 and 13 employees:

1. The class or position titles identified in the foregoing portion of the order are designated as essential positions.

2. The Employer may designate any or all incumbents in the essential positions as essential employees. Each incumbent in an essential position, regardless of designation as an essential employee, shall notify the Employer of his or her current residence and mailing addresses and telephone number prior to the onset of a strike by Units 03, 04, and 13 employees. The Employer shall inform incumbents in essential positions that they may be designated as essential employees and that they are required to supply this information.

3. The Employer shall designate employees to fill essential positions. Each Employer shall give notice to an essential employee in accordance with Subsection 89-12(c)(2), HRS. It is the duty and responsibility of the essential employee to contact the Employer for his or her work assignment. This duty continues throughout the duration of any strike.

4. Essential employees required to be on-call shall keep the respective Employer apprised of his or her location during the on-call period to facilitate notification to report to work when the need arises. If no specific on-call period is stated, the position shall be deemed to be on-call 24 hours per day, and 7 days per week.

"On-call," as provided for in these orders, does not require compensation by the Employer nor does it require that the employee respond to any work requests made by the Employer.

5. Essential employees required to be on standby duty shall respond to requests for work when notified by the Employer. These employees must be available and shall provide the necessary telephone numbers and locations where they can be reached when needed. If no specific standby period is stated, the position shall be deemed to be on standby 24 hours per day, and 7 days per week.

"Standby," as directed by these orders, requires that the Employer compensate all such designated employees at the rate of 25% of the individual employee's current salary. The employee on standby shall respond to requests made by the Employer to work and shall provide the Employer with the necessary telephone numbers and the location where he or she can be contacted should the need arise.

6. The Employer may determine whether the failure or refusal of an incumbent to report to or perform the functions, duties, and responsibilities of positions designated as essential is premised on good cause. The Employer may presume that any such failure or refusal is not for good cause, unless the incumbent designated as an essential employee provides the Employer with a signed statement of the reasons and circumstances for such failure or refusal. In the event that such failure or refusal is based upon a medical disability, a signed statement by a physician

licensed to practice in the State of Hawaii must be submitted upon such forms to be provided by the Employer.

7. If an essential employee does not report to work as directed and there are additional incumbents to fill an essential position, the Employer shall designate another incumbent to perform such work. The Employer may notify such employee by whatever means practicable, including by telephone contact, to ensure the delivery of essential services.

If the Employer is unable to fill the essential position with an incumbent, the Employer may assign other employees who are capable of satisfactorily performing the functions, duties, and responsibilities of the essential position, and shall notify the Board accordingly.

8. The HGEA shall be responsible for taking all necessary steps to ensure that essential services required by this order are performed without interruption, slowdown, sick-out or other forms of interference.

9. Work sites, buildings, or facilities may be picketed, but persons on the picket lines shall permit anyone to cross the picket lines without interference. Picketers shall not harass or impede anyone from ingress or egress to the buildings.

10. To minimize confusion in communications between the parties, the Employer and the HGEA shall each designate one overall coordinator to be contacted. The coordinator shall be responsible for maintaining essential services and implementing any order issued by the Board at the close of this proceeding or during a strike. Prior to the onset of any strike, each party shall notify

the other and this Board, in writing, of the coordinator with his or her current address and business and residence telephone numbers at least 24 hours before the onset of a strike.

11. In the assignment of incumbents or other employees to essential positions, the Employer shall refrain from assigning persons designated as picket line captains, stewards, negotiation team members and HGEA Board of Directors members unless there are no other employees capable of satisfactorily performing the functions, duties and responsibilities of the essential positions. The HGEA shall furnish the Employer with the names of picket line captains, stewards, negotiation team members and Board of Directors members forthwith.

This order may be amended by the Board. Any questions of interpretation of this order shall be brought to the immediate attention of the Board.

DATED: Honolulu, Hawaii, April 17, 1994.

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson


RUSSELL T. HIGA, Board Member


SANDRA H. EBESU, Board Member

Copies sent to:
Ernest A. Ito, Esq.
Charles K.Y. Khim, Esq.
Joyce Najita, IRC

ABELINA M. SHAW 1944
ERNEST A. ITO 268
Court Staff Attorneys
Judiciary
State of Hawai'i
417 South King Street, Room 209
Honolulu, Hawai'i 96813
Telephone No. (808) 539-4990

Attorney for Petitioner
John Waihee, III, Governor
State of Hawai'i

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HAWAII
LABOR RELATIONS BOARD

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS. S-03-34a
	)	S-04-34b
	)	S-13-34c
JOHN WAIHEE, III, Governor, State of Hawai'i	)	STIPULATION TO DECLARE
	)	CERTAIN EMPLOYEES ESSENTIAL
Petitioner,	)	WORKERS; EXHIBIT A
)	
and)	
)	
HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, LOCAL 152, AFSCME,)	
)	
Respondent.)	

STIPULATION TO DECLARE CERTAIN
EMPLOYEES ESSENTIAL WORKERS

The HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO, (hereinafter "HGEA"), and The Judiciary of Hawaii as a representative of the aforesaid petitioner, hereby stipulate and agree that the following employees of the Judiciary, State of Hawaii, set forth in exhibit "A", attached hereto and incorporated by reference herein, are essential workers pursuant to section 89-12, HRS, and therefore are prohibited from


EXHIBIT A

participating in a strike against the Petitioner. It is further agreed that the following employees shall be the only employees deemed to be essential workers pursuant to the foregoing statute. It is further agreed that the stipulation is a final and binding resolution of the dispute and the underlying facts and circumstances which form the subject matter of the above-entitled case.

The number and types of essential workers which are provided for herein can be modified only upon the express written consent of the parties herein only for the purpose of ameliorating an imminent or present danger to the health or safety of the public, with such consent not being unreasonably withheld. As utilized herein, the phrase "imminent or present danger to the health or safety of the public" shall mean a specific and directly identifiable harm that will cause or is very likely to cause physical harm of a person.

Dated this 17th day of April, 1994,

THE JUDICIARY,
STATE OF HAWAII

by 
CLYDE W. NAMUO
DEPUTY ADMINISTRATOR
DIRECTOR OF THE COURTS

HAWAII GOVERNMENT EMPLOYEES'
ASSOCIATION

by 
CHARLES K.Y. KHIM

EXHIBIT "A"

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
<u>Supreme Court</u>		
03 Supreme Court Bailiff	1	7 days per week; 8 hours/day; evenings as needed
03 Asst. Reporter of Decisions	1	M-F, regular hours
<u>Land & Tax Appeal Court</u>		
04 Land Court Registrar VI	1	M-F, regular hours
<u>Circuit Courts</u>		
First Circuit Court		
A. Chief Clerk's Office		
13 Court Administrator I	1	M-F, regular hours
B. Legal Documents		
03 Court Documents Clerk	3	M-F, regular hours
03 Judicial Clerk II	5	M-F, regular hours
23 Court Administrator II	1	M-F, regular hours
C. Estates & Guardianship		
04 Estate & Guardianship Specialist	2	M-F, regular hours
03 Estate & Guardianship Clerk	2	M-F, regular hours
D. Judicial Services		
03 Judicial Assistant I	17	M-F, regular hours
03 Circuit Court Clerk II	13	M-F, regular hours
E. Court Reporters		
03 Court Reporter II	9	M-F, regular hours
13 Court Administrator III	1	M-F, regular hours
04 Supervising Court Reporter	2	M-F, regular hours

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
03 Secretary II	1	M-F, regular hours
F. Fiscal Branch		
13 Court Fiscal Officer IV	1	M-F, regular hours
03 Account Clerk IV	1	M-F, regular hours
03 Account Clerk III	1	M-F, regular hours
04 Court Cashier	2	M-F, regular hours
03 Cashier II	1	M-F, regular hours
G. Jury Pool		
04 Judicial Clerk V	1	M-F, regular hours
03 Clerk IV	3	M-F, regular hours
03 Clerk III	1	M-F, regular hours
H. Adult Probation Branch		
13 Social Worker VI	1	M-F, regular hours
13 Social Worker V	3	M-F, regular hours
13 Social Worker IV	9	M-F, regular hours
03 Judicial Clerk II	3	M-F, regular hours
I. Court Annexed Arbitration Program		
13 Arbitration Administrator	1	M-F, regular hours
J. Office of the Public Guardian		
13 Social Worker V	1	M-F, regular hours
13 Social Worker IV	2	M-F, regular hours
13 Social Worker III	2	M-F, regular hours
13 Accountant III	1	On-call

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
Second Circuit Court		
13 Court Fiscal Officer IV	1	On-call
04 Circuit Court Documents Supervisor	1	On-call
03 Judicial Assistant I	1	M-F, regular hours
03 Court Reporter II	2	M-F, regular hours
03 Court Documents Clerk	1	M-F, regular hours
04 Supervising Court Reporter	1	On-call
Judicial Services, Second Division		
03 Judicial Assistant I	1 2	M-F, regular hours On-call
03 Circuit Court Clerk II	1 2	M-F, regular hours On-call
Adult Probation Branch		
23 Social Worker VI	1	On-call
23 Social Worker V	1 2	M-F, regular hours On-call
13 Social Worker IV	1	M-F, regular hours
03 Judicial Clerk II	1	M-F, regular hours
Office of Public Guardian		
13 Social Worker IV	1	M-F, regular hours
Third Circuit Court		
04 Circuit Court Documents Supervisor	1	M-F, regular hours
13 Court Fiscal Officer IV	1	M-F, regular hours
03 Judicial Assistant I	3	M-F, regular hours
03 Court Reporter II	3	On-call

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
Adult Probation		
23 Social Worker VI	1	M-F, regular hours
Public Guardian		
13 Social Worker IV	1	M-F, regular hours
Fifth Circuit Court		
03 Circuit Court Clerk II	1	M-F, regular hours
13 Court Fiscal Officer IV	1	M-F, regular hours
03 Judicial Assistant I	1	M-F, regular hours
04 Circuit Court Documents Supervisor	1	M-F, regular hours
Adult Probation Division		
23 Social Worker VI	1	M-F, regular hours
03 Secretary II	1	M-F, regular hours
<u>Family Courts</u>		
First Circuit		
A. Social Services		
03 Social Service Assistant V (PS)	1	M-F, regular hours
13 Social Worker V	4	M-F, regular hours
13 Social Worker IV	13	M-F, regular hours
03 Clerk Steno III (AS)	1	M-F, regular hours
03 Clerk Typist III (CMS 2) (PS 1)	2	M-F, regular hours
B. Court Management Services		
23 Court Administrator II	1	M-F, regular hours
03 Court Bailiff II	5	M-F, regular hours
04 Family Court Services Supervisor	1	M-F, regular hours

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
04 Circuit Court Clerk II	5	M-F, regular hours
03 Judicial Clerk V	1	M-F, regular hours
03 Judicial Clerk II (AS 1)	2	M-F, regular hours
03 Court Documents Clerk	2	M-F, regular hours
C. Detention Services (Home Maluhia)		
13 Juvenile Counselor III	7	7 days/week; 24 hrs/day; regular hours
13 Juvenile Counselor II	2	7 days/week; 24 hrs/day; regular hours
13 Juvenile Counselor I	2	7 days/week; 24 hrs/day; regular hours
18th Division		
03 Judicial Assistant I	1	M-F, regular hours
Director's Office		
23 Court Fiscal Officer IV	1	M-F, regular hours
13 Family Court Attorney	1	M-F, regular hours
Second Circuit		
Childrens Services Branch		
A. Administration		
13 Social Worker VI	1	M-F, regular hours & stand-by
B. Juvenile Supervision		
13 Social Worker V	1	M-F, regular hours
C. Crisis & Intake Services		
13 Social Worker V	1	M-F, regular hours & stand-by
13 Social Worker III	1	M-F, regular hours & stand-by

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
Adult Services Branch		
A. Domestic Violence Unit		
13 Social Worker IV	1	M-F, regular hours
13 Social Worker II	1	M-F, regular hours
Court Management Services Branch		
A.		
04 Circuit Court Clerk III	1	M-F, regular hours
03 Circuit Court Clerk II	1	M-F, regular hours
03 Court Documents Clerk	1	M-F, regular hours
B. Office Services		
03 Clerk Typist III	1	M-F, regular hours
03 Judicial Clerk II	1	M-F, regular hours
Third Circuit		
04 Circuit Court Clerk III	1	M-F, regular hours
03 Circuit Court Clerk II	2	M-F, regular hours
03 Court Bailiff II	1	On-call
A. Juvenile Services Branch		
13 Social Worker VI	1	M-F, regular hours
13 Social Worker V	3	M-F, regular hours
13 Social Worker IV	2	M-F, regular hours
B. Adult Services Branch		
13 Social Worker IV	1	M-F, regular hours
13 Social Worker III	1	M-F, regular hours
C. Program Services		
13 Social Worker V	1	On-call

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
03 Secretary III	1	M-F, regular hours
03 Judicial Clerk II	2	M-F, regular hours
03 Clerk III	1	On-call
03 Court Bailiff I	1	On-call
Fifth Circuit		
13 Social Worker IV	3	M-F, regular hours plus stand-by and call back
03 Court Documents Clerk	1	M-F, regular hours
<u>District Courts</u>		
First Circuit		
A. Judicial Services		
Honolulu		
13 Court Administrator I (DC)	1	Tues, Wed, Thurs, Fri; regular hours
03 Court Report I	7	M-F, regular hours
03 District Court Clerk III	2	M-F, regular hours
Ewa		
13 Court Administrator II (DC)	1	Mon, Tues, Wed, Fri; regular hours
04 District Court Clerk III	1	Mon, Tues, Wed, Fri; regular hours
Kaneohe		
13 Court Administrator II (DC)	1	M-F; regular hours
04 District Court Clerk III	1	M-F; regular hours
Wahiawa		
13 Court Administrator I (DC)	1	Tues, Thurs, 1st/3rd Wed; regular hours

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
04 District Court Clerk III Waianae	1	Tues, Thurs, 1st/3rd Wed; regular hours
04 District Court Clerk III Fiscal Office	1	Fri; regular hours
13 Court Fiscal Officer IV	1	M-F, regular hours
04 Judicial Clerk V	1	M-F, regular hours
First Circuit		
Data Processing		
03 DP Control Clerk II	1	M-F, regular hours
Traffic Violations Bureau		
04 Judicial Clerk V	1	M-F, regular hours
03 Judicial Clerk IV	1	M-F, regular hours
Bailiff Division		
03 Court Bailiff II	7	M-F, regular hours
Driver's Education		
23 Driver's Education Administrator	1	M-F; regular hours
Second Circuit		
13 Assistant Court Administrator (DC)	1	M-F, regular hours
03 Court Bailiff I	2	M-F, regular hours
03 District Court Clerk II	2	M-F, regular hours
Moloka'i		
03 Judicial Clerk IV	1	M-F, regular hours
Wailuku		

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
04 Judicial Clerk V	1	M-F, regular hours
03 District Court Clerk III	1	M-F, regular hours
13 Court Fiscal Officer II	1	M-F, regular hours
13 Social Worker IV	1	M-F, regular hours
03 Driver Education Assistant II	1	M-F, regular hours
Lahaina		
04 District Court Clerk III	1	M-F, regular hours
Lanai		
04 District Court Clerk I	1	M-F, regular hours
Third Circuit		
03 Court Bailiff II	1	M-F, regular hours
Hilo		
03 Court Bailiff I	1	M-F, regular hours
03 District Court Clerk II	2	M-F, regular hours
13 Court Fiscal Officer II	1	M-F, regular hours
South Kohala		
04 Judicial Clerk V	1	M-F, regular hours
Kona		
04 District Court Clerk III	1	M-F, regular hours
03 District Court Clerk II	1	M-F, regular hours
03 Court Bailiff II	1	M-F, regular hours

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
<u>District Courts</u>		
Fifth Circuit		
03 District Court Clerk II	1	M-F, regular hours
13 Court Fiscal Officer	1	M-F, regular hours
03 Cashier II	1	M-F, regular hours
03 Judicial Clerk IV	1	M-F, regular hours
<u>Office of the Administrative Director</u>		
Legislative Coordinating Team		
13 Legislative Coordinators	2	M-F, regular hours
TISD (Telecommunications & Information Services Division)		
03 Comp Op III	1	M-F, regular hours
A. Applications Branch		
13 Data Processing Systems Analyst VII	1	M-F, regular hours
B. Telecommunications Branch		
13 Data Processing Systems Analyst VI	2	M-F, regular hours
C. Client Services Section		
13 Data Processing Systems Analyst VI	1	M-F, regular hours
Planning & Budget		
13 CIP Coordinator	1	On-call
13 Program Evaluation Analyst VII	1	On-call
Public Affairs Office		
13 Public Information Programs Officer	1	On-call

<u>BU & Class Title</u>	<u>Essential Workers</u>	<u>When Required</u>
Children's Advocacy Center		
13 Social Worker VII	1	M-F, regular hours
03 Secretary I	4	M-F, regular hours
03 Clerk-Typist III	1	M-F, regular hours
13 Social Worker V	5	M-F, regular hours
23 Accountant V	1	On-call

Office of the Administrative Director

Fiscal & Support Services Division

A. Fiscal Services

23 Accountant VI	1	On-call
23 Accountant V	1	On-call
13 Accountant IV	1	On-call
03 Pre-Audit Clerk III	1	On-call
03 Pre-Audit Clerk II	1	On-call

B. Contracting Branch

23 Purchasing & Specs Specialist VI	1	On-call
13 Purchasing & Specs Specialist V	2	On-call

C. Administrative Services

13 Court Fiscal Officer IV	1	On-call
13 Accountant IV	1	On-call

D. Facilities Maintenance

04 Facilities Manager	1	On-call
04 Assistant Facilities Manager	1	On-call

BU & Class Title

**Essential
Workers**

When Required

Administrative Driver's License Revocation Office

03	DUI Clerk	4	M-F, regular hours
03	DUI Review Technician	1	M-F, regular hours
04	DUI Assistant	1	M-F, regular hours
13	DUI Adjudicator	3	M-F, regular hours

Supreme Court Law Library

13	Librarian VII	1	M-F, regular hours
13	Librarian V	1	On-call