

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)
)
UNITED PUBLIC WORKERS, AFSCME,)
LOCAL 646, AFL-CIO,)
)
Complainant,)
)
and)
)
BENJAMIN J. CAYETANO, Governor,)
State of Hawaii; JAMES TAKUSHI,)
Director, Department of Human)
Resources Development, State of)
Hawaii and MARGERY BRONSTER,)
Attorney General, State of)
Hawaii,)
)
Respondents.)

CASE NO. CE-10-254
ORDER NO. 1233
ORDER CONSOLIDATING CASES
FOR DISPOSITION; ORDER
DENYING RESPONDENTS' MOTIONS
TO RE-OPEN HEARING OR IN
THE ALTERNATIVE, FOR THE
BOARD TO TAKE ADMINISTRATIVE
NOTICE OF THE RECORD IN HLRB
CASE NO. CE-01-266; AND ORDER
GRANTING RESPONDENTS' MOTIONS
TO EXTEND DEADLINE FOR FILING
POST HEARING BRIEFS

In the Matter of)
)
UNITED PUBLIC WORKERS, AFSCME,)
LOCAL 646, AFL-CIO,)
)
Complainant,)
)
and)
)
BENJAMIN J. CAYETANO, Governor,)
State of Hawaii; JAMES TAKUSHI,)
Director, Department of Human)
Resources Development, State of)
Hawaii and MARGERY BRONSTER,)
Attorney General, State of)
Hawaii,)
)
Respondents.)

CASE NO. CE-10-255

In the Matter of)
)
UNITED PUBLIC WORKERS, AFSCME,)
LOCAL 646, AFL-CIO,)
)
Complainant,)
)
and)
)

CASE NO. CE-10-256

BENJAMIN J. CAYETANO, Governor,
State of Hawaii; JAMES TAKUSHI,
Director, Department of Human
Resources Development, State of
Hawaii and MARGERY BRONSTER,
Attorney General, State of
Hawaii,

Respondents.

In the Matter of

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO,

Complainant,

and

BENJAMIN J. CAYETANO, Governor,
State of Hawaii; JAMES TAKUSHI,
Director, Department of Human
Resources Development, State of
Hawaii and MARGERY BRONSTER,
Attorney General, State of
Hawaii,

Respondents.

In the Matter of

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO,

Complainant,

and

BENJAMIN J. CAYETANO, Governor,
State of Hawaii; JAMES TAKUSHI,
Director, Department of Human
Resources Development, State of
Hawaii and MARGERY BRONSTER,
Attorney General, State of
Hawaii,

Respondents.

CASE NO. CE-10-257

CASE NO. CE-10-258

In the Matter of)
)
UNITED PUBLIC WORKERS, AFSCME,)
LOCAL 646, AFL-CIO,)
)
Complainant,)
)
and)
)
BENJAMIN J. CAYETANO, Governor,)
State of Hawaii; JAMES TAKUSHI,)
Director, Department of Human)
Resources Development, State of)
Hawaii and MARGERY BRONSTER,)
Attorney General, State of)
Hawaii,)
)
Respondents.)

CASE NO. CE-10-259

In the Matter of)
)
UNITED PUBLIC WORKERS, AFSCME,)
LOCAL 646, AFL-CIO,)
)
Complainant,)
)
and)
)
BENJAMIN J. CAYETANO, Governor,)
State of Hawaii; JAMES TAKUSHI,)
Director, Department of Human)
Resources Development, State of)
Hawaii and MARGERY BRONSTER,)
Attorney General, State of)
Hawaii,)
)
Respondents.)

CASE NO. CE-10-261

In the Matter of)
)
UNITED PUBLIC WORKERS, AFSCME,)
LOCAL 646, AFL-CIO,)
)
Complainant,)
)
and)
)
BENJAMIN J. CAYETANO, Governor,)
State of Hawaii; JAMES TAKUSHI,)
Director, Department of Human)
Resources Development, State of)
Hawaii and MARGERY BRONSTER,)

CASE NO. CE-10-262

Attorney General, State of Hawaii,
 Respondents.

 In the Matter of
 UNITED PUBLIC WORKERS, AFSCME,
 LOCAL 646, AFL-CIO,
 Complainant,
 and
 BENJAMIN J. CAYETANO, Governor,
 State of Hawaii; JAMES TAKUSHI,
 Director, Department of Human
 Resources Development, State of
 Hawaii and MARGERY BRONSTER,
 Attorney General, State of
 Hawaii,
 Respondents.

CASE NO. CE-10-263

ORDER CONSOLIDATING CASES FOR DISPOSITION; ORDER DENYING RESPONDENTS' MOTIONS TO RE-OPEN HEARING OR IN THE ALTERNATIVE, FOR THE BOARD TO TAKE ADMINISTRATIVE NOTICE OF THE RECORD IN HLRB CASE NO. CE-01-266; AND ORDER GRANTING RESPONDENTS' MOTIONS TO EXTEND DEADLINE FOR FILING POST HEARING BRIEFS

On July 28, 1995, the UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW or Union) filed prohibited practice complaints in Case Nos. CE-10-254, CE-10-255, CE-10-256, CE-10-257, CE-10-258, and CE-10-259, respectively. Thereafter, on August 3, 1995, the UPW filed prohibited practice complaints in Case Nos. CE-10-261, CE-10-262 and CE-10-263, respectively. In each case, the UPW alleged that Respondents failed to select an arbitrator within ten days of receipt of the Union's notice to arbitrate the underlying grievances. In each case, the Union contends that the Respondents violated Article 15 of the applicable

collective bargaining agreement and violated §§ 89-13(a)(1), (7) and (8), Hawaii Revised Statutes (HRS).

In each case, Respondents filed motions to dismiss the prohibited practice complaints. The hearing on the motions and the merits of the complaints were consolidated and held on September 5 and 6, 1995. Thereafter, various motions have been filed and the UPW has filed closing memoranda in the separate cases. The Board previously refused to consolidate the cases because the facts of the underlying grievances and therefore the complaints differ. However, the legal arguments raised are identical or substantially similar. Thus, most, if not all of the materials in the cases are duplicative.

Therefore, the Board finds that the foregoing cases involve the same parties and issues and that consolidation of the proceedings and contemporaneous consideration will be conducive to the proper dispatch of its business and the ends of justice and will not unduly delay the proceedings. Thus, pursuant to Administrative Rules § 12-42-13, the Board, on its own motion, hereby consolidates these proceedings for disposition.

On September 22, 1995, Respondents filed a Motion to Reopen the Hearing or, in the alternative, for the Board to take Administrative Notice of the Record in HLRB Case No. CE-01-266 in each of the above-named cases. Respondents request that the record in these cases be reopened for the limited purpose of including the record, pleadings and documents in Case No. CE-01-266. In the alternative, Respondents request that the Board take administrative notice of the record in that case.

In its memorandum, Respondents contend that the Complainant's position in Case No. CE-01-266 is contrary to or contradicts Complainant's position taken in the above-named cases. Respondents contend that the UPW State Director impeached himself by filing the complaint in Case No. CE-01-266 and that such materials were not available to present to the Board at the hearing.

On September 26, 1995, the UPW filed memoranda in opposition to Respondents' motions to reopen the hearing. The UPW contends that the Board rules do not authorize the Board to reopen the record nor to take administrative notice of proceedings in other cases pending before the Board. In addition, the UPW argued that the evidence which Respondents seek to introduce was available at the time the case was heard and is not new evidence. The UPW further argued that the Board previously refused to consolidate the various cases which involve the same or related issues arising under Section 15.22 of the contract and granting Respondents' motions would be contrary to and inconsistent with that ruling. Finally, the UPW argues that the evidence which Respondents seek to introduce has little or no probative value since it involves a totally distinct set of facts because the cases were handled by different counsel.

After reviewing the record in this case and the complaint filed in Case No. CE-01-266, the Board finds that the UPW's pleadings in Case No. CE-01-266 are irrelevant and immaterial to the issues before the Board in these consolidated cases. Thus, the Board denies Respondents' motions to reopen the hearing.

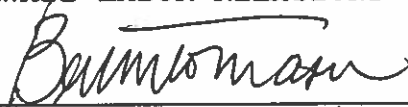
On September 28, 1995, Respondents filed motions to extend the deadline to file briefs in these cases from October 2, 1995 to October 23, 1995. Counsel for Respondents indicates in an affidavit attached to each motion that the extensions are being sought because the complete transcript of the hearings have not been provided by the court reporter. In addition, counsel submits that rulings from the Board regarding Respondents' motions to reopen the hearings were pending and that such rulings were necessary to determine whether the post hearing briefs could address Case No. CE-01-266.

On September 29, 1995, the UPW filed an opposition to Respondents' motions to extend the deadline to file briefs. The UPW contends that the transcripts in this case were available and that Respondents' counsel had adequate time to review the record and prepare their briefs according to the existing deadlines. The UPW further contends that the records in Case No. CE-01-266 are not new evidence and that the Board's ruling to admit or deny the records is not necessary to prepare Respondents' briefs.

After reviewing the arguments of counsel and considering Respondents' need for an extension and the lack of prejudice caused by an extension, the Board grants Respondents' motions to extend the deadline for filing briefs. However, given Complainant's opposition to the Respondents' request, the Board grants an extension of time for the filing of briefs to October 16, 1995.

DATED: Honolulu, Hawaii, October 3, 1995.

HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson


UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO and BENJAMIN J. CAYETANO, Governor, State of Hawaii; JAMES TAKUSHI, Director, Department of Human Resources Development, State of Hawaii and MARGERY BRONSTER, Attorney General, State of Hawaii; CASE NOS. CE-10-254, CE-10-255, CE-10-256, CE-10-257, CE-10-258, CE-10-259, CE-10-261, CE-10-262 and CE-10-263

ORDER NO. 1233

ORDER CONSOLIDATING CASES FOR DISPOSITION; ORDER DENYING RESPONDENTS' MOTIONS TO RE-OPEN HEARING OR IN THE ALTERNATIVE, FOR THE BOARD TO TAKE ADMINISTRATIVE NOTICE OF THE RECORD IN HLRB CASE NO. CE-01-266; AND ORDER GRANTING RESPONDENTS' MOTIONS TO EXTEND DEADLINE FOR FILING POST HEARING BRIEFS



RUSSELL T. HIGA, Board Member



SANDRA H. EBESU, Board Member

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