

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. DR-03-59
)	
LEWIS W. POE,)	ORDER NO. 1478
)	
Petitioner,)	ORDER GRANTING POE'S
)	MOTION FOR CLARIFICATION
and)	
)	
HAWAII GOVERNMENT EMPLOYEES)	
ASSOCIATION, AFSCME, LOCAL 152,)	
AFL-CIO,)	
)	
Intervenor.)	
_____)	

ORDER GRANTING POE'S MOTION FOR CLARIFICATION

On May 29, 1997, LEWIS W. POE (POE) filed a motion for clarification of Decision No. 387 with the Hawaii Labor Relations Board (Board). In his memorandum attached to the motion, POE requested clarification of the specific provision of the bargaining unit 03 collective bargaining agreement (contract) which the Board relied upon in finding that the exclusive representative has the exclusive right to file a class grievance. POE requested that the Board identify the specific [verbatim] provision to which the Board referred.

Thereafter, on June 3, 1997, the HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) filed a memorandum in opposition to POE's motion for clarification. The HGEA contends that POE's motion should be denied because there is no rule which permits the filing of a motion. In addition, the HGEA argued that the motion is moot because Decision No. 387 was supplanted by Decision No. 388. The HGEA further contends that no

clarification is necessary since the record clearly establishes that only one provision in the contract states that the Union has the authority to bring a class grievance. Lastly, the HGEA contends that the motion should be stricken because the Certificate of Service is false.

After reviewing the record and Board's Decision No. 388¹, the Board finds that clarification of the contract provision is appropriate in this case and hereby grants POE's motion. In his motion, POE requested that the Board specify the contract provision which it interpreted as providing that the Union has the exclusive right to file a class grievance. In Decision No. 388, the Board relied upon Article 11F of the Unit 03 contract, as amended by a Memorandum of Agreement (MOA). Upon review however, the Board finds that the provisions cited in Decision No. 388 are the provisions contained in the original 1993-97 Unit 03 contract. Thus, the pertinent provisions of Article 11, as amended by the MOA, should read at page 3 of Decision No. 388:

- B. An individual Employee may present a grievance without intervention of the Union, up to and including Step 3, provided the Union has been afforded an opportunity to be present at the meeting(s) on the grievance. Any adjustment made shall not be inconsistent with the terms of this Agreement.

* * *

¹The Board notes that POE filed the instant motion to clarify Decision No. 387 which was issued on May 22, 1997. However, due to non-substantive errors which required correction, the Board indicated in Order No. 1469 that Decision No. 387 was rescinded and supplanted with Decision No. 388 issued on May 28, 1997. As POE's motion was filed on May 29, 1997, the Board will treat the motion as being applicable to Decision No. 388.

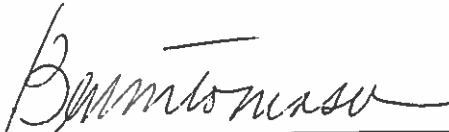
F. If the Union has a class grievance involving Employees within a department, it may submit the grievance in writing to the department head or designee. Time limits shall be the same as in individual grievances, as prescribed in Paragraph "A", and the procedures for appeal shall be the same as in Step 3.

If the Union has a class grievance involving Employees from more than one (1) department, it may submit the grievance in writing to the Governor and/or the respective Mayors, or their designees, as the case may be. Time limits shall be the same as in individual grievances, as prescribed in Paragraph "A", and the procedures for appeal shall be the same as in Step 4.

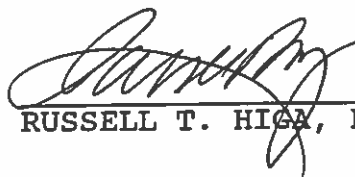
Although the citation of the original Unit 03 contract provision was incorrect, the amendments contained in the MOA do not affect the substance of the Board's decision. Thus, to clarify, Article 11F of the Unit 03 contract, as amended by the MOA, reserves the right to file a class grievance to the exclusive representative.

DATED: Honolulu, Hawaii, June 13, 1997.

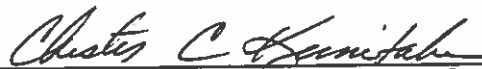
HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson



RUSSELL T. HIGH, Board Member



CHESTER C. KUNITAKE, Board Member

LEWIS W. POE and HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME,
LOCAL 152, AFL-CIO; CASE NO. DR-03-59
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Copies sent to:

Lewis W. Poe
Charles K.Y. Khim, Esq.
Joyce Najita, IRC