

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. CE-09-411
)	
HAWAII GOVERNMENT EMPLOYEES)	ORDER NO. 1683
ASSOCIATION, AFSCME, LOCAL 152,)	
AFL-CIO,)	ORDER GRANTING, IN PART,
)	AND DENYING, IN PART,
Complainant,)	RESPONDENTS' MOTION TO
)	DISMISS COMPLAINT
and)	
)	
DEPARTMENT OF HEALTH, State of)	
Hawaii and DR. BEVERLY A. COX,)	
Chief, Hawaii State Hospital,)	
Department of Nursing, State of)	
Hawaii,)	
)	
Respondents.)	

ORDER GRANTING, IN PART, AND DENYING, IN PART, RESPONDENTS' MOTION TO DISMISS COMPLAINT

On November 30, 1998, the Hawaii Labor Relations Board (Board) conducted a hearing on Respondents' Motion to Dismiss Prohibited Practice Complaint filed on October 28, 1998 in this matter. Both parties had full opportunity to present evidence and arguments to the Board. Based upon a review of the record and considering the arguments presented, the Board hereby grants Respondents' motion to dismiss the prohibited practice complaint, in part, and denies the motion, in part.

The record indicates that there is a pending grievance filed by the Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA or Union) challenging alleged disciplinary action taken against Lani Tsuneishi, Nursing QI Coordinator, Hawaii State Hospital, Department of Health, State of

Hawaii (Tsuneishi). The HGEA does not seek the Board's review of the alleged disciplinary action under relevant just cause standards. Accordingly, the Board will defer the resolution of the contractual disputes, i.e., the merits of the alleged disciplinary action, including the alleged denial of Union representation, to the contractual grievance process. Thus, the Board hereby dismisses the complaint as it raises allegations of § 89-13(a)(8), Hawaii Revised Statutes (HRS) violations.

In addition, however, the HGEA also alleges that the Employer interfered with Tsuneishi's union activity as a steward and otherwise retaliated against her by attempting to limit her right to disseminate information from the Union. The HGEA contends that the Respondents thereby violated §§ 89-13(a)(1), (2), (3), and (7), HRS. Those issues remain to be resolved and are properly within the Board's jurisdiction.

Accordingly, the Board will conduct the hearing on the remaining allegations, on December 17, 1998, at 9:00 a.m. in the Board's hearings room, as previously agreed to in the prehearing conference held on October 16, 1998. Appropriate provisions of the notice issued on October 6, 1998 remain applicable.

DATED: Honolulu, Hawaii, December 4, 1998.

HAWAII LABOR RELATIONS BOARD



RUSSELL T. HIGA, Board Member



CHESTER C. KUNITAKE, Board Member

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO
and DEPARTMENT OF HEALTH, State of Hawaii; CASE NO. CE-09-411
ORDER NO. 1683
ORDER GRANTING, IN PART, AND DENYING, IN PART, RESPONDENTS' MOTION
TO DISMISS COMPLAINT

Copies sent to:

Peter L. Trask, Esq.
James E. Halvorson, Deputy Attorney General
Joyce Najita, IRC