

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. DR-03-76
	)	
LEWIS W. POE,	)	ORDER NO. 1747
	)	
Petitioner.	)	ORDER DISMISSING PETITION
	)	FOR DECLARATORY RULING
	)	

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ORDER DISMISSING PETITION FOR DECLARATORY RULING

On August 4, 1999, LEWIS W. POE (POE) filed a Petition for Declaratory Ruling with the Hawaii Labor Relations Board (Board). POE alleges that he wants to examine the bargaining unit 03 1997-99 agreement (contract) which Randy Perreira, from Hawaii Government Employees Association, referred to in prior correspondence. POE seeks immediate enforcement of Administrative Rules § 12-42-128<sup>1</sup> which he contends provides him access to the contract in a timely manner.

After reviewing POE's petition, it is clear that POE does not seek a declaratory order as to the applicability of any statutory provision or Board rule. POE specifically seeks enforcement of the Board's Administrative Rules, impliedly contending that the public employer or union is violating the cited Board rule. As such, the Board finds that POE's declaratory ruling petition is an inappropriate vehicle to enforce the Board's rules.

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<sup>1</sup>Administrative Rules § 12-42-128 provides as follows:

The public employer entering into a written collective bargaining agreement pursuant to chapter 89, HRS, shall file a copy of the agreement with the board within thirty days after execution and issuance.

If POE seeks to charge the public employer or union with a violation of statute or the Board's rules, the public employer or union has a right to defend any such charges. Therefore, pursuant to Administrative Rules § 12-42-9(f),<sup>2</sup> the Board finds that good cause exists to decline to issue a declaratory order in this case.

Accordingly, the Board hereby dismisses the instant petition.

DATED: Honolulu, Hawaii, August 16, 1999.

HAWAII LABOR RELATIONS BOARD

  
BERT M. TOMASU, Chairperson

  
RUSSELL T. HIGA, Board Member

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<sup>2</sup>Administrative Rules § 12-42-9(f) provides as follows:

The board may, for good cause, refuse to issue a declaratory order. Without limiting the generality of the foregoing, the board may so refuse where:

(1) The question is speculative or purely hypothetical and does not involve existing facts or facts which can reasonably be expected to exist in the near future.

(2) The petitioner's interest is not of the type which would give the petitioner standing to maintain an action if such petitioner were to seek judicial relief.

(3) The issuance of the declaratory order may adversely affect the interests of the board or any of its officers or employees in a litigation which is pending or may reasonably be expected to arise.

(4) The matter is not within the jurisdiction of the board.

LEWIS W. POE  
CASE NO. DR-03-76  
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CHESTER C. KUNITAKE, Board Member

Copies sent to:

Lewis W. Poe  
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