

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

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|----------------------------------|---|----------------------------|
| In the Matter of |) | CASE NO. CE-07-437 |
| |) | |
| UNIVERSITY OF HAWAII |) | ORDER NO. 1809 |
| PROFESSIONAL ASSEMBLY, |) | |
| |) | ORDER APPROVING FILING OF |
| Complainant, |) | FIRST AMENDED PROHIBITED |
| |) | PRACTICE COMPLAINT; NOTICE |
| and |) | TO RESPONDENT OF FIRST |
| |) | AMENDED PROHIBITED PRAC- |
| PUBLIC EMPLOYER, by and through |) | TICE COMPLAINT; FIRST |
| Davis Yogi, Chief Negotiator, |) | AMENDED PROHIBITED PRAC- |
| Office of Collective Bargaining, |) | TICE COMPLAINT |
| State of Hawaii, |) | |
| |) | |
| Respondent. |) | |

ORDER APPROVING FILING OF FIRST
AMENDED PROHIBITED PRACTICE COMPLAINT; NOTICE TO
RESPONDENT OF FIRST AMENDED PROHIBITED PRACTICE COMPLAINT

On October 21, 1999, the UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY (UHPA) and the Board of Regents, University of Hawaii, State of Hawaii (BOR), by and through their respective counsel, filed a Stipulation to Dismiss with Prejudice Respondent Board of Regents, University of Hawaii, with the Hawaii Labor Relations Board (Board). At the prehearing conference held in this matter on October 25, 1999, counsel for Respondent Davis Yogi, Chief Negotiator, Office of Collective Bargaining, State of Hawaii indicated that he could not stipulate to the dismissal of the BOR as a Respondent initially charged in this case. Counsel for UHPA thereupon indicated that he would file an amended complaint which did not name the BOR as a Respondent in this case. UHPA also waived the requirement under the Board's Administrative Rules for

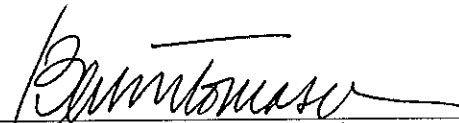
the Respondent to file an answer to the First Amended Prohibited Practice Complaint.

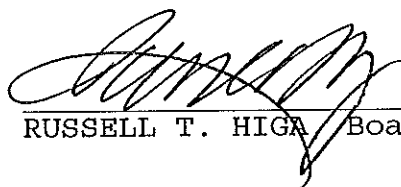
Pursuant to Administrative Rules § 12-42-43, the Board hereby approves the filing of the First Amended Prohibited Practice Complaint by UHPA.

YOU ARE HEREBY NOTIFIED that UHPA, by and through its counsel, filed a First Amended Prohibited Practice Complaint with the Board, a copy of which is attached, alleging that you have engaged in or are engaging in prohibited practices in violation of § 89-13, Hawaii Revised Statutes. As UHPA waived the requirement for the filing of an answer, the PUBLIC EMPLOYER need not file answer to the First Amended Prohibited Practice Complaint filed on October 26, 1999.

DATED: Honolulu, Hawaii, November 1, 1999 .

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson


RUSSELL T. HIGA, Board Member


CHESTER C. KUNITAKE, Board Member

Copies sent to:

T. Anthony Gill, Esq.
James E. Halvorson, Deputy Attorney General
Evelyn Nowaki, Associate General Counsel
Joyce Najita, IRC

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD
FIRST AMENDED
PROHIBITED PRACTICE COMPLAINT

99 OCT 26 P12:22
CASE NO. CE-07-437

HAWAII
LABOR RELATIONS BOARD

INSTRUCTIONS. Submit the original and five copies of this Complaint to the Hawaii Labor Relations Board, 830 Punchbowl Street, Suite 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

1. The Complainant alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board proceed pursuant to Sections 89-13 and 89-14, Hawaii Revised Statutes, and its Administrative Rules, to determine whether there has been any violation of Chapter 89, Hawaii Revised Statutes.

2. COMPLAINANT

a. Name, address and telephone number.

UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY
1017 Palm Drive
Honolulu, Hawaii 96814
Telephone: 593-2157

b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

T. Anthony Gill
Gill & Zukeran, Attorneys at Law
547 Halekauwila Street, #202
Honolulu, Hawaii 96813
Telephone: 523-6777

3. RESPONDENT (Public Employer or His or Her Agent and/or Employee Organization or its Agents Against Whom Complaint is Filed)

a. Name, address and telephone number.

Public Employer, by and through Davis Yogi,
its Chief Spokesman
c/o STATE OF HAWAII, OFFICE OF COLLECTIVE BARGAINING
235 S. Beretania St., 14th Floor
Honolulu, HI 96813
Telephone: 586-0160

b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

STATE OF HAWAII, OFFICE OF COLLECTIVE BARGAINING
Davis Yogi
235 S. Beretania St., 14th Floor
Honolulu, HI 96813
Telephone: 586-0160

4. Indicate the appropriate bargaining unit(s) of employee(s) involved.

Unit VII, faculty of the University of Hawaii

5. ALLEGATIONS

The Complainant alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in a prohibited practice or practices within the meaning of Section 89-13, Hawaii Revised Statutes. (Specify in detail the particular alleged violation, including the subsection or subsections of Section 89-13, Hawaii Revised Statutes, alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.)

The Employer has violated Hawaii Revised Statutes §§ 89-9(a) and 89-13(a)(5) & (7) by refusing to bargain over certain matters that Complainant contends are within the proper scope of

bargaining. The Employer's refusal to bargain on these matters has been continuous since April 6, 1999, when the Employer's spokesman, Mr. Davis Yogi, presented Complainant's bargaining team with a list of clauses and topics in the UH-UHPA collective bargaining agreement which the Employer contends are improper topics of bargaining, notwithstanding that many of said topics have been bargained for decades. The topics on which the Employer improperly refuses to bargain include: exemption from tuition for faculty dependents, teaching assignments and equivalencies, transfers of programs, sabbatical and professional improvement leaves for faculty, sick leave for faculty, per diem allowances, and aspects of the handling of personnel files.

6. Provide a clear and concise statement of any other relevant facts.

Act 100 of 1999 bans cost-item bargaining between the parties for the period July 1, 1999, through June 30, 2001. This Prohibited Practice Complaint addresses refusals to bargain that are outside the scope of Act 100; that is, refusals regarding certain non-cost items.

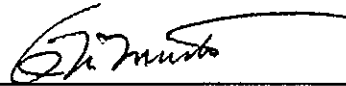
This First Amended Prohibited Practice Complaint is submitted pursuant to the oral stipulation of the parties at the Prehearing Conference held before the HLRB at 9:00 a.m. on October 25, 1999.

The effect of this amendment is intended to be that the caption of the case shall be revised, the Board of Regents will not be a party to the suit, and the Public Employer will be represented by the Office of Collective Bargaining. It is intended that the Public Employer shall adopt the answer previously submitted by the Office of Collective Bargaining and that the previously-submitted answer of the Board of Regents shall be disregarded.

Dates set previously for the hearing in this matter shall be maintained.

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

J.N. MUSTO, being first duly sworn on oath, deposes and says: that he is the Complainant above named, or its representative, and that he has read the above Petition and is familiar with the facts alleged therein, which facts he knows to be true, except as to those matters alleged on information and belief, which matters he believes to be true.



J.N. MUSTO
Executive Director/Chief Negotiator

Subscribed and sworn to before me
this 25th day of October, 1999.



Notary Public, State of Hawaii
My commission expires: 6/16/00

L.S.