



that the Board could proceed to a hearing on the merits of his complaint and address the legal arguments raised, including standing, after the close of the record.

6. POE further alleges that Order No. 1905 contains statements which were partially false, including a statement that he stipulated to the change in the hearing time from 9:00 a.m. to 1:30 p.m.

7. After reviewing the record in this case, the Board finds that POE suggested that the hearing be rescheduled from 9:00 a.m. to 1:30 p.m. in response to Respondent's request to continue the hearing after POE's testimony to accommodate Respondent's witness. POE later attempted to withdraw his stipulation. Even if POE withdrew his stipulation, however, the fact remains that the Board rescheduled the hearing and POE refused and failed to appear at the scheduled time.

8. POE also contends that the statement that POE "objected to the manner in which the Board intended to proceed to conduct a hearing on the merits of his complaint, including consideration of any argument which the HGEA could raise that POE lacked standing to maintain the instant action" is also partially false. POE states that he only objected to the statement that the Board would consider the issue of his lack of standing after the hearing on the merits. POE contends that the matter of his standing must be determined prior to the hearing on the merits, and not after POE presented evidence and gave sworn testimony and cross-examined Respondent's witness.

9. The Board's statement is accurate. In the instant case, POE objected to the manner in which the Board intended to proceed to hearing and thus refused to appear to present his case-in-chief. The Board did not abuse its discretion by indicating that it could consider POE's standing after the receipt of evidence. In this regard, the Board recognized that standing is a jurisdictional issue which could be addressed at any stage of the case. United Public Workers, Local 646, AFSCME, AFL-CIO v. Brown, 80 Hawai'i 376, 379, 910 P.2d 147 (1996).

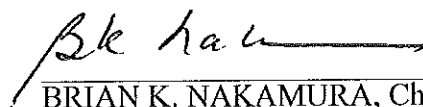
10. POE further alleges that he only requested briefing on the issue of standing and never requested a hearing on the standing issue prior to a hearing on the merits. POE therefore contends that the Board's Order falsely states that he requested separate briefing and a hearing on the issue of standing.

11. After reviewing the record in this case, the Board finds that POE requested that the issue of his standing be separately briefed and resolved prior to the hearing on the merits. Nevertheless, whether he requested briefing and a hearing or just briefing, the Board finds that any distinction is immaterial. The fact remains that POE refused and/or failed to appear at the hearing on the merits and the Board dismissed the instant complaint.

12. Accordingly, upon careful consideration of POE's declaration in support of the motion for reconsideration, as well as the documents and files in the record, the Board hereby denies POE's motion for reconsideration.

DATED: Honolulu, Hawaii, September 1, 2000.

HAWAII LABOR RELATIONS BOARD

  
BRIAN K. NAKAMURA, Chairperson

LEWIS W. POE and HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME,  
LOCAL 152, AFL-CIO  
CASE NO. CU-03-163  
ORDER NO. 1915  
ORDER DENYING COMPLAINANT'S MOTION FOR RECONSIDERATION OF ORDER  
NO. 1905, DATED AUGUST 2, 2000

  
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CHESTER C. KUNITAKE, Board Member

  
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KATHLEEN RACUYA-MARKRICH, Board Member

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