

decision, with proof of service upon all parties. (b) The parties shall enter into an agreement to take whatever action is necessary to carry out and effectuate the decision of the arbitration panel. (Emphasis added.)

6. The Board finds the language of HAR §12-42-73 goes beyond HRS § 89-11(b)(3), which provides that the arbitration panel's findings and its final and binding decision on the dispute shall be transmitted "to both parties," and not to the Board as set forth in the rule. The Board also finds the general practice of arbitration panels has been to follow the statute, rather than the rule.¹
7. The Board disagrees with Poe's contention that the Board's rules should apply to the Arbitration Award to require the Public Employer to file a copy with the Board under HAR §§ 12-42-128 and 12-42-73, and become part of the public record under HAR §12-42-132.

CONCLUSIONS OF LAW

1. HAR §12-42-128 requires the public employer as defined in HRS Chapter 89 to file copies of collective bargaining agreements entered into, by and between the public employers and the public unions. The rule does not apply to the Arbitration Award at issue here, nor any other decision and award issued by an arbitration panel as provided in HRS § 89-11(b).
2. HAR §12-42-73 exceeds the authority provided under HRS §89-11(b)(3). Under HRS § 89-11(b)(3), arbitration panels are required to transmit copies of its findings, decision and award to the parties, and not the Board.
3. Under HRS § 89-11(b)(3), the parties, i.e. the public employers and public union, upon receiving the arbitration panel's decision and award, are required to "enter into an agreement and take whatever action is necessary to effectuate the decision of the arbitration panel." HAR §12-42-128 applies to the bargaining contract that results by and between the parties, and not the decision and awards issued by arbitration panels.

The Board having considered the petition in the above-captioned matter, hereby orders the petition be granted and declares that HAR §§ 12-42-128 and 12-42-73 are inapplicable to the findings, decision and awards issued by arbitration panels as provided for under HRS § 89-11(b).

¹The Board's Rules of Practice and Procedure, effective since February 6, 1981, are being updated to modernize and make more efficient practicing before the Board.

LEWIS W. POE
CASE NO. DR-03-72
ORDER NO. 1924
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECLARATORY ORDER

DATED: Honolulu, Hawaii, September 12, 2000.

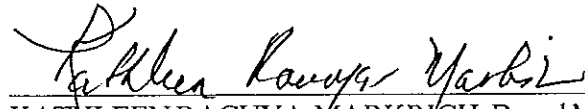
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