

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. DR-03-78
)	
LEWIS W. POE,)	ORDER NO. 1928
)	
Petitioner.)	ORDER DENYING PETITION FOR
)	DECLARATORY RULING
)	

ORDER DENYING PETITION FOR DECLARATORY RULING

A Petition for Declaratory Ruling was filed on August 18, 1999 by LEWIS W. POE (POE) pursuant to Hawaii Administrative Rules (HAR) § 12-42-9, regarding the interpretation and application of HAR § 12-42-128 that is similar to an earlier petition for declaratory ruling filed by POE on December 29, 1998 in Case No. DR-03-72 and granted by the Hawaii Labor Relations Board (HLRB or Board) in Decision No. 418.

After considering this petition, the Board makes these findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. POE is a public employee and a member of bargaining unit 03 (BU 03) and his exclusive representative is the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO (HGEA).
2. POE filed this petition because he “must know, on a timely basis, under what lawful and/or contractual conditions of employment he is working.” The Board finds it more efficient and appropriate for POE in the future to obtain an answer from his exclusive representative, instead of trying to determine the collective bargaining agreement in effect at any given time based on agreements on file with this Board.
3. After reviewing on August 4, 1999, several BU 03 documents on file with the Board including a Unit 03 Tentative Agreement, POE asked for a clarification of the Board’s rule because he is “uncertain whether the documents filed with the Board by the Employer as of June 4, 1999, fully and/or partially (and/or ‘not’) satisfy the provisions of” HAR § 12-42-128.
4. POE did not review a copy of the Unit 03 Collective Bargaining Agreement in effect from July 1, 1997 to June 30, 1999, filed with the Board on December 16, 1999, which the Board finds satisfies HAR § 12-42-128.
5. In Decision No. 418 issued on September 15, 2000, the Board found that “issuance” means after the collective bargaining agreement is “printed and distributed by the parties to the agreement.”
6. In light of the Board’s Decision No. 418 regarding the application of HAR § 12-42-128; and the filing on December 16, 1999 of a Unit 03 Collective Bargaining

Agreement in effect from July 1, 1997 to June 30, 1999, the Board finds good cause for refusing to issue a declaratory order in this matter.

ORDER

The Board hereby orders the petition in the above-captioned matter be denied.

DATED: Honolulu, Hawaii, September 18, 2000.

HAWAII LABOR RELATIONS BOARD



BRIAN K. NAKAMURA, Chairperson



CHESTER C. KUNITAKE, Board Member



KATHLEEN RAQUYA-MARKRICH, Board Member

Copies sent to:

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