

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. CU-03-112
LEWIS W. POE,	)	ORDER NO. 1938
	)	
Complainant,	)	ORDER DENYING COMPLAINANT'S
	)	MOTION FOR RECONSIDERATION
and	)	AND CLARIFICATION OF HLRB
	)	ORDER NO. 1876, DATED JUNE 1,
HAWAII GOVERNMENT EMPLOYEES	)	2000
ASSOCIATION, AFSCME, LOCAL 152,	)	
AFL-CIO,	)	
	)	
Respondent.	)	
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ORDER DENYING COMPLAINANT'S MOTION FOR RECONSIDERATION  
AND CLARIFICATION OF HLRB ORDER NO. 1876, DATED JUNE 1, 2000

On June 8, 2000, Complainant LEWIS W. POE (POE) filed a motion for reconsideration and clarification of Order No. 1876, dated June 1, 2000, with the Hawaii Labor Relations Board (Board). Complainant contends Board erred in its conclusion of law and that the presentation of facts is contrary to the record in the instant case and/or in Case Nos.: DR-03-55 and DR-03-56. Complainant contends, *inter alia*, that: 1) the instant complaint was filed on October 16, 1995 rather than October 1, 1997 as stated in the Order; 2) without elaboration, the facts are vague and/or contrary to the facts of record in the instant case and related declaratory ruling petitions;<sup>1</sup> 3) Respondent HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 646, AFL-CIO's (HGEA or Union) practice of permitting individual employees pursuing grievances without Union assistance to stipulate to extend the grievance procedure time limits violates the terms of the 1993-1997 Unit 03 collective bargaining agreement (contract); and 4) the Board erroneously found that Decision No. 371 disposed of the foregoing contract violation. Complainant thus requests the Board to vacate Order No. 1876; redo or revise pages 1-2 of said Order; and modify its conclusion of law that Decision No. 371 and related matters disposed of the issues presented in this complaint.

The HGEA did not file a response to Complainant's motion for reconsideration.

After a complete review of the record in this case, the Board hereby makes the following findings of fact, conclusions of law, and order denying the instant motion.

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<sup>1</sup>Complainant did not specifically identify which facts he contends are vague or contrary to the record nor did he cite to the record to illustrate the alleged discrepancy.

## FINDINGS OF FACT

1. POE filed the instant complaint on October 16, 1995. The date of October 1, 1997 contained in Order No. 1876 is a typographical error. This is not materially significant and does not prejudice the rights of the parties.
2. Complainant alleges in the instant complaint that the HGEA violated the contract by permitting individual grievants to stipulate to extend the time limits in the grievance procedure contrary to Article 11 of the Unit 03 contract. Complainant also alleged that the HGEA violated HRS § 89-10(a) by declaring the validity of an MOA which was not ratified in violation of HRS § 89-13(b)(4).
3. In Decision No. 371, Lewis W. Poe, 5 HLRB 546 (1996), the Board held that the August 1995 Memorandum of Agreement (MOA) did not have to be ratified to be valid. Complainant concedes the validity of the August 1995 MOA which is dispositive of the ratification issue raised in this case.
4. In Decision No. 371, supra, the Board also held that the amendments basically clarified the grievance policy and employee rights were not adversely affected thereby. Indeed, the amendments were intended to ensure that the right of employees to grieve alone was protected. The Board dismissed POE's complaint concluding that he lacked standing to maintain the action because, inter alia, Complainant was not prejudiced by the amendments to the contract contained in the MOA. In the same way, the HGEA's practice of permitting other individual grievants to extend the time limits in the grievance procedure does not adversely affect Complainant's rights. Thus, Decision No. 371 is also dispositive of the second issue of whether Complainant is adversely affected by the HGEA's practice or has standing to bring this complaint.
5. Similarly, in Order No. 1472, Order Granting Respondent's Motion to Dismiss Prohibited Practice Complaint, dated May 29, 1997 in Case No. CE-03-270, Lewis W. Poe, the Board dismissed POE's complaint alleging that the Employer violated Article 11 of the Unit 03 contract by agreeing to extend the time limits in the grievance procedure for lack of a controversy and lack of standing. The Board found there that Complainant was not prejudiced by the Employer's agreeing to extend the grievance timelines.
6. Conceding that the MOA is valid, Complainant contends that he should be permitted to go to hearing and allowed to prove that the HGEA violated the terms of the Unit 03 contract prior to effective date of the MOA, i.e., August 2, 1995, by their practice.
7. As the Board found in Decision No. 371, supra, Complainant lacks standing in this case because he contends that the HGEA violated the Unit 03 contract by permitting individuals to extend the time limits where the contract did not provide for such

extensions. Complainant is not adversely affected by the HGEA's alleged contract violation.

8. The Board finds that Complainant fails to prove as a matter of fact that the Board's findings in Order No. 1876 are vague or inaccurate.

### CONCLUSIONS OF LAW


1. Complainant concedes the validity of the 1995 MOA and the Board properly dismissed Complainant's allegations of HRS § 89-13(a)(4) violations in Order No. 1876.
2. Complainant is not adversely affected by the HGEA's practice of permitting other individual grievants to modify the grievance time limits. Based, in part, on Decision Nos. 371 and 270, the Board concludes that Complainant lacks standing to raise allegations of contract and HRS § 89-13(b)(5) violations against the HGEA and properly dismissed those claims in Order No. 1876.

### ORDER

The Board hereby denies Complainant's motion for reconsideration and clarification.

DATED: Honolulu, Hawaii, October 3, 2000.

### HAWAII LABOR RELATIONS BOARD

  
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BRIAN K. NAKAMURA, Chairperson

  
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CHESTER C. KUNITAKE, Board Member

  
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KATHLEEN RACUYA-MARKRICH, Board Member

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