

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of
HELEN L. GABRIEL,

Complainant,

and

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO and DEPARTMENT
OF PARKS AND RECREATION, County of
Hawaii,

Respondents.

CASE NOS.: CU-01-189
CE-01-493

ORDER NO. 2053

ORDER GRANTING RESPONDENTS'
MOTIONS FOR PARTICULARIZA-
TION

ORDER GRANTING RESPONDENTS' MOTIONS FOR PARTICULARIZATION

On January 18, 2002, Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646 (UPW), by and through its counsel, filed motion for particularization with the Hawaii Labor Relations Board (Board). The UPW contends that the complaint is vague as it does not specify the provision of the collective bargaining agreement (contract) which was violated by the UPW as well as the subsection of Hawaii Revised Statutes (HRS) § 89-13 which was allegedly violated. In addition, the UPW alleges that the complaint fails to set forth the facts upon which Complainant relies upon to claim that the UPW violated the contract and statute. The UPW requests that Complainant specify: 1) the contract provisions which were allegedly violated by the UPW; and 2) the provisions of Chapter 89 which were allegedly violated; and 3) the facts upon which Complainant relies.

Also on January 18, 2002, Respondent DEPARTMENT OF PARKS AND RECREATION, County of Hawaii (County), by and through its counsel, filed a motion for particularization with the Board. Respondent County claims that the instant complaint does not specify the particular wilful prohibited practice alleged to have been committed by the County. The County requests that Complainant file a statement specifying the subsection of HRS § 89-13 which she contends that County violated with specific information regarding the alleged violation.

After reviewing the Complaint and considering the arguments raised, the Board agrees that the Complaint is vague because the complaint does not specifically identify which particular actions each Respondent undertook which allegedly violated the contract as well

as HRS § 89-13. The Board therefore directs Complainant to file a particularization with the Board specifying:

- 1) the actions by each Respondent which allegedly violate which specific provisions of the collective bargaining agreement, if any;
- 2) the statutory provisions allegedly violated by each Respondent; and,
- 3) the facts underlying the contractual or statutory violations.

The Board hereby directs Complainant to file the original and five copies of the requested Particularization, with proof of service upon Respondents, no later than 4:30 p.m. of the fifth working day after service of this Order. If Complainant fails to file and serve the requested Particularization in a timely manner, the Board shall dismiss the subject Prohibited Practice Complaint.

Respondents are directed to file with this Board the original and five copies of their respective Answers addressing the Particularization, with proof of service upon Complainant no later than 4:30 p.m. of the fifth working day after service of Complainant's Particularization. Failure by Respondents to file their respective Answers in a timely manner may constitute an admission of the material facts alleged in the Complaint and Particularization and a waiver of a hearing.

DATED: Honolulu, Hawaii, January 22, 2002

HAWAII LABOR RELATIONS BOARD



BRIAN K. NAKAMURA, Chair



CHESTER C. KUNITAKE, Member

Copies sent to:

Herbert R. Takahashi, Esq.
Dudley G. Akama, Deputy Corporation Counsel
Helen L. Gabriel
Joyce Najita, IRC