STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO,

Complainant,

and

BENJAMIN J. CAYETANO, Governor, State of Hawaii and DAVIS YOGI, Director, Department of Human Resources Development, State of Hawaii,

Respondents.

CASE NOS.: CE-02-477a CE-03-477b CE-04-477c CE-09-477d CE-13-477e

ORDER NO. 2080

ORDER CONFIRMING STIPULATED AGREEMENT AND GRANTING COMPLAINANT'S MOTION TO WITHDRAW COMPLAINT; APPENDIX A

ORDER CONFIRMING STIPULATED AGREEMENT AND GRANTING COMPLAINANT'S MOTION TO WITHDRAW COMPLAINT: APPENDIX A

On April 5, 2002, Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) and Respondents BENJAMIN J. CAYETANO, Governor, State of Hawaii and DAVIS YOGI, Director, Department of Human Resources Development, State of Hawaii (collectively STATE) filed a Stipulated Agreement with the Hawaii Labor Relations Board (Board) to resolve the instant complaint.

On April 23, 2002, the Board held a status conference to inquire about the force and effect of Paragraph 2. of the Stipulated Agreement requiring the Board "to confirm the terms of the Stipulated Agreement in an order." The HGEA and the STATE were represented by their respective attorneys of record. The parties understand that an alleged violation of the terms of the Stipulated Agreement confirmed by the Board may give rise to a new prohibited practice complaint and not an enforcement action under Hawaii Administrative Rules (HAR) § 12-42-51. Based on the Stipulated Agreement reached by the parties, Complainant HGEA moved to withdraw the complaint pursuant to HAR § 12-42-44.

There being no objection by the STATE, the Board hereby confirms the Settlement Agreement entered into by the parties and attached hereto as Appendix A and made a part hereof and approves HGEA's withdrawal of the complaint.

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL- CIO and BENJAMIN J. CAYETANO, et al.
CASE NOS.: CE-02-477a, CE-03-477b, CE-04-477c, CE-09-477d, CE-13-477e
ORDER NO. 2080
ORDER CONFIRMING STIPULATED AGREEMENT AND GRANTING COMPLAINANT'S MOTION TO WITHDRAW COMPLAINT; APPENDIX A

Dated: Honolulu, Hawaii, _____ April 29, 2002

HAWAII LABOR RELATIONS BOARD

BRIAN K. NAKAMURA, Chair

CHESTER C. KUNITAKE, Member

MARKRICH, Member EEÑRA

Copies sent to:

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Attorney For HAWAII GOVERNMENT EMPLOYEES H ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO

HAWAII LABOR RELATIONS BUATE

HAWAII LABOR RELATIONS BOARD

STATE OF HAWAII

In the Matter of HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO,) CASE NO. CE-02-477a) CE-03-477b) CE-04-477c) CE-09-477d) CE-13-477e
Complainant,) STIPULATED AGREEMENT
And	
BENJAMIN J. CAYETANO, Governor, State of Hawaii; DAVIS YOGI, Director, Department of Human Resources Development, State of Hawaii, Respondents.	/))))

STIPULATED AGREEMENT

WHEREAS, the HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (hereinafter "Complainant") filed a Prohibited Practice Complaint on August 27, 2001, against BENJAMIN J. CAYEATANO, Governor, State of Hawaii, and DAVIS YOGI, Director, Department of Human Resources Development, State of Hawaii (hereinafter "Respondents"), alleging that said Respondents committed a prohibited practice in violation of

APPENDIX A

Hawaii Revised Statutes Section 89-13(a)(5), (7) and (8); and

WHEREAS, Complainant's Complaint and the substance and nature of the allegations of the prohibited practice violation are contained in Case No. CE-02-477a, CE-03-477b, CE-04-477c, CE-09-477d and CE-13-477e, Hawaii Labor Relations Board, State of Hawaii; and

WHEREAS, the Respondents have filed an Answer to the Prohibited Practice Complaint on September 10, 2001, which generally and specifically deny the violations of Hawaii Revised Statutes Section 89-13(a)(5), (7) and (8); and

WHEREAS, the matter was previously scheduled for factual hearing on the merits of the Prohibited Practice Complaint, and Respondent's denial for January 7, 2002, before the Hawaii Labor Relations Board, and subsequently continued; and

WHEREAS, notwithstanding the parties' respective contentions, Complainant and Respondents desire to resolve all issues arising from the prohibited practice complaint in order to avoid further controversy, litigation and expense;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between Complainant and Respondents that the above-captioned prohibited practice complaint shall be resolved on the following terms and conditions:

1. Complainant and Respondents agree to resolve the prohibited practice complaint herein by implementation of the following agreed language:

2.

All supervisors are expected to complete timely PAS evaluations on their subordinate employees. Supervisors and managers who do not perform timely evaluations shall be subject to review for disciplinary action in accordance with the respective collective bargaining agreement

Step movement increases shall not be delayed because of uncompleted, untimely PAS evaluations. In the event the evaluation is not completed in a timely fashion, an expedited interim evaluation form will be made to determine satisfactory performance, upon which timely Step movement increase will occur.

2. The parties, both Complainant and Respondents, agree that the Hawaii Labor Relations Board shall confirm the terms of the Stipulated Agreement in an order of the Hawaii Labor Relations Board, State of Hawaii in Case No. CE-02-477a, CE-03-477b, CE-04-477c, CE-09-477d and CE-13-477e, <u>In the Matter of</u> <u>Hawaii Government Employees Association, AFSCME, Local 152, AFL-</u> <u>CIO</u>, Complainant, vs. Benjamin J. Cayetano, Governor, State of Hawaii; Davis Yogi, Director, Department of Human Resources Development, State of Hawaii, Respondents.

DATED: Honolulu, Hawaii, April 5 , 2002.

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, ASSCME, LOCAL 152, AFL-CIO

Randy Perreira Deputy Executive Director Complainant

3.

BENJAMIN J. CAYETANO, Governor, State of Hawaii; DAVIS YOGI, Director, Department of Human Resources Development, State of Hawaii,

Davis Yogi, Director Respondents

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APPROVED AS TO FORM & CONTENT

DANIEL A. MORRIS, ESQ.

Deputy Attorney General

STIPULATED AGREEMENT CASE NO. CE-02-477a, CE-03-477b, CE-04-477c CE-09-477d and CE-13477e