

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of
LEWIS W. POE,

Complainant,

and

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

Respondent.

CASE NO. CU-03-203

ORDER NO. 2100

ORDER GRANTING, IN PART, AND
DENYING, IN PART, RESPONDENT'S
MOTION FOR PARTICULARIZATION

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IN PART, RESPONDENT'S MOTION FOR PARTICULARIZATION

On July 15, 2002, Respondent HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) filed a Motion for Particularization of the Complaint filed July 9, 2002 by LEWIS W. POE (POE) with the Hawaii Labor Relations Board (Board). The HGEA contends that the complaint is vague and fails to clearly state how, when, who and what activities constitute the alleged violations of Hawaii Revised Statutes (HRS) §§ 89-13(b)(1), (4), and (5) and thus Respondent cannot reasonably be expected to frame an Answer to the complaint. Respondent requests identification of the four specific grievances which Complainant refers to in his complaint and the specific facts as to how and when Respondent violated the statutes alleged and/or breached its duty of fair representation.

On July 17, 2002, POE filed Declarations of Lewis W. Poe with Respect to the Respondent's Motion for Particularization of the Complaint Filed on July 9, 2002 with the Board. POE declared, inter alia, that the four grievances are identified and described in an exhibit attached to his complaint. POE also declared that he alleged in his complaint that he "directed various grievances to the Union/HGEA for handling and/or processing, and POE has relied on the Union in pursuing his grievances. ... The HGEA has breached its duty of fair representation." POE also wrote in a letter to Randy Perreira of HGEA attached to his complaint that he felt that the HGEA "may not be timely and/or processing said grievances. I hope that my feeling is wrong." POE thus believes that the HGEA's motion should be denied and feels that the Board should give the HGEA eight days to answer the complaint after the service of the Board's denial.


After reviewing the complaint and the arguments raised, the Board finds that the complaint is vague in that the four grievances which are the bases of the complaint are not specifically identified therein. However, since POE's declaration clarifies or particularizes his complaint by identifying the four grievances, the Board denies Respondent's motion for particularization with respect to the identification of the grievances. The Board further finds that POE's vague and conclusory allegations in his complaint do not sufficiently specify how and when Respondent violated HRS §§ 89-13(b)(1), (4), and (5) and/or the duty of fair representation. The Board therefore directs Complainant to file a particularization with the Board setting forth specific facts as to when and how Respondent is alleged to have violated the cited provisions and/or the duty of fair representation. Accordingly, the Board grants, in part, and denies, in part, Respondent's motion for particularization.

The Board hereby directs Complainant to file the original and five copies of the requested Particularization, with proof of service upon Respondent, 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.

Respondent HGEA is directed to file with this Board the original and five copies of its Answer addressing the Complaint and 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 Respondent to file its Answer 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, July 18, 2002.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


KATHLEEN RACUYA-MARKRICH, Member

Copies sent to:

Peter Liholiho Trask, Esq.
Lewis W. Poe
Joyce Najita, IRC