

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. CE-01-515
UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO,)	ORDER NO. 2167
Complainant,)	ORDER DENYING UPW'S MOTION TO AMEND COMPLAINT
and)	
GLENN OKIMOTO, Former Comptroller, Department of Accounting and General Services, State of Hawaii; MARY ALICE EVANS, Comptroller, Department of Accounting and General Services, State of Hawaii; DIANNE MATSUURA, Personnel Officer, Department of Accounting and General Services, State of Hawaii; JAMES RICHARDSON, Administrator, Central Services Division, Department of Accounting and General Services, State of Hawaii; and DONALD INOUYE, Manager, Physical Plant Operations and Maintenance Program, Department of Accounting and General Services, State of Hawaii,)	
Respondents.)	

ORDER DENYING UPW'S MOTION TO AMEND COMPLAINT

On January 6, 2003, Complainant UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW) filed a Motion to Amend Complaint with the Hawaii Labor Relations Board (Board). The UPW sought to amend its complaint to conform to the evidence presented in hearings held before the Board on November 18, 19, 20 and 24, 2002 by amending Count 1 to add "dominate," amending Count 2 by specifically enumerating all sections of the Unit 01 agreement which were allegedly violated by Respondents; amending Count 3 by specifically enumerating all sections of Chapter 89 which were allegedly violated, and modifying the prayer for relief consistent with the aforementioned changes.

On January 13, 2002 Respondents filed a memorandum in opposition to the UPW's motion to amend and the UPW filed a reply brief on January 14, 2003.

The Board conducted a hearing on the motion on January 14, 2003 where the parties were represented by counsel who had fully opportunity to present argument to the Board.

Based on the record and consideration of the arguments presented, the Board hereby denies UPW's motion to amend the complaint because the original complaint is viewed as incorporating the substantive revisions identified in the proposed amended complaint. Thus, Complainant is not precluded from arguing any violation in the proposed amended complaint. In addition, administrative efficiency would not be served by permitting the amendment of the complaint, notwithstanding Complainant's offer to reopen the evidentiary record to reduce or eliminate any possible prejudice to Respondents. Inasmuch as the Board finds the claims raised in the proposed amendment to be incorporated in the original complaint, evidence to that effect is relevant to the original complaint and the Board does not find implied consent to the litigation of any new elements of the amended complaint.

Accordingly, the Board hereby denies the UPW's Motion to Amend Complaint filed on January 6, 2003.

DATED: Honolulu, Hawaii, February 14, 2003.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member

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