

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

LINDA K. HADLEY,

Complainant,

and

HAWAII GOVERNMENT EMPLOYEES
ASSOCIATION, AFSCME, LOCAL 152,
AFL-CIO and HAWAII YOUTH
CORRECTIONAL FACILITY, Department
of Human Services, State of Hawaii,

Respondents.

CASE NOS.: CU-09-261
CE-09-651

ORDER NO. 2481

ORDER GRANTING RESPONDENT
HAWAII YOUTH CORRECTIONAL
FACILITY, DEPARTMENT OF
HUMAN SERVICES, STATE OF
HAWAII'S MOTION FOR
PARTICULARIZATION OF THE
COMPLAINT

ORDER GRANTING RESPONDENT HAWAII YOUTH
CORRECTIONAL FACILITY, DEPARTMENT OF HUMAN SERVICES,
STATE OF HAWAII'S MOTION FOR PARTICULARIZATION OF THE COMPLAINT

On December 5, 2007, Complainant filed the instant Complaint against Respondents HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA or Union), and HAWAII YOUTH CORRECTIONAL FACILITY, Department of Human Services, State of Hawaii (State or Employer). The Complaint alleges, *inter alia*, that Complainant filed a lawsuit against the State which was settled; that she filed several grievances for non-payment of overtime and consultative call; that she had filed grievances regarding harassment, retaliation, and circumventing her position as Health-care Services Administrator, Family Nurse Practitioner; that her grievances have been ignored; that she was represented by one of HGEA's attorneys in an arbitration hearing; that witnesses she wanted called were not called at the arbitration hearing; that she now found out from a "very reliable source" that she is being investigated by the Department of Human Services; that the investigator stated to the source, "HYCF is at it again." The Nurse Practitioner is starting her own clinic"; that "the EDIR of OYS has dictated to my RPN III and Agency Nurses, in private meeting, [t]he only time I am to be contacted is for a staffing issue" and that she filed a grievance regarding that issue with no response; that as far as she knows she is the only "APRN," "FNP" involved in the care of adjudicated incarcerated adolescents in the State of Hawaii and has been employed at HYCF for seven years; that she has been instructed by the "EDIR" that she need not answer her state-issued cell phone, her private cell-phone, or her home phone if it is from HYCF, and that the statement by the "EDIR" places the youth at HYCF in a terrible position, and the nurses working at HYCF are good and caring, however they are not able, according to their Scope of Practice by the "ANA," to make medical diagnoses and decisions.

On December 11, 2007, the State filed a Motion for Particularization, requesting that Complainant file a statement with the Board supplying specific information relating to the Complaint. The State asserts that it is impossible to determine what the State did to allegedly violate Hawaii Revised Statutes (HRS) § 89-13, and what subsections, if any, of § 89-13 were allegedly violated and how they were violated; further, that if there is no alleged violation of HRS § 89-13, the Board lacks jurisdiction to hear the Complaint. The State requests the Board issue an order requiring Complainant to specify what specific act allegedly committed by the State violated what specific subsection of HRS § 89-13.

Pursuant to Hawaii Administrative Rules (HAR) § 12-42-45(b), if the charge is believed by a respondent to be so vague and indefinite that the respondent cannot reasonably be required to frame an answer thereto, such respondent may, within five days after service of the complaint, file with the Board a motion for particularization of the complaint, requesting that the complainant file a statement supplying specific information.

The Board finds that the Complaint is vague and indefinite as to the specific actions of the State that constitute the alleged prohibited practice, and as to the specific subsections of HRS § 89-13 that are alleged to have been violated. Pursuant to HAR § 12-42-42(b), a prohibited practice complaint shall be prepared on a form furnished by the Board. The Board's form requires a complainant to specify in detail the particular alleged violation, including the subsection or subsections of HRS § 89-13 alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.

Accordingly, the Board hereby orders Complainant to file with the Board a more particularized statement of her Complaint, **identifying the specific acts allegedly committed by the State that violated HRS § 89-13, along with the specific subsection(s) of HRS § 89-13 alleged to have been violated. The particularization must include a complete statement of the facts supporting the Complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.** The Board also orders that acronyms used in the Complaint, such as "EDIR" or "APRN," be spelled out in their entirety at least once within the particularization.

The original plus five copies of the particularization, with certificate of service on all parties, must be filed with the Board within five days after service of this Order. If Complainant fails to timely file and serve the particularization, the Board shall dismiss the Complaint.

Within five days after service of the particularization, the respondents shall file with the Board the original plus five copies of their answers, with certificate of

service on all parties. Failure of a respondent to timely file and serve an answer may constitute an admission of the material facts alleged in the Complaint, and a waiver of a hearing.

DATED: Honolulu, Hawaii, December 18, 2007.

HAWAII LABOR RELATIONS BOARD


EMORY J. SPRINGER, Member


SARAH B. HIRAKAMI, Member

Copies sent to:

Linda K. Hadley
Charles A. Price, Esq.
Jeffrey A. Keating, Deputy Attorney General