

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

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

Complainant,

and

PATRICIA HAMAMOTO, Superintendent,
Department of Education, State of Hawaii;
SUSAN KITSU, Director, Civil Rights
Compliance Office, Department of
Education, State of Hawaii; and BETH
SCHIMMELFENNIG, Civil Rights
Compliance Specialist, Department of
Education, State of Hawaii,

Respondents.

CASE NO. CE-02-681

ORDER NO. 2543

ORDER GRANTING
COMPLAINANT'S MOTION FOR
LEAVE TO FILE FIRST AMENDED
COMPLAINT FILED JULY 28, 2008

ORDER GRANTING COMPLAINANT'S MOTION FOR
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On July 28, 2008, Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA), by and through its counsel, filed a Motion for Leave to File First Amended Complaint with the Hawaii Labor Relations Board (Board.). HGEA seeks to amend the instant complaint to add Governor Linda Lingle as a Respondent in this matter as she is the public employer for State employees in bargaining unit (Unit) 02 and to add facts and clarify the claims against Respondents relating to their interference with the HGEA's rights and responsibilities as the exclusive representative of Unit 02 and specifically Linda Wong, and the interference with the grievance process. HGEA contends there is no undue prejudice to Respondents because the amendments relate to the allegations in the original Complaint filed on July 18, 2008.

On August 4, 2008, Respondents, by and through their counsel, filed their Opposition to HGEA's Motion to Amend with the Board. Respondents contend that the Board lacks jurisdiction over the complaint and that the Board must determine its jurisdiction over the instant case prior to entertaining any amendments.

After reviewing the record, the Board notes that Respondents filed a Motion to Dismiss Prohibited Practice Complaint on July 29, 2008, contending that the Board lacks jurisdiction over this matter, which has not yet been scheduled for hearing. Thus, it would be premature to address the jurisdictional arguments at this stage and the Board will reserve its ruling on jurisdiction. Accordingly, for good cause shown, the Board, in its discretion, hereby grants HGEA's motion to amend its complaint pursuant to Hawaii Administrative Rules § 12-42-43.¹

Complainant shall forthwith file its First Amended Prohibited Practice Complaint with the Board. The Board will thereupon issue a Notice to Respondents of the First Amended Prohibited Practice Complaint.

DATED: Honolulu, Hawaii _____ August 11, 2008 _____.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



EMORY J. SPRINGER, Member



SARAH R. HIRAKAMI, Member

Copies sent to:

Debra A. Kagawa, Esq.
David Fitzpatrick, Deputy Attorney General

¹Hawaii Administrative Rules § 12-42-43 provides as follows:

Any complaint may be amended in the discretion of the board at any time prior to the issuance of a final order thereon.