

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY,

Complainant,

and

BOARD OF REGENTS, University of
Hawaii, State of Hawaii,

Respondent.

CASE NO. CE-07-674

ORDER NO. 2570

ORDER GRANTING COMPLAINANT'S
MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT,
FILED ON SEPTEMBER 8, 2008; ORDER
DENYING RESPONDENT'S MOTION
TO DEFER PROHIBITED PRACTICE
PROCEEDINGS TO ARBITRATION,
FILED ON AUGUST 18, 2008; NOTICE
OF DEADLINE TO FILE DISPOSITIVE
MOTIONS; AND NOTICE OF HEARING

ORDER GRANTING COMPLAINANT'S MOTION FOR
LEAVE TO FILE SECOND AMENDED COMPLAINT, FILED
ON SEPTEMBER 8, 2008; ORDER DENYING RESPONDENT'S
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TO ARBITRATION, FILED ON AUGUST 18, 2008; AND NOTICE OF
DEADLINE TO FILE DISPOSITIVE MOTIONS; AND NOTICE OF HEARING

On September 8, 2008, Complainant UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY (UHPA), by and through its counsel, filed a Motion for Leave to File Second Amended Complaint with the Hawaii Labor Relations Board (Board.). UHPA seeks to amend its complaint by citing additional statutory violations of Hawaii Revised Statutes (HRS) §§ 89-9(a) and (c) and 89-13(a)(1), (3), (5), and (7) and removing citation to HRS § 89-13(a)(8) in its proposed Second Amended Complaint. UHPA alleges that new evidence was disclosed since the filing of the original and amended complaint which directly relates to the basis of the Prohibited Practice Complaint and provides evidence of further related statutory violations committed by Respondent. Accordingly, UHPA included allegations of failure to bargain or consult with UHPA because the teaching cap policy has a substantial effect on the wages, hours, and other terms and conditions of employment of bargaining unit 07 employees, especially the nine-month faculty at Kapiolani Community College (KCC); disclosure of outside work commitments violates HRS § 89-9(a) or alternatively, HRS § 89-9(c); and Respondents attempted to bypass UHPA by bargaining with the Faculty Senate.

On January 15, 2009, Respondent, by and through its counsel, filed a Statement of Non-Opposition to Complainant University of Hawai'i Professional Assembly's Motion for Leave to File Second Amended Complaint with the Board.

After reviewing the record and the instant motion, the Board, in its discretion, hereby grants UHPA's motion to file a Second Amended Complaint pursuant to Hawaii Administrative Rules § 12-42-43.¹ **Complainant shall forthwith file its Second Amended Prohibited Practice Complaint with the Board.** The Board will thereupon issue a Notice to Respondents of the Second Amended Prohibited Practice Complaint.

On September 10, 2008, the Board conducted a hearing on Respondent's Motion to Defer Proceedings to Arbitration. Respondent alleged that UHPA had requested arbitration over the class grievance regarding the summer school teaching cap and contended that the Board should defer the instant prohibited practice proceedings to arbitration.

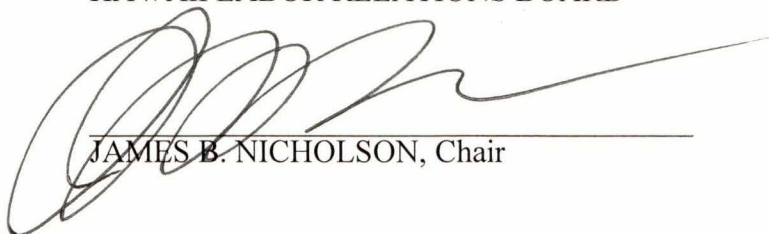
By letter dated September 18, 2008, Respondent's counsel notified the Board that the parties stipulated to stay the arbitration of the related grievance pending resolution of prohibited practice charge before the Board and further agreed that the parties may move to lift the stay if any residual matters exist that had not been resolved by the Board.

The Board finds that the parties' agreement to stay the arbitration proceedings moots the arguments in Respondent's motion to defer to arbitration since the Complainant will not be simultaneously pursuing its arbitration of the grievance arising from the facts underlying this Complaint. Based on the foregoing, the Board hereby denies Respondent's Motion to Defer Proceedings to Arbitration.

YOU ARE HEREBY NOTIFIED that the Board will conduct a hearing on the merits of Complainant's Second Amended Complaint on **March 16, 2009 at 9:00 a.m.** in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. The deadline to file any dispositive motions with the Board is **February 10, 2009.**

DATED: Honolulu, Hawaii _____ January 22, 2009 _____.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair

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.

UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY, Complainant, and BOARD OF
REGENTS, University of Hawaii, State of Hawaii, Respondent
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SARAH R. HIRAKAMI, Member

Copies sent to:

David A. Sgan, Esq.
Christine S.Y. Chun, Esq.