

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

BOARD OF REGENTS, University of
Hawai'i,

Petitioner.

and

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO and UNIVERSITY
OF HAWAII PROFESSIONAL
ASSEMBLY,

Intervenors.

CASE NO. DR-07-101

ORDER NO. 2712

ORDER GRANTING PETITIONS FOR
INTERVENTION; AND NOTICE OF
PREHEARING CONFERENCE

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INTERVENTION; AND NOTICE OF PREHEARING CONFERENCE

On May 28, 2010, Petitioner BOARD OF REGENTS, University of Hawaii (BOR) filed a Petition for Declaratory Ruling (Petition) with the Hawaii Labor Relations Board (Board). Petitioner alleges, *inter alia*, that the University of Hawaii Professional Assembly (UHPA) inserted language in the 2009 - 2015 collective bargaining agreement (2009 CBA) requiring the payment of monthly \$300 stipends to graduate program chairs which the BOR did not agree to or was unaware was agreed to; on January 29, 2010, without first bargaining with the BOR, UHPA unilaterally created and distributed a second version of the 2009 CBA which added "graduate program chairs" to Article XXIII, §E, and attached the separate signature page from the original version of the ratified 2009 CBA; and that UHPA filed a class grievance to force the BOR to accept its version of the 2009 CBA. The BOR contends that UHPA's usage of the grievance process to reform the terms of the 2009 CBA and its unilateral creation and distribution of its own version of the 2009 CBA constitutes a refusal to bargain in good faith in violation of Hawaii Revised Statutes (HRS) §§ 89-13(b)(2) and (b)(5); and UHPA's grievance which seeks to unilaterally increase the wages of faculty members beyond what was bargained for results in an additional \$270,000 increase in annual costs to the BOR which are cost items which must be submitted to the Legislature, violates HRS §§ 89-10, 89-10.8 and 89-13(b)(4). The BOR requests the Board to issue a declaratory order that UHPA's actions violate HRS §§ 89-10 and 89-10.8, and 89-13; order UHPA to abandon its class grievance; order UHPA to collect and destroy all copies of the 2009 CBA it unilaterally distributed; order UHPA to distribute the ratified 2009 CBA containing only the bargained for language; and order other remedies the Board deems proper.

On June 4, 2010, the Board issued a Notice of Receipt of Petition for Clarification or Amendment of Appropriate Bargaining Unit and Notice of Deadline for Filing Petitions for Intervention setting June 17, 2010 as the deadline for interested parties to file Petitions for Intervention in these proceedings.

On June 9, 2010, the UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW) filed a Petition for Intervention in these proceedings alleging, inter alia, that the UPW is the duly certified exclusive bargaining agent of blue collar non supervisory employees in Unit 01 and institutional, health and correctional employees in Unit 10; the BOR employs Units 01 and 10 employees; the collective bargaining process applicable to the BOR and UHPA applies and governs the relationship between the UPW and the BOR; and that disputes involving tentative agreements entered in the course of negotiations is recurrent in nature, citing pending Case No. CE-01-754, United Public Workers, AFSCME, Local 646, AFL-CIO v. Marie Laderta.

On June 17, 2010, the UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY (UHPA) filed a Petition for Intervention in the proceedings alleging, inter alia, that UHPA is the exclusive bargaining representative for employees in Unit 07; UHPA has a direct and material interest in the proper interpretation and enforcement of the Unit 07 collective bargaining agreement; the claims are the same as those alleged in Case No. CU-07-294, filed on May 28, 2010 against UHPA; that both proceedings should be consolidated; and the Board's decision in this matter may affect the rights of Unit 07 members whom UHPA represents.

Based on the foregoing, the Board finds that UPW and UHPA timely filed Petitions for Intervention with the Board and have alleged sufficient interests to intervene in this case. Accordingly, the Board grants the respective Petitions for Intervention pursuant to Hawaii Administrative Rules (HAR) § 12-42-8(g)(14).

NOTICE IS HEREBY GIVEN that the Board, pursuant to HRS § 89-5(i)(1) and HAR § 12-42-8, will conduct a prehearing conference on the instant petition on **July 12, 2010 at 10:30 a.m.** in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. The purpose of the prehearing conference is to arrive at a settlement or clarification of issues and to the extent possible, reach an agreement on facts, matters or procedures which will facilitate and expedite the adjudication of the issues presented. The parties shall file a Prehearing Statement which addresses the foregoing matters with the Board two days prior to the prehearing conference.

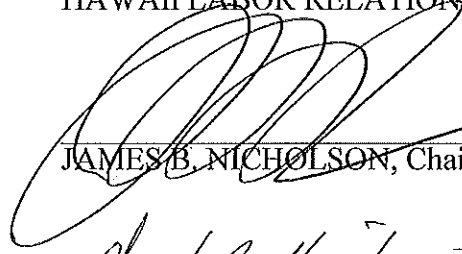
All parties have the right to appear in person and to be represented by counsel or other representative.

Auxiliary aids and services are available upon request, call Nora Ebata (808) 586-8610, (808) 586-8847 (TTY), or 1 (888) 569-6859 (TTY neighbor islands). A

request for reasonable accommodations should be made no later than seven working days prior to the needed accommodation.

DATED: Honolulu, Hawaii, June 21, 2010.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SARAH R. HIRAKAMI, Member



NORMAN K. KATO II, Member

Copies sent to:

Robert S. Katz, Esq.
Herbert R. Takahashi, Esq..
David A. Sgan, Esq.