

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-07-741

ORDER NO. 2714

ORDER GRANTING RESPONDENT BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII'S MOTION FOR CLARIFICATION OF ORDER NO. 2702 GRANTING IN PART AND DENYING IN PART BOR'S MOTION FOR SUMMARY JUDGMENT AND GRANTING SUMMARY JUDGMENT IN FAVOR OF UHPA, DATED MAY 21, 2010 AND DENYING COMPLAINANT'S COUNTER-MOTION FOR CLARIFICATION OF ORDER 2702, DATED MAY 28, 2010

ORDER GRANTING RESPONDENT BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII'S MOTION FOR CLARIFICATION OF ORDER NO. 2702 GRANTING IN PART AND DENYING IN PART BOR'S MOTION FOR SUMMARY JUDGMENT AND GRANTING SUMMARY JUDGMENT IN FAVOR OF UHPA, DATED MAY 21, 2010 AND DENYING COMPLAINANT'S COUNTER-MOTION FOR CLARIFICATION OF ORDER 2702, DATED MAY 28, 2010

On May 10, 2010, the Hawaii Labor Relations Board (Board) issued Order No. 2702, Order Granting in Part and Denying in Part BOR's Motion for Summary Judgment, and Granting Summary Judgment in Favor of UHPA. The Board found, *inter alia*, that Respondent BOARD OF REGENTS, University of Hawaii (BOR or Employer) did not violate Hawaii Revised Statutes (HRS) § 89-13(a)(8) by refusing to provide the Tenure and Promotion Review Committee (TPRC) members' names and information regarding the TPRC; UHPA requested the BOR discuss alternate methods to receive information it deemed necessary for the processing of a grievance and the BOR was obligated to discuss alternate means with the BOR which it wilfully failed to do; the BOR committed a prohibited practice pursuant to HRS § 89-13(a)(5); and the Board ordered the BOR to negotiate with UHPA regarding alternate methods to obtain information necessary to process a grievance alleging discrimination in the promotion process.

On May 21, 2010, the BOR filed a Motion for Clarification of Order No. 2702 Granting in Part and Denying in Part BOR's Motion for Summary Judgment, and Granting Summary Judgment in Favor of UHPA (Dated May 10, 2010) (Motion for Clarification) with the Board. The BOR requested clarification of the order requiring the BOR to negotiate with UHPA regarding alternative methods to obtain information

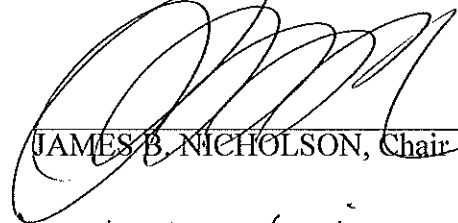
address the instant grievance as well as future requests for information involving confidential matters. With regard to the instant grievance, the Board orders the parties to meet with the fact-finder who will determine the means of addressing the questions raised by UHPA to confirm or deny the statements made by Chancellor Hinshaw in her May 26, 2009 and August 20, 2009 memoranda and to provide the information to the parties, while adhering to the collective bargaining agreement's provisions which ensure the confidentiality of the TPRC promotion process. The parties shall share the costs for the neutral fact-finder. According to e-mail correspondence in the record, the arbitration of the grievance is scheduled to commence on August 23, 2010. Complainant's Counter-Motion for Clarification of Order 2702, Exhibit 1. As time is of the essence and to avoid further delays, the Board orders the parties to meet with the fact-finder within two weeks of this order, subject to his availability.

In addition, the duly authorized representatives of the parties are ordered to bargain over a procedure to address similar requests for information in the future.

With regard to UHPA's requests for fees and sanctions, the Board finds that fees and sanctions are not warranted by the filing of the BOR's Motion for Clarification in this case. The Board also in its discretion denies UHPA's request for the posting of the Board's Order as it previously found that the HRS § 89-13(a)(8) contract violation was moot and also because UHPA's request for additional remedies is not appropriately within the scope of a Motion to Clarify the Board's orders.

DATED: Honolulu, Hawaii, June 24, 2010.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SARAH R. HIRAKAMI, Member



NORMAN K. KATO II, Member

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