

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII STATE TEACHERS
ASSOCIATION,

Complainant,

and

NEIL ABERCROMBIE, Governor, State of
Hawaii; KALBERT YOUNG, Director,
Department of Budget and Finance, State of
Hawaii; NEIL DIETZ, Chief Negotiator, Office
of Collective Bargaining, State of Hawaii;
KATHRYN MATAYOSHI, Superintendent,
Department of Education, State of Hawaii;
DONALD G. HORNER, Chairperson, Board of
Education, State of Hawaii; and JAMES D.
WILLIAMS, Member, Board of Education,
Human Resources Committee, State of Hawaii,

Respondents,

and

UNIVERSITY OF HAWAII PROFESSIONAL
ASSEMBLY,

Intervenor.

CASE NO. CE-05-781

ORDER NO. 2811

ORDER GRANTING UNIVERSITY OF
HAWAII PROFESSIONAL ASSEMBLY'S
PETITION FOR INTERVENTION, FILED
ON AUGUST 4, 2011; AND REGARDING
SUBPOENAS

ORDER GRANTING UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY'S PETITION FOR INTERVENTION,
FILED ON AUGUST 4, 2011; AND REGARDING SUBPOENAS

Petition for Intervention

On August 4, 2011, the University of Hawaii Professional Assembly (UHPA), filed a Petition for Intervention in the instant proceedings. UHPA is the exclusive representative of bargaining unit (Unit) 07, composed of the faculty of the University of Hawaii and the community college system. UHPA alleges "[t]he decision on this matter may determine whether, and, if so, how, an employer may unilaterally implement an employer's 'last, best, and final' offer under 89-11(d) (units able to strike and not subject to interest arbitration). UHPA is one of only three bargaining units as to

which this doctrine may be applicable. UHPA seeks to ensure its statutory right to strike is not diminished by any decision that may be rendered herein, and that any decision does not upset the balance of rights contemplated in the statute.” UHPA contends that its interests are not presently represented in these proceedings and that its participation will not unduly broaden the scope of the proceedings as it does not expect to call witnesses and will be submitting briefs on points of law.

On August 8, 2011, Complainant filed a Memorandum in Opposition to UHPA’s Petition for Intervention Filed on August 4, 2011 with the Board. Complainant contends, *inter alia*, that the petition is untimely; UHPA lacks the requisite interest to intervene; the disposition of the case will not impair UHPA’s interest; and that its interest in protecting its right to strike is adequately protected by HRS § 89-12(b)(2). Complainant contends that “[r]ight now HSTA has no right to exercise its right to strike against the unilateral actions taken by DOE because there are so many prohibited practice proceedings which have not been exhausted before the Board involving the same parties.”

On August 10, 2011, the Board conducted a hearing on pending motions and heard arguments on UHPA’s Petition for Intervention. In its oral arguments, UHPA stated, *inter alia*, that its position on HRS § 89-12(b)(2) was in opposition to Complainant’s position in regards to the right to strike. Respondents did not take a position on UHPA’s Petition for Intervention.

After considering the arguments presented, the Board finds that UHPA has alleged a sufficient interest to intervene in this case and is therefore permitted to participate in these proceedings to the extent requested. Accordingly, the Board grants UHPA’s Petition for Intervention filed on August 4, 2011, pursuant to Hawaii Administrative Rules (HAR) § 12-42-8(g)(14).

Subpoenas

On August 3 and 9, 2011, Complainant filed applications for subpoenas duces tecum for:

James E. Williams, Donald G. Horner and Bruce A. Coppa to appear on August 15, 2011 at 9:30 a.m., 11:00 a.m. and 1:00 p.m., respectively.

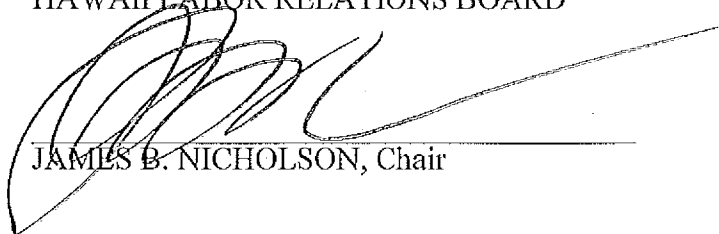
On August 4 and 9, 2011, Complainant filed applications for subpoenas duces tecum for:

Neil Dietz, Randy Perreira and Kalbert Young to appear on August 16, 2011 at 9:00 a.m., 1:00 p.m. and 1:30 p.m. respectively.

Complainant and Respondents, respectively, filed applications for subpoenas and subpoenas duces tecum with the Hawaii Labor Relations Board (Board) requiring the appearance of approximately eighty-nine (88) witnesses for the hearings presently scheduled on August 15-17, 2011. Due to the large number of witnesses subpoenaed by the parties and to avoid having multiple witnesses unnecessarily waiting to be called to testify, the Board hereby orders Complainant's above-named witnesses to appear at the Board's hearings room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii as stated above. All previously issued subpoenas remain in force and effect and the remaining witnesses who have been served with the subpoenas shall remain on standby and subject to call from day-to-day as the hearing continues; the party subpoenaing the witness will notify the witness when to appear. The Board appreciates the parties' cooperation in the scheduling of the witnesses for the efficient and orderly presentation of evidence in this case.

DATED: Honolulu, Hawaii, August 12, 2011.

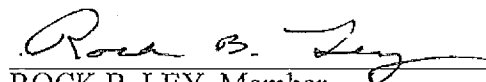
HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SESNITA A. D. MOEPONO, Member



ROCK B. LEY, Member

Copies sent to:

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