

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

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

Petitioner,

and

ALICE HALL, Acting President/Chief  
Executive Officer, Hawaii Health Systems  
Corporation,

Intervenor.

CASE NOS.: RA-03-242a  
RA-04-242b

ORDER NO. 2965

ORDER GRANTING HGEA'S MOTION  
TO AMEND PETITION, AND  
GRANTING HHSC'S PETITION FOR  
INTERVENTION

ORDER GRANTING HGEA'S MOTION TO AMEND PETITION,  
AND GRANTING HHSC'S PETITION FOR INTERVENTION

On February 12, 2014, Petitioner HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (Petitioner or HGEA) filed a PETITION FOR CLARIFICATION OR AMENDMENT OF APPROPRIATE BARGAINING UNIT (Petition) with the Hawaii Labor Relations Board (Board).

On February 13, 2014, the Board issued a NOTICE OF RECEIPT OF PETITION FOR CLARIFICATION OR AMENDMENT OF APPROPRIATE BARGAINING UNIT; NOTICE OF DEADLINE FOR FILING PETITIONS FOR INTERVENTION; AND NOTICE OF BOARD CONFERENCE (Notice) to potentially interested persons.

On March 5, 2014, ALICE HALL, Acting President/Chief Executive Officer, Hawaii Health Systems Corporation (Intervenor HHSC), filed a PETITION FOR INTERVENTION in this proceeding. The PETITION FOR INTERVENTION alleges, *inter alia*, that the HHSC is an employer of certain employees affected by the Petition; that the granting of the Petition would modify HHSC's obligations to such employees; that its interests are not currently adequately represented in this proceeding; that its

intervention would not broaden the issues or delay the proceeding; and that the HHSC intends to work in concert with the HGEA to develop a mutually acceptable resolution to this matter.

The HHSC expressed its understanding that “HGEA has/will remove the two classes of employees – to wit, X-Ray Technician I (SR-14/BU03) and X-Ray Technician II (SR 16/BU03) – that fall within the State of Hawaii/Executive Branch from the original Petition. Assuming that this occurs, HHSC will be the sole employer of all employees that would be affected if the Petition is granted.”

On March 6, 2014, HGEA filed HGEA’S MOTION TO AMEND PETITION (Motion to Amend Petition), stating in part:

3. By this Motion, the Union seeks to remove all X-Ray Technician classifications (X-Ray Technician I, II, III and IV) from the original Petition filed on February 12, 2014. With this change, only Imaging related classifications (Imaging Technologists, Imaging Specialists, Imaging Multiple Modality Specialists, Imaging Supervisor) will be subject to transfer from Bargaining Units 3 and 4 to Bargaining Unit 13.
4. [HHSC] is the only jurisdiction with Imaging Technologist, Imaging Specialist, Imaging Multiple Modality Specialist, and Imaging supervisor classifications.

The Motion to Amend Petition further asserts that HHSC’s Assistant General Counsel had no objection to HGEA’s Amended Petition.

Based upon the record in this case and a review of HGEA’s Motion to Amend Petition, THE BOARD HEREBY GRANTS HGEA’S Motion to Amend Petition, pursuant to Hawaii Administrative Rules (HAR) § 12-42-8(g)(10).

Additionally, Based upon the record in this case and a review of the PETITION FOR INTERVENTION filed by the HHSC, the Board finds that the HHSC is an “employer” of the affected employees, that its interests may be affected by a Board decision in this matter, and that the HHSC’s intervention in this proceeding is warranted.

Accordingly, THE BOARD HEREBY GRANTS the HHSC’s PETITION FOR INTERVENTION pursuant to HAR §§ 12-42-8(g)(14) and 12-42-9(e). Because the PETITION FOR INTERVENTION expressly anticipated the HGEA’s amendment of the Petition, the Board’s granting of HHSC’s intervention is applicable to the Amended Petition as well.

The HHSC's PETITION FOR INTERVENTION further alleges, "[i]t is HHSC's understanding that HGEA has/will remove the two classes of employees . . . that fall within the State of Hawaii/Executive Branch from the original Petition. Assuming that this occurs, HHSC will be the sole employer of all employees that would be affected if the Petition is granted"; and "the parties respectfully request that the Board advance the initial conference in this matter to the earliest possible date (excluding March 17-20, 2014)."

The Board denies the request to advance the date of the initial conference at this time; however, a party may file a motion to advance the date of the initial conference, with sufficient facts to demonstrate a change in relevant circumstances.


The Board further informs the parties that registered users may view documents in this case on the File & ServeXpress eFiling system and may voluntarily file and serve documents in this proceeding pursuant to the Board's Protocols for E-Filing and upon submission of the Board's "Consent to E-Filing," a copy of which is attached.

DATED: Honolulu, Hawaii March 7, 2014.

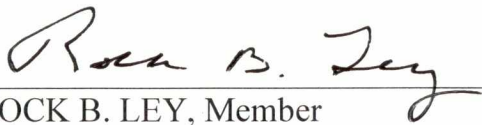
HAWAII LABOR RELATIONS BOARD



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JAMES B. NICHOLSON, Chair



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SESNITA A.D. MOEPONO, Member



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ROCK B. LEY, Member



Copies with attachment sent to:

Sean K. Sanada, Assistant General Counsel, HHSC  
Debra A. Kagawa, Esq.

Copies without attachment sent to:

Honorable Neil Abercrombie  
Barbara Kreig, Director, DHRD  
David Louie, Attorney General

CASE NOS. RA-03-242a, RA-04-242b – In the Matter of HGEA and ALICE HALL –  
Order No. 2965 – Order Granting HGEA's Motion to Amend Petition, and Granting HHSC's Petition  
for Intervention.

## **HAWAII LABOR RELATIONS BOARD'S PROTOCOLS FOR E-FILING**

Beginning February 17, 2014, the Hawaii Labor Relations Board (Board) will kick off its effort to go paperless. Representatives of Public Sector Employers and Unions will be given the opportunity on a voluntary basis to file and serve documents electronically via File & ServeXpress.

There will be no cost to Public Sector Employers and Unions or their representatives for basic usage of the service.

The Board reserves the right to modify or cancel these Protocols and the E-Filing system described below at any time, upon written notice to a party or its representative.

### **CONSENT TO E-FILING - FILE & SERVEXPRESS**

These Protocols apply only to Parties that have registered with File & ServeXpress (FSX) and have voluntarily agreed to receive service by E-mail.

Until there is an amendment to the Board's Administrative Rules, the Board will continue to mail hard copies of all notices and final orders to the parties.

Cases Eligible for E-Filing: All Cases under Hawaii Revised Statutes (HRS) Chapter 89.

1. Voluntary Electronic Filing:

Beginning on February 17, 2014, all cases filed under HRS Chapter 89 may be commenced electronically upon the signing of this Consent form and registering with FSX.

2. The following applies to the electronic service of pleadings and other documents:

- a. Electronic Service. All parties or their representatives shall make service upon other parties electronically through the FSX. Parties who register with FSX consent to receive electronic service of documents via the FSX's system. Parties, or their designated counsel, shall receive all documents e-filed and/or e-served upon them via access to the FSX's system over the Internet or, if a party or party's designee has not registered with FSX, via United States Postal Service (USPS) mail.

The certificate of service shall state whether the document was served electronically or by mail.

- b. Effect of Electronic Service of Filings. The electronic service of a pleading or other document shall be considered valid and effective service on all parties and shall have the same legal effect as the filing of an original paper document.
  - c. Service on Parties; Time to Respond or Act. E-service shall be deemed complete at the time the FSX's system receives the document as reflected by the authorized date and time appearing on the confirmation provided. However, for the purpose of computing time for any other party to respond, any document filed on a day or at a time when the Board is not open for business shall be deemed to have been filed on the next day the Board is open for business. If electronic service on a party does not occur because of: (1) inaccessibility to the FSX's system; (2) an error in the FSX's transmission of notice to the party being served; (3) the FSX's failure to process the electronic filing for service; or (4) the party was erroneously excluded from the service list, the party to be served shall, absent extraordinary circumstances, be entitled to a Board order extending the date for any response or the period within which any right, duty, or other act must be performed.
3. The Board's Administrative Rules that are not affected by the foregoing Protocols shall remain in full force and effect. A party that registers with FSX agrees to waive or modify any Administrative Rule that is affected by the foregoing Protocols, pursuant to HRS § 91-9(d).

**The Undersigned hereby agrees to file and receive all documents filed under HRS Chapter 89 through e-filing system with FSX, in accordance with the above Protocols.**

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Name of Firm or Organization (Union, Corporation Counsel, Deputy Attorney General, Law Firm, etc.)

Dated: \_\_\_\_\_

Signed \_\_\_\_\_

Office Administrator's e-mail \_\_\_\_\_