



**EFiled: Jan 05 2016 11:32AM HAST**  
**Transaction ID 58375723**  
**Case No. CE-06-870**

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

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

Complainant,

and

DAVID Y. IGE, Governor, State of Hawaii;  
LANCE MIZUMOTO, Chairperson, Hawaii  
State Board of Education; HAWAII STATE  
BOARD OF EDUCATION; KATHRYN S.  
MATAYOSHI, Superintendent, Department of  
Education; DEPARTMENT OF EDUCATION,  
State of Hawaii,

Respondents.

CASE NO. CE-06-870

ORDER NO. 3134

ORDER GRANTING  
COMPLAINANT HAWAII  
GOVERNMENT EMPLOYEES  
ASSOCIATION, AFSCME,  
LOCAL 152, AFL-CIO'S  
MOTION TO CONTINUE  
HEARING OF JANUARY 8,  
2016; NOTICE OF STATUS  
CONFERENCE

ORDER GRANTING COMPLAINANT HAWAII GOVERNMENT  
EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152,  
AFL-CIO'S MOTION TO CONTINUE HEARING OF JANUARY 8, 2016

On December 31, 2015, Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) filed a Motion to Continue Hearing of January 8, 2016 (Motion to Continue), and on January 4, 2016, Respondents DAVID Y. IGE, LANCE MIZUMOTO, HAWAII STATE BOARD OF EDUCATION, KATHRYN S. MATAYOSHI and DEPARTMENT OF EDUCATION (collectively, the Respondents) filed their Opposition to HGEA's Motion to Continue Hearing (Opposition Memorandum).

The Motion to Continue represented to the Hawaii Labor Relations Board (Board), among other things, that:

1. After a prehearing held on December 2, 2015, at which the January 8, 2016 hearing date was agreed upon, "on December 15, 2015, the HGEA/AFSCME attorney requested in writing from Respondents [sic] attorney that Respondents provide 'the DOE' request to consult the Modernization Pilot Project with the HGEA/AFSCME that was referenced during the Board's Pre-hearing/Settlement Conference on December 2, 2015, along with all details of the Modernization Pilot Program."<sup>1</sup>

2. Respondents provided a response on December 23, 2015 "that included approximately 58 pages of documents."<sup>2</sup> Apparently, this production of documents was not received by HGEA until December 27, 2015, and was forwarded to "HGEA/AFSCME for review and comment."<sup>3</sup> Apparently, on December 30, 2015, HGEA's attorney "was informed that the HGEA/AFSCME had not previously received copies of the Modernization Pilot Project as presented in Respondents [sic] December 23, 2015 Response ... [and] ... a much more thorough review of the negotiating history of Article 11 is necessary in order to present to the Board the extent of the impact on the bargaining unit of Respondents [sic] Modernization Pilot Project *not clearly identified in the documents produced by Respondents.* (Italics added.)"<sup>4</sup>

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<sup>1</sup> Memorandum in Support of Motion to Continue attached to the Motion to Continue (HGEA Memorandum) at p. 2.

<sup>2</sup> HGEA Memorandum at pp. 2-3.

<sup>3</sup> HGEA Memorandum at p. 3.

<sup>4</sup> *Id.*

3. Based on the foregoing, HGEA requested that the Board continue the January 8, 2016 hearing "to a date that is convenient to the Board and the Parties."<sup>5</sup>

In response to the Motion to Continue, Respondents argue that (1) their response to HGEA's request for document was "timely" and (2) "HGEA should be prepared to present its case on January 8, 2016 as initially set pursuant to the Notice of Rescheduled Hearing and Schedule of Prehearing Submissions filed December 3, 2015."<sup>6</sup>

After considering (1) the Motion to Continue, the HGEA Memorandum and the Declaration of Peter L. Trask attached to the Motion to Continue, and (2) the Opposition Memorandum, the Board determines that the Motion to Continue is based on HGEA's request for further discovery regarding the Pilot Modernization Program necessitated by the Respondents' initial document production and that the agreement of the parties (with the setting of the "new" January 8, 2016 hearing date) that the Hawaii Revised Statutes Section 377-9(b) requirement that the hearing be held within forty (40) days of the filing of the complaint is waived.

Based on the foregoing, the Motion to Continue is granted and the hearing scheduled for January 8, 2016 is taken off calendar and all prehearing deadlines are vacated.<sup>7</sup> A status conference will be held to, among other things, reschedule the hearing date.

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<sup>5</sup> HGEA Memorandum at p. 4.

<sup>6</sup> Opposition Memorandum at p. 2. The Board notes that Respondents filed on January 4, 2016, their witness and exhibits lists with copies of the proposed exhibits attached. HGEA did not file its witness and exhibit lists. Neither party filed the required prehearing brief outlining, for the Board, their respective factual and legal arguments.

<sup>7</sup> In all other respects, the Board's Notice of Rescheduled hearing and Schedule of Prehearing Submissions filed on December 3, 2015, shall remain in effect.



NOTICE OF STATUS CONFERENCE

NOTICE IS HEREBY GIVEN that a status conference will be held on **JANUARY 8, 2016 at 9:00 a.m.** in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii 96813 before Hearings Officer Paul H. Sato. All parties shall appear in the Board's hearing room at the date and time designated immediately above. The purpose of the status conference is to discuss, among other things:

- (a) The nature of HGEA's claims, including how the Pilot Modernization Project violates that collective bargaining agreement.<sup>8</sup>
- (b) The discovery reasonably necessary for the parties to prepare for the hearing on the merits.
- (c) Rescheduling of the hearing on the merits and all prehearing deadlines.
- (d) The potential of resolution of this matter.

The Board encourages each party's representative to be fully familiar with the dispute(s) that is (are) the subject to this matter.

DATED: Honolulu, Hawaii, January 5, 2016.



HAWAII LABOR RELATIONS BOARD

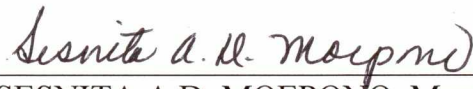
  
KERRY M. KOMATSUBARA, Chair

<sup>8</sup> HGEA was not able to articulate the basis of its prohibited practice claim based on its unfamiliarity with the Pilot Modernization Project. With the Respondents' initial production of documents, and the review of the same, HGEA should be in a position to articulate the basis of its claim so that appropriate discovery may be discussed and agreed upon.

HGEA v. DAVID Y. IGE, Governor, State of Hawaii; et al.

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SESNITA A.D. MOEPONO, Member



ROCK B. LEY, Member

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