



**EFiled: Jul 13 2018 11:05AM HAST**  
**Transaction ID 62239983**  
**Case No. CE-01-550**

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

UNITED PUBLIC WORKERS, AFSCME,  
LOCAL 646, AFL-CIO

Complainant,

and

ROD TODOROVICH, Chairperson, Wai'alaie  
School Board, Wai'alaie Elementary School,  
State of Hawaii; CHRISTINA KISHIMOTO,  
Superintendent, Department of Education,  
State of Hawaii; BOARD OF EDUCATION,  
State of Hawaii; and LOCAL SCHOOL  
BOARD OF WAI'ALAE ELEMENTARY  
SCHOOL, State of Hawaii,

Respondents.

CASE NO. CE-01-550

ORDER NO.: 3377

ORDER GRANTING UNION'S MOTION  
TO DISMISS PROHIBITED PRACTICE  
COMPLAINT FILED ON DECEMBER 3,  
2003

**ORDER GRANTING UNION'S MOTION TO DISMISS  
PROHIBITED PRACTICE COMPLAINT FILED ON DECEMBER 3, 2003**

On December 23, 2003, UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW or Union) filed a prohibited practice complaint (Complaint) with the Hawaii Labor Relations Board (Board) against Respondents ROD TODOROVICH, Chairperson, Wai'alaie School Board, Wai'alaie Elementary School, State of Hawaii (Todorovich or Respondent); CHRISTINA KISHIMOTO, Superintendent, Department of Education, State of Hawaii (Kishimoto or Respondent); BOARD OF EDUCATION, State of Hawaii (BOE); and LOCAL SCHOOL BOARD OF WAI'ALAE ELEMENTARY SCHOOL, State of Hawaii (Wai'alaie LSB) for, among other things, alleged violations of Hawaii Revised Statutes (HRS) § 89-13(a)(1), (3), (5), and (7), by unilaterally deciding to close down the cafeteria and food service operations located at 1065 19<sup>th</sup> Avenue, Honolulu, Hawaii to displace all bargaining unit 1 employees from their bargaining unit positions and to make related changes in its food services operations.

On July 2, 2018, the UPW filed Union's Motion to Dismiss Prohibited Practice Complaint Filed on December [2]3, 2003 Without Prejudice (Motion to Dismiss), pursuant to Hawaii Administrative Rule (HAR) § 12-42-8(g)(3). The ground for the Motion to Dismiss is that on June 27, 2018, the UPW and Wai'alaie School entered into a settlement agreement (SA) in a grievance

factually related to the above-entitled matter (AY-05-01), which provided that upon full execution of the SA, UPW would promptly move to dismiss Board Case No. CE-01-550 without prejudice. The SA was fully executed.

HAR § 12-42-8(g)(3)(C)(iii) allows a response to a motion to be filed with the Board within five days after service of the motion, which in this case is July 10, 2018.

On July 5, 2018, Respondent Wai'alaie Elementary School filed Respondent Wai'alaie Elementary School, State of Hawaii's Substantive Joinder in Union's Motion to Dismiss Prohibited Practice Complaint Filed on December [2]3, 2003 Without Prejudice, Filed on July 2, 2018.

On July 5, 2018, Respondent Department of Education, State of Hawaii filed Department of Education, State of Hawaii's Substantive Joinder in Union's Motion to Dismiss Prohibited Practice Complaint filed on December [2]3, 2003 Without Prejudice, Filed on July 2, 2018.


No opposition to the Motion was filed on behalf of any party. <sup>i</sup>

Based on the joinders and the lack of opposition by any party, the Board dismisses without prejudice the Complaint in the above-entitled case. This case is closed.

DATED: Honolulu, Hawaii, July 13, 2018.

HAWAII LABOR RELATIONS BOARD



  
MARCUS R. OSHIRO, Chair

  
SESNITA A.D. MOEPONO, Member

  
N. MUSTO, Member

Copies to:

Herbert R. Takahashi, Esq.  
James E. Halvorson, Deputy Attorney General  
Richard H. Thomason, Deputy Attorney General

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<sup>i</sup> The named Respondent “Wai’alae Elementary School, State of Hawaii” filing the joinder is not entirely consistent with the Respondents named in the caption, specifically Todorovich, in his capacity as Chairperson of the Wai’alae School Board and Wai’alae LSB. Similarly, named Respondent “Department of Education, State of Hawaii” filing the joinder is not entirely consistent with the named Respondents Kishimoto in her capacity as Superintendent of Education and BOE. However, this technical point is not significant given that there was no opposition to the Motion filed by any Respondent within the five days to respond.