



**EFiled: Jul 13 2018 11:15AM HAST**  
**Transaction ID 62240085**  
**Case No. CE-01-558**

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'ala'e  
School Board, Wai'ala'e Elementary School,  
State of Hawaii; WAI'ALAE  
ELEMENTARY SCHOOL, State of Hawaii  
and JONATHAN A. SWANSON, Deputy  
Attorney General, State of Hawaii;  
DEPARTMENT OF EDUCATION, State of  
Hawaii,

Respondents.

CASE NO. CE-01-558

ORDER NO.: 3378

ORDER GRANTING UNION'S MOTION  
TO DISMISS PROHIBITED PRACTICE  
COMPLAINT FILED ON MARCH 24, 2004  
WITHOUT PREJUDICE

**ORDER GRANTING UNION'S MOTION TO DISMISS PROHIBITED  
PRACTICE COMPLAINT FILED ON MARCH 24, 2004 WITHOUT PREJUDICE**

On March 24, 2004, Complainant 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'ala'e School Board, Wai'ala'e Elementary School, State of Hawaii (Todorovich or Respondent); WAI'ALAE ELEMENTARY SCHOOL, State of Hawaii (Wai'ala'e School or Respondent) and JONATHAN A. SWANSON, Deputy Attorney General, State of Hawaii (Swanson or Respondent); and DEPARTMENT OF EDUCATION, State of Hawaii (DOE or Respondent and collectively Respondents) alleging that Respondents, among other things, violated Hawaii Revised Statutes (HRS) § 89-13(a)(1), (5), (7), and (8) by repudiating and refusing to sign off on a memorandum of agreement transmitted on March 4, 2004.

On July 2, 2018, UPW filed Union's Motion to Dismiss Prohibited Practice Complaint Filed on March 24, 2004 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'ala'e 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-01-558 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.

On July 5, 2018, Respondent Wai'alaie School filed RESPONDENT WAI'ALAE ELEMENTARY SCHOOL, STATE OF HAWAII'S SUBSTANTIVE JOINDER IN UNION'S MOTION TO DISMISS PROHIBITED PRACTICE COMPLAINT FILED ON MARCH 24, 2004 WITHOUT PREJUDICE, FILED ON JULY 2, 2018.

On July 5, 2018, Respondent DOE filed RESPONDENT DEPARTMENT OF EDUCATION, STATE OF HAWAII'S SUBSTANTIVE JOINDER IN UNION'S MOTION TO DISMISS PROHIBITED PRACTICE COMPLAINT FILED ON MARCH 24, 2004 WITHOUT PREJUDICE, FILED ON JULY 2, 2018 (DOE Joinder).

On July 6, 2018, Deputy Attorney General James E. Halvorson filed an errata to Respondent DOE's Joinder representing that he also represents Respondent Jonathan A. Swanson and inadvertently omitted Mr. Swanson from the DOE Joinder.

No response to the Motion was filed on behalf of Respondent Todorovich within the five days after service of the Motion.

However, based on the joinder of some of the parties 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*

MARCUS R. OSHIRO, Chair

*Sesnita A. D. Moepono*  
SESNITA A.D. MOEPONO, Member

UPW v. ROD TODOROVICH, et al.,  
CASE NO. CE-01-558  
ORDER GRANTING UNION'S MOTION TO DISMISS PROHIBITED PRACTICE  
COMPLAINT FILED ON MARCH 24, 2004 WITHOUT PREJUDICE  
ORDER NO. 3378



J.N. MUSTO, Member

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