



STATE OF HAWAI'I

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Transaction ID 62768250
Case No. 18-I-09-174

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

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

Exclusive Representative,

and

DAVID IGE, Governor, State of Hawai'i;
MARK RECKTENWALD, Chief Justice, the
Judiciary, State of Hawai'i; HARRY KIM,
Mayor, County of Hawai'i; KIRK
CALDWELL, Mayor, City and County of
Honolulu; BERNARD P. CARVALHO,
County of Kaua'i; ALAN M. ARKAWA,
Mayor, County of Maui; and DR. LINDA
ROSEN, Chief Executive Officer, Hawai'i
Health Systems Corporation,

Employers.

CASE NO.: 18-I-09-174

ORDER NO. 3432

ORDER ACCEPTING HAWAII
GOVERNMENT EMPLOYEES
ASSOCIATION, AFSCME, LOCAL
152, AFL-CIO'S
CORRESPONDENCE, DATED
DECEMBER 10, 2018 AS A
MOTION REQUESTING LIST OF
POTENTIAL NAMES FROM AAA
FROM WHICH TO SELECT
INTEREST ARBITRATION PANEL
CHAIR AND CHIEF
NEGOTIATOR, STATE OF
HAWAI'I'S CORRESPONDENCE,
DATED DECEMBER 12, 2018 AS
A RESPONSE TO THE MOTION;
NOTICE OF HEARING ON
MOTION; EXHIBITS A AND B

ORDER ACCEPTING HAWAII GOVERNMENT EMPLOYEES
ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO'S CORRESPONDENCE,
DATED DECEMBER 10, 2018 AS A MOTION REQUESTING LIST OF POTENTIAL
NAMES FROM AAA FROM WHICH TO SELECT INTEREST ARBITRATION PANEL
CHAIR AND CHIEF NEGOTIATOR, STATE OF HAWAI'I'S CORRESPONDENCE,
DATED DECEMBER 12, 2018 AS A RESPONSE TO THE MOTION

On December 10, 2018, the Hawai'i Labor Relations Board (Board) received a letter from
HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO,
dated December 10, 2018 (HGEA Letter), attached as Exhibit A. The HGEA Letter stated in
relevant part:

This is to notify the Hawaii Labor Relations Board (HLRB) that the Hawaii Government Employees Association (HGEA) and the employer have not mutually agreed to a neutral arbitrator to serve as chair of the bargaining unit 9 arbitration panel.

In accordance with Section 89-11, HRS, HGEA is requesting that the HLRB request a list of five potential neutral arbitrators from which the parties can select a chair for the Unit 9 interest arbitration. We further request that based on challenges faced in recent HGEA interest arbitration hearings, the HLRB letter be specific in requesting a list of arbitrators who have interest arbitration experience, do not reside in the state of Hawaii, and are available in January to February of 2019 to attend and chair the Unit 9 interest arbitration proceedings.

On December 12, 2018, the Board received a letter from the Chief Negotiator for the State of Hawai'i, Ryker Wada, dated December 12, 2018 (State Letter), attached as Exhibit B. The State Letter stated in relevant part:

With respect to Mr. Randy Perreira's letter to HLRB dated December 10, 2018 (copy enclosed) in which it is requested that "...the HLRB letter be specific in requesting a list of arbitrators who have interest arbitration experience, do not reside in the state of Hawaii, and are available in January to February of 2019 to attend and chair the Unit 9 interest arbitration proceedings," the Employer objects to this request to the extent that it is inconsistent with the applicable statute. Per HRS 89-11(e)(2)(A), "...the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the neutral arbitrator shall be selected." HRS 89-11(e)(2)(A) does not require that the AAA arbitrators have experience in "interest" arbitration, nor does it provide for the prohibition of arbitrators who reside in the state of Hawaii.

Lastly, HRS 89-11(e)(2)(A) does not provide for the selection of arbitrators who are available during a specific timeline which, given the upcoming holidays, may be overly prescriptive and eliminate willing arbitrators who would otherwise be qualified.

Based on Hawai'i Administrative Rules § 12-42-8(g)(3)(C), the Board accepts the HGEA's Letter as a motion requesting a list of potential names from AAA from which to select an interest arbitration panel chair (Motion), and the State Letter as a response to that Motion.

NOTICE OF HEARING ON MOTION

Accordingly, the Board hereby notifies the parties that the Board will hold a hearing on the Motion on **Wednesday, December 19, 2018 at 9:00 a.m.** in the Board's hearing room at 830 Punchbowl Street, Room 434; Honolulu, Hawai'i 96813.

All parties have the right to appear in person and to be represented by counsel or any other authorized person. However, the Board encourages the parties to have a representative who is familiar with the dispute appear at the hearing. The parties may appear telephonically by calling the Board at (808) 586-8616 prior to the hearing.

Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board. For any other accommodation, please call the Board at (808) 586-8616.

The parties should be aware that the Board is located in a secured State of Hawai'i building, and that any party representative, counsel, or other person attending a proceeding will need to present a government-issued identification for entry.

DATED: Honolulu, Hawai'i, December 13, 2018.

HAWAII LABOR RELATIONS BOARD





MARCUS R. OSHIRO, CHAIR


SESNITA A.D. MOEFONO, MEMBER


J.N. MUSTO, MEMBER

Copies sent to:
Randy Perreira, HGEA Executive Director
Lorena Kauhi, HGEA Hawai'i Island Division

The Honorable David Y. Ige, Governor, State of Hawai‘i
Ryker Wada, Chief Negotiator, Office of Collective Bargaining, State of Hawai‘i
The Honorable Kirk Caldwell, Mayor, City and County of Honolulu
The Honorable Bernard P. Carvalho, Mayor, County of Kaua‘i
The Honorable Alan M. Arakawa, Mayor, County of Maui
The Honorable Dr. Linda Rosen, Chief Executive Officer, Hawai‘i Health Systems



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

2018 DEC 10 PM 1:10

December 10, 2018

Mr. Marcus Oshiro, Chair
Hawaii Labor Relations Board
830 Punchbowl Street, Room 434
Honolulu, Hawaii 96813

Dear Mr. Oshiro:

RE: Bargaining Unit 09, Case No. 18-I-09-174

This is to notify the Hawaii Labor Relations Board (HLRB) that the Hawaii Government Employees Association (HGEA) and the employer have not mutually agreed to a neutral arbitrator to serve as chair of the bargaining unit 9 arbitration panel.

In accordance with Section 89-11, HRS, HGEA is requesting that the HLRB request a list of five potential neutral arbitrators from which the parties can select a chair for Unit 9 interest arbitration. We further request that based on challenges faced in recent HGEA interest arbitration hearings, the HLRB letter be specific in requesting a list of arbitrators who have interest arbitration experience, do not reside in the state of Hawaii, and are available in January to February of 2019 to attend and chair the Unit 9 interest arbitration proceedings.

While the parties have not yet agreed to an alternate impasse process, we believe both sides are still open to have further discussions and we will provide a copy to the HLRB if one is finalized.

The primary contact person for HGEA Bargaining Unit 9 is Lorena Kauhi, Hawaii Island Division Chief. She can be reached at (808) 961-0761 or lkauhi@hgea.org.

Sincerely,


Randy Perreira
Executive Director

cc: Office of Collective Bargaining

EXHIBIT "A"

DAVID Y. IGE
GOVERNOR



RYKER WADA
CHIEF NEGOTIATOR

**STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR**
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813-2437

December 12, 2018

Mr. Marcus Oshiro, Chairperson
Dr. JN Musto, Member
Ms. Sesnita Moepono, Member
Hawai'i Labor Relations Board
830 Punchbowl Street, Suite 434
Honolulu, HI 96813

RE: Hawai'i Government Employees Association, AFSCME Local 152, AFL-CIO
(Bargaining Unit 9) v. State of Hawai'i, et al. (Case No. 18-I-09-174)

Aloha Chair Oshiro and Members of the Hawai'i Labor Relations Board (HLRB):

With respect to Mr. Randy Perreira's letter to HLRB dated December 10, 2018 (copy enclosed) in which it is requested that "...the HLRB letter be specific in requesting a list of arbitrators who have interest arbitration experience, do not reside in the state of Hawaii, and are available in January to February of 2019 to attend and chair the Unit 9 interest arbitration proceedings," the Employer objects to this request to the extent it is inconsistent with applicable statute. Per HRS 89-11(e)(2)(A), "...the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the neutral arbitrator shall be selected." HRS 89-11(e)(2)(A) does not require that the AAA arbitrators have experience in "interest" arbitration, nor does it provide for the prohibition of arbitrators who reside in the state of Hawaii.

Lastly, HRS 89-11(e)(2)(A) does not provide for the selection of arbitrators who are available during a specific timeframe which, given the upcoming holidays, may be overly prescriptive and eliminate willing arbitrators who would otherwise be qualified.

EXHIBIT "B"

The Employer appreciates the assistance of HLRB in resolving this issue. Should you have any questions please contact me at 587-1100 or Ryker.wada@hawaii.gov.

Sincerely,

Ryker J. Wada

Ryker Wada
Chief Negotiator

Enclosure

c: James Halvorson, Deputy Attorney General
Juanita Lauti, HHSC
Dee Wakabayashi, Judiciary
Sarah Hirakami, UH
Cynthia Covell, DOE
Randy Perreira, HGEA
Sanford Chun, HGEA
Lorena Kauhi, HGEA