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Transaction ID 62881368
Case No. 18-I-09-174

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

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

Exclusive Representative,

and

DAVID IGE, Governor, State of Hawaii;
MARK RECKTENWALD, Chief Justice, the
Judiciary, State of Hawaii; HARRY KIM,
Mayor, County of Hawaii; KIRK
CALDWELL, Mayor, City and County of
Honolulu; DEREK KAWAKAMI, County of
Kauai; ALAN M. ARKAWA, Mayor, County
of Maui; and DR. LINDA ROSEN, Chief
Executive Officer, Hawaii Health Systems
Corporation,

Employers.

CASE NO.: 18-I-09-174

ORDER NO. **3448**

ORDER TO SHOW CAUSE REGARDING
WHETHER THE EXCLUSIVE
REPRESENTATIVE AND THE
EMPLOYERS SHOULD BE
DETERMINED TO HAVE COMMITTED
A PROHIBITED PRACTICE FOR
FAILURE TO SELECT THE NEUTRAL
ARBITRATOR UNDER HRS § 89-
11(e)(2)(A)

**ORDER TO SHOW CAUSE REGARDING WHETHER THE
EXCLUSIVE REPRESENTATIVE AND THE EMPLOYERS SHOULD
BE DETERMINED TO HAVE COMMITTED A PROHIBITED PRACTICE
FOR FAILURE TO SELECT THE NEUTRAL ARBITRATOR UNDER HRS § 89-11(e)(2)(A)**

Hawai'i Revised Statutes § 89-11(e)(2)(A) provides:

(2) Arbitration. If the impasse continues twenty days after the date of impasse, the board shall immediately notify the employer and the exclusive representative that the impasse shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.

(A) Arbitration panel. Two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The neutral third member of the arbitration panel, who shall chair the arbitration panel, shall be selected by mutual agreement of the parties. In the event that the parties fail to select the neutral third member of the arbitration panel within thirty days from the date of impasse, 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. Within five days after receipt of the list, the parties shall alternately strike names from the list until a single name is left, who shall be immediately appointed by the board as the neutral arbitrator and chairperson of the arbitration panel.

(Emphasis added)

By letter, dated January 4, 2019, the American Arbitration Association (AAA) provided a list of the arbitrators to the parties in this case.


On January 18, 2019, the Hawai'i Labor Relations Board (Board) received a letter from the Exclusive Representative Hawai'i Government Employees Association requesting that the Board contact AAA regarding "serious concerns" regarding the whether the provided list comported with the requirements for the list of arbitrators set forth in Board's letter of December 20, 2018 to AAA.

Based on these facts, the Board finds that the parties in this case appear to have not complied with the requirements of HRS § 89-11(e)(2)(A) to select the neutral arbitrator/chairperson of the arbitration panel within five days after receipt of the list.

The Board hereby orders that the parties appear at a hearing on **Tuesday, January 22, 2019 at 10:00 a.m.** in the Board's hearing room, 830 Punchbowl Street, Room 434 to show cause regarding whether they should be found to have committed a violation of HRS § 89-13 prohibited practices.

DATED: Honolulu, Hawaii, January 19, 2019.

HAWAII LABOR RELATIONS BOARD


MARCUS OSHIRO, Chair


SESNITA A.D. MOEPONO, Member


J N. MUSTO, Member

Copy 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 Harry Kim, Mayor, County of Hawai'i

The Honorable Kirk Caldwell, Mayor, City and County of Honolulu

The Honorable Derek Kawakami, Mayor, County of Kaua'i

The Honorable Alan M. Arakawa, Mayor, County of Maui

The Honorable Mark E. Recktenwald, Chief Justice, the Judiciary, State of Hawai'i

The Honorable Dr. Linda Rosen, Chief Executive Officer, Hawai'i Health Systems Corp.