

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

UNITED PUBLIC WORKERS,  
AFSCME, LOCAL 646, AFL-CIO;  
and HAWAII GOVERNMENT  
EMPLOYEES ASSOCIATION,  
AFSCME, LOCAL 152, AFL-CIO,

Complainants,

and

CHRISTINE KISHIMOTO,  
Superintendent, Department of  
Education, State of Hawai'i; and  
BOARD OF EDUCATION, State of  
Hawai'i,

Respondents.

CASE NOS.: CE-01-565a  
~~CE-02-565b~~  
~~CE-03-565e~~  
~~CE-04-565d~~

ORDER NO. 3602

ORDER GRANTING COMPLAINANT'S  
MOTION TO CONTINUE DEADLINE TO  
FILE EXCEPTIONS TO PROPOSED  
ORDER DISMISSING THE PROHIBITED  
PRACTICE COMPLAINT AS MOOT  
AND FOR FAILURE TO PROSECUTE,  
OR ALTERNATIVELY, GRANTING IN  
PART AND DENYING IN PART  
RESPONDENTS' MOTION TO DISMISS  
OR IN THE ALTERNATIVE FOR  
SUMMARY JUDGMENT

ORDER GRANTING COMPLAINANT'S MOTION TO CONTINUE DEADLINE  
TO FILE EXCEPTIONS TO PROPOSED ORDER DISMISSING THE PROHIBITED  
PRACTICE COMPLAINT AS MOOT AND FOR FAILURE TO PROSECUTE, OR  
ALTERNATIVELY, GRANTING IN PART AND DENYING IN PART RESPONDENTS'  
MOTION TO DISMISS OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT

On February 14, 2020, the Hawai'i Labor Relations Board (Board) issued Proposed Order Dismissing the Prohibited Practice Complaint as Moot and for Failure to Prosecute; or Alternatively, Granting in Part Respondents' Motion to Dismiss or in the Alternative, for Summary Judgment (Proposed Order). The Proposed Order provided in relevant part:

## FILING OF EXCEPTIONS

Any person adversely affected by the above Proposed Order Dismissing the Prohibited Practice Complaint as Moot and for Failure to Prosecute; or Alternatively Granting in Part and Denying in Part Respondents' Motion to Dismiss or in the Alternative for Summary Judgment may file exceptions with the Board, pursuant to HRS § 91-11, within ten days after service of a certified copy of this document. The exceptions shall specify which finding or conclusions are being excepted to with citations to the factual and legal authorities therefor. A hearing for presentation of oral arguments will be scheduled should any party file exceptions, and the parties will be notified thereof.

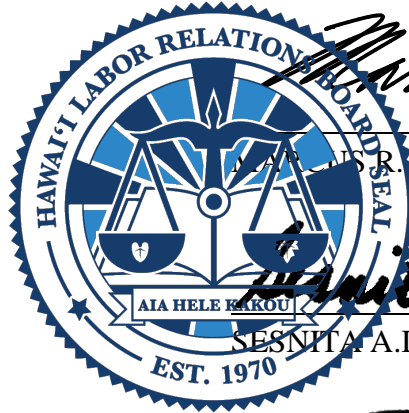
On February 21, 2020, Complainant UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW) filed Complainant's Motion to Continue Deadline to File Exceptions to Proposed Order Dismissing the Prohibited Practice Case as Moot and for Failure to Prosecute, or Alternatively, Granting in Part and Denying in Part Respondents' Motion to Dismiss or in the Alternative for Summary Judgment (Motion for Extension) requesting a continuance of the deadline for filing exceptions to the Proposed Order (Exceptions) from February 24, 2020 to May 11, 2020. Richard Thomason, Deputy Attorney General (Mr. Thomason), counsel for Respondents CHRISTINE KISHIMOTO, Superintendent, Department of Education, State of Hawai'i; and BOARD OF EDUCATION, State of Hawai'i (collectively Respondents), had no objection to the requested continuance. On February 21, 2020, based on the Motion for Extension, the Respondents' lack of objection. and the full record herein, the Board granted the Motion for Extension and extended the deadline for the filing of Exceptions from February 24, 2020 to May 11, 2020 at 4:30 p.m. by Order No. 3599.

On May 6, 2020, UPW filed Complainant's Motion to Continue Deadline to File Exceptions to Proposed Order Dismissing the Second Amended Prohibited Practice Complaint as Moot, or Alternatively, Granting Respondents' Motion to Dismiss, or in the Alternative for Summary Judgment, and Denying Complainants' Motion for Summary Judgment (Motion for Second Extension) with the Board requesting a second extension from May 11, 2020 to July 13, 2020 to file Exceptions. This Motion for Second Extension was due, in part, to the delays caused by Orders of the Governor in response to COVID-19 that have been issued since the initial extension was given, the emergency administratorship imposed by AFSCME on UPW, and review by the AFSCME Administrator Liz Ho of all UPW cases now pending. The Motion for Second Extension was supported by the Declaration of Rebecca L. Covert (Covert Declaration), UPW's counsel, and attached exhibits. In her Declaration, Ms. Covert declared that she emailed Mr. Thomason regarding her intent to seek a two-month extension to file any objections based on staffing issues and that Administrator Ho is reviewing all UPW legal cases. Mr. Thomason responded by email (Exhibit 3 to the Covert Declaration) that he had no objection to the continuance and had similar staffing issues.

Based on the Motion for Second Extension, the Respondents' lack of objections to the extension, and the full record herein, the Board grants the Motion for Second Extension. Accordingly, the Board orders that the deadline for filing of Exceptions to the Proposed Order is further extended from May 11, 2020 to **July 13, 2020 at 4:30 p.m.**

DATED: Honolulu, Hawai'i, \_\_\_\_\_ May 7, 2020 \_\_\_\_\_.

HAWAI'I LABOR RELATIONS BOARD



*Masumi R. Oshiro*

MASUMI R. OSHIRO, Chair

*Sesnita A. D. Moepono*

SESNITA A.D. MOEPONO, Member

*J. N. Musto*

J. N. MUSTO, Member

Copies sent to:

- Rebecca L. Covert, Esq.
- Richard Thomason, Deputy Attorney General
- Liz Ho, AFSCME Administrator