

STATE OF HAWAI‘I

HAWAI‘I LABOR RELATIONS BOARD

In the Matter of

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

Petitioner(s).

CASE NO(S). 20-RA-14-245a
20-RA-15-245b

DECISION NO. 500

CERTIFICATION OF EXCLUSIVE
BARGAINING REPRESENTATIVE AND
APPROPRIATE COMPOSITION OF
BARGAINING UNIT 15

CERTIFICATION OF EXCLUSIVE BARGAINING
REPRESENTATIVE AND APPROPRIATE COMPOSITION OF BARGAINING UNIT 15

1. Statement of the Case

Act 031, Session Laws of Hawai‘i 2020 (Act 31) statutorily established Bargaining Unit 15 (BU 15) by amending Hawai‘i Revised Statutes (HRS) § 89-6 to add a new category for State and county water safety officers. HRS § 89-7(c)(3) exempts new bargaining units from election requirements when the new unit is composed of employees currently covered by a valid collective bargaining agreement and is represented by the same exclusive representative.

Petitioner HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit (Petition) with the Hawai‘i Labor Relations Board (Board). The Petition asks the Board to clarify or amend BU 15 with a list of certain classes of positions.

The Board provided notice of the Petition and notice of a Board Conference on this matter to the Governor of the State of Hawai‘i; the Mayors of Hawai‘i, Honolulu, Kaua‘i, and Maui Counties; the Chief Justice of the Judiciary; the Chief Executive Officer of the Hawai‘i Health Systems Corporation; the Chairperson of the Board of Education; the Chair of the Board of Regents of the University of Hawai‘i; Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO; Hawaii State Teachers Association; State of Hawaii Organization of Police Officers; United Public Workers, AFSCME, Local 646, AFL-CIO; and University of Hawaii Professional Assembly. The Board received no Petitions for Intervention.

HGEA was the only party to appear at the Board Conference. At the Board Conference, the Board required HGEA to submit class specifications for all affected jurisdictions.

After receiving HGEA's Submission of Class Specifications for All Affected Jurisdictions, attached as Exhibit A, the Board makes the below findings of fact, conclusions of law, decision and order.

2. Findings of Fact and Conclusions of Law

HGEA is an employee organizationⁱ and the exclusive representativeⁱⁱ for Bargaining Unit 14ⁱⁱⁱ (BU 14). BU 14 is currently covered by a valid collective bargaining agreement.

Act 031, signed into law by Governor David Y. Ige on September 15, 2020, amends HRS Chapter 89 by statutorily creating BU 15 for state and county ocean safety and water safety officers.

HGEA submitted the Petition to the Board, effectively asserting that it will represent BU 15 as its exclusive representative. The Board received no petitions for intervention disputing this fact.

The class specifications submitted by HGEA to the Board are undisputed.

All employees in the class specifications submitted by HGEA are currently within BU 14 and are currently covered by a valid collective bargaining agreement.

The new BU 15 consists of employees who are covered by a valid collective bargaining agreement, and BU 15 will be represented by the same exclusive representative, namely HGEA. Therefore, no election of an exclusive representative is required^{iv}.

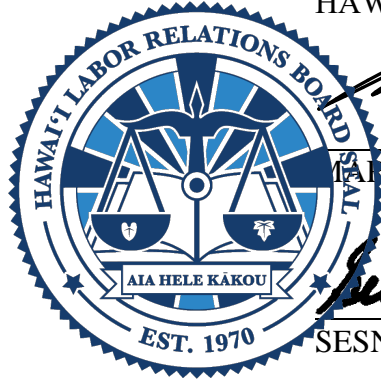
3. Order

Accordingly, the Board:

- 1) Certifies that HGEA is the exclusive bargaining representative of BU 15 for the purpose of bargaining collectively on questions of wages, hours, and other terms and conditions of employment; and
- 2) Orders that the class specifications specified in Exhibit A to this Decision constitute BU 15; and
- 3) Orders the transfer of all positions within the class specifications specified in Exhibit A from BU 14 to BU 15.

DATED: Honolulu, Hawai'i, _____ January 7, 2021 _____.

HAWAI'I LABOR RELATIONS BOARD



Marcus R. Oshiro

MARCUS R. OSHIRO, Chair

Sesnita A. D. Moepono

SESNITA A.D. MOEPONO, Member

J. N. Musto

J. N. MUSTO, Member

Copies sent to:

- Stacy Moniz, HGEA
- David Y. Ige, Governor, State of Hawai'i
- Mitch Roth, Mayor, County of Hawai'i
- Rick Blangiardi, Mayor, City and County of Honolulu
- Derek S.K. Kawakami, Mayor, County of Kaua'i
- Michael P. Victorino, Mayor, County of Maui
- Mark Recktenwald, Chief Justice, the Judiciary, State of Hawai'i
- Dr. Linda Rosen, Chief Executive Officer, Hawai'i Health Systems Corp.
- Catherine Payne, Chairperson, Board of Education, State of Hawai'i
- Benjamin Asa Kudo, Chair, Board of Regents, University of Hawai'i
- Robert H. Lee, President, Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO
- Wilbert Holck, Executive Director, Hawaii State Teachers Association
- Corey Rosenlee, President, Hawaii State Teachers Association
- Malcolm F. Lutu, President, State of Hawaii Organization of Police Officers
- Liz Ho, Administrator, United Public Workers, AFSCME, Local 646, AFL-CIO
- Christian Fern, Executive Director, University of Hawaii Professional Assembly
- Ashley Maynard, President, University of Hawaii Professional Assembly

ⁱ HRS § 89-2 Definitions defines "Employee organization" as:

"Employee organization" means any organization of any kind in which public employees participate and which exists for the primary purpose of dealing with public employers

concerning grievances, labor disputes, wages, hours, amounts of contributions by the State and counties to the Hawaii employer-union health benefits trust fund, and other terms and conditions of employment of public employees.

ii HRS § 89-2 Definitions defines “Exclusive representative” as:

“Exclusive representative” means the employee organization certified by the board under section 89-8 as the collective bargaining agent to represent all employees in an appropriate bargaining unit without discrimination and without regard to employee organization membership.

iii Prior to Act 031, HRS § 89-6 Appropriate bargaining units defined BU 14 as “State law enforcement officers and state and county ocean safety and water safety officers. After Act 031, HRS § 89-6 now defines BU 14 as “State law enforcement officers.”

iv HRS § 89-7(c) states in relevant part:

(c) No election shall be directed by the board in any appropriate bargaining unit within which:

...

(3) Any new bargaining unit is created when the created unit is composed of employees currently covered by a valid collective bargaining agreement and represented by the same exclusive representative.