

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

LENORA L. ASATO, JENNIFER E.
HALASZYN, JEFF IBARA, YOSHIAKI
IINUMA, CHARLES LUK, JOY
MAGARIFUJI, SIIRI AILEEN WILSON,
and GANG YUAN,

Complainants,

and

HAWAII GOVERNMENT EMPLOYEES
ASSOCIATION, AFSCME, LOCAL 152-
AFL-CIO and UNIVERSITY OF
HAWAII,

Respondent.

CASE NOS. 18-CU-08-365A-H
18-CE-08-921A-H

ORDER NO. 3482

ORDER DENYING MOTION TO
COMPEL RESPONDENT UNIVERSITY
OF HAWAII TO COMPLY WITH
SUBPOENAS DUCES TECUM

ORDER DENYING MOTION TO COMPEL RESPONDENT
UNIVERSITY OF HAWAII TO COMPLY WITH SUBPOENAS DUCES TECUM

On September 14, 2018, Complainants LENORA L. ASATO; JENNIFER E. HALASZYN; JEFF IBARA; YOSHIAKI IINUMA; CHARLES LUK; JOY MAGARIFUJI; SIRI AILEEN WILSON; and GANG YUAN (each individually a Complainant and collectively, Complainants) filed a Prohibited Practice Complaint (Complaint) against Respondent HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) with the Hawai'i Labor Relations Board (Board). The Complaint, among other things, alleges violations of Hawai'i Revised Statutes (HRS) §§ 89-13(b)(1) and 89-6(f)(5).

On October 17, 2018, each Complainant filed a First Amended Prohibited Practice Complaint (collectively First Amended Complaints). The First Amended Complaints, among

other things, added the UNIVERSITY OF HAWAI'I (UH) as a Respondent and alleged additional violations of HRS Chapter 89.

On November 19, 2018, the Board issued, among other things, subpoenas duces tecum to Stacy Sanders, Tracie Nakagawa, and Sarah Hiramami (Subpoenas Duces Tecum).

On March 4, 2019, Complainants filed a Motion to Compel Respondent University of Hawaii to Comply with Subpoenas Duces Tecum (Motion to Compel), asking for certain documents that Complainants claim UH did not produce.

On March 11, 2019, Respondent UH filed Respondent University of Hawai'i's Memorandum in Opposition to Complainants' Lenora L. Asato, et al., Motion to Compel Respondent University of Hawaii to Comply with Subpoenas Duces Tecum Filed March 4, 2019 (Opposition to Motion to Compel). The Opposition to Motion to Compel, among other things, argued that no subpoena duces tecum or other discovery request had been issued to UH and therefore the Motion to Compel should be denied.

Respondent HGEA did not file a response within the five days required for response to the Motion to Compel under Hawai'i Administrative Rules § 12-42-8(g)(3)(C)(iii).

The Board agrees that no subpoena duces tecum or other discovery request has been applied for or issued to UH via its President or its custodian of records. Because the Board cannot require a party to comply with a request that was not served on it, the Board must deny the Motion to Compel.

ORDER

For the reasons discussed above, the Board finds that Complainants' Motion to Compel is procedurally deficient at this time.

DATED: Honolulu, Hawai'i, _____.

HAWAI'I LABOR RELATIONS BOARD

MARCUS R. OSHIRO, Chair

Asato, et al. v. HGEA, et al.

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SESNITA A.D. MOEONO, Member

J N. MUSTO, Member

Copies sent to:

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