

STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

UNITED PUBLIC WORKERS,
AFSCME, LOCAL 646, AFL-CIO,

Complainant,

and

MARIE LADERTA, Director,
Department of Human Resources
Development, State of Hawai'i; and
VALERIE PACHECO, Personnel
Program Administrator, Department
of Human Resources Development,
State of Hawai'i,

Respondents.

CASE NO(S). CE-01-605a
CE-10-605b

ORDER NO. 3491

ORDER GRANTING COMPLAINANT'S
MOTION TO CONTINUE DEADLINE TO
FILE EXCEPTIONS TO PROPOSED
DECISION AND ORDER ADOPTING
RESPONDENTS' PROPOSED FINDINGS
OF FACT, CONCLUSIONS OF LAW, AND
PROPOSED DECISION AND ORDER

ORDER GRANTING COMPLAINANT'S MOTION TO
CONTINUE DEADLINE TO FILE EXCEPTIONS TO PROPOSED DECISION
AND ORDER ADOPTING RESPONDENTS' PROPOSED FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND PROPOSED DECISION AND ORDER

On April 22, 2019, the Hawai'i Labor Relations Board (Board) issued Proposed Decision and Order Adopting Respondent's Proposed Findings of Fact, Conclusions of Law, and Proposed Decision and Order in the above-entitled case (Proposed D & O), which among other things provided:

FILING OF EXCEPTIONS

Any person adversely affected by the Proposed Order and Decision 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 findings or conclusions are being excepted to with citations to the factual and legal

authorities therefor. A hearing for the presentation of oral arguments will be scheduled should any party file exceptions, and the parties will be notified thereof.

On April 25, 2019, Complainant UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (Complainant, Union, or UPW) filed Complainant's Motion to Continue Deadline to File Exceptions to Proposed Decision and Order Adopting Respondents' Proposed Findings of Fact, Conclusions of Law, and Proposed Decision and Order (Motion to Extend) requesting that the deadline to file exceptions to the Proposed D & O currently scheduled for on or about May 2, 2019 be extended to June 4, 2019 due to conflicts in the Union counsel's calendar for the months of May, June, and July 2019. In support of the Motion to Continue, the UPW attached a Declaration of Herbert Takahashi (Declaration) declaring, among other things, that on April 24, 2019, he wrote a letter (Declaration, Attachment 2) to Deputy Attorney General Jeffrey Keating (Keating), who represented Respondents MARIE LADERTA, Director, Department of Human Resources Development, State of Hawai'i; and VALERIE PACHECO, Personnel Program Administrator, Department of Human Resources Development, State of Hawai'i (Respondents) to request the continuance of the deadline to file the exceptions from May 2, 2019 to June 4, 2019 because of Mr. Takahashi's brief and trial calendar from now until June 1, 2019. The Declaration further declared that Keating agreed to the continuance (*See* Declaration Attachment 3).

While the Board's administrative rules do not specifically provide for an extension for the filing of exceptions to proposed findings, Hawai'i Administrative Rules (HAR) § 12-42-8(g)(17)(D) provides for extensions for the filing of proposed findings:

(D) A request for extension of time within which to file a brief or proposed findings shall be made in writing to the board at least three days before the expiration of the required time for filing, and shall be accompanied by an affidavit setting forth the grounds upon which it is based and indicating the position of the other parties with regard to such request.

(Emphasis added) The Board finds that because the foregoing administrative provision allows for an extension to file proposed findings and the extension requested relates to proposed findings, HAR § 12-42-8(g)(17)(D) will be construed to apply to the UPW's request. The Board further finds that UPW's Motion to Extend meets the requirements for an extension under this provision because it was made in writing at least three days before the required time for filing and was accompanied by a declaration setting forth the grounds for the Motion and providing the opposing parties' position agreeing to the request.

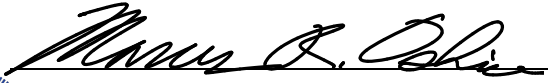
Accordingly, for the reasons set forth above, the Board grants the UPW's Motion to Extend the deadline for filing of exceptions to the Proposed D & O.

ORDER

The Board grants the UPW's Motion to Extend and hereby orders that the deadline for submission of exceptions be extended from May 2, 2019 to June 4, 2019.

DATED: Honolulu, Hawai'i, _____ April 26, 2019 _____.

HAWAI'I LABOR RELATIONS BOARD



MARCUS R. OSHIRO, Chair





JESNITA A.D. MOEPONO, Member



J.N. MUSTO, Member

Copies to:

Herbert R. Takahashi, Esq.

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