

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

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

Complainant,

and

DAVID Y. IGE, Governor, State of Hawaii;  
RYKER WADA, Director, Department of  
Human Resources Development; LINDA  
CHU-TAKAYAMA, Director, Department  
of Taxation,

Respondents.

CASE NO(S). 19-CE-03-927a  
19-CE-04-927b  
19-CE-09-927c  
19-CE-13-927d

ORDER NO. 3495

PRETRIAL ORDER AND NOTICES;

- (1) NOTICE TO RESPONDENT(S) OF PROHIBITED PRACTICE COMPLAINT;
- (2) NOTICE OF FILING REQUIREMENTS;
- (3) NOTICE OF APPEARANCE AND ACCESSIBILITY OR ACCOMMODATIONS;
- (4) NOTICE OF PREHEARING CONFERENCE;
- (5) NOTICE OF PRETRIAL CONFERENCE;
- (6) NOTICE OF HEARING ON THE MERITS; AND
- (7) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES

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## **PRETRIAL ORDER AND NOTICES**

THE PARTIES ARE HEREBY NOTIFIED AND ORDERED TO COMPLY WITH THIS PRETRIAL ORDER AND NOTICES. The Hawai'i Labor Relations Board (Board) may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this Pretrial Order and Notice if the parties or attorneys have not shown good cause for failure to comply or a good faith effort to comply.

This document shall control the course of proceedings and may not be amended except by the Board through an Order or Notice, by a written request by a party with written consent of all the parties (stipulation), or by an order granting a motion filed with the Board. The use of singular, plural, masculine, feminine, and neuter pronouns shall include the others as the context may require.

### **(1) NOTICE TO RESPONDENT(S) OF A PROHIBITED PRACTICE COMPLAINT**

The attached prohibited practice complaint (Complaint) was filed with the Board by the above-named Complainant(s) on: **April 30, 2019**.

PURSUANT TO HAWAI'I REVISED STATUTES (HRS) § 377-9(b) AND HAWAI'I ADMINISTRATIVE RULES (HAR) § 12-42-42: NOTICE HEREBY GIVEN TO RESPONDENT(S) that the above-named COMPLAINANT(S) filed a prohibited practice Complaint with the Board, a copy of which is attached, alleging that you have engaged in or are engaging in prohibited practices in violation of HRS Chapter 89.

YOU ARE DIRECTED to file a written answer to the Complaint within ten (10) days after service of the Complaint. One copy of the answer shall be served on each party, and the original with certificate of service on all parties shall be filed with the Board no later than 4:30 p.m. on the tenth day after service of the Complaint. If you fail to timely file and serve an answer, such failure shall constitute an admission of the material facts alleged in the Complaint and a waiver of hearing. (HAR § 12-42-45(g))

### **(2) NOTICE OF FILING REQUIREMENTS**

#### **1) Electronic Filing:**

**The Board provides to all parties and encourages the use of an electronic filing service through File & ServeXpress.** There is no charge to the parties for use of this electronic filing service.

To register, a party is required to complete and submit the Board Agreement to E-File (Form HLRB-25), as amended, which is available at <http://labor.hawaii.gov/hlrp/forms/>.

Questions regarding the Board's electronic filing system should be directed to the Board's staff at (808) 586-8616.

## **2) Filing in Person or by Mail**

A party may mail or file in person an original of any document at the Board's office at 830 Punchbowl Street, Room 434, Honolulu, Hawai'i, 96813. The Board's office is open on the weekdays (excluding state holidays) between 7:45 a.m. to 4:30 p.m.; the office may occasionally be closed from 12:00 p.m. to 1:00 p.m. The date of receipt by the Board shall be deemed the date of filing.

## **3) Filing Requirements Regarding Protection of Social Security Numbers and Personal Information**

Before a party files or submits any pleading, correspondence, or other document (Documents) to the Board, whether electronically or manually, the party shall make certain that all social security numbers and personal information are redacted or encrypted. "Personal information" shall include social security numbers, home addresses, dates of birth, bank account numbers, medical and health records, and any other information in which a person has a significant privacy interest. To the extent any personal information is relevant to the Board's consideration of this case, the submitting party shall submit the confidential information by means of a Confidential Information Form that substantially conforms to Form 2 of the Hawai'i Court Records Rules, as amended.

If a party submits a document that requires redaction of a page(s), the party shall by motion request permission from the Board to withdraw and replace the original document, in its entirety, with a redacted copy of such document, pursuant to HAR § 12-42-8(g)(11), "The Board may permit withdrawal of original documents upon submission of properly authenticated copies to replace such document."

The Board may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this provision where the parties or attorneys have not shown good cause for failure to comply or a good faith attempt to comply.

## **(3) NOTICE OF APPEARANCE AND ACCESSIBILITY OR ACCOMMODATIONS**

All parties have the right to appear in person and to be represented by counsel or any other authorized person in all Board proceedings. Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, including language access, please call the Board at (808) 586-8616, at least seven (7) days prior to a Board proceeding.

The parties should be aware that the Board is in a secured State of Hawai'i building and that any party, representative, counsel, or other person attending a proceeding will need to present a government-issued identification for entry.

**(4) NOTICE OF PREHEARING CONFERENCE**

PURSUANT TO HRS § 89-5(i)(4) and (i)(5), and HAR § 12-42-47:

NOTICE IS HEREBY GIVEN that the Board will conduct a Prehearing Conference on the date listed below and in the Schedule of Deadlines and Hearing Dates (Schedule) in this document.

DATE AND TIME: May 16, 2019 at 9:00 a.m.

LOCATION: Hawai'i Labor Relations Board Hearing Room  
830 Punchbowl Street – Room 434  
Honolulu, Hawai'i 96813

The purpose of the Prehearing Conference is to clarify the issues, if any; to the extent possible, to reach an agreement on facts, matters, or procedures that will facilitate and expedite the hearing or adjudication of the issues presented; to establish deadlines for prehearing briefing; to identify witnesses and file applications for the issuance of subpoenas; and for such other matters as may be raised.

All parties have the right to appear at the Prehearing Conference in person or telephonically and to be represented by counsel or any other authorized person. Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, including language access, please call the Board at (808) 586-8616, at least seven (7) days prior to a Board proceeding.

**(5) NOTICE OF PRETRIAL CONFERENCE**

PURSUANT TO HRS §§ 89-5(i)(4) and (i)(5), and 377-9:

NOTICE IS HEREBY GIVEN that the Board will conduct a Pretrial Conference on the date listed below and in the Schedule in this document.

DATE AND TIME: May 30, 2019 at 9:00 a.m.

LOCATION: Hawai'i Labor Relations Board Hearing Room  
830 Punchbowl Street – Room 434  
Honolulu, Hawai'i 96813

## 1) Pretrial Statement

**Both the Complainant(s) and the Respondent(s) shall file a Pretrial Statement with the Board on or by May 23, 2019 at 4:30 p.m., as listed in the Schedule set forth below.** The Pretrial Statement shall include the following:

1. Statement of Issues
2. Witness List

The witness lists shall include, in the interest of judicial economy, a brief but meaningful summary of the nature of the testimony expected, and the order in which the witnesses are expected to be called upon, subject to the witness' availability. The summary for each witness shall include sufficient information for the Board to determine whether the testimony will be irrelevant, immaterial, or unduly repetitious to any other witness testimony; see HRS § 91-10(1).

If a party intends to file a request for a subpoena for a witness, such request shall be concurrently filed with the Pretrial Statement, and a notation that a request is being made shall be listed in the witness list.

3. Exhibit List

The exhibit lists shall include copies of the proposed exhibits. The parties are encouraged to use the File & ServeXpress eFiling system to file the exhibits before or by 4:30 p.m. (HST) on the deadline day. The exhibits shall be combined and filed in a searchable portable document format (PDF) not exceeding 10 megabytes, with each exhibit bookmarked. Alternatively, a party may file exhibits in person or by mail to the Board; the date of receipt by the Board shall be deemed the date of filing.

If a party intends to file a request for a subpoena duces tecum for any of its exhibits, such request shall be concurrently filed with the Pretrial Statement, and a notation that a request is being made shall be listed in the exhibit list.

The Complainant shall identify its exhibits using alphabetical letters (A, B, C, D, etc.). Union Respondent(s) shall identify its exhibits using numerical designations preceded by U (e.g., U-1, U-2, U-3, etc.). Employer Respondent(s) shall identify its exhibits using numerical designations preceded by E (e.g., E-1, E-2, E-3, etc.). In the event that there are multiple Union Respondents or Employer Respondents in a particular case, the Board shall specify the designation for each Respondent.

If there are any duplicative exhibits, the parties shall designate them as Joint Exhibits, the parties shall designate one party to file these exhibits, and the Exhibits shall be marked with numerical designations preceded by J (e.g., J-1, J-2, J-3, etc.).

**All Exhibits are to be bates-stamped in the upper right-hand corner.**

Additionally, the Exclusive Representative, unless no Exclusive Representative is party to the case, in which case the Employer, must submit to the Board the full applicable collective bargaining agreement(s), including any Memoranda of Understanding, Memoranda of Agreement, or any other supplemental agreement that has any bearing on these proceedings. These documents shall be marked as Board Exhibit 1 or Board Exhibit 1a, 1b, 1c, etc. and **shall be bates-stamped in the upper-right hand corner.**

**2) Pretrial Conference**

At the pretrial conference, the Parties shall be prepared to discuss, raise, and present their position regarding the presentation of the anticipated evidence (witnesses, exhibits) to be introduced at the Hearing on the Merits (HOM), including but not limited to any stipulations, evidentiary issues, objections, or confidentiality issues that require protection from public disclosure and the narrow tailoring of methods to protect that information (e.g. sealing or redaction).

While all parties have the right to appear at the Pretrial Conference in person or telephonically and to be represented by counsel or any other authorized person, **all parties are required to either appear in person or have a representative appear in person.** Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, please call the Board at (808) 586-8616.

**(6) NOTICE OF THE HEARING ON THE MERITS**

NOTICE IS HEREBY GIVEN, pursuant to HRS §§ 377-9, 89-5(i)(3), (4), (5), and 89-14, and HAR §§ 12-42-46 and 12-42-49 that the Board will conduct an HOM on the instant Complaint at the place, time and date listed below and in the Schedule set forth below. The purpose of the HOM is to receive evidence and arguments on whether Respondent(s) committed prohibited practices as alleged by Complainant(s).

DATE AND TIME: June 6, 2019 at 9:00 a.m.

LOCATION: Hawai'i Labor Relations Board Hearing Room  
830 Punchbowl Street – Room 434  
Honolulu, Hawai'i 96813

All parties have the right to appear at the Hearing on the Merits in person and to be represented by counsel or any other authorized person. **All parties, representatives, and witnesses must appear in person at the hearing on the merits.** Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai‘i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, please call the Board at (808) 586-8616.

**(7) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES**

<b><u>DATES AND DEADLINES</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>
<u>Prehearing Conference</u>	5/16/2019	9:00 a.m.
<u>Dispositive Motion Deadline</u>	5/17/2019	
<u>Response to Dispositive Motion Deadline</u>	5/24/2019	
<u>Pretrial Statement; Exchange of Exhibits; Subpoena Deadline</u>	5/23/2019	
<u>Pretrial Conference and Hearing on Dispositive Motions</u>	5/30/2019	9:00 a.m.
<u>Hearing on the Merits</u>	6/6/2019	9:00 a.m.

**All submissions shall be filed on or before 4:30 p.m. on the deadline date.**

DATED: Honolulu, Hawai‘i, \_\_\_\_\_ May 1, 2019 \_\_\_\_\_.




HAWAII LABOR RELATIONS BOARD

*Marcus R. Oshiro*

MARCUS R. OSHIRO, Chair

*Sesnita A. D. Moepono*

SESNITA A.D. MOEPONO, Member



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J.N. MUSTO, Member

Enclosure: PROHIBITED PRACTICE COMPLAINT

Copies sent to:

Stacy Moniz, HGEA

Clare E. Connors, Attorney General

James E. Halvorson, Deputy Attorney General

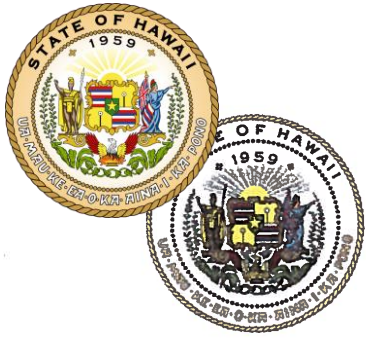
HGEA v. Ige, et al.

CASE NO(S). 19-CE-03-927a-d

PRETRIAL ORDER AND NOTICES

ORDER NO. 3495





**EFiled: Apr 30 2019 02:21PM HAST**  
**Transaction ID 63214206**  
**Case No. 19-CE-03-927a-d**

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

**FORM HLRB-4**  
**PROHIBITED PRACTICE COMPLAINT**

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INSTRUCTIONS. Submit the original<sup>1</sup> of this Complaint to the Hawaii Labor Relations Board, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

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1. The Complainant alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board proceed pursuant to Hawaii Revised Statutes Sections 89-13 and 89-14 and its Administrative Rules, to determine whether there has been any violation of the Hawaii Revised Statutes, Chapter 89.
- 

2. COMPLAINANT Please select one that describes the Complainant:

Public Employee       Public Employer       Public Union (public employee organization)

- a. Name, address and telephone number.

Hawaii Government Employees Association,  
AFSCME, Local 152, AFL-CIO  
888 Mililani Street, Suite 401  
Honolulu, Hawaii 96813  
(808) 543-0000

- 
- b. Name, address, e-mail address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

Stacy Moniz  
888 Mililani Street, Suite 401  
Honolulu, Hawaii 96813  
(808) 543-0055

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<sup>1</sup> Notwithstanding Board rule 12-42-42(b), the Board only requires the original of the complaint.

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3. RESPONDENT Please select one that describes the Respondent:

Public Employee       Public Employer       Public Union (public employee organization)

a. Name, address and telephone number.

See attached list.

b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

See attached list.

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4. Indicate the appropriate bargaining unit(s) of employee(s) involved.

Bargaining Units 3, 4, 9, and 13.

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5. ALLEGATIONS

The Complainant alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in a prohibited practice or practices within the meaning of the Hawaii Revised Statutes, Section 89-13. (Specify in detail the particular alleged violation, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13, alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.)

See Attachment.

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6. Provide a clear and concise statement of any other relevant facts.  
See Attachment.

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

**DECLARATION IN LIEU OF AFFIDAVIT**

(If the Complainant is self-represented, then the Complainant must sign this Declaration).

Please select one:

- the Complainant
- the Complainant's principle representative
- the person described below

I, Stacy Moniz,  
do declare under penalty of law that the foregoing is true and correct.

Date: 04/30/2019

/s/ Stacy Moniz

*The person signing above agrees that by signing his or her name in the above space with a "/s/ first, middle, last names" is deemed to be treated like an original signature.*

smoniz@hgea.org  
*Signor's email address*

If you are not the Complainant or listed as the principle representative in #2(b) and you are signing above, then please complete the contact information below.

Your address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your phone number: \_\_\_\_\_

Your relationship to the Complainant:

\_\_\_\_\_

If the Complainant or principal representative is registered with File and ServeXpress (FSX), then you may proceed to electronically file this complaint.

If the Complainant or the principal representative is not registered with FSX and would like to electronically file this complaint through FSX, then complete the Board Agreement to E-File, FORM HLRB-25. (Form HLRB-25 is on the HLRB Website at [labor.hawaii.gov/hlrb/forms](http://labor.hawaii.gov/hlrb/forms).) Email the completed form to the Board at [dllr.laborboard@hawaii.gov](mailto:dllr.laborboard@hawaii.gov).

Prohibited Practice Complaint – Attachment

**3a. Respondents**

The Honorable David Y. Ige  
Governor, State of Hawaii  
415 S. Beretania Street, 5<sup>th</sup> Floor  
Honolulu, HI 96813  
(808) 586-0034

Ryker Wada, Director  
Department of Human Resources Development  
235 S. Beretania Street, Suite 1400  
Honolulu, HI 96813-2427  
(808) 587-1100

Linda Chu-Takayama, Director  
Department of Taxation  
830 Punchbowl Street  
Honolulu, HI 96813  
(808) 587-4242

**3b.** Clare E. Connors  
State of Hawaii Attorney General  
425 Queen Street  
Honolulu, HI 96813  
(808) 586-1500

James E. Halvorsen  
Supervising Deputy Attorney General  
235 S. Beretania Street, Suite 1501  
Honolulu, HI 96813  
(808) 587-2900

ATTACHMENT for Paragraphs 5 (Allegations) and 6 (Other Relevant Facts)

PROHIBITED PRACTICE COMPLAINT

COMES NOW, the HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO ("HGEA" or "Union"), by and through its representative Stacy Moniz, and for its prohibited practice complaint against the above-identified Respondents, alleges and avers as follows:

1. HGEA is an employee organization and the exclusive representative of employees in bargaining units 2, 3, 4, 6, 8, 9, 13 and 14.
2. In accordance with Section 89-9(a) of the Hawaii Revised Statutes ("HRS"), positions are placed into one of the 14 bargaining units.
3. Employees should be included in a bargaining unit unless excluded by law.
4. Section 89-6(f), HRS, specifies what individuals/types of positions may be excluded from a collective bargaining unit and coverage under Chapter 89, HRS.
5. Section 89-6(g), HRS, provides: "Where any controversy arises under this section, the board shall, pursuant to chapter 91, make an investigation and, after a hearing upon due notice, make a final determination on the applicability of this section to specific individuals, employees, or positions."
6. Section 89-5(i), HRS, provides in pertinent part: "In addition to the powers and functions provided in other sections of this chapter, the board shall: (1) Establish procedures for, investigate, and resolve, any dispute concerning the designation of an appropriate bargaining unit and the application of section 89-6 to specific employees and positions; . . ."
7. In 1994, the State of Hawaii and HGEA executed a Bargaining Unit Maintenance Agreement ("BU Maintenance Agreement."). This BU Maintenance Agreement between HGEA and the State of Hawaii was an effort by the parties to update a previous statewide review of bargaining unit inclusions and exclusions that took place from 1974-1976.
8. The BU Maintenance Agreement set specific criteria for exclusion and inclusion determinations and applies to all state executive branch departments and positions in bargaining units 3, 4, 9 and 13.
9. The criteria listed in the BU Maintenance Agreement represents the parties' best efforts to produce an agreement which comports with Section 89-6(c), prior actions of the HLRB, the rights of employees, and the needs of the employer in the management of state organizations.
10. The criteria listed in the BU Maintenance Agreement also contains specific categories of positions which shall be included or excluded from collective bargaining under Chapter 89, HRS.
11. The BU Maintenance Agreement contains processing procedures which, up until the incident that gave rise to this prohibited practice complaint, HGEA believed all executive branch departments of the State of Hawaii were complying with.

12. The processing procedures include the following:
  - a. The employer shall provide to the exclusive representative notices of all proposed exclusions.
  - b. The employer shall not exclude an included position until the exclusive representative is notified of the proposed exclusion and has agreed to its exclusion.
  - c. The employer shall not fill a new position until the union is notified of the proposed exclusion.
13. Upon information and belief, the various employer jurisdictions have been submitting written requests to HGEA when they want to exclude positions from collective bargaining, Chapter 89, HRS.
14. Upon information and belief, the various employer jurisdictions have also been submitting written requests to HGEA when they want to include positions that were previously excluded from collective bargaining (Chapter 89, HRS).
15. An employer's request to HGEA to exclude a position from collective bargaining identifies the position title, describes whether it is filled or a new position, and the reason from the proposed exclusion from collective bargaining under Chapter 89, HRS.
16. In response, HGEA will inform the requesting employer in writing, whether HGEA concurs or does not concur with the employer's proposed exclusion(s) from collective bargaining.
17. If HGEA does not concur with the employer's proposed exclusion(s) from collective bargaining, the employer is required to file a petition with the Hawaii Labor Relations Board if it still wishes to exclude the position from collective bargaining.
18. An employer cannot exclude a position in an HGEA bargaining unit from collective bargaining without: (1) providing notice to and receiving the concurrence of HGEA to the proposed exclusion; or (2) petitioning the Hawaii Labor Relations Board and receiving an order from the Board approving the proposed exclusion.
19. On or about February 6, 2019, HGEA received a request that HGEA refund dues to a Unit 13 employee retroactive to 2015.
20. In HGEA's investigation of the request, HGEA found that on or about September 15, 2018, HGEA refunded dues to this employee for the period 12/15/17 to 3/31/18 in the amount of \$368.11 based on a previous request from the Department of Taxation ("DoTax") that dues were deducted in error because the employee was in an excluded position.
21. In HGEA's investigation of the request, HGEA discovered that DoTax's Employee Personnel Action Reports ("EPAR") for the employee showed that he was in an included position (Position Number 00021194) in Unit 13 effective 5/11/15 that changed to an excluded position (with the same Position Number 00021194) effective 12/09/17. The comments for the EPAR dated 03/05/18 state "CORRECTION OF BU FROM 13 TO 93. WB"
22. On or about February 13, 2019, HGEA spoke to an employee in DoTax Personnel who stated that the employee (in position number 00021194) was

not excluded. The employee in DoTax Personnel informed HGEA that she also confirmed with the Department of Human Resources Development (“DHRD”) that the employee (in position number 00021194) was not excluded.

23. On or about February 13, 2019, another employee in DoTax Personnel informed HGEA that she changed the union code from included (13) to excluded (93) effective December 9, 2017 because she was instructed by Gene Dumaran to make the change even though they knew the employee was in an included (Unit 13) position.
24. All EPARs contain a clause at the bottom of the report certifying that “[t]he personnel actions above have been taken in compliance with the provisions of Chapters 76, 78, 89, HRS, as amended.”
25. HGEA relies on EPARs in responding to requests for dues refunds.
26. An EPAR provided by DoTax to HGEA reflects that the employee was in an excluded position effective December 9, 2017.
27. The personnel action changing the bargaining unit of the employee from Unit 13 (included) to 93 (excluded) was certified to “have been taken in compliance with the provisions of Chapters 76, 78, 89, HRS, as amended” by Gene J. Dumaran.
28. Respondents did not send HGEA any request to exclude the employee/position from Unit 13 prior to unilaterally excluding the position from Unit 13.
29. Respondents did not petition the HLRB to exclude the employee/position from Unit 13 prior to unilaterally excluding the position from Unit 13.
30. Upon investigating the employee’s request for an additional dues refund, HGEA learned that it should not have refunded dues for the period 12/15/17 to 3/31/18 because the employee was and is in an included position prior to, during, and since that time period.
31. The employee/position was never excluded from Unit 13, contrary to information stated in DoTax’s EPARs.
32. Upon investigating the employee’s request for an additional dues refund, HGEA discovered that it refunded dues to another DoTax employee with the same position title based on an exclusion made by DoTax that similarly did not comply with HRS Chapter 89, and should never have been refunded as the position is an included bargaining unit position, contrary to information provided on DoTax’s EPAR for that employee.
33. As of this filing, HGEA is unaware of how many other unilateral exclusions of employees/positions from HGEA bargaining units DoTax and other State Departments made without going through proper channels, in violation of the BU Maintenance Agreement and Chapter 89, HRS.
34. Respondents’ above-described actions disregarded HGEA’s role as the exclusive representative of employees in bargaining units 3, 4, 9 and/or 13.
35. Respondents’ above-described actions disregarded the HLRB’s role and authority to act on requests and disputes concerning proposed exclusions of positions from collective bargaining.



36. Respondents' above-described actions violated their duties and responsibilities under Chapter 89, HRS and prior agreements, understandings and practices of the parties, in willful violation of Chapter 89, HRS.
37. Based on the foregoing, Respondents committed prohibited practices in violation of Sections 89-13(a)(1), (2), and (7), HRS.

WHEREFORE, HGEA hereby prays for relief against the above-named Respondents as follows:

1. That an order issue from the HLRB finding that Respondents committed prohibited practices pursuant to Section 89-13 (a)(1), (2) and (7).
2. That an order issue from the HLRB ordering Respondents to pay HGEA's reasonable fees and costs for bringing and pursuing this action.
3. That an order issue from the HLRB ordering Respondents to compensate HGEA for all dues erroneously withheld as a result of their improper exclusion of positions.
4. That an order issue from the HLRB ordering Respondents to reimburse HGEA for all dues refunds HGEA erroneously paid out to HGEA bargaining unit members as a result of Respondents' improper exclusions of position.
5. That an order issue from the HLRB ordering Respondents to post for publication, in all locations where bargaining unit 2, 3, 4 and 13 employees may review and gather, for 60 days, the decision of the Board finding that Respondents committed a prohibited practice as aforesaid, with proof of compliance being made to the Board and HGEA.
6. That an order issue from the HLRB for such other and further relief, including civil fines, as the Board deems appropriate under the circumstances.