

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII GOVERNMENT EMPLOYEES  
ASSOCIATION,

Complainant,

and

MAUI POLICE DEPARTMENT, County  
of Maui,

Respondent.

CASE NO(S). 19-CE-03-932a  
19-CE-04-932b  
19-CE-13-932c

ORDER NO. 3540

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: **July 29, 2019**.

PURSUANT TO HAWAI'I REVISED STATUTES (HRS) § 377-9(b) AND HAWAI'I ADMINISTRATIVE RULES (HAR) § 12-42-42: NOTICE IS 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: Tuesday, August 20, 2019 at 10:00 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: Thursday, August 29, 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, 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. A party's exhibits or Joint exhibits shall be combined and filed in a searchable portable document format (PDF) not exceeding 10 megabytes with each exhibit bookmarked and bates-stamped at the top right corner. 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.).

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.

## **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: Friday, September 6, 2019 at 10:00 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>	8/20/19	10:00 a.m.
<u>Dispositive Motion Deadline</u> <i>Responses to dispositive motions shall be due five business days after the dispositive motion is filed and served.</i> HAR § 12-42-8(g)(3)(C)(iii)	8/21/19	
<u>Pretrial Statement; Exchange of Exhibits; Subpoena Deadline</u>	8/21/19	
<u>Pretrial Conference and Hearing on Dispositive Motions</u>	8/29/19	9:00 a.m.
<u>Hearing on the Merits</u>	9/6/19	10:00 a.m.

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

DATED: Honolulu, Hawai‘i, July 31, 2019.

HAWAI‘I LABOR RELATIONS BOARD




MARCUS R. OSHIRO, Chair



SESNITA A.D. MOEPONO, Member





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J.N. MUSTO, Member

Enclosure: PROHIBITED PRACTICE COMPLAINT

Copies sent to:

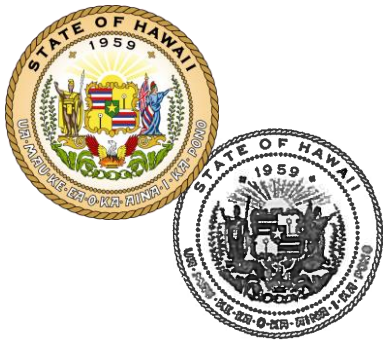
Stacy Moniz

Tivoli Faaumu

Moana Lutey, Corporation Counsel

HGEA v. MAUI POLICE DEPARTMENT  
CASE NO. 19-CE-03-932a-c  
PRETRIAL ORDER AND NOTICES  
ORDER NO. 3540





**EFiled: Jul 29 2019 03:09PM HAST**  
**Transaction ID 63638703**  
**Case No. 19-CE-03-932a-c**

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 Governmen Employees Association  
AFSCME Local 152, AFL-CIO  
888 Mililani Street, Suite 401  
Honolulu, Hawaii 96813  
Telephone: (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  
Hawaii Governmen Employees Association  
AFSCME Local 152, AFL-CIO  
888 Mililani Street, Suite 401  
Honolulu, Hawaii 96813  
Telephone: (808) 543-0055  
email: smoniz@hgea.org

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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.

County of Maui Police Department  
Police Chief Tivoli Faaumua  
55 Mahalani St.  
Wailuku, HI 96793  
Telephone: (808) 244-6400

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

Moana Lutey, Corporation Counsel  
County of Maui  
200 S. High St  
Kalana O Maui Bldg, 3rd Fl  
Wailuku, HI 96793  
Telephone: (808) 270-7740

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

Bargaining Units 03, 04, 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: 07/29/2019

/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/hlr/forms](http://labor.hawaii.gov/hlr/forms).) Email the completed form to the Board at [dlir.laborboard@hawaii.gov](mailto:dlir.laborboard@hawaii.gov).

5.

On or about July 1, 2019, the Hawaii Government Employees Association (HGEA) became aware that the Maui Police Department (“MPD”) is utilizing a “Recognition of Rights” form and “Advice of Rights Addendum” that violate the rights guaranteed to HGEA’s members under *Garrity v. New Jersey*, 385 U.S. 493, 87 S.Ct. 616, 17 L. Ed. 2nd 562 (1967) and under the United States and Hawaii State Constitutions. See Exhibit “A.”

HGEA is unaware of any attempt by the MPD to consult regarding the use of the “Advice of Rights Addendum” as required by the respective Collective Bargaining Agreements, Article 4. See Exhibit “B.” HGEA sent a letter to the Police Chief Taaumu on July 17, 2019 stating our concerns and requesting that MPD at least consult with HGEA on this issue. See Exhibit “C.” MPD was given a deadline of July 26, 2019 to respond. MPD chose not to respond.

MPD has threatened HGEA members with criminal charges for failure to comply with its directive that violates the law that has existed for the last fifty-two (52) years. In fact upon a plain reading, the “Advice of Rights Addendum” is a direct contradiction to the “Recognition of Rights” form.

The actions of the MPD described above have violated HRS §89-3, §89-9(c), §89-13(1), (7), and (8) and violate the rights guaranteed to HGEA members under *Garrity v. New Jersey*, supra.

6.

HGEA became aware of MPD's use of an "Advice of Rights Addendum" form during internal investigations concerning our members. While the Recognition of Rights form appears to adequately advise our members of their rights and responsibilities, it is then contradicted to an extent by the Addendum. See Exhibit "A." This has led to much confusion and with the threat of criminal investigations/charges for non-compliance. As a result, this has caused much concern for affected HGEA members.

The result has been that HGEA members feel compelled to waive their rights and comply with the Department's directive under threat of criminal prosecution. Based upon a fair reading of *Garrity v. New Jersey*, 385 U.S. 493, 87 S.Ct. 616, 17 L. Ed. 2nd 562 (1967), the United States Supreme Court set out the applicable law and clearly stated that union members such as HGEA's members cannot be compelled by threat of serious discipline to make statements that may be used in a subsequent criminal proceedings and they cannot be terminated (or subject to criminal prosecution) for refusing to waive their Fifth Amendment right to remain silent. The "Advice of Rights Addendum and the present policy of MPD violate both protections.

According to a search of HGEA records, the use of the Advice of Rights Addendum was not consulted upon with HGEA. This would be a violation of the respective Collective Bargaining Agreements. Secondly, HGEA believes the Addendum is a misstatement of our members rights, in particular the exceptions 2 through 4 that are listed.

DUE DATE: 07/08/19 AT 1630 HOURS

MAUI COUNTY POLICE DEPARTMENT  
INTERNAL INVESTIGATION

RECOGNITION OF RIGHTS

DUTIES AND RESPONSIBILITIES OF DEPARTMENT MEMBERS

Police personnel are in a peculiar and unusual position of public trust and responsibility. The public and the Department have an important interest in expecting police personnel to give frank and honest replies to questions specifically relating to their official duties and/or fitness to hold public office. Consequently, at any hearings or other authorized departmental proceedings it shall be the duty and responsibility of each member of the Department to truthfully, fully and directly answer any and all questions specifically, directly and narrowly relating to

1. His or her duties and actions as a member of the Department.
2. His or her fitness for office

REPRESENTATION

The Department member under investigation shall be afforded the opportunity to assert his/her right in accordance with the provisions of the legally recognized employer-employee agreement relating to representation.

The representative shall limit his/her participation to advising the Department member during any investigation and/or interrogation

ADVICE OF RIGHTS

If a member of this Department is directed to appear and answer questions before a departmental investigation REVIEW board, or other departmental proceeding the following warnings shall be given to the Department member prior to commencement of questioning

"I wish to advise you that you are being questioned as part of an official investigation of the Police Department. You will be asked questions specifically, directly, and narrowly related to the performance of your official duties

I further wish to advise you that if you refuse to testify or to answer questions relating to (a) your duties and actions as a member of the Department, and/or (b) your fitness for office you will be subject to departmental charges which could result in your dismissal from the Police Department. If you do answer, and immunity, federal, state or other has not been given, neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent departmental charges."

Garrity Rights

It is my understanding that this report is made for administrative, internal police department purposes only and will not be used as part of an official criminal investigation. This report is made by me after being ordered to do so by lawful supervisory officers. It is my understanding that refusing to obey an order to write this report that I can be disciplined for insubordination and that the punishment for insubordination can be up to and including termination of employment. This report is made only pursuant to such orders and the potential punishment/discipline that can result for failure to obey that order. *Garrity v. New Jersey, S. Ct. 493 (1967).*

You are advised to review your collective bargaining contract regarding administrative reviews.

I read and understand the above statements.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Warning given by: \_\_\_\_\_ Date: 07/01/19 Time: 1630

EMPLOYEE COPY

HGEA EXHIBIT A

MPD FORM NO. 217 (4/18)

MAUI POLICE DEPARTMENT




ADVICE OF RIGHTS ADDENDUM

There are limits to your Garrity Rights. Although, neither your statement(s) or any information and /or evidence obtained can be utilized against you in any subsequent criminal proceeding, I wish to advise you that your statement(s) may be utilized against you:

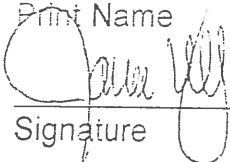
- 1. In a civil proceeding;
- 2. To implicate and/or prosecute other persons of criminal misconduct;
- 3. To challenge your credibility in a competent court of law; and
- 4. In determining appropriate sentencing should you be found guilty in any criminal proceeding.

I further wish to advise you that if you refuse to testify or to answer questions that are specifically, directly, and narrowly related to your duties and actions while performing in the official capacity of the police department or as mandated by the Standards of Conduct of the Maui Police Department, you will be subject to departmental charges which could result in your dismissal.

I have read and understand the above statements.

  
  
 Print Name Rank  
  
 Signature Date Time

Witnessed by:

JAMIE WILSON LEUTENANT  
 Print Name Rank  
  
 Signature Date Time





888 Mililani Street, Suite 401  
Honolulu, Hawaii 96813-2991

Telephone: 808.543.0000

www.hgea.org

Tivoli Faamu  
Chief of Police  
Maui County  
55 Mahalani St.  
Wailuku, HI 96793

Re: Maui Police Department Advice of Rights Addendum

Aloha Chief Faamu:

I am the Advocacy Manager of the Hawaii Government Employees Association (HGEA). I am writing this on behalf of our members that are employed by your Department.

We have become aware of your Department's use of an "Advice of Rights Addendum" form during internal investigations concerning our members. While your Recognition of Rights form appears to adequately advise our members of their rights and responsibilities, it is then contradicted to an extent by the Addendum. This has led to much confusion and with the threat of a criminal investigation for non-compliance, has caused much concern for our members. The result has been that our members are feeling compelled to waive their rights and comply with the Department's directive under threat of criminal prosecution.

First, let me state that while I am not a licensed attorney, I do have a fair understanding of *Garrity Rights*. The United States Supreme Court set out the law of the land in 1967. Our members cannot be compelled by threat of serious discipline to make statements that may be used in a subsequent criminal proceeding and they cannot be terminated (or subject to criminal prosecution) for refusing to waive their Fifth Amendment right to remain silent. In HGEA's opinion, the Addendum and the present policy violate both protections.

According to search of our records, the Advice of Rights Addendum use was not consulted upon with HGEA. This would be a violation of the respective Collective Bargaining Agreements. Secondly, we believe the Addendum is a misstatement of our members rights, in particular the exceptions 2 through 4 that are listed. Exception 1 is also misleading.

Thus, at a minimum, we are requesting that your Department cease and desist from the use of the Advice of Rights Addendum until consulted upon with HGEA. If you chose not to consult with HGEA and continue to use the Addendum, HGEA will review all of its available remedies, including, but not limited to, filing a Prohibited Practices Complaint with the Hawaii Labor Relations Board. Please respond by 4:00 p.m. on July 26, 2019.

Please feel free to contact me with any questions or if you wish to discuss this matter. Mahalo for your attention to these serious issues.

Sincerely,



STACY MONIZ  
*Advocacy Manager*

**UNIT 03  
AGREEMENT**

This Agreement is made by and between the Hawai'i Government Employees Association, AFSCME Local 152, AFL-CIO, hereinafter called the Union, and the State of Hawai'i, the City and County of Honolulu, the County of Hawai'i, the County of Maui, the County of Kaua'i, the Hawai'i Health Systems Corporation, and the Judiciary, hereinafter called the Employer.

**ARTICLE 1 - RECOGNITION**

A. The Employer recognizes the Union as the exclusive bargaining agent of the unit certified by the Hawai'i Labor Relations Board consisting of white-collar non-supervisory Employees employed by the State of Hawai'i, the City and County of Honolulu, the County of Hawai'i, the County of Maui, the County of Kaua'i, the Hawai'i Health Systems Corporation and the Judiciary.

B. The term "Employee" as used in this agreement refers to Employees in the bargaining unit.

**ARTICLE 2 - CONFLICT**

If there is any conflict between the provisions of this Agreement and any of the rules and regulations of any Civil Service or other personnel regulations applicable to Employees, or any contracts between the Employer and the Employees, the terms of this Agreement shall prevail.

**ARTICLE 3 - MAINTENANCE OF RIGHTS AND BENEFITS**

Except as modified herein, Employees shall retain all rights and benefits pertaining to their conditions of employment as contained in the departmental and Civil Service rules and regulations and Hawai'i Revised Statutes at the time of execution of this Agreement, but excluding matters which are not negotiable under Chapter 89, HRS.

**ARTICLE 4 - PERSONNEL POLICY CHANGES**

A. All matters affecting Employee relations, including those that are, or may be, the subject of a regulation promulgated by the Employer or any Personnel Director, are subject to consultation with the Union. The Employer shall consult with the Union prior to effecting changes in any major policy affecting Employee relations.

B. No changes in wages, hours or other conditions of work contained herein may be made except by mutual consent.

**UNIT 04  
AGREEMENT**

This Agreement is made by and between the Hawai'i Government Employees Association, AFSCME Local 152, AFL-CIO, hereinafter called the Union, and the State of Hawai'i, the City and County of Honolulu, the County of Hawai'i, the County of Maui, and the County of Kaua'i, the Hawai'i Health Systems Corporation and the Judiciary, hereinafter called the Employer.

**ARTICLE 1 - RECOGNITION**

A. The Employer recognizes the Union as the exclusive bargaining agent of the unit certified by the Hawai'i Labor Relations Board consisting of white-collar supervisory Employees employed by the State of Hawai'i, the City and County of Honolulu, the County of Hawai'i, the County of Maui, the County of Kaua'i, the Hawai'i Health Systems Corporation and the Judiciary.

B. The term "Employee" as used in this Agreement refers to Employees in the bargaining unit.

**ARTICLE 2 - CONFLICT**

If there is any conflict between the provisions of this Agreement and any of the rules and regulations of any Civil Service or other personnel regulations applicable to Employees, or any contracts between the Employer and the Employees, the terms of this Agreement shall prevail.

**ARTICLE 3 - MAINTENANCE OF RIGHTS AND BENEFITS**

Except as modified herein, Employees shall retain all rights and benefits pertaining to their conditions of employment as contained in the departmental and Civil Service rules and regulations and Hawai'i Revised Statutes at the time of execution of this Agreement, but excluding matters which are not negotiable under Chapter 89, HRS.

**ARTICLE 4 - PERSONNEL POLICY CHANGES**

A. All matters affecting Employee relations, including those that are, or may be, the subject of a regulation promulgated by the Employer or any Personnel Director, are subject to consultation with the Union. The Employer shall consult with the Union prior to effecting changes in any major policy affecting Employee relations.

B. No changes in wages, hours, or other conditions of work contained herein may be made except by mutual agreement.

## **UNIT 13 AGREEMENT**

This Agreement is made by and between the Hawai`i Government Employees Association, AFSCME, Local 152, AFL-CIO, hereinafter called the Union, and the State of Hawai`i, the City and County of Honolulu, the County of Hawai`i, the County of Maui, the County of Kaua`i, the Hawai`i Health Systems Corporation, and the Judiciary, hereinafter called the Employer.

### **ARTICLE 1 – RECOGNITION**

A. The Employer recognizes the Union as the exclusive bargaining agent of the unit certified by the Hawai`i Labor Relations Board consisting of professional and scientific Employees, other than registered professional nurses, employed by the State of Hawai`i, the City and County of Honolulu, the County of Hawai`i, the County of Maui, the County of Kaua`i, the Hawai`i Health Systems Corporation, and the Judiciary, hereinafter called the Employer.

B. The term “Employee” as used in this Agreement refers to Employees in the bargaining unit.

C. Whenever in this Agreement the masculine gender is used, it shall be deemed to include the feminine gender.

### **ARTICLE 2 - CONFLICT**

If there is any conflict between the provisions of this Agreement and any of the rules and regulations of any civil service or other personnel regulations applicable to Employees, or any contracts between the Employer and Employees, the terms of this Agreement shall prevail, provided that this Article shall not apply to personal services (individual) contracts.

### **ARTICLE 3 - MAINTENANCE OF RIGHTS AND BENEFITS**

Except as modified herein, Employees shall retain all rights and benefits pertaining to their conditions of employment as contained in the departmental and civil service rules and regulations and statutes at the time of execution of this Agreement, but excluding matters which are not negotiable under Chapter 89, HRS.

### **ARTICLE 4 - PERSONNEL POLICY CHANGES**

A. All matters affecting Employee relations, including those that are, or may be, the subject of a regulation promulgated by the Employer or any

Personnel Director, are subject to consultation with the Union. The Employer shall consult with the Union prior to effecting changes in any major policy affecting Employee relations.

B. No changes in wages, hours or other conditions of work contained herein may be made except by mutual consent.

#### **ARTICLE 5 - RIGHTS OF THE EMPLOYER**

The Employer reserves and retains, solely and exclusively, all management rights, powers, and authority, including the right of management to manage, control, and direct its work forces and operations except those as may be modified under this Agreement.

#### **ARTICLE 6 - UNION SECURITY**

A. The Employer shall maintain a list of Union members in this bargaining unit who have payroll assignment forms on file with the Employer. This list will be made available to the Union by request and contain information listing the names of Union members, unit Employees, and total Union deductions made without cost to the Union on a form supplied by the Employer.

B. The Employer shall also maintain a list of Employees from whom service fees are deducted from wages to defray the cost of services rendered by the Union in the negotiation and administration of this Agreement; such list will be made available to the Union without cost and on a form supplied by the Employer.

C. The Employer shall maintain and update the above listings and notify the Union of any changes.

D. Union dues, initiation fees, service fees, and other Employer authorized deductions shall be collected twice a month and transmitted to the Union not later than the 15th day of the following month by check drawn to the order of the Union. Upon the issue of such check and transmission of same to the Union, all responsibility on the part of the Employer shall cease with respect to any amount so deducted. The Employer shall not be bound in any manner to see to the application of the proceeds of any such check, nor to investigate the authority of any designated officer of said Union to sign any request, to accept any such check, or to collect the same. The Union hereby undertakes to indemnify and hold blameless the Employer from any claim that may be made upon it for or on account of any such deduction from the wages of any Employee.