

STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

NARCIS D. SALERA,

Complainant(s),

and

WESLEY T. YOKOYAMA, Director,
Department of Environmental Services, City
and County of Honolulu,

Respondent(s).

CASE NO(S). 20-CE-01-952

ORDER NO. 3732

ORDER GRANTING, IN PART, AND
DENYING, IN PART, MOTION TO
AMEND COMPLAINT

**ORDER GRANTING, IN PART, AND
DENYING, IN PART, MOTION TO AMEND COMPLAINT**

Complainant NARCIS D. SALERA (Complainant) filed a Motion to Amend his prohibited practice complaint (Complaint) previously filed with the Hawai'i Labor Relations Board (Board), and the Respondent filed a Statement in Opposition to the Motion to Amend.

Hawai'i Administrative Rules (HAR) § 12-42-8(g)(10)(A), Amendment of Documents, states that, "Any document filed in a proceeding may be amended, in the discretion of the board, at any time prior to the issuance of a final order thereon," and HAR § 12-42-43, Amendment, states that "Any complaint may be amended in the discretion of the board at any time prior to the issuance of a final order thereon."

The Board, having considered the proposed amendment, will GRANT, IN PART, and DENY, IN PART, the Motion to Amend.

Specifically, the Board grants the Motion to Amend, except that there will be a substitution of the named Respondent as shown in the above caption.

Hawai'i Rules of Civil Procedure (HRCP) Rule 25(d)(1) provides that, when a public officer is a party to an action in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party; proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall

be disregarded. The Board has applied the HRCP where its administrative rules are silent. Dep't of Public Safety, State of Hawaii v. United Public Workers, AFSCME, Local 646, AFL-CIO, Board Case No. CU-10-322, Order No, 2944, at *2 n. 2 (2013).

The Respondent named in the initial filing of the Complaint was the Director of the Department of Environmental Services, City and County of Honolulu. The individual who held that office at the time of the filing of the Complaint, Lori M.K. Kahikina (Kahikina) has since left and been replaced by a new Director, Wesley T. Yokoyama (Yokoyama). Therefore, based on the authorities set forth above, the Board has updated the caption to reflect the current Director of that department.

Because Complainant named Kahikina in her official capacity, and not as an individual, the named party is the person in the position of Director, Department of Environmental Services, City and County of Honolulu. Accordingly, as there is only one person in that position, the only Respondent will remain the Director, Department of Environmental Services, City and County of Honolulu.

The Board will allow all other requested amendments to the Complaint. Complainant is directed to file the First Amended Complaint on or by April 21, 2021.

The Board will also issue a Notice of Intent to Dismiss Complainant's case filed on March 19, 2021, as the complaint in that case is substantially similar to the approved First Amended Complaint.

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

HAWAI'I LABOR RELATIONS BOARD

MARCUS R. OSHIRO, Chair

SESNITA A.D. MOEPONO, Member

J N. MUSTO, Member

Copies sent to:

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Ernest H. Nomura, Deputy Corporation Counsel