

STATE OF HAWAI‘I

HAWAI‘I LABOR RELATIONS BOARD

In the Matter of

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

Complainant,

and

DEPARTMENT OF HEALTH, State of
Hawai‘i, and RUN HEIDELBERG, Hawai‘i
State Hospital Administrator,

Respondents.

CASE NO(S). 20-CE-09-945

ORDER NO. 3811

ORDER REGARDING STRUCTURE FOR
REMOTE ZOOM HEARINGS BEFORE
THE HAWAI‘I LABOR RELATIONS
BOARD; ORDER REGARDING WITNESS
REQUIREMENTS WHILE TESTIFYING
REMOTELY

**ORDER REGARDING STRUCTURE FOR
ALL REMOTE ZOOM HEARINGS BEFORE THE HAWAI‘I LABOR RELATIONS BOARD**

The Board currently uses Zoom as its primary platform for online proceedings. The Board orders all parties to follow the requirements laid out in this Order for all Remote Hearings before the Board.

Parties and representatives must familiarize themselves with Zoom in preparation for all online Board proceedings. For security purposes, the Board will utilize the “waiting room” function.

Prior to the hearing:

1. The Board will provide Zoom login information to the parties in advance of the hearing.
2. Parties and witnesses are not permitted to utilize virtual backgrounds or any other technology that alters the Board’s ability to observe the area around the party/witness.
3. A party who shares the Zoom login information with any other group or individual (Sharing Party) must provide the Board and the other party/parties with a complete

list of participants they have invited to attend the proceedings, including any support staff and witnesses. **This list must be emailed to the Board at dlir.laborboard@hawaii.gov prior to the start of the hearing.**

4. Any Sharing Party must inform non-witness participants:
 - 1) that they must keep their microphones muted at all times; and
 - 2) that they must keep their cameras off at all times.
5. Any Sharing Party must inform **all** participants:
 - 1) that they must submit their full name as their username when requesting entry to the Zoom conference, to allow the Board to ensure compliance with the witness exclusion rule, unless the party sets up a device specifically for witness use only, in which case that device may log in with the username “witness”; and
 - 2) **that they may not record, screen shot, record conversations, and/or use third party software to record the proceeding.**
6. Sharing Parties and their counsel or representatives are responsible for ensuring that all of their invitees abide by the requirements set forth in this Order. An invitee’s failure to comply with this order will be regarded as the Sharing Party and/or their counsel or representative’s failure to comply with this Order during a hearing.

Failure to comply with this Order may be grounds for the Board to commence proceedings regarding that party’s counsel or representative under HAR § 12-42-8(g)(9)(A).

ORDER REGARDING WITNESS REQUIREMENTS WHILE TESTIFYING REMOTELY

Due to the situation with COVID-19, unless otherwise ordered by the Board, all witnesses must testify videographically.

For the purposes of HAR § 12-42-8(g)(5), witnesses are appearing “in person” if they appear in accordance with this Order. Accordingly, the Board **orders all parties** to inform their witnesses that, unless otherwise directed or allowed, when the witness testifies:

1. The witness must be in a location without anyone else in the room with them, and there should be no one at the location who can overhear their testimony;
2. The device from which the witness appears must be used during the witness’ testimony solely for the purpose of the witness appearing by video;

3. The witness may not consult with anyone during testimony;
4. The party calling the witness must ensure that the witness has access to all exhibits in the case;
5. The witness must not look at or make reference to notes or any other documents or materials other than the exhibits, and may look at the exhibits only when directed to do so by a party or the Board;
6. At all times while testifying, the witness must be clearly visible, face the camera, and speak directly and audibly into the microphone;
7. The witness may not use a virtual background; and
8. The witness must not have any communication with third parties while they are on the stand and under oath.

DATED: Honolulu, Hawai'i, November 9, 2021.

HAWAI'I LABOR RELATIONS BOARD
dlir.laborboard@hawaii.gov

MARCUS R. OSHIRO, Chair

EXCUSED
SESNITA A.D. MOEPONO, Member

J N. MUSTO, Member

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