

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

NARCIS D. SALERA,

Complainant(s),

and

ROGER BABCOCK, JR., Ph.D. P.E.,  
Director, Department of Environmental  
Services, City and County of Honolulu,

Respondent(s).

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

ORDER NO. 3847

ORDER HOLDING CASE IN ABEYANCE  
AND DIRECTING THE PARTIES TO  
PROVIDE STATUS UPDATES TO THE  
BOARD

**ORDER HOLDING CASE IN ABEYANCE AND  
DIRECTING THE PARTIES TO PROVIDE STATUS UPDATES TO THE BOARD**

The Hawai'i Labor Relations Board (Board) held a hearing on the merits (HOM) in this case on May 18, 2022. Based on the testimony provided at the HOM, grievances related to several of the underlying events are proceeding through the grievance process, including potentially through arbitration.

Hawai'i has a long-held policy of encouraging arbitration as a means of settling disputes. *See e.g., Mars Constr. v. Tropical Enterprises*, 51 Haw. 322, 334, 460 P.2d 317, 318-19 (1969). Based on this policy and the Hawai'i Supreme Court's rulings on the doctrine of exhaustion, the Board has refused to hear cases alleging violations of the relevant collective bargaining agreement (CBA) until after the conclusion of any arbitration proceedings. *See, Salera v. Yokoyama*, Board Case No. 20-CE-01-952, Order No. 3799, at \*11-12 (2021).

Although the remaining issues in this case do not involve an alleged violation of the CBA, the Board finds that the factual circumstances behind the alleged violations of the CBA heavily implicate the factual circumstances before the Board. If an arbitrator issues findings of fact related to the same factual circumstances, the Board would be barred from disregarding those determinations. *See, Int'l Longshore & Warehouse Union v. Grand Wailea Resort Hotel & Spa*, 2013 U.S. Dist. LEXIS 129175, at \*17 (D. Haw. Sept. 10, 2013).

Therefore, based on the testimony provided at the HOM and the record in this case, the Board holds this case in abeyance until such time as the arbitrations related to all underlying disciplinary actions referenced in this case are completed. The Board further orders that the parties inform the Board when the arbitrations are completed.

DATED: Honolulu, Hawai'i, May 19, 2022.

HAWAI'I LABOR RELATIONS BOARD

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MARCUS R. OSHIRO, Chair

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SESNITA A.D. MOEPONO, Member

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J N. MUSTO, Member

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