

# HAWAI'I LABOR RELATIONS BOARD KA PAPA LIMAHAHA O HAWAI'I

FISCAL YEAR REPORT TO  
THE HONORABLE JOSH GREEN  
GOVERNOR OF THE STATE OF HAWAI'I

July 1, 2022 - June 30, 2023

PRESENTED BY THE HAWAI'I LABOR RELATIONS BOARD

MARCUS R. OSHIRO, Chairperson  
SESNITA A.D. MOEPONO, Board Member  
J N. MUSTO, Board Member

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## **I. EXECUTIVE SUMMARY**

Pursuant to Section 89-5(h), Hawai‘i Revised Statutes (HRS), the Hawai‘i Labor Relations Board (Board) presents its annual report to the Governor describing its activities for fiscal year (FY) 2023 (July 1, 2022 through June 30, 2023) and reflecting the status of the composition of the Board on June 30, 2023.

In FY 2023, as Hawai‘i, along with the rest of the country, emerged from the COVID-19 pandemic,<sup>1</sup> the number of Chapter 396, HRS, Hawai‘i Occupational Safety and Health Law (HIOSH) cases filed with the Board declined as did the time it took to process and close cases. Most cases continued to close within one year or 365 days from filing. However, five HIOSH cases have now extended beyond one year, and three cases are pending Board decision or order.

For the duration of the COVID-19 pandemic, the Board and its staff remained steadfast in its effort to reduce the backlog of pre-FY 2016 Chapters 377/89, HRS, Hawai‘i Employment Relations Act/Collective Bargaining in Public Employment cases filed in 2003 through June 30, 2016. From a high of 136 backlog cases at the start of FY 2016, the Board reduced the backlog to two cases by the end of FY 2022. By the end of FY 2023, the number of pre-2016 backlog cases stood at two.

As the remaining consolidated backlog case is scheduled to go to hearing in September 2023, the Board expects to clear its pre-2016 Chapter 89, and 377, HRS, backlog in the coming fiscal year. The Board aims to accomplish this goal while maintaining the timely processing of new cases and conducting substantive hearings. The Board continues to ensure the high quality of its decisions for present parties as well as future self-represented litigants and attorney practitioners. At the close of FY 2023, forty-four Chapter 89, HRS, cases filed between FY 2017 and FY 2023 remain open, and 27 cases are pending Board decision or order.

As always, the Board acknowledges the conscientiousness and ingenuity of its staff for navigating the Board through the challenges of the COVID-19 pandemic and insuring that Hawai‘i’s people received uninterrupted access to the services provided by the Board. The results of their hard work are both self-evident and recognized in this report.

## **II. INTRODUCTION**

### **A. Overview of the Board**

The Board is a quasi-judicial agency that oversees two areas of laws in the State of Hawai‘i:

- (1) Collective bargaining and unfair labor practices under Chapters 89 and 377, HRS; and

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<sup>1</sup> On January 30, 2023, the Biden Administration announced its plan to end both the national emergency and public health emergency declarations related to the COVID-19 pandemic on May 11, 2023. On April 10, 2023, President Joseph R. Biden signed House Joint Resolution 7 (Public Law 118-3), which terminated the national emergency concerning COVID-19 declared by President Donald J. Trump on March 13, 2020. As previously announced by the Biden administration, the COVID-19 public health emergency ended on May 11, 2023.

- (2) Contests involving citations or orders of the Director of Labor and Industrial Relations related to occupational safety and health laws set forth in Chapter 396, HRS.

The mission of the Board is to enforce and protect the rights of employees and unions to organize and bargain collectively, in balance with the employer's rights to manage operations as provided by Chapters 89 and 377, HRS, by fairly and efficiently resolving labor disputes brought before it. The Board is committed to promoting the harmonious and cooperative relations between the parties.

The Board has jurisdiction over public employers – i.e., the State of Hawai'i and the counties, the Judiciary, the Department of Education, including the public charter schools, the University of Hawai'i system, and the Hawai'i Health Systems Corporation.

In the private sector, the Board also has jurisdiction over employees, employers, and unions who are not subject to the jurisdiction of the National Labor Relations Board. Historically this has included agricultural employees and employers.

The Board is attached to the State Department of Labor and Industrial Relations (DLIR) for administrative and budgetary purposes only.

In its capacity as a quasi-judicial body, the Board adjudicates disputes between public employers, unions<sup>2</sup>, and employees involving collective bargaining, and disputes between certain private sector employers, unions, and employees involving employment relations. These cases typically involve an employer or union's failure to bargain in good faith, an employer or union's interference with an employee's right to participate in or refrain from bargaining activities, or a union's failure to fairly represent its members in the negotiation of agreements or the pursuit of grievances.

The Board also conducts union representation elections, supervises the impasse procedures in public employment, and issues declaratory rulings, which clarify the applicability of governing statutes and its rules.

In 2002, the Board also acquired jurisdiction regarding occupational health and safety. Because of this, the Board is committed toward ensuring that every worker has a safe and healthful work environment, and that employers and employees collectively work to reduce injury and illness arising out of employment.

## **B. Statutory Authority and Foundation**

Private employees in the State of Hawai'i have a constitutional right to organize. Article XIII, Section 1 of the State Constitution, provides that:

*“Persons in private employment shall have the right to organize for the purpose of collective bargaining.”*

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<sup>2</sup> HRS § 89-2, defines “Exclusive Representative” to mean “the employee organization certified by the board under section 89-8 as the collective bargaining agent to represent all employees in an appropriate bargaining unit without discrimination and without regard to employee organization membership.” The term “union” is commonly used to describe an exclusive representative and will be used throughout this report.

The Hawai‘i Employment Relations Act (HERA) was enacted in 1945 and codified as Chapter 377, HRS, to permit employees who are not subject to the Railway Labor Act or the National Labor Relations Act to participate in collective bargaining. The Hawai‘i Employment Relations Board (HERB) was created to administer the provisions of the HERA.

Similarly, in 1968, the State Constitution was amended to afford public employees in the State of Hawai‘i the right to organize for the purpose of collective bargaining. Article XIII, Section 2 of the State Constitution, provides that:

*“Persons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law.”*

The Legislature enacted Act 171, Session Laws of Hawai‘i 1970, which was subsequently codified as Chapter 89, HRS, Collective Bargaining in Public Employment, to encourage joint decision-making in administering government. This Act created the Hawai‘i Public Employment Relations Board (HPERB) to administer Chapter 89, HRS.

In 1985, the Legislature abolished HPERB and renamed it the Hawai‘i Labor Relations Board, effective January 1, 1986, to administer the provisions of both Chapters 89 and 377, HRS.

Subsequently, the Legislature enacted Act 104, Session Laws of Hawai‘i 2002, which empowered the Board to conduct *de novo* hearings in reviewing contests of citations or orders of the Director of Labor and Industrial Relations involving occupational health and safety pursuant to Section 396-11, HRS, except as provided in Section 396-11(h), HRS, where the Board’s review is confined to the record only.

### **C. Current Board Members**

The Board is comprised of three members:

- (1) One member representative of management;
- (2) One member representative of labor; and
- (3) The third member, the Chair, representative of the public.

Each member is appointed by the Governor and confirmed by the Senate.<sup>3</sup> The full term of appointment for Board members is six years. Because cumulative experience and continuity in office are essential to the proper administration of Chapter 89, HRS, the two-term appointment limit in Section 26-34, HRS, is not applicable, and members can continue in office as long as efficiency is demonstrated.

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<sup>3</sup> During the 2023 legislative session, the Hawai‘i State Legislature passed House Bill No. 161, H.D. 1, S.D. 1, C.D. 1, which establishes that the representative of labor on the Board shall be a person selected by a majority of the exclusive representatives of the bargaining units. The bill passed final reading as amended in C.D. 1 on May 2, 2023, and was transmitted to the Governor on May 3, 2023. The Governor did not inform the Legislature of his intent to veto the bill by June 26, 2023 (the 35th day after adjournment *sine die*). Therefore, unless the Governor signs the bill by July 11, 2023 (the 45th day after adjournment *sine die*), the bill will become law without the Governor’s signature and given an Act number.



*Board Member Sesnita A.D. Moepono, Chair Marcus R. Oshiro, and Board Member J N. Musto serve as representatives of management, the public, and labor, respectively, on the Hawai‘i Labor Relations Board.*

The Board is currently comprised of the following members:

**MARCUS R. OSHIRO**, Chair, was appointed to the Board on October 25, 2017, and his initial term ended on June 30, 2018. He was also appointed concurrently to another term effective July 1, 2018, through June 30, 2024. Mr. Oshiro’s annual salary as of June 30, 2023, was \$148,584. After graduating from Leilehua High School on O‘ahu, Mr. Oshiro received his Bachelor of Arts in Political Science from the University of Hawai‘i at Mānoa. He attended the Willamette University College of Law from 1985-1988 and graduated with a J.D. and earned a Certificate in Dispute Resolution in 1988. He was admitted to the Hawai‘i State Bar in 1988 and is licensed to practice in the Hawai‘i State Courts, as well as the U.S. District Court (Hawai‘i) and the 9<sup>th</sup> Circuit Court of Appeals. During his professional career, he served as a Deputy Prosecuting Attorney for the City and County of Honolulu and Consumer Law Attorney at the Legal Aid Society of Hawai‘i. He has served in various leadership and committee chairmanships representing the people of Wahiawa, Whitmore Village, and Launani Valley in the State House of Representatives from 1994 through 2017.

**SESNITA A.D. MOEPONO**, Member, representative of management, was appointed and confirmed for a six-year term beginning on July 1, 2011 and ending on June 30, 2017. Ms. Moepono was then reappointed and confirmed for a six-year term, ending on June 30, 2023. Ms. Moepono's annual salary as of June 30, 2023, was \$141,156. Ms. Moepono graduated from Punahou School, University of Hawai'i at Mānoa with a Bachelor of Arts, and the William S. Richardson School of Law in 1986 with a J.D. She was admitted to the Hawai'i State Bar Association in 1987 and has been a member of the Bar of the Supreme Court of the United States since 2021. Ms. Moepono was in private practice from 1998-2011. From 1994-1997, she served as the Deputy Administrator of Operations, Office of Hawaiian Affairs, and was responsible for the administrative functions, i.e. fiscal, personnel, public information, cultural, legislative, and public information. She has worked in the Legislature as a budget analyst for the Senate Ways and Means Committee and legislative researcher for the Senate Majority Research Office and the Committees on Judiciary, Labor, Transportation, and Health. Ms. Moepono served as the Chair of the Liliha Neighborhood Board 2003-2007, served as Vice Chair during her tenure on the Honolulu Planning Commission 1994-2007, and a member of the Downtown Business Association, Kupuna Caucus, the Honolulu Committee on Aging, the Juvenile Justice SAC, and the Lanakila Multi-Purpose Committee, among others.

**J N. MUSTO**, Member, representative of labor, was appointed and confirmed to a six-year term beginning on July 1, 2016 and ending on June 30, 2022. Dr. Musto's term was extended by former Governor David Y. Ige for up to two years. His annual salary as of June 30, 2023, was \$141,156. Dr. Musto graduated with a Bachelor of Science in Biology from Hillsdale College in 1963. He attended the University of Michigan from 1968 to 1973, receiving a Master's degree and Ph.D. from the Rackham Graduate School in a combined curriculum of education, law, and business. His dissertation explored the potential impact of Title VII of the 1964 Civil Rights Act on affirmative action hiring programs in selected Michigan public school districts. He has taught in public secondary schools and universities. For more than 35 years, Dr. Musto served as the Executive Director and Chief Negotiator for the University of Hawai'i Professional Assembly. He has been appointed to serve on impasse resolution interest arbitration panels in both Hawai'i and other states. Dr. Musto was appointed as one of Hawai'i's Commissioners to the Education Commission of the States and was a member of the Research Corporation of the University of Hawai'i Board of Directors. He also participated in the early formation of the Neighborhood Justice Center of Honolulu, serving as both a mediator and its president.

#### **D. Current Board Staff**

Pursuant to Section 89-5(a), HRS, the Board may appoint the members of its staff. The Board's secretary is in the civil service system and excluded from collective bargaining. Other staff members are exempt from civil service and excluded from collective bargaining.

The Board's staff currently includes the following:

**LINDA K. GOTO**, Executive Officer. Ms. Goto serves as legal counsel to the Board and performs such legal and administrative duties as may be delegated by the Board. Her legal duties primarily include research, drafting, and editing Board decisions and orders. Her administrative duties include supervising other staff members and responding to inquiries from the public. Ms. Goto's annual salary as of June 30, 2023, was \$120,516. Ms. Goto graduated from Punahou School and Mount Holyoke College in South Hadley, Massachusetts with a Bachelor of Arts in Psychology. She received a Juris Doctorate from the Columbus School of Law, Catholic University of America, Washington, D.C. and has been a member of the Hawai'i State Bar Association since 1978. Ms. Goto was admitted to the Bar of the Supreme Court of the United States in 2021. Ms. Goto served briefly as a law clerk in the Office

of the Administrative Director of the Family Court for the First Circuit after her graduation from law school. She then joined the Board for her first term as the Hearings Officer in 1978. In 1981, Ms. Goto left the Board to work in private practice, primarily in the area of civil litigation. After several years in private practice, Ms. Goto returned to work in state government as a legal researcher with the Legislative Reference Bureau, Hawai‘i State Legislature, and an administrative rules drafter with the State Department of Taxation. In 1993, she became a solo practitioner performing legal research and writing on a contract basis, primarily in the area of private sector labor and employment law, until returning to the Board for a second term as the Hearings Officer in 2014. Ms. Goto initially served in a temporary assignment as the Executive Officer until she was appointed to the position permanently.

**MIDORI K. HIRAI**, Hearings Officer. Ms. Hirai serves as legal counsel and hearings officer to the Board and performs such legal duties as may be delegated by the Board. Her legal duties primarily include research, drafting, and editing Board decisions and orders. She is also the attorney primarily responsible for handling appeals from Board decision and orders. Ms. Hirai’s annual salary as of June 30, 2023, was \$95,880. Ms. Hirai previously worked in state government as a legislative aide and joined the Board as a Staff Attorney in October 2018 after spending time in private practice. Ms. Hirai graduated from Punahou School and University of Hawai‘i at Mānoa with a Bachelor of Arts in English with High Honors and a Professional Writing Certificate. She received a Juris Doctorate from the University of San Francisco, School of Law, San Francisco, California and has been a member of the Hawai‘i State Bar Association since 2016. Ms. Hirai was admitted to the Bar of the Supreme Court of the United States in 2021.

**JOYCE K. MATSUMORI-HOSHIO**, Staff Attorney. Ms. Matsumori-Hoshio oversaw the process for the drafting, public comment, and adoption of new HLRB administrative rules. She also performed other assignments as directed by the Chair and Board members. Ms. Matsumori-Hoshio’s annual salary as of July 1, 2022, was \$92,628. Ms. Matsumori-Hoshio graduated from the University of California at Berkeley with a Bachelor of Arts in Psychology. She received a Juris Doctor from the University of California, Hastings College of the Law in San Francisco, California, and has been a member of the Hawai‘i State Bar Association since 1984. Ms. Matsumori-Hoshio served as a law clerk in the Motions Division of the First Circuit Court and subsequently worked with the Office of the Public Defender, litigating bench and jury trials, drafting appellate briefs, and presenting oral argument before the Hawai‘i Supreme Court and the Intermediate Court of Appeals. She taught Appellate Advocacy for six semesters as an Adjunct Instructor at the University of Hawai‘i, William S. Richardson School of Law. After leaving the Office of the Public Defender in 2005, Ms. Matsumori-Hoshio worked in private practice, specializing in appellate litigation. She served as Grand Jury Counsel for the First Circuit Court in 2007 and 2009. From 2011-2019, she served on the Hawai‘i Paroling Authority as a Board member where she adjudicated hearings and assisted in drafting and revising administrative rules and Board manuals. Ms. Matsumori-Hoshio, who retired from State service in January 2023, led the effort to publish the Board’s new administrative rule booklet and developed Chapter 89, HRS, Frequently Asked Questions (FAQs), which are being finalized for publication on the Board’s website.

**SUSAN A. WEBER**, Staff Attorney. Ms. Weber joined the Board’s staff in February 2023, following the departure of Ms. Matsumori-Hoshio. Her duties include assisting the Board in processing HIOSH appeals and performing other duties as assigned. Her annual salary as of June 30, 2023, was \$90,816. A former Hearings Officer with the Board, Ms. Weber has also served as an Employment Security Appeals Referee with the Unemployment Insurance Division, State of Hawai‘i Department of Labor and Industrial Relations, and as a DUI Adjudicator with the Administrative Driver’s License Revocation Office, Hawai‘i State Judiciary. Ms. Weber gained experience at the Hawai‘i State



Legislature as a legislative staffer, researcher, and analyst, and as a librarian and researcher with the Legislative Reference Bureau. She also served in various capacities within the University of Hawai‘i System Libraries. Ms. Weber obtained a Bachelor of Arts in Psychology and a Master of Library and Information Studies from the University of Hawai‘i at Mānoa and received a Juris Doctor from the University of California, Hastings College of the Law in San Francisco, California. Ms. Weber has been a member of the Hawai‘i State Bar Association since 1992.

**NORA A. EBATA**, Secretary IV; SR 18M. Ms. Ebata provided clerical services for the Chair and Board members. Her annual salary as of July 1, 2022, was \$73,824. Ms. Ebata also served as the office manager, supervised the Board’s clerical staff, and was responsible for fiscal and personnel recordkeeping, including purchasing and travel for the Board. Ms. Ebata also finalized Board publications and responded to public inquiries. After more than 50 years of dedicated service to the State of Hawai‘i and the Board, Ms. Ebata retired in December 2022.

**MILTON Y. HIRATA**, Hearings and Case Management Specialist. His annual salary as of June 30, 2023, was \$53,160. Mr. Hirata effectively serves as the Board’s judicial Court Clerk, which has allowed the Board to expand the number of hearings it is able to hold, nearly doubling the number of days of hearings on the merits since the creation of the position. Mr. Hirata is responsible for the administration of the Board’s hearings. He maintains the audio and/or video recordings of the hearings, which serves as the official record of the proceedings. Mr. Hirata also takes the official Board proceeding notes, which are taken contemporaneously with all proceedings, including status conferences, pre-hearing conferences, motion hearings, and hearings on the merits.

Mr. Hirata serves as the primary point-of-contact with the parties to determine access needs, compliance with filing deadlines and requirements, including that the parties have properly bates-stamped all exhibits, and properly completed forms requesting subpoenas, and filed any service documents. Prior to pretrial conferences, Mr. Hirata is responsible for reviewing the pretrial statements submitted by the parties and for checking the witness and exhibit lists offered by the parties for any duplicative exhibits or witnesses who may be called by both parties. During hearings, Mr. Hirata is responsible for displaying exhibits in the Board Hearing Room during testimony, maintaining the list of exhibits that are withdrawn, offered, rejected, or entered into the record, and monitoring the observers of hearings, both in person and remotely, to ensure compliance with the Witness Exclusion Rule.

Further, as the primary staff member tasked with technological responsibilities, Mr. Hirata operates and maintains the Board’s electronic broadcasting and recording systems. These systems have allowed the Board to hold remote hearings by *Zoom* and by *FreeConferenceCall* when Internet access or equipment may not allow for video recordings. Mr. Hirata also provides back-up support for the Researcher and can manage and maintain the Board System/Docket, Decision and Order log, and the Board’s *FileandServeXpress* system.

Mr. Hirata graduated from the University of Hawai‘i at Mānoa with a Bachelor of Arts in Political Science. From 1980 to 2005, Mr. Hirata founded and managed several communications agencies. From 2005 to 2013, Mr. Hirata served as the regional director of communications for the American Cancer Society, Hawai‘i Pacific Division.

**KEITH D. KARDASH**, Researcher. His annual salary as of July 1, 2022, was \$58,488. Mr. Kardash performed a variety of duties for the Board as a researcher. His primary responsibilities involved maintaining the Board’s official electronic case records and the *FileandServeXpress* (FSX) electronic filing system. Mr. Kardash was also responsible for maintaining the Board’s digital calendar.

Mr. Kardash reviewed and finalized all Board filings, including Board Notices and Orders, under the direction of the Executive Officer and the Hearings Officer and forwarded all required documents to the Board for execution via the eSign system. After receiving the completed documents, Mr. Kardash uploaded the Board documents to the FSX system. Mr. Kardash was also responsible for preparing and mailing required notices to parties. Mr. Kardash assisted the Executive Officer and the Hearings Officer with scheduling hearing dates and times. Additionally, Mr. Kardash maintained a record of open action items in cases that needed to be acted on.

Mr. Kardash was also responsible for maintaining and updating the Board's website, including its library of Board Orders and Decisions, laws, rules, and other public information. In addition to the website, Mr. Kardash was tasked with collecting and maintaining information on the cases, including the number, type, and status. Mr. Kardash also performed research and built systems for the Board as required.

Previously, Mr. Kardash gained more than ten years of legal experience at a prominent labor law firm in Hawai'i. Mr. Kardash graduated from Kamehameha Schools and Northwestern University with a Bachelor of Arts in Music Performance: Piano. After obtaining his bachelor's degree, Mr. Kardash received a Master of Library and Information Science from the University of Hawai'i at Mānoa. Mr. Kardash, whose exceptional IT skills helped the Board to seamlessly carry out its duties and responsibilities throughout the COVID-19 pandemic, left the Board staff in May 2023.

### **III. PUBLIC-SECTOR BARGAINING UNITS**

#### **A. Overview**

The collective bargaining law for public employees divides all State and county employees covered by Chapter 89, HRS, into 15 units based on occupational and compensation plan groupings. These bargaining units, described in Section 89-6(a), HRS, are as follows:

<b>Unit</b>	<b>Statutory Description</b>
1	Non-supervisory employees in blue collar positions;
2	Supervisory employees in blue collar positions;
3	Non-supervisory employees in white collar positions;
4	Supervisory employees in white collar positions;
5	Teachers and other personnel of the department of education under the same pay schedule, including part-time employees working less than twenty hours a week who are equal to one-half of a full-time equivalent;
6	Educational officers and other personnel of the department of education under the same pay schedule;
7	Faculty of the University of Hawai'i and the community college system;

8	Personnel of the University of Hawai‘i and the community college system, other than faculty;
9	Registered professional nurses;
10	Institutional, health and correctional workers;
11	Firefighters;
12	Police officers;
13	Professional and scientific employees, who cannot be included in any of the other bargaining units; and
14	State law enforcement officers; and
15	State and county ocean safety and water safety officers.

It is customary to refer to the bargaining units by the numbers used in Section 89-6(a), HRS. For example, the unit consisting of firefighters is referred to as “Unit 11”.

### **B. Exclusive Representatives**

All 15 public employee collective bargaining units have selected employee organizations to serve as their exclusive representatives. Throughout the remainder of this report, the following abbreviations will be used to refer to the respective exclusive representatives (or unions):

HFFA	Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO
HGEA	Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO
HSTA	Hawaii State Teachers Association
SHOPO	State of Hawaii Organization of Police Officers
UHPA	University of Hawaii Professional Assembly
UPW	United Public Workers, AFSCME, Local 646, AFL-CIO

### **C. Employees Per Bargaining Unit**

As of December 31, 2022, there were approximately 57,404 public employees in bargaining units. The following chart indicates the number of employees in each bargaining unit, the change in employees from the previous year, the Exclusive Representative for each unit, and the date that the union was initially selected and certified as the exclusive representative.

<b>Unit</b>	<b>No. of Employees</b>	<b>Difference From Previous Year</b>	<b>Exclusive Representative</b>	<b>Date of Initial Certification</b>
1	8,263	(32)	UPW	10/20/1971
2	743	(8)	HGEA	10/20/1971

3	11,399	(413)	HGEA	4/3/1972
4	781	10	HGEA	5/3/1972
5	12,800	82	HSTA	05/21//71
6	955	29	HGEA	6/10/1971
7	3,286	(19)	UHPA	11/1/1974
8	2,275	38	HGEA	1/26/1973
9	1,246	45	HGEA	7/10/1979
10	2,420	4	UPW	2/11/1972
11	1,988	9	HFFA	2/4/1972
12	2,622	(82)	SHOPO	7/14/1972
13	7,828	(191)	HGEA	5/3/1972
14	409	38	HGEA	7/1/2013
15	389	13	HGEA	1/7/2021

*The information in the above chart is from the HLRB Informational Bulletin No. 61, dated July 5, 2023, and can be found on the Board's website <http://labor.hawaii.gov/hlrb/find-a-report/>.*

#### **IV. BOARD PROGRAM OF WORK DURING FY 2023**

##### **A. Closing Backlog Cases**

As previously reported, the Board and staff have diligently worked to reduce the backlog of its pre-FY 2016 cases (filed on or before June 30, 2016), many of which were 10-15 years old and some even preceding the terms of the current Board members.

For most of the backlog cases, Board members who did not participate in the hearings, pursuant to Section 91-11, HRS, had to review entire case files and listen to the audio recordings or read the transcripts to comprehend and endorse any proposed order and findings of fact and conclusions of law. This has been time consuming, however, because many cases do not have transcripts but only audio recordings.

Additionally, changes in assigned private attorneys and deputy attorneys general, further complicated the parties' knowledge of the case. For cases, all about 10 years old, where a current Board member participated in the hearings, she is assigned to work with our Executive Director to ascertain the case status and determine appropriate steps to dispose of the case – usually additional hearing, briefing, or order. The other Board members are then consulted, and the matter is deliberated and considered by the entire Board before a decision and order is issued. This is again taxing on the Board members' time and energies, as the same attention and consideration must apply to current or more recent cases.<sup>4</sup>

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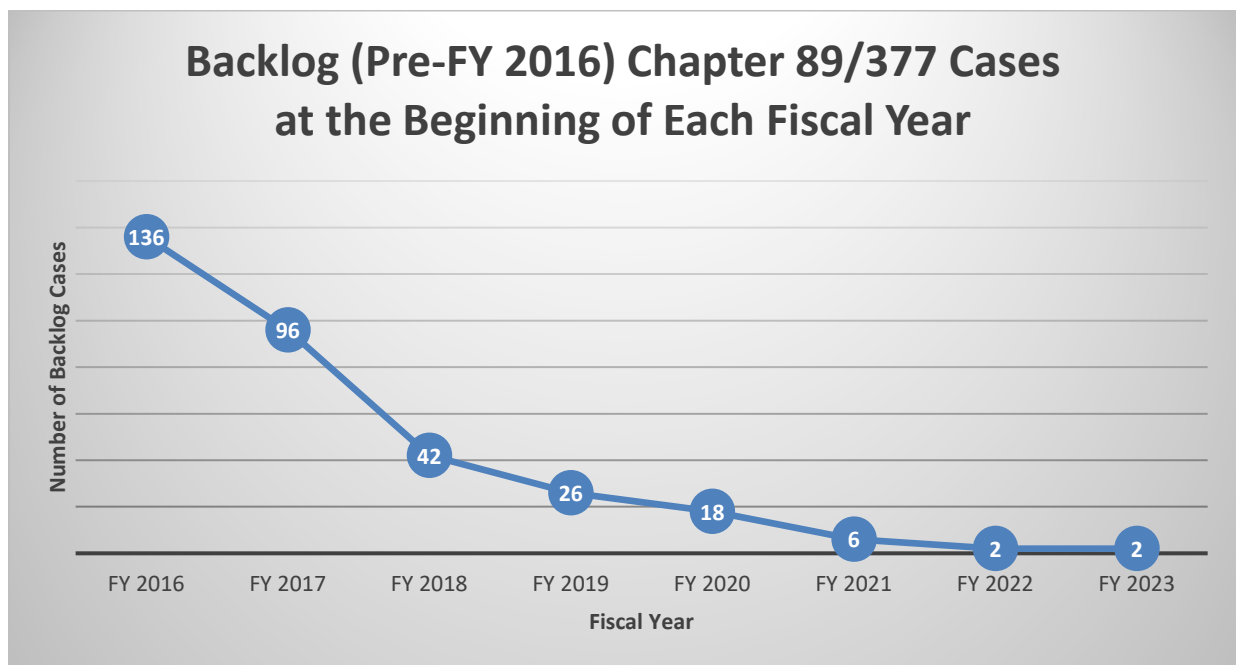
<sup>4</sup> All the backlog cases are being overseen by Board Member Sesnita Moepono who has been serving since June 5, 2011, making her the only Board Member to have participated in most of the backlog cases and the Board's most experienced member. The reduction of the backlog is attributed to her work ethic, attentiveness, and legal scholarship.

Notwithstanding these challenges, the backlog of pre-FY 2016 Chapter 89, HRS, cases has been reduced from a peak of 136 cases in FY 2016 to two cases by the end of FY 2022. For FY 2023, the backlog remains at two cases.

However, it is important to note that for all practical purposes, the Backlog Cases are now comprised of only one case. And, because this remaining case is set to go to hearing in September 2023, the Board is confident that the case will close within the next fiscal year.

	Date/File	Case #	Case Name	Status
1.	11/13/2009	CE-10-737, CU-10-284	Jonathan Taum, Chad Ross, Carl L. Kahawai, Quincy G. K. Pacheco, Bradford J. Leialoha, Julieann L. Salas v. DHRD & UPW	Open

The chart below graphically illustrates the results of the hard work of the Board and Staff over the years that had nearly eliminated the Backlog Cases comprised of Prohibited Practices Complaints filed between FY 2003 and FY 2016.<sup>5</sup>

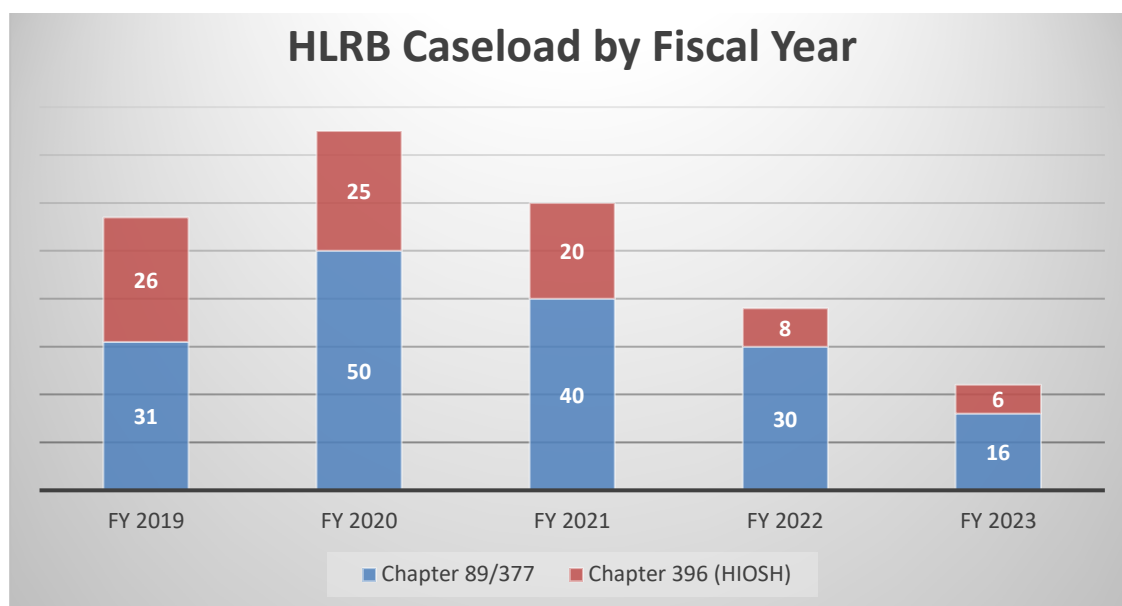


### **B. Caseload Makeup**

Over the past five fiscal years, from FY 2019 to FY 2023, the Board received an average of 33 new Chapter 89/377 cases and 17 new Chapter 396 cases each year.

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<sup>5</sup> Although the list contains one (1) case, for statistical purposes there are two (2) separate cases that comport with the named respondents, who are the Employer (CE) and the Exclusive Representatives or Union (CU). Specifically, in the *Taum, Ross, Kahawai, Pacheco, Leialoha and Salas vs. DHRD and UPW*, (2009) CE-10-737 and CU-10-284, there are two (2) separate prohibited practice cases; one against the Employer and the other against the Union.



The most common type of Chapter 89, and 377, HRS, cases over the fiscal years are the Prohibited Practice Complaint against the Employer (CE), followed by the Prohibited Practice Complaint against the Union (CU). There have been no Prohibited Practice Complaint cases filed against an Employee (CEE).

Another category under Chapter 89, HRS, is when an impasse arises under Section 89-11, HRS, but the data suggests impasse cases arise only in certain fiscal years when collective bargaining contracts are set to expire or are being negotiated and an impasse arises. For example, in FY 2021, there were 15 impasse cases, compared to FY 2022 and FY 2023 when no impasse cases were filed. In all impasse cases, the parties reached settlement with little Board involvement beyond the declaration of impasse.

A third category of cases under Chapter 89, HRS, is where the petitioner is seeking a Declaratory Ruling (DR). The Board has its authority to issue Declaratory Rulings under Section 89-5, HRS, and Sections 12-43-50 to 12-43-54, Hawai'i Administrative Rules. The Board has discretion in deciding whether to issue or refuse to issue a declaratory ruling.

In FY 2023, there was one request for a Declaratory Ruling in Henkel v. Hawai'i Fire Department, Case No. 22-DR-13-119, and the Board refused to issue a Declaratory Ruling, finding that it had no jurisdiction over a last chance agreement entered into by an Employee and the County of Hawai'i as their Employer under either HRS Chapter 377 or HRS Chapter 89. The case and Board order may be found under "Board Orders" at [www.labor.hawaii.gov/hlrb/](http://www.labor.hawaii.gov/hlrb/). This Order may be useful for understanding how the Board applies its laws, rules, and authority in analyzing and deciding a Petition for Declaratory Ruling.

A fourth category of cases under Chapter 89, HRS, is where the petitioner is seeking a Petition for Clarification or Amendment of Appropriate Bargaining Unit, (RA). These types of cases are rarely seen by the Board, and no such case was filed with the Board in FY 2023.<sup>6</sup>

<sup>6</sup> It is noteworthy to elaborate on why a Petition for Clarification or Amendment of Appropriate Bargaining Unit, (RA), is rarely seen by the Board. In Act 31, Session Laws of Hawaii (SLH), 2020, the Hawai'i State Legislature statutorily

### **C. Common Forms of Prohibited Practice Cases**

Most Prohibited Practice Cases involve a complaint filed by an Employee against his or her Employer. In many cases, the Employee is represented by a Union and its attorney(s). The Employer is generally represented by a Deputy Attorney General from the State of Hawai‘i; a Deputy Corporation Counsel from the City and County of Honolulu, County of Hawai‘i, or County of Maui; or a Deputy County Attorney from the County of Kaua‘i.<sup>7</sup> There are also cases in which the Employee is not represented by the Union and proceeds on their own as a self-represented litigant (“SRL”) (aka “*pro se*” complainant), bringing a complaint against their Employer. Sometimes, in these cases against the Employer, the Employee may also bring a prohibited practice charge against the Union for a violation of its breach of the duty of fair representation.

But whether these cases have an attorney or involve a self-represented litigant they are never “cookie cutter” cases, and each case is as unique as the parties and facts involved. Consequently, the Board and its staff spend much time processing these cases through the formal hearing process, and similar pre-hearing and post-hearing procedures as are customarily used in most civil proceedings in the Hawai‘i District or Circuit Courts.

### **D. Accessibility and Transparency**

Finally, the Board’s hearings under Chapter 89 and 377, HRS, are open to the public and reasonable accommodations are made for persons seeking access. The Board also provides language interpretation and translation services for party litigants and has the capacity for hearings on the Neighbor Islands to accommodate Neighbor Island litigants. This was done when it was economically sound for the Board and its staff to fly to the Neighbor Islands, typically where there were numerous witnesses, and it was cost prohibitive for a party to cover plane fare, ground transportation, and lodging cost for its witnesses.

Throughout the COVID-19 pandemic, however, the Board did not conduct any in-person hearings on the Neighbor Islands due to the restrictions imposed by the Governor and County Mayors upon intra-island travel and unavailability of any public space to conduct hearings. In the past, the Board was fortunate to use meeting space provided by: the University of Hawai‘i at Maui, Kahului; County of Hawai‘i Aging and Disability Center, Hilo; Hawai‘i County Council Hearing Room, Hilo;

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established new Bargaining Unit 15 (BU 15) by amending Section 89-6, HRS, to add a new category of public employees of state and county water safety officers. Prior to the creation of BU 15, the most recently created bargaining unit was BU 14, which was established by the Hawai‘i State Legislature seven years earlier in Act 137, SLH, 2013 (Act 137). Act 137 was approved to create BU 14, to be comprised of State law enforcement officers and state and county ocean safety and water safety officers, including employees from the Departments of Public Safety, Land and Natural Resources, and Transportation, including Deputy Sheriffs, Conservation and Resource Enforcement Officer and Harbor Enforcement Officers. Prior to that, State law enforcement officers and county ocean safety and water safety officers were in HGEA BU 3, white collar employees, and BU 4, white collar supervisors, pursuant to the Hawai‘i Public Employment Relations Board Decision No. 17, April 3, 1972, and Decision No. 13, May 3, 1972, respectively. The Board filed on November 7, 2013, its Order Granting Petitioner HGEA’s First Amended Petition for Clarification or Amendment of Appropriate Bargaining Unit relating to those positions that constituted BU 14 and transferred those positions from BU 3 and 4 to BU 14. As such, except for BU 14 which was established in 2013, and BU 15, which was established in 2020, the bargaining units 1 through 13, were all established in HRS Chapter 89 in 1970.

<sup>7</sup> There are also instances where the University of Hawai‘i’s Associate General Counsels or outside counsel appear, as the Employers see fit.

and Department of Labor and Industrial Relations Office, Lihue. At present, the Board considers any request for a Neighbor Island hearing on a case-by-case basis.

Moreover, in April 2020, the Board pivoted to comprehensive internet and proprietary software use to accommodate remote attending of attorneys, representatives, self-represented litigants, and witnesses. The Board uses the *FreeConferenceCall* or *Zoom* platforms, learning that both technologies are easy to set-up and use. The Board has proven its set-up abilities when it conducted a “Hybrid” hearing where the attorneys and witnesses were in two different locations on Kaua‘i, while the opposing party was in-person with a court reporter before the Board in the Board’s Hearing Room.

All parties found the arrangement satisfactory and affording the customary examination and cross examination trial procedures while addressing the obvious and serious COVID-19 safety and health concerns. While the Board continues to use the *Zoom* platform for its proceedings post-pandemic, parties are permitted to request in-person hearings before the Board.

In short, the Board is adequately prepared to accommodate the needs of both in-person hearings and remote hearings, while providing a safe working environment for its staff, parties, witnesses, and itself. Neighbor Island parties have expressed a desire for the continuation of this remote hearing practice.

#### **E. Hearings on the Merits**

Cases initiated pursuant to Chapters 89 or 377, HRS, are similar in many respects to civil cases filed in the circuit courts. Much of the processing of cases hinges upon the prosecution of the case by the plaintiff and/or defendant, and the court serves in many instances as the “referee” or “facilitator” of the case, and about 90% of all civil cases do not proceed to trial and court adjudication.

The same holds true for the HLRB and the parties, other than some terminology differences. Both the complainant and respondent(s) have some say in whether a case goes to a “hearing on the merits”—the Board’s version of a trial—or is continued for purposes of settlement. Furthermore, the Board adheres to the legislative public policy of promoting harmonious and cooperative relations among the parties, and in many instances, granting additional time to the parties have resulted in resolutions benefiting both litigants, saving legal expenses, and most importantly, establishing workable processes to avoid future contractual disagreements. Still, the Board also adheres to the maxim that timely prosecution of a case is essential to a just outcome and it does not condone purposeless delay in any case.

#### **F. De Novo Hearings**

The Board serves as the appeals board for determinations made by HIOSH and the Director and previews the case *de novo*. *De novo* means that the Board will review all the evidence in the case from the beginning of the complaint being filed with the HIOSH agency or the issuing of an inspection and citation by the HIOSH inspector.

One type of case is referred to as a “Citation Case” because it is an appeal from a citation by HIOSH and commonly arises in a dispute regarding the classification of the penalty, monetary fine, and prior record of non-compliance or previous violations. In these types of cases, the Board’s policy is to encourage settlement among the parties, especially when the differences may be one of monetary fine or the cited business is represented by legal counsel. To this end, the Board allows more time in citation



cases than in other types of HIOSH cases before setting pretrial deadlines and hearing dates. The Director and HIOSH are always represented by the Department of the Attorney General.

Another type of case arising under Chapter 396, HRS, is the “Discrimination” or “Whistleblower” Case and involves an employee bringing a complaint for an adverse employment action because they are engaged in some protected activity such as raising a safety and health concern with an employer or HIOSH.<sup>8</sup> Because these types of cases usually involve self-represented litigants, the Board asserts greater oversight and sets *de novo* hearings in discrimination or whistleblower cases on a much shorter timeline than in citation cases. Typically, in these cases, an employee appeals HIOSH’s decision and order that the employer did not unlawfully discriminate and must establish a *prima facie* case that the employee engaged in a protected activity, the employer subjected the employee to an adverse action, and a causal link exists between the protected activity and the adverse employment action. If the employee establishes a *prima facie* case, the burden shifts to the employer to provide a legitimate, non-retaliatory reason for the employment action. If the employer does so, the burden shifts back to the employee to prove that the employer’s stated reason was pretextual.

The Intermediate Court of Appeals has set forth the applicable standards regarding the circumstances in which an administrative agency determination in a HIOSH case should be given deference in Dir., Department of Labor and Industrial Relations v. Permastelisa Cladding Techs., Ltd. 125 Haw. 223, 257 P.3d 236 (2011). This deference remains despite the standard of a fresh review of an agency’s conclusions of law in statutory interpretation unless the Board finds an abuse of discretion. Finally, the Board may affirm, modify, or vacate the citation, the abatement requirement or the proposed penalty, order, or remand the case to the Director with instructions for further proceedings, or direct other relief as may be appropriate.

Prior to the onset of the COVID-19 pandemic, the Board recorded more hearing time on Chapters 89 and 377, HRS, cases than in recent memory, with 31 days of hearings on the merits in FY 2019 and 65 days of hearings on the merits in FY 2020. For FY 2019 and FY 2020, the Board completed, on average, 56 days of hearings on the merits and *de novo* hearings. This did not, however, include multiple status conferences, pre-trial hearings, and other non-substantive procedural hearings.<sup>9</sup>

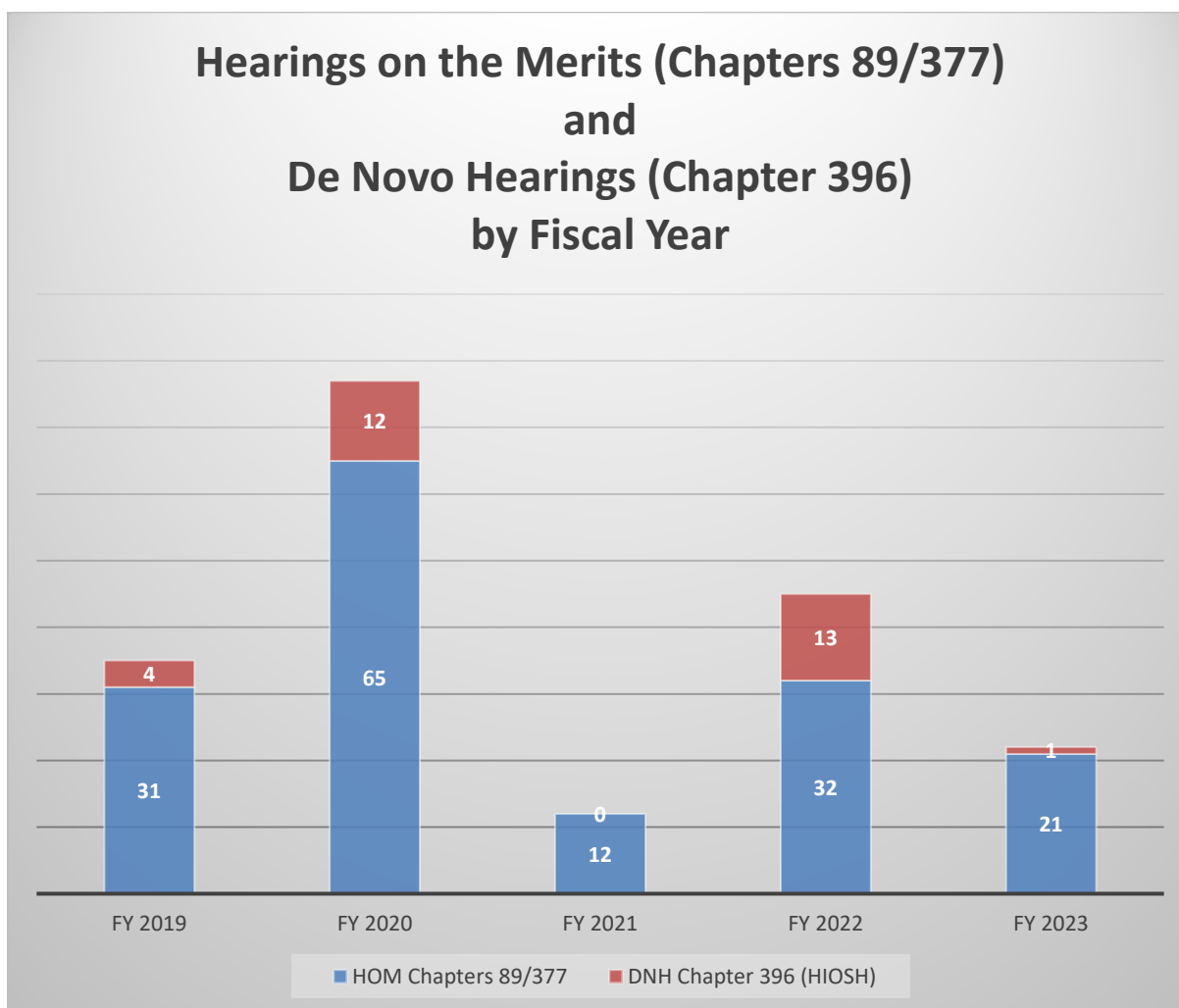
During FY 2023, the Board held one day of *de novo* hearings and 21 days of hearings on the merits. This is a decrease from FY 2022, when the Board held 13 days of *de novo* hearings and 32 days of hearings on the merits in a rebound from a record low of zero days of *de novo* hearings and 19 days of hearings on the merits in FY 2021, which the Board attributes mainly to the effects of the COVID-19 pandemic that essentially caused the shuttering of many government offices, public buildings, and private businesses. Having no comparable global pandemic or similar event to compare it to, the Board can only speculate on how the COVID-19 pandemic affected the business and lives of the parties involved in its cases.

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<sup>8</sup> While there are also cases where HIOSH found discrimination occurred and the employer challenges this finding, they are less common. However, the general burdens of proof remain the same.

<sup>9</sup> It cannot be overlooked that while these hearings may not be “on the merits”, they still require formal written notices and orders memorializing parties’ agreements, Board decisions, evidentiary and factual stipulations, deadlines, and other directives, etc. arising from the hearings. In FY 2020, the Board began tracking and measuring its issuance of all notices and orders filed under Chapters 89, 377 and 396. In FY 2020, the Board filed over 300 orders and more than 100 notices. In FY 2021, the Board filed over 250 orders and more than 130 notices, in FY 2022, the Board filed nearly 200 orders and notices, and in FY 2023, the Board filed over 200 orders and notices combined.

The chart below shows the number of days the Board held Hearings on the Merits (HOM) and *De Novo* Hearings (DNH), from FY 2019 through FY 2023.



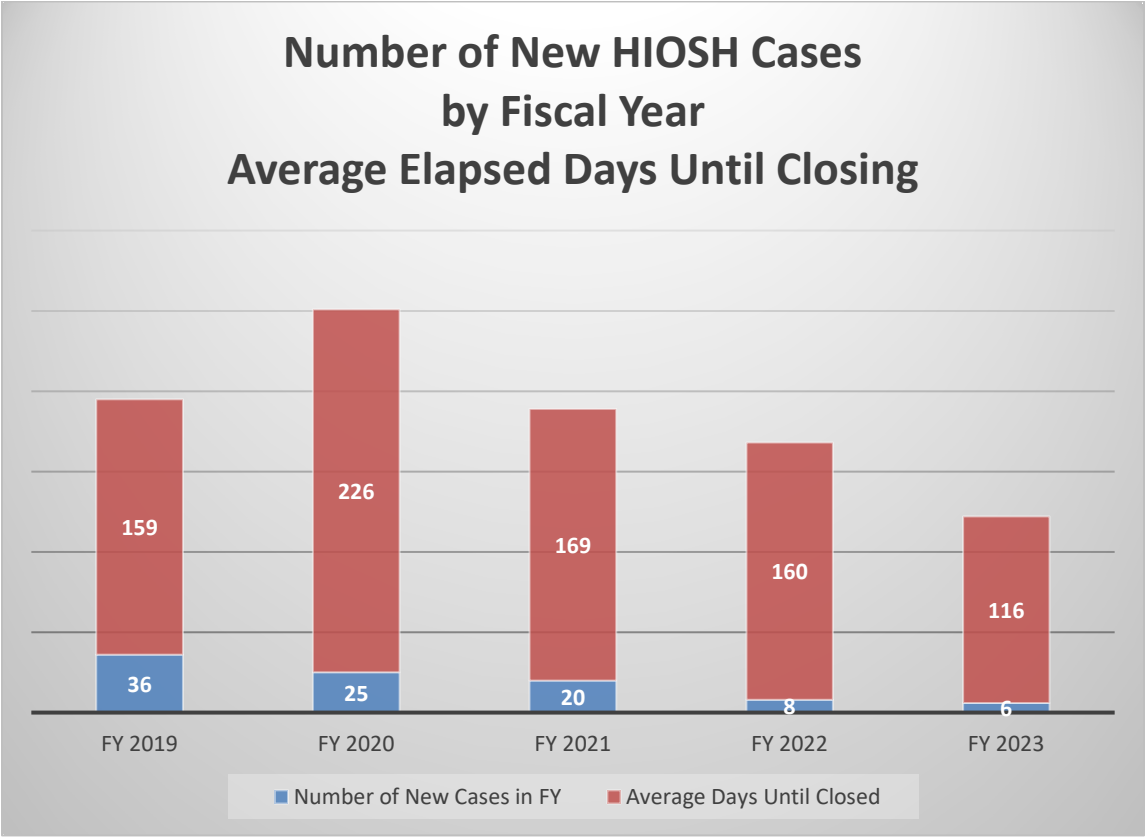
We do know, however, that private sector businesses were affected by mandatory limitations during the COVID-19 pandemic, including shuttering operations or limiting hours or services imposed by the State of Hawai‘i and respective County governments. That may have affected access to inspect businesses or curtailed the reporting the suspected violations. Similarly, the public sector employees and managers were also being challenged by the sudden and abrupt changes to the work environment and the necessity to react and adjust to the changing recommendations to protect the work force and maintain a level of service to the general public.

For the Board and its staff, housed in the Department of Labor and Industrial Relations, the building was closed to the general public from about March 17, 2020, and starting on August 23, 2021, anyone entering any office in the building, including all delivery personnel and contractors, were required to show a copy of their COVID-19 vaccination card or negative COVID-19 test results taken

within seven (7) days of seeking entry.<sup>10</sup> The Board, however, was able to find an accommodation from the Department and as described in our previous annual reports, did implement an in-person hearing protocol in compliance with the State of Hawai‘i Department of Health and U.S. Centers for Disease Control guidelines and recommendations. On a case-by-case basis, the Board allowed for in-person services subject to requirements and voluntary attestation.<sup>11</sup>

While we can only speculate on the impact that State and counties COVID-19 pandemic emergency orders, proclamations, and advisories may have had upon the Board’s case filings and proceedings, the Board did not skip a beat but used specialized technological tools and reconfigured its hearing room to conduct business addressing the health and safety needs of parties, staff, and board members. Certainly, the HLRB is ready to address future emergency conditions and adjust accordingly to fulfill its mission under Chapters 89, 377, and 396, HRS.

**G. Disposition of *De Novo*/HIOSH Appeals**



<sup>10</sup> About the same time, the Department, in consultation with the State of Hawaii Department of Health, contemplated a re-opening of the building in September 2021. However, with the surge in COVID-19 cases caused by the highly contagious *Delta* variant and accounting for the majority of the infections, the Department decided to not re-open the building but continue limiting access with the aforementioned protocols.

<sup>11</sup> In early November 2021, as COVID-19 case counts have decreased and vaccination rates have increased, the State of Hawaii and the Department became comfortable with relaxing some restriction and allow for limited in-person services, on only Wednesday, Thursday, and Friday, and restrict in-person services on Mondays and Tuesdays. This policy and practice began on December 1, 2021. Added security for the public and employees were provided by the Hawaii Army National Guard who manned both public and employee entrances along with Department of Public Safety Sheriffs.

Historically, most HIOSH cases close within a year of the filing. The preceding table shows that although the first fiscal year of the COVID-19 pandemic may have resulted in extending the time from filing to the closing of cases, the historical trend has continued, and most cases are still processed and closed within a year of filing.<sup>12</sup> While an appeal is pending, HIOSH citations and fines, while not set aside, are not enforced against a business.

One explanation for the significant decrease in the number of HIOSH cases filed in FY 2022 and FY 2023 may be the affect the COVID-19 pandemic, Governor's Proclamations, and Board orders related to the COVID-19 may have had on these cases. For one, due to the suddenness and uncertainty of the restrictions imposed on both government and public sectors, parties may have had to adjust to their own working conditions and the private sector businesses may have had other or competing needs to address.

The first Emergency Proclamation signed by Governor David Y. Ige on March 5, 2020, gave State agencies, like the HLRB, the ability to conduct certain hearings by telephone or video conference without the physical presence of the parties at the same location, and suspend certain rules, statutory requirements, and administrative hearing procedures as needed to deal with the emergency situation brought on by COVID-19.

On March 23, 2020, in the Governor's Third Supplemental Proclamation, the Governor, among other things, ordered that all persons in the state must stay home or in their place of residence from March 25, 2020, through April 30, 2020. Similarly, on August 25, 2020, the Mayor of the City and County of Honolulu, issued Emergency Order 2020-25, as a Second Stay-at-Home/Work-From-Home Order, which became effective on August 27, 2020, through September 9, 2020. There is no doubt that these State of Hawai'i and City and County of Honolulu orders affected, to some degree, both public and private operations and employers and employees.<sup>13</sup>

The extension of time provided to the parties by the Board may have initially contributed to the additional days from the filing to the closing of the cases. It should be noted that the Board was concerned about ensuring that none of the mandatory COVID-19 Pandemic government restrictions inadvertently affected the due process and substantive rights of the parties and therefore postponed and rescheduled these cases to accommodate the parties and the Board. The Board is pleased to report that a few parties requested their case be designated as "Priority" and advanced to a hearing and that all requests were granted.

On January 26, 2022, Governor Ige issued his last and final emergency proclamation related to COVID-19 (Omicron variant), as amended on February 5, 2022, which continued through March 25, 2022. On February 28, 2022, Honolulu Mayor Rick Blangiardi announced the end of the City and County of Honolulu's COVID-19 emergency orders, effective 11:59 p.m. on March 5, 2022. While the

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<sup>12</sup> By the end of FY 2023, all HIOSH cases filed in FY 2019 and FY 2021 had closed. However, two of 25 cases filed in FY 2020, three of eight cases filed in FY 2022, and one of six cases filed in FY 2023 remained active at the end of FY 2023. Therefore, the average elapsed days until closing for cases filed in FY 2020, FY 2022, and FY 2023 are expected to increase in the coming fiscal year.

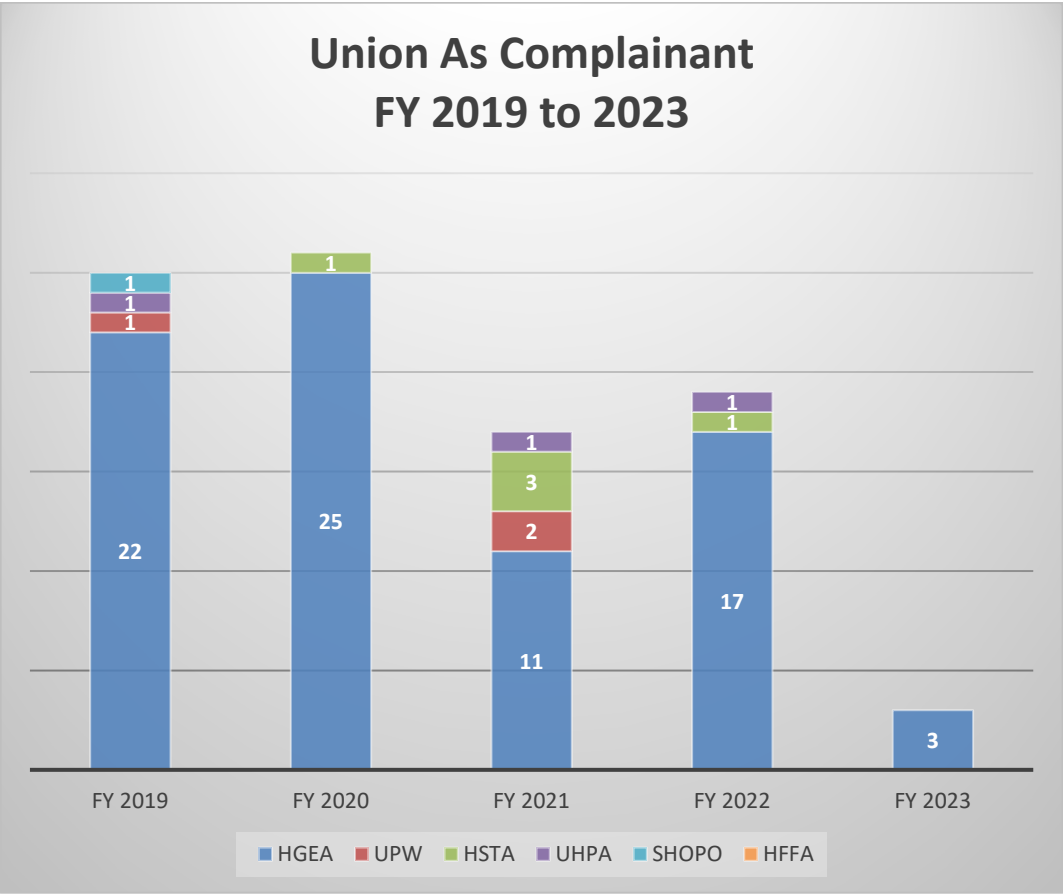
<sup>13</sup> Because the Board is located within the City and County of Honolulu, and to be in compliance with Emergency Order 2020-25, the Board ordered that all hearings on or after September 3, 2020, would be held using the *Zoom* platform and made case-by-case accommodations for parties without Internet connection or having concerns or complications with the Internet technology or *Zoom* platform.

Board continues to utilize the *Zoom* platform for its proceedings, the Board began allowing parties to request in-person hearings before the Board following the end of the federal emergency related to the COVID-19 pandemic on May 11, 2023.

In summary, by comparing case filings and closings between FY 2020 and FY 2023, from the onset of the COVID-19 pandemic until the end of national emergency and public health emergency declarations, it appears that the COVID-19 pandemic and the Governor’s and Mayor’s emergency pronouncements and orders may have affected the number of HIOSH cases filed in FY 2022 and FY 2023. Most cases continue to close within one year or 365 days from filing, however, five HIOSH cases have extended beyond one year. For active cases where more than two years have elapsed since filing, one case has been delayed at the request appellant’s counsel, and the other proceeded to a *de novo* hearing during FY 2022.

**H. Cases by Union**

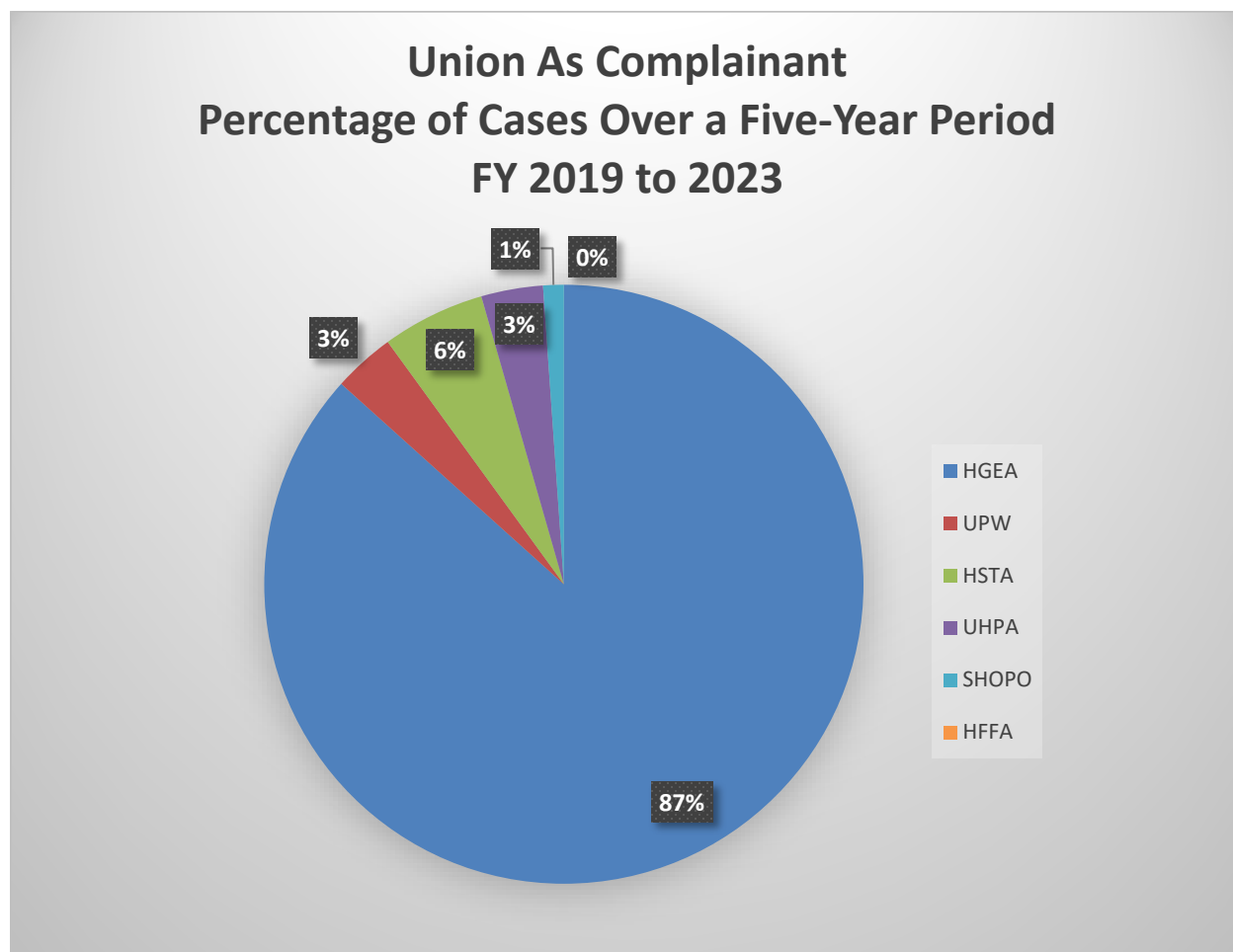
The graphs below show the number and percentage of cases in which a union is either a complainant or respondent.



A “complainant” is the party that is filing an Unfair Labor Practice or Prohibited Practice Complaint against a “respondent”. In most cases, the complainant is a Union or Employee or Employees. On the other hand, the “respondent” is the party or parties responding to the complaint and in most cases

is the Union or the Employer. In some cases, both the Union and Employer are respondents, and referred to as “Hybrid” cases.<sup>14</sup>

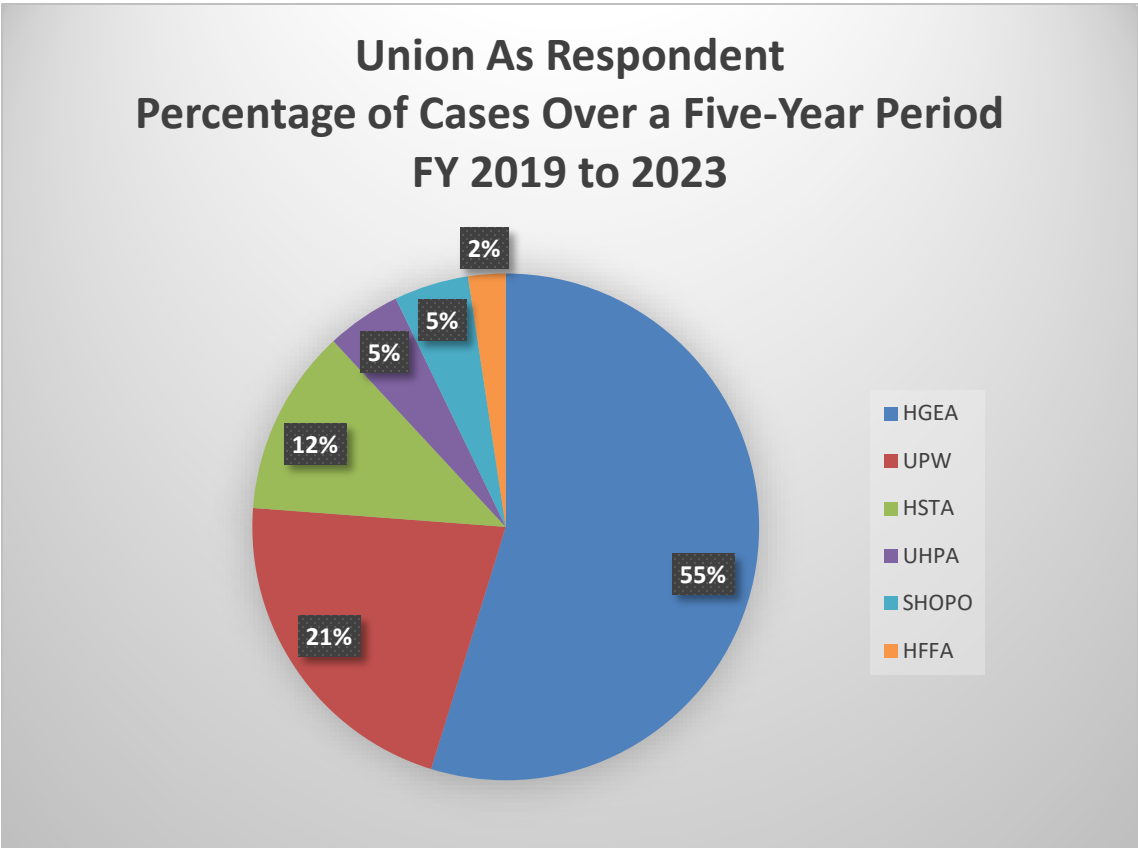
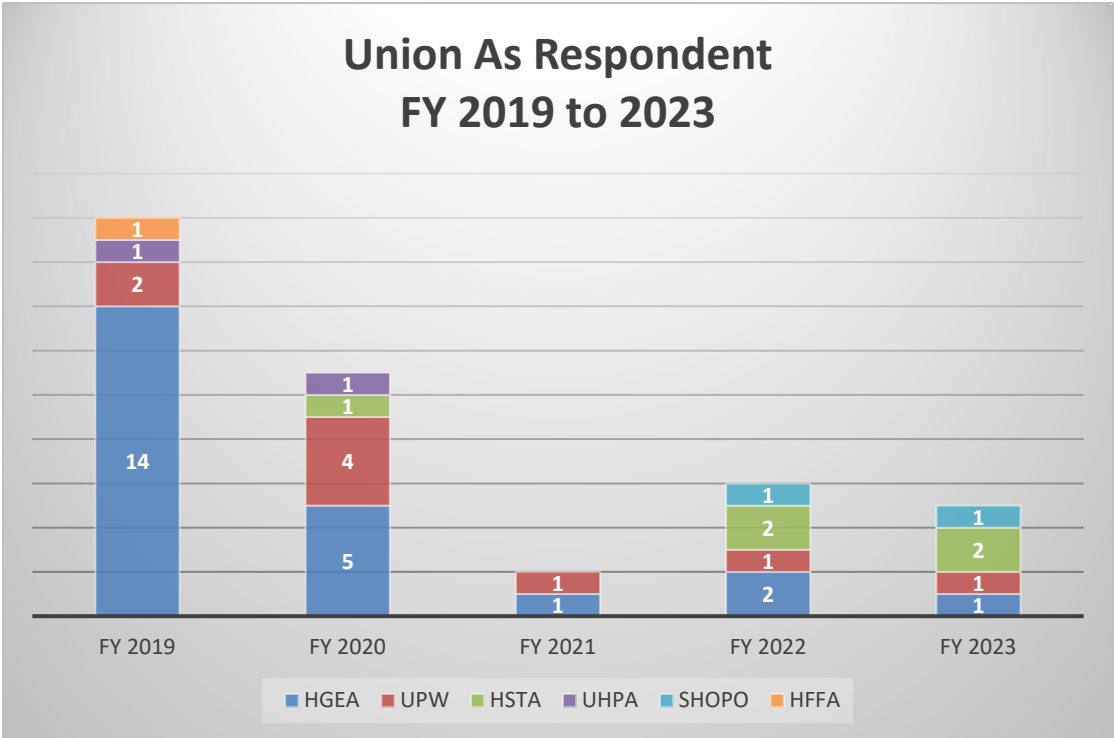
Between FY 2019 and FY 2023, the Hawaii Government Employees Association (HGEA), filed more cases than any other union, accounting for the majority of cases filed by unions in each of the five fiscal years, 2019-2023, 88.0%, 96.2%, 64.7%, 89.5%, and 100%, respectively. Coming in at a distant second, third, and fourth place are the Hawaii State Teachers Association, the United Public Workers and the University of Hawaii Professional Assembly (tied for third), and the State of Hawaii Police Organization, respectively. The data reveals that the Hawaii Fire Fighters Association rarely appears before the Board.



As depicted in the following graphs, between FY 2019 and FY 2023, the HGEA, has been the most frequently named respondent of all unions, accounting for over half of the cases filed against

<sup>14</sup> When dealing with prohibited practices arising from how a union handles grievances, this falls under what is known as a “hybrid case.” While this phrase does not appear in HRS Chapter 89, the Hawai‘i Supreme Court (HSC) laid out the hybrid case in Poe v. Haw. Labor Rels. Bd., 105 Hawai‘i 97, 102, 94 P.3d 652, 657 (2004) (Poe II). A hybrid case alleges that the employer committed a prohibited practice under HRS § 89-13(a)(8) and that the union breached its duty of fair representation, which is a prohibited practice under HRS § 89-13(b)(4). The complainant must prove both that the employer wilfully violated the collective bargaining agreement **and** that the union violated its duty of fair representation. This type of complaint can succeed only if the complainant proves **both** parts. The complainant may choose to bring a case against only one respondent but must still prove both parts of the case. Further, the complainant can receive remedies only from the respondents in the case. This means that, for example, to receive any remedy or relief from an employer, the complainant would have to name the employer as a respondent.

unions. The United Public Workers comes in second with less than a quarter of the cases filed followed by the Hawaii State Teachers Association. The University of Hawaii Professional Assembly, State of Hawaii Police Organization, and the Hawaii Fire Fighters Association are rarely named as respondents.





## **I. Labor Arbitration and Mediation Program**

The Board is continuously reviewing its method of overseeing the list of labor arbitrators and mediators under Section 89-5(i)(5) and (7), HRS. Annual submission of updated resumes and any address changes are required by the Board. As of June 30, 2023, the Board has 43 persons listed as Arbitrators and Mediators. A current list of Arbitrators and Mediators and their resumes can be found at <https://labor.hawaii.gov/hlrb/arbitrator-mediator-listing>.

In 2018, the Board began assigning numbers to each of the arbitrators, and then using a random selection machine (Bingo Ball Machine) randomly draws five (5) names to create the list of arbitrators sent to the parties.<sup>15</sup> The Board also established a policy of requiring written consent of the parties to request and receive a new list of five (5) arbitrators after the initial list is issued by the Board. Likewise, mutual consent of the parties is required for a replacement arbitrator due to conflict, unavailability, retirement, or for other causes. In FY 2023, the Board generated 41 letters in response to requests for a list of arbitrators. The HLRB requires the parties to notify the Board when an arbitrator is selected.



*The Board's random number selection machine.*

## **J. Administrative Rule Making**

Following a more than two-year effort by the Board, Governor David Y. Ige approved the revised Rules of Practice and Procedure before the Hawai'i Labor Relations Board, effective October 21, 2022. The Board's new rules, adopted as Hawai'i Administrative Rules, Title 12, Subtitle 7, Chapter 43, repealed Hawai'i Administrative Rules Chapters 41 and 42, last revised in 1981 and 1983, and combined them into a single set of procedural rules governing cases under Chapters 89, 377 and 396, HRS. The Board's official administrative rules can be found on the HLRB's website at <https://labor.hawaii.gov/hlrb/files/2023/06/HLRB-Rules-from-LGs-ofc.pdf>.

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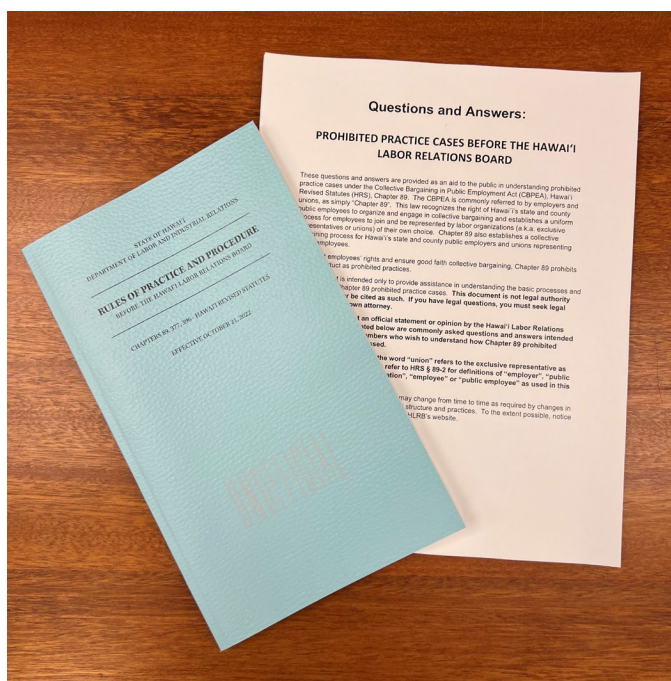
<sup>15</sup> An HLRB staff member operates the random number selection machine, and the Board Chairperson confirms the corresponding numbers and names. A list of those names is sent to the parties.



## IV. BOARD INITIATIVES FOR FY 2023-2024

### A. Publication and Distribution of Revised Board Rules

Upon the Governor's approval of the Board's revised administrative rules, the Board posted its new official administrative rules, Hawai'i Administrative Rules, Title 12, Subtitle 7, Chapter 43, on the HLRB's website at <https://labor.hawaii.gov/hlrb/files/2023/06/HLRB-Rules-from-LGs-ofc.pdf>. The Board's staff then took on the task of reformatting and publishing an "unofficial" booklet entitled *Rules of Practice and Procedure Before the Hawai'i Labor Relations Board* to provide an easy-to-use reference for practitioners and self-represented litigants.<sup>16</sup> The Board plans to distribute copies of its new administrative rules booklet to both public and private stakeholders and to libraries statewide, and will make remaining copies available to any interested persons or organizations. Pursuant to §§ 91-4.2 and 91-5, HRS, official copies of the Board's administrative rules are available from the HLRB upon request.



*The HLRB's new administrative rules booklet and FAQs. The Board is grateful to former staff attorney Joyce Matsumori-Hoshijo for her commitment to seeing these two projects through to publication.*

### B. Publication of FAQs for Prohibited Practice Cases

The Board's latest publication *Questions and Answers: Prohibited Practice Cases Before the Hawai'i Labor Relations Board*, which incorporates the HLRB's new administrative rules, is currently undergoing final review. The Board acknowledges the commitment of its former staff

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<sup>16</sup> The Board's new administrative rules booklet is considered "unofficial" because the rules have been reformatted, resized, and bound, and are not presented in the uniform format for state agency rules mandated by HRS §§ 91-4.2 and 91-5. See Ken H. Takayama, *Hawaii Administrative Rules Drafting Manual*, 181-83 (3d ed. 2016).

attorney, who together with the Board Chair, worked painstakingly to create this comprehensive manual to assist community members who wish to understand how Chapter 89 prohibited practice cases are processed. The manual is expected to be published online and downloadable from the Board's website by fall of this year.

### **C. Reducing Backlogs and Improving Timeliness**

While the Board has made great strides in reducing its pre-FY 2016 backlog of Chapter 377/89, HRS, cases, the Board continues to monitor and analyze all its cases to improve efficiency and accountability. As of the close of FY 2023, the Board has 46 open Chapter 377/89, HRS, cases, with 27 cases pending final decision and/or order. Likewise, the Board has six open HIOSH cases, with three cases pending final decision and/or order.

The Board is cognizant of the importance of adjudicating cases in a timely manner. To this end, the Board will begin regularly issuing minute orders to inform parties of the Board's rulings on motions and decisions, when possible, within 30 days of closing arguments or the filing of post-hearing briefs following a hearing on the merits or *de novo* hearing. The goal of issuing minute orders for Board decisions no later than 30 days from post-hearing briefs or closing argument has the benefit of informing parties of the prevailing party while providing the Board sufficient time to prepare its full findings of fact, conclusions of law, and order.

### **D. Responding to H.C.R. No. 61, H.D. 1**

On April 24, 2023, the House of Representatives of the 32nd Legislature of the State of Hawai'i, Regular Session of 2023, with the Senate concurring, adopted House Concurrent Resolution No. 61, House Draft 1 (H.C.R. No. 61, H.D. 1), requesting the HLRB to establish objective standards and criteria for splitting off a group of state workers into a new bargaining unit to assist the Legislature in determining the appropriateness of requests that come before it. As requested, the HLRB is working to submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than 20 days prior to the convening of the Regular Session of 2024.

### **E. Ongoing Board Initiatives**

- The Board strives to continually update and improve its website to provide timely, helpful, and accessible information and resources for practitioners and the public.
- As private subscription services are no longer available, the Board is working to develop an online topical index of all its Chapter 89/377, HRS, Decisions and Orders, which should be a helpful tool for students, researchers, and practitioners.
- The Board's staff is conducting its periodic review of office records to ensure compliance with the records retention and disposition schedule developed by the Archives Division, Records Management Branch, State of Hawai'i Department of Accounting and General Services, which requires the HLRB to retain records in office for five years after a case closure, then transfer records to the State Records Center for the remainder of the authorized 20-year retention period.

## V. CONCLUSION

The Board is pleased to report that final disposition of its remaining pre-FY 2016 HRS Chapter 377/89 backlog cases will occur in the coming fiscal year. This achievement will be accomplished while the Board maintains the timely processing of new cases and continues to conduct substantive hearings. Further, the Board will maintain the high quality of its decisions for present parties as well as future self-represented litigants and practitioners. Finally, the Board acknowledges the conscientiousness and ingenuity of its staff for navigating the Board through the challenges of the COVID-19 pandemic and emerging with upgraded hearing hardware and software and new procedures and processes, insuring uninterrupted access to the services of the Hawai‘i Labor Relations Board.

Respectfully submitted,



*Mary R. Oshiro*  
MARY R. OSHIRO, Chair

*Sesmita A. D. Moepono*  
SESMITA A. D. MOEPONO, Member

*J.N. Musto*  
J.N. MUSTO, Member

The seal of the Hawai'i Labor Relations Board is circular with a blue border. Inside the border, the words "HAWAII LABOR RELATIONS BOARD" are written in a circle. In the center is a scale of justice. Below the scale is a banner with the text "AIA HELE KAKOU". At the bottom of the seal, it says "EST. 1970".

## APPENDIX 1: CASES BY TYPE OF CASE

### Chapter 89/377 - Backlog Cases (Opened Prior to FY 2016)

Type of Case	Backlog Cases Active at the Beginning of FY 2023	Backlog Cases Closed in FY 2023	Backlog Cases Pending at the End of FY 2023
<b>Chapter 377</b>			
Unfair Labor Practice Against Union - (CU)	0	0	0
Unfair Labor Practice Against Employer - (CE)	0	0	0
<b>Chapter 89</b>			
Prohibited Practice Against Employer - (CE)	1	0	1
Prohibited Practice Against Union - (CU)	1	0	1
Prohibited Practice Against Employee - (CEE)	0	0	0
Impasse - (I)	0	0	0
Declaratory Ruling - (DR)	0	0	0
Unit Clarification - (RA)	0	0	0
<b>Total 89/377 Cases</b>	<b>2</b>	<b>0</b>	<b>2</b>

**Chapter 89/377 - Old Cases (Opened between FY 2016 and FY 2022)**

<b>Type of Case</b>	<b>Old Cases Active at the Beginning of FY 2023</b>	<b>Old Cases Closed in FY 2023</b>	<b>Old Cases Pending at the End of FY 2023</b>
<b>Chapter 377</b>			
Unfair Labor Practice Against Union - (CU)	0	0	0
Unfair Labor Practice Against Employer - (CE)	0	0	0
<b>Chapter 89</b>			
Prohibited Practice Against Employer - (CE)	40	18	22
Prohibited Practice Against Union - (CU)	19	5	14
Prohibited Practice Against Employee - (CEE)	0	0	0
Impasse - (I)	15	14	1
Declaratory Ruling - (DR)	0	0	0
Unit Clarification - (RA)	0	0	0
<b>Total 89/377 Cases</b>	<b>74</b>	<b>37</b>	<b>37</b>

**Chapter 89/377 - New Cases Opened in FY 2023**

<b>Type of Case</b>	<b>New Cases Opened in FY 2023</b>	<b>New Cases Closed in FY 2023</b>	<b>New Cases Pending at the End of FY 2023</b>
<b>Chapter 377</b>			
<b>Unfair Labor Practice Against Union - (CU)</b>	0	0	0
<b>Unfair Labor Practice Against Employer - (CE)</b>	0	0	0
<b>Chapter 89</b>			
<b>Prohibited Practice Against Employer - (CE)</b>	10	4	6
<b>Prohibited Practice Against Union - (CU)</b>	5	4	1
<b>Prohibited Practice Against Employee - (CEE)</b>	0	0	0
<b>Impasse - (I)</b>	0	0	0
<b>Declaratory Ruling - (DR)</b>	1	1	0
<b>Unit Clarification - (RA)</b>	0	0	0
<b>Total 89/377 Cases</b>	<b>16</b>	<b>9</b>	<b>7</b>

**Chapter 396 (HIOSH) – Old Cases (Opened Prior to FY 2023)**

Type of Case	Old Cases Active at the Beginning of FY 2023	Old Cases Closed in FY 2023	Old Cases Pending at the End of FY 2023
<b>Chapter 396 (HIOSH)</b>			
<b>Contested Citation</b>	4	3	1
<b>Discrimination</b>	4	0	4
<b>Total 396 (HIOSH) Cases</b>	<b>8</b>	<b>3</b>	<b>5</b>

**Chapter 396 (HIOSH) – New Cases (Opened in FY 2023)**

Type of Case	New Cases Opened in FY 2023	New Cases Closed in FY 2023	New Cases Pending at the End of FY 2023
<b>Chapter 396 (HIOSH)</b>			
<b>Contested Citation</b>	6	5	1
<b>Discrimination</b>	0	0	0
<b>Total 396 (HIOSH) Cases</b>	<b>6</b>	<b>5</b>	<b>1</b>

## APPENDIX 2: PROHIBITED PRACTICE COMPLAINTS BY EMPLOYERS AS COMPLAINANT OR RESPONDENT

The Board began observing and listing the Employers who are named as either a Complainant or Respondent in the Chapter 89/377 cases. This includes both State and county departments, agencies, and government corporations.

*Employer Named As Complainant or Respondent in Chapter 89 and 377, HRS, Cases by Fiscal Year*

	FY19	FY20	FY21	FY22	FY23
Dept. of Accounting and General Services	9 <sup>17</sup>	0	0	0	0
Dept. of Agriculture	0	1	0	0	0
Dept. of Health	0	1	4	0	0
Dept. of Human Resources Development	1	1	0	0	0
Dept. of Labor and Industrial Relations	0	1	0	0	0
Dept. of Land and Natural Resources	1	0	0	0	0
Dept. of Public Safety	2	4	0	1	0
Hawai'i State Hospital	0	3	0	0	1
C&C Dept. of Environmental Services	0	4	2	1	0
C&C Dept. of Parks & Recreation	0	0	1	0	0
Honolulu Board of Water Supply	0	1	0	0	0
Honolulu Police Dept.	2	0	0	1	0
County of Hawai'i Fire Department	2	0	0	0	0
Maui Police Dept.	0	3	0	0	0
County of Kaua'i	0	3	0	0	0
Kaua'i Police Dept.	1	0	0	0	0
Ocean Safety and Lifeguard Services Division	0	0	2	0	0
Dept. of Education	2	14 <sup>18</sup>	10 <sup>19</sup>	0	7
Hawai'i State Judiciary	0	0	1	0	0
University of Hawai'i	17 <sup>20</sup>	0	1	1	0
Hawai'i Health Systems Corporation	0	5	1	2	2
N/A <sup>21</sup>	13	4	18	0	0
Multiple Departments <sup>22</sup>	5	0	0	17	0
	55	45	40	23	10

<sup>17</sup> At first, one might think that nine cases were lodged against the State of Hawai'i Department of Budget and Finance, and that would be true, but practically speaking, because HGEA represents, at that time, eight (8) bargaining units, 02, 03, 04, 06, 08, 09, and 13, and each were alleging a violation of Chapter 89, you end up with eight separate cases. (HGEA v. Governor David Ige, Comptroller, Case No. 18-CE-02-920a, 18-CE-03-920b, 18-CE-04-920c, 18-CE-06-920d, 18-CE-08-920e, 18-CE-09-92f, 18-CE-13-920g, and 18-CE-14-920h. The other complaint, which raised similar allegations of violations of Chapter 89, were brought by the UHPA represents bargaining unit 07. (UHPA v. Governor David Ige, Comptroller, Case No. 18-CE-07-919). Again, since each bargaining unit constitutes a separate complainant, the Board counts each as a separate case. Interestingly, this was the first case brought to the HLRB arising from the United States Supreme Court decision in Janus v. AFSCME, (USSC, June 27, 2018), regarding union dues and payroll issues but since the parties were able to resolve the matters on their own, the Board made no rulings and both cases were closed.



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<sup>18</sup> Although in FY 2020, 14 cases were filed against the Department of Education, six of these cases arise out of a complaint regarding members of HGEA's bargaining units, 02, 03, 04, 06, 09, and 13, (HGEA v. Kishimoto, 20-CE-02-947a-947f). Accordingly, the Board counts each as a separate case. The Board held a hearing on the motion to dismiss and filed its Decision and Order dismissing the complaint in its entirety and closing the case. The remaining eight cases are comprised of complaints brought by the various unions and employees, and most have closed. One of the cases is on appeal at the First Circuit Court of Hawai'i, and another is proceeding to a Hearing on the Merits on a complaint brought against both the DOE and Union.

<sup>19</sup> Although in FY 2021, 10 cases were filed against the Department of Education, six of these cases arise out of a complaint regarding members of HGEA's bargaining units, 02, 03, 04, 06, 09, and 13, (HGEA v. Governor David Ige, Kishimoto, and Board of Education, 20-CE-02-955a-955f). One of the issues in this case arose from a press conference by the Governor stating that due to COVID-19 negative economic impacts, the State may have to furlough state employees. The Governor subsequently announced that he would delay the implementation of the furlough and the parties requested that the case be stayed by the Board. The Board waited five months to hear from the parties and hearing none and receiving no objection, dismissed and closed the case. The other four cases are comprised of complaints brought by several unions and a Self-Represented Litigant. All of the cases were dismissed and closed.

<sup>20</sup> Although in FY 2019, 17 cases were filed against the University of Hawai'i, 16 of the cases arose from one set of facts involving 8 employee complainants against two (2) respondents; the University of Hawaii and the HGEA. As explained previously, each individual complainant in a multi-party or multi-respondent proceeding is counted as one case apiece. In the Matter of Lenora L. Asato, Jennifer E. Halaszyn, Jeff Ibara, Yoshiaki Inuma, Charles Luk, Joy Magarifuji, Siiri Aileen Wilson, and Gang Yuan v. HGEA and University of Hawai'i, 18-CU-08-365a-h, and 18-CE-08-921a-h, the Board held 13 days of hearings on the merits, received several motions, accepted post-hearing briefs and is proceeding to issue its decision and order. The one other case involved a complaint against the University of Hawaii Board of Regents, and after a hearing on a motion to dismiss, which was granted, the case was dismissed and case closed.

<sup>21</sup> Most of these are "Impasse Cases", FY 2019 and FY 2021, that arise when neither party gives written notice of an impasse and there are unresolved issues on January 31, of a year in which the collective bargaining agreement is due to expire and the Board pursuant to HRS 89-11, declares Impasse and sets the date of impasse and usually arise in an odd-number year. These impasse cases can also arise when one of the parties informs the Board of the impasse in writing and seeks a declaration of impasse. The Board's impasse order sets into action a statutory timeline and process for the parties to follow to resolve the impasse among themselves or seek HLRB or Judicial intervention. Over the past several years, the parties have entered into and used their Alternate Impasse Procedures with mutually favorable results. The other type of cases listed here are those that involve an Employee who only brings a complaint against the Exclusive Representative and not the Employer.

<sup>22</sup> For FY 2018, there were a total of three cases with multiple departments involved. Two cases involved the Civil Service Commission and the Honolulu Police Department. One case involved the Board of Water Supply and the Department of Human Resources Development. For FY 2019, there were a total of five cases with multiple departments involved. Four cases involved the Department of Human Resources Development and the Department of Taxation. One case dealt with the Department of Environmental Services, the Department of Facility Maintenance, the Department of Human Resources Development and the City and County of Honolulu. For FY 2022, there were a total of 17 cases with multiple departments involved. One case involved the Department of Taxation and the Department of Human Resources Development. Seven cases involved the Executive Branch, the Department of Education, and the Hawai'i State Judiciary, eight cases involved the Governor, Mayor of the City and County of Honolulu, and the Department of Education, and one case involved the Governor and the Department of Education.

### APPENDIX 3: SIGNIFICANT DECISIONS AND ORDERS

Listed below are short summaries of the Board’s FY 2023 Chapter 89/377 Decisions and Orders of significance. They may be instructive to the attorney practitioner, self-represented litigant, employers, employees, and unions. They may also be of interest to the state and county legislative bodies, the Legislative Reference Bureau, the University of Hawai‘i, the Hawai‘i State Public Library System, and the general public. The Board Decisions can be found at <https://labor.hawaii.gov/hlrp/decisions-hlrp/> and the Board Orders can be found at <https://labor.hawaii.gov/hlrp/board-orders-hlrp/>.

#### **GUZMAN V. HONOLULU POLICE DEP’T AND HGEA || CASE NO. 19-CE-03-925, 19-CU-03-371 (PPC)**

DECISION NO. 512 || ISSUED JULY 8, 2022

##### **Decision**

The Board may hear motions akin to a Motion for Directed Verdict, which asks whether the Complainant met their burden of proof after resting their case. The Complainant did not provide enough evidence and legal argument to succeed on the claim that the Employer discriminated or retaliated against her or that the Employer wilfully violated the CBA. The corresponding claim in the “hybrid case,” that the Union breached its Duty of Fair Representation (DFR) fails because of the failure to prove the CBA violation. Poe v. HLRB, 105 Hawai‘i 97, 94 P.3d 652 (2004) (Poe II).

#### **ISHIDA V. UPW || CASE NO. 22-CU-01-387 (PPC)**

ORDER NO. 3876 || ISSUED JULY 26, 2022

##### **Granting, in Part, and Denying, in Part, Motion to Dismiss**

The Board follows the Hawai‘i Supreme Court’s (HSC) “notice pleading” standard. Therefore, Complainants are required only to provide a “short and plain statement” of the claim to provide the Respondents of notice of the complaint and the relevant grounds. The HSC has specifically stated that “hybrid cases” do not require the presence of both the Employer and the Union. *See Poe II*, 105 Hawai‘i at 102, 94 P.3d at 657.

#### **WEISS V. HSTA; WEISS V. SNELLING || CASE NOS. 22-CU-05-390; 22-CE-05-970 (PPC)**

ORDER NO. 3880 || ISSUED AUGUST 4, 2022

##### **Granting, in Part, and Denying, in Part, Motion to Dismiss**

The Board cannot consider claims regarding alleged violations of Board of Education policies, HRS § 378-62, or the Hawai‘i Whistleblower Protection Act. Individual employees do not have legislative standing to bring claims under HRS § 89-13(a)(6).

**FUKUMOTO V. DEP'T OF PUBLIC SAFETY AND HGEA || CASE NOS. 22-CE-14-966,  
22-CU-14-389 (PPC)**

ORDER NO. 3890 || ISSUED SEPTEMBER 9, 2022

**Granting, in Part, and Denying, in Part, Dispositive Motions**

Following the HSC's "notice pleading" standard, if the Complainant lays out legal arguments and facts that they believe support their legal arguments, they have met their burden to provide notice to the Respondents of their claims. HRS §§ 89-13(a)(6) and (b)(3) deal with interest arbitrations, not grievance arbitrations. Therefore, individual employees do not have standing to bring claims under HRS §§ 89-13(a)(6) and (b)(3).

**HGEA V. GOVERNING BOARD OF KANUIKAPONO CHARTER SCHOOL ||  
CASE NO. 19-CE-03-928 (PPC)**

DECISION NO. 513 || ISSUED OCTOBER 19, 2022

**Decision**

Respondents intentionally and knowingly discouraged and prohibited BU 3 members from exercising their rights under HRS Chapter 89 and the BU 3 CBA. These actions constitute a prohibited practice under HRS § 89-13(a)(1). Alleged prohibited practices under HRS § 89-13(a)(2) require a two-step analysis: one, whether an employee organization other than the exclusive representative was involved in the violative acts and two, whether the employer dominated, interfered, or assisted in the formation, administration, or organization of the non-exclusive representative employee organization.

**HENKEL V. HAWAI'I FIRE DEP'T || CASE NO. 22-DR-13-119 (DR)**

ORDER NO. 3907 || ISSUED OCTOBER 19, 2022

**Refusing to Issue a Declaratory Ruling**

The County of Hawai'i is not an Employer under HRS Chapter 377. *See* HRS § 377-1. Therefore, a last chance agreement (LCA) entered into by an Employee and the County of Hawai'i as their Employer cannot violate HRS Chapter 377. The "parties" referenced in HRS § 89-10(a) are the Employer and the Exclusive Representative. Therefore, if either of those "parties" is not a signatory to an LCA, that LCA is not an agreement under HRS § 89-10(a).

**HGEA V. HHSC || CASE NO. 22-CE-02-972 (PPC)**

ORDER NO. 3917 || ISSUED NOVEMBER 14, 2022

**Dismissing Case for Lack of Jurisdiction**

Prohibited Practice Complaints (PPCs) must be filed within 90 days of the alleged prohibited practice. *See* HRS § 377-(9)(1); *Aio v. Hamada*, 66 Haw. 401, 404 n.3, 664 P.2d 727, 729 n.3 (1983) (*Aio*). This time limit begins when the Complainant knew or should have known that their rights were allegedly being violated. When a Notice of Intent to Arbitrate a grievance is sent, jurisdiction over that grievance belongs to an

arbitrator, not to the Board. Unions are not required to use HRS Chapter 658A to confirm, vacate, modify, or correct arbitrator's decisions, but the Board cannot substitute its judgment for the arbitrator's.

**ALIKA V. SHOPO || CASE NO. 22-CU-12-393 (PPC)**

ORDER NO. 3919 || ISSUED NOVEMBER 16, 2022

**Denying Motion to Dismiss and Dismissing the Case for Lack of Jurisdiction**

Claims become moot when there is no remedy to satisfy the Complainant's request. HRS § 89-15 requires that Unions keep adequate records of financial transactions and make an annual financial report available within 120 days after the end of its fiscal year. Employee HRS Chapter 89 rights are not limited to HRS § 89-3. The Board does not have jurisdiction over a Union's internal bylaws or campaign promises.

**TAUM V. DEP'T OF PUBLIC SAFETY || CASE NOS. 17-CE-10-906 (PPC)**

DECISION NO. 514 || ISSUED FEBRUARY 21, 2023

**Decision**

PSD used and relied on a non-qualified use of force specialist to determine whether the Employee should be disciplined. PSD deliberately interfered with and obstructed the Employee's right to a full and fair process in challenging their discipline through the disciplinary, grievance, and prohibited practice proceedings.

**HASIAK V. HGEA || CASE NO. 22-CU-03-394 (PPC)**

ORDER NO. 3939 || ISSUED MARCH 13, 2023

**Dismissing the Case for Lack of Jurisdiction**

The Board must have jurisdiction to hear a case. PPCs must be filed within 90 days of the alleged prohibited practice. *See* HRS § 377-(9)(1); *Aio*, 66 Haw. at 404 n.3, 664 P.2d at 729 n.3. Employees must "exhaust" their administrative/contractual remedies before filing a "hybrid case". *See Poe v. HLRB*, 97 Hawai'i 528, 531, 30 P.3d 930, 933 (2002) (*Poe*). The law does not require Unions to file grievances for the members of their bargaining unit because the law specifically permits Employees to file grievances without Union involvement. *See* HRS § 89-8(b).

**KRAMER V. DEP'T OF EDU. || CASE NO. 23-CE-05-977 (PPC)**

ORDER NO. 3951 || ISSUED APRIL 6, 2023

**Denying Motion to Dismiss**

Hawai'i Rules of Civil Procedure (HRCPP) Rule 81(b)(12) does not make the HRCPP applicable to cases before the Board. *See Los Banos v. HLRB*, No. CAAP-17-0000476 (App. Nov. 22, 2019) (mem.) at \*30. In "hybrid cases", Employees must prove both the case against the Employer and the Union, but Employees may choose not to file the case against both the Employer and the Union. *Poe II*, 105 Hawai'i at 102, 94 P.3d at 657

**KRAMER V. HSTA || CASE NO. 23-CU-05-395 (PPC)**

ORDER NO. 3967A || ISSUED MAY 31, 2023

**Granting Motion to Amend, Rendering Motion to Dismiss Moot**

The Board's administrative rules allow documents to be amended, at the discretion of the Board, at any time before the Board's disposition of the document. Complaints may be amended with the Board's approval at any time before the final order in that case is issued. Granting a Motion to Amend renders any pending Motion to Dismiss moot.

**HGEA V. DEP'T OF EDU. || CASE NO. 22-CE-06-973 (PPC)**

ORDER NO. 3971 || ISSUED JUNE 21, 2023

**Denying Motion to Dismiss and Dismissing the Case**

After a notice of intent to arbitrate is sent, the Board defers to the arbitrator's jurisdiction. HRS Chapter 658A applies to public sector CBAs, but unions are not required to use HRS Chapter 658A unless the relevant CBA for the bargaining unit so requires. Declining to use HRS Chapter 658A does not remove issues from an arbitrator's jurisdiction.

**KEOPUHIWA V. HAWAI'I FIRE DEP'T AND HFFA || CASE NOS. 19-CE-11-930; 19-CU-11-373 (PPC)**

DECISION NO. 515 || ISSUED JUNE 30, 2023

**Decision**

The Employer violated the CBA by changing the Complainant's placement as a disciplinary measure. Although the Employer denied the placement was disciplinary, it was effectively an adverse employment action. Further, the Employer failed to consider the personal hardship caused by the placement. The Union breached its DFR by infringing on the Employee's right to a fair and impartial tribunal.

**Dissent**

The Union did not proceed to arbitration because the Union deemed the grievance moot due to the Employee's actions. The Employer is not required to make accommodations due to personal hardships.

**ISHIDA V. UPW || CASE NO. 22-CU-01-387 (PPC)**

DECISION NO. 516 || ISSUED JUNE 30, 2023

**Decision**

The Board can find a breach of the DFR only if the Union's conduct was arbitrary, discriminatory, or in bad faith. A Union's actions are not considered perfunctory unless those actions suggest an "egregious disregard" of the Employee's rights. Unions are not liable for good faith, non-discriminatory errors of judgment in deciding how to pursue a particular grievance.

## APPENDIX 4: CASES ON APPEAL

Listed below are Board Decisions and Cases on Appeal that were active at various State courts during FY 2023. The **bold** case captions describe the case heard by the HLRB. All Chapter 89/377 decisions and orders can be found online at [www.labor.hawaii.gov/hlrb/](http://www.labor.hawaii.gov/hlrb/), Board Decisions and Orders. The *Italicized* captions are cases on appeal or filed with the circuit court and can be found through the Judiciary's eCourt Kokua at <https://www.courts.state.hi.us>.

	HLRB Case Name / Appeal Case Name	Complaint Filed	Case #	Appeal Filed Date	Civil Appeal #
1.	<b>Taum v. Department of Public Safety, State of Hawai'i</b>  <i>Department of Public Safety v. Taum and HLRB</i>	12/20/2017	17-CE-10-906	3/16/2023	1CCV-23-0000356 Active
2.	<b>HGEA v. Hawaii Health Systems Corporation</b>  <i>HGEA v. HLRB, et al. and HHSC</i>	10/20/2022	22-CE-02-972	12/13/2022	1CCV-22-0001585 Active
3.	<b>Academic Labor United v. Board of Regents, et al.</b> <sup>23</sup>  <i>Academic Labor United, an unincorporated association, Ashley Hi'ilani Sanchez, Kawena'ulaokala Kapahua, and Cameron Grimm v. Board of Regents of the University of Hawai'i, Hawai'i Labor Relations Board, and State of Hawai'i</i>	5/1/2021	N/A	8/2/2022  1/28/2022  5/1/2021	SCAP-22-0000029 (Judgment Affirmed 6/5/2023)  CAAP-22-0000029 (Order Granting Application for Transfer 8/29/2022)  1CCV-21-0000559
4.	<b>Hsiao v. HGEA</b>  <i>Ya-Wen Hsiao v. Hawai'i Labor Relations Board</i>	5/7/2020	20-CU-08-383	11/18/2020	1CCV-20-0001696 Active
5.	<b>Asato v. HGEA and Department of Education, State of Hawai'i</b>  <i>Valerie Asato v. HGEA and DOE</i>	10/4/2019	19-CU-03-375, 19-CE-03-934	5/17/2022  6/4/2021	CAAP-22-0000339 Active  1CCV-21-0000736

<sup>23</sup> This is not an appeal from a Board's decision but listed here for the convenience of the reader. The Board is a Defendant in Academic Labor United v. Board of Regents of the University of Hawai'i, Hawai'i Labor Relations Board, and State of Hawai'i, 1CCV-21-0000559, complaint for Declaratory Judgment, filed May 1, 2021.

	HLRB Case Name / Appeal Case Name	Complaint Filed	Case #	Appeal Filed Date	Civil Appeal #
6.	<b>SHOPO v. Susan Ballard, Chief of Police, Honolulu Police Department, City and County of Honolulu</b>  <i>SHOPO v. HLRB; Marcus R. Oshiro, Sesnita A.D. Moepono, and J N. Musto</i>	2/5/2018	18-CE-12-910	9/16/2019  2/15/2019	CAAP-19-0000643 Active  1CC191000270 (Order Affirming HLRB Order 8/29/2019; Notice of Entry of Judgment 9/11/2019)
7.	<b>Elaban v. SOH, DOT, and UPW</b>  <i>Catherine Elaban v. Department of Transportation, State of Hawai'i, and UPW</i>	5/19/2017	17-CE-01-897, 17-CU-01-351	3/29/2018  8/31/2017	CAAP-18-0000254 Active  1CCV-17-1-1420-08 (Decision and Order Affirming HLRB Order 3280 2/27/2018)
8.	<b>HFFA v. KIRK CALDWELL, Mayor, City and County of Honolulu; MANUEL P. NEVES, Fire Chief, Honolulu Fire Department, City and County of Honolulu; HONOLULU FIRE DEPARTMENT, City and County of Honolulu; and CITY AND COUNTY OF HONOLULU</b>  <b>HFFA v. KIRK CALDWELL, Mayor, City and County of Honolulu; MANUEL P. NEVES, Fire Chief, Honolulu Fire Department, City and County of Honolulu; HONOLULU FIRE DEPARTMENT, City and County of Honolulu; and CITY AND COUNTY OF HONOLULU</b>  <b>CONSOLIDATED</b>  <i>KIRK CALDWELL, Mayor, City and County of Honolulu; MANUEL P. NEVES, Fire Chief, City and County of Honolulu; Honolulu Fire Department, City and County of Honolulu; HONOLULU FIRE DEPARTMENT, City and County of Honolulu; and CITY AND COUNTY OF HONOLULU v. HAWAII FIRE FIGHTERS ASSOCIATION, IAFF, LOCAL 1463, AFL-CIO, and HAWAI'I LABOR RELATIONS BOARD; MARCUS R. OSHIRO, SESNITA A.D. MOEPONO, and J N. MUSTO</i>	11/14/2016	14-CE-11-845, 16-CE-11-887	12/3/2021  6/10/2021  5/5/2021  10/23/2020  7/9/2018	CAAP-21-0000680 (Dismissal for Lack of Appellate Jurisdiction 9/6/2022)  CAAP-21-0000365 Active  1CCV-21-0000579 (Court Reversed HLRB Order 3730 re: Attorneys' Fees and Costs; Appellant to Prepare and Submit Order and Judgment 10/01/21)  1CCV-20-0001454 (HLRB Order 3658 Affirmed 5/11/21)  1CC181001088 (Remanded 11/6/20)

	<b>HLRB Case Name / Appeal Case Name</b>	<b>Complaint Filed</b>	<b>Case #</b>	<b>Appeal Filed Date</b>	<b>Civil Appeal #</b>
9.	<b>SHOPO v. Bernard Carvalho, Jr. Mayor of Kauai; et al</b>  <i>STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS (SHOPO), and</i>  <i>HAWAI'I LABOR RELATIONS BOARD; SESNITA A.D. MOEPONO; and J N. MUSTO, and</i>  <i>BERNARD P. CARVALHO, JR., Mayor of the County of Kaua'i, State of Hawai'i; DARRYL D. PERRY, Chief of Police of the Kaua'i Police Department; and COUNTY OF KAUA'I, a political subdivision of the State of Hawai'i</i>	1/11/2016	CE-12-875	5/1/2017  7/1/2016	CAAP-17-0000375 Active  1CC1611259 (Order Dismissing Appeal 4/25/2017)
10.	<b>Makino v. County of Hawaii &amp; UPW</b>  <i>NATHAN MAKINO v. COUNTY OF HAWAI'I; UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO; and HAWAI'I LABOR RELATIONS BOARD, STATE OF HAWAI'I</i>	4/20/2015	CE-01-856 CU-0 1-332	10/12/2018  11/17/2017	CAAP-18-0000782 Active  3CC171000368 (HLRB Decision Affirmed 7/3/2018)
11.	<b>Yang v. Loretta J. Fuddy, DOH</b>  <i>HENRY H. YANG, M.D., v. BRUCE ANDERSON, Ph.D., Director, Department of Health, State of Hawai'i; HAWAI'I LABOR RELATIONS BOARD</i>	11/25/2011	CE-13-788	7/31/2019	3CC191000208 Active
12.	<b>Stucky v. Wilfred Okabe, Wilbert Holck, Eric Nagamine, David Forrest, HSTA</b>  <i>STEPHANIE C. STUCKY v. WILFRED OKABE, President, Hawaii State Teachers Association; WILBERT HOLCK, UniServ, Hawaii State Teachers Association; ERIN NAGAMINE, Maui UniServ, Hawaii State Teachers Association; DAVID FORREST, O'ahu Uniserv, Hawaii State Teachers Association; and HAWAII STATE TEACHERS ASSOCIATION, and HAWAI'I LABOR RELATIONS BOARD</i>	4/7/2011	CU-05-303	7/30/2021	2CCV-21-0000228 Active
13.	<b>HSTA v. BOE, Patricia Hamamoto &amp; Susan H. Kitsu</b>  <i>HSTA v. BOE &amp; HLRB</i>	5/27/2008	CE-05-667	8/11/2017  10/7/2016	CAAP-17-0000605 (ICA Judgment on Appeal Affirmed 9/15/2022)  1CCV-16-1-1878-10 (HLRB Decision Affirmed 7/12/2017)

During FY 2023, these thirteen (13) cases were at various stages of the appellate process. The oldest appeal of an HLRB decision and/or order was filed on July 1, 2016, and the most recent was filed on March 16, 2023.



## APPENDIX 5: OPEN HRS 377/89 CASES

Forty-six (46) HRS 377/89 cases remain open as of the close of FY 2023.

Date Filed	Case Number(s)	Case Name	Status
11/13/2009	CE-10-737, CU-10-284	Taum, et al. v. DHRD & UPW <sup>24</sup>	OPEN
10/2/2017	17-CE-10-900, 17-CU-10-356	Pinkney v. PSD & UPW	OPEN
9/14/2018	18-CU-08-365a-h, 18-CE-08-921a-h	Asato, et al v. HGEA & UH <sup>25</sup>	OPEN
2/7/2020	20-CU-06-379, 20-CE-06-940	Kusumoto v. HGEA & DOE	OPEN
4/9/2020	20-CU-10-381, 20-CE-10-943, 20-CU-10-382	Leslie, et al v. UPW & PSD <sup>26</sup>	OPEN
11/2/2020	20-CE-01-952	Salera v. Kahikina, & DES	OPEN
2/5/2021	21-I-15-193	HGEA v. David Y. Ige, et al.	OPEN
10/22/2021	21-CE-02-962a-h	HGEA v. David Y. Ige, et al.	OPEN
4/20/2022	22-CE-14-966, 22-CU-14-389	Fukumoto v. PSD & HGEA	OPEN
6/28/2022	22-CE-07-968	UHPA v. BOR	OPEN
7/11/2022 5/20/2022	22-CE-05-970, 22-CU-05-390 (Consolidated)	Weiss v. DOE Weiss v. HSTA	OPEN
8/16/2022	22-CE-09-971	HGEA v. DOH	OPEN
2/28/2023	23-CE-05-976	Campbell v. DOE	OPEN
3/6/2023	23-CE-05-977	Kramer v. DOE	OPEN
3/9/2023	23-CE-05-978	Reid v. DOE	OPEN
3/13/2023	23-CE-05-979	Best v. DOE	OPEN
5/1/2023	23-CU-05-395	Kramer v. HSTA	OPEN

<sup>24</sup> In Case Nos. CE-10-737 and CU-10-284, the Complainants are Jonathan Taum; Chad Ross; Carl L. Kahawai; Quincy G.K. Pacheco; Bradford J. Leialoha; and Julieann L. Salas.

<sup>25</sup> In Case No. 18-CE-08-365-a-h, the Complainants are Leonora L. Asato, Jennifer E. Halaszyn, Jeff Ibara, Yoshiaki Iinuma, Charles Luk. Joy Magarifuji, Siri Aileen Wilson, and Gang Yuan.

<sup>26</sup> In Case No. 20-CU-10-381, the Complainants are Gordon Leslie, Bernard Kuamoo, George Sheridan, Deangelo Dixon, and Felicianyyo Samson v. UPW; in Case No. 20-CE-10-943, the Complainants are Gordon Leslie; James Akau; Marc S. Amerino; Anthony Baysa; Daniel J. Bryant; Levi Christenson; Michael Costa; Neemia Feagai; Lee Fields, Jr.; William T.K. Greig; William S. Gonsalves; Henry C. Hope; Sheen H. Ikegami; Cranston M. Kamaka, Jr.; Austin R. Keanu; Bernard Kuamoo, Jr.; John P. Lalotoa; Wyatt G. Lee; Alton Lorico, Jr.; Raymond R. Lyman, Sr.; Raymond A. Maae; Chad K. Mahuka; Gary D. Mendonca; David Murray; Dale U. Newcomb; Potumoe Olomua; Robert L. Prado; Steven Preza; Adrian P. Salas; Feliciano Samson; Fiafia S. Sataraka; Iafeta Save; Deborah Segich; George Sheridan, III; Kenneth Siilata; Michael Taamilo; William Taamu-Perifanos; Jared Tajon; Thomas Taum;

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Maria Elena Y.L.W. Tom; Pilipo Tuitama, Edward F. Vaovasa; Bradley Wakuta; Mark M. Watanabe; and Lance F.P. Wong; and in Case No. 20-CU-10-382, the Complainants are Gordon Leslie; James Akau; Marc S. Amerino; Anthony Baysa; Daniel J. Bryant; Levi Christenson; Michael Costa; Neemia Feagai; Lee Fields, Jr.; William T.K. Greig; William S. Gonsalves; Henry C. Hope; Sheen H. Ikegami; Cranston M. Kamaka, Jr.; Austin R. Keanu; Bernard Kuamoo, Jr.; John P. Lalotoa; Wyatt G. Lee; Alton Lorico, Jr.; Raymond R. Lyman, Sr.; Raymond A. Maae; Chad K. Mahuka; Gary D. Mendonca; David Murray; Dale U. Newcomb; Potumoe Olomua; Robert L. Prado; Steven Preza; Adrian P. Salas; Feliciano Samson; Fiafia S. Sataraka; Iafeta Save; Deborah Segich; George Sheridan, III; Kenneth Siilata; Michael Taamilo; William Taamu- Perifanos; Jared Tajon; Thomas Taum; Maria Elena Y.L.W. Tom; Pilipo Tuitama; Edward F. Vaovasa; Bradley Wakuta; Mark M. Watanabe; and Lance F.P. Wong.

## APPENDIX 6: PUBLICATIONS

HLRB Informational Bulletin: This annual bulletin issued by the Hawai‘i Labor Relations Board provides, by employing jurisdictions, the number of public employees included in each of the 15 collective bargaining units established by Hawai‘i Revised Statutes § 89-6(a). The bulletin is regularly published in the Spring and posted on the Board’s website in the Find a Report section at <https://labor.hawaii.gov/hlrp/find-a-report/>.

Website: Rules, forms, bulletins, recent decisions of the Board, and the Board’s List of Arbitrators with their resumes and fees are posted on the Hawai‘i Labor Relations Board section of the DLIR website at <https://labor.hawaii.gov/hlrp/>.

## APPENDIX 7: HLRB INFORMATIONAL BULLETIN NO. 61

**JOSH GREEN**  
GOVERNOR

**SYLVIA LUKE**  
LIEUTENANT GOVERNOR

**JADE BUTAY**  
DIRECTOR, DLIR

**WILLIAM KUNSTMAN**  
DEPUTY DIRECTOR, DLIR



**MARCUS R. OSHIRO**  
BOARD CHAIR

**SESNITA A.D. MOEPONO**  
BOARD MEMBER

**J N. MUSTO, Ph. D**  
BOARD MEMBER

**STATE OF HAWAII**  
**HAWAII LABOR RELATIONS BOARD**

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July 5, 2023

### HLRB INFORMATIONAL BULLETIN NO. 61

This is the forty-ninth annual informational bulletin issued by the Hawai'i Labor Relations Board providing, by employing jurisdictions, the number of public employees included in each of the 15 collective bargaining units established by Hawai'i Revised Statutes § 89-6(a). The figures reported are provided by each employing jurisdiction and are correct as of December 31, 2022.

The 15 collective bargaining units are:

- 1 Nonsupervisory employees in blue collar positions;
- 2 Supervisor employees in blue collar positions;
- 3 Nonsupervisory employees in white collar positions;
- 4 Supervisory employees in white collar positions;
- 5 Teachers and other personnel of the department of education under the same salary schedule, including part-time employees working less than twenty hours a week who are equal to one-half of a full-time equivalent;
- 6 Educational officers and other personnel of the department of education under the same schedule;
- 7 Faculty of the University of Hawai'i and the community college system;
- 8 Personnel of the University of Hawai'i and the community college system, other than faculty;
- 9 Registered professional nurses;
- 10 Institutional, health, and correctional workers;
- 11 Firefighters;
- 12 Police Officers;
- 13 Professional and scientific employees, who cannot be included in any of the other bargaining units;
- 14 State law enforcement officers
- 15 State and county ocean safety and water safety officers

## NUMBER OF EMPLOYEES

The following figures indicate the number of employees who are included in the respective bargaining units by employing jurisdictions.

Unit	State of Hawai'i	C&C of Honolulu	County of Hawai'i	County of Maui	County of Kaua'i	Dept. of Education	Judiciary	UH	HHSC	TOTAL
01	1,757	1,794	583	639	371	2,198	106	459	356	8,263
02	176	204	50	41	14	231	1	12	14	743
03	2,981	1,345	572	484	200	4,327	666	424	400	11,399
04	214	125	39	25	17	261	47	35	18	781
05	0	0	0	0	0	12,800	0	0	0	12,800
06	0	0	0	0	0	955	0	0	0	955
07	0	0	0	0	0	0	0	3,286	0	3,286
08	0	0	0	0	0	0	0	2,275	0	2,275
09	396	0	0	0	0	2	4	9	835	1,246
10	1,409	264	0	0	0	35	50	1	661	2,420
11	198	1,020	352	286	132	0	0	0	0	1,988
12	0	1,808	398	281	135	0	0	0	0	2,622
13	4,209	1,054	321	285	150	997	503	0	309	7,828
14	409	0	0	0	0	0	0	0	0	409
15	0	212	56	69	52	0	0	0	0	389
TOTAL	11,749	7,826	2,371	2,110	1,071	21,806	1,377	6,501	2,593	57,404

The State Public Charter School Commission Office submitted bargaining unit information to the Board, and the information is included on page 4 of this bulletin.

## CHANGES IN NUMBER OF EMPLOYEES

The following figures indicate the differences in the number of public employees as reported in HLRB Informational Bulletin No. 60A, dated May 27, 2022 (Revised June 23, 2023), and the figures reported in the foregoing table.

Unit	State of Hawai'i	C&C of Honolulu	County of Hawai'i	County of Maui	County of Kaua'i	Dept. of Education	Judiciary	UH	HHSC	TOTAL
01	(12)	(24)	12	18	(17)	(3)	6	(13)	1	(32)
02	(4)	14	2	3	(3)	(16)	N/C	(1)	(3)	(8)
03	(181)	(11)	(12)	(20)	(18)	(85)	(26)	(57)	(3)	(413)
04	7	3	3	N/C	1	(7)	(1)	1	3	10
05	/	/	/	/	/	82	/	/	/	82
06	/	/	/	/	/	29	/	/	/	29
07	/	/	/	/	/	/	/	(19)	/	(19)
08	/	/	/	/	/	/	/	38	/	38
09	17	/	/	/	/	N/C	N/C	1	27	45
10	(12)	(2)	/	/	/	5	(1)	N/C	14	4
11	1	N/C	4	4	N/C	/	/	/	/	9
12	/	(42)	(31)	(3)	(6)	/	/	/	/	(82)
13	(131)	5	6	(15)	(32)	4	(42)	/	14	(191)
14	38	/	/	/	/	/	/	/	/	38
15	/	3	(1)	11	N/C	/	/	/	/	13
TOTAL	(277)	(54)	(17)	(2)	(75)	9	(64)	(50)	53	(477)

N/C: No change

/: Not applicable

( ): Denotes a Negative Number

## PUBLIC CHARTER SCHOOL EMPLOYEES

School	Unit 01	Unit 02	Unit 03	Unit 04	Unit 05	Unit 06	Unit 13	TOTAL
Alakai O Kauai	1	0	6	1	11	1	2	22
Connections PCS	5	1	16	0	31	4	3	60
Dreamhouse Ewa Beach PCS	0	0	3	0	24	4	0	31
Hakipu'u Learning Center PCS	0	0	7	0	4	1	3	15
Halau Ku Mana PCS	0	0	4	1	15	1	1	22
Hawaii Academy of Arts and Sciences PCS	7	1	36	6	54	1	0	105
Hawaii Technology Academy PCS	0	0	26	0	97	8	16	147
Innovations PCS	1	1	6	0	14	1	3	26
Ka Umeke Ka'eo PCS	2	0	7	2	20	2	5	38
Ka Waihona O Ka Na'auao PCS	7	0	22	0	40	3	3	75
Kamaile Elem PCS	11	1	68	3	88	7	1	179
Kamalani Academy	1	0	9	1	12	1	0	24
Kanu o ka 'Aina PCS	0	0	30	1	47	4	1	83
Kanuikapono PCS	1	0	9	1	15	0	10	36
Ka'ohao PCS	2	0	16	0	23	1	4	46
Kapolei PCS	0	0	5	0	9	2	3	19
Kawaikini Public Charter School	0	0	6	2	15	2	0	25
Ke Ana La'ahana PCS	0	0	4	0	4	1	0	9
Ke Kula Ni'ihau O Kekaha PCS	1	0	4	0	5	1	3	14
Ke Kula 'O Nawahiokalani 'Opu'u Lab PCS	7	0	17	4	41	0	2	71
Ke Kula O Samuel M.Kamakau Lab PCS	2	0	8	0	9	2	1	22
Kihei Public Charter School PCS	0	0	30	0	43	0	10	83
Kona Pacific Public Charter School	1	0	13	0	18	3	0	35
Kua O Ka La PCS	4	0	11	0	16	2	1	34
Kualapu'u Elem PCS	6	2	23	2	30	2	0	65
Kula Aupuni Niihau A Kahelelani Aloha PC	0	0	0	0	1	0	0	1
Laupahoe Community PCS	7	1	15	2	28	2	0	55
Malama Honua PCS	0	1	8	1	11	2	0	23
Myron B. Thompson Academy PCS	0	0	14	0	28	4	0	46
Na Wai Ola NCPCS	2	0	6	2	6	0	0	16
SEEQS PCS	1	1	4	1	17	1	5	30
University Laboratory School	0	0	7	1	41	3	6	58
Volcano Sch of Arts & Science Comm PCS	6	3	18	0	23	2	1	53
Voyager PCS	0	0	7	0	24	1	1	33
Wai'alaie Elem PCS	5	0	9	2	44	4	2	66
Waimea Middle PCS	5	0	6	1	18	2	4	36
West Hawaii Explorations Academy PCS	1	1	2	0	26	2	1	33
TOTAL	86	13	482	34	952	77	92	1736

There were no public charter school employees reported in Units 07, 08, 09, 10, 11, 12, 14, and 15.

We are grateful to the following individuals and their respective staffs for providing the reports that make it possible to present this data to you:

Brenna H. Hashimoto  
Director, Department of Human Resources Development, State of Hawai‘i

Eric Tanigawa  
Human Resources Director, Office of the Administrative Director – Human Resources  
The Judiciary, State of Hawai‘i

Nola N. Miyasaki  
Director, Department of Human Resources, City and County of Honolulu

Waylen L. K. Leopoldino  
Director, Department of Human Services, County of Hawai‘i

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Annette L. Anderson  
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Sean Bacon  
Assistant Superintendent, Department of Education, State of Hawai‘i

Jeffery Long  
Interim Director of Human Resources, System Office of Human Resources  
University of Hawai‘i System

Juanita Lauti  
Vice President and Chief Human Resources Officer  
Hawai‘i Health Systems Corporation

Yvonne Lau  
Interim Executive Director, State Public Charter School Commission