



STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD  
Princess Keelikolani Building, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813  
HLRB-4 PROHIBITED PRACTICE COMPLAINT

Case No. CE 07-714

File the original and five copies of this Complaint, by U.S. Mail or in person, with the Hawaii Labor Relations Board, Princess Keelikolani Building, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

1. The Complainant alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board proceed pursuant to Hawaii Revised Statutes Sections 89-13 and 89-14, and its Administrative Rules, to determine whether there has been any violation of the Hawaii Revised Statutes, Chapter 89.

2. Complainant

(a) Name, address and telephone number.

UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY  
J.N. Musto, Ph.D, Executive Director  
1017 Palm Drive  
Honolulu, Hawaii 96814

(808) 593-2157

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

T. Anthony Gill, Esq.  
Gill & Zukeran, Attorneys  
707 Richards Street #100  
Honolulu, Hawaii 96813

(808) 523-6777

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### 3. Respondent (Public Employer and/or Employee Organization or its Agents Against Whom Complaint is Filed)

(a) Name, address and telephone number.

UNIVERSITY OF HAWAII

Dr. David McClain, President

Bachman Hall 202

2444 Dole Street

Honolulu, HI 96822

(808) 956-8207

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

Darolyn Lendio, VP for Legal Affairs and General Counsel

Bachman Hall 110

2444 Dole Street

Honolulu, HI 96822

(808) 956-9901

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

Unit 7, Faculty of the University of Hawaii

### 5. Allegations

The Complainant alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in a prohibited practice or practices within the meaning of the Hawaii Revised Statutes, Section 89-13. (Specify in detail the particular alleged violation, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13, alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.)

The UHPA-UH 2003-2009 Agreement provides, in its Article XXX, Duration, that the Agreement shall "remain in effect to and including June 30, 2009. During the term of this Agreement, the parties, each on the call of the other, shall meet to bargain in good faith on matters covered herein. In the event that agreement cannot be reached on these matters, the current language of the Agreement shall continue in force and effect and Article XIX, No Strike or Lockout, shall control the actions of the parties." The parties have met since Fall, 2008, but agreement has not been reached on any matters. Accordingly, all contractual provisions "shall continue in force and effect."

On June 9, pursuant to contract, the UHPA lodged a class grievance with the President of the UH, asking him to concur that the Agreement would continue in force and effect as of July 1, 2009, pending negotiation of a new contract. On June 24, the UHPA and the President timely met to discuss the grievance. On June 30, the President informed the Executive Director of UHPA that the UH denied the class grievance. UHPA has requested arbitration. The matter is ripe for arbitration. The parties have agreed to arbitrate. An arbitrator has not yet been selected. At time of filing, the parties are cooperating to move the grievance to expedited arbitration.

The employer has abandoned a properly negotiated, properly ratified, ongoing contract, contrary to its direct and plain meaning, and is thus in violation of the Duration Article and the entire Agreement. This constitutes a prohibited practice under §89-13(a)(8) HRS.



# NOTARY CERTIFICATION

Doc. Date: undated at time of notarization # Pages: 4  
Name: Joanne Kai 1<sup>st</sup> Circuit  
Doc. Description: HLRB-4 Prohibited Practice  
Complaint

*Joanne Kai*  
Signature

July 1, 2009  
Date

