

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY,

Complainant,

and

BOARD OF REGENTS, University of
Hawaii, State of Hawaii,

Respondent.

CASE NO. CE-07-708

ORDER NO. 2780

CEASE AND DESIST ORDER

CEASE AND DESIST ORDER

On May 29, 2009, Complainant UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY (UHPA or Union) filed a prohibited practice complaint (Complaint) against Respondent BOARD OF REGENTS, University of Hawaii (BOR or Employer), alleging the BOR committed a prohibited practice by denying a tenured faculty member (Faculty Member) a promotion from Librarian IV to Librarian V in retaliation for Faculty Member's protected union activity. The Complaint alleged prohibited practices under Hawaii Revised Statutes (HRS) § 89-13(a)(1), (3), (4), and (8).

On July 14, 2009, the BOR filed its Motion to Defer Prohibited Practice Proceedings, asserting that a grievance was filed on Faculty Member's behalf pursuant to the Unit 07 collective bargaining agreement (Agreement) as well as a request for review by the Promotion Review Panel (PRP), and requesting that proceedings on the Complaint be deferred until the contractual process invoked by the UHPA had been exhausted.

On May 6, 2010, the Board issued Order No. 2701, Order Granting BOR's Motion to Defer Prohibited Practice Proceedings. On June 17, 2010, the Board issued Order No. 2711, Findings of Fact, Conclusions of Law, and Order Granting BOR's Motion to Defer Prohibited Practice Proceedings.

On January 18, 2011, the UHPA filed a Motion for Continuation of Proceedings Pursuant to HLRB Order 2701 (Motion for Continuation of Proceedings or motion), and attached an arbitration decision dated January 12, 2011. The UHPA requested that the Board order the BOR to cease and desist from discriminating against employees for engaging in union activity, and order the BOR to post electronic and hard

copy notices that it has been found to be in violation of unlawful discrimination pursuant to HRS § 89-13(a) and Article II.B of the Agreement.

On February 25, 2011, the Board held a prehearing conference in this matter. At the conference, the parties provided the Board with a copy of a settlement agreement, dated February 24, 2011, entered into by the parties. The settlement agreement provided in part:

If UH [University of Hawaii] were to agree to a posting and stipulate to a cease and desist order at the HLRB, the motion can be avoided.

* * *

Upon your signed concurrence below, UHPA will withdraw its motion scheduled to be heard by the HLRB. The administration would then agree to make the posting as soon as possible.

At the conference before the Board, the UHPA orally withdrew its Motion for Continuation of Proceedings in accordance with the settlement agreement. The BOR affirmed that it will make a posting in accordance with the settlement agreement.

ORDER

Therefore, in accordance with the settlement agreement provided to the Board by the parties, the Board hereby orders the BOR to cease and desist from discriminating against employees for engaging in union activity.

The BOR shall notify the Board of its compliance with the settlement agreement (i.e., the posting) within thirty days of the receipt of this order with certificate of service of the notice on the UHPA, at which time this proceeding will be closed.

DATED: Honolulu, Hawaii, February 28, 2011.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair

UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY and BOARD OF REGENTS
CASE NO. CE-07-708
ORDER NO. 2780
CEASE AND DESIST ORDER



SARAH R. HIRAKAMI, Member



NORMAN K. KATO II, Member

Copies sent to:

Linda M. Aragon, Esq.
Christine Tamashiro, Esq.

