

UNIT 03 AGREEMENT

July 1, 2007 - June 30, 2009

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This Agreement is made by and between the Hawai'i Government Employees Association, AFSCME Local 152, AFL-CIO, hereinafter called the Union, and the State of Hawai'i, the City and County of Honolulu, the County of Hawai'i, the County of Maui, the County of Kaua'i, the Hawai'i Health Systems Corporation, and the Judiciary, hereinafter called the Employer.

ARTICLE 1 - RECOGNITION

A. The Employer recognizes the Union as the exclusive bargaining agent of the unit certified by the Hawai'i Labor Relations Board consisting of white-collar non-supervisory Employees employed by the State of Hawai'i, the City and County of Honolulu, the County of Hawai'i, the County of Maui, the County of Kaua'i, the Hawai'i Health Systems Corporation and the Judiciary.

B. The term "Employee" as used in this agreement refers to Employees in the bargaining unit.

ARTICLE 2 - CONFLICT

If there is any conflict between the provisions of this Agreement and any of the rules and regulations of any Civil Service or other personnel regulations applicable to Employees, or any contracts between the Employer and the Employees, the terms of this Agreement shall prevail.

ARTICLE 3 - MAINTENANCE OF RIGHTS AND BENEFITS

Except as modified herein, Employees shall retain all rights and benefits pertaining to their conditions of employment as contained in the departmental and Civil Service rules and regulations and Hawai'i Revised Statutes at the time of execution of this Agreement, but excluding matters which are not negotiable under Chapter 89, HRS.

ARTICLE 4 - PERSONNEL POLICY CHANGES

A. All matters affecting Employee relations, including those that are, or may be, the subject of a regulation promulgated by the Employer or any Personnel Director, are subject to consultation with the Union. The Employer shall consult with the Union prior to effecting changes in any major policy affecting Employee relations.

B. No changes in wages, hours or other conditions of work contained herein may be made except by mutual consent.

the Agreement is being properly administered. The Union representatives will notify the appropriate supervisor when they arrive at the work site. While on the Employer's premises or work site, the representative will not interfere with normal operations.

D. The Union shall appoint a sufficient number of stewards from among the Employees whose function shall be to investigate complaints, handle grievances, and assure that the Agreement is being properly administered in their work areas, during working hours without loss of pay or benefits. The Employer assures privacy to the steward and the Employee while discussing the Employee's grievance.

E. Stewards who are shift workers may be scheduled by the Employer for the day shift on a day that the monthly unit island division steward meeting is held. Such scheduling shall not result in any overtime penalty because of the Employer's attempt to accommodate the Employee. Stewards shall be responsible for informing their supervisors of the scheduled monthly meeting sufficiently in advance so as to minimize any effects on other Employees because of the work schedule changes.

F. Representatives of the Union shall be permitted to attend orientation meetings held by the Employer during working hours for new Employees, and shall be allowed up to thirty (30) minutes to address the Employees at the conclusion of the meeting.

G. The Union shall provide the Employer with a list of duly certified officers, representatives, and stewards and maintain its currency.

H. The Executive Director or designee shall be entitled to participate during the biennial review of the Compensation Plan by the Conference of Personnel Directors, but may not vote. The Executive Director shall receive copies of the policies and standards, rules and regulations, identification and pricing of bench mark classes, including proposed amendments therefor and notices of meetings, agenda, and requests for repricing.

I. Employees may be permitted to use the Employer's conference rooms or other similar facilities for meetings during non-working hours.

ARTICLE 8 - DISCIPLINE

A. Regular Employees shall not be disciplined without proper cause. Grievances regarding these matters shall be handled in accordance with the provisions of Article 11, Grievance Procedure.

B. Exempt Employees who meet all of the conditions listed below shall not be disciplined without proper cause. The conditions are:

1. Employee is in an exempt position in an ongoing program and whose appointment does not have a termination date.

2. Employee occupies a position which is within the authorized position ceiling as provided in the State Appropriations Act.

3. Employee has at least six (6) continuous months of service in the present position.

Whenever grievances alleging violations of Article 8, Discipline, are filed by any exempt Employee who meets all of the three conditions stated above, such grievance shall be processed in accordance with the provisions of Article 11, Grievance Procedure.

Exempt Employees in the Housing & Community Development Corporation of Hawai'i shall not be disciplined without proper cause, notwithstanding that such Employees are appointed for a definite term, provided that they meet conditions 2 and 3 listed above.

Paragraph B does not apply to Employees in programs which provide temporary public service employment, such as SCET and CETA.

C. Disciplinary action taken against any Employee shall be considered confidential.

D. When an Employee is orally reprimanded, it shall be done privately.

E. Written Reprimands.

1. A written reprimand issued to an Employee shall contain the specific reasons for the action and a statement that the Employee may consult the Union on the matter.

2. The written reprimand shall be issued to the Employee in person or, if impracticable, mailed to the Employee's last known address.

F. Suspensions.

1. Whenever an Employee is suspended for four (4) or less working days, the Employee shall be given written notice of the suspension within forty-eight (48) hours after the suspension; provided that, for suspensions of five (5) or more working days, the Employee shall be given written notice of the suspension prior to the commencement of the suspension. The notice shall contain the following:

- a. The specific reason(s) for the suspension;
- b. The effective date(s) of the suspension; and
- c. A statement that the Employee may consult with the Union on the matter.

2. The notice of suspension shall be provided to the Employee in person or, if impracticable, mailed to the Employee's last known address.

G. Discharges and Disciplinary Demotions.

1. Whenever a discharge or disciplinary demotion action is to be taken against an Employee, the Employee shall be given a written notice of such action. The notice shall contain the following:

- a. The specific reason(s) for the action;
- b. The effective date(s) of the discharge or disciplinary demotion;
- c. An opportunity to respond prior to the effective date of the discharge or disciplinary demotion action; and
- d. A statement that the Employee may consult with the Union on the matter.

2. A written notice of a discharge or disciplinary demotion action shall be issued to the Employee in person, or if impracticable, mailed to the Employee's last known address at least ten (10) days prior to the discharge or disciplinary demotion action.

3. A disciplinary demotion shall be for a specified period of time.

ARTICLE 9 - REDUCTION-IN-FORCE

A. All personnel actions under this Article shall be restricted to members and positions of this bargaining unit and shall be confined to the governmental jurisdiction in which the reduction-in-force occurs.

B. When there is an impending reduction-in-force because of lack of work or funds, the appointing authority shall inform the respective Central Personnel Agency and the Union, in writing, as soon as possible but in any case at least ninety (90) calendar days before the impending reduction-in-force will take place.

C. The Employer shall consult with the Union on its plans for the reduction-in-force.

D. Waiver of Bumping Rights. The Employee affected by the reduction-in-force may waive bumping rights, in writing to the Central Personnel Agency, thereby limiting placement to vacant positions.

E. Retention Points for Regular Employees. In the event of a reduction-in-force, the displacement or termination of services of an Employee shall be based on the Employee's total continuous creditable service within the Employee's applicable

L. The Employer upon request of the Union shall provide the Union, once annually, with copies of current recall lists showing the names of the regular Employees laid off, the departments in which they were last employed, and their total creditable service at the time of their layoff.

M. The time limits for notices contained herein shall not apply to the elimination of a Federally funded position where the Employer has insufficient notice by the Federal government to meet the time requirements.

ARTICLE 10 - TECHNOLOGICAL CHANGES

A. The Employer and the Union recognize that changes in operations resulting from technological innovations may occur. When such changes occur, the Employer shall give first consideration to the utilization of affected Employees in the changed operations. In the event the affected Employees do not possess the requisite skills or knowledge to perform the required work in the new operation and such skills and knowledge can be acquired within a reasonable length of time, the Employer shall provide the necessary training to Employees during working hours and at the Employer's expense.

B. If the job of any Employee is eliminated because of the implementation of new technological innovations, the Employer shall, in the following order of priority: 1) place the Employee in a position comparable in level to the Employee's original position; 2) place the Employee in a lower level position, provided that the Employee shall retain the Employee's existing rate of compensation so long as the Employee remains in the position, or 3) follow the procedure under Article 9, Reduction-In-Force.

C. Any Employee affected by this Article shall be required to meet the minimum qualification requirements for the class in which the Employee may be placed.

ARTICLE 11 - GRIEVANCE PROCEDURE

A. Any complaint by an Employee or the Union concerning the application and interpretation of this Agreement shall be subject to the grievance procedure. By mutual consent of the Employee or the Union and the Employer, any time limits within each step may be extended. Any relevant information specifically identified by the Employee or the Union in the possession of the Employer needed by the Employee or the Union to investigate and process a grievance, shall be provided to them upon request within seven (7) working days. The grievance shall be presented to the appropriate supervisor within twenty (20) working days after the occurrence of the alleged violation, or if it concerns an alleged continuing violation, then it must be filed within twenty (20) working days after the alleged violation first became known or should have become known to the Employee involved, except that in the case of an alleged payroll computational error, such allegation shall be presented to the department head

or designee in writing within twenty (20) working days after the alleged error is discovered by the Employee, or the grievance may not be considered.

B. An individual Employee may present a grievance without intervention of the Union, up to and including Step 3, provided the Union has been afforded an opportunity to be present at the meeting(s) on the grievance. Any adjustment made shall not be inconsistent with the terms of this Agreement.

C. Informal Step. A grievance shall, whenever possible, be discussed informally between the Employee and the immediate supervisor within the twenty (20) working day limitation provided for in paragraph "A" above. The Employee may be assisted by a Union representative. If the immediate supervisor does not reply by seven (7) working days, the Employee or the Union may pursue the grievance to the next step.

D. Step 1. If the grievance is not satisfactorily resolved at the informal step, the Employee or the Union may submit a written statement of the grievance within seven (7) working days after receipt of the reply to the informal complaint to the division head or designee; or if the immediate supervisor does not reply to the informal complaint within seven (7) working days, the Employee or the Union may submit a written statement of the grievance to the division head or designee within fourteen (14) working days from the initial submission of the informal complaint; or if the grievance was not discussed informally between the Employee and the immediate supervisor, the Employee or the Union may submit a written statement of the grievance to the division head or designee within the twenty (20) working day limitation provided for in paragraph "A" above.

A meeting to discuss the grievance shall be held within seven (7) working days after receipt of the written grievance. Either side may present witnesses. The division head or designee shall reply in writing to the Employee and the Union within seven (7) working days after the meeting.

E. Step 2. If the grievance is not satisfactorily resolved at Step 1, the Employee or the Union may appeal the grievance in writing to the department head or designee within seven (7) working days after receipt of the reply at Step 1. The department head or designee need not consider any grievance in Step 2 which encompasses different alleged violations or charges than those presented in Step 1.

A meeting to discuss the grievance shall be held within seven (7) working days after receipt of the appeal. The department head or designee shall reply in writing to the Employee and the Union within seven (7) working days after the meeting.

F. If the Union has a class grievance involving Employees within a department, it may submit the grievance in writing to the department head or designee. Time limits shall be the same as in individual grievances, as prescribed in Paragraph "A", and the procedures for appeal shall be the same as in Step 3.

If the Union has a class grievance involving Employees from more than one (1) department, it may submit the grievance in writing to the Governor and/or the respective Mayors, or their designees, as the case may be. Time limits shall be the same as in individual grievances, as prescribed in Paragraph "A", and the procedures for appeal shall be the same as in Step 4.

G. Step 3. If the grievance is not satisfactorily resolved at Step 2, the Employee or the Union may appeal the grievance in writing to the Employer or designee within seven (7) working days after receipt of the reply at Step 2. The Employer or designee need not consider any grievance in Step 3 which encompasses different alleged violations or charges than those presented in Step 2.

A meeting to discuss the grievance shall be held within seven (7) working days after receipt of the appeal. The Employer or designee shall reply in writing to the Employee and the Union within seven (7) working days after the meeting.

H. Step 4. Arbitration. If the grievance is not satisfactorily resolved at Step 3 and the Union desires to proceed with arbitration, it shall serve written notice on the Employer or designated representative of its desire to arbitrate within ten (10) working days after receipt of the reply at Step 3. Representatives of the parties shall attempt to select an Arbitrator immediately thereafter.

If agreement on an Arbitrator is not reached within ten (10) working days after the notice for arbitration is submitted, either party may request the Hawai'i Labor Relations Board to submit a list of five (5) Arbitrators. Selection of an Arbitrator shall be made by each party alternately deleting one (1) name at a time from the list. The person whose name remains on the list shall be designated the Arbitrator. No grievance may be arbitrated unless it involves an alleged violation of a specific term or provision of the Agreement.

If the Employer disputes the arbitrability of any grievance, the Arbitrator shall first determine whether the Arbitrator has jurisdiction to act; and if the findings show that the Arbitrator has no such power, the grievance shall be referred back to the parties without decision or recommendation on its merits.

The Arbitrator shall render an award in writing, no later than thirty (30) calendar days after the conclusion of the hearings or if oral hearings are waived then thirty (30) calendar days from the date statements and proofs were submitted to the Arbitrator. The decision of the Arbitrator shall be final and binding upon the Union, its members, the Employees involved in the grievance, and the Employer. There shall be no appeal from the Arbitrator's decision by either party, if such decision is within the scope of the Arbitrator's authority as described below:

1. The Arbitrator shall not have the power to add to, subtract from, disregard, alter, or modify any of the terms of this Agreement.
2. The Arbitrator's power shall be limited to deciding whether the Employer has violated any of the terms of this Agreement.

3. The Arbitrator shall not consider any alleged violations or charges other than those presented in Step 3.

4. In any case of suspension or discharge where the Arbitrator finds such suspension or discharge was improper, the Arbitrator may set aside, reduce or modify the action taken by the Employer. If the penalty is set aside, reduced or otherwise changed, the Arbitrator may award back pay to compensate the Employee, wholly or partially, for any wages lost because of the penalty.

The fees of the Arbitrator, the cost of transcription, and other necessary general costs, shall be shared equally by the Employer and the Union. Each party will pay the cost of presenting its own case and the cost of any transcript that it requests.

ARTICLE 12 - TEMPORARY ASSIGNMENTS

A. A temporary assignment shall mean the assignment by a competent authority and the assumption, without a formal change in position assignment, of the significant duties and responsibilities of another position due to:

1. The incumbent of the position not being able to perform the duties of the position,

2. The incumbent of the position also serving on a temporary assignment and the department head certifies that the need for the services is immediate, essential, and in the best interest of the public, or

3. A vacancy that cannot be filled temporarily or permanently by a non-competitive promotion, a provisional appointment from within or outside the service, a transfer or a movement of another Employee and that the department head certifies that the immediate rendition of services is essential and in the best interest of the public and that such temporary assignment shall not exceed one hundred twenty (120) working days; provided however, upon consultation with the Union a temporary assignment may be extended up to an additional sixty (60) working days.

B. When Employees are being considered for a temporary assignment to a position in a higher class, priority shall be given to Employees within the work place who are in the class immediately below the class of the temporary assignment, provided such Employees are capable of satisfactorily performing such assignment. If there is no such Employee in the next lower class in the same series, then to related series in descending order. In the event there is no capable Employee available in the work place, the above order of priority shall be accorded to Employees within the division. In the course of selecting an Employee for temporary assignment consideration shall be given to an Employee's continuous length of service in the class within the jurisdiction. For purposes of this Article, work place shall be defined as that organizational segment which contains the position to which a temporary assignment is to be made, including its subordinate organizational segment. In the event an Employee with greater class