

A Special Report from your Unit 1 Negotiating Committee

Ratification Meetings in Early March

March, 1974

Last February 22, the UPW Unit 1 negotiating sub-committee reached a tentative agreement with management to settle the remaining issues in the union's reopener negotiations on wages, seniority and grievance procedure.

The sub-committee, which included Brothers Jack Konno (Hawaii), Henry Huihui (Oahu), Warren Shimabukuro (Maui), Steve Murin, Joe Brun (Kauai), Gary Rodrigues, and State Director Henry Epstein, recommended to the Full Unit 1 Committee last March 2 that the agreement be approved and recommended to the membership for ratification. Ratification votes are scheduled in early March.

The negotiations on the three items took several months to complete, because other units were also negotiating with management at the same time. The grievance procedure section was taken up first and settled early, before the more difficult but vitally important seniority section was considered.

An impasse developed in early February on one section of seniority — involving promotions — and on wages, on which the two sides seemed far apart. Talks then went into the mediation stage, with federal mediator Bob Castrey serving ably, and eventually helping the two sides to reach

Grievance Procedure Simplified and Shortened

SECTION 15: GRIEVANCE PROCEDURE

- 15.01 It shall be the intention of the parties that any grievance which arises out of alleged Employer violation, misinterpretation, or misapplication of the Agreement, its attachments, exhibits, and appendices, hereafter referred to as the Agreement, shall be resolved in accordance with provisions set forth herein.
- 15.02 The term **grievance** as used in this Agreement shall mean a complaint filed by a bargaining unit employee covered hereunder, or on an employee's behalf by the Union, alleging a violation, misinterpretation, or misapplication, of a specific provision of this Agreement occurring after its effective date.
- 15.03 Any individual employee may formally process his grievance and have the grievance heard without the participation of the Union representative. No meeting called for such purpose shall be held without first making an attempt to arrange a mutually acceptable meeting time with the parties involved, provided that such meeting shall be held within the time limits hereinafter prescribed.
- 15.04 No adjustment shall be made at any step of the procedure which is inconsistent with the terms of the Agreement. If the Union alleges that the Employer has made a settlement proposal which is inconsistent with the Agreement, it shall process the case to the next step of the grievance procedure.
- 15.05 A copy of any written complaint or written decision required in each step of the grievance procedure shall be filed with the Employer or his representative by the party filing the complaint and the party rendering the decision.
- 15.06 Class grievances may be filed at the lowest step which has the authority to resolve such grievances as determined by mutual agreement.

HIGHLIGHTS OF WAGES

- On **July 1, 1974**, all employees in Unit 1 will receive a **\$36 monthly** across-the-board increase.
- July 1, 1975**, all employees in Unit will receive an additional **\$40 monthly** across-the-board increase.
- Red-circle employees** (those above the maximum in the schedule) will receive the first **\$36 on July 1, 1974**. They will **not** receive the 1975 increase, except to the degree that the increased salary schedule catches up to their red-circle rate.
- These wage increases are **subject to the approval of the State Legislature and the county legislative bodies**.
- Since pay raises are going into effect in 1974 and 1975, these raises are in lieu of increments. **No increments will be paid during this period.**

Unit 1 Vote Set on Reopener Items

—Wages, Seniority,
Grievance Procedure

a compromise settlement on February 22. Under the terms of the agreement, the contract would be extended an extra year, to June 30, 1976.

The following report contains the exact language of both the **Grievance Procedure** and **Seniority Sections**, as well as **highlights** of the two sections and a **summary of wage gains**.



Some of the Oahu Full Unit 1 Committee members: left to right, Leatrice Kahalekulu, Wally Helenihi, Benny Rodrigues (standing) and Galacio Daoang.

- 15.07 The specific time limits and procedures as hereinafter provided shall be followed in processing all grievances. Any grievance not filed in accordance with such procedure or within the time limits specified within each step need not be considered by the Employer. By mutual consent of both parties, any step as hereinafter provided may be waived and/or the time limits within each step may be extended. If the management representative fails to respond within the time limits specified at any step, the grievance may be filed at the next step.
- 15.08 A grievance shall, whenever possible, be discussed and settled informally between the grievant and his immediate supervisor. The grievant may be assisted in his request by his Union Steward or Representative.



Maui Brothers Warren Shimabukuro (left) and Yoshi Morikami.

- 15.09 Any information in the possession of the Employer which is needed by the grieving party to investigate and process a grievance, shall be presented to the grieving party within three (3) working days of the grieving party's request for such information.
- 15.10 **Step 1.** If the matter is not satisfactorily settled on an informal basis, the grieving party may institute a formal grievance by setting forth in writing on a form provided or approved by the Employer the nature of the complaint, the term or provision of the Agreement allegedly violated and the remedy sought.
- 15.11 The grievance shall be presented to the division head or his designee in writing within fourteen (14) working days after the occurrence of the alleged violation, or if it concerns an alleged continuing violation, then it must be filed within fourteen (14) 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 division head or his designee in writing within fourteen (14) working days after the alleged error is discovered by the employee.

Grievance Procedure

(Continued)

- 15.12 After the presentation of the grievance and upon request, the grieving party and/or the Union representative, as the case may be, shall be provided an opportunity to meet with the division head or his designee in an attempt to settle the grievance. The decision of the division head or his designee shall be in writing and shall be transmitted to the grieving party within ten (10) working days after receipt of the grievance unless extended by mutual consent.
- 15.13 **Step 2.** If the matter is not satisfactorily settled in **Step 1**, the grieving party may file a letter of appeal with the department or agency head or his designee specifying the reasons for the appeal together with a copy of the grievance and decision rendered for settlement within seven (7) working days after the receipt of the decision in **Step 1**.
- 15.14 The department or agency head or his designee need not consider any grievance in **Step 2** which encompasses different allegations than those presented in **Step 1**.
- 15.15 After the presentation of the grievance and upon request, the grieving party and/or the Union representative, as the case may be, shall be provided an opportunity to meet with the department or agency head or his designee in an attempt to settle the grievance.
- 15.16 The decision of the department or agency head or his designee shall be in writing and transmitted to the grieving party within ten (10) working days after receipt of the letter of appeal unless extended by mutual consent.
- 15.17 **Step 3.** If the matter is not satisfactorily settled at **Step 2**, the grieving party may file a letter of appeal with the Employer or his representative specifying the reasons for the appeal together with a copy of the grievance and copies of decisions rendered for settlement within seven (7) working days after the receipt of the decision in **Step 2**.
- 15.18 If a representative is designated by the Employer, the name of such person shall be provided to the grieving party.
- 15.19 The Employer or his designated representative need not consider any **Step 3** grievance which encompasses different allegations than those presented in **Steps 1 or 2**.



Management's team was led by Buddy McGuire (left) and James Takushi (right).

- 15.20 After the presentation of the grievance and upon request, the grieving party and/or the Union representative, as the case may be, shall be provided an opportunity to meet with the Employer or his representative in an attempt to settle the grievance.
- 15.21 The decision of the Employer or his representative shall be in writing and transmitted to the grieving party within ten (10) working days after receipt of the letter of appeal unless extended by mutual consent.
- 15.22 **Step 4. Arbitration.** If the matter is not settled at **Step 3**, and the Union desires to proceed with arbitration, it shall serve written notice on the Employer or his representative of its desire to arbitrate within fifteen (15) calendar days of receipt of the decision of the Employer or his designated representative.
- 15.23 No grievance may be arbitrated unless it involves an alleged violation, misinterpretation, or misapplication of a term or provision of the Agreement.
- 15.24 Selection of an Arbitrator shall be made:
- By mutual agreement between the parties, or
 - From a list of five (5) names mutually agreed to by both parties, or
 - If such list is not available, from a list of five (5) names submitted by Hawaii Public Employment Relations Board.

HIGHLIGHTS OF GRIEVANCE PROCEDURE

- The Labor-Management Committee, formerly Step 4, is eliminated, saving time in the determination of a grievance. (Former Section 15.02 eliminated).
- The "two-track system" of settling grievances is abolished, avoiding much confusion. All grievances must be resolved through the terms of the contract rather than through the rules and regulations of Civil Service. (Former Section 15.04 eliminated).
- The union and management may waive any Step of the grievance procedure by mutual agreement. This could save much time in getting a final determination. (Section 15.07)
- Time limits in filing and handling grievances are now counted by "working days", instead of "calendar days", except for the arbitration process. (Section 15.07)
- A grievance must be presented to the Division head or his representative within 14 working days of the violation, or, in case of an on-going violation, within 14 working days after the violation became known or should have become known to the employee. (Section 15.11)
- Employees have the right to present grievances which arise out of "payroll computational error", provided that such grievances be made in writing within 14 working days after the error is discovered by the employee (Section 15.11)
- New section takes effect May 15, 1974.

- 15.25 The specific person to be selected from the foregoing lists shall be as follows:
- The Union and the Employer by lot shall determine who shall have first choice in deleting a name from the list of Arbitrators.
 - Subsequent deletions shall be made by striking names from the list on an alternating basis and the remaining name shall be designated the Arbitrator for the grievance being considered.
- 15.26 If the Employer disputes the arbitrability of any grievance under the terms of this Agreement, the Arbitrator shall first determine whether he has jurisdiction to act; and if he finds that he has no such power, the grievance shall be referred back to the parties without decision or recommendation on its merits.
- 15.27 The Arbitrator shall render his 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.
- 15.28 The award of the Arbitrator shall be final and binding, provided, however, such decision is within the scope of the Arbitrator's authority as described below:
- The Arbitrator shall not have the power to add to, subtract from, disregard, alter, or modify any of the terms of this Agreement.
 - His power shall be limited to deciding whether the Employer has violated, misinterpreted, or misapplied any of the terms of this Agreement. It is understood that any matter that is not specifically set forth in this Agreement shall not be subject to Arbitration.
 - The Arbitrator shall not consider any new allegation or charges which have not been presented in **Steps 1, 2 and 3**.



Kauai Brothers Joe Brun (left) and Albert Silva.

- 15.29 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.
- 15.30 Any grievance occurring during the period between the termination date of this Agreement and the effective date of a new Agreement shall not be arbitrable except by mutual extension of the Agreement.

Seniority, A Cornerstone of Our Contract

16.01 Seniority for purposes of this Section shall be based on employee's continuous length of creditable service in the applicable governmental jurisdiction and shall be governed by the following conditions:

- a. An employee shall have his seniority transferred with him whenever:
 - (1) a function including the employee and his position are transferred from one jurisdiction to another jurisdiction by action of the Legislature, or
 - (2) the employee and his position are transferred from one agency to another agency within a jurisdiction by action of the Employer, legislative body or charter, or
 - (3) the employee and his position are transferred between organizational segments within an agency by action of the Employer, or
 - (4) the employee is involuntarily transferred from one position to another position within a jurisdiction or an agency by action of the Employer or his designated representative due to lack of work, funds or other legitimate reasons.
- b. An employee shall not have his seniority transferred with him whenever the employee moves from one position to another position on his own volition.
- c. **Authorized leaves of absence**, with or without pay, shall not constitute a break in service and shall be creditable for computing continuous length of service.
- d. **Suspensions** (including unauthorized leaves in lieu of suspensions) that are upheld shall not be creditable for computing continuous length of service; however, such suspensions shall not constitute a break in service.
- e. Termination of an employee's services under Section 12, **LAYOFFS**, shall not constitute a break in service provided that the employee is subsequently rehired under the applicable provision of Section 13, **PLACEMENT OF LAID OFF EMPLOYEE ON THE REEMPLOYMENT LIST**. The period of the layoff shall not be creditable for computing continuous length of service.



Union team, led by State President Jack Konno and State Director Henry Epstein, squares off in talks with employers.

- f. Whenever an employee terminates his employment in good standing from a jurisdiction and is reemployed in that jurisdiction within a period of one (1) year, such interim period shall not constitute a break in service and shall not be credited towards seniority.
- g. Seniority shall not be credited to an employee until he has satisfactorily completed his initial probationary period. At such time, the employee shall be credited with seniority back to the most recent date of hire which is creditable to the initial probationary period. Further, an employee who is rehired under conditions set forth in d. and e. above will also be credited with seniority he had earned prior to leaving the service.

16.02 Subject to the provisions of Section 16.01, Seniority is further defined as follows:

- a. **Jurisdictional Seniority** shall mean an employee's continuous length of service within a jurisdiction.
- b. **Departmental Seniority** shall mean an employee's continuous length of service within a department of a jurisdiction.
- c. **Division Seniority** shall mean an employee's continuous length of service within a division of a department.



Brothers Kiyoshi Nagata (left) and David Paia sit on Executive Negotiating Committee from the Big Island.

- d. **Baseyard or Workplace Seniority** shall mean an employee's continuous length of service within a Baseyard or Workplace of a Department; provided that the definition of Baseyard or Workplace Seniority may be modified (e.g., by combining or dividing baseyards or workplaces) by mutual agreement between the Employer and the Union.
 - e. **Institution Workplace Seniority** shall mean an employee's continuous length of service within a specific organizational segment of an Institution, such as, Food Services, Laundry Services, Dietary, Housekeeping, Maintenance, etc.
 - f. **Class Seniority** shall mean an employee's continuous length of service in a specific job classification within a jurisdiction.
- 16.03 A **temporary assignment** is the assignment by a competent authority and the assumption, without a formal change in position assignment, of all or a major portion of the significant duties and responsibilities of another position due to:
- a. The incumbent of the position not being available to perform the duties of his position,
 - b. 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
 - c. 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.
- 16.04 Temporary assignment shall be made as follows:
- a. The qualified employee on duty in the class immediately below the class of the temporary assignment in the same series with the **greatest Baseyard, Workplace or Institutional Workplace seniority** shall perform the temporary assignment unless excused from such assignment for valid reasons. If there is no qualified employee on duty in the next lower class in the same series, the above procedure will be continued within the same series until the series has been exhausted.
 - b. If there are no qualified employees on duty in the lower classes within the same series, the Employer shall utilize the same procedure within the related series.
 - c. If qualified employees are not available for temporary assignment within the bargaining unit and the need for such temporary assignment is recurrent, the Employer shall, within the resources available, endeavor to provide training to insure that qualified employees become available.
 - d. Temporary assignments shall be rotated only when two (2) or more employees have the same amount of Baseyard, Workplace or Institution Workplace seniority.
 - e. The duration of a temporary assignment to a vacant position shall not exceed a total of 120 working days per calendar year.
 - f. Temporary assignment seniority lists shall be prepared by the Employer in consultation with the Union and posted in each Baseyard, Workplace or Institution Workplace. The list shall show the name, class title, wage board and years in the Baseyard, Workplace or Institution Workplace.

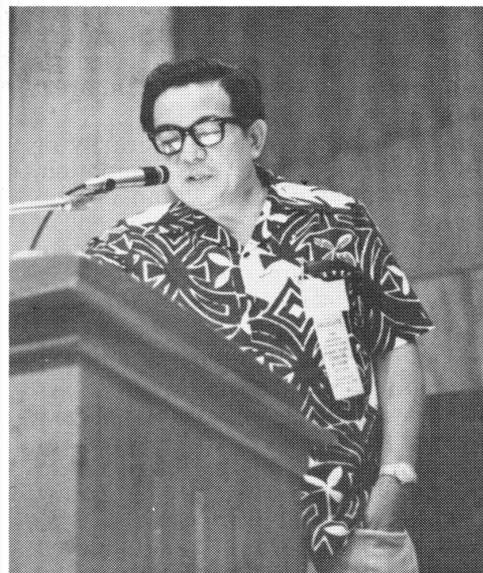
Seniority (Continued)

- 16.05 Among employees in the class for which comparable replacement equipment is to be assigned, the employee with the **greatest class seniority** earned in the Baseyard or Institution Workplace shall be assigned the replacement equipment, provided he is physically capable and qualified to operate the replacement equipment and has not received a similar assignment of equipment within the last twelve (12) months. Such assignment of equipment will not require the reassignment of all other existing equipment.
- 16.06 a. When making promotions, one of the following options shall be utilized:
- (1) Non-competitive promotion
 - (2) Intra-departmental competitive promotion
 - (3) Inter-departmental competitive promotion
- b. For **non-competitive promotions**, all notices to fill authorized vacancies shall be posted on appropriate bulletin boards for at least ten (10) calendar days prior to the closing date for receipt of applications. If the Employer does not post the notices for the specified number of days as provided in this section or in the personnel rules and regulations, the employee shall be entitled to submit a late application.
- c. **Whenever the qualifications between the qualified applicants are relatively equal, the employee with the greatest length of Baseyard, Workplace or Institution Workplace seniority shall receive the promotion.**
- d. In the event a senior employee applies for a promotion and is denied the promotion, if he so requests, he shall be given a **written statement** of the reasons for denial.
- 16.07 With respect to tests and/or examination used for promotional purposes, the Employer assures the Union that continuing efforts will be made to devise such test and/or examinations that directly relate the tests and/or examination to the skills, abilities, and qualifications actually required for the class.

HIGHLIGHTS OF SENIORITY

- For the first time, all situations are spelled out in regard to the transfer of seniority when an employee is transferred. The union may file a grievance when the reason for transferring a worker is not thought to be "legitimate". (Section 16.01)
- All types of seniority are defined, but the union and management may agree to change the definition of base-yard seniority if a yard or workplace is combined or divided. (Section 16.02)
- The conditions under which Temporary Assignment can be made by management are clearly spelled out, for the first time. (Section 16.03)
- The qualified employee on duty in the class immediately below the class of the temporary assignment in the same series with the greatest Baseyard, Workplace or Institutional Workplace seniority shall perform the T.A. unless excused from such assignment for valid reasons. (Section 16.04)
- Management must **endeavor to provide training** within the resources available, to ensure that qualified employees will become available for T.A., if there presently are none. (Section 16.04 (c))
- Rotation of T.A. is limited to cases where two or more employees have the same baseyard seniority. To enforce this, baseyard seniority lists shall be prepared by the union and management. (Section 16.04 (d))
- Assignment of replacement equipment shall continue on the basis of class seniority, but not given more often than once in 12 months. (Section 16.05)
- 10 days' notice (instead of just 72 hours'), must be given concerning a vacancy to be filled by non-competitive promotion. If management fails to give the required notice, interested employees may submit "late applications" for the promotion. (Section 16.06 (b))
- On promotions, whenever the qualifications of applicants are relatively equal, the employee with the greatest length of baseyard, workplace or institution workplace seniority shall receive the promotion. This strengthened provision should help increase fairness and reduce favoritism in the giving of promotions. (Section 16.06 (c))
- A senior employee who applies for but is denied a promotion, at his request must be given a written statement of the reasons for denial by the employer. (Section 16.06 (d))
- Tests for promotions should directly relate to the skills, qualifications, and abilities actually required in the class.
- This new Seniority section takes effect this May 15.

Unit 1 Negotiating Committee Chairman and UPW President Jack Konno.



NOTE WELL! The new seniority and grievance procedure sections, if ratified, will not take effect until May 15, 1974. The first wage hike would take effect July 1, 1974.



Your Unit 1 Executive Negotiating Committee for the reopener talks on Wages, Seniority and Grievance Procedure. This 14-member all—UPW rank-and-file Executive Negotiating Committee was chosen by the Divisions: Hawaii—David Paia, Kiyoshi Nagata; Kauai—Joseph Brun, Albert Silva; Maui—Warren Shimabukuro, Yoshi Morikami; Oahu—Benny Rodrigues, James Toledo, Sam Hao, Gary Nakano, Zeke Wakinekona, Wallace Helenihi; and Chairman Jack Konno and Secretary Henry Huihui. (James Toledo was absent when the above picture was taken).

Contract to be Extended

As part of the tentative settlement package, the Unit 1 agreement will be extended until June 30, 1976. This is a one-year extension from the old expiration date of June 30, 1975.

Negotiations for a new contract will begin around **October 1, 1975.**

In the event that the Legislature doesn't approve the cost items in this settlement, the question of the extension will be one of the items renegotiated by the Union and Management.

The new Seniority and Grievance Procedure Sections take effect this May 15.



Robert T. Castrey, Commissioner with the Federal Mediation and Conciliation Service.