

See File

STATE OF HAWAII

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	)	CASE NOS. RA-07-51
	)	RA-08-51
BOARD OF REGENTS, University	)	
of Hawaii,	)	
	)	DECISION NO. 156
Petitioner.	)	
_____	)	

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER

On December 3, 1981, the Board of Regents of the University of Hawaii (hereafter BOR) filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit with the Hawaii Public Employment Relations Board (hereafter Board). In its petition, the BOR requested the transfer of one position currently included in Unit 7 (Faculty of the University of Hawaii and the community college system) to Unit 8 (Personnel of the University of Hawaii and the community college system, other than faculty) due to changes in the position's duties and responsibilities.

The Board issued a notice entitled "Notice of Receipt of Petition for Clarification or Amendment of Appropriate Bargaining Unit; Notice of Deadline for Filing Petitions for Intervention; Notice of Prehearing Conference; and Notice of Hearing" on December 18, 1981. The notice indicated that the deadline for filing petitions for intervention was December 31, 1981. The hearing on the petition was scheduled to commence on January 13, 1982.

On December 29, 1981, a letter, dated December 28, 1981, was received from Thomas P. Gill, Esq., counsel for the University of Hawaii Professional Assembly (hereafter

UHPA), informing the Board that the UHPA was not planning to appear at the hearing or to contest the petition. The Board did not receive any petitions for intervention by the December 31, 1981 deadline. Therefore, the scheduled hearing was cancelled.

Based on the affidavit of Harold S. Masumoto, Vice President for Administration, University of Hawaii (hereafter UH) and the documents submitted in support of the petition, the Board makes the following findings of fact, conclusions of law and order.

#### FINDINGS OF FACT

The BOR is the public employer as defined in subsection 89-2(9), Hawaii Revised Statutes (hereafter HRS), of employees in Units 7 and 8.

The UHPA is the certified exclusive representative of employees in Unit 7.

The Board was advised by the UHPA that it was not planning to contest the instant petition. The UHPA, therefore, waived its right to a hearing on the instant petition.

The Hawaii Government Employees' Association is the certified exclusive representative of employees in Unit 8.

The position in question is currently titled Junior Researcher and Project Coordinator, Faculty Position No. 85332 (Robert E. Gibson, incumbent).

As originally classified, the position functioned fifty percent of the time as an instructor with the Department of English as a Second Language and fifty percent of the time as the Administrator of the Pacific Area Language

Materials (hereafter PALM) Development Center. As such, the position was included in Unit 7.

According to the documents submitted to the Board, the subject position is currently functioning as the Administrator of the PALM Development Center on a full-time basis. The duties of the position now include: (1) supervising the planning of all bilingual curriculum materials development projects for the PALM Development Center; (2) developing funding proposals for the projects; (3) monitoring all aspects of the projects to assure compliance with the terms of the grant; (4) developing job descriptions; and (5) organizing the selection process for the recruitment of new staff members. The duties do not include the provision of instructional services.

Accordingly, the BOR has proposed the reclassification of the subject position to Educational Associate VI, and conversion to an Administrative, Professional and Technical (APT) position.

#### CONCLUSIONS OF LAW

Section 89-6, HRS, provides in pertinent part:

Sec. 89-6. Appropriate bargaining units. (a) All employees throughout the State within any of the following categories shall constitute an appropriate bargaining unit:

\* \* \*

- (7) Faculty of the University of Hawaii and the community college system;
- (8) Personnel of the University of Hawaii and the community college system, other than faculty; . . .

In distinguishing the types of personnel at the UH, the Board noted in Decision 25 that:



The personnel employed by the University range over a broad spectrum of occupational groupings and includes some hybrids. There are a number of personnel in the University System who do not appropriately fall within the faculty or civil service groupings. Some of the personnel who are not within the faculty or civil service systems are classified as Administrative, Professional and Technical Personnel (hereafter APT).

APT's generally perform professional level duties which may be unique to the University environment . . . 1 HPERB No. 25 at 298.

Hence, the composition of Unit 8 was further clarified by the Board to include:

All administrative, technical and professional employees who are employed half time or more, except those determined to be excluded. 1 HPERB No. 25 at 290.

After reviewing the evidence submitted by the BOR, the Board concludes that the duties of the subject position are more appropriately designated within Unit 8 since the position's duties reflect administrative, professional and technical responsibilities within the UH system rather than the performance of instructional services. Moreover, no evidence was submitted which would indicate that the position should be classified in a civil service grouping. As such, the proposed transfer from Unit 7 to Unit 8 is consistent with Section 89-6, HRS, and previous Board decisions.

#### ORDER

The Junior Researcher and Project Coordinator position which is currently occupied by Mr. Robert E. Gibson and which is being reclassified by the BOR to an

APT position, entitled Educational Associate VI, is transferred from Unit 7 to Unit 8.

The effective date of the transfer shall not be earlier than the date of this decision.

Dated: Honolulu, Hawaii, February 24, 1982.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

  
MACK H. HAMADA, Chairman

  
JAMES K. CLARK, Board Member

Copies sent to:

Tom Shibano, BOR  
c/o Harold S. Masumoto  
Joyce Najita, IRC  
Industrial Relations Center Library