

STATE OF HAWAII

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

|                              |   |                     |
|------------------------------|---|---------------------|
| In the Matter of             | ) | CASE NOS.: RA-07-72 |
|                              | ) | RA-08-72            |
| BOARD OF REGENTS, University | ) |                     |
| of Hawaii,                   | ) | DECISION NO. 193    |
|                              | ) |                     |
| Petitioner.                  | ) |                     |
| _____                        | ) |                     |

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER

On March 2, 1984, the BOARD OF REGENTS of the University of Hawaii [hereinafter referred to as BOR] filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit with the Hawaii Public Employment Relations Board [hereinafter referred to as Board]. In its petition, the BOR requested the transfer of Position No. 80103, presently a University of Hawaii [hereinafter referred to as UH] Editor IV and included in Unit 8 (Personnel of the University of Hawaii and the community college system, other than faculty), to Unit 7 (Faculty of the University of Hawaii and the community college system). The transfer is premised upon the reassignment of the position from the Publications Unit to the Office of the Director of the Sea Grant Program, UH at Manoa, and the assignment of new duties and responsibilities which are consistent with existing positions within the Faculty classification plan.

The BOR submitted along with the petition the following documents:

1. Affidavit of Harold S. Masumoto regarding Position No. 80103, dated March 1, 1984;

2. APT Position Description for Position No. 80103 (Exhibit A);

3. Faculty Classification Plan for the Assistant Researcher and Associate Researcher positions (Exhibit B);

4. Letter, dated February 8, 1984, from Harold S. Masumoto to Russell Okata, Hawaii Government Employees Association [hereinafter referred to as HGEA], requesting the HGEA's concurrence with the proposed bargaining unit transfer (Exhibit C); and

5. Letter, dated February 8, 1984, from Harold S. Masumoto to J. N. Musto, University of Hawaii Professional Assembly [hereinafter referred to as UHPA], requesting the UHPA's concurrence with the proposed bargaining unit transfer (Exhibit D).

Based on the affidavit of Harold S. Masumoto, Vice President for Administration, UH, and all 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 [hereinafter referred to as

HRS], of employees of the UH, which includes employees in Units 7 and 8.

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

The HGEA is the certified exclusive representative of employees in Unit 8.

The UHPA and HGEA concur with the BOR's proposed transfer of the subject position from Unit 8 to Unit 7 and are deemed to have waived the right to a hearing thereon. Petitioner's Exhibits C and D.

Position No. 80103 is currently classified as a UH Editor IV within the Administrative, Professional and Technical [hereinafter referred to as APT] classification plan and is located in the Publications Unit, UH at Manoa. The position has been reassigned to the Office of the Director of the Sea Grant Program, UH at Manoa, and is proposed for reclassification within the Faculty classification plan. The Sea Grant College Program consists of marine research projects, marine advisory services, marine education activities, the marine option academic program, marine laboratory services, the Waikiki aquarium, and the publication and dissemination of educational scientific and informational literature. The domestic program is conducted within geographical boundaries extending from Hawaii to American Samoa, Guam and the Trust Territory of the Pacific, while the national program interacts with the 11 island republics represented in the University of South Pacific. Petitioner's Exhibit A.



The duties and responsibilities of Position No. 80103 include:

1. Assisting the Director, a Researcher, R-5, with the development, implementation and evaluation of the total Sea Grant College Program;

2. Developing, coordinating and conducting research projects and programs focused on high priority societal needs and state-of-the-art issues in marine policy or marine science;

3. Assisting the Director in the development, management and implementation of the several ongoing in-house Sea Grant programs, conducting periodic evaluations of these programs and making recommendations for mitigation of program shortfalls; and

4. Serving as Director with full power of representation in the absence of the Director.

The position's research-related duties include:

1. Designing research projects and programs;

2. Making grant proposals to federal, state and private funding sources;

3. Serving as principal investigator, co-principal investigator, or as manager or member of a research team; and

4. Preparing data and results of research for publication in Sea Grant research reports, peer reviewed literature and other appropriate media. Petitioner's Exhibit A.

Based on these duties and responsibilities, the position has been proposed for reclassification within the Faculty classification plan. Petitioner's Exhibit B.

### CONCLUSIONS OF LAW

The BOR has requested the transfer of Position No. 80103 from inclusion in Unit 8 to Unit 7, as the position's duties and responsibilities are more appropriately encompassed in the Faculty classification plan.

Subsection 89-6(a), HRS, establishes 13 public employee bargaining units and provides, in part:

(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;. . .

The Board determined the composition of Unit 7 in Decision 21, Hawaii Federation of College Teachers, 1 HPERB 202 (1972):

All Instructional, Research, and Specialist personnel, County Extension Agents and Home Economists, Assistants to the Deans of Social work, Director and others whose position titles are included on Exhibit A attached herewith and those employed half-time or more, except those determined not to be eligible.

After a complete review of the duties and responsibilities to be performed by Position No. 80103, the Board concludes that the position, for the most part, develops, coordinates, and

conducts research projects and programs focused on high priority societal needs and state-of-the-art issues in marine policy or marine science. Further, the position assists the Director of the Sea Grant Program in program development and oversight, and serves as Acting Director in the absence of the Director. Accordingly, the Board concludes that a major portion of the duties and responsibilities of Position No. 80103 reflect faculty responsibilities within the UH system as the position functions as a researcher. Thus, as the BOR has proposed the transfer of the subject position to a class within the Faculty system, the position would appropriately be placed in Unit 7.

ORDER

Position No. 80103 is transferred from inclusion in Unit 8 to Unit 7.

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

DATED: Honolulu, Hawaii, May 17, 1984.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

  
MACK H. HAMADA, Chairperson

  
JAMES K. CLARK, Board Member

  
JAMES R. CARRAS, Board Member

BOARD OF REGENTS University of Hawaii; CASE NOS.: RA-07-72,  
RA-08-72

DECISION NO. 193

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Copies sent to:

Harold S. Masumoto  
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