

STATE OF HAWAII  
HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	)	CASE NOS.: RA-03-79
	)	RA-13-79
MEGUMI KON, Mayor of the	)	
County of Hawaii,	)	DECISION NO. 202
	)	
Petitioner.	)	FINDINGS OF FACT, CONCLU-
	)	SIONS OF LAW AND ORDER

---

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER

On September 22, 1984, MEGUMI KON, Mayor of the County of Hawaii [hereinafter referred to as Petitioner or Employer], 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, Employer requested the transfer of Position Nos. 2985, 3079, G0006 and G0009, each classified as Special Investigator I and included in bargaining unit 3 (Nonsupervisory employees in white collar positions), to bargaining unit 13 (Professional and scientific employees, other than registered professional nurses). The transfer is premised upon the amendment of the positions' class specifications, requiring knowledge normally acquired through study in an institution of higher learning.

Petitioner submitted the following documents with the petition:

1. Affidavit of Harry Boranian, Director of Personnel, County of Hawaii, regarding Position Nos. 2985, 3079, G0006 and G0009, dated September 21, 1984;

2. Letter, dated September 28, 1983, from Harry Boranian to Russell Okata, Hawaii Government Employees Association [hereinafter referred to as HGEA], requesting the HGEA's concurrence with the proposed bargaining unit transfer (Exhibit A);

3. Position description for Position No. 2985, Special Investigator I, Office of the Prosecuting Attorney, County of Hawaii (Exhibit B);

4. Position description for Position No. 3079, Special Investigator I, Office of the Prosecuting Attorney, County of Hawaii (Exhibit C);

5. Position description for Position No. G0006, Special Investigator I, Office of the Prosecuting Attorney, County of Hawaii (Exhibit D);

6. Position description for Position No. G0009, Special Investigator I, Office of the Prosecuting Attorney, County of Hawaii (Exhibit E);

7. Class specifications for the Special Investigator I from the Department of Civil Service, County of Hawaii (Exhibit F); and

8. Table of Organization for the Office of the Prosecuting Attorney, County of Hawaii (Exhibit G).

Based on the affidavit of Harry Boranian 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

Petitioner is the public employer, as defined in Subsection 89-2(9), Hawaii Revised Statutes [hereinafter referred to as HRS], of employees of the County of Hawaii, which includes employees in bargaining units 3 and 13.

The HGEA is the certified exclusive representative, as defined in Subsection 89-2(12), HRS, of employees in bargaining units 3 and 13.

The HGEA concurs with Petitioner's proposed transfer of the four subject positions from bargaining unit 3 to bargaining unit 13 and is deemed to have waived the right to a hearing thereon. Petitioner's Exhibit A.

Position Nos. 2985, 3079, G0006 and G0009 are each presently classified as Special Investigator I and located in the Office of the Prosecuting Attorney, County of Hawaii. As a result of reviewing the positions' amended class specifications, requiring knowledge of an advanced type customarily acquired through study in an institution of higher learning, and their duties and responsibilities, Position Nos. 2985, 3079, G0006 and G0009 are proposed for transfer from inclusion in bargaining unit 3 to bargaining unit 13. Petitioner's Exhibits B, C, D, E and F.

Each Special Investigator I position is responsible for conducting investigations of cases being considered and/or readied for court action and prosecution, and obtaining additional information, evidence and facts to clarify or substantiate the findings of law enforcement agencies.



More specifically, Position Nos. 2985, 3079, G0006 and G0009 perform the following duties:

1. Obtaining information and evidence, and securing and interrogating witnesses to ascertain the extent and nature of alleged violations;
2. Negotiating out-of-court settlements and following-up on cases;
3. Determining action to alleviate violations and to permit grace periods to offenders, and educating offenders;
4. Researching laws, regulations and precedent cases to determine appropriate action;
5. Preparing summons, data for court presentations, and background information on prospective jurors;
6. Checking the backgrounds of convicts for minimum sentence and pardon considerations;
7. Testifying in court as a material witness;
8. Maintaining and operating firearms and special investigative equipment. Petitioner's Exhibits B, C, D and E.

The pertinent minimum qualification requirements from the Special Investigator I's class specifications are as follows:

1. Education and experience from an accredited college or equivalent with major work in social work, sociology, psychology, public administration or a related field; and three years of investigational or law enforcement experience;
2. Knowledge of investigation methods and techniques, rules of evidence and laws of arrest, court procedures and legal instruments, jurisdiction and functions of law enforcement

agencies, and the geographic, economic, social and racial composition of the community;

3. Ability to interpret laws, rules and regulations; give testimony based on sound observations and recall of facts; secure and analyze data; prepare clear and concise reports; analyze people and situations; understand the psychology of human behavior; and deal effectively with the public. Petitioner's Exhibit F.

Based on these duties and responsibilities, and minimum qualification requirements, the four positions have been proposed for transfer from inclusion in bargaining unit 3 to bargaining unit 13.

#### CONCLUSIONS OF LAW

Petitioner has requested the transfer of Position Nos. 2985, 3079, G0006 and G0009 from inclusion in bargaining unit 3 to bargaining unit 13, as each position's class specifications have been amended, requiring additional minimum qualifications.

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.

\* \* \*

(3) Nonsupervisory employees in white collar positions;

\* \* \*

(13) Professional and scientific employees, other than registered professional nurses; . . .

The Board noted in Decision No. 14, Hawaii Government Employees' Association, 1 HPERB 103 (1972), that the following employees are to be included in unit 13:

All professional and scientific employees employed by the State of Hawaii, City and County of Honolulu, and the Counties of Hawaii, Maui, and Kauai, except those determined not to be eligible to vote.

Id. at 104.

Subsection 89-2(17), HRS, sets forth the definition of "professional employee" and reads as follows:

"Professional employee" includes (A) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work, (ii) involving the consistent exercise of discretion and judgment in its performance, (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time, (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine, mental, manual, or physical processes; . . .

After a complete review of the duties and responsibilities, and amended class specifications of Position Nos. 2985, 3079, G0006 and G0009, the Board concludes that each position is primarily responsible for conducting investigations of cases in preparation for court action and prosecution, and obtaining additional information, evidence and facts to ascertain the findings of law enforcement agencies. Thus, the four positions are each engaged in work predominantly intellectual and varied in



character, requiring the consistent exercise of discretion and judgment. The Board is also convinced that the output of the positions' duties and responsibilities cannot be standardized in relation to a given period of time, and requires knowledge of an advanced type customarily acquired through study in an institution of higher learning. Accordingly, the Board concludes that the duties and responsibilities, and amended class specifications of Position Nos. 2985, 3079, G0006 and G0009 each reflect those of a "professional employee." Thus, as Petitioner has proposed the transfer of the four subject positions to a unit which requires specialized training and study, the positions would appropriately be placed in bargaining unit 13.


ORDER

Position Nos. 2985, 3079, G0006 and G0009 are transferred from inclusion in bargaining unit 3 to bargaining unit 13.

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

DATED: Honolulu, Hawaii, December 28, 1984.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

  
\_\_\_\_\_  
MACK H. HAMADA, Chairperson

  
\_\_\_\_\_  
JAMES R. CARRAS, Board Member

MEGUMI KON, Mayor of the County of Hawaii  
CASE NOS.: RA-03-79, RA-13-79  
DECISION NO. 202

Copies sent to:

Harry Boranian  
Publications Distribution Center  
State Archives  
Robert Hasegawa, CLEAR  
University of Hawaii Library  
Joyce Najita, IRC  
Library of Congress