

See

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. RA-13-150
)	
HANNIBAL M. TAVARES, Mayor of)	DECISION NO. 265
the County of Maui,)	
)	FINDINGS OF FACT, CONCLU-
Petitioner.)	SIONS OF LAW AND ORDER
)	

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

On February 10, 1988, HANNIBAL M. TAVARES, Mayor of the County of Maui [hereinafter referred to as Petitioner or Employer], filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit with the Hawaii Labor Relations Board [hereinafter referred to as Board]. In its petition, Employer requested the inclusion of Position No. CP-0022 to a new class entitled Legal Assistant, in bargaining unit 13 (Professional and scientific employees, other than registered professional nurses).

Petitioner submitted the following documents with the petition:

1. Affidavit of Manabu Kimura, Director of Personnel Services, County of Maui, regarding Position No. CP-0022, dated January 25, 1988;
2. Position description for the new class, Legal Assistant (Exhibit A);
3. Class specifications for the new class, Legal Assistant (Exhibit B);

4. Organization chart for the Legal Services Section, Department of Corporation Counsel, County of Maui (Exhibit C); and

5. Letter, dated October 19, 1987, from Manabu Kimura to Russell Okata, Executive Director, Hawaii Government Employees Association [hereinafter referred to as HGEA], regarding Position No. CP-0022 (Exhibit D).

Based on the affidavit of Manabu Kimura 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 Section 89-2, Hawaii Revised Statutes [hereinafter referred to as HRS], of employees of the County of Maui, which includes employees in bargaining unit 13.

The HGEA is the certified exclusive representative, as defined in Section 89-2, HRS, of employees in bargaining unit 13.

Position No. CP-0022 has been allocated to a new class entitled Legal Assistant, and is located in the Legal Services Section, Department of the Corporation Counsel, County of Maui. Position No. CP-0022 is required to conduct legal research, gather facts and evidence, develop cases, prepare drafts of legal documents and correspondence, and perform other paralegal work. More specifically, the position performs the following duties in the approximate percentages of work time:

1. Reviews, summarizes and analyzes records, depositions, transcripts and investigatory documents in civil litigation matters; evaluates significance of cited authorities, specific laws and statutes; independently researches and analyzes case law and statutes to determine precedents for legal positions; prepares drafts of pleadings, memorandums of law, briefs, and requests/responses to interrogatories (30%);
2. Assembles evidentiary documents, makes arrangements for the timely scheduling of production of documents, depositions, witness interviews, and conferences in consultation with a deputy and clerical support staff, and attends same with deputy; assists deputy at court hearings, conferences, and trials; consults with deputy regarding case procedures, strategy and methodology; proposes solutions to variety of legal problems (25%);
3. Screens and obtains information and prepares correspondence relating to civil litigation and administrative matters; independently researches and prepares drafts of legal opinions, contracts, conveyances, deeds, administrative rules and regulations, resolutions, ordinances and other legal documents (20%);

4. Assists the corporation counsel/deputy at administrative hearings and meetings of the County Council, boards, and commissions; acts as liaison to the County Council; represents the department or other county agencies at proceedings where an attorney is not required (15%); and
5. Selects, assembles, studies, summarizes, analyzes and compiles statutes, court opinions, rulings and other substantive information on specific legal subjects; and indexes, groups, and classifies legal opinions rendered by the office, evaluating the same for consistency (10%).

According to the class specifications, the minimum training and experience qualification requirements for the subject position include:

1. Graduation from an accredited college or university majoring in business administration, public administration or a related field and one year of experience in legal assistant work that included interviewing, legal research, evaluation and analysis of legal issues, preparation of legal reports, documents and correspondence; or
2. Six years of progressively responsible experience in legal assistant work that included interviewing, legal research, evaluation and analysis of legal issues, preparation of legal reports, documents

and correspondence, one of which shall have been for the County of Maui; or

3. Any equivalent combination of training and experience.

According to the applicable position description, supervision is provided by the Corporation Counsel.

Based on these duties and responsibilities, Position No. CP-0022 has been allocated to a new class entitled Legal Assistant, and proposed for inclusion in bargaining unit 13.

CONCLUSIONS OF LAW

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:

* * *

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

"Professional employee" is defined in Section 89-2, HRS, as:

"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; or (B) any employee, who (i) has completed the course of specialized intellectual instruction and study described in clause (A) (iv), and (ii) is performing related work under the supervision of a professional employee as defined in (A).

After a complete review of the duties and responsibilities of Position No. CP-0022, the Board concludes that the position is responsible for independently performing moderately difficult paralegal work in support of staff attorneys. Clearly, the position engages in work which is predominantly intellectual and varied, involving the consistent exercise and judgment of a character that the result accomplished is not standardized in relation to a given period of time, and which requires knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction in an institution of higher learning. Further, the position's duties and responsibilities are professional in nature, due to the requisite specialized training necessary to perform the job. Further, the position performs work under the supervision of a professional employee. As such, the Employer's proposed inclusion of Position No. CP-0022 in bargaining unit 13 is consistent with Subsection 89-6(a), HRS.

ORDER

Position No. CP-0022, entitled Legal Assistant, is included in bargaining unit 13.

HANNIBAL M. TAVARES, Mayor of the County of Maui
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DATED: Honolulu, Hawaii, April 22, 1988.

HAWAII LABOR RELATIONS BOARD


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JAMES R. CARRAS, Board Member


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