

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NOS.: RA-07-134a
)	RA-08-134b
BOARD OF REGENTS, University)	
of Hawaii,)	DECISION NO. 268
)	
Petitioner,)	FINDINGS OF FACT, CONCLU-
)	SIONS OF LAW AND ORDER
and)	
)	
UNIVERSITY OF HAWAII)	
PROFESSIONAL ASSEMBLY,)	
)	
Intervenor.)	

In the Matter of)	CASE NOS.: RA-07-136a
)	RA-08-136b
UNIVERSITY OF HAWAII)	
PROFESSIONAL ASSEMBLY,)	
)	
Petitioner,)	
)	
and)	
)	
HAWAII GOVERNMENT EMPLOYEES)	
ASSOCIATION, AFSCME LOCAL 152,)	
AFL-CIO, and BOARD OF REGENTS,)	
University of Hawaii,)	
)	
Intervenors.)	

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

On May 12, 1987, 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 Labor Relations Board [hereinafter referred to as Board], Case Nos. RA-07-134a and RA-08-134b. In its petition the BOR requested the transfer of one position, Position No. 83587,

UH Student Services Specialist III, 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). The transfer was due to a determination that the duties and responsibilities of the position are no longer characteristic of the Assistant Specialist classification in bargaining unit 7. On June 2, 1987, the UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY [hereinafter referred to as UHPA] filed a Petition to Intervene with the Board. Intervention was granted by the Board in Order No. 626, dated June 10, 1987.

On June 9, 1987, UHPA filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit which was assigned Case Nos. RA-07-136a and RA-08-136b by the Board. This petition was described by UHPA as a companion case to the instant matter. The petition noted that there were three similar positions in the Student Admissions Office. The instant matter involves one, a Unit 7 position, while the two involved in Case Nos. RA-07-136a and RA-08-136b, Position Nos. 80626 and 81414, are in Unit 8. UHPA in its petition asserted that all three positions should be in the same unit. On July 7, 1987, the BOR filed a Petition for Intervention in Case Nos. RA-07-136a and RA-08-136b. Thereafter on July 8, 1987, the HAWAII GOVERNMENT EMPLOYEES ASSOCIATION [hereinafter referred to as HGEA] also filed a Petition for Intervention. In Order No. 636, dated July 20, 1987, the Board granted the petitions for intervention of both the BOR and HGEA.

In Order No. 636, Case Nos. RA-07-134a, RA-08-134b and RA-07-136a, RA-08-136b were consolidated for disposition as both petitions raised the issue of the appropriateness of the bargaining unit status of the three positions in the Student Admissions Office, Position Nos. 83587, 80626 and 81414.

After several continuances in the instant consolidated matter due to settlement negotiations, UHPA submitted a Motion for Withdrawal of Petition and Statement of No Opposition. In an accompanying affidavit, UHPA's counsel, T. Anthony Gill, sought the withdrawal of the petition in Case Nos. RA-07-136a and RA-08-136b. Further, UHPA's representative stated that it had no opposition to the petition filed by the BOR in Case Nos. RA-07-134a and RA-08-134b. In Order No. 690, dated April 4, 1988, the Board dismissed the petition in Case Nos. RA-07-136a and RA-08-136b and indicated that pursuant to UHPA's statement of no opposition it would act on the petition in Case Nos. RA-07-134a and RA-08-134b without the participation of UHPA. The instant decision therefore disposes of the petition in Case Nos. RA-07-134a and RA-08-134b exclusive of any consideration of Case Nos. RA-07-136a and RA-08-136b, and on the sole basis of the BOR's petition.

BOR submitted the following documents with the petition:

1. Affidavit of James H. Takushi, Director of Personnel, University of Hawaii [hereinafter referred to as UH], regarding Position No. 83587, dated May 12, 1987;
2. Position description for Janice S. Heu (Exhibit A);

3. Class specifications for UH Student Services Specialist III (Exhibit B); and

4. Letter, dated March 5, 1987, from James H. Takushi to J. N. Musto, Executive Director of UHPA, requesting concurrence with the proposed transfer of Position 83587 (Exhibit C).

Based on the affidavit of James H. Takushi 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 Section 89-2, Hawaii Revised Statutes [hereinafter referred to as HRS], of employees in Units 7 and 8.

The UHPA is the certified exclusive representative as defined in Section 89-2, HRS, of employees included in Unit 7. The Board was advised by the UHPA that it did not contest the instant petition. The UHPA therefore waived its right to a hearing on the instant petition.

The HGEA is the certified exclusive representative as defined in Section 89-2, HRS, of employees in Unit 8.

The position in question is currently titled Assistant Specialist, Position No. 83587. The BOR proposes to transfer the position to bargaining unit 8 with the title UH Student Services Specialist III. Takushi in his affidavit accompanying the petition states that the review of the duties and responsibilities of

Position No. 83587 indicates that such duties and responsibilities are no longer characteristic of the Assistant Specialist classification.

Documents submitted along with the petition indicate that the position works in two main areas in the Admissions and Records Office under the supervision of the Associate Director. In the first main area, the position plans, implements and evaluates the overall policies and procedures for the admission and placement of undergraduate and unclassified graduate applicants with foreign educational backgrounds. In the second main area, the position plans, implements and evaluates the policies and procedures for the admissions and placement of transfer students from U.S. post-secondary educational institutions and for the evaluation of correspondence courses, military service schooling, military experience and other external test measurements. The position also assists in the registration process, and, in the absence of the immediate supervisor to the position, serves in his stead.

The duties do not include the provision of instructional services.

Accordingly, the BOR has proposed the reclassification of the subject position to UH Student Services Specialist III, and its conversion to an administrative, professional and technical [hereinafter referred to as APT] position in bargaining unit 8.

CONCLUSIONS OF LAW

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

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 HAWAII GOVERNMENT EMPLOYEES' ASSOCIATION, 1 HPERB 295 (1972), 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 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 at 290.

After reviewing the evidence submitted by the BOR, the Board concludes that the duties of the subject position are more appropriately characteristic of positions within Unit 8 since the

position's duties reflect administrative, professional and technical responsibilities rather than the performance of instructional services or research. 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

Position No. 83587, which is being reclassified by the BOR to an APT position entitled UH Student Services Specialist III, is transferred from Unit 7 to Unit 8.

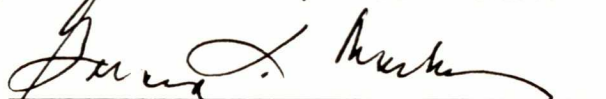
The effective date of this transfer shall not be earlier than the date of this decision.

DATED: Honolulu, Hawaii, April 27, 1988.

HAWAII LABOR RELATIONS BOARD


MACK H. HAMADA, Chairperson


JAMES R. CARRAS, Board Member


GERALD K. MACHIDA, Board Member

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