

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NOS.: RA-01-174a
)	RA-08-174b
BOARD OF REGENTS, University)	
of Hawaii,)	DECISION NO. 307
)	
Petitioner.)	FINDINGS OF FACT, CONCLU-
)	SIONS OF LAW AND ORDER

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

On May 4, 1990, the BOARD OF REGENTS of the University of Hawaii (BOR or Employer) filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit with the Hawaii Labor Relations Board (Board). In its petition, the BOR requested the transfer of Position No. 10020, from inclusion in bargaining unit 1 (Nonsupervisory employees in blue collar positions) to bargaining unit 8 (Personnel of the University of Hawaii and the community college system, other than faculty). The petition is premised upon a review of the position's duties and responsibilities and the proposed reclassification of the position to University of Hawaii (UH) Research Associate II, a class within the Administrative, Professional, and Technical (APT) Classification and Compensation Plan.

The BOR submitted the following documents with the petition:

(1) Affidavit of James H. Takushi, Director of Personnel, UH, regarding Position No. 10020, dated May 4, 1990;

(2) Position Description for UH Research Associate II (Exhibit A);

(3) Class Specifications for UH Research Associate II (Exhibit B); and

(4) Letter, dated November 24, 1990, from James H. Takushi to Robert W. S. Chang, Assistant Oahu Division Director, United Public Workers (UPW), requesting concurrence with the proposed transfer of the subject position to bargaining unit 8 (Exhibit C).

Based on the affidavit of James H. Takushi 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 Section 89-2, Hawaii Revised Statutes (HRS), of employees of the UH which includes employees in bargaining units 1 and 8.

The UPW is the certified exclusive representative of employees in bargaining unit 1.

The UPW concurs with the BOR's proposed inclusion of Position No. 10020 in bargaining unit 8, and is deemed to have waived the right to a hearing thereon (Petitioner's Exhibit C).

The Employer asserts that the duties and responsibilities of Position No. 10020 are now commensurate with that of the UH Research Associate II classification. These duties do

not include the provision of instructional services. The subject position works in the UH Sea Grant College Program, located at the Waikiki Aquarium. The incumbent in the position performs the following duties in the approximate percentages of work time:

1. DISPLAY SUPERVISION AND SUPPORT (60%)

Monitors and maintains life-support systems and health of exhibit organisms which includes monitoring pumps, filters, lights, valves, etc., pursuant to schedules and standards set by the Curator; supervises and assigns tasks to assistants (technicians, students, and volunteers) such as tank maintenance, application of quarantine regimens, feeding and general maintenance following general animal husbandry standards; works with other Aquarium Scientists to ensure successful exhibitry and maintenance of specialized marine animals; collects specimens for exhibits, research, lectures and demonstrations; provides related scientific and technical information for labels, lectures, Aquarium publications, and scientific journals; and maintains a photographic record to document collection techniques, expedition results and experimental results.

2. RESEARCH (40%)

Assists with design, development, and testing of new systems for maintenance and exhibition of aquatic organisms; conducts field observations to identify habitats, nutritional needs, and social requirements of aquatic organisms; tests hypotheses relating to the biology and maintenance of aquatic organisms; assists with testing new equipment related to maintenance of captive aquatic organisms, e.g., lighting systems for photosensitive marine life, filtration systems for closed-circuit reef exhibits, etc.; assists with design, development, and testing of new materials and methods relating to the capture, maintenance, transport, and shipping of aquatic organisms; monitors responses of organisms to these methods including physiological responses, and modifies methods as necessary to improve the survival rates of aquatic organisms; works with Aquarium Nutritionist in developing and testing new diets and feeding regimens; reviews and researches current literature relating to advances in aquariology, animal husbandry, and exhibitry; maintains records of research and writes reports for Curator and/or publications; and assists and conducts classes and workshops for staff and

general public on topics relating to aquariology, animal husbandry, and marine biology. Exhibit A.

The class specifications for UH Research Associate II indicate that the class of work involves professional level work in a research support capacity. Incumbents in these positions engage in various research related activities which are characterized by the need for formal college-level training and experience in the specialized field. Exhibit B.

Accordingly, the BOR has proposed the reclassification of the subject position to UH Research Associate II, and its conversion to an APT position in bargaining unit 8.

CONCLUSIONS OF LAW

Section 89-6, 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:

* * *

(1) Nonsupervisory employees in blue collar positions;

* * *

(8) Personnel of the University of Hawaii and the community system other than faculty; . . .

Further, the Board in HPERB Decision No. 25, Hawaii Federation of College Teachers, 1 HPERB 289 (1973), described Unit 8 as follows:

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 (hereinafter APT).

APT's generally perform professional level duties which may be unique to the University environment.

After a complete review of the duties and responsibilities of Position No. 10020, the Board concludes that the subject position is responsible for performing scientific and technical support for the collection, transportation, maintenance, and exhibition of aquatic organisms. As such, the Board concludes that this position has professional level research support duties which are unique to the University environment. Thus, the inclusion of the subject position in bargaining unit 8 is consistent with Section 89-6, HRS, and previous Board decisions.


ORDER


Position No. 10020, which is being reclassified by the BOR to an APT position entitled UH Research Associate II, is transferred from Unit 1 to Unit 8.


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DATED: Honolulu, Hawaii, July 10, 1990.

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson


GERALD K. MACHIDA, Board Member


RUSSELL T. HIGA, Board Member

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