

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. RA-08-179
)	
BOARD OF REGENTS, University)	DECISION NO. 314
of Hawaii,)	
)	FINDINGS OF FACT, CONCLU-
Petitioner.)	SIONS OF LAW AND ORDER
)	

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

On October 8, 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 continued exclusion of Position No. 80151 from bargaining unit 8 (Personnel of the University of Hawaii and the community college system, other than faculty). The exclusion is premised upon the reclassification of the position to University of Hawaii (UH) Director of Manoa Budget, which is included in the UH Executive/Managerial Classification Plan.

The BOR submitted the following documents with the petition:

(1) Affidavit of James H. Takushi, Director of Personnel, UH, regarding Position No. 80151, dated October 8, 1990;

(2) Position description for UH Budget Specialist VI (Exhibit A);

(3) Class specifications for UH Director of Manoa Budget (Exhibit B);

(4) Table of Organization for UH Budget Office (Exhibit C); and

(5) Letter, dated August 29, 1990, from James H. Takushi to Russell Okata, Executive Director, Hawaii Government Employees Association (HGEA), requesting concurrence with the proposed continued exclusion of the subject position from bargaining unit 8 (Exhibit D).

Although HGEA did not initially concur with the exclusion of the subject position (Exhibit D), the BOR submitted a supplemental exhibit on November 2, 1990, which indicated that on October 30, 1990, the HGEA concurred with the exclusion (Exhibit E). On December 28, 1990, the BOR filed a revised position description with the Board (Exhibit F).

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 the employees of the UH, including the employees in bargaining unit 8.

The HGEA is the certified Unit 8 exclusive representative.

The HGEA concurs with the BOR's continued exclusion of Position No. 80151 from bargaining unit 8, and is deemed to have waived its right to a hearing (Exhibit F).

The BOR asserts that the revised duties and responsibilities of Position No. 80151 are commensurate with that of the UH Director of Manoa Budget class. The incumbent works in the UH Budget Office as a deputy and assistant to the Director of University Budget. The position serves in support of the UH President, who also acts as the Chancellor for the Manoa Campus. The subject position performs the following duties in the approximate percentages of work time:

1. Systemwide Basis (20%)

Develops and recommends for implementation new budget policies, procedures, and guidelines to the Director of University Budget which sets parameters for the biennium and supplemental budget requests for categories such as workload increases, repairs, renovations, staffing, program expansion, etc.; develops, recommends, and implements budget policies and guidelines for the execution of the approved budget; provides advice to senior executives, deans, directors, and fiscal officers on the State Department of

Budget and Finance's (B & F), BOR's, and the UH President's budget policies; serves as deputy to the Director of University Budget and assumes responsibility and authority over the UH budget in the absence of the director; attends senior executive council and systemwide meetings on behalf of the director with full administrative discretion to determine the methods, means, and personnel by which the UH Budget Office will execute the objectives set forth by the BOR and the UH President.

2. Manoa Campus (70%)

Reviews, evaluates, and submits biennium and supplemental budget requests for the UH Manoa campus; recommends priorities of program requests for all campus organizational units; develops and oversees criteria to be used for campus units in the preparation of their requests; approves requests to ensure compliance with Manoa policies, priorities, and guidelines; determines whether the means, methods, personnel and funding are adequately justified for program requests; confers with deans, directors, and fiscal representatives to resolve disputes with their budgetary requests; meets with B & F staff to

clarify and justify program requests; negotiates alternatives and priorities for Manoa programs which are acceptable to advocates for campus units in budgetary disputes with B & F; provides technical assistance to the UH President and Director of University Budget during legislative committee meetings and hearings; directs subordinate staff to ensure adherence to Manoa policies and procedures; and determines budget allocation for each program on campus.

3. Other Assigned Duties (10%)

Attends bimonthly Deans and Directors meetings; serves on campus committees and task forces regarding various projects such as the Agenda for Action, and Academic Development Plan; attends meetings with the President, Vice Presidents, Deans, and Directors on specific issues or problems; reviews performance of subordinate personnel; and carries out special assignments as requested.

According to the class specifications, the position is involved in the direction and control of budget formulation, analysis, review and control at UH Manoa. A position in this class is responsible for developing overall budgetary and financial planning strategy for the campus, devising and applying program output and financial needs indices and

criteria, analyzing expenditure ceilings for the campus, and within such constraints, reviews program proposals to make recommendations relative to the expansion, maintenance, reduction or deletion or program financing, insures proper implementation of budgetary control procedures, attends legislative committee hearings and assists the UH President or Director of UH Budget in the presentation of campus financial plan, etc.

Accordingly, the BOR has reclassified the subject position to UH Director of Manoa Budget, and proposes its continued exclusion from bargaining unit 8.

CONCLUSIONS OF LAW

The Petitioner has requested the continued exclusion of Position No. 80151 from bargaining unit 8 on the basis that the position is a top-level managerial and administrative position.

Subsection 89-6, HRS, specifies which employees are to be excluded from any appropriate bargaining unit and coverage under Chapter 89 and provides in part:

No . . . top-level managerial and administrative personnel . . . shall be included in any appropriate bargaining unit or entitled to coverage under this Chapter.

In interpreting the exclusionary language of Section 89-6, HRS, the Board, in various decisions, established criteria which must be met in order to justify an exclusion.

In determining whether an individual occupies a top-level managerial and administrative position, the Board, in Decision No. 75, Hawaii Nurses Association, 1 HPERB 660 (1977), stated in pertinent part:

This Board believes that the appropriate test of whether an individual occupies a top-level managerial and administrative position includes measuring the duties of the position against the following criteria:

1. The level at and extent to which the individual exercises the authority and judgment to direct employees, determine methods, means and personnel by which the employer's operations are to be carried out; or

2. The extent to which the individual determines, formulates and effectuates his employer's policies.

Id. at 666 [footnotes omitted.]

In Decision No. 95, Hawaii Government Employees Association, 2 HPERB 105 (1978), the Board supplemented this criteria by stating:

In order to be determined to be a top-level management or administrative position, a position must:

1. Be at or near the top of an ongoing complex agency or major program and formulate or determine policy for that agency or program; or

2. Direct the work of a major program or an agency of a major subdivision thereof with considerable discretion to determine the means, methods, and personnel by which the agency or program policy is to be carried out; or

3. Operate in a management capacity in a geographically separated location, such as a Neighbor Island, and be

responsible for representing management in dealing with a significant number of employees.

Id. at 143.

After a complete review of the duties and responsibilities of the UH Director of Manoa Budget, the Board concludes that the position is responsible for serving as deputy to the Director of University Budget, with the commensurate authority and responsibility to assume his/her duties and responsibilities in his/her absence. Further, the subject position is responsible for the overall development, coordination, interpretation, and implementation of the UH Manoa operating and capital improvement project budgets. Further, the position is at the top of an ongoing major program, and helps to formulate policy for that program. Additionally, in directing the work of the program, the position exercises considerable discretion and independent judgment to determine the means, methods, and personnel to carry out the program policy. Accordingly, the Board concludes that the position is a top-level managerial and administrative position, and in accordance with the provisions of Section 89-6, HRS, and previous Board decisions, the position should continue to be excluded from bargaining unit 8 and coverage under Chapter 89, HRS.

ORDER

Position No. 80151 entitled UH Director of Manoa
Budget is excluded from bargaining unit 8.

DATED: Honolulu, Hawaii, March 22, 1991.

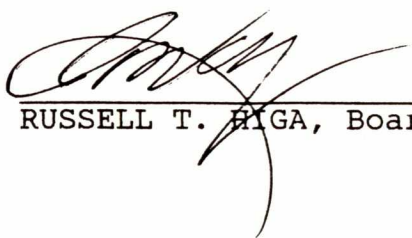
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