

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NOS.: RA-03-190a
)	RA-08-190b
BOARD OF REGENTS, University)	
of Hawaii,)	DECISION NO. 331
)	
Petitioner.)	FINDINGS OF FACT, CONCLU-
)	SIONS OF LAW AND ORDER

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

On January 21, 1993, 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. 26458, from inclusion in bargaining unit 3 (Nonsupervisory employees in white 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 IV 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 Management, UH, regarding Position No. 26458, dated January 21, 1993;

2. Position Classification Form for UH Agricultural Research Technician V (Exhibit A);

3. Position Description for UH Research Associate IV (Exhibit B);

4. Class Specifications for UH Research Associate IV (Exhibit C);

5. Letter, dated November 24, 1992, from James H. Takushi to Russell Okata, Executive Director, Hawaii Government Employees' Association (HGEA), requesting concurrence with the proposed transfer of the subject position to bargaining unit 8 (Exhibit D); and

6. Revised position description for UH Research Associate IV filed with the Board on February 17, 1993.

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, which include employees in bargaining units 3 and 8.

The HGEA is the certified exclusive representative of employees in bargaining units 3 and 8.

The HGEA concurs with the BOR's proposed inclusion of Position No. 26458 in bargaining unit 8, and is deemed to have waived the right to a hearing thereon (Exhibit D).

The Employer asserts that the duties and responsibilities of Position No. 26458, previously Agricultural Research Technician V, are now commensurate with that of the UH Research Associate IV classification. The subject position is located in the Harold L. Lyon Arboretum, Organized Research Unit under the Director of the Lyon Arboretum, UH. The subject position performs the following duties in the approximate percentages of work time:

1. Conducts research and accumulates data in the compilation of comprehensive references of palm species. Publishes articles, manuscripts, journals, etc., which are used in research in botany, horticulture, and plants. Presents research with faculty at scientific conferences, workshops, and seminars. Maintains the Arboretum's database which currently contains over 8,000 taxa for research and publication. Prepares articles for publication for Hawaii nursery flower and foliage growers. Serves as expert on palm plants for local nurseries and other national and international inquiries (35%).
2. Collects, evaluates, records, and prepares plant parts for herbarium specimens for positive identification. Participates in field collection expeditions for gathering new species of palm and other plant foliage to enhance the Arboretum's collection (45%).
3. Supervises all ground activities including the clearing, planting, site selection and maintenance

of rare and special plant collections. Establishes and maintains effective working relationships with faculty, researches, horticulturists, plant collectors, nursery owners, students and the general public (20%).

According to the class specifications for the UH Research Associate IV, this class performs difficult professional and technical work in a research support capacity. The work involves participation in research in any one of a number of disciplines such as, but not limited to, chemistry, physics, medicine, psychology, biology, astronomy, botany, agriculture, sociology, or education. The specifications for the class also include responsibility for reading literature related to new research procedures for a particular project or experiment, for performing the experiment, for recording data and for reporting, analyzing and/or evaluating results. Employees mostly work independently, but on highly specialized and complex assignments, work methods and progress are reviewed by a professionally and technically competent superior. Members of the class may supervise small groups of student assistants, non-technical employees, and in some instances, other research associates.

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:

* * *

(3) Nonsupervisory employees in white collar positions;

* * *

(8) Personnel of the University of Hawaii and the community college 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 (hereinafter APT).

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

Id. at 298.

After a complete review of the duties and responsibilities of Position No. 26458, the Board concludes that the subject position conducts research and is responsible for the accumulation and organization of the Arboretum's data, is responsible for the acquisition of specific plant taxa, supervises ground activities, maintains good relations with plant people, and performs other duties as required. As such, the Board concludes that this position exercises professional support duties which are

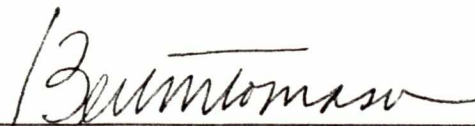
unique to the University environment. Therefore, the inclusion of the subject position in bargaining unit 8 is consistent with Section 89-6, HRS, and previous Board decisions.

ORDER

Position No. 26458, which is being reclassified by the BOR to an APT position entitled UH Research Associate IV, is transferred from Unit 3 to Unit 8.

DATED: Honolulu, Hawaii, March 1, 1993.

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson


GERALD K. MACHIDA, Board Member


RUSSELL T. HIGA, Board Member

Copies sent to:

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