

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS.: RA-05-199a
	)	RA-06-199b
DEPARTMENT OF EDUCATION, State	)	
of Hawaii,	)	DECISION NO. 356
	)	
Petitioner.	)	FINDINGS OF FACT, CONCLU-
_____	)	SIONS OF LAW AND ORDER

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

On April 7, 1994, the DEPARTMENT OF EDUCATION, State of Hawaii (DOE or Employer) filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit with the Hawaii Labor Relations Board (Board). In its petition, the DOE requested the transfer of 38 School Athletic Director positions from Unit 05 (Teachers and other personnel of the department of education under the same salary schedule, including part-time employees working less than twenty hours a week who are equal to one-half a full-time equivalent) to Unit 06 (Educational officers and other personnel of the department of education under the same salary schedule). The petition is premised upon a review of the positions' duties and responsibilities and the proposed assignment of the positions to the Educational Officer Classification and Compensation Plan.

On April 14, 1994, the DOE submitted supplementary information supporting its petition. The DOE submitted the following documents with the supplement:

1. Affidavit of Donald R. Nugent, Assistant Superintendent of Personnel, DOE, regarding the 38 athletic directors, dated April 14, 1994;

2. Letter dated April 8, 1994 from Donald Nugent to Russell Okata of the Hawaii Government Employees Association (HGEA) requesting concurrence with the proposed transfer of the Athletic Directors from Unit 05 to Unit 06 (Exhibit A);

3. Letter dated April 8, 1994 from Joan Lee Husted, Assistant Executive Director - Field Operations, Hawaii State Teachers Association (HSTA) to Herman M. Aizawa, Acting Superintendent of Schools, concurring with the transfer of the Athletic Directors from Unit 05 to Unit 06 (Exhibit B);

4. Generic Job Description for School Athletic Director (Exhibit C);

5. Class Specifications for School Athletic Director (Exhibit D); and

6. Athletic Directors Position Number List, including Position Nos. 67176, 60718, 60977, 61653, 61936, 66395, 62307, 63520, 68326, 68529, 64102, 68141, 69379, 63760, 66731, 64535, 64760, 62556, 63061, 63108, 68184, 64892, 65068, 65194, 65272, 65300, 65358, 65442, 65467, 65569, 65618, 67902, 65834, 65875, 65935, 67723, 66193, and 66301 (Exhibit E).

Based on the affidavit of Donald R. Nugent 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 Board of Education is the public employer, as defined in Section 89-2, Hawaii Revised Statutes (HRS), of the employees of the DOE, which include employees in Units 05 and 06.

The HSTA is the certified exclusive representative of employees in Unit 05. The HGEA is the certified exclusive representative of employees in Unit 06.

HSTA and HGEA both concur with the DOE's proposed inclusion of Position Nos. 67176, 60718, 60977, 61653, 61936, 66395, 62307, 63520, 68326, 68529, 64102, 68141, 69379, 63760, 66731, 64535, 64760, 62556, 63061, 63108, 68184, 64892, 65068, 65194, 65272, 65300, 65358, 65442, 65467, 65569, 65618, 67902, 65834, 65875, 65935, 67723, 66193, and 66301 in Unit 06, and are deemed to have waived their rights to a hearing thereon (Exhibits A and B).

The Employer asserts that the Athletic Directors perform primarily administrative and management functions similar to other educational officers in Unit 06 and do not conduct classroom teaching activities typical of teachers in Unit 05.

According to the generic position description, the School Athletic Director is under the general administrative supervision of the School Principal and has supervisory responsibility over the Assistant Athletic Director, the Intramural Coordinator, coaches and other athletic program staff, with the exception of the Athletic Trainer, who is directly supervised by the Principal. Additionally, the School Athletic Director is afforded some independence in carrying out assignments and exercises discretion and judgment in handling day-to-day matters under the general supervision of the Principal but operates under closer control and direction on matters of major significance or sensitivity such as far-reaching athletic administration policies. The School Athletic



Director performs the following duties in the approximate percentages of work time:

- (1) Plans, organizes and administers the school's overall athletic program, both intramural-extramural and interscholastic. Fulfills educational expectations for male, female, and handicapped athletes by providing a variety of individual and team sports or adapted sports activities. Develops and administers the school's athletic budget and operational expenditure plan. Maintains financial records. Maintains a current inventory of supplies and equipment. Assists with developing rules, regulations and eligibility requirements for the school's athletic program. (20%);
- (2) Ensures athletic program complies with Title IX and § 504 of the Rehabilitation Act of 1973, and other applicable federal and state laws and regulations. Encourages and promotes high standards of conduct, sportsmanship, and scholastic achievement for students participating in athletic program activities. Assists in implementing policies, programs, and activities designed to curb and control student violence and vandalism in the schools. Prepares eligibility and participation lists of students for all sports, and submits to the Principal. Monitors student scholastic and conduct eligibility throughout the year and revises the

lists. Organizes, conducts and supervises all athletic awards programs. Orients all coaches regarding their role and responsibilities to students, school staff, parents, and community. Provides or coordinates training workshops for coaches in their respective sports. Plans, coordinates and supervises the execution of arrangements for interscholastic and intramural scheduled games and matches in all sports, including pre-season and interschool practice contests. Administers and implements the development of the intramural program. Assists in the counseling of student athletes. Assists students in securing athletic scholarships and in planning post high-school experiences. Plans, arranges and supervises all trips by athletic teams. Accompanies athletic teams on neighbor island and out-of-state trips. Maintains a current report filing system on athletic department-related documentation. Supervises the reentry of injured athletes who have been referred to a medical doctor. Maintains and distributes a current school athletic policy handbook and sports rules to all coaches. Arranges transportation needs of all athletic teams and ensures that certified drivers are used. Prepares transportation guidelines for athletic teams. Ensures all athletes have parental consent,

physical examinations, and insurance coverage before they practice or participate in any preseason or league contest. Fosters a program designed to support athletic teams and school spirit. Supervises all ticket sales and fund-raising events. Selects and assigns athletic coaches and staff members, with the approval of the Principal, and conducts evaluations. Promotes and fosters good school-community relations by keeping the community aware of and responsive to the athletics program by preparing news/information releases to the news media and meeting with various interest groups (35%);

- (3) Coordinates the provision of game support services. Assumes general responsibility for the proper supervision of home games and serves as tournament director when conducting state tournaments. Coordinates with the School Food Service Manager any requests for pre-game or post-game meals or for summer training tables. Coordinates the provision of appropriate support services for visiting teams. Coordinates alumni, parent and community volunteers in athletic functions in the school. Supervises and coordinates, with appropriate personnel, the use of facilities for athletic purposes. Schedules and directs the use of athletic facilities, fields and equipment and coordinates such scheduling with



appropriate school officials. Coordinates with the Principal on matters concerning physical education or athletic equipment/facilities maintenance requests and repairs. Evaluates the adequacy of existing facilities, prepares and submits assessments and formal requests for new facilities, and assists in the planning of new and additional facilities (35%); and

- (4) Meets with sports equipment sales representatives and serves as liaison in the contract bidding process. Assists in the development and implementation of school emergency/disaster plans and performs related activities as needed or assigned (10%).

According to the class specifications for the School Athletic Director, this class has immediate responsibility for providing leadership; developing, planning, coordinating, implementing, evaluating, and improving the school athletics program, both intramural-extramural and interscholastic, designed to fulfill educational expectations for male, female, and physically disabled athletes; and performs other related duties as required.

The School Athletic Director class is not responsible for curriculum development or instructional programs of the school.

#### DISCUSSION

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:

\* \* \*

- (5) Teachers and other personnel of the department of education under the same salary schedule, including part-time employees working less than twenty hours a week who are equal to one-half a full-time equivalent;
- (6) Educational officers and other personnel of the department of education under the same salary schedule; . . .

Further, the Board in HPERB Decision No. 157, Board of Education, 3 HPERB 4 (1982), described a Unit 06 classification as follows:

. . . the duties of the subject position reflect professional responsibilities within the DOE and apparently, there is no appropriate classification in the civil service system to accommodate the subject position. Thus, the Position was classified within the Educational Officer Classification and Compensation System.

Id. at 5.

After a thorough review of the duties and responsibilities of Position Nos. 67176, 60718, 60977, 61653, 61936, 66395, 62307, 63520, 68326, 68529, 64102, 68141, 69379, 63760, 66731, 64535, 64760, 62556, 63061, 63108, 68184, 64892, 65068, 65194, 65272, 65300, 65358, 65442, 65467, 65569, 65618, 67902, 65834, 65875, 65935, 67723, 66193, and 66301, the Board concludes that as a generic class, the subject positions are under the general administrative supervision of the Principals and have supervisory responsibilities over the Assistant Athletic Directors, the Intramural Coordinators, coaches and other athletic program



staff. The positions have immediate responsibility for providing leadership; developing, planning, coordinating, implementing, evaluating, and improving the overall school athletics program. Therefore, the inclusion of the subject positions in Unit 06 is consistent with Section 89-6, HRS, and previous Board decisions.

#### CONCLUSIONS OF LAW

The Board has jurisdiction over this petition pursuant to Section 89-6, HRS.

The Board concludes, based on the duties and responsibilities of the positions, that the Athletic Directors are more appropriately included in Unit 06 since the positions do not provide instructional services or curriculum development.

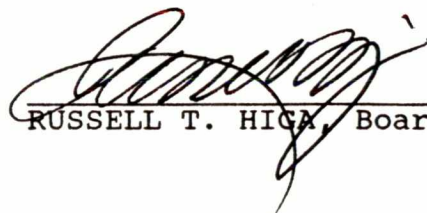
#### ORDER

Position Nos. 67176, 60718, 60977, 61653, 61936, 66395, 62307, 63520, 68326, 68529, 64102, 68141, 69379, 63760, 66731, 64535, 64760, 62556, 63061, 63108, 68184, 64892, 65068, 65194, 65272, 65300, 65358, 65442, 65467, 65569, 65618, 67902, 65834, 65875, 65935, 67723, 66193, and 66301 are hereby transferred from Unit 05 to Unit 06.

DATED: Honolulu, Hawaii, July 18, 1994.

HAWAII LABOR RELATIONS BOARD

  
BERT M. TOMASU, Chairperson

  
RUSSELL T. HIGA, Board Member

DEPARTMENT OF EDUCATION, State of Hawaii; CASE NOS. RA-05-199a,  
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Sandra H. Ebesu  
SANDRA H. EBESU, Board Member

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