

STATE OF HAWAII

PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)	
)	
UNIVERSITY OF HAWAII)	Case No. <u>SF-07-38</u>
PROFESSIONAL ASSEMBLY,)	
)	Decision No. <u>64</u>
Petitioner,)	
)	
and)	
)	
HAWAII FEDERATION OF COLLEGE)	
TEACHERS, LOCAL 2003,)	
American Federation of)	
Teachers, AFL-CIO,)	
)	
Intervenor.)	
_____)	

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDERS

On August 28, 1975, the Petitioner, University of Hawaii Professional Assembly (hereafter UHPA), filed a petition for certification of reasonableness of a proposed annual service fee of \$102, retroactive to July 1, 1975, for all employees in unit 7 (faculty of the University of Hawaii and the community college system). (Board Exhibit 1).

On September 5, 1975, the Hawaii Federation of College Teachers (hereafter HFCT) moved to intervene. (Board Exhibit 3). Said motion was granted. (Board Exhibit 4).

A formal hearing, after due notice, (Board Exhibit 2), was conducted before the full Board on September 9, 1975. UHPA's case was presented by Steven Nassau, Esq., the assistant general counsel of the National Education Association (hereafter NEA). Appearing with him were John Thompson, UHPA president, and Jerome Comcowich, UHPA executive secretary. Charles Bob Simpson, NEA manager of higher education

programs and Woodley B. Osborne, Esq., American Association of University Professors (hereafter AAUP) director of collective bargaining and associate counsel, testified on behalf of UHPA. John R. Desha, II, Esq., HFCT executive secretary, along with Adam Lim, HFCT treasurer, appeared on behalf of the intervenor and cross-examined UHPA's witnesses. No other person appeared at the hearing in opposition to UHPA's petition.

The Board having reviewed the entire record and exhibits hereby makes the following findings of fact, conclusions of law and orders.

FINDINGS OF FACT

1. Petitioner UHPA is, and has been since November 1, 1974, the certified exclusive representative for all employees in bargaining unit 7 as defined by §89-6(a)(7), Hawaii Revised Statutes (hereafter HRS).

2. The intervenor HFCT is an employee organization as defined by §89-2(8), HRS, and is the former exclusive representative of unit 7.

3. There are approximately 2,500 employees in bargaining unit 7.

4. UHPA is affiliated with two national organizations, AAUP and NEA. This dual national affiliation resulted when two local organizations, the AAUP chapter and the NEA affiliate, merged to form UHPA. The members of UHPA then elected to utilize the assistance of both national organizations.

5. On February 11, 1975, the Board certified as reasonable an annual service fee of \$77 per employee in

unit 7. Case SF-07-29, Decision 59. In certifying said amount, the Board denied UHPA's request for a service fee of \$102 per employee on the grounds that the per capita payments to the NEA and AAUP national affiliates, which were included in that requested amount, were not shown to equal or exceed the alleged value of services to be rendered. Nor were there sufficient safeguards to eliminate unnecessary duplication of services rendered by the two nationals. Thus, the certified service fee of \$77 per employee per year did not include any per capita payments to either of the two national affiliates.

6. With its present service fee petition, UHPA submitted a statement in support of the reasonableness of the proposed service fee together with six exhibits and supporting affidavits. (Board Exhibit 1). In said petition UHPA solely requested that an annual per capita payment of \$25 per employee in unit 7 be added to the existing \$77 per year, retroactive to July 1, 1975. Said \$25 would be equally divided between the two nationals.

7. The documentation of the cost of services to UHPA provided by the two nationals was prepared by the AAUP and NEA witnesses. (Board Exhibit 1). This documentation was based upon weekly time sheets and expense vouchers kept in the normal course of business and through a budget coded accounting system. (Tr. 13, 38). Said cost of services to UHPA provided by the NEA and the AAUP is as follows:

A. The actual cost of NEA and AAUP assistance in formulating UHPA bargaining and organizational objectives and strategies and developing and coordinating national assistance from November 1, 1974, to March 31,

1975, was \$18,992.95. (Board Exhibit 1 at 4). This amount consists of \$6,357 for the salaries of AAUP and NEA officials and staff members, \$8,716.77 for expenses reimbursable from UHPA, and \$3,919.18 in overhead. (Board Exhibit 1 at page 10.) UHPA had projected additional expenditures of \$3,306.24 for the balance of its fiscal year (April 1, 1975, to October 31, 1975) (Board Exhibit 1 at page 10), making a total annual expenditure of \$22,299.19. UHPA's witnesses, however, testified that between April 1, 1975, to August 31, 1975, NEA and AAUP expenses have already exceeded the projected \$3,306.24. (Tr. 19, 41).

B. The actual cost of NEA's and AAUP's assistance in the formulation of UHPA's 1974 bargaining contract proposals, in providing specialized research information, and assisting UHPA by providing overall planning and tactical assistance during negotiations between November 1, 1974, to March 31, 1975, was \$19,950.32. (Board Exhibit 1 at page 4). This amount includes \$9,329 for the salaries of the officials and staff of the NEA and AAUP, \$6,504.59 for expenses, and \$4,116.73 for overhead. (Board Exhibit 1 at page 11).

C. The projected cost of NEA's and AAUP's overall support of UHPA in formulating the 1975 contract reopener proposal, by furnishing needed specialized research information, and in assisting the team in its negotiating role and function during the course of negotiating the contract, is \$10,299.70. (Board Exhibit 1 at page 6). This projected cost includes \$5,220 for salaries, \$2,875 for expenses, and \$2,204.70 for overhead. (Board Exhibit 1 at page 12). Both NEA and AAUP witnesses testified that the cost of the reopener services will meet or exceed the total projected amount. (Tr. 21, 42).

D. The actual cost of AAUP training of UHPA leaders and staff in administering the provisions of the contract, including on-site assistance in processing grievances for the period November 1, 1974, to May 31, 1975, was \$1,343.39. (Board Exhibit 1 at page 5). Included in this cost are \$700 for salary, \$374.64 for expenses, and \$268.75 for overhead. (Board Exhibit 1 at page 13). Projected cost of contract enforcement for the balance of the fiscal year (June 1, 1975, to October 31, 1975) is \$10,464.30, making a total annual expenditure of \$11,807.69. (Board Exhibit 1 at page 6). This projected amount of \$10,464.30 includes \$1,805 for AAUP salaries, \$6,500 for training stipends, travel and other expenses, and \$2,159.30 for overhead. (Board Exhibit 1 at page 13). The AAUP and NEA witnesses testified that by October 31, 1975, the entire projected amount will be exhausted if not exceeded on contract enforcement. (Tr. 23, 43).

E. The projected cost of NEA's providing legal defense and subsistence grants for bargaining unit members on termination and disciplinary cases is \$5,670. (Board Exhibit 1 at page 6). This amount consists of \$4,500 for budgeted cost along with \$1,170 for budgeted overhead. (Board Exhibit 1 at page 14). The entire amount is estimated and contingent. (Tr. 23).

F. The projected cost of NEA and AAUP publications is \$6,089.58. (Board Exhibit 1 at page 6). Of this amount, \$2,756.25 is for the NEA Journal, Reporter, and Higher Education Advocate and \$3,333.33 for the AAUP Academe and Bulletin. (Board Exhibit 1 at page 15). Both AAUP and NEA witnesses testified that these amounts have already been committed and that publication and distribution have either been completed or have already started. (Tr. 26, 43).

8. The total amount actually expended by the NEA and UHPA between November 1, 1974, and March 31, 1975, is \$40,286.66. (Board Exhibit 1 at page 5, as corrected). The projected expenditures for April 1, 1975, to October 31, 1975, is \$35,829.82. (Board Exhibit 1 at page 7). Thus, the aggregate (above items A to F) cost of services provided by the two nationals to UHPA, for the fiscal year beginning November 1, 1974, and ending October 31, 1975, is \$76,116.48 or approximately \$30.45 per unit 7 employee when equally divided among the 2,500 members. This cost of services clearly exceeds the requested \$25 per unit member service fee increase.

9. Both AAUP and NEA witnesses testified that their respective national organizations have incurred other direct and indirect expenses attributable to the services rendered to UHPA which are not included in their documented presentation. Said expenses would bring the cost higher than \$30 per unit 7 employee. (Tr. 26, 29, 44, 48).

10. The UHPA has formed a permanent five-man joint coordinating committee consisting of three UHPA officials and one representative each from NEA and AAUP. The purpose of the committee has been, and will continue to be, the coordination of the services of the two nationals and the avoidance of any unnecessary duplications of services. (Tr. 17, 28, 51).

CONCLUSIONS OF LAW

In the last UHPA service fee decision, this Board denied a request for \$102 which included \$25 in per capita payments to the NEA and AAUP and instead certified as reasonable a service fee of \$77 per employer per year.

In its present request the UHPA has attempted to remedy the deficiency of its first service fee request, i.e., the failure to insure the elimination of unnecessary duplication of services rendered by the NEA and AAUP and the failure to satisfactorily show that the services to be rendered by the two nationals equal or exceed the requested annual per capita of \$25 per employee.

A. The Elimination of the Duplication of Service Rendered by AAUP and NEA.

Charles Bob Simpson, and Woodley B. Osborne testifying on behalf of UHPA, stated that they have formed a permanent five-member joint coordinating committee consisting of three UHPA officials and a representative from each of the two national affiliates. The primary purpose of this joint committee has been and will continue to be to coordinate the services of the AAUP and NEA by developing a working relationship with each of the nationals and UHPA. This relationship includes the sharing of staff and resources as services are rendered to UHPA and capitalizing on the various areas of expertise offered by the AAUP and NEA. In effect, efforts are being made to continually coordinate and review the two nationals so that they will operate as one dual organization.

The Board is of the opinion that these ongoing efforts of UHPA can and will operate as safeguards in the elimination of unnecessary duplication of the nationals' services.

B. Cost of AAUP and NEA Services Rendered Will Equal or Exceed the Proposed Annual Service Fee Increase of \$25 Per Unit 7 Employee.

The UHPA's statement of support, together with six exhibits and affidavits which were well supported by the NEA and AAUP witnesses, was virtually uncontroverted. The Board finds that the expenditures already made and intended to be made by the two nationals in rendering services to UHPA is in excess of \$30 which clearly exceeds the proposed \$25 annual per capitas. The Board is therefore of the opinion that a \$25 increase to the present annual service fee of \$77 for employees in unit 7 is justified, that the services rendered by the NEA and AAUP are related to negotiation and contract administration and that the cost of these services are reasonable.

ORDERS

1. An annual service fee of \$102 shall be deducted by the employer from the payroll of employees in bargaining unit 7 and transmitted to UHPA. Such deductions shall be made each payroll period in an amount which, to the extent possible, is equal to the service fee divided by the number of payroll periods in a year.

2. The amount of the increase, \$25 per employee, shall represent a single national per capita payment and will


be shared by the AAUP and NEA equally. No additional funds shall be transmitted by UHPA to the two nationals.

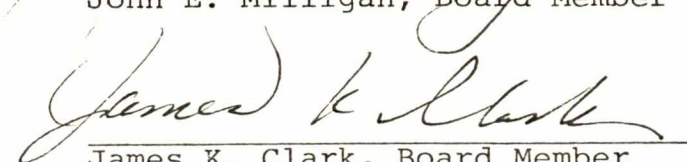
3. The increased service fee shall be retroactive to July 1, 1975, for all said employees on the payroll at that time. For employees hired after such date but before the date of this decision, it shall be retroactive to the date of hire. For employees hired on or after the date of this decision, the service fee shall be effective as of the date of hire. The deductions shall commence at the earliest possible date.

4. The service fee certified herein as reasonable shall continue to be deducted until such time as this Board directs otherwise.

5. The Board may, upon its own motion or the petition of the UHPA or any affected employee, review the reasonableness of said service fee whenever it deems such a review would be appropriate.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


John E. Milligan, Board Member


James K. Clark, Board Member

Dated: September 30, 1975

Honolulu, Hawaii