

STATE OF HAWAII
PUBLIC EMPLOYMENT RELATIONS BOARD

BOARD OF REGENTS, University)	
of Hawaii,)	Case No. RA-07-28
)	Case No. RA-08-28
Petitioner,)	
)	
and)	Decision No. 99
)	
UNIVERSITY OF HAWAII)	
PROFESSIONAL ASSEMBLY,)	
)	
Exclusive Represen-)	
tative, Unit 7,)	
)	
and)	
)	
HAWAII GOVERNMENT EMPLOYEES')	
ASSOCIATION,)	
)	
Exclusive Represen-)	
tative, Unit 8.)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDERS

The University of Hawaii Board of Regents (hereafter BOR), on January 24, 1979, petitioned this Board for the transfer of six positions currently in Unit 7 ("faculty of the University of Hawaii and the community college system") to Unit 8 ("personnel of the University of Hawaii and the community college system, other than faculty").

The procedure invoked by the BOR is substantially consistent with a ruling made in Decision 95 of this Board:

The August 28, 1973 letter is hereby rescinded in its entirety. Henceforth, all changes in unit composition must be brought to the attention of and receive the approval of this Board before they may become effective. While stipulations may be used, in appropriate cases, they will be rejected unless accompanied by sworn affidavits setting forth sufficient facts as to the work performed by the occupants of the positions involved to enable the Board to rule on the desired unit change.

The University, in accord with the above ruling, filed a written statement signed by its Director of Administration, Harold S. Masumoto, along with an affidavit from Mr. Masumoto attesting, in part, to the fact that the position descriptions for the six positions which were attached reflected the actual duties and responsibilities of the subject positions. Mr. Masumoto also attached the position descriptions. All but one of the position descriptions carried 1978 dates; the exception was no older than October 14, 1977. Also attached was a letter indicating that UHPA concurred in the proposed change.

Correct Procedure

Because of the substantial compliance by the University of Hawaii with Decision 95, its petition will be acted upon. However, in the future, petitioners in similar cases should use the printed Petition for Clarification or Amendment of Unit forms provided by this Board. They should continue, as Mr. Masumoto has done, to provide adequate affidavits and an indication of concurrence of the affected exclusive representatives in the proposed change. The concurrence of the Hawaii Government Employees' Association (hereafter HGEA) should have been signified. However, it is reasonable to presume concurrence and such presumption will be made. The function of concurrence will be, in large measure, to obviate a hearing. Accordingly, the petitioner should show that it and the affected exclusive representatives waive a hearing.

Based upon the entire record herein, the Board makes the following findings of fact, conclusions of law and orders.

FINDINGS OF FACT

The BOR is the employer of employees in Units 7 and 8.

UHPA is the exclusive representative of Unit 7.

The HGEA is the exclusive representative of Unit 8.

The BOR, UHPA and HGEA concur as to the appropriateness of the requested transfer of six positions from Unit 7 to Unit 8 and waive a hearing thereon.

The duties and responsibilities of the subject positions are reflected in current position descriptions which have been provided to this Board as part of this case, five of said descriptions being dated in 1978 and the sixth in 1977.

All position descriptions, in addition to being certified as accurate by the supervisors of said positions, have been certified to be accurate by the incumbents in said positions.

Five of the positions are concerned with administrative work. They are, by job title: Coordinator of Personnel Development in the Office of the State Director for Vocational Education; Registrar, Windward Community College; Registrar-Financial Aides Officer, Maui Community College; Student Services Coordinator, Office of the Chancellor for Community Colleges.

The sixth position is a technical one: junior plant physiologist in the College of Tropical Agriculture. The incumbent provides high level analytical, chemical, instrumentational and statistical services to research

projects in the Department of Botany and for the Analytical and Technical Services Center. The position is primarily research and provides support services to research efforts under the direction of a principal investigator or other official by following relatively established procedures or routines and has no authority to determine the scope and direction of the research.

CONCLUSIONS OF LAW

The BOR, by competent evidence, has established that it would be appropriate and consistent with Section 89-6, Hawaii Revised Statutes, to place the six positions which are the subject of this case into Unit 8 rather than Unit 7. This fact plus the concurrence of both affected exclusive representatives convince the Board that the requested unit amendments should be granted.

ORDERS

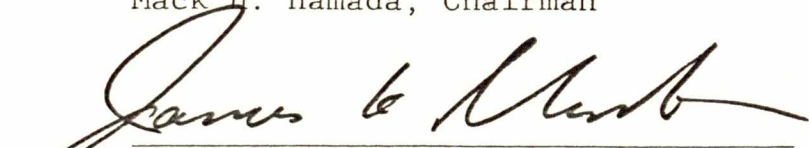
The six positions which are the subject of this decision shall be transferred from bargaining Unit 7 to bargaining Unit 8. The mechanics, including the effective date of said transfer, shall be worked out among the three parties to this case, provided that in no event shall the effective date be earlier than the date of this decision. If the parties fail to agree upon the mechanics of the transfer, any of them is free to make a motion to this Board for assistance in resolving the dispute.

The procedural steps outlined in the introductory portion of this decision as appropriate for use in cases of

this kind, which are entitled Correct Procedure, are incorporated hereunder and given the status of orders of this Board.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


James K. Clark, Board Member


John E. Milligan, Board Member

Dated: January 31, 1979

Honolulu, Hawaii