

STATE OF HAWAII  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of )  
UNIVERSITY OF HAWAII )  
PROFESSIONAL ASSEMBLY, )  
Petitioner. )

Case No. SF-07-57

Order No. 365

ORDER DIRECTING EXCLUSIVE REPRESENTATIVE  
TO PETITION FOR A NEW CERTIFICATION OF  
THE REASONABLENESS OF ITS SERVICE FEE

On March 13, 1978 this Board rendered Decision 87 which held that an annual service fee of \$120 plus .2 percent of the amount of the employees straight time salary in effect on July 1, 1977 was reasonable for the employees of Unit 7 (faculty of the University of Hawaii and community college system).

There has been no review of said service fee since the issuance of Decision 87.

Subsequent developments, including a major interpretive change of this Board respecting service fee reviews, compel this Board to direct the University of Hawaii Professional Assembly (hereafter UHPA) to petition for a new certification of the reasonableness of its service fee.

The aforementioned interpretive change was set forth in an order in Decision 88 of this Board in Case No. SF-12-50 (May 4, 1978):

SHOPO is directed to petition for a service fee review no later than September 30, 1978, the ending date of its projected budget. In establishing this precedent, the Board is cognizant that SHOPO's service fee will be reviewed only five months from now. The Board, however, upon deeper consideration of its duty to certify the reasonableness of service fees, believes that

it cannot approve a service fee for periods for which there is no accounting or showing as to how the service fee monies will be spent. Accordingly, henceforth, the Board will certify service fee amounts only for periods for which a projected budget has been provided.

The authority for this Order is contained in Subsection 89-4(a), Hawaii Revised Statutes (hereafter HRS)\*, Decision 64 and the Decision and Order of the Circuit Court entered on November 27, 1978, in the Case of Jensen v. Hamada, Civil No. 54992.

Decision 64 stated in relevant part:

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.

The Decision and Order of the Circuit Court in Civil No. 54992 stated that the decision of the Hawaii Supreme Court in Yamada v. Natural Disaster Claims Commission, 54 Haw. 621 (1973) was not a complete bar to reconsideration of a service fee decision for all time and that under exceptional circumstances a service fee could be reviewed.

The passage of more than two years since the last Unit 7 service fee decision and the major change established in Decision 88 in regard to the interpretation of Subsection 89-4(a), HRS, constitute exceptional circumstances which justify a review of the service fee for Unit 7.

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\* The subsection requires the Board to certify the reasonableness of service fees.

Accordingly, the UHPA is hereby ordered to petition this Board for a new certification of the reasonableness of service fees no later than 4:30 p.m., Friday, December 19, 1980.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

  
Mack H. Hamada, Chairman

  
James K. Clark, Board Member

  
John E. Milligan, Board Member

Dated: November 10, 1980

Honolulu, Hawaii