

STATE OF HAWAII

PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)	
HAWAII FEDERATION OF COLLEGE)	Case No. <u>SF-07-19</u>
TEACHERS,)	(Decision No. <u>52</u>)
Exclusive Representative,)	
and)	
UNIVERSITY OF HAWAII)	Order No. <u>5</u>
PROFESSIONAL ASSEMBLY,)	
Intervenor.)	

ORDER DENYING MOTION FOR RECONSIDERATION

On September 30, 1974, the above-named Intervenor filed with this Board a Motion for Reconsideration of Decision No. 52 issued on September 25, 1974, in the above-numbered case. Said Intervenor attached to its motion a memorandum in support of the motion for reconsideration.

The Intervenor's memorandum rested its case for reconsideration on the grounds that, in three instances, "[s]ignificant findings of fact are not supported by any evidence."

Said findings of fact as recited in Intervenor's memorandum, misstate the actual findings of fact made by this Board.

First, Intervenor claims there was no evidence that the Hawaii Federation of College Teachers (hereafter HFCT) had been engaged in preparation of bargaining proposals after January 16, 1974.

This is false. There is considerable evidence in the record that after January 16, 1974, work was done in preparation for a resumption of negotiations.

Secondly, Intervenor asserts that the Board found that the HFCT had brought prohibited practice charges against the University and says there is no evidence to support this finding. Intervenor misrepresents the Board's finding of fact which was not restricted to finding that the HFCT had filed prohibited practice charges. The Board's actual findings of fact in relevant part was stated as follows:

"The HFCT submitted evidence to show what services it has provided to unit 7 employees with service fee monies. It has represented employees in their complaints against the employer which included grievances, prohibited practice charges and lawsuits." p. 6, Dec. No. 52. (emphasis added).

Thirdly, Intervenor states that this Board found "it has been necessary for HFCT to retain its staff and maintain its offices and facilities." (emphasis added).

This is a false statement of the Board's findings. The Board stated that HFCT had chosen to maintain such staff and facilities.

In sum, every assertion by Intervenor that the Board made erroneous findings of fact is supported by Intervenor by a misstatement or misrepresentation by Intervenor of what the Board's findings actually were.

Intervenor also alleges the Board made conclusions of law which are inconsistent with Chapter 89, Hawaii Revised Statutes. With this contention the Board disagrees.


It is worth noting that the Intervenor expressed concern that the Board's conclusions of law could support the inference that "proceeds of the service fee may be used by an incumbent union to protect itself against a competing union in an election to determine who shall be the exclusive representative." The inference is unwarranted. The Board

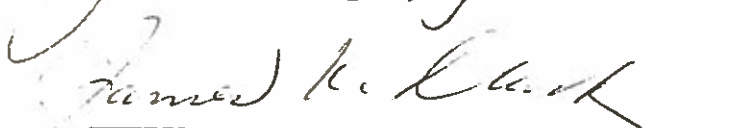
has not ruled on this issue but has pending before it a case raising said issue and will deal with the issue in the rendition of its decision in said case.

In view of the foregoing, Intervenor's motion that this Board "reconsider and modify or reverse its findings of fact, conclusions of law and order in the above-entitled matter" is denied.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


John E. Milligan, Board Member


James K. Clark, Board Member

Dated: November 1, 1974

Honolulu, Hawaii