STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

UNIVERSITY OF HAWAI'I
PROFESSIONAL ASSEMBLY,

Complainant,

and

BOARD OF REGENTS, University
of Hawaii,

Respondent.

) CASE NO. CE-07-173
) ORDER NO. 953
) ORDER CLARIFYING DECISION
) NO. 335

ORDER CLARIFYING DECISION NO. 335

On April 12, 1993, the Board issued Decision No. 335 in Case No. CE-07-173. The Board found that the BOARD OF REGENTS, University of Hawaii (BOR or Employer) had committed a prohibited practice and ordered the BOR, inter alia, to temporarily assign Richard Nishioka to the position of Director of Admissions and Records, retroactive to November 1, 1991 and reimburse him for the net loss of earnings and benefits from November 1, 1991 to the date the position is filled on a permanent basis.

On June 18, 1993, the UNIVERSITY OF HAWAI'I PROFESSIONAL ASSEMBLY (UHPA) filed a motion for clarification and enforcement of Decision No. 335. In its motion, UHPA requests clarification of the Board decision as it pertained to the amounts owing to Nishioka.

On July 13, 1993, the Board held a conference on this matter. The BOR, by and through its counsel, indicated that
Associate Director Nishioka was not entitled to any increase in salary from the temporary assignment because he had the same salary rank as Director Fukuda. The BOR indicated, however, that it was prepared to offer Nishioka a $250 per month stipend retroactive to November 1, 1991 until the Director’s position was permanently filled.

In Decision No. 335, the Board ordered the BOR to compensate Nishioka for the amounts which he would have received but for the prohibited practices committed by the BOR. As the Board is constrained by the record in this case, the uncontroverted testimony adduced at the hearing indicated that Nishioka would have earned an additional $500 per month for a temporary assignment to the Director’s position. Thus, the Board ordered the BOR to reimburse Nishioka an additional $500 per month from November 1991 until such time as the Director’s position was permanently filled. The BOR’s subsequent discovery that its position was erroneous does not affect the Board’s decision and order.

DATED: Honolulu, Hawaii, July 23, 1993

HAWAII LABOR RELATIONS BOARD

BERT M. TOMASU, Chairperson

RUSSELL T. HIGA, Board Member

SANDRA H. EBESU, Board Member

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