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# Alaska Labor Relations Agency 2014 Annual Report

*State of Alaska  
Governor Bill Walker*

*Department of Labor  
and Workforce Development  
Commissioner Heidi Drygas*



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*Gary P. Bader, Chair  
Mark Torgerson, Administrator*

*Submitted August 24, 2015*

# 2014 ANNUAL REPORT

Submitted August 24, 2015  
(In accordance with AS 23.05.370)

## INTRODUCTION

The Alaska Labor Relations Agency, or ALRA, administers the Public Employment Relations Act (PERA) for public employers and employees, including the State, municipalities, public schools, and the University. The Agency also administers the railroad labor relations laws for the Alaska Railroad Corporation. ALRA investigates and processes petitions for certification or decertification of bargaining representatives, petitions to clarify the composition of public employee bargaining units and to amend the certification of units, and charges of unfair labor practices. The Agency also enforces collective bargaining agreements, determines employee strike eligibility, and rules on claims for religious exemption from the obligation to pay fees to a bargaining representative.

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## PERSONNEL

### BOARD MEMBERS

A board of six members governs the Agency. The board members serve staggered three-year terms and must have backgrounds in labor relations. Two members each must be drawn from management, labor, and the general public. AS 23.05.360(b). Members volunteer their time as they are unpaid, but they receive per diem. Not more than three members may be from one political party. The following Alaskans serve on the Board:

Gary P. Bader, Chair	Reappointed March 1, 2013	Public
Lynne Curry, Vice Chair	Appointed March 1, 2014	Public
Will Askren, Board Member	Reappointed March 1, 2014	Management
Tyler Andrews, Board Member	Reappointed March 1, 2015	Management
Lon Needles, Board Member	Appointed March 1, 2015	Labor
Matthew McSorley, Board Member	Appointed August 13, 2015	Labor

### STAFF

Mark Torgerson, Administrator/Hearing Examiner  
Tiffany Thomas, Hearing Officer/Investigator  
Margie Yadlosky, Human Resource Consultant I  
Vacant, Office Assistant III

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STATUTES

Relevant statutes include AS 23.05.360--23.05.390; AS 23.40.070--23.40.260 (PERA); and AS 42.40.705--42.40.890 (railroad).

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REGULATIONS

The Agency's regulations appear in 8 AAC 97.010--8 AAC 97.990.

## 2014 HIGHLIGHTS.

***Board Appointments.*** During 2014, former Governor Sean Parnell reappointed board member Will Askren to a management seat and appointed Lynne Curry to a public seat. In early 2015, Governor Bill Walker appointed Lon Needles to a labor seat. Daniel Repasky, who was appointed to a labor seat on March 10, 2010, resigned on May 31, 2015. Governor Bill Walker appointed Matthew McSorley to that labor seat on August 13, 2015. The Alaska Labor Relations Agency now enjoys a full board.

***Interest Card Forgery Case.*** Since 2010, the Agency has spent considerable time working with and assisting investigators and prosecutors at the State's Office of Special Prosecutions and Appeals in a criminal investigation related to forgery in a representation petition filed at the Agency. The investigation culminated in criminal charges filed in Alaska Superior Court on February 1, 2012, against a former union employee and a former state assistant attorney general. The former union employee was indicted on several felony forgery charges, and the former assistant attorney general was indicted on a charge of official misconduct, a Class A Misdemeanor.

On February 25, 2013, the former union employee pled guilty to forgery of legal documents. She was sentenced to 24 months in jail, with all time suspended, and ordered to pay the Department more than \$12,000 in restitution. The charge against the former assistant attorney general is still pending in criminal court.

**Caseload Trends.** Case filings in 2014 (17) increased from 2013 (14) and 2012 (14). This reverses a short-term trend of fewer filings in recent years. (See "CASE LOAD COMPARISON BY YEAR" chart, page 7).

As shown by the "OVERVIEW" table on page 6, the number and type of cases filed each year is unpredictable. The Agency has no direct control over case filings. Factors that affect filings include organizing efforts, expiration of collective bargaining agreements, economic factors, and changes to statutes and regulations.

**Appeals to Alaska Courts.** One appeal of an agency Decision and Order was filed in Superior Court on January 17, 2014, concerning unit disputes at the University of Alaska. Until this appeal, there had not been an appeal of an agency decision since 2007.

**Unit Clarification Petitions.** In 2014, one unit clarification (UC) petition was filed. (See "CASES FILED" on page 6 for a year-by-year comparison). Except in 2006 when 4 UC's were filed, UC case filings have decreased in recent years.

Historically, UC petitions typically involved a dispute over the extent of an employee's supervisory or confidential duties and outnumbered all other filings combines. The employee's actual duties affect bargaining unit placement. Most UC disputes have involved the State of Alaska, the Alaska State Employees Association (ASEA) (the largest state union, representing the general government unit), and the Alaska Public Employees Association (APEA) (representing the state supervisors' unit). The unit clarification petition filed in 2014 involved positions at the Kashunamiut School District represented by the Chevak Education Association, NEA-AK/NEA. In recent years, issues on UC petitions included whether a position should be excluded from all bargaining units, or whether a position belongs in a certificated unit of teachers or support staff.

**Unfair Labor Practice Complaints.** Unfair labor practice (ULP) charges filed in 2014 (9) decreased from 2013 (12). (See "CASES FILED" on page 6 for a year-by-year comparison). Completing unfair labor practice cases generally consumes a substantial percentage of the Agency's workload duties because the process requires agency investigations, prehearing conferences, and board hearings. Like all case types, ULP case filings are unpredictable in their nature and complexity. (See "CASES FILED" page 6, analysis at page 13, and chart on page 15. In 2014, 56% of ULP filings were education-related, 33% were State-related cases, and 11% were political subdivision-related cases. There were no railroad cases filed during the year. (See "Unfair Labor Practice Charges Filed" page 14).

Bad faith bargaining charges usually arise in the context of collective bargaining: one party believes the other party has failed to bargain in good faith under the law. In 2014, 33.3% of unfair labor practice charges concerned bad faith bargaining, while 33.3% dealt with domination or interference with formation, existence or administration

of a labor organization and 33.4% concerned interference with employee's protected rights. There were no duty of fair representation or Weingarten<sup>1</sup> case filings. Nine ULP investigations were completed in an average of 133 days compared to a 97-day average to finish five investigations in 2013. As indicated above, case nature, complexity and workload size can affect the time to conclude investigations.

**Elections.** There were three representation petitions filed during the year, two for certification of a unit, and one to decertify a unit. The number of representation petitions has steadily decreased since 2010 when parties filed 11 such petitions. The decertification petition was the first such petition filed in eight years. (See "CASES FILED" page 6).

**Strike Petitions.** There was one strike class petition filed in 2014. (See "CASES FILED" page 6).

**Emphasis on Informal Resolution.** The Agency continues to encourage informal resolution through mediation and other means. To this end, the Agency's hearing officer works with parties to resolve unfair labor practice disputes. When successful, this informal resolution saves parties and the Agency the time and expense required to litigate these disputes through the hearing process. The Agency continues to resolve disputes informally. In 2014, the hearing officer successfully resolved eight unfair labor practice cases.

**Website.** The Agency provides information on its Internet web site, accessible through the State of Alaska's home page (<http://www.alaska.gov>) or directly at <http://labor.alaska.gov/laborr/home.htm>. The site contains a link for contacting the Administrator by e-mail, information about Agency programs and resources, and access to a searchable database of all Agency decisions. The Agency continues to add new materials to the website and welcomes public suggestions.

**Training.** The ALRA Board is supported on a day-by-day basis both legally and administratively by ALRA staff who have certificated legal experience and many years of on-the-job experience. It is important that the Board and staff members participate in continuing education to allow a professional and objective response to the myriad of complex and ever-evolving labor relations issues that arise before the Agency. Training provides information and tools that increase the Board and staff's ability to produce a quality work product for the public. However, due to a lack of funding, no board member has attended training or continuing education for several years. This lack of training funding will most likely result in some board members losing knowledge of current case law, rules, and regulations pertinent to their decisions. This would likely apply to those members who are no longer employed.

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<sup>1</sup> Employee right to union representation at investigatory interview that could lead to discipline.

The Agency did provide training once again, for a law student intern during the summer of 2014. Last year's summer intern was Shalom Sands from Seattle University Law School. This intern program, started in 2008, is a combined effort by Seattle University Law School, the University of Alaska Anchorage, and primarily Alaskan governmental entities to provide legal experience and training to law students. The Agency previously shared responsibility with the Alaska Workers' Compensation Appeals Commission to train two interns. Since 2013, however, the Agency assumed exclusive responsibility for training one intern.

Interning requires law students to apply through the Seattle University School of Law as part of its "Study Law in Alaska" program. This program gives law students an opportunity to work in the labor law field and to experience a summer in Alaska. Students are selected by the ALRA Administrator. Due to limited funding, interns are no longer reimbursed for their plane fare or other expenses. Interns do not receive any compensation from the State for their training and work at the Agency.

Among other things, the intern program encourages law students to consider relocating to Alaska and working in labor law or other legal fields. The Agency has received positive reviews from participating students and from Seattle University Law School's program director. Thus far, three interns who have completed the program have either moved to Alaska or plan to move here. Two former interns have passed the Alaska Bar exam and are now practicing law in Alaska.

In a related development, Alaska will soon have its first law school connection in state. Starting with the 2015 fall semester, Seattle University School of Law will open a satellite campus at Alaska Pacific University in Anchorage. This program, offering students the opportunity to spend their third year of law school in Alaska, provides a variety of Alaska-related courses taught by Alaska's bench and bar and by faculty from Seattle University's School of Law.

**Outreach.** Agency Hearing Officer Jean Ward and Hearing Examiner Mark Torgerson each gave presentations during the year. Hearing Examiner Mark Torgerson spoke at the International Brotherhood of Electrical Workers "Learning Lunch" in April providing information about the Public Employment Relations Act (PERA) and discussing the difference between it and the National Labor Relations Act (NLRA). Both Mr. Torgerson and Ms. Ward spoke at the Alaska Public Employees Association biennial caucus. They discussed the evolution of public labor relations in Alaska and at the Agency. They also provided a historical overview of ALRA and PERA and shared insights gained through their combined 40 years of experience at the Agency. They emphasized the importance of parties' developing and maintaining good relationships, particularly after they experience long, difficult negotiations. After the presentation, they answered participants' questions.

**OVERVIEW**

<b>CASES FILED</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Amended Certification (AC)	1	0	0	0	0
Recognition by Mutual Consent (RM)	0	0	0	0	1
Representation (RC)	7	2	0	0	1
Decertification (RD)	0	0	0	0	1
Decert. to certify a new rep.(RC/RD)	3	2	0	0	0
Strike notice or strike class petition (SP)	2	0	0	0	1
Unit Clarification (UC)	1	1	2	1	1
Unfair Labor Practice Charge (ULP)	9	13	8	12	9
Religious Exemption Claims(RE)	1	3	1	0	2
Contract Enforcement (CBA)	3	1	3	1	1
Other (OTH)	0	0	0	0	0
<b>TOTAL</b>	<b>27</b>	<b>22</b>	<b>14</b>	<b>14</b>	<b>17</b>

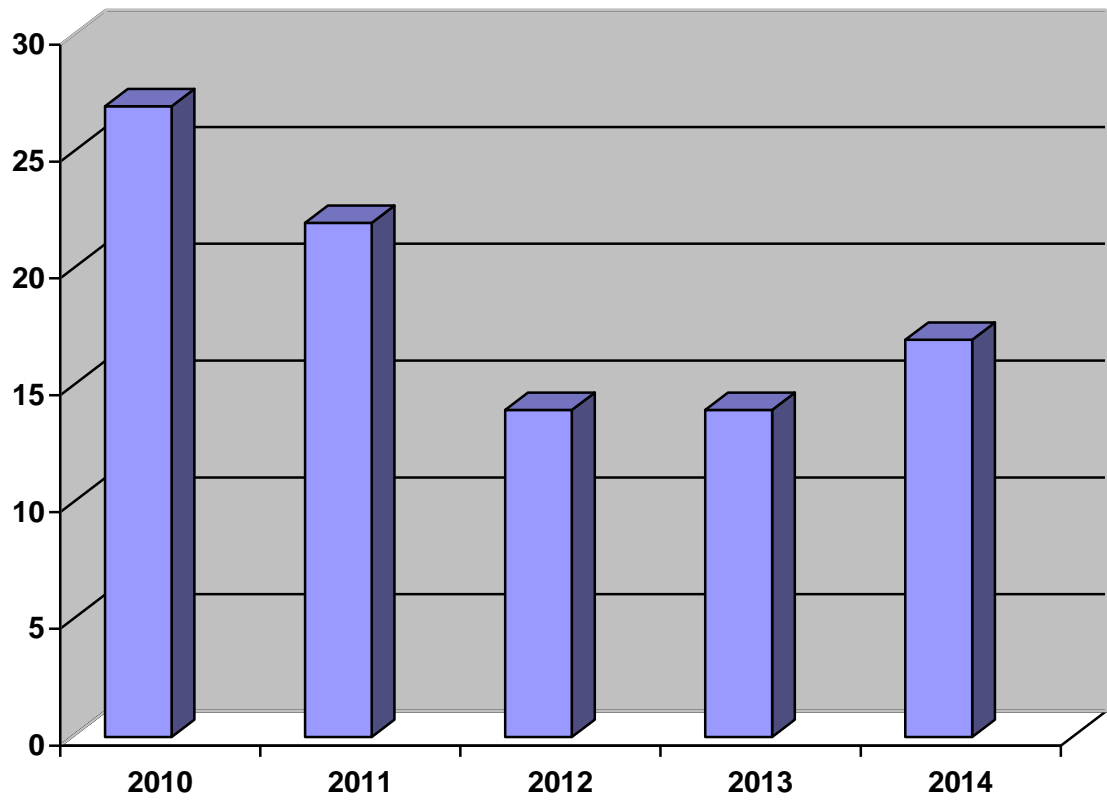
<b>AGENCY ACTIVITY</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Unfair Labor Practice Investigations	8	8	8	5	9
Unit Clarification Investigations	0	4	1	1	1
Decisions and Orders Issued	2	5	1	4	2
Other Board Orders Issued	2	6	2	2	5
Hearing Officer Orders Issued	3	6	4	1	4
Elections Conducted (includes AC)	1	5	1	0	2
<b>TOTAL</b>	<b>16</b>	<b>34</b>	<b>17</b>	<b>13</b>	<b>23</b>

<b>FINAL DISPOSITION</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Notices of dismissal issued	6	9	4	2	5
Cases settled or withdrawn	10	8	10	4	7
Cases that went to hearing	1	5	3	0	4
Impasse matters settled or withdrawn	0	0	0	0	1
Cases deferred to arbitration	1	0	0	0	1
<b>TOTAL</b>	<b>18</b>	<b>22</b>	<b>17</b>	<b>6</b>	<b>18</b>

**CASE STATUS SUMMARIES**

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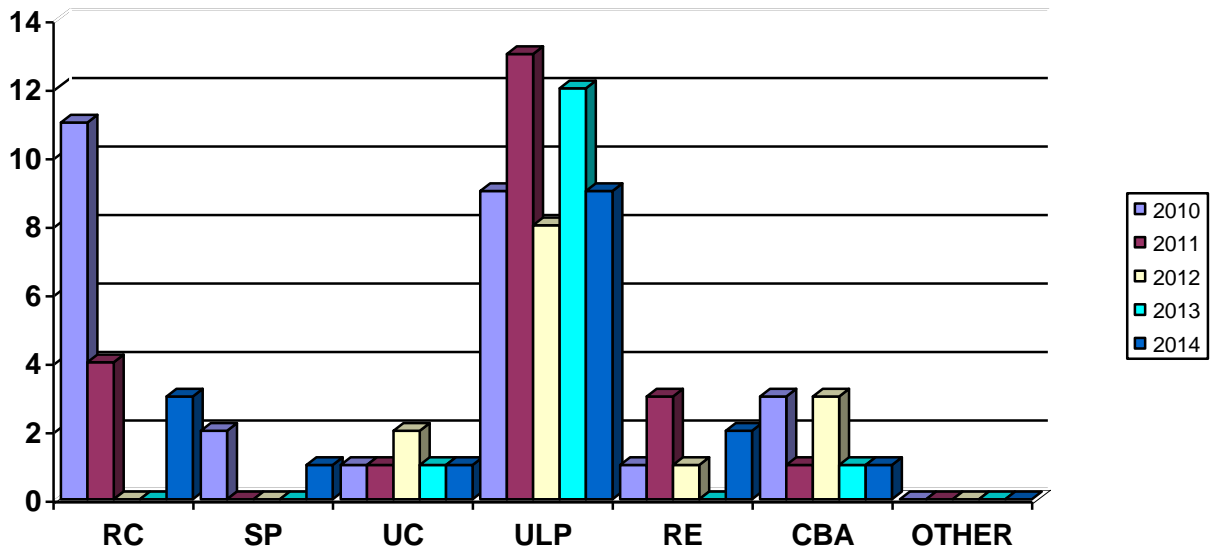
**CASE LOAD COMPARISON BY YEAR**





CHARTS

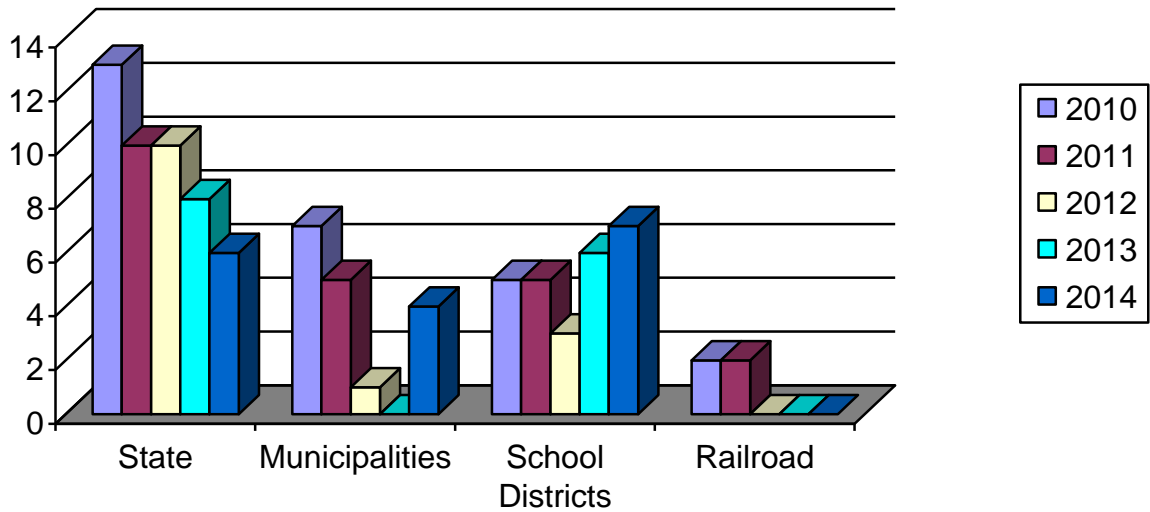
PROGRAM COMPARISON BY YEAR



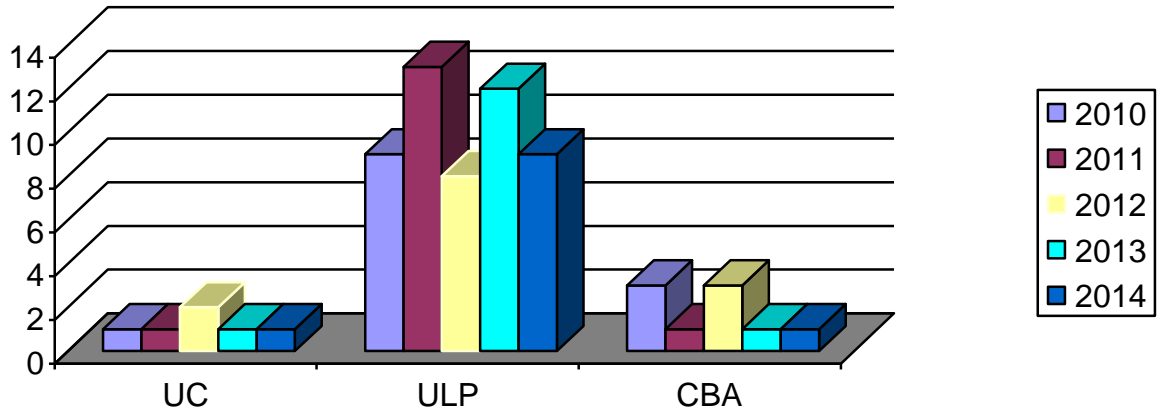
RC Representation petitions  
 SP Strike notices and petitions  
 UC Unit clarification petitions

ULP Unfair labor practice charge  
 RE Religious exemption claim  
 CBA Contract Enforcement

EMPLOYER COMPARISON BY YEAR

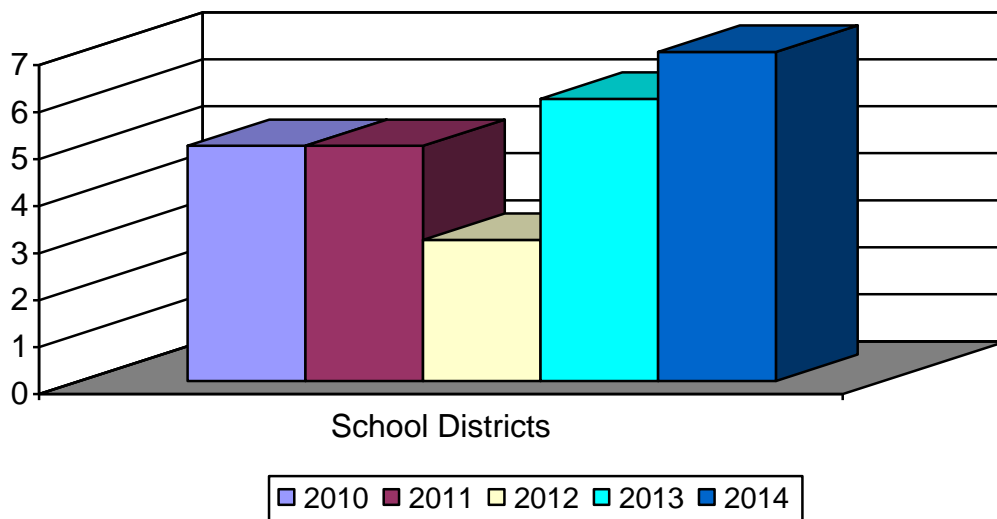


**PROGRAM FIVE YEAR TRENDS**



UC Unit clarification petitions  
 ULP Unfair labor practice charges  
 CBA Contract Enforcement petitions

**SCHOOL DISTRICT ACTIVITY FROM 2010 TO 2014  
 FOR ALL CASES FILED**



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**REPRESENTATION PETITIONS (AS 23.40.100; AS 42.40.750)**

Labor organizations, employers, or employees may file a petition to initiate a secret ballot election for certification or decertification of a labor or employee organization for collective bargaining. Alternatively, parties may notify the Agency that the employer consents to the labor organization’s exclusive representation of a particular unit of employees. When this occurs, no election is required if investigation verifies the majority status of the labor organization.

Prior to conducting an election, the Agency resolves any objections raised by a party. If a party files an objection, a hearing is conducted before the agency board which issues a decision and order that clarifies who gets to vote in the election.

During 2014, the Agency fielded numerous questions on organizing and decertifying efforts. There were three representation petitions filed. Two of the petitions concerned a bargaining unit represented by the International Brotherhood of Electrical Workers, Local 1547, at the City of Seldovia. One petition filed by the City of Seldovia was dismissed due to insufficiency. The second petition was filed by the bargaining unit members who no longer wanted to be represented by the International Brotherhood of Electrical Workers, Local 1547. An election was conducted and the results of the tally were zero voted for representation by the International Brotherhood of Electrical Workers, Local 1547.

Petitions for recognition by mutual consent are a type of representation petition filed to change a bargaining unit's name, affiliation, site, or location. There was one filed in 2014 which resulted in a Certification of Representative for a unit represented by the Hydaburg Education Association, NEA-AK.

<b>REPRESENTATION PETITIONS FILED</b>	<b>3</b>
Employer	
State	0
Municipalities	2
Public Schools	1
Railroad	0
Type	
To certify a new unit	2
To decertify the unit	1
To change representatives	0
To amend certificate	0
Hearings conducted	0
Petitions that proceeded to election	1
Mutual Consent Petitions certified	1

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**STRIKE AND STRIKE CLASS PETITIONS (AS 23.40.200; 8 AAC 97.300 REPEALED; AS 42.40.850)**

Under the Public Employment Relations Act (PERA), the Agency hears disputes about strike classifications and impasse matters. Strike classification is important to employees and employers because it essentially determines whether employees have the legal right to strike. PERA divides public employees into three separate classes for purposes of authorization to strike. Class I's, such as police and fire fighters, are prohibited from striking. Class II's, such as snow removal workers, may strike for limited periods of time until a court determines that public safety and health are affected. Class III's, which include a wide range of public employees, have a broad right to strike.

There was one strike class petition filed in 2014. This case was dismissed after the parties mutually agreed to mediation, and a tentative agreement was reached and ratified by the bargaining unit members.

**STRIKE PETITIONS FILED** 1

Employer

State	1
Municipalities	0
Public Schools	0
Railroad	0

Hearings Conducted 0

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**UNIT CLARIFICATION AND UNIT AMENDMENT PETITIONS (8 AAC 97.050)**

Unit clarification (UC) and unit amendment petitions are filed to resolve disputes over unit composition. An employer's reorganization of its staff, or adding or eliminating positions can raise a question of the appropriate unit for the positions. Representation may not be an issue in a unit clarification petition, and unit issues that come up in the process of handling a representation petition are not counted here.

In 2014, one new unit clarification petition was filed and one was resolved, leaving two open UC cases by year's end. Historically, most unit clarification disputes arise as objections to transfers of state employees from one state bargaining unit to another. This typically occurs when the State changes a position's job duties, and the State proposes to move the position to the supervisory or confidential unit from the general government unit. If agency investigation shows there is reasonable cause to

believe that a question of unit clarification exists, the case is scheduled for hearing. Otherwise, the case is dismissed.

There were no unit clarification petitions heard by the ALRA board in 2014. However, the Board did issue a decision and order in 2013 on a case involving a unit clarification dispute between the University of Alaska and two faculty bargaining units: the University of Alaska Federation of Teachers, (formerly the Alaska Community Colleges Federation of Teachers) and United Academics. This long-simmering dispute concerned the appropriate bargaining unit placement of a multitude of positions, and the appropriate boundary between the two bargaining units. The ALRA Board issued a decision granting the University's request for clarification and also modified the two bargaining unit descriptions of the faculty units. (See a more detailed decision summary at page 18). The University of Alaska Federation of Teachers appealed the board's decision to the Alaska Superior Court. (Two related unfair labor practice complaints are in abeyance pending the ultimate outcome of this unit clarification dispute.) This case is still pending.

<b>UNIT CLARIFICATION PETITIONS FILED</b>	<b>1</b>
Employer	
State	0
Public Schools	1
Municipalities	0
Railroad	0
Hearings conducted	0

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## UNFAIR LABOR PRACTICE CHARGES (AS 23.40.110; AS 42.40.760)

Employers, labor organizations, or individual employees may file unfair labor practice (ULP) complaints (charges). Types of charges against employers include retaliation for union membership or exercise of employee rights, coercion, domination or interference with an organization, and bad faith bargaining. Charges against unions include coercion, bad faith bargaining, dues disputes, and interference with the employer's selection of its own collective bargaining representative.

Unfair labor practice filings in 2014 decreased 25% from those filed in 2013. (See "CASES FILED" page 6 for longer-term trends). Total filings for the year (9) approximated the five-year average of 10 per year. (See "PROGRAM COMPARISON" page 8). Of the 9 charges filed, 34% concerned bad faith bargaining, 33% concerned domination or interference with formation, existence or administration of a union, and 33% concerned interference with protected rights. Unlike 2013, there were no case filings based on allegations of duty of fair representation charges or violation of Weingarten rights. As in the past four reporting years there were again no filings related to discrimination in regard to hire or tenure of employment, or a term or condition of employment to encourage or discourage union membership.

The Agency ranks ULP's by level of priority for determining which cases are investigated first. For example, disputes that affect a large number of employees usually receive high priority. There have not been any high priority ULP cases filed for the past three years compared to one each filed in 2010 and 2011, and five in 2009.

While priority ranking affects which cases are investigated first, the nature and complexity of a ULP case and the extent of the parties' cooperation affect the time it takes to complete ULP investigations. The Agency's ability to timely complete investigations is also affected when case filings rise significantly or other workload components such as extensive public records requests take priority.

During 2014, the Agency completed nine ULP investigations in an average of 133 days, a 37% increase in completion rate over 2013's average. (See "TIMELINESS" page 17). Of the nine investigations, all were normal priority, but they varied in length and complexity. An investigation involving a University of Alaska bargaining unit was particularly lengthy and complex. One pending ULP case was placed in abeyance at the parties' request. Parties often request a case be put on hold as they attempt to reach settlement. A case may also be put in abeyance because jurisdiction may lie in the appellate courts. The agency's hearing officer also conducted formal and informal mediation which resulted in a settlement of the unfair labor practice.

If the investigating hearing officer finds there is probable cause that a ULP violation occurred, and informal resolution is unsuccessful, the case is scheduled for hearing. However, some cases scheduled for hearing will resolve prior to hearing. The

one unfair labor practice hearing conducted in 2014 was a lengthy four day hearing. This four-day hearing consolidated four ULP cases involving three Alaska Marine Highway bargaining units and the State of Alaska. By comparison, there were no ULP hearings in 2013 and three ULP hearings in 2012.

**UNFAIR LABOR PRACTICE CHARGES FILED** 9

Employer	
State	3
Municipalities	1
Public Schools	5
Railroad	0
Type	
Arbitration related	0
Bad faith bargaining	3
Retaliation	0
Interference with protected rights	3
Domination or interference (a)(2)	3
Union duty of fair representation	0
Employer action without bargaining	0
Information request	0
Scope of bargaining	0
Weingarten	0
Discrimination	0
Impasse	0
Other	0
Unilateral	0
Investigations	9
Hearings conducted	1
Other resolution	
Dismissals (no probable cause)	3
Deferrals to arbitration	1
Settled or withdrawn	5
Dismissed, inaction	0
Dismissed, final order	0
Dismissed, Insufficient	0
Remand	0
Other	0

<b>Complainant</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Alaska Public Employees Ass'n	2	0	0	3	0
Alaska State Employees Ass'n	0	1	1	1	2
School Unions	0	0	2	0	4
Ferry Unions/Marine	2	3	0	5	0
Other Unions	2	8	2	1	2
Individuals	3	0	1	2	0
Employers	0	1	2	0	1
<b>Total ULPs filed</b>	<b>9</b>	<b>13</b>	<b>8</b>	<b>12</b>	<b>9</b>

**COMPARISON BY ULP COMPLAINANT**

	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
UNION	6	12	5	10	8
EMPLOYER	3	1	2	0	1
INDIVIDUAL	0	0	1	2	0
<b>Total ULPs filed</b>	<b>9</b>	<b>13</b>	<b>8</b>	<b>12</b>	<b>9</b>



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**CLAIMS FOR RELIGIOUS EXEMPTION (AS 23.40.225; AS 42.40.880)**

AS 23.40.225 and AS 42.40.880 allow a public employee to seek an exemption from union membership or agency fee payment on the basis of bona fide religious convictions. There were two such claims filed for exemption in 2014, compared to none in 2013 and one in 2012.

**CLAIMS FOR RELIGIOUS EXEMPTION FILED** 2

Employer		
	State	1
	Municipalities	0
	Public Schools	1
	Railroad	0
Hearings conducted		0

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**PETITIONS TO ENFORCE THE COLLECTIVE BARGAINING AGREEMENT  
(AS 23.40.210; AS 42.40.860(b); 8 AAC 97.510)**

The Agency has statutory authority to enforce the terms of a collective bargaining agreement. All agreements must contain a grievance/arbitration procedure, which the parties must exhaust before filing a petition to enforce the agreement (CBA).

There was one CBA petition filed in 2014. This compares to one filing in 2013 and three in 2012. The highest annual total of CBA case filings during the past decade was in 2003, when parties filed 9 petitions.

**CBA PETITIONS FILED** 1

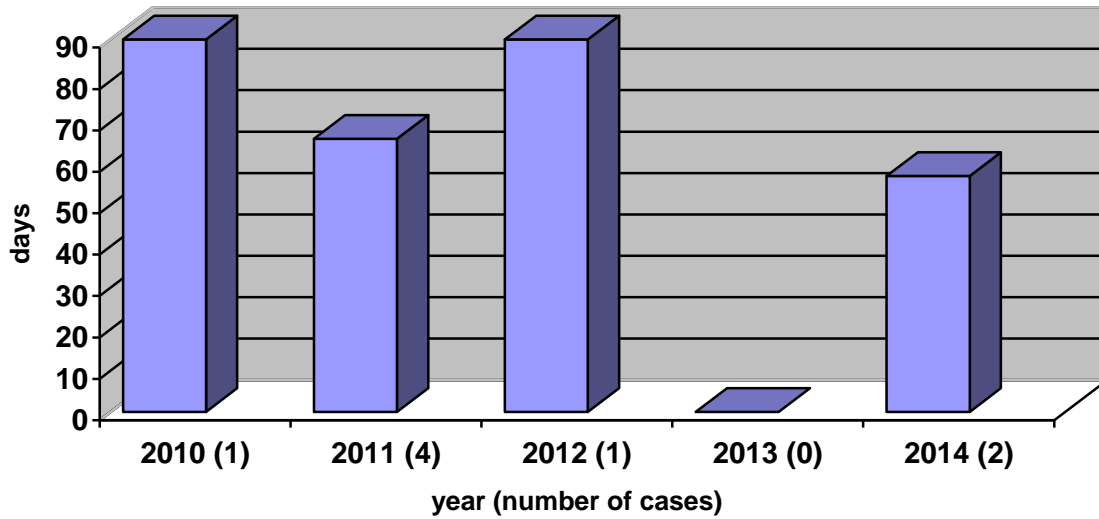
Employer		
	State	1
	Municipalities	0
	Public Schools	0
	Railroad	0
Hearings conducted		0

# TIMELINESS

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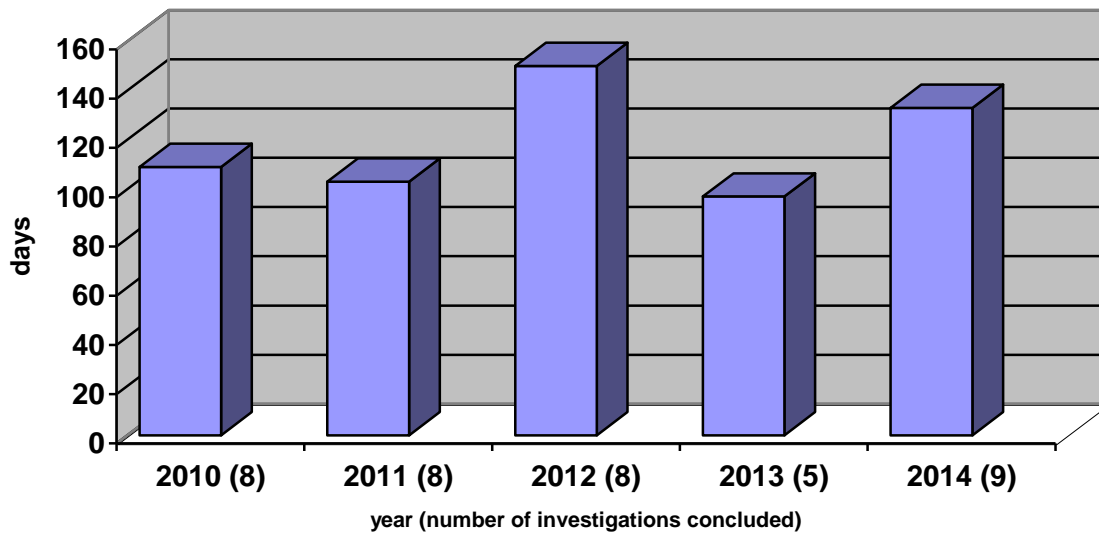
## ELECTIONS

**NUMBER OF DAYS TO CERTIFICATION OF ELECTION.**



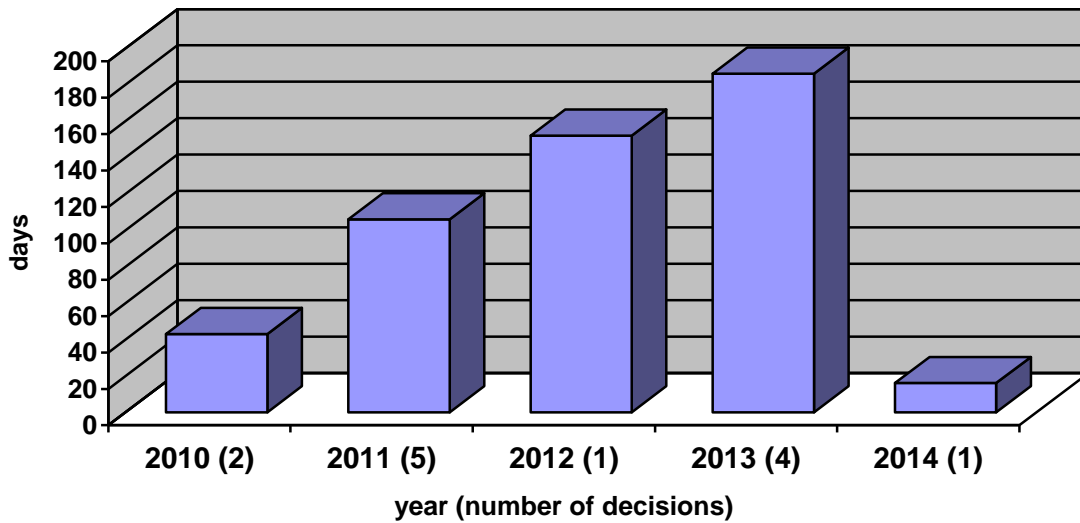
## UNFAIR LABOR PRACTICE INVESTIGATIONS

**NUMBER OF DAYS TO CONCLUSION OF INVESTIGATION.**



DECISION AND ORDERS

NUMBER OF DAYS FROM CLOSING OF RECORD TO DECISION



In 2014, the Board met its goal of issuing 90% of decision and orders within 90 days. The board decision and order was issued in 22 days after record closure.

SUMMARY OF DECISION AND ORDERS ISSUED

1. ***State of Alaska vs. Alaska State Employees Association, AFSCME Local 52, AFL-CIO, Case Nos. 12-1624-ULP and 12-1625-CBA, Decision and Order No. 302 (October 8, 2014).***

The State of Alaska filed an unfair labor practice and a petition to enforce the collective bargaining agreement against the Alaska State Employees Association. The State alleged that ASEA's business manager, Jim Duncan, committed an unfair labor practice and contract violation by attempting to use ASEA's business leave as catastrophic medical leave for bargaining unit members. At a prehearing conference, the parties agreed to allow the agency board to decide the case based on the written record.

The parties' collective bargaining agreement provided that the union business leave bank was funded by a 7.5 hour donation of personal leave from each new bargaining unit member. The bank is administered by the State. It can be used for "absences due to contract negotiations and formulation, meetings, conventions, training sponsored by the Union, attendance at arbitration or other hearings as witnesses for the Union, and other like

purposes as may be determined by the Union." The agreement also provided for a catastrophic leave bank, to be used "only to the extent that the employee's available annual/sick, personal, emergency, banked medical and donated leave is less than ten hours on the first working day of the pay period . . . ."

Jim Duncan, ASEA's executive director, emailed the State and requested that ASEA and the State write a letter of agreement allowing use of business leave for catastrophic leave, on Duncan's approval. Duncan said the reason for the request was the funding source for the bank (15 hours transfer of a member's leave bank on termination) was inadequate and the bank was unable to address members' needs.

The State refused to discuss the matter. Representatives of the State emailed Duncan that the parties could discuss the issue in upcoming contract negotiations. This response triggered a slew of back-and-forth emails but did not result in any agreement as requested by ASEA. The State ultimately filed an unfair labor practice and petition to enforce the contract, alleging that ASEA failed to bargain in good faith by attempting to use business leave for catastrophic leave.

The Board reviewed the evidence and arguments and concluded that the State failed to prove its case: "Although it is evident from a reading of the parties' agreement that catastrophic leave and business leave are two separate types of leave altogether, a mere attempt by one party, without more, to use business leave for catastrophic leave is just that, a unilateral attempt, not a change." Accordingly, the Board denied and dismissed the State's charges.

## APPEALS

There was one appeal of an agency decision filed in the Alaska Superior Court during 2014. This is the first appeal since 2007. A summary of the case follows.

**1. University of Alaska vs. University of Alaska Federation of Teachers, Local 2404, APEA/AFT AFL-CIO and United Academics-AAUP, AFL-CIO, Case No. 08-1537-UC, Decision and Order No. 301 (December 18, 2013). Appealed to Superior Court on January 17, 2014.** The University of Alaska filed a petition to clarify the unit boundaries and composition of the full-time faculty bargaining units represented by the University of Alaska Federation of Teachers (UAFT) and United Academics (UNAC). UAFT was the former community college union that represented faculty who taught lower division courses or in programs that lead to associate's degrees and certificates (such as in welding and surveying). UAFT was formed in 1973. Through the ensuing decades, some UAFT faculty occasionally taught upper division courses.

In 1996, UNAC was created and certified. UNAC's unit description provides that it represents all full-time faculty *not* represented by UAFT. Eventually, a rift developed between UNAC and UAFT primarily because UNAC believed it should have all faculty

teaching upper division courses in its unit. UAFT disagreed, contending that its collective bargaining agreement with the University allows its faculty to teach upper division courses, if its faculty member and the University agree in writing.

The parties' dispute arose in the early 2000's and continued off and on until 2008, when the University filed a petition for clarification of unit boundaries and unit composition. After numerous attempts through the years at mediation and settlement, the parties went to hearing. The hearing lasted three weeks. The parties filed exhibits and pleadings totaling 7,500 pages, and 44 witnesses testified.

At hearing, the University contended that due to the evolution and expansion in some course programs (such as those formerly offering only lower division courses or certificates but now offering upper division courses that lead to bachelor's and graduate degrees), faculty teaching in these programs should be placed in UNAC. UNAC agreed with the University's contention.

UAFT disagreed with the University and UNAC. UAFT contended that UNAC should get all faculty who have a research component in their caseload and UAFT should get all faculty teaching bipartite (two-part) caseloads. This would result in a dramatic shift in the units' compositions.

The ALRA Board ultimately concluded that changed circumstances since certification of the units, including course evolution, change in university structure and technology (such as distance learning), and the merger of the community college system into the University system, resulted in substantial changes that justified clarifying the unit boundaries and descriptions of the two bargaining units. The Board found the current units inappropriate and modified the unit descriptions by applying the factors in AS 23.40.090.

The Board determined that the units should be modified so UNAC includes 'academic' faculty who teach courses that lead to bachelor's and graduate degrees, and those who engage in research. UAFT's unit under the modified unit description includes all faculty who teach in vocational technical programs that lead to certificates or associate's degrees as part of their workload.

UAFT subsequently appealed the Board's decision to the Alaska Superior Court where the case is still pending. (3AN14-04472 CI). Briefing was due by late summer 2014 and oral argument is scheduled for August 27, 2015.

## **OTHER AGENCY BUSINESS**

The Agency conducted one business meeting during 2014. Due to unexpected events, a second business meeting was cancelled due to a lack of quorum.

## LEGISLATION

The Agency did not propose legislation for consideration by the Governor in 2014, and no legislation was enacted that affected the Agency.

## REGULATIONS

Agency regulations appear in 8 AAC 97.010 -- 8 AAC 97.990. Copies are available upon request. The Board did not propose or adopt any new regulations during 2014.

## BUDGET

The Agency budget remains lean. The Agency has requested a maintenance budget from 2015 to 2016. The principal component in the budget is the wages and benefits for the three full-time and one part-time staff members. As a result of budget cuts, the Agency was required to reduce the Office Assistant III position from full-time to part-time. To stay abreast of its caseload under current staffing and budget limitations, the Agency streamlines procedures when possible while assuring due process. To minimize costs, the Agency schedules in-person hearings in Anchorage when possible, schedules multiple hearings on successive days, and relies on telephone conferences for persons participating outside the Anchorage area. The Agency also hears disputes for decision on the written record where appropriate. However, board members strongly believe that in-person hearings are the best way to conduct hearings. They prefer in-person hearings so they have the opportunity to listen to and question witnesses face-to-face, to judge witness credibility in person, and to give the parties the opportunity to see who is deciding their case. The board believes it is important to participate in continuing education and keep board members and agency staff skills current. Therefore, the Board recommends requesting additional funds for training.

The Agency conducts elections by mail ballot, avoiding travel costs and loss of productive employee time during travel.

### **FISCAL YEAR 2015**

TOTAL	596.5
Personnel	529.6
Travel	6.3
Services	49.4
Commodities	11.2

## SUMMARY OF SERVICES AVAILABLE

Requests for services can be made either personally at the Agency's office in Anchorage, by telephone at 907.269.4895, by fax at 907.269.4898, or by e-mail to mark.torgerson@alaska.gov, unless otherwise indicated.

### Board decisions.

Board decisions from 1973 to present are now available for download from the Agency's web site. Also available is a cross-reference list of Agency cases appealed to the Alaska Superior and Supreme Courts. Board decisions are also available by request from the Agency electronically or in hard copy by mail. Parties may pick up copies at the Agency office.

### Business meetings.

The Board conducts business meetings at 1016 West 6th Avenue, Suite 403, in Anchorage. A meeting agenda is available upon request to the Agency two weeks before the meeting. The Agency can accommodate requests to participate at the meeting by telephone. Such requests should be made seven days before the scheduled date for the meeting.

### Facsimile filings.

The Agency will accept filing by fax, but the person filing by fax must still mail or personally serve the required number of copies of the document upon the Agency.

### Filings.

The Agency maintains a record of all filings. The record is available for review in the office of the Agency, or by telephone at 907.269.4895.

### Forms.

The Agency has forms available to assist persons filing unfair labor practice charges, representation petitions, petitions for recognition by mutual consent, claims for religious exemption, petitions for unit clarification, and petitions to enforce the collective bargaining agreement. Parties are not required to use Agency forms, but the forms are provided for the convenience of the public. Persons can pick up these forms at the Agency's office or by telephoning 907.269.4895. In addition, the forms are available for download from the Agency's web site at <http://www.labor.alaska.gov/laborr/forms.htm>.

Information.

Staff members are available between the hours of 8:00 a.m. and 4:30 p.m. to answer questions about Agency process and procedure.

Library.

The Agency maintains a non-circulating library of labor relations texts. The library is open for public use.

Mediation.

Agency staff members are available to answer questions about the mediation process and Agency mediation services. Parties interested in mediation may request mediation, which is conducted by the Agency's hearing officer.

Publications.

**Pamphlet.** The Agency publishes a pamphlet containing the laws and regulations the Agency administers. Persons may request a copy of Pamphlet 900. The most recent pamphlet was published in July of 2007 and contains updated state labor relations laws and regulations.

**Report to Governor and the Legislature.** The Agency is required to report to the governor annually. AS 23.05.370(a)(3). Copies of the annual report are available upon request.

**Representation Services pamphlet.** This pamphlet is a basic description of the Agency's representation process and is available at no charge.

**Unfair Labor Practices pamphlet.** This pamphlet is a basic description of unfair labor practices and related Agency proceedings. The pamphlet is available at no charge.

**Practice Handbook.** This handbook provides information on practice before the Agency and is intended for use by persons who must file or respond to petitions and unfair labor practice charges.

Speakers.

Agency staff members are available to speak to groups about the Agency, its programs, and topics on labor relations.

Electronic copies of agency proceedings.

Copies of CD's of Agency case proceedings are available upon request. Please call Agency staff to arrange copying. Generally, there is no charge if the appropriate type and number of CD's are provided.



Acknowledgement

The Alaska Labor Relations Agency (ALRA) extends heartfelt thanks to Jean Ward for her dedication and hard work for the State Department of Labor and Workforce Development for 36 years, with 23 of those years working at ALRA as the Agency's Hearing Officer. Jean's extensive knowledge and experience, stellar work ethic, and daily contributions have been vital to agency success in promoting harmonious and cooperative relations between government and its employees and protecting the public by assuring effective and orderly operations of government. We wish her well in retirement.