
Alaska Labor Relations Agency 2019 Annual Report

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*Department of Labor
and Workforce Development
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Introduction

The Alaska Labor Relations Agency (ALRA), administers the Public Employment Relations Act (PERA), AS 23.05.060 - 390, for public employers and employees, including the State, municipalities and other political subdivisions, public schools, and the University. The Agency also administers the railroad labor relations laws for the Alaska Railroad Corporation AS 23.40.070 - 260. 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. And the Agency enforces collective bargaining agreements, determines employee strike eligibility, and makes impasse determinations.

1. Board and Staff Members

Six board members are appointed by the governor and confirmed by the legislature to serve on the ALRA board. Members serve staggered three-year terms. Under AS 23.05.360(a) board members must satisfy two requirements to be appointed. “The agency must include two members with a background in management, two members with a background in labor, and two members from the general public. All members must have relevant experience in labor relations matters.” And no more than three board members may be of the same political party.

In March 2019, Governor Dunleavey appointed Paula Harrison to replace Jean Ward in the public seat as Chair, and Dennis Moen to fill the labor seat previously held by Matthew McSorley. The public seat previously held by Lee Holen is vacant. Patty Burley was appointed to the management seat previously held by Mila Cosgrove. In addition, the long-term Human Resources Consultant retired and a new employee was hired in her place.

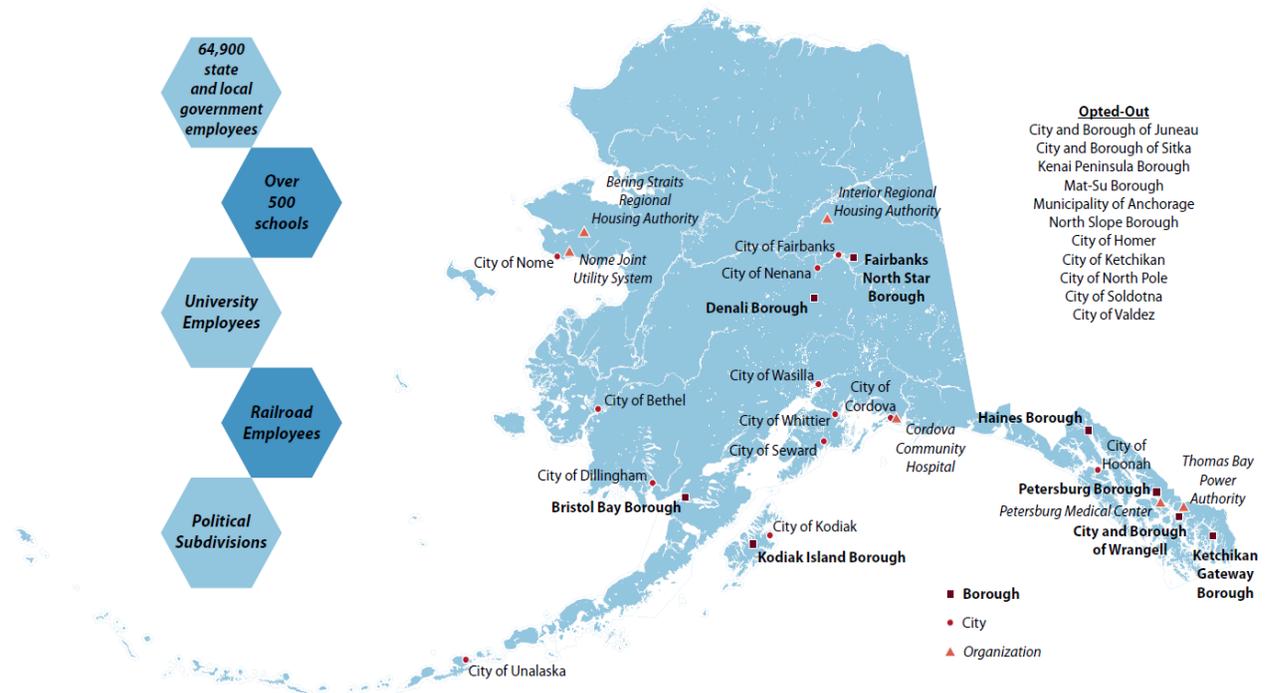
Board Members

Paula Harrison, Chair	Appointed March 1, 2019	Public
Vacant, Vice Chair		Public
Patty Burley, Board Member	Appointed March 1, 2020	Management
Tyler Andrews, Member	Reappointed March 1, 2018	Management
Lon Needles, Member	Reappointed March 1, 2018	Labor
Dennis Moen, Member	Appointed March 1, 2019	Labor

Three full-time staff members manage the day-to-day agency operations under the direction of the Agency Administrator/Hearing Examiner.

Staff

Nicole Thibodeau	Administrator/Hearing Examiner
Tiffany Thomas	Hearing Officer/Investigator
Darlene Su'esu'e	Human Resource Consultant I



2. Jurisdiction

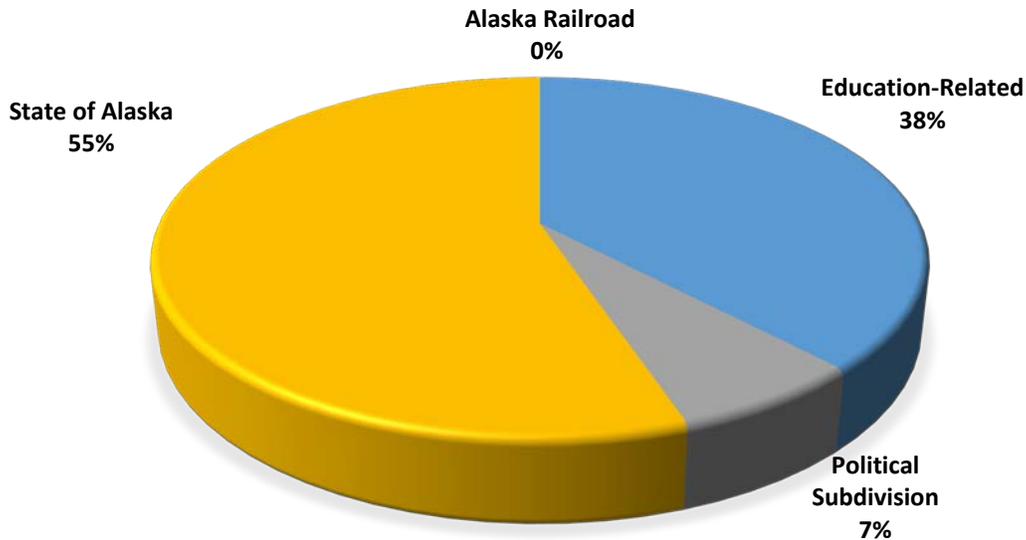
Under the Public Employment Relations Act, or PERA, the Agency has jurisdiction over labor disputes of all state, railroad, public school, and political subdivisions¹ that have not opted out of PERA. Above is a graphic illustrating ALRA’s jurisdiction with known political subdivisions covered by PERA identified on the map.² Those known to have opted out of PERA are listed to the right of the map.

As a result, the Agency handles cases from all over the state. A breakdown of cases by employer type below shows how many of each type was filed in 2019.

¹ Because there is no mechanism by which political subdivisions inform the Agency of their PERA status, ALRA does not have a complete listing and it is subject to change. These are the political subdivisions that are currently known to have opted in or out of PERA.

² Count of total state and local government employees is derived from State of Alaska, Dept of Labor and Workforce Development Research and Analysis monthly employment statistics for Alaska, 2019 state and local government employee annual average estimates <https://live.laborstats.alaska.gov/ces/ces.cfm?at=01&a=000000&adj=0&at=01&a=000000&adj=0>.

2019 CASES BY EMPLOYER TYPE



Agency Activity

In 2019 the Agency implemented ProLaw, a new database to more efficiently track case data with more reporting and querying functionality. With that the Agency is tracking some new data and other data in different ways. Consequently, making comparisons to previous years' data is not possible. This annual report will focus on data for 2019 and identify trends where appropriate.

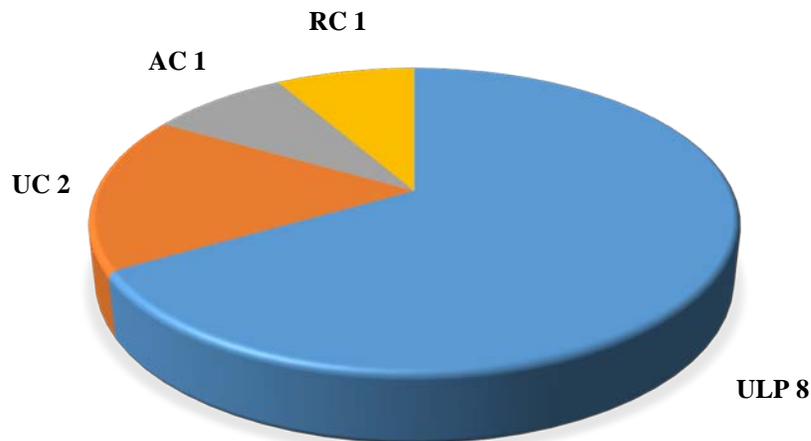
1. Adjudications

When a petition or complaint is filed with the Agency staff first determine whether ALRA has jurisdiction over the matter. Then staff determine whether the petition or complaint meets the minimum filing requirements of the statutes and regulations. Depending on the type of petition or complaint filed an investigation into the questions raised will occur. Staff may issue a decision and all attempts are made to informally resolve the dispute between the parties. If needed a hearing will be held before a board panel and a decision and order will be issued.

A. Types of cases

Agency staff are responsible for resolving petitions for representation, strike class determination, unit clarification, unit amendment, religious exemption, enforcement of collective bargaining agreements, and unfair labor practice complaints.

2019 CASES OPENED BY TYPE



a. Unfair Labor Practice Complaints AS 23.40.110; AS 42.40.760

Employers, labor organizations, or individual employees may file unfair labor practice (ULP) complaints (charges). Resolving unfair labor practice cases generally consumes a substantial percentage of the Agency's time 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 because of the unique facts of each case. 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, and interference with the employer's selection of its own representative for collective bargaining or adjustment at grievances. Additionally, employees may file duty of fair representation claims against unions if they believe the union has failed to adequately represent them.

During the investigation, if the hearing officer finds there is probable cause that a ULP violation occurred, and informal resolution³ is unsuccessful, the case is scheduled for hearing. Hearings may be live or based upon the written record. And a case may resolve up to or even before conclusion of the hearing.

Bad faith bargaining charges arise in the context of collective bargaining: one party believes the other party has failed to bargain in good faith under the law. A total of eight unfair labor practice charges were filed in 2019. Of those eight charges filed in 2019, seven included bad faith bargaining, and three concerned the interference with employees' protected rights. An employee may file a charge against a union claiming that the union failed to meet its duty to represent the employee. There was one duty of fair representation claim filed in 2019.

³ An effort to resolve the case informally through settlement is always made first, and is required by AS 23.40.120.

Priority Level

The Agency ranks ULP's by level of priority to determine which cases are investigated first. For example, disputes that affect a large number of employees usually receive high priority. Priority level may change during the life of the case depending on specific facts and circumstances. While priority ranking affects which cases are investigated first, the nature and complexity of a ULP case and the extent of the parties' cooperation affects the time it takes to complete a ULP investigation. The Agency's ability to timely complete investigations is also affected when case filings rise significantly, or other workload components such as elections, or conducting hearings take priority.

During 2019, the Agency closed 21 ULP cases and completed 15 ULP investigations in an average of 127 days. Of the 15 investigations completed, all were normal priority, but they varied in length and complexity. Parties often request a case be put in abeyance as they attempt to reach settlement as was the case for many open ULP's in 2019. Nine ULP cases were settled with informal resolution, and six findings were issued formally in 2019.

b. Elections/Representation

Under AS 23.40.100 and 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 and no current collective bargaining agreement exists. Representation cases are designated as high priority for agency workload purposes.

Prior to conducting an election, the Agency resolves any objections raised by a party. For example, the employer in a case may object to the composition of a bargaining unit. If a party files an objection, a hearing may be conducted before the board which then issues a decision and order that clarifies who gets to vote in the election.

During 2019, the Agency fielded numerous questions regarding organizing and decertifying efforts. One petition was filed in 2019. That case went to election in 2020. One election was conducted in 2019 as a result of a petition filed in 2018. One petition to decertify representation and choose other representation was settled by the parties prior to election in 2019. The election that was held was completed in 72 days.

Petitions for recognition by mutual consent are a type of representation petition filed where the employer consents to the labor organization's exclusive representation of a particular unit of employees. There were no petitions for recognition by mutual consent filed in 2019.

c. Strike Class Petitions (AS 23.40.200; AS 42.40.850)

Under 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 firefighters, 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 were no strike class petitions filed or closed in 2019.

d. Unit Clarification and Unit Amendment Petitions (8 AAC 97.050)

Unit clarification (UC) and unit amendment (AC) petitions are filed to resolve disputes over unit composition. An employer's reorganization of its employees' duties, or adding or eliminating positions can raise a question of the appropriate bargaining unit for the positions. Representation cannot be at issue in a unit clarification petition, and unit issues that arise in the process of handling a representation petition are not counted here. Staff will conduct an investigation to determine whether these, or any other issues are present, then issue findings. In 2019 two unit clarification cases were filed and two closed. One was dismissed before an investigation was conducted. The other concluded with findings issued after an investigation, and the investigation took 66 days.

Unit amendment petitions are filed to change the unit's name, affiliation, site, or location. There was one unit amendment petition that was filed in 2019 and it resolved in 2019.

e. Claims for Religious Exemption

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 no claims for exemption filed in 2019. In the wake of *Janus v. AFSCME*, 138 S.Ct. 2448, (2018), it is anticipated that claims for religious exemption will no longer be filed.

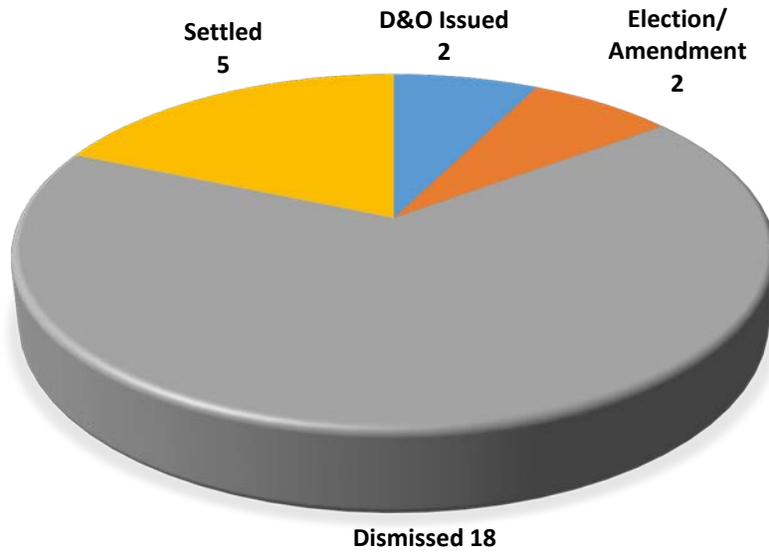
f. Petitions to Enforce the Collective Bargaining Agreement (AS 23.40.210; AS 42.40.860(b); 8 AAC 97.510)

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 were no CBA petitions filed in 2019 and one CBA was resolved in 2019 that had been filed in 2016.

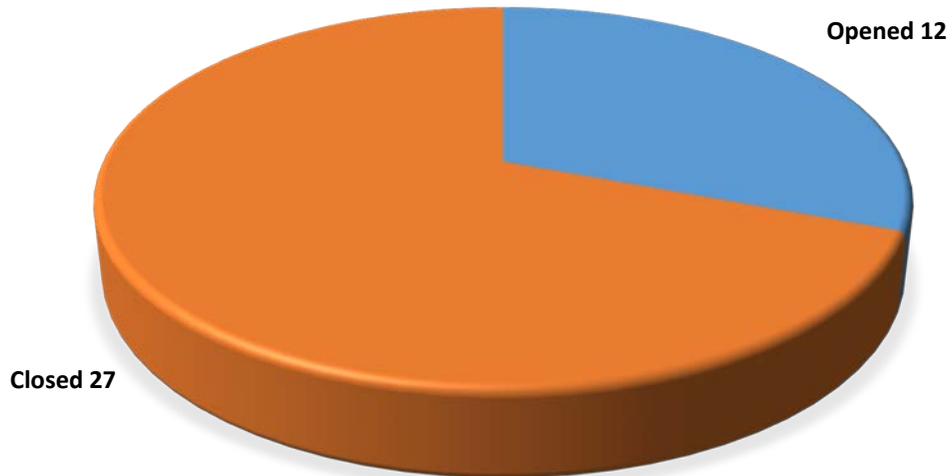
2. Summary of Agency activity

In 2019 the Agency closed a total of 27 cases. Twelve petitions and complaints were filed. In addition, 30 orders were issued in 2019 including two Board Decisions and Orders. Also in 2019, the Board met in person once in Anchorage to conduct an annual board business meeting.

2019 CASES CLOSED BY DISPOSITION



2019 CASES OPENED & CLOSED



3. Informal Resolution

With an emphasis on informal resolution, agency staff conduct formal and informal mediation which can result in settlement. Specifically, AS 23.40.120 and 8 AAC 97.230 apply to ULP cases and require the hearing officer to attempt to resolve the dispute through the use of conference, conciliation, and persuasion.

In 2019, a total of two informal mediations were conducted. Both concerned ULP charges.

4. Summary of Decisions and appealed cases.

Few cases go all the way to a hearing before a board panel, and include a decision and order. In 2019 a consolidated hearing was held involving two cases and resulted in two decisions and orders. No cases were appealed to the Alaska Superior Court or beyond in 2019. Case summaries for 2019:

Matanuska-Susitna Borough School District v. Matanuska-Susitna Education Ass'n., NEA-AK/NEA, Decision and Order No. 315. (February 28, 2019). ALRA Case No. 17-1714-ULP. At issue was whether the employee organization had the authority to obtain the requested healthcare information and whether it was part of its duty to bargain in good faith to obtain the information for the District and to provide it to the District. The complaint for unfair labor practice filed by the Matanuska-Susitna Borough School District was granted. Matanuska-Susitna Education Association, NEA-AK/NEA, violated its duty to bargain in good faith for failure to make reasonable effort to obtain the health claims data requested by the District. The Board did not answer the question of whether MSEA has a duty to actually obtain and provide the information to the District.

Matanuska-Susitna Borough School District v. Classified Emp.'s Ass'n, NEA-AK/NEA. Decision and Order No. 316. (February 28, 2019). Case No. 17-1715-ULP. At issue was whether the employee organization had the authority to obtain the requested healthcare information and whether it was part of its duty to bargain in good faith to obtain the information for the District and to provide it to the District. The complaint for unfair labor practice filed by the Matanuska-Susitna Borough School District was granted. Classified Employees' Association, NEA-AK/NEA, violated its duty to bargain in good faith for failure to make reasonable effort to obtain the health claims data requested by the District. The Board did not answer the question of whether MSEA has a duty to actually obtain and provide the information to the District.

5. 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.

In 2019 the hearing officer attended an in person Civil Mediation Course presented by The National Judicial College (NJC). Both the Administrator and the Hearing Examiner attended the National Association of Hearing Officers Convention in person in the fall of 2019. In addition, staff took advantage of several online interactive learning opportunities hosted by the National Judicial College and the American Bar Association.

6. Summer Internship

Interning at the Agency requires law students to apply through the Seattle University School of Law as part of its "Study Law in Alaska" program. This intern/extern program, started in 2008, and is a combined effort by Seattle University School of Law, the Alaska Pacific University, and primarily Alaskan governmental entities to provide legal experience and training to law students.

Starting with the 2015 fall semester, Seattle University School of Law opened a satellite campus at Alaska Pacific University (APU) 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. 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 their contributions to the Agency.

Among other things, the intern/extern 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 School of Law's program director. This program allows the intern to explore public sector labor relations laws, conduct labor relations research, write legal memoranda, read and digest opinions, briefs, and motions, write summaries of published agency decisions, and confer with agency staff on performing other technical duties they may encounter as new lawyers. In 2019, ALRA hosted a Seattle University law student intern during June and July.

7. Outreach

Agency staff provide information about the Public Employment Relations Act (PERA) to new representatives from public employee labor organizations and public employers and distinguish it from the National Labor Relations Act (NLRA). As part of their discussions with new representatives, ALRA staff provide a history of the evolution of public labor relations in Alaska and at the Agency, provide instruction on how to file documents with the agency, and share insight gained through their experience at the Agency. They emphasize the importance of parties developing and maintaining good relationships, particularly after they experience long, difficult negotiations.

In 2019 the Agency fielded a number of questions. In particular the Agency compiled and provided information to two separate groups directly addressing the question of how a political subdivision opts back under PERA.

Resources

The Agency provides information on its website, accessible through the State of Alaska's home page at www.alaska.gov or directly at labor.alaska.gov/labor/home.htm. The site contains petitions and complaints and instructions for filing. It also has 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. The Agency also seeks feedback on the public's experience with the searchable database.

ALRA maintains a resource library accessible to the public containing printed copies of public sector labor relations publications, printed copies of Agency decision and orders, and printed copies of election certificates. Patrons are encouraged to call the office first to ensure the library is not already in use.