
Alaska Labor Relations Agency 2002 Annual Report



*Alaska Labor Relations Agency
P. O. Box 107026
3301 Eagle Street, Suite 208
Anchorage, Alaska 99503*

Submitted May 2003

2002 ANNUAL REPORT

Submitted May 2003
(In accordance with AS 23.05.370)

INTRODUCTION

The Alaska Labor Relations Agency administers the Public Employment Relations Act (PERA) for the State, municipalities, public schools, and university. The Agency also administers the railroad labor relations laws for the Alaska Railroad Corporation. It determines 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 from labor organizations, public employers, and public employees. The Agency enforces terms of a collective bargaining agreement, determines strike eligibility of workers, and rules on claims for religious exemption from the obligation to pay fees to a bargaining representative.

PERSONNEL

BOARD MEMBERS

The Agency is governed by a board of six members who serve staggered three-year terms. The members must have backgrounds in labor relations, and two members each must be drawn from management, labor, and the general public. AS 23.05.360(b). Not more than three members may be from one political party.

Aaron T. Isaacs Jr., Chair	Reappointed Jan. 18, 2002	Public
David D. Rasley, Board Member	Appointed Nov. 14, 2001	Public
Colleen E. Scanlon, Board Member	Appointed April 28, 2003	Management
Dick Brickley, Board Member	Reappointed June 30, 2000	Management
Roberta Demoski, Board Member	Appointed Jan. 18, 2002	Labor
Raymond Smith, Board Member	Reappointed Aug. 22, 2001	Labor

STAFF

Mark Torgerson, administrator/hearing examiner
Jean Ward, hearing officer/investigator
Margie Yadlosky, personnel specialist I
Arvella Thomas, administrative clerk III

OFFICE

3301 Eagle Street, Suite 208
P.O. Box 107026
Anchorage, Alaska 99510-7026

Phone: (907) 269-4895
Fax: (907) 269-4898

<http://www.labor.state.ak.us/laborr/home.htm>

STATUTES

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

REGULATIONS

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

HIGHLIGHTS

Agency Regulations Amended. The Agency started a regulation project in 2001 regarding regulations implementing the Public Employment Relations Act and railroad labor relations laws, AS 23.40.070 - 260 and 42.40.705 - 890. The project culminated with adoption of several amendments. The amendments affected both procedural and substantive regulations. They included changing the number of sets of documents parties must file initially from five to two, amending provisions on unit amendment and unit clarification procedures, repealing a strike vote provision, creating a time limit for filing an appeal of an order or ruling of a hearing officer, amending the definition of "appointed officials," and making housekeeping amendments. After the Agency Board completed public hearings and adopted the amendments to the regulations the lieutenant governor signed them. They became effective on May 18, 2002.

Agency Caseload Increases. The streamlined procedures implemented in 1998 and 1999 enabled the Agency to put a significant dent in a caseload backlog that developed in the mid-1990's. Although the total number of pending cases decreased from 170 in 1999 to 56 in 2001, due to efficiencies of operations and reduced case filings,

the current trend shows an increase in the number of open cases. For example, the total number of open cases in January 2001 was 56, compared to 60 in 2002, and 74 open cases by the second quarter of 2003.

Cases filed in 2002 totaled 71, a 27% increase from the 52 filed in 2001, and a 31% increase since 2000, which saw 49 case filings. This is a significant increase from filings in the two prior years. The total 2002 filings are higher than the number of filings in 2001, 2000, and 1999, lower than the average number of filings during the 1991 to 1994 period (84). The Agency's backlog developed primarily due to the large number of cases filed in the 1995-to-1998 period, which averaged 149 per year. Due to the lean budget, the agency continued to work this increased caseload with the same number of staff. As demonstrated in the past few years, the number and type of total cases filed each year is unpredictable.

In 2002, unit clarification (UC) petition filings increased by 130 percent. (See "Overview" page 7). There were 30 UC petitions filed in 2002, compared to 13 in 2001, 16 in 2000, 31 in 1999, and 66 in 1998. Except for last year, UC petitions have comprised the largest category of cases filed. These petitions usually concern the supervisory status of various State employees. The supervisory status of an employee determines the employee's bargaining unit placement. While the question who is a supervisor affects all State employee bargaining units, UC disputes primarily involve the State, the Alaska State Employees Association (ASEA), which represents the general government unit, and the Alaska Public Employees Association (APEA), which represents the supervisors' unit. A significant increase in the number of petitions began in 1995, due in part to a 1995 amendment to a regulation defining "supervisory employee." The validity of this amendment was eventually challenged in the courts. On October 15, 1999, the Alaska Supreme Court affirmed the regulation's validity.

The UC caseload had increased to 207 by November 1, 1997. The procedure at that time, holding a hearing in each case, became impossible to keep up with, given staffing and budget limitations. To reduce the UC caseload backlog and improve production, the agency implemented streamlining procedures in 1998. These new procedures have succeeded. In 2002, the Agency completed 12 investigations. Although the Agency reduced the UC caseload significantly the past three years, the number of case filings increased in 2002. (See "Final Disposition" page 7, discussion at pages 14 - 15, and trends chart page 9). The Agency has no direct control over cases filed by parties.

The Agency experienced a 4 percent increase in the number of unfair labor practice (ULP) charges filed in 2002. Twenty-eight were filed in 2002, compared to 27 in 2001. This continues a trend of increased UC filings the past four years. (See "Cases Filed" page 7, discussion at pages 14 - 15, and trends chart page 9). Compared to the number of ULP filings in 2000 (19) and 1999 (20), the Agency is experiencing an increase in the number of ULP's filed. Already in the first three months of 2003, the

Agency has received 9 ULP's. This trend could continue, as less money is available to fund public employee contracts.

The issue in 53 percent of the 2002 unfair labor practice charges was bad faith bargaining. These charges often arise in the context of collective bargaining; one party believes the other party is not bargaining in good faith. The issue in 32 percent of the charges was interference with protected rights, such as organizing and collective bargaining. Three percent of the charges related to the duty of fair representation. Eight percent of the cases concerned restraint or coercion. The remaining four percent concerned unilateral changes. No charges were filed concerning retaliation or a violation of Weingarten rights (the right to have a union representative present at an investigatory interview that could lead to discipline).

Effective January 1, 1999, the Agency implemented new procedures designed to reduce the time needed to complete ULP investigations. It has taken a number of years to work through the caseload to resolve all cases filed prior to 1999. That has now been accomplished. The average number of days to complete all investigations was reduced substantially for cases resolved in 2002. Twenty-nine ULP investigations were completed in an average of 91 days in 2002, compared to 21 investigations in an average of 187 days in 2001. If future reductions are attainable, they will likely reduce the time required by days instead of months. The investigation of 6 high priority cases concluded in 2002, compared to 2 concluded in 2001. The average number of days necessary to complete the investigation of high priority cases did not change significantly in 2002, where it was 44, compared to 42 in 2001. The resolution time for high priority cases may increase in 2003 because there have already been eight high priority cases filed in the first three months of 2003 alone. There were 23 regular priority ULP's filed in 2002, compared to 19 in 2001. The time to investigate these charges decreased significantly in 2002, where it took 103 days compared to 202 days in 2001. Time for completing investigations is affected by numerous factors, including the complexity of the cases, the amount of work required to resolve them informally, and the non-ULP workload of the staff member who investigates the ULP's. In addition to those factors, the amount of time required to resolve the high priority ULP's can be affected by the number filed at one time. During the first quarter of 2003, there have been 9 ULP cases filed. Seven of the 9 are high priority cases. Six of these involve school districts, and one involves the State. (See trends chart page 9).

The Agency received six election petitions in 2002. Five petitions requested certification of a bargaining representative and one petition requested decertification of the current bargaining representative. This compares to seven filed in 2001, six in 2000, and four in 1999.

The Agency conducted seven elections in 2002. Six resulted in certification of a new bargaining unit representative, and one resulted in the choice of no bargaining representative. The Agency issued one Certification of Representative based on mutual

consent between the Matanuska-Susitna Borough School District and the Matanuska-Susitna Borough School District Mid-Level Management Association, affecting 13 employees. This was the first petition for recognition by mutual consent that the Agency has received. The result of the election activity in 2002 was a net increase in the number of public employees covered by collective bargaining under PERA. This increase continues a recent trend.

There were two strike petitions filed in 2002, compared to zero in 2001. (See "Cases filed" page 7). Petitions filed in past years were generally attributable to the expiration of multi-year contracts between employers and labor organizations. The Agency correctly anticipated in the last report the possibility of an increasing trend in strike petitions because several State and school district contracts expire in 2003. The Agency believes this trend still exists. One strike petition has been filed to date in 2003, involving the Valdez City School District and the Valdez American Federation of Teachers, APEA/AFT.

The Agency continues to emphasize informal resolution of disputes. As a result, 26 unfair labor practice charges were resolved informally in 2002, compared to 13 in 2001. The Agency's hearing officer/investigator works with parties to settle unfair labor practice charges, and has expanded mediation services to include collective bargaining agreement enforcement petitions. Successful mediation saves the parties, the Board, and the Agency the cost and time that would have been required for litigation of the disputes. The Agency hopes to train other staff to assist in mediation efforts. However, budget constraints may preclude this training.

During 2002, the Agency continued to play a proactive role in revitalizing the Alaska chapter of the Industrial Relations Research Association (IRRA). IRRA is the one organization in the country in which professionals from all aspects of industrial relations and human resources can share ideas and learn about new developments and practices in the field. IRRA sponsors and publishes research. It promotes education and provides a forum for the exchange of ideas on employment issues. IRRA does not take partisan positions on policy issues; rather, it serves as a resource to labor and management professionals, including advocates and neutrals, government, and the academic community. An active Alaska chapter provides Alaska employment professionals with opportunities for networking and training, and it serves as a resource within the state.

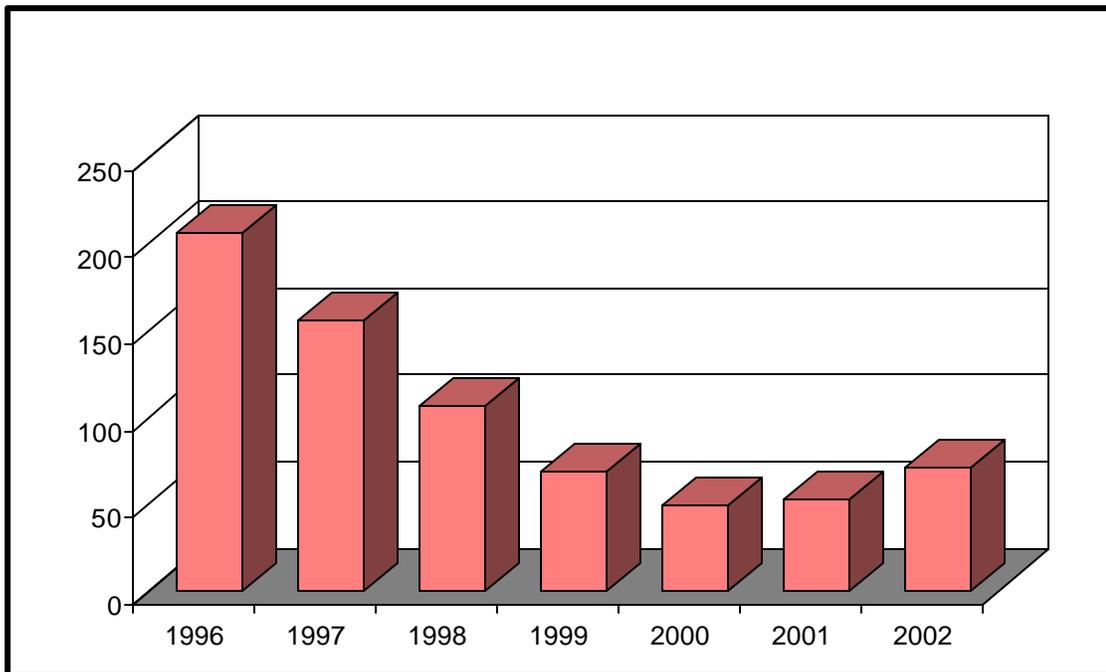
The Alaska chapter met several times in 2002. Luncheon meetings were highlighted by speaker presentations. Speakers addressed a variety of issues, including hot issues at the National Labor Relations Board analysis of relevant Alaska Supreme Court cases, and other presentations affecting both management and labor.

Agency information is available on its internet web site, accessible through the State of Alaska's home page (<http://www.state.ak.us>) or directly at

<http://www.labor.state.ak.us/laborr/home.htm>. The site contains a link to contact the administrator by e-mail, and information about agency programs and resources. In addition, a person can now research all Agency decisions by typing a word or phrase into a search field. The Agency continues to add new materials such as creating a cross-reference list of Agency cases appealed to the Alaska Superior and Supreme Courts, including the decisions issued. The Agency is currently updating the ALRA practice handbook and hopes to make it available on-line for the public.

CASE STATUS SUMMARIES

CASE LOAD COMPARISON BY YEAR



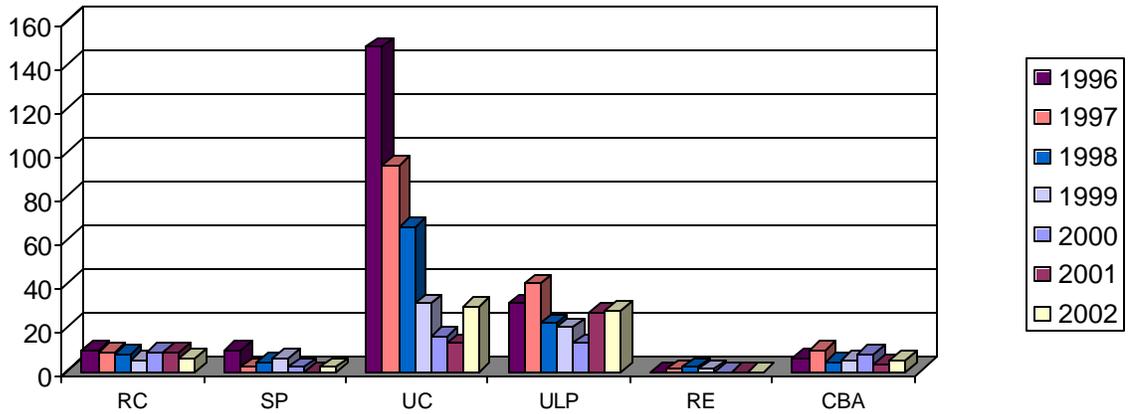
OVERVIEW

CASES FILED	2002	2001	2000	1999	1998	1997	1996
Amended Certification (AC)	0	0	3	1	1	1	1
Representation (RC)	5	7	6	1	6	6	5
Decertification (RD)	1	1	0	1	1	1	2
Decert. to certify a new rep. (RC/RD)	0	1	0	2	0	1	2
Strike notice or strike class petition (SP)	2	0	2	6	4	2	10
Unit Clarification (UC)	30	13	16	31	66	94	148
Unfair Labor Practice Charge (ULP)	28	27	13	20	22	40	31
Religious Exemption Claims (RE)	0	0	0	1	2	1	0
Contract Enforcement (CBA)	5	3	8	5	4	10	6
Other (OTH)	0	0	1	0	0	0	1
TOTAL	71	52	49	68	106	156	206
AGENCY ACTIVITY	2002	2001	2000	1999	1998	1997	1996
Unfair Labor Practice Investigations	29	22	10	31	24	26	20
Unit Clarification Investigations	12	11	48	93	NC	NC	NC
Decisions and Orders Issued	4	5	5	6	9	25	12
Other Board Orders Issued	1	5	1	16	NC	NC	NC
Hearing Officer Orders Issued	3	2	5	3	NC	NC	NC
Elections Conducted (includes AC)	8	6	3	3	6	7	6
TOTAL	57	51	72	152	39	58	38
FINAL DISPOSITION	2002	2001	2000	1999	1998	1997	1996
Notices of dismissal issued	43	38	48	89	67	27	15
Cases settled or withdrawn	25	25	23	45	87	69	25
Cases that went to hearing	8**	4	6	7	3	10	29
Impasse matters settled or withdrawn	1	0	0	5	2	0	1
Cases deferred to arbitration	1	3	1	1	1	0	1
TOTAL	78	70	78	147	160	106	71

*NC = not counted

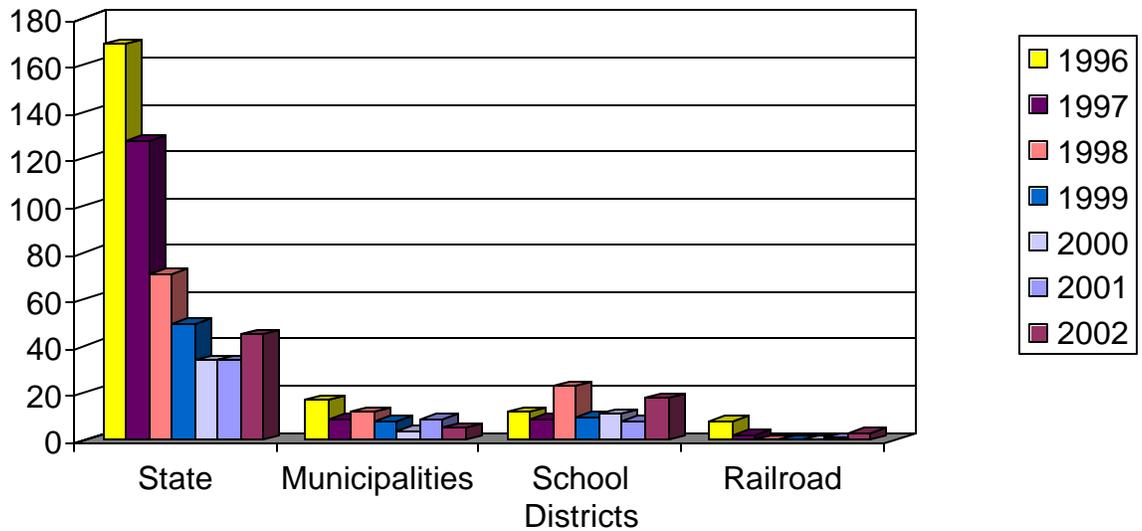
** 4 cases consolidated for purpose of holding hearing due to limited travel funds

CHARTS

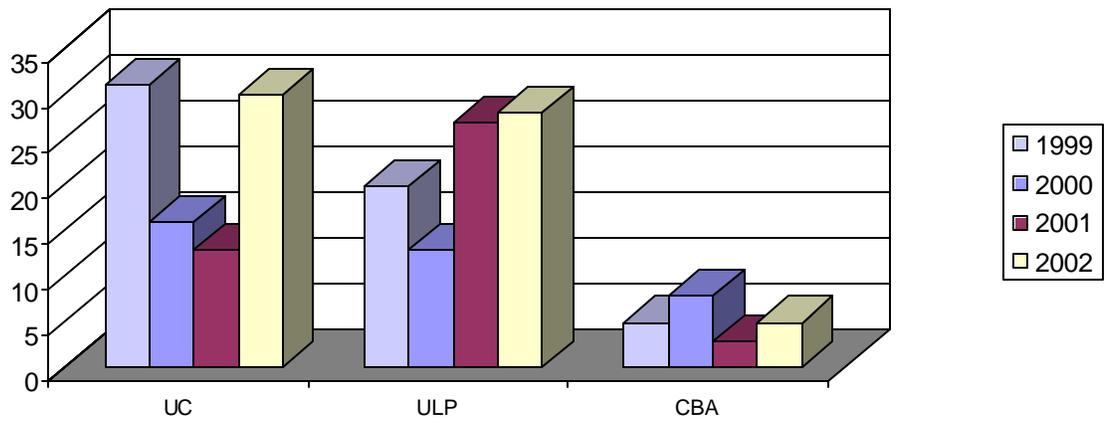


PROGRAM COMPARISON BY YEAR

- | | |
|---------------------------------|----------------------------------|
| RC Representation petitions | ULP Unfair labor practice charge |
| SP Strike notices and petitions | RE Religious exemption claim |
| UC Unit clarification petitions | CBA Contract Enforcement |



EMPLOYER COMPARISON BY YEAR



PROGRAM FOUR YEAR TRENDS

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

REPRESENTATION PETITIONS (AS 23.40.100; AS 42.40.750)

Representation petitions are filed by labor organizations, employers, or employees to initiate a secret ballot election for certification or decertification of an employee representative for collective bargaining. Less frequently, a petition is filed to advise the agency that the employer consents to the labor organization's representation of a particular unit of employees. Notification of consent to recognition does not require the Agency to conduct an election. In any event, most petitioners seek an election. Before an election can be conducted, the Agency must resolve any objections to the election or the composition of the bargaining unit. Often a hearing before the Agency is needed. Petitions for representation of a municipal bargaining unit frequently require examination of the validity of a municipality's rejection of PERA under the opt out clause in the legislation adopting PERA, section 4, ch. 113, SLA 1972. Employer objections to the unit that the labor organization seeks to represent also are common. The Agency conducts the election, rules on objections or challenges to the conduct of the election, and certifies the results. If the petitioner seeks to sever a group from an existing unit, the petitioner must demonstrate that the existing unit was not fairly representing the interests of the smaller group, and that the smaller group is an appropriate unit, among other factors.

The Agency conducted seven elections in 2002. Six elections resulted in certification of a bargaining unit and one election resulted in the choice of no bargaining representative. One bargaining unit was issued a Certificate of Representative based on mutual consent between the employer and union representative. Of the six elections resulting in certification of a bargaining unit, five election certificates were issued for new bargaining units and one election certificate was issued in a decertification effort by an employee of the Bering Straits Regional Housing Authority. Eighty percent of the elections occurred in educational bargaining units. There was one decertification petition filed by Hannah Katongan, an employee of the Bering Straits Regional Housing Authority, who was represented by Laborers' International Union of North America, Local 942, AFL-CIO. The bargaining unit members in this petition voted for continued representation by Laborers' Union. One of the representation election petitions was filed by the NEA-Alaska/Yupit Education Association, who petitioned to represent all certificated employees in positions requiring a type A or C teaching certificate as defined in 4 AAC 12.020, 4 AAC 12.040, 4 AAC 12.043, 4 AAC 12.060, and 4 AAC 12.062; principal/teachers who do not have a type B teaching certificate; principal/teachers who have a type B teaching certificate, but who do not evaluate bargaining unit members; and professional employees who do not evaluate bargaining unit members, in the Yupit School District. The choice of no bargaining representative received the majority of the votes cast in the election. The remaining five representation petitions resulted in certification of a new collective bargaining representative. Those new units are: non-certified staff employees of the Craig City School District represented by the Craig

Teachers Association/NEA-AK; the clerical staff of the Ketchikan Gateway Borough School District represented by the Ketchikan Education Association/NEA-AK; laborers of the Interior Regional Housing Authority, represented by the Laborers' International Union of North America, Local #942, AFL-CIO; non-certified employees of the Haines Borough School District represented by the Haines Teachers Association, NEA-AK/NEA; and a unit of computer services staff of the Ketchikan Gateway Borough School District, represented by the Ketchikan Education Association, NEA-AK/NEA.

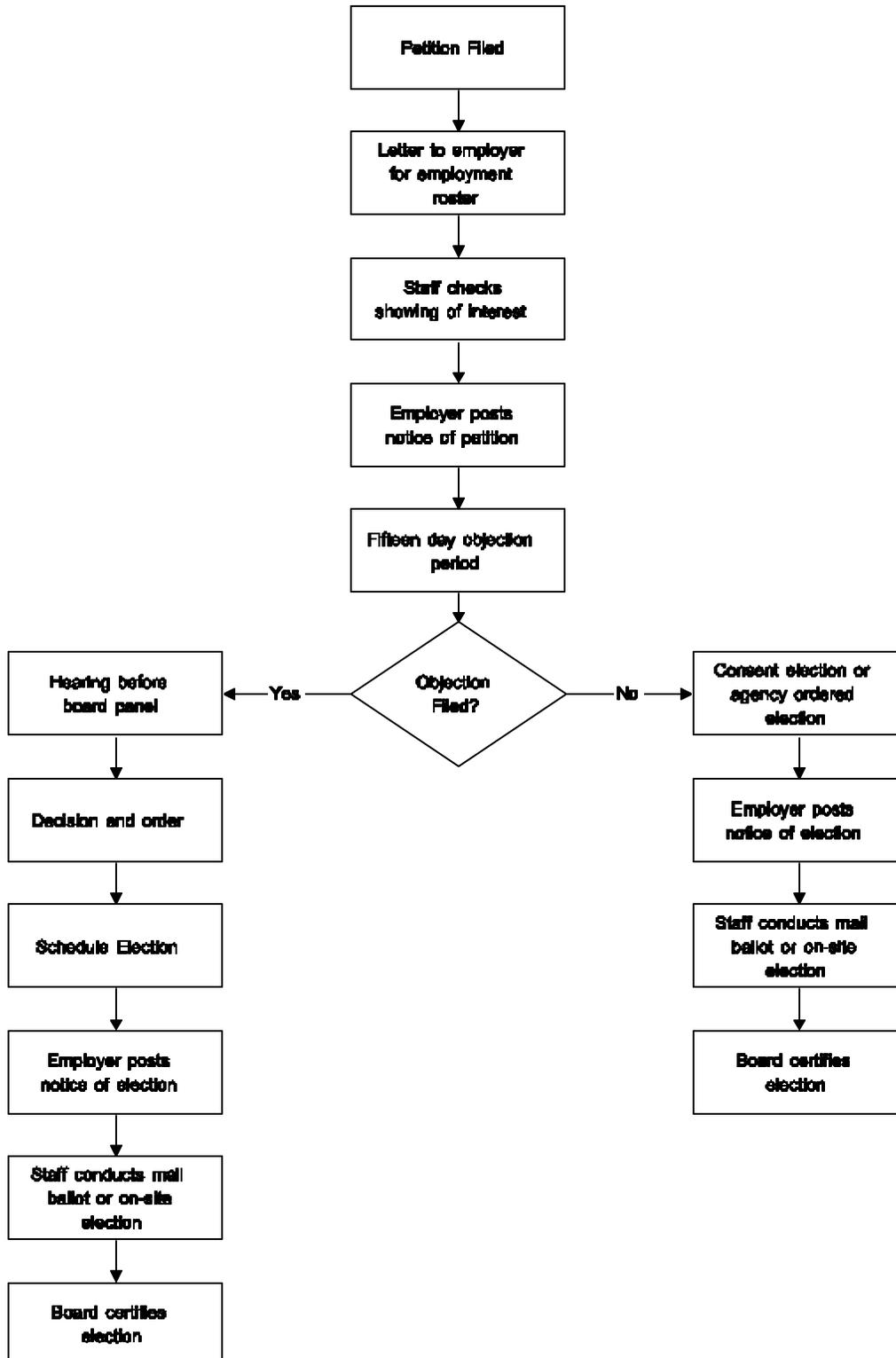
There were no petitions to amend an election certificate filed in 2002.

One representation petition that was filed in 2000 was heard by the ALRA board in February 2002. In this case, APEA filed a petition to represent, in a separate unit, the Class I employees it now represents in a combined unit of Class I, II, and III Ketchikan Gateway Borough employees. Decision and Order No. 259, issued on June 28, 2002, dismissed the case and no election was directed.

In April 2003, an election was conducted for one of the six representation petitions filed in 2002. The results of the election tally were sixteen employees voted for representation by Southeast Island Education Association, NEA-AK/NEA and seven employees voted for the choice of no bargaining representation. The election was certified on April 11, 2003.

REPRESENTATION PETITIONS FILED		6
Employer		
	State	0
	Municipalities	1
	Public Schools	5
Type		
	To certify a new unit	5
	To decertify the unit	1
	To change representatives	0
	To amend certificate	0
Hearings conducted		1
Petitions that proceeded to election		8

REPRESENTATION PETITION FLOW CHART



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

Public employees under PERA are divided into three classes, depending on their right to strike. Under PERA the agency hears disputes about strike classifications and impasse matters. Effective May 18, 2003, the Agency repealed 8 AAC 97.300, which had given it some oversight of strike vote elections held by labor organizations. School district bargaining representatives must submit to advisory arbitration before the employees may strike, and before districts may implement their last best offer. 8 AAC 97.300.

There were two strike petitions filed during 2002. The increase in strike petitions filed is different from past years. There were no strike petitions filed in 2001. The decrease was primarily attributable to signed multi-year collective bargaining agreements.

One strike petition case involved employees of the Alaska Railroad, represented by the United Transportation Union. In this case, the United Transportation Union alleged the parties were at impasse and requested the Agency appoint an advisory arbitrator. In December 2002, the Alaska Railroad Corporation agreed to a contract and the case was closed. The Anchorage School District and Alaska Gateway Education Association, NEA-AK, NEA were also involved in a strike vote petition alleging impasse and requested the Agency appoint an advisory arbitrator. In this case, an Order to Arbitrate was issued by Hearing Officer Jean Ward in July 2002. The Agency appointed an advisory arbitrator, and the case was closed in October 2002 upon receipt of the arbitrator's opinion.

STRIKE PETITIONS FILED

2

Employer

State	0
Municipalities	1
Public Schools	1
Railroad	0

Hearings Conducted	0
--------------------	---

UNIT CLARIFICATION AND UNIT AMENDMENT PETITIONS (8 AAC 97.050)

Unit clarification 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. 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.

Historically, most unit clarification disputes have arisen as objections to State transfers of employees from one bargaining unit to another. For example, the State may change a position's job duties, which may affect the position's unit placement. Transfers between the general government unit (GGU) and the supervisory (SU) or confidential (CEA) units comprise most of the disputes. If investigation shows there is reasonable cause to believe that a question of unit clarification exists, the cases require a hearing with the State and both interested labor organizations as parties.

The number of unit clarification case filings in 2002 (30) increased from 2001 (13) and 2000 (16), and approximates the number of cases filed in 1999 (31). (See trends chart page 9). After several years of activity that challenged Agency resources, the caseload is becoming more manageable. Of the 30 unit clarification petitions filed in 2002, 27 were State-related petitions, two are education-related, and the other petition was in a political subdivision. Most result from the State's shift of employees to the supervisory unit from the general government unit following the Agency's 1995 amendment to the definition of "supervisory employee." The amendment, intended to simplify determining who is a supervisor, has been controversial. However, on October 15, 1999, the Alaska Supreme Court upheld the validity of the regulation defining "supervisory employee." (See *Alaska State Employees Ass'n/AFSCME Local 52 v. State of Alaska*, 990 p.2d 14 (Alaska 1999)).

To address the significant rise in unit clarification cases, the agency implemented streamlining procedures in 1998. Caseloads were adjusted, and as a result, the personnel specialist I, rather than the hearing officer, now handles initial investigations. Under this procedure, the Agency utilizes a comprehensive questionnaire to gather needed information, rather than rely on and wait for the parties to provide it, or proceed to hearing, as was done previously. (For example, 28 UC disputes went to hearing in 1996). As a result of these new procedures, a total of 310 unit clarification disputes have been concluded since 1998. There were 30 open unit clarification petitions in January 2002. As of December 2002, 14 or 47% have been resolved. At this time, 38 unit clarifications remain open. The Agency's hearing officer, who previously conducted these investigations, is only required to review and act on the personnel specialist's recommendations. This enables the hearing officer to focus more time on unfair labor practice investigations, mediation, and other duties.

Unit amendment petitions are filed to obtain an amendment of certification due to changed circumstances, such as a change in name, affiliation, site, or location. Although there were no unit amendment petitions filed in 2002, one unit amendment petition was filed in 2003 to end NEA-Alaska's affiliation with a bargaining unit employed by the Yukon-Koyukuk School District.

UNIT CLARIFICATION PETITIONS FILED 30

Employer

State	27
Public Schools	2
Municipalities	1
Railroad	0

Hearings conducted 0

UNFAIR LABOR PRACTICE CHARGES (AS 23.40.110; AS 42.40.760)

Employers, employee representatives, and individual employees may file unfair labor practice charges. Charges against employers can 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 collective bargaining representative.

Unfair labor practice charge filings totaled 28 in 2002, compared to 27 in 2001. This continues a trend of increasing case filings. (See trends chart page 9). The dispute in fifteen charges concerned bad faith bargaining. Nine charges alleged interference with protected rights, one concerned the duty of fair representation, nine alleged interference, two alleged restraint, and one alleged unilateral action by an employer. Three of the 28 ULP's filed in 2002 were high priority. Two of the high priority cases filed in 2002 were dismissed as a result of a settlement, and one is being held in abeyance at the complainant's request. There are currently 29 open unfair labor practice cases. Of those, 2 were filed in 2000, one was filed in 2001, 17 were filed in 2002, and 9 ULP cases have already been filed in the first quarter alone for 2003. The three open cases from 2000 and 2001 are in abeyance, awaiting a court decision either on the actual case or on a related case. Of the 29 open ULP's, 8 are high priority cases, and all 8 have been filed in 2003. Seven of these involve school districts, and they raise issues related to the bargaining process. The impact of a large number of high priority cases filed in a short time frame, with school recessing for the summer, is that the investigative time for high priority cases may increase in 2003, and every case that may need a hearing may not be scheduled for one before the 2002-2003 school year ends. In 2002, three high priority cases were filed.

The Agency concluded 29 investigations in 2002, compared to 22 in 2001, and 10 in 2000. The 29 investigations were concluded in an average number of 91 days. As noted (See "Highlights" page 4), the Agency implemented new investigative procedures designed to reduce the time needed to complete unfair labor practice investigations. Staff vacancies and the dramatic increase in the unit clarification caseload had impacted investigation, resolution and conclusion of unfair labor practice cases. The Agency had prioritized unit clarifications in order to gain an element of control over that caseload. Consequently, the time to conclude unfair labor practice investigations and issue decisions increased significantly in 1998. (See timeliness charts page 21 & 22). As expected, this pattern continued into 1999 and 2000, as the agency worked through the older pending cases. However, the Agency implemented a streamlined, more efficient unfair labor practice procedure effective January 1, 1999. This procedure has been instrumental in reducing the time needed to conclude investigations in 2002. (See timeliness charts page 21). The complexity of some of the cases investigated varies and

affects the number of investigations completed and the average time required to complete investigations.

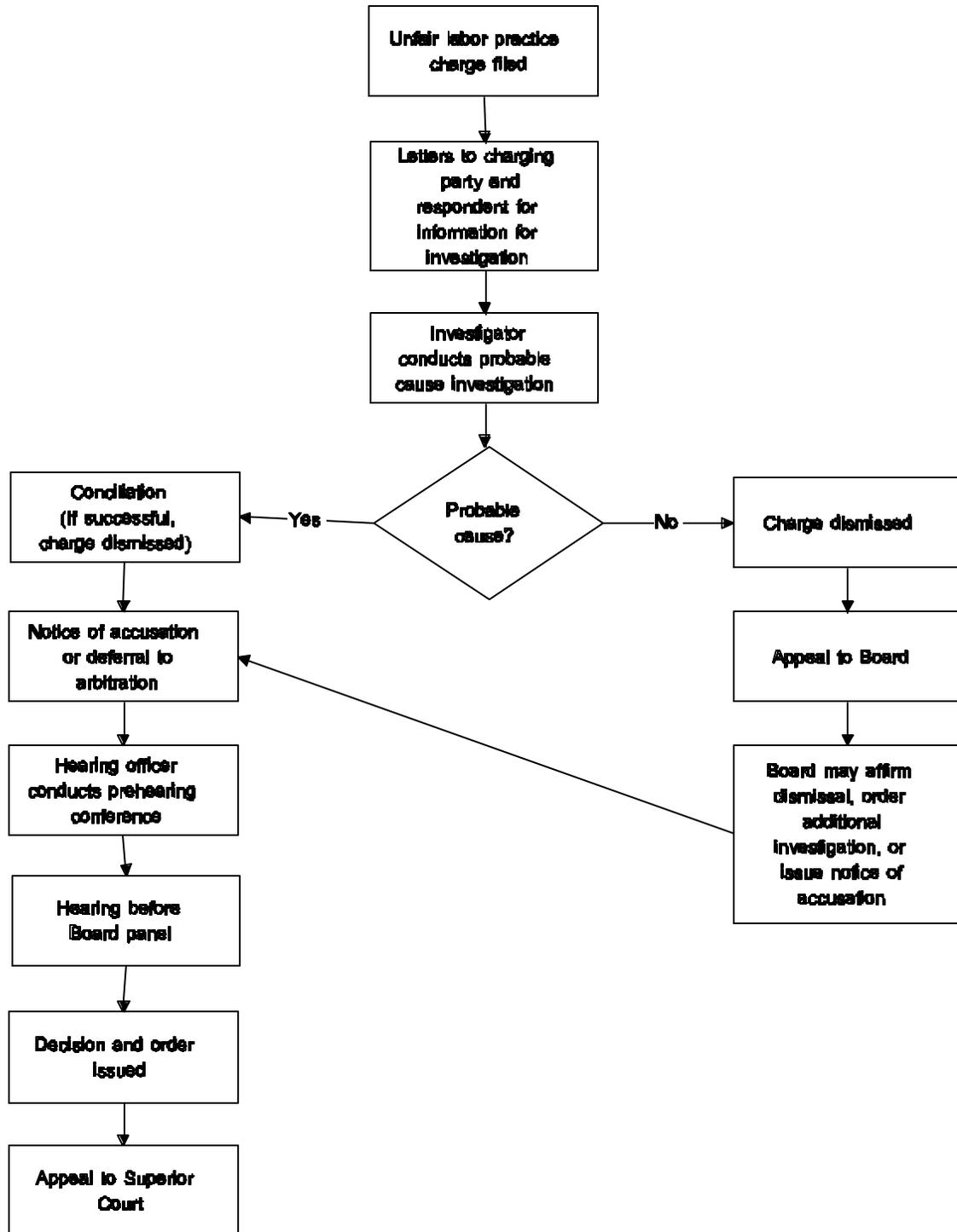
UNFAIR LABOR PRACTICE CHARGES FILED 28

Employer	
State	15
Municipalities	2
Public Schools	9
Railroad	2
Type	
Arbitration related	0
Bad faith bargaining	15
Retaliation	0
Interference with protected rights	11
Union duty of fair representation	1
Employer action without bargaining	1
Information request	0
Scope of bargaining	0
Weingarten	0
Discrimination	0
Impasse	0
Other	0
Investigations	29
Hearings conducted	4
Other resolution	
Dismissals (no probable cause)	3
Deferrals to arbitration	0
Settled or withdrawn	20
Dismissed, inaction	3
Dismissed, final order	0
Dismissed, Insufficient	0
Remand	0
Other	0

COMPARISON BY ULP COMPLAINANT

Complainant	2002	2001	2000	1999	1998	1997
Alaska Public Employees Ass'n	3	2	0	1	4	1
Alaska State Employees Ass'n	3	8	3	6	1	12
I.B.U.P.	0	1	0	1	0	0
I.B.E.W.	0	0	0	3	0	6
UA Classified Employees Ass'n	0	0	0	0	0	1
ACCFT	2	0	0	0	5	1
Other Unions	7	8	3	0	1	8
School Unions	8	1	2	0	6	3
Individuals	2	6	4	7	3	3
Employers	3	1	1	2	2	5
Total ULPs filed	28	27	13	20	22	40

UNFAIR LABOR PRACTICE CHARGE FLOW CHART



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 religious convictions.

CLAIMS FILED		0
Employer		
	State	0
	Municipalities	0
	Public Schools	0
	Railroad	0
Hearings conducted		0

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

AS 23.40.210 and AS 42.40.860(b) authorize the agency to enforce the terms of a collective bargaining agreement (CBA). Because all agreements under AS 23.40.210 must contain an arbitration clause to handle disputes under the agreement, 8 AAC 97.510 requires that parties first exhaust the arbitration clause or show that it does not apply before filing a petition with the agency to enforce the agreement.

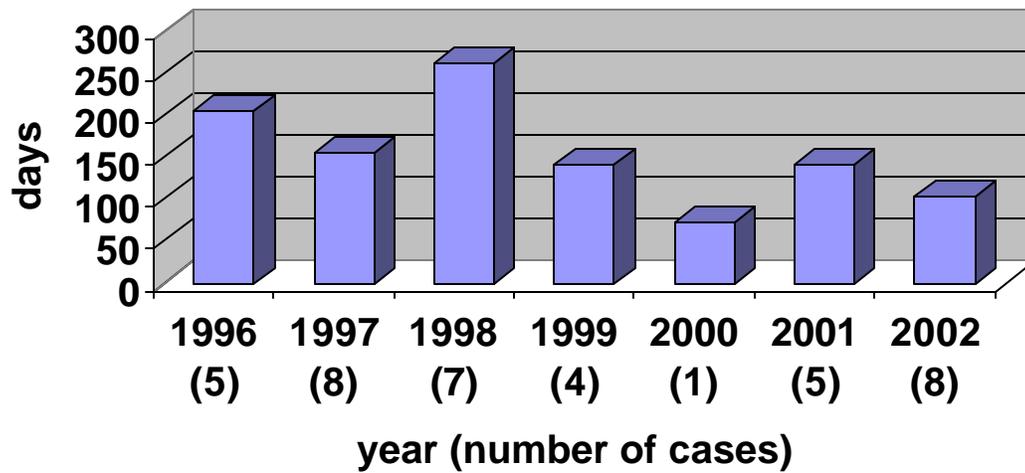
Five such petitions were filed in 2002, two more than 2001's (3) totals, three less than 2000's (8) totals, and higher than the average number of CBA petitions filed yearly in the 1993 – 1996 period (4). The 1997 period contained the highest number of CBA petitions filed (10).

CBA PETITIONS FILED		5
Employer		
	State	3
	Municipalities	1
	Public Schools	1
	Railroad	0
Hearings conducted		3

TIMELINESS

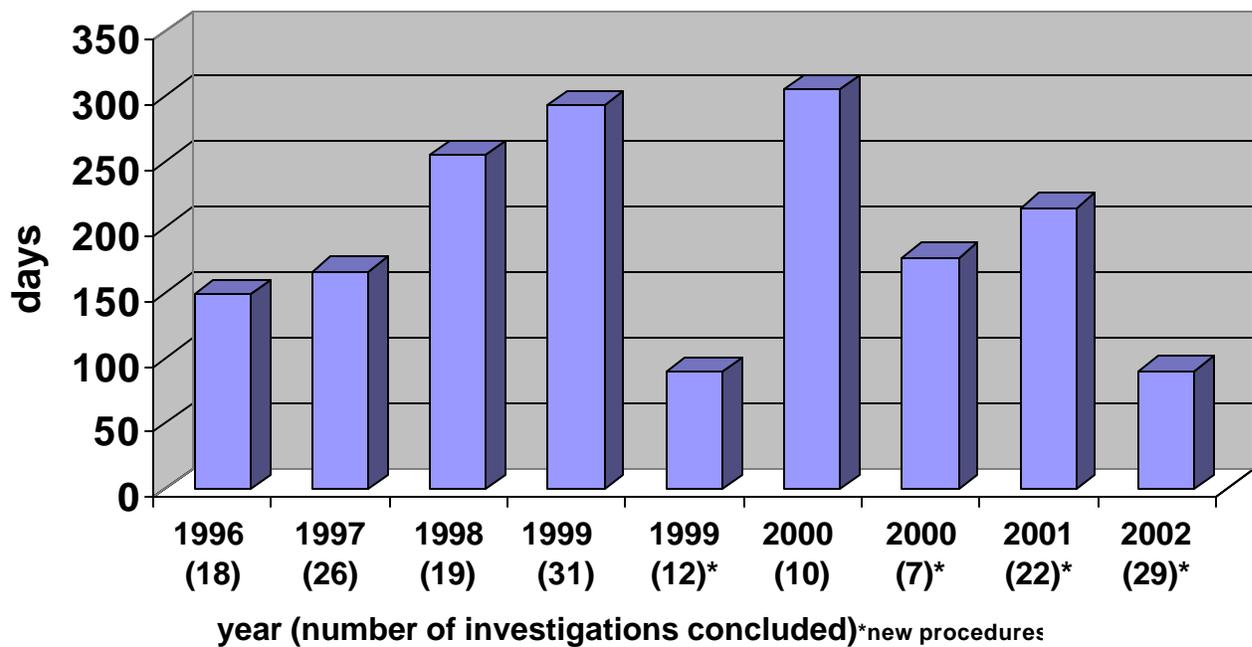
ELECTIONS

NUMBER OF DAYS TO CERTIFICATION OF ELECTION.



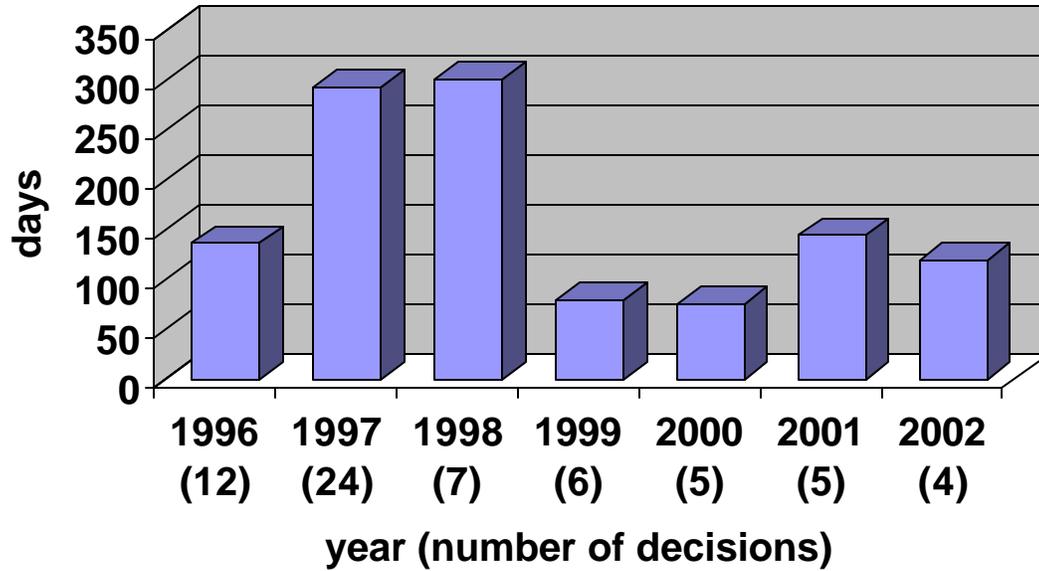
UNFAIR LABOR PRACTICE INVESTIGATIONS

NUMBER OF DAYS TO CONCLUSION OF INVESTIGATION.

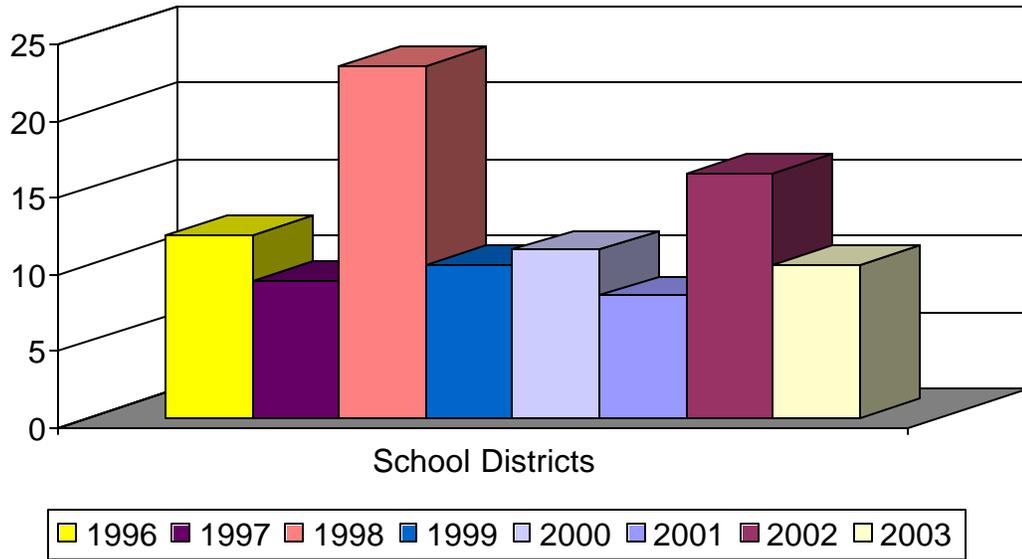


DECISION AND ORDERS

NUMBER OF DAYS FROM CLOSING OF RECORD TO DECISION.



**SCHOOL DISTRICT ACTIVITY FROM 1996 TO 2002, AND 1ST QUARTER OF 2003
FOR ALL CASES FILED**



Breakdown of cases filed in 2001 (9)		
Case Type		EDUCATION
CBA		0
RC		3
RC/RD		1
RD		1
SP		0
UC		0
ULP		4

Breakdown of cases filed in 1 st quarter of 2003 (10)		
Case Type		EDUCATION
AC		1
CBA		2
RC		0
RC/RD		0
RD		0
SP		1
UC		0
ULP		6

Breakdown of cases filed in 2002 (18)		
Case Type		EDUCATION
CBA		1
RC		5
RC/RD		0
RD		0
SP		1
UC		2
ULP		9

DECISIONS AND ORDERS ISSUED

1. *ALASKA NURSES ASSOCIATION vs. FAIRBANKS NORTH STAR BOROUGH, and EDUCATION SUPPORT STAFF ASSOCIATION/NEA-ALASKA*, Decision and Order No. 258 (January 30, 2002). The petitioner has not satisfied the requirements in AS 23.40.090 and 8 AAC 97.025(b) to sever the school nurses from the District's wall-to-wall unit currently represented by ESSA. The fact that the proposed unit is a group of professionals does not warrant carving them out from the larger unit.
2. *ALASKA PUBLIC EMPLOYEES ASSOCIATION, AFT/AFL-CIO vs. KETCHIKAN GATEWAY BOROUGH*, Decision and Order No. 259 (June 28, 2002). The petitioner has not satisfied the requirements in AS 23.40.090 and 8 AAC 97.025(b) to sever the Class I employees from the Borough's wall-to-wall collective bargaining unit currently represented by APEA. The fact that the proposed unit has different strike eligibility restrictions than other employees in the bargaining unit does not, by itself, warrant carving them out from the larger unit. Moreover, the fact that the Class I employees share a community of interest does not diminish the fact they also share a community of interest with other employees in the broader APEA bargaining unit they have belonged to for at least 27 years.
3. *PUBLIC SAFETY EMPLOYEES ASSOCIATION vs. STATE OF ALASKA*, Decision and Order No. 260 (June 27, 2002). The Agency will decline to interpret contracts and will order the parties to arbitration when the subject of their dispute concerns the interpretation or construction of a term contained in the collective bargaining agreement.
4. *ASEA/AFSCME Local 52, AFL-CIO vs. STATE OF ALASKA*, Decision and Order No. 261 (December 31, 2002). The Agency will order the parties to arbitration when their collective bargaining agreement clearly and unmistakably provides that an arbitrator must decide questions of arbitrability, and their contract provides no exception to this procedure.

APPEALS

The Alaska Superior Court issued three decisions in 2002 that relate to the Public Employment Relations Act. *Public Safety Employees Association vs. State of Alaska*, Decision and Order No. 255 (July 25, 2001). Public Safety Employees Association appealed this Agency decision and order to the superior court in case number 3 AN-01-10051-CI on August 23, 2001. The superior court reversed the Agency decision and order on June 24, 2002. (\$10698 pending in Supreme Court). On July 21, 2002, the superior court issued an Order granting the States motion to stay the decision and order dated June 24, 2002, pending appeal.

Fairbanks Fire Fighters Association, Local 1324, IAFF vs. City of Fairbanks, Decision & Order No. 256 (October 17, 2001). The City of Fairbanks appealed this Agency decision and order to superior court in case number 4FA-01-2607-CI on November 16, 2001. The City of Fairbanks filed a Motion to Dismiss Appeal, and the superior court granted the motion on May 31, 2002.

Public Safety Employees Association vs. State of Alaska, ALRA Case No. 01-1033-ULP. (No Decision & Order Issued in this Case) (Appeal of Dismissal) (November 12, 2002). The Alaska Superior Court affirmed the Agency's dismissal of an unfair labor practice complaint filed by the Public Safety Employees Association in case number 3 AN-01-09360-CI on November 12, 2002. PSEA had alleged that the State bargained in bad faith by negotiating to impasse on a permissive subject of bargaining. PSEA requested that the Agency order the State to accept PSEA's offer of settlement without insisting that the employee waive all related rights against the State. The State argued it had a responsibility to avoid unnecessary expenses by settling all disputes together. The Agency dismissed PSEA's complaint. Finding considerable latitude for parties to settle grievances, the Agency concluded that requiring an employer to settle labor relations disputes without allowing the parties to attempt settlement of related disputes would reduce parties' incentive to settle grievance disputes. PSEA also contended the hearing officer exceeded her investigative authority to decide the sufficiency of the charge. The Board viewed this argument as essentially a disagreement over the case's outcome. The superior court affirmed the Board's dismissal, essentially based on the Agency's analysis in the underlying dismissal.

OTHER AGENCY BUSINESS

Regulations drafted in 2000 and 2001 were completed and amended on May 18, 2002. The Agency conducted two business meetings. Other meetings will be scheduled as needed. Previously, the Agency had conducted four meetings per year but decreased the scheduled meetings to two for efficiency and cost reduction necessities. Due to the funding limitations pending for fiscal year 2004, the board may consider reducing the frequency from the current two meetings to just one per year, providing less opportunity for the public to discuss issues with the Board informally. This impacts the Board's

ability to carry out the Legislature's declared statutory policy of promoting "harmonious and cooperative relations between government and its employees and to protect the public by assuring effective operations of government." AS 23.40.070.

On December 12, 2002, Mark Torgerson gave a talk to the Alaska Association of School Boards conference. The talk addressed the Public Employment Relations Act (PERA). The Agency has also conducted outreach to public employees and public employee labor organizations during this reporting period.

LEGISLATION

The Agency did not propose legislation for consideration by the Governor in 2002, and legislation was not enacted that affected the Agency.

REGULATIONS

During 2002, the following regulation changes in Title 8 of the Alaska Administrative Code, dealing with labor relations were approved and made effective on May 18, 2002.

8 AAC 97.010 changed the number of sets of documents to be filed with the Agency from five to two, except that five sets must be filed after a prehearing conference is scheduled.

8 AAC 97.025(a)(3) deleted the words "permanent and probationary". These words had been deleted previously from the definition of "employee," which was repealed in 1995, but were inadvertently left in this subsection.

8 AAC 97.050 added and consolidated procedures for unit amendment and unit clarification procedures. Some of these procedures are currently included in 8 AAC 97.060.

8 AAC 97.060(a) deleted reference to 8 AAC 97.050 and to unit clarification and amendment. Unit clarification and amendment procedures are contained in 8 AAC 97.050.

8 AAC 97.085(a) added procedures for showing of interest requirements for intervenors wishing to be on an election ballot.

8 AAC 97.160(d) changed the revision date of the *National Labor Relations Board Casehandling Manual (Part Two) Representation Proceedings* from September 1989 to August 1999. It would also incorporate by reference future revisions to this manual.

8 AAC 97.230(a) states that a complainant's failure to provide requested information in a

timely manner may result in dismissal of the unfair labor practice charge.

8 AAC 97.270(b) corrected a minor spelling error, and would change the wording on agency appointment of a mediator from “will” to “may” to conform to the statute.

8 AAC 97.280, which contains procedures for advisory arbitration required of municipal school districts, regional educational attendance areas and state boarding school employees, was repealed and readopted to eliminate reference to strike votes under 8 AAC 97.300, consistent with the repeal of 8 AAC 97.300. It also clarifies the parties' rights after impasse following advisory arbitration.

8 AAC 97.300, contained specified preconditions to taking a strike vote by a labor or employee organization, was repealed. The intended effect of this repeal was to eliminate the requirement that the parties must be at impasse before the labor or employee organization may take a strike vote.

8 AAC 97.340 corrected a statutory citation to the Administrative Procedure Act.

8 AAC 97.350(g) gives the Agency discretion to determine the time and place of a hearing.

8 AAC 97.470 places a time limit on the filing of an appeal of an order or ruling of an agency staff member.

8 AAC 97.990(b), revises the definition of “appointed officials” to more closely reflect the analysis of the Alaska Superior Court in *Confidential Employees Association v. State of Alaska*, 1JU-93-656 CI (September 1, 1994).

The regulations appear in 8 AAC 97.010 -- 8 AAC 97.990, and copies are available upon request.

BUDGET

The Agency budget remains very lean and a reduction in the FY04 budget will require a reduction in both personnel and non-personnel costs. The Agency's budget has been flat lined for several years and a proposed 15.6 net reduction in the budget may affect the time it takes for conclusion of investigations, hearings, and decision and orders. The Agency continues to strive for new efficiencies. The principal component in the budget is the wages and benefits for the four full-time staff members. To stay abreast of its caseload, the Agency has effectively streamlined procedures when possible, and within the constraints of due process. The Agency continues to increase reliance on automation. To minimize costs, it sets hearings in Anchorage when possible, schedules multiple hearings during one week or schedules board members to hear multiple hearings, and relies on telephone conferences for participation by persons outside the

Anchorage area. Moreover, the Agency now hears disputes for decision on the written record where appropriate. The Agency also conducts most elections by mail ballot, avoiding travel and loss of productive employee time during travel. Further budget reductions may impact the Agency's ability to provide postage for voters to mail ballots back to the Agency.

FISCAL YEAR 2003

TOTAL	342.0
Personnel	293.4
Travel	15.5
Contractual	29.8
Supplies	3.3
Equipment	0.0

SUMMARY OF SERVICES AVAILABLE

Requests for services can be made either personally at the agency's offices in Anchorage, by telephone at (907) 269-4895, by fax at (907) 269-4898, or by e-mail to Mark_Torgerson@labor.state.ak.us, 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 by mail.

Business meetings.

The Board conducts business meetings in room 208 of the Department of Labor and Workforce Development building, 3301 Eagle St., 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.

Fax filings.

The Agency will accept filing by fax, but the person filing by fax must then 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. These forms can be obtained at the office of the agency, by telephoning (907) 269-4895, or are now available for download from the agency's web site at <http://www.labor.state.ak.us/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, including BNA Labor Relations Reference Manuals. The library is open for public use.

Mediation.

Hearing Officer Jean Ward is available by appointment to answer general questions about mediation and Agency mediation services.

Publications.

Pamphlet. The Agency publishes a pamphlet containing the laws and regulations the Agency administers. The most recent pamphlet was published in May of 2002 and contains the changes to the regulations on Collective Bargaining among Public Employees 8 AAC 97.010 -- 8 AAC 97.990 effective on May 18, 2002.

Report to Governor and the Legislature. The Agency is required to report to the governor and the legislature annually. AS 23.05.370(a)(4). Copies of the annual report are available upon request.

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

Unfair labor practices pamphlet. This pamphlet is a basic description of unfair labor practices and the Agency's proceedings if an unfair labor practice is charged. 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 file or must respond to petitions and unfair labor practice charges.

Speakers.

Agency staff members are available to speak to groups about the Agency and its programs.

Tapes of agency proceedings.

Copies of tapes of Agency case proceedings are available upon a request. Please call Agency staff to arrange copying. Generally, there is no charge if the appropriate number of leaderless 90-minute tape cassettes is provided.