

# Alaska Labor Relations Agency 2004 Annual Report



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

*Submitted May 2005*

# 2004 ANNUAL REPORT

Submitted May 2005  
(In accordance with AS 23.05.370)

## INTRODUCTION

The Alaska Labor Relations Agency, or ALRA, administers the Public Employment Relations Act (PERA) for the State, municipalities, public schools, and the University. The Agency also administers the railroad labor relations laws for the Alaska Railroad Corporation. ALRA 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 collective bargaining agreements, determines strike eligibility of workers, 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 who serve staggered three-year terms governs the Agency. 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. The following individuals comprise the current Board:

Gary P. Bader, Chair	Appointed March 24, 2004	Public
Aaron T. Isaacs, Jr., Vice Chair	Reappointed March 9, 2005	Public
Colleen E. Scanlon, Board Member	Reappointed March 9, 2005	Management
Dennis Niedermeyer, Board Member	Appointed March 24, 2004	Management
Randy Frank, Board Member	Resigned May 1, 2005	Labor
Gary Atwood, Board Member	Appointed March 9, 2005	Labor

### STAFF

Mark Torgerson, Administrator/Hearing Examiner  
Jean Ward, Hearing Officer/Investigator  
Margie Yadlosky, Human Resource Specialist I  
Sherry Ruiz, Administrative Clerk III

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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).

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REGULATIONS

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

## 2004 HIGHLIGHTS.

***Board Appointments.*** During the 24<sup>th</sup> legislative session, Governor Frank Murkowski reappointed two current members of the Agency Board and appointed one new member. The new member, Gary Atwood of Fairbanks, was appointed to fill a Labor seat on the ALRA board effective March 9, 2005. Board member Aaron Isaacs of Klawock was reappointed to a Public seat, and will continue to serve in the Vice Chair position. Ketchikan resident Colleen Scanlon, the second reappointment, will continue to serve in a Management seat. Both reappointments were effective March 9, 2005.

The Agency currently has one vacancy for a labor position, due to Member Randy Frank's resignation effective May 1, 2005. The Governor appoints Agency board members, who must then be confirmed by the Legislature.

***Agency Caseload Increases.*** 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. The total number of pending cases decreased from 170 in 1999 to 56 in 2001, due to changes in operational efficiencies and reduced case filings. However,

the current trend signals an increase in the number of filings and open cases. The total number of open cases in January 2004 (71), was less than January 2003 (83), although still a significant increase from totals in 2002 (60) and 2001 (56). There were 84 open cases reported at the beginning of May 2005. This increase results from a large number of unit clarification filings.

Cases filed in 2004 totaled 64, a 3.2% increase from 2003 (62). Although small, this increase indicates that the number of cases filed has continued to increase each year since 2000, when 49 cases were filed. There have been 42 new cases filed as of April 30, 2005, the same number filed by April 30, 2004.

The Agency had developed a backlog primarily because of a large number of case filings in the 1995-to-1998 period (an average of 149 per year). 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. Factors that may affect case filings include expiration of collective bargaining agreements and related contract negotiations, and economic factors such as reduced government budgets.

***Unit Clarification Petitions.*** In 2004, filing of unit clarification (UC) petitions increased by 29.4 percent from 2003's total. Parties filed 22 UC petitions in 2004, compared to 17 in 2003. The current trend for UC petitions shows increased filings to continue for 2005. As of April 30, 2005, there have been 33 new UC petition filings, compared to 15 UC petitions filed as of April 30, 2004. The 33 cases filed so far in 2005 is higher than the total number filed each year since 1998, when 66 unit clarification petitions were filed. If this trend continues, unit clarification petition filings will outnumber the unfair labor practice case filings in 2005 and will experience the largest caseload increase for 2005. (See "Overview" page 7).

UC petitions usually involve a dispute over the supervisory status of a State employee. An employee's status as supervisor or non-supervisor affects the employee's bargaining unit placement. While the issue of supervisory status affects all State employee bargaining units, UC disputes filed with the Agency primarily involve 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). A significant increase in the number of petitions began in 1995 after the Board amended the regulation defining "supervisory employee." The validity of this amendment was challenged in the courts. On October 15, 1999, the Alaska Supreme Court affirmed the regulation's validity. (*See Alaska State Employees Ass'n/AFSCME Local 52 v. State of Alaska*, 990 P.2d 14 (Alaska 1999)).

After the UC caseload increased to 207 by November 1997, Agency staff analyzed alternatives to improve efficiency while still providing due process. The old procedure, holding a hearing in each case, became impossible to keep up with, given staffing and budget limitations. To reduce the backlog and improve production, staff

streamlined procedures in 1998 and reduced the hearing load. These new procedures succeeded. Although the Agency reduced the UC caseload significantly, case filings increased in 2002, 2003, and 2004. (See “Final Disposition” page 7, discussion at pages 14 - 15, and trends chart page 9). In 2004, the Agency completed 12 investigations. The Agency has no direct control over cases filed by parties.

**Unfair Labor Practice Complaints.** The Agency experienced a 3.6% increase in the number of unfair labor practice (ULP) charges filed for 2004, the ULP caseload continued to be the largest caseload for 2004. This caseload is also the most time-consuming due to its investigatory requirements. The number of ULP charges filed in 2004(29) continues a rising trend in this caseload. The six-year trend shows a general rise over prior years. (See “Cases Filed” page 7, discussion at pages 16 - 17, and trends chart, page 10). ULP filings in 2000 (19) were followed by significant increases in 2001 (27), 2002 (28), 2003 (28) and 2004 (29). Fifty-five percent of the ULPs filed in 2004 are State related cases. The remaining 45% include 28% education-related cases, 7% railroad-related, and 10% for political subdivisions. Parties have already filed 5 ULPs in the first four months of 2005. Two are State related cases and three involve political subdivisions. The parties have agreed to dismiss some disputes recently after they reached agreement on new collective bargaining contracts. Whether these agreements will result in a caseload reduction is unknown.

Bad faith bargaining charges decreased from 70% of the ULP filings in 2003 to 55% in 2004, still an increase from 53% of the ULP filings in 2002. These charges often arise in the context of collective bargaining; one party believes the other party has failed to bargain in good faith. The issue in 20% of the 2004 ULP charges was interference with protected rights, such as organizing and collective bargaining, an increase from 14% in 2003. Four percent concerned the duty of fair representation; another four percent concerned unilateral changes. Eight percent concerned retaliation or a violation of Weingarten rights (the right to have a union representative present at an investigatory interview that could lead to discipline). The remaining nine percent concerned charges related to other issues that were dismissed due to insufficiency. None of the 2004 charges concerned restraint or coercion.

Effective January 1, 1999, the Agency implemented new procedures designed to reduce time to complete ULP investigations. With no increase in staffing, it took a lengthy period, but the Agency's hearing officer worked through the caseload and completed the goal of resolving all cases filed prior to 1999. Agency staff completed 28 ULP investigations in an average of 217 days in 2004. This compares to 26 investigations averaging 143 days in 2003, 29 averaging 91 days in 2002, and 21 averaging 187 days in 2001. Staff investigated 3 high priority cases in 2004, compared to 11 in 2003, 6 in 2002, and 2 in 2001. The average number of days to complete the high priority cases was 56 days, a decrease from last year's average of 60 days. The decrease in average number of days to conclude investigation of high priority cases in 2004 over 2003 was likely due to the decreased number of investigations required in this category.

The average number of days is still higher than the average for 2002 (44) and for 2001 (42). Staff finished 25 regular priority ULP investigations in 2004, compared to 15 in 2003, 23 in 2002, and 19 in 2001. Time needed to investigate these charges in 2004 (237), is higher than 2003 (190 days). Several factors affect time needed to complete investigations, including case complexity, staff efforts on informal resolution, and the investigating staff members other caseload and work priorities. In addition, sheer volume of ULP filings can affect completion time for both high and normal priority cases. (See trends chart page 9).

The Agency received one election petition in 2004. This petition requested decertification of the current bargaining representative and certification of a new bargaining representative. This compares to two petitions filed in 2003, six filed in 2002, seven filed in 2001, six in 2000, and four in 1999.

The Agency conducted one election in 2004 that resulted in the decertification of one bargaining representative and certification of a new bargaining representative. The result of the election activity in 2004 did not affect the number of public employees covered by collective bargaining under PERA.

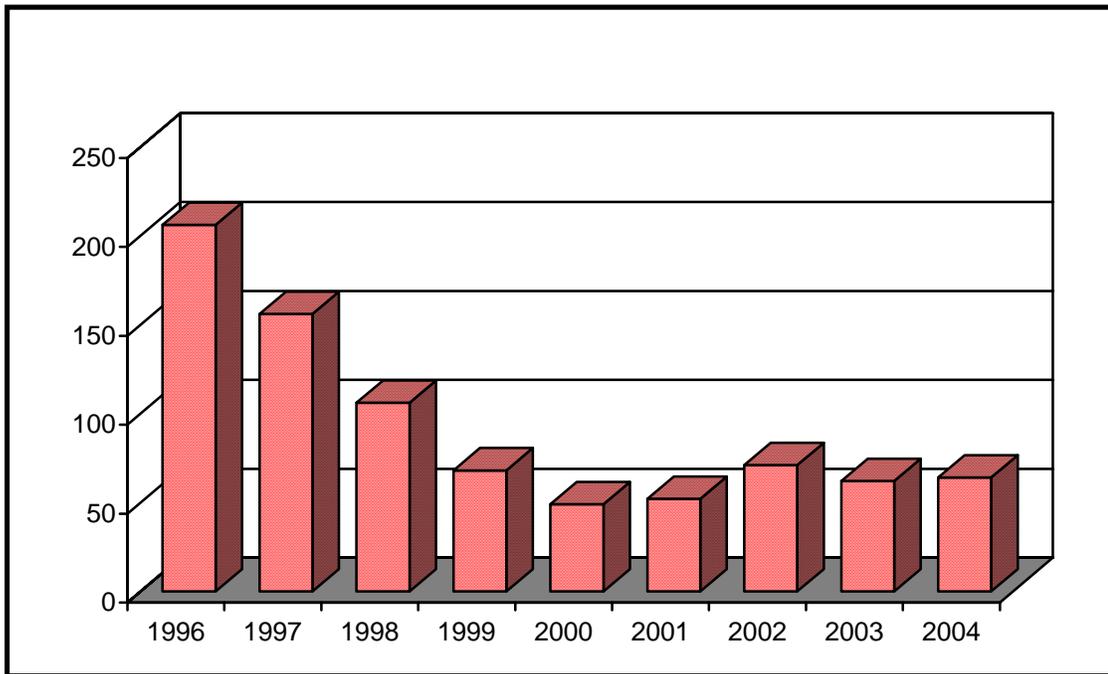
There was one strike petition filed in 2004. (See "Cases Filed" page 7). The Alaska State Employees Association, AFSCME Local 52, AFL-CIO alleged impasse with State of Alaska and requested mediation. An Order of Dismissal was issued on May 13, 2004, after ASEA filed its Notice of Withdrawal of Impasse Declaration.

The Agency continues to emphasize informal resolution of disputes. As a result, 27 unfair labor practice charges were resolved informally in 2004, compared to 22 in 2003, 26 in 2002, and 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 and time constraints have precluded this training thus far.

The Agency provides information 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 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 citations to the decisions issued.

CASE STATUS SUMMARIES

CASE LOAD COMPARISON BY YEAR



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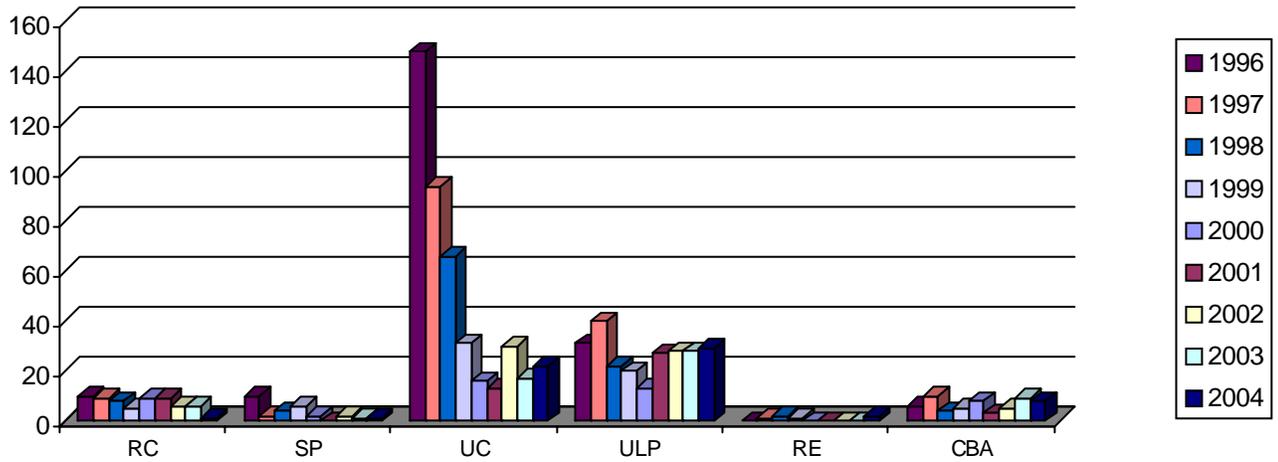
**OVERVIEW**

<b>CASES FILED</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>	<b>1999</b>	<b>1998</b>	<b>1997</b>	<b>1996</b>
Amended Certification (AC)	0	4	0	0	3	1	1	1	1
Representation (RC)	0	1	5	7	6	1	6	6	5
Decertification (RD)	0	0	1	1	0	1	1	1	2
Decert. to certify a new rep.(RC/RD)	1	1	0	1	0	2	0	1	2
Strike notice or strike class petition (SP)	1	1	2	0	2	6	4	2	10
Unit Clarification (UC)	22	17	30	13	16	31	66	94	148
Unfair Labor Practice Charge (ULP)	29	28	28	27	13	20	22	40	31
Religious Exemption Claims (RE)	2	0	0	0	0	1	2	1	0
Contract Enforcement (CBA)	8	9	5	3	8	5	4	10	6
Other (OTH)	1	1	0	0	1	0	0	0	1
<b>TOTAL</b>	<b>64</b>	<b>62</b>	<b>71</b>	<b>52</b>	<b>49</b>	<b>68</b>	<b>106</b>	<b>156</b>	<b>206</b>
<b>AGENCY ACTIVITY</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>	<b>1999</b>	<b>1998</b>	<b>1997</b>	<b>1996</b>
Unfair Labor Practice Investigations	28	26	29	22	10	31	24	26	20
Unit Clarification Investigations	12	32	12	11	48	93	NC	NC	NC
Decisions and Orders Issued	6	4	4	5	5	6	9	25	12
Other Board Orders Issued	7	1	1	5	1	16	NC	NC	NC
Hearing Officer Orders Issued	7	11	3	2	5	3	NC	NC	NC
Elections Conducted (includes AC)	1	8	8	6	3	3	6	7	6
<b>TOTAL</b>	<b>61</b>	<b>82</b>	<b>57</b>	<b>51</b>	<b>72</b>	<b>152</b>	<b>39</b>	<b>58</b>	<b>38</b>
<b>FINAL DISPOSITION</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>	<b>1999</b>	<b>1998</b>	<b>1997</b>	<b>1996</b>
Notices of dismissal issued	15	28	18/43	13/38	48	89	67	27	15
Cases settled or withdrawn	34	31	25	25	23	45	87	69	25
Cases that went to hearing	**9	**6	**8	4	6	7	3	10	29
Impasse matters settled or withdrawn	2	0	1	0	0	5	2	0	1
Cases deferred to arbitration	1	0	1	3	1	1	1	0	1
<b>TOTAL</b>	<b>59</b>	<b>65</b>	<b>53/78</b>	<b>45/70</b>	<b>78</b>	<b>147</b>	<b>160</b>	<b>106</b>	<b>71</b>

\*NC = not counted

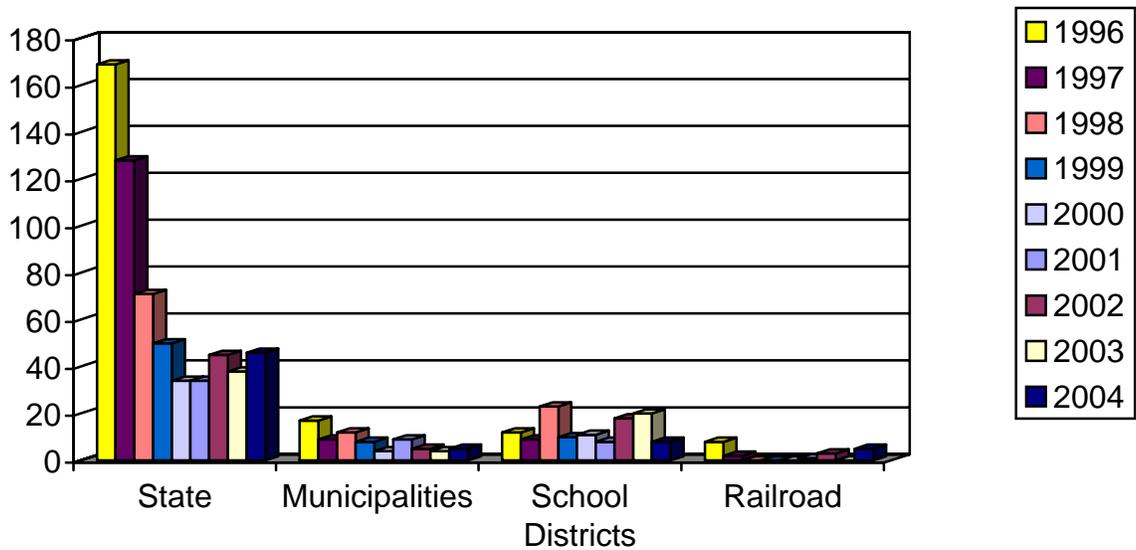
\*\* Cases consolidated for purpose of holding hearing due to limited travel funds (3 cases - 2004; 4 cases - 2003 &amp; 2002)

CHARTS

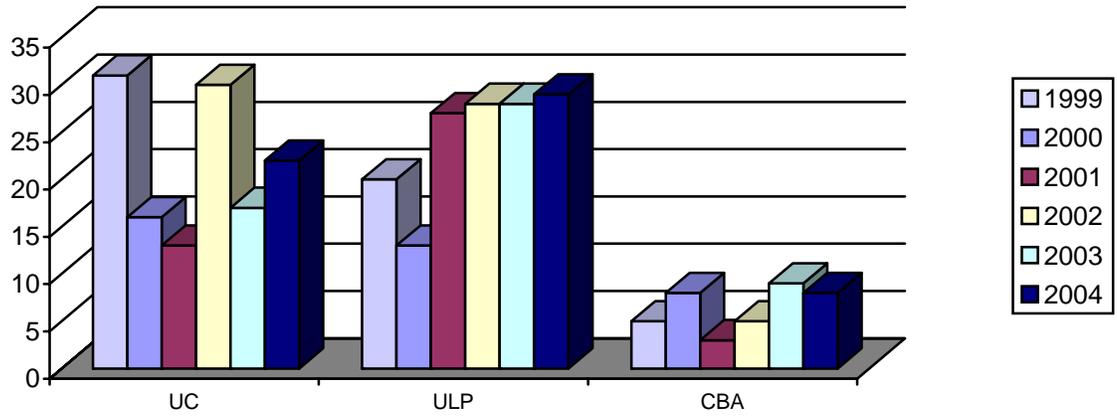


**PROGRAM COMPARISON BY YEAR**

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 SIX YEAR TRENDS**

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

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## REPRESENTATION PETITIONS (AS 23.40.100; AS 42.40.750)

Labor organizations, employers, or employees file to initiate a secret ballot election for certification or decertification of an employee representative for collective bargaining. Less frequently, parties file a petition to advise the agency that the employer consents to the labor organization's representation of a particular unit of employees. This notification of consent to recognition does not require the Agency to conduct an election. At any rate, 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 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 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 one election in 2004 that resulted in certification of a new bargaining unit. In this election tally, held on June 30, 2004, the correctional officers I, II, and III of the State of Alaska, Department of Corrections voted for decertification of their current representative, the Public Safety Employees Association, and representation by the Alaska Correctional Officers Association, Inc. This was the Agency's first election conducted where two intervenors petitioned for representation. In this election, 296 employees voted for representation by the Alaska Correctional Officers Association, Inc., 189 voted for Alaska Corrections Union, ASEA AFSCME Local 52, AFL-CIO, 8 voted for Public Safety Employees Association, and 6 employees voted for no bargaining representation. The results of the election were certified and the Agency issued an election certificate on July 7, 2004.

One decertification/representation petition filed by the Public Safety Employees Association (PSEA) in 2003 was denied by the Alaska Labor Relations Board. In its decision, the Board stated that

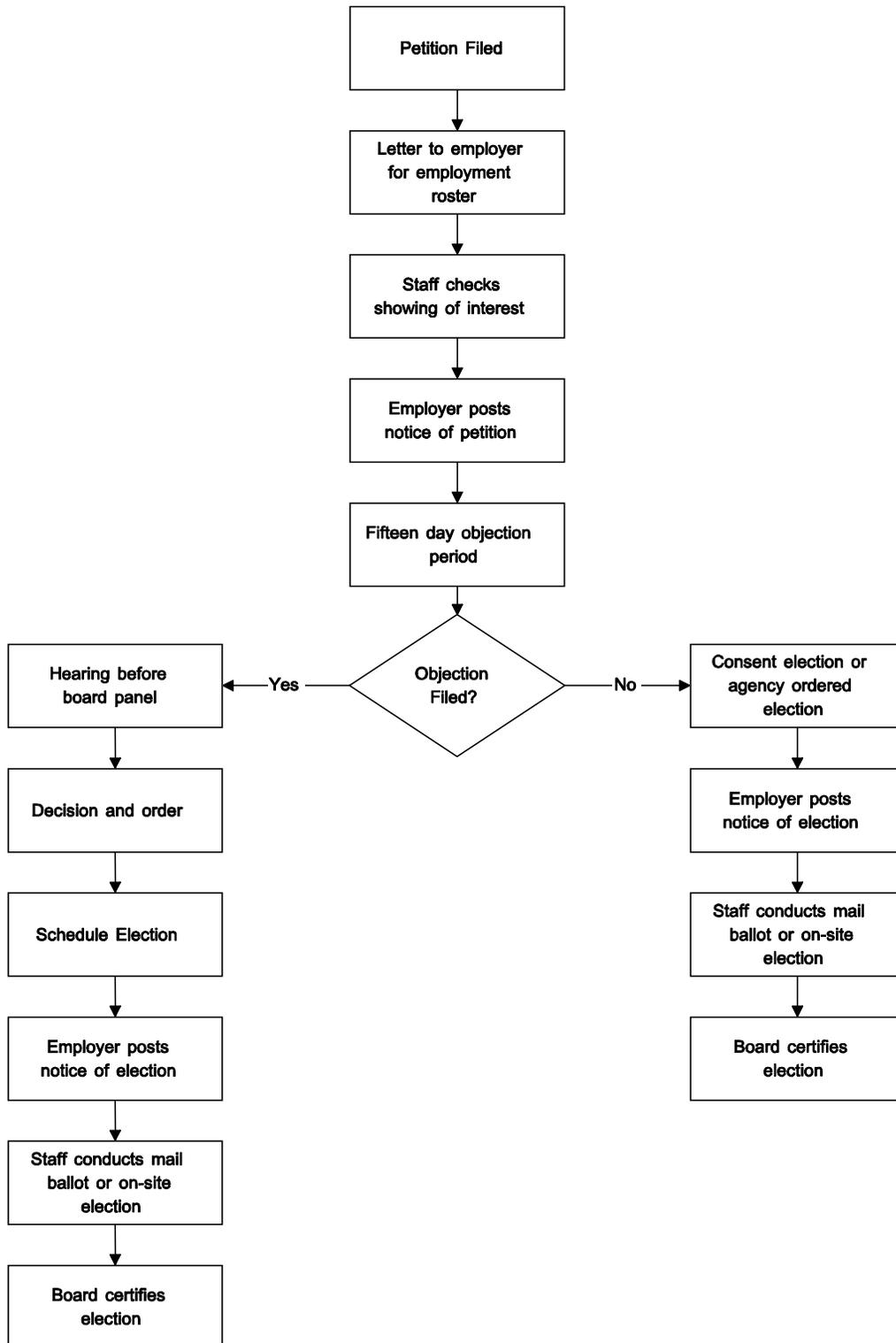
The petition of the Public Safety Employees Association to sever the Adult Probation and Parole Officers from the general government unit represented by the Alaska State Employees Association is denied. The Petitioner failed to demonstrate that the incumbent representative of the existing bargaining unit was not adequately representing the interests of the smaller group, and that the proposed group is an appropriate unit, among other factors.

*Public Safety Employees Association v. State of Alaska and Alaska State Employees Ass'n/AFSCME Local 52, AFL-CIO, Decision & Order No. 270, (December 21, 2004).*

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 2004, one petition filed in 2003 was dismissed in 2004 due to inaction. This petition, filed by the National Education Association-Alaska (NEA-AK), alleged that Hydaburg Education Association failed to meet the minimum standards of affiliation with NEA. The required information according to 8 AAC 97.015 and 8 AAC 97.015 was never received and the case was dismissed due to inaction on January 12, 2004.

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

### REPRESENTATION PETITION FLOW CHART



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**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 was one strike petition filed during 2004. This strike petition involved general government unit employees of the State of Alaska, represented by the Alaska State Employees Association/AFSCME Local 52, AFL-CIO (ASEA). In this case, ASEA alleged the parties were at impasse and requested appointment of a mediator under the provisions of AS 23.40.190. In March 2005, the Agency's Hearing Officer concluded the investigation and recommended the matter be scheduled for a hearing to allow the Board to determine whether a deadlock exists, and whether the Board should grant ASEA's request to appoint a mediator. In May 2004, ASEA withdrew its impasse declaration and returned to the bargaining table with the State. In June 2004, the parties reached a tentative agreement and the case was closed.

**STRIKE PETITIONS FILED**

1

Employer

State	1
Municipalities	0
Public Schools	0
Railroad	0

Hearings Conducted	1
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## 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 State's 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 case requires a hearing that includes the State and both interested labor organizations.

Disputes arose substantially, over 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)).

Although the 1999 Supreme Court decision seemed to effectively reduce the number of UC petition filings for a few years, the current trends shows an increase in the number of unit clarification petitions being filed. In fact, the Agency saw a 29.4 percent increase in the number of unit clarification petitions filed since 2003, representing the largest change of all case types for 2004. In 2004, 34 percent of all cases filed at the agency were unit clarification petitions compared to 27 percent in 2003. (See trends chart page 9). As in prior years, most UC petitions were State-related disputes. The number of State related petitions filed rose from 15 cases in 2003, to 20 cases filed in 2004, demonstrating a 33.3 percent increase filings for State related unit clarification petitions. This trend continues in 2005 where there have been 33 new State related unit clarification petitions filed as of April 2005.

In 1998, the Agency tackled the significant rise in UC cases by implementing streamlined procedures and adjusting caseloads. As a result, the Human Resource Specialist I assumed responsibility from the Hearing Officer to handle initial UC investigations. Under the revised procedure, the Agency sends the parties a comprehensive questionnaire to gather relevant information, rather than waiting for the parties to provide it, or proceeding to hearing, as was done previously. (For example, 28 UC disputes went to hearing in 1996. These hearings are rare now.)

The revised procedures have enabled the Agency to conclude 355 UC disputes since 1998. In January 2004, there were 29 open UC petitions. By December 31, 2004, 22 new UCs had been filed with 11 having been resolved, leaving 40 open UC cases. By April 2005, additional UC filings have increased the UC caseload to 60 open cases. The Agency's Hearing Officer previously handled UCs. The Hearing Officer's only remaining tasks for UCs are to review and act on the Human Resource Specialist's recommendations, and hold hearings if there is reasonable cause to believe that a question of unit clarification exists. This reduced UC responsibility enables the Hearing Officer to devote more time to unfair labor practice investigations, mediation, and other important duties.

**UNIT CLARIFICATION PETITIONS FILED** 22

Employer

State	20
Public Schools	0
Municipalities	0
Railroad	2

Hearings conducted 0

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## 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 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 filings in 2004 (29) exceeded 2003's total (28) slightly. The general trend shows a significant increase in case filings the past few years. (See trends chart page 9, and table, page 18). Of the 29 charges filed in 2004, more than two-thirds (20) concerned bad faith bargaining. Other charges included interference with protected rights, the duty of fair representation, domination or interference with the formation, existence, or administration of an organization, retaliation, unilateral action by an employer, and violation of Weingarten rights.

The Agency ranks ULPs by level of priority. For example, collective bargaining and other disputes that affect a large number of employees receive higher priority. Three of the 29 ULP's filed in 2004 were classified as high priority, compared to eleven of the 28 ULPs filed in 2003. Two of these cases were dismissed after the parties settled, and one case proceeded to hearing in 2005. Although high priority filings were unusually large in 2003, the number for 2004 is comparable to past years. A large number of cases filed in a short time frame can impact average investigative time for both high and normal priority cases.

There were 27 open unfair labor practice cases on December 31, 2004. There are currently 18 open unfair labor practice cases as of April 30, 2005. One of the open cases was filed in 2002, 4 in 2003, 9 in 2004, and 4 ULP cases have already been filed as of August 2004. The open case from 2002 has been in abeyance since February 19, 2002, as various court actions and arbitration hearings have taken place. One open case from 2003 was placed in abeyance on January 27, 2004 based on agreement by and between SOA, MM&P and MEBA for licensed employees of the Fairweather. In this case, MM&P alleges the state is attempting to dominate or interfere with the information, existence of an organization, in violation of AS 23.40.110 (2).

The Agency concluded 28 investigations in 2004, similar to totals in 2003 (26), 2002 (29), and 2001 (22). The Agency completed these 28 investigations in an average of 217 days. In 2004, staff concentrated on resolving some of the older cases, which affected the number of days required to complete investigations. (See timeliness chart page 21).

Of the 28 investigations concluded in 2004, 3 were high priority and 25 were normal priority. The average number of days to conclude a high priority ULP for 2004 was 56 days, with 237 the average number of days to conclude the normal priority cases. Complexity of cases, whether high or normal priority, varies considerably. The nature of the case and its complexity affects staff's ability to complete investigations within the Agency's time targets. The Agency's ability to complete investigations timely is affected negatively when case filings rise significantly. Regardless of the extent of this rise and the total caseload, the Agency must work the caseload with the same number of staff.

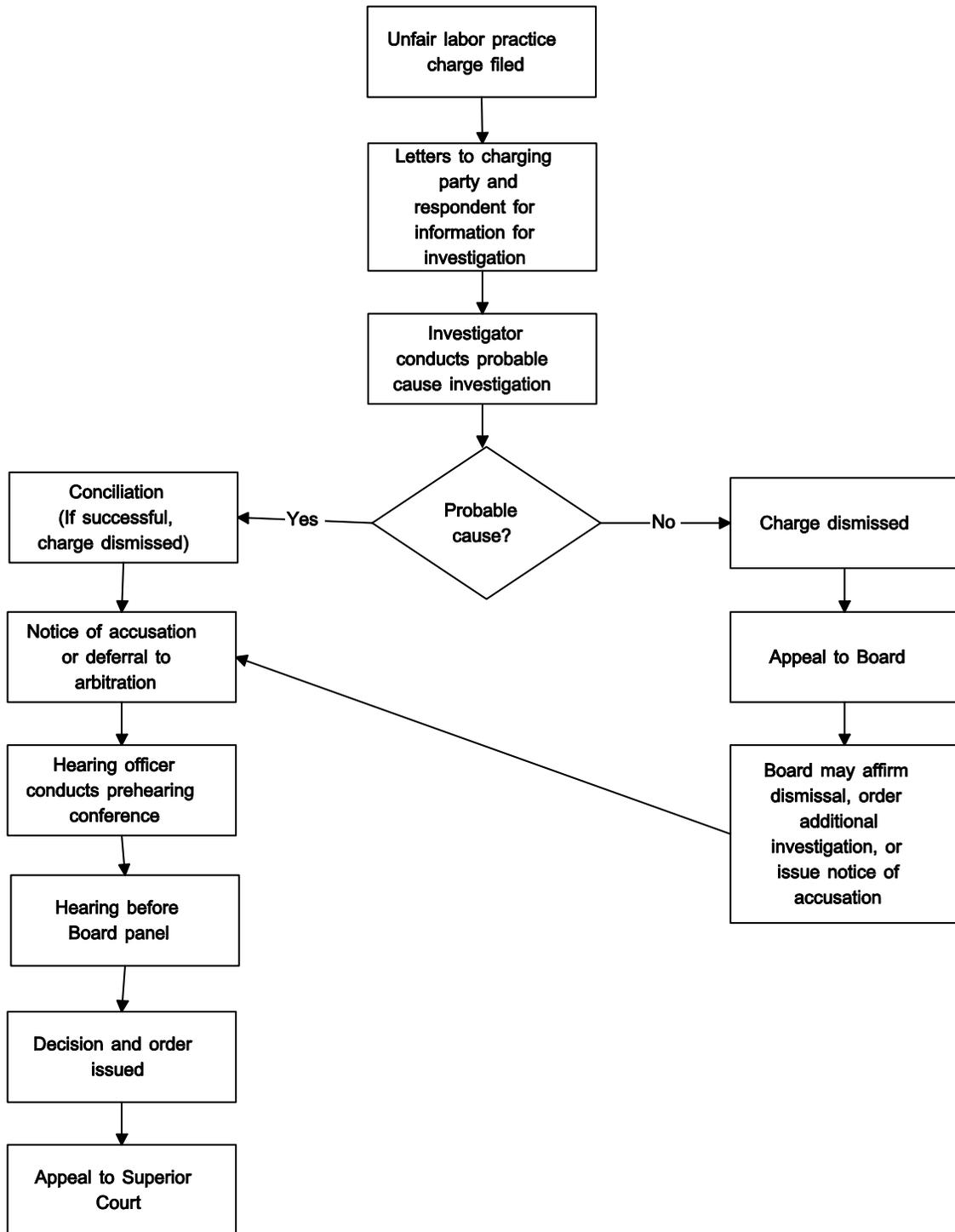
**UNFAIR LABOR PRACTICE CHARGES FILED** 29

Employer	
State	16
Municipalities	3
Public Schools	8
Railroad	2
Type	
Arbitration related	0
Bad faith bargaining	16
Retaliation	1
Interference with protected rights	6
Domination or interference (a)(2)	
Union duty of fair representation	1
Employer action without bargaining	1
Information request	
Scope of bargaining	
Weingarten	1
Discrimination	
Impasse	
Other	3
Investigations	28
Hearings conducted	6
Other resolution	
Dismissals (no probable cause)	1
Deferrals to arbitration	1
Settled or withdrawn	23
Dismissed, inaction	1
Dismissed, final order	0
Dismissed, Insufficient	3
Remand	0
Other	0

**COMPARISON BY ULP COMPLAINANT**

<b>Complainant</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>	<b>1999</b>	<b>1998</b>	<b>1997</b>	<b>1996</b>
Alaska Public Employees Ass'n	0	3	3	2	0	1	4	1	1
Alaska State Employees Ass'n	5	3	3	8	3	6	1	12	9
I.B.U.P.	0	2	0	1	0	1	0	0	0
I.B.E.W.	0	0	0	0	0	3	0	6	7
UA Classified Employees Ass'n	0	0	0	0	0	0	0	1	0
ACCFT	0	2	2	0	0	0	5	1	0
Other Unions	7	6	7	8	3	0	1	8	3
School Unions	5	9	8	1	2	0	6	3	2
Individuals	6	1	2	6	4	7	3	3	6
Employers	6	2	3	1	1	2	2	5	3
<b>Total ULPs filed</b>	<b>29</b>	<b>28</b>	<b>28</b>	<b>27</b>	<b>13</b>	<b>20</b>	<b>22</b>	<b>40</b>	<b>31</b>

### UNFAIR LABOR PRACTICE CHARGE FLOW CHART



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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 religious convictions.

<b>CLAIMS FILED</b>		<b>2</b>
Employer		
	State	0
	Municipalities	2
	Public Schools	0
	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)**

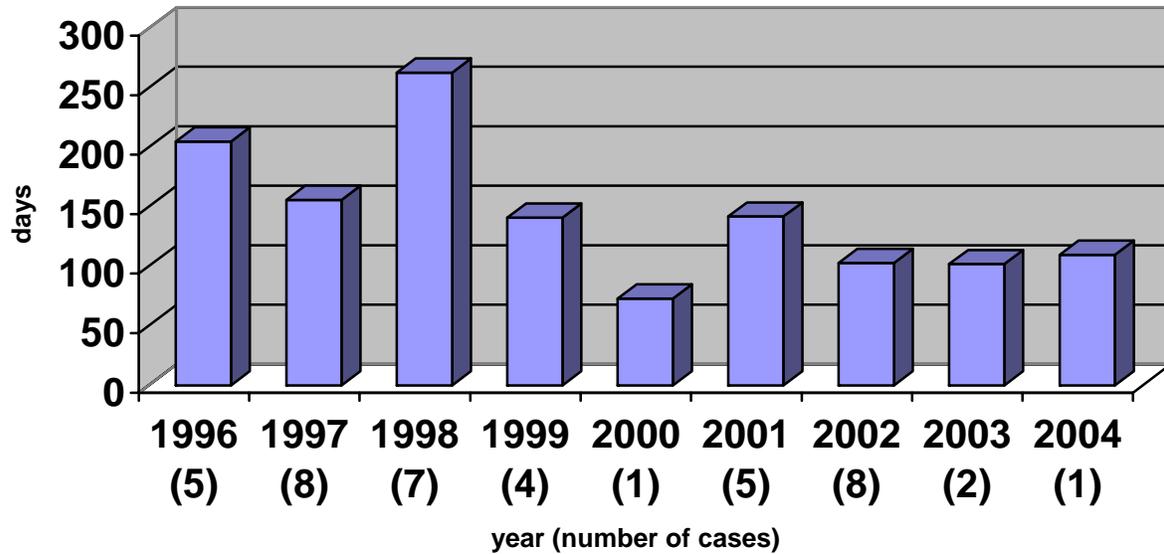
AS 23.40.210 and AS 42.40.860(b) authorize the agency to enforce the terms of a collective bargaining agreement (CBA). Because all agreements under AS 23.40.210 must contain an arbitration clause to handle disputes under the agreement, 8 AAC 97.510 requires that parties first exhaust the arbitration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

Eight such petitions were filed in 2004. Although slightly lower than 2003 (9), this number still exceeds totals for 2002 (5) and 2001 (3). The 2004 and 2003 totals more than doubles the average number of CBA petitions filed yearly in the 1993 – 1996 period (4). The largest number of CBA petitions was filed in 1997 (10).

<b>CBA PETITIONS FILED</b>		<b>8</b>
Employer		
	State	7
	Municipalities	0
	Public Schools	0
	Railroad	1
Hearings conducted		1

## TIMELINESS

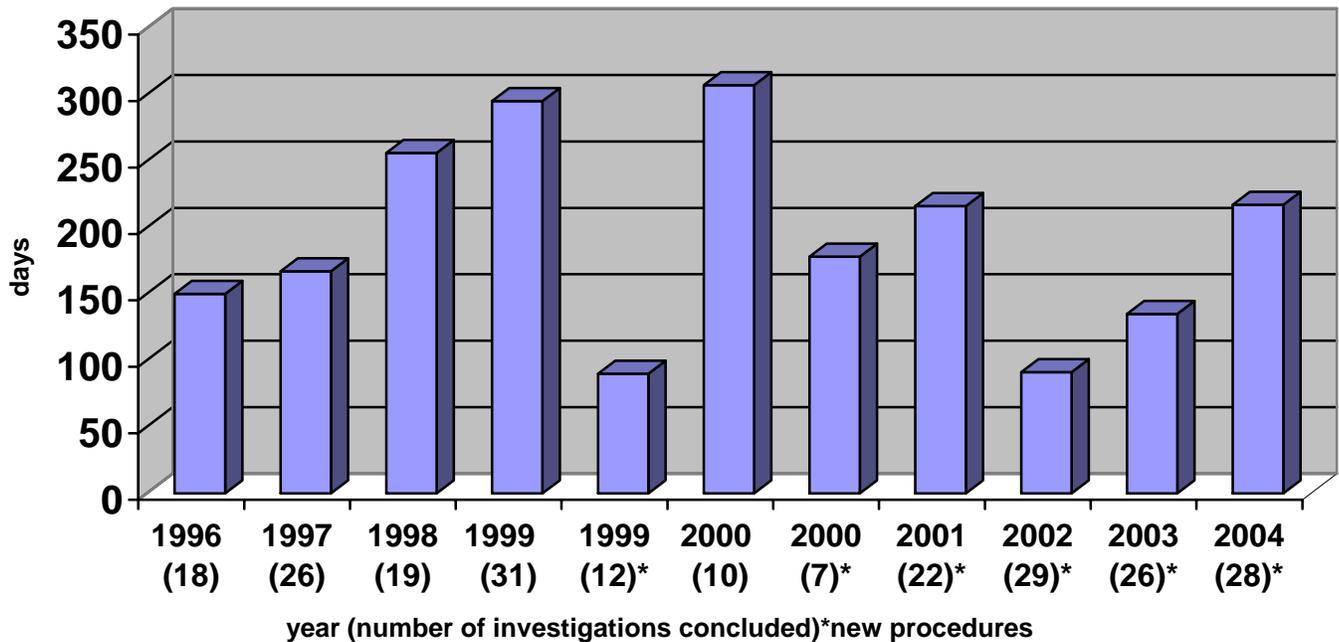
### ELECTIONS



NUMBER OF DAYS TO CERTIFICATION OF ELECTION.

### UNFAIR LABOR PRACTICE INVESTIGATIONS

NUMBER OF DAYS TO CONCLUSION OF INVESTIGATION.

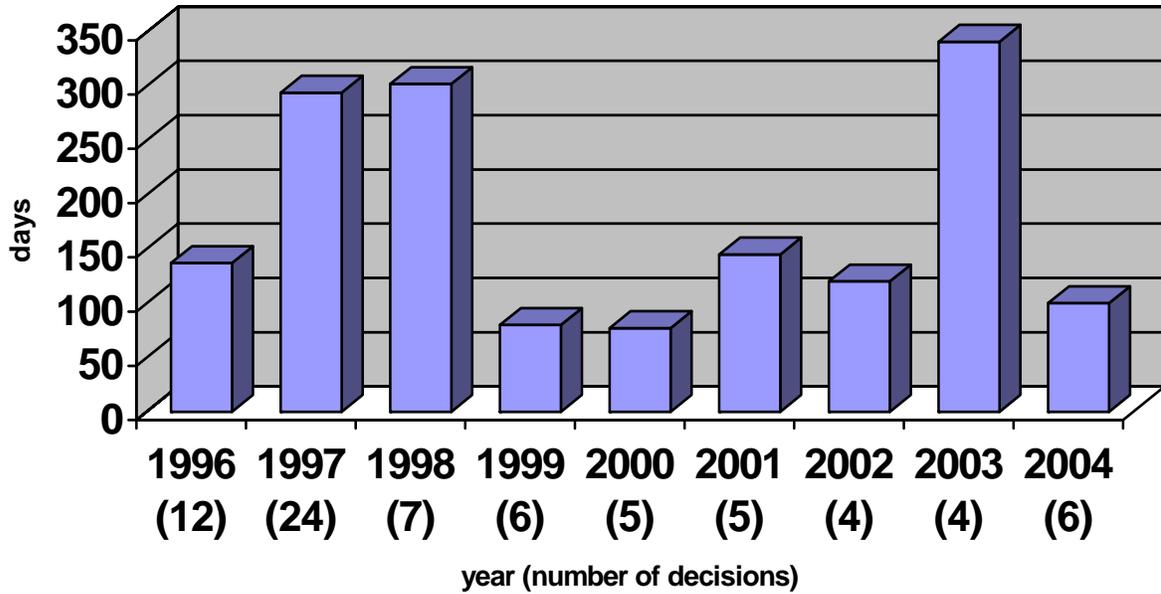


year (number of investigations concluded)\*new procedures

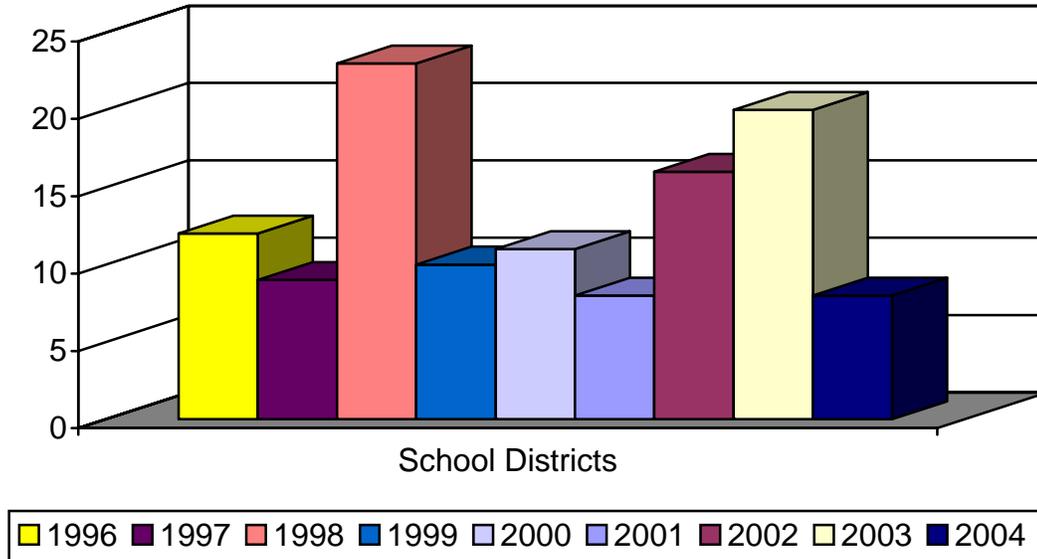
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DECISION AND ORDERS

NUMBER OF DAYS FROM CLOSING OF RECORD TO DECISION



**SCHOOL DISTRICT ACTIVITY FROM 1996 TO 2004  
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 2003 (11)		
Case Type		EDUCATION
CBA		2
RC		0
RC/RD		0
RD		0
SP		1
UC		2
ULP		11

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

Breakdown of cases filed in 2004 (8)		
Case Type		EDUCATION
CBA		0
RC		0
RC/RD		0
RD		0
SP		0
UC		0
ULP		8

DECISIONS AND ORDERS ISSUED

1. KETCHIKAN EDUCATION ASSOCIATION, NEA-AK/NEA vs. KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT, Case No. 00-1050-UC. Decision and Order No. 266 (June 18, 2004). The Petitioner's petition is denied. The collective bargaining agreement clearly and unambiguously gives the Ketchikan Gateway Borough School District final authority and responsibility for the development of education programs. Thus, there is no need to compel the parties to arbitration under their collective bargaining agreement because the District has final authority over modification of the elementary reading program. Both the agreement and Alaska law provide the District with this authority.
2. ALASKA PUBLIC EMPLOYEES ASSOCIATION/AFT, AFL-CIO vs. STATE OF ALASKA, Case No. 03-1248-CBA. Decision and Order No. 267 (June 18, 2004). The State of Alaska did not violate the parties' settlement of a dispute over the employee's pay and benefits. There is no need to proceed to arbitration.
3. MATANUSKA-SUSITNA EDUCATION ASSOCIATION, NEA-ALASKA vs. MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT, Case No. 02-1148-ULP. Decision and Order No. 268 (August 30, 2004). The District did not commit an unfair labor practice by directly informing the Association's members of the facts regarding the District's contract proposals or by delaying the selection of an arbitrator.
4. ALASKA PUBLIC EMPLOYEES ASS'N/AFT, AFL-CIO (Vern Ably) vs. KETCHIKAN GATEWAY BOROUGH, Case No. 03-1244-ULP. Decision and Order No. 269 (August 30, 2004). The Alaska Public Employees Association/AFT, AFL-CIO (APEA) failed to prove by a preponderance of the evidence that the Ketchikan Gateway Borough (Borough) discriminated against APEA member Vern Ably, because of Ably's union activity, when the Borough denied his request for a salary advance on July 2, 2003.
5. PUBLIC SAFETY EMPLOYEES ASSOCIATION vs. STATE OF ALASKA AND ALASKA STATE EMPLOYEES ASSOCIATION/AFSCME LOCAL 52, AFL-CIO, Case No. 03-1229-RCRD. Decision and Order No. 270 (December 21, 2004). The petition of the Public Safety Employees Association to sever the Adult Probation and Parole Officers from the general government unit represented by the Alaska State Employees Association is denied. The Petitioner failed to demonstrate that the incumbent representative of the existing bargaining unit was not adequately representing the interests of the smaller group, and that the proposed group is an appropriate unit, among other factors.
6. INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, (PACIFIC MARITIME REGION) vs. STATE OF ALASKA, Case No. 04-1303-

ULP. Decision and Order No. 271 (December 28, 2004). The State of Alaska committed an unfair labor practice when it unilaterally changed a term or condition of employment without bargaining to impasse.

## APPEALS

There were no Alaska Labor Relations Agency decisions appealed to the Alaska Superior Court or Alaska Supreme Court in 2004.

## OTHER AGENCY BUSINESS

**Board Business Meetings.** The Agency conducted two business meetings during 2004. Several years ago, the Agency reduced scheduled business meetings from four to two due to travel and other funding reductions. The Board has discussed conducting some business meetings by phone but believes in person meetings are important for Board members, Agency staff, and the public. In-person meetings give the public the opportunity for face-to-face communications with Board members.

## LEGISLATION

The 2004 Legislature amended AS 23.40.075. This minor amendment provides essentially that certain university research contracts are not subject to bargaining under PERA. AS 23.40.075 § 5.

## REGULATIONS

The Agency Board did not propose or adopt any new regulations during 2004.

Agency regulations appear in 8 AAC 97.010 -- 8 AAC 97.990. Copies are available upon request.

## BUDGET

The Agency budget remains lean. The FY 2005 budget does fully fund staff costs this fiscal year.

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 schedules hearings in Anchorage when possible, schedules multiple hearings on successive days, and relies on telephone conferences for participation by persons outside the Anchorage area when necessary. Moreover, the Agency hears disputes for decision on the written

record where appropriate. Still, Board members find that in-person hearings are a more effective way to conduct Agency hearings.

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

**FISCAL YEAR 2005**

TOTAL	370.2
Personnel	326.0
Travel	12.3
Services	23.6
Commodities	8.3

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@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 in hard copy by mail. Parties may pick up copies at the Agency office.

Business meetings.

The Board conducts business meetings in Suite 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. Persons can pick up these forms at the Agency's office or by telephoning (907) 269-4895. In addition, the forms 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. Persons may request a copy of Pamphlet 900. 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, and updates to the Public Employment Relations Act AS 23.40.070 -- 23.40.260 passed during the 23<sup>rd</sup> Legislative Session.

**Report to Governor and the Legislature.** The Agency is required to report to the governor 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.