
Alaska Labor Relations Agency

2020 Annual Report

State of Alaska
Governor Michael J. Dunleavy

Department of Labor
and Workforce Development
Dr. Tamika L. Ledbetter, Commissioner



Paula Harrison, Chair
Nicole Thibodeau, Administrator

3301 Eagle Street, Suite 206
Anchorage, Alaska 99503

[*labor.relations@alaska.gov*](mailto:labor.relations@alaska.gov)

Phone: 907.269.4895

Fax: 907.269.4898

[*http://labor.alaska.gov/laborr/home.htm*](http://labor.alaska.gov/laborr/home.htm)

Submitted March 26, 2021 in accordance with AS 23.05.370

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 2020, Governor Dunleavy appointed Patty Burley to the Management seat previously held by Mila Cosgrove. In January 2021, the Governor appointed Dennis DeWitt to fill the remaining two years in the public seat that had been vacant. Justin Mack was appointed in March, 2021, to the labor seat previously held by Lon Needles.

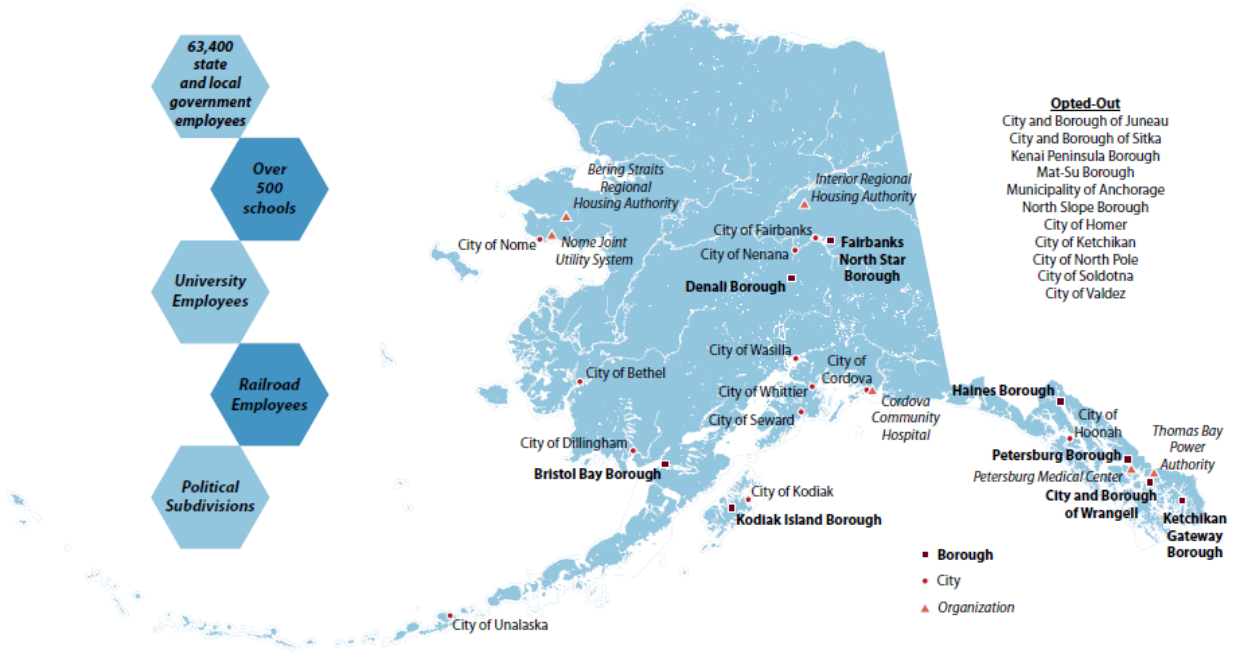
Board Members

| | | |
|----------------------------|----------------------------|------------|
| Paula Harrison, Chair | Appointed March 1, 2019 | Public |
| Dennis DeWitt, Vice Chair | Appointed January 11, 2021 | Public |
| Patty Burley, Board Member | Appointed March 1, 2020 | Management |
| Tyler Andrews, Member | Reappointed March 1, 2021 | Management |
| Justin Mack, Member | Appointed March 1, 2021 | 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

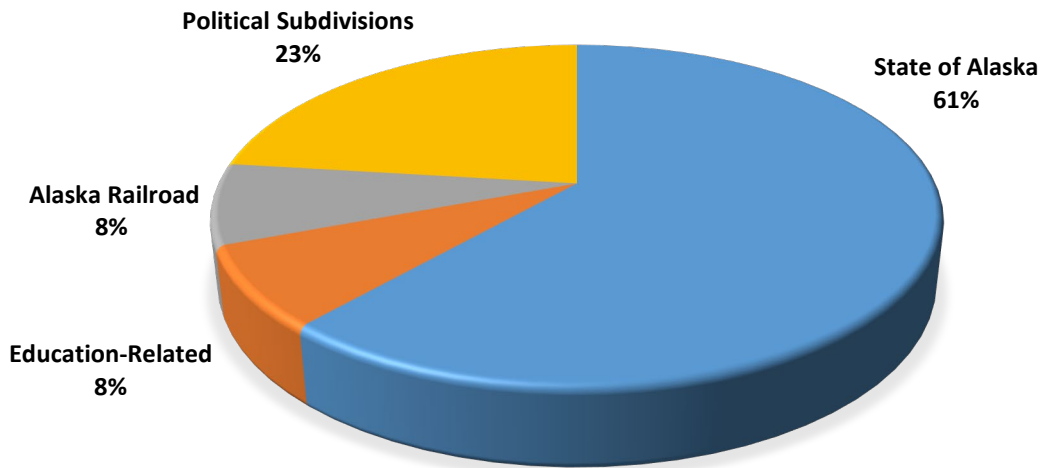
Under the Public Employment Relations Act, or PERA, the Agency has jurisdiction over labor disputes of all state, railroad, public school, and political subdivisions¹ that have not opted out of PERA. Above is a graphic illustrating ALRA’s jurisdiction with known political subdivisions covered by PERA 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 2020.

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, 2020 state and local government employee annual average estimates
<https://live.laborstats.alaska.gov/ces/ces.cfm?at=01&a=000000&adj=0>.

2020 CASE BY EMPLOYER TYPE



Agency Activity

In March, 2020, due to the COVID pandemic and the Governor’s emergency declaration, ALRA staff transitioned to telework along with many other state employees. The Agency’s Anchorage office remained closed to the public, except by appointment, through the end of the year and into 2021. Fortunately, in 2019 the Agency implemented ProLaw, a new database to more efficiently track case data with more reporting and querying functionality. This allowed staff to more easily manage cases remotely using ProLaw’s digital files. In addition, like many other adjudicative bodies, ALRA moved quickly to conducting elections and any other proceedings or meetings via Zoom, and MS Teams. Because of the Agency’s statewide jurisdiction and its scarce resources, most agency work is conducted over email, mail, and telephone regardless of the pandemic. In 2020, the Agency moved to virtual contact only with parties. Because of the pandemic, the Agency transitioned to conducting business with parties over Zoom, Teams, and Webex. These virtual platforms have been a welcome addition and, where appropriate, will continue to remain an invaluable tool for the Agency beyond the pandemic.

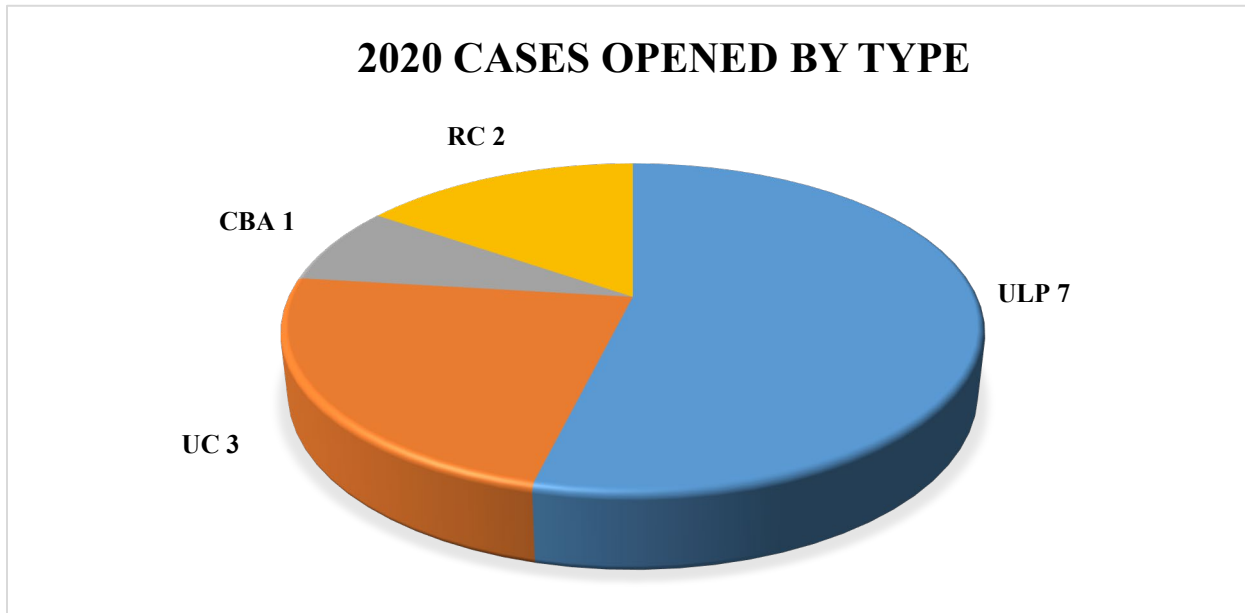
1. Adjudications

ALRA resolves disputes through an adjudicative process that begins with a party filing a petition or complaint with the Agency. 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 begin. 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 (RC), strike class determination (SC), unit clarification (UC), unit amendment (AC), religious exemption (RE), enforcement of collective bargaining agreements (CBA), and unfair labor practice complaints (ULP).



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 bargaining³, and interference with the employer's selection of its own representative for collective bargaining or adjustment at grievances. Often, petitions include multiple charges against a party. Additionally, employees may file duty of fair representation claims against unions if they believe the union has failed to adequately represent them.

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.

³ 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.

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 the investigation, if the hearing officer finds there is probable cause that a ULP violation occurred, and informal resolution⁴ 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.

A total of seven unfair labor practice charges were filed in 2020. Of those seven charges filed in 2020, seven included bad faith bargaining, and two concerned the interference with employees' protected rights. One included a charge to dominate with organization or activity, and one included a charge to discriminate against protected union employee activity. 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 2020.

During 2020, the Agency closed four ULP cases and issued formal findings in two ULP investigations, in an average of 65 days. Of the two investigations that concluded with findings, 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 2020. Two ULP cases were settled with informal resolution, and two findings were issued formally in 2020. Probable Cause to believe that an unfair labor practice occurred was found in one of the ULPs and it was forwarded to a hearing, but the parties settled before the hearing.

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 2020, the Agency fielded numerous questions regarding organizing and decertifying efforts. Two representation petitions were filed in 2020. Of those two petitions filed, one was dismissed due to deficiencies, and one went to election in 2020. One election was conducted as a result of a petition that was filed in 2019. Thus, there were a total of three representation cases that closed in 2020. The two elections held in 2020 were completed in an average of 96 days and were conducted via Zoom.

⁴ An effort to resolve the case informally through settlement is always made first, and is required by AS 23.40.120.

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 2020.

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 2020.

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 2020 three unit clarification petitions were filed and three closed. Two petitions were dismissed before an investigation was conducted. One petition was resolved with findings issued after an investigation, and the investigation took 132 days.

Unit amendment petitions are filed to change the unit's name, affiliation, site, or location. There were no unit amendment petitions filed in 2020.

e. Claims for Religious Exemption (AS 23.40.225; AS 42.40.880; 8 AAC 97.310)

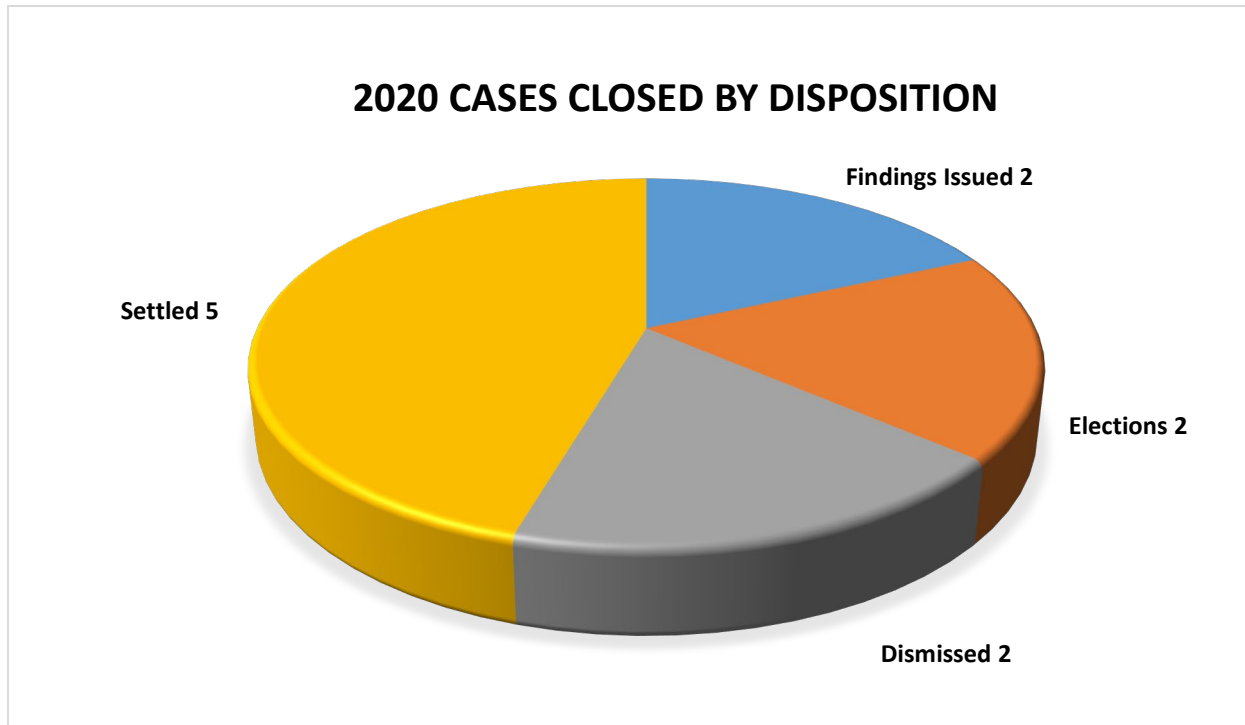
AS 23.40.225 and AS 42.40.880 allow a public employee to seek an exemption from union membership or agency fee payment on the basis of bona fide religious convictions. There were no claims for exemption filed in 2020. In the wake of *Janus v. AFSCME*, 138 S.Ct. 2448, (2018), it is anticipated that claims 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)

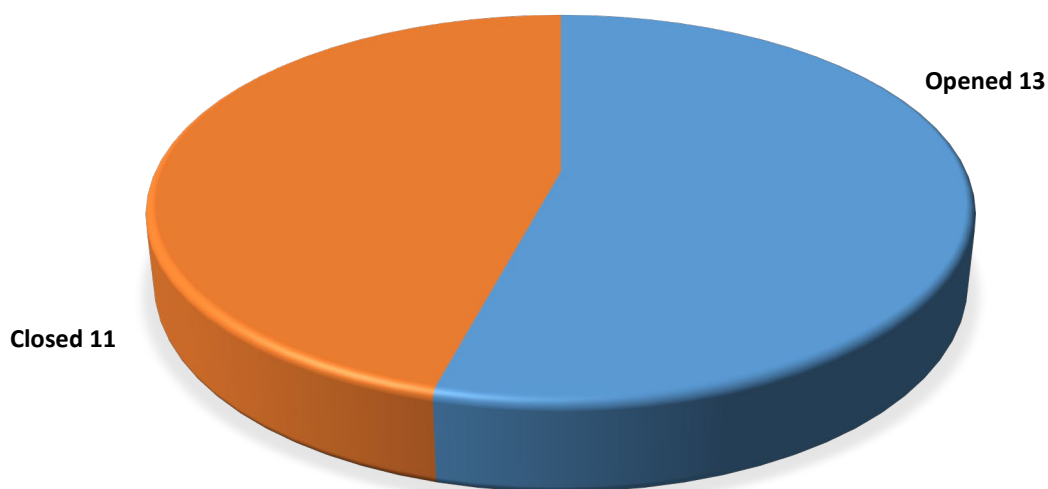
The Agency has statutory authority to enforce the terms of a collective bargaining agreement. Under the statute, all agreements must contain a grievance/arbitration procedure, which the parties must exhaust before filing a petition to enforce the agreement (CBA). There was one petition to enforce the agreement filed in 2020 and one petition to enforce the agreement was resolved in 2020.

2. Summary of Agency activity

In 2020 the Agency closed a total of 11 cases. Thirteen petitions and complaints were filed. In addition, 61 orders were issued in 2020. Also in 2020, the Board met in person on January 16, in Anchorage to conduct its annual business meeting.



2020 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 2020, a total of one informal mediation was conducted in a ULP case.

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 2020 there were no cases that went all the way to a hearing and there were no cases on appeal before the Alaska State Courts.

5. Training

The ALRA Board is supported on a day-by-day basis both legally and administratively by ALRA staff who have legal expertise and 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 2020 the Hearing Examiner attended an administrative hearings training course held by the National Judicial College (NJC), normally taught in person, but held online due to the pandemic. All staff attended a number of online trainings geared at transitioning to telework efficiently. Both the Administrator and the Hearing Officer participated in a number of online trainings that are normally only offered in person including presentations on labor relations issues offered by the American Bar Association, and courses offered by the National Council for State Courts regarding virtual hearings.

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 government entities to provide legal experience and training to law students.

In 2015, 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, and increases the pool of students seeking internships. 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 2020, due to the pandemic ALRA did not host a Seattle University law student intern.

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 2020 the Agency fielded a number of questions including at least 237 inquiries. Of those, 96 were regarding PERA and were unrelated to any open matter; and, 141 of those were general inquiries unrelated to any open matter. Also in February and March 2020, the Hearing Examiner traveled to Juneau and Fairbanks to conduct outreach to parties. Numerous public employers and union representatives were contacted and offered meetings.

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, 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.