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HENRY T. MUNSON,	)	
	)	
Complainant,	)	
	)	
vs.	)	
	)	
ALASKA STATE EMPLOYEES	)	
ASSOCIATION/AFSCME LOCAL 52,	)	
AFL-CIO,	)	
	)	
Respondent.	)	
	)	

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CASE NO. 93-136-ULP

**DECISION AND ORDER NO. 161**

This matter was heard on April 12, 1993, in Anchorage, Alaska, before the Alaska Labor Relations Board, Chair B. Gil Johnson and member Darrell Smith, present in Anchorage, and member James W. Elliott, participating by telephone. Hearing Examiner Jan Hart DeYoung presided. The record closed on May 17, 1993, upon receipt of the parties' closing briefs.

**Appearances:**

Allison Mendel, attorney, for complainant Henry T. Munson; and Don Clocksin, Wagstaff, Pope and Clocksin, for respondent Alaska State Employees Association/AFSCME Local 52, AFL-CIO.

**Digest:**

Labor organizations have a duty to represent all members of the bargaining unit fairly. This duty is violated by conduct that is arbitrary, discriminatory, or in bad faith. ASEA's actions representing general government unit member Henry Munson were not arbitrary, discriminatory or in bad faith and ASEA did not violate its duty to represent him fairly.

**DECISION**

This case presents questions about the duty of fair representation a bargaining representative owes members of the bargaining unit. That duty, set forth in the Alaska Supreme Court case of Kollodge v. State, 757 P.2d 1028 (1988), is to avoid conduct that is arbitrary, discriminatory, or in bad faith. In representing unit members in the prosecution of their grievances, a labor organization must be able to decide which grievances to bring to management and how to prosecute them. These decisions involve the exercise of substantial discretion. Following orders of the grievant not only is not required, it would be inappropriate. So long as the labor organization maintains communications with the grievant and does not exercise its discretion in a manner that is arbitrary, discriminatory, or in bad faith, it has complied with the duty of fair representation.

**Findings of Fact**

1. The Alaska State Employees Association/AFSCME Local 52, AFL-CIO (ASEA), is the certified bargaining representative of the State's general government bargaining unit.

2. Henry T. Munson is a member of the State's general government unit. He is not a union member and pays an agency fee rather than union dues. He has been employed at the Spring Creek Correctional Center in Seward since May 23, 1988.

3. Relevant collective bargaining agreement provisions. The collective bargaining agreement between the State and ASEA provides a grievance arbitration procedure in article 16. Bargaining Agreement at 51; Exh. AX at 7. Grievances are disputes that arise under the contract. The procedure encourages informal resolution between the employee and a supervisor. The first step can be filed by an employee or steward within 10 days of the disputed action. There are successive steps or reviews of the grievance until the fifth and final step, which is binding arbitration. Agreement at 54; Exh. AX at 10.

The agreement provides a complaint procedure in article 15. This procedure allows complaints on any subjects that do not arise under the collective bargaining agreement. A complaint is initiated on a complaint form to the first level supervisor outside of the bargaining unit. It must be filed within 10 working days of the action or inaction by an employee or union steward. A response is due from the supervisor in writing ten working days after receipt. The fourth and final step of this procedure is an informal resolution hearing before the Commissioner of Administration or her designee. Agreement at 50; Exh. AX at 6.

The agreement provides a specific procedure to complain about performance evaluations in article 18, section 4C. Agreement at 62; Exh. AX at 18. The procedure authorizes a bargaining unit member to rebut in writing a performance evaluation and the rebuttal becomes part of the performance evaluation. The first step in the performance evaluation dispute procedure is the submission through the union of a request that the director of the division of personnel conduct an investigation into factual inaccuracies or claims that the evaluation was arbitrary or capricious or was motivated by discrimination or bias. The director then requests the personnel officer of the department to investigate the allegations and make recommendations. The second step is a request for an informal hearing. The director issues the final decision, which is the final step in the procedure. Performance evaluation disputes are not arbitrable. Agreement at 63; Exh. AX at 19.

4. The Department of Corrections has disciplinary action guidelines in its policies and procedures manual. The first step in the process is a warning, which can be written or spoken. Exh. AY at 6.

5. Munson began having problems at Department of Corrections (DOC) almost immediately, beginning in September of 1988. Munson attributed these initial problems to his "write up" on several inmates. He first sought assistance from ASEA, however, in December of 1990 to investigate corruption he claimed was occurring in DOC. Munson was himself investigating his suspicions using the APSIN/NCIC/NLETS (Alaska Public Safety Information Network) computer system. This resulted in the first of the incidents Munson complains about in this hearing. DOC scheduled an investigative interview on alleged misuse of the APSIN/NCIC/NLETS system for March 8, 1991, and informed Munson by memorandum dated March 4, 1991, which Munson received on March 9, 1991. Munson learned about the interview date on March 8, 1991, in the course of complaining to a number of people, including a legislator, about the lack of help he was receiving from ASEA's business agent Charlene Milliman. DOC's March 4, 1991, memorandum instructs Munson to report for an investigative interview on March 8, 1991, on alleged misuse of the APSIN/NCIC/NLETS computer system. Exh. 1 at 7; Exh. A.

6. At the interview on March 8, 1991, ASEA's business agent Charlene Milliman was present by telephone on Munson's behalf. Munson was further dissatisfied with Milliman's representation and her lack of active participation at the "hearing," apparently believing that the interview was a full hearing.

7. Following the interview, on April 8, 1991, Munson received a letter of reprimand and his authority to use the APSIN/NCIC/NLETS system was revoked. Exh. 2.

8. Munson testified that Milliman had stated that she would take care of the problem, which he had apparently understood to mean that she would pursue the letter of reprimand. On cross examination Munson testified that ASEA refused to file a grievance. ASEA's file on this matter contains notes, identified as Charlene Milliman's handwriting by business agent Dave Burdette, that Munson did not have the right to access a particular citizen on the system and that a grievance would not be filed unless Munson could provide a business reason for his action. Exh. 1 at 2; Exh. D. No

grievance was filed but Munson never received anything from ASEA telling him. Although the time period is unclear, Munson was also consulting counsel about his dispute with DOC over the use of the APSIN computer.

9. On May 5, 1991, Munson wrote his shop steward David Hendrickson a letter complaining about his supervisor, Sgt. Joseph Mandregan. Exh. 10. The response, if any, to this complaint is not in the record.

10. In September of 1991, Munson complained that his performance evaluation, due on June 16, 1991, was late. Exhs. 3 & E. ASEA filed a grievance on his behalf on September 7, 1991. Id. Munson was provided with his evaluation on September 9, 1991. Exh. F.

11. Munson was unhappy with the evaluation, which covered the period June 16, 1990, to June 16, 1991. Exh. L. ASEA, through shop steward Dave Hendrickson, filed a grievance on Munson's behalf on or about November 6, 1991. Exh. J at 2. The allegations included failure to discuss the evaluation, refusal to let Munson sign the evaluation, failure to allow time for rebuttal, and failure to provide the proper rater, among other things. The facility's assistant superintendent, Earl Shaw, denied the grievance on the basis that Munson threw the evaluation at the rater, refused to sign it, and acted in other ways inconsistent with an evaluation interview. In addition, he stated the rater was the correct rater and the matter could not be grieved. Exh. J.

12. ASEA business agent Dave Burdette, by letter to Division of Personnel Director King dated December 5, 1991, requested a performance evaluation investigation. Exh. 6 at 20; Exh. N. Munson, after receipt of a copy of the letter to King, sent his own letter disavowing the Burdette letter written on his behalf. Exh. O.

13. The State conducted a performance evaluation investigation, Exh. 6 at 17, and on December 31, 1991, the investigator recommended a new evaluation, recommending that a former supervisor write a change of supervisor evaluation and that the current supervisor rate Munson "No change since last evaluation" due to his short tenure as supervisor. Exh. P. ASEA rated this a "successful outcome."

14. The outcome of the evaluation investigation was two new evaluations for the time period. The change of rater evaluation between June 16, 1990, and April 24, 1991, which the rater signed on January 8, 1992, Exh. 7 at 14, and the annual evaluation dated April 24, 1991, through June 16, 1991. The latter evaluation appears to have been presented to Munson before he signed it on March 11, 1992, but the preparation date is not legible. Exh. 7 at 23.

15. On January 8, 1992, ASEA, through business agent Dave Burdette, filed the step II grievance on Munson's complaints stemming from the first evaluation interview on September 9, 1991, about the absence of an evaluation interview, not having the opportunity to sign the evaluation, etc. Exh. Q. See paragraph 11, supra.

16. Munson rebutted the June 16, 1990, through April 24, 1991, evaluation in a memorandum dated January 25, 1992, addressed "To whom it may concern" stating his disagreements with the June 16, 1990, through April 24, 1991, evaluation. He complained of the reference to the letter of instruction about driving off the perimeter blacktop, the reference to the APSIN discipline, the report that his work was minimally acceptable when he had been rated average acceptable, the statement about sick leave, which was leave due to an on the job injury, and the reason for the evaluation being change of rater rather than annual evaluation. Exh. 7 at 16.

17. On February 5, 1992, Director King of the Department of Administration informed DOC's personnel officer that ASEA did not make a timely request for a hearing on the evaluation investigation and ordered her to comply with the December 31, 1991, investigative recommendations. Exh. S.

18. The State, through the director of the division of institutions, denied the evaluation grievance on February 10, 1992, on the basis that the employer had "addressed the issues" and the employee was "uncooperative in the evaluation activity." Exh. T.

19. David Hendrickson and Dave Burdette decided not to pursue the evaluation grievance after step II. Hendrickson explained this decision to Beverly Perdew and asked her to relay it to Henry Munson, but Hendrickson never spoke to Munson about the decision not to proceed.

20. Meanwhile, on November 15, 1991, ASEA DOC shop steward David Hendrickson filed a complaint on behalf of Munson over a DOC policy that lunches could not be taken to the houses at the facility. Munson's complaint was that DOC had not followed the proper procedures to adopt the policy change. Exh. H. DOC assistant superintendent Earl Shaw denied the complaint for the reason that the policy was not a change but a "reemphasis" of an existing policy. Id. The policy appears in a memorandum to operation supervisors at the center dated April 11, 1991. Exh. AG at 5. Burdette closed the file after the denial, believing that further action was not appropriate because a high security facility can restrict what goes into it, and shop steward Hendrickson confirmed the existence of the policy, although it was not always enforced.

21. On December 4, 1991, Munson was rated for the period June 16, 1991, -- September 15, 1991, because of a change in rater. Exh. 7 at 17. Munson disagreed with the evaluation and set forth his rebuttal in a memorandum dated January 25, 1992. It states disagreement with statements about improvement to his "writing skills," acting as house policeman, and problems accepting constructive criticism. Id.

22. On December 4, 1991, Munson received a letter of instruction to comply with the policy of providing his telephone number to Spring Creek master control, i.e., the phone report requirement. Exhs. K & AJ. Munson disputed the facts stated in the letter, and ASEA, through shop steward David Hendrickson, requested by letter dated January 10, 1992, that the letter of instruction concerning the home phone report requirement be removed from Munson's personnel file. Exh. 8; Exh. R. The State apparently did not respond to the letter. See paragraph 33, infra.

23. Munson stated that he hounded Hendrickson unmercifully about the home phone report letter of instruction. Hendrickson had told Munson the matter could not be grieved if the letter was not in his personnel file. Munson authorized Hendrickson to check his file for the letter. Because Munson did not believe Hendrickson when Hendrickson told him the letter was not there, Munson also checked his file. The letter was not there. The two argued and Hendrickson refused to talk to him further. Munson used the words, "I harassed him for four months afterward and he finally quit talking to me." Munson also testified that on February 12, 1992, Hendrickson called him a troublemaker.

24. Hendrickson's testimony was consistent. He stated there was "just a letter." No discipline or punishment existed on which to file a grievance. In addition, Hendrickson stated Munson should have received the letter on December 14 or 15 and Munson waited until December 26 or 27 to bring it to Hendrickson's attention. The union has 10 working days to file a complaint, which made the complaint late (unless the ten days was counted as actual employee shift rotation work days).

25. On March 4, 1992, ASEA, through business agent Dave Burdette, provided a letter to Director King requesting an investigation into alleged factual inaccuracies in two performance evaluations (dated 6-16-90 -- 04-24-91 and 06-16-91 -- 09-15-91). Exh. 7 at 22; Exh. U.

26. On or about March 7, 1992, Munson received an evaluation covering the period April 24, 1991, to June 16, 1991, that recommended a step increase. Munson signed the evaluation on March 11, 1992. By his signature the words "signed on the recommendation of union representative" appear. The box "concur with rating" is checked. Exh. AS.

27. On April 22, 1992, Department of Corrections personnel assistant Charlotte Withers completed the performance evaluation investigation on Munson's two evaluations dated June 16, 1990 -- April 24, 1991 and June 16, 1991 -- September 15, 1991. The report recites Munson's claims and responds to them, recommending that several changes be made to the evaluations. Exh. AG.

28. ASEA received a copy of the DOC investigative report on June 1, 1992. Burdette reviewed the report and the recommended changes and was satisfied with the outcome. Burdette discussed the report with Hendrickson in the middle of June. Burdette stated that he told Hendrickson to talk to Munson and explain to him that "this was probably as good as we were going to get." Burdette did not intend to pursue the matter further.

29. In June of 1992 Munson became concerned that he had not heard from ASEA business agent Dave Burdette. He believed that Burdette had told him in February that he would have a hearing on his June 16, 1990 -- April 24, 1991, evaluation in July of 1992. He did talk to Burdette on June 18, 1992, and states that Burdette confirmed the hearing date of July 2, 1992. In contrast, Burdette's version of the conversation was that he asked if Munson had talked to

Hendrickson and Munson replied that he was not talking to Hendrickson. Burdette stated that he did not tell Munson a hearing was scheduled and that a hearing was never scheduled for July. He testified that he could not have made such a statement because the date Munson remembered for a hearing was too soon under the State's usual procedures. On June 26 Munson stated he again called ASEA and spoke with ASEA business agent Chuck O'Connell because Burdette was unavailable. O'Connell was unable to confirm a hearing date or provide any information on Munson's file. On July 2 Munson testified that he did speak to Burdette, who stated that a hearing was not scheduled and it was too late to ask for one because the deadline was past. Munson hung up in anger.

30. On July 7, 1992, Munson filed an unfair labor practices complaint against ASEA with this Agency alleging various complaints about his work place and his dissatisfaction with the union's representation of his complaints.

31. On or about July 9, 1992, Munson signed his evaluation for the period covering February 6, 1992 -- June 16, 1992 (annual). The form has the employee check either of two boxes noting concurrence or disagreement with the evaluation. The "concur" box is checked on this evaluation. This evaluation does not appear to have generated a dispute.

32. Munson was presented with three evaluations on September 3, 1992. Exh. 7 at 28; Exh. Y. The first, dated on or about July 31, 1992, was for the time period June 16, 1990, through April 24, 1991. Exh. 7 at 24. The evaluation still refers to the reminder to drive on the pavement perimeter and now references his APSIN suspension, which occurred during the rating period but the conduct resulting in the suspension had occurred before the rating period. The evaluation notes the leave usage but specifies the leave taken for a workers' compensation injury. The box labeled "disagree" is checked but the copy of the evaluation, a poor copy, does not appear to have been signed. Id.; Exh. 6 at 36 - 38. This evaluation was not changed further. The final version with DOC's review and approval signatures appears in the record at exhibit AR.

33. The second evaluation (a change of rater evaluation) Munson received on September 3, 1992, is dated by the rater August 3, 1992, and covers the period September 15, 1991 -- February 6, 1992. He signed the evaluation but the box "disagree" is checked. Munson disputed the procedures followed at his interview and the reference to a phone report letter of instruction that he felt was inaccurate and about which ASEA's shop steward had complained on his behalf on January 10, 1992. See paragraphs, 22 & 24 supra. The letter referred to the inability of a DOC employee to telephone Munson because his number was not in a certain telephone log. Exh. AU. Munson drafted a rebuttal to the evaluation by memorandum dated September 6, 1992. Id.

34. The third evaluation presented to Munson was the second evaluation completed for Munson covering the period June 16, 1991 -- September 15, 1991. Munson did sign it on September 3, 1992. The box "concur with rating" is checked. Exh. AT.

35. On September 18, 1992, Munson demanded by letter to shop steward Beverly Perdew that ASEA pursue investigations of the two performance evaluations covering the time periods September 15, 1991 -- February 6, 1992 (change of rater evaluation) (paragraph 33, supra) and June 16, 1990 -- April 24, 1991 (paragraph 32, supra). Exh. 7 at 28; Exh. Y.

36. On October 14, 1992, ASEA by letter requested an investigation into "factual inaccuracies" in the September 15, 1991 -- February 6, 1992, evaluation. Exh. AA.

37. By an undated memorandum, ASEA informed Munson that it was processing his complaint about the September 15, 1991 -- February 6, 1992, evaluation but that the June 16, 1990 -- April 24, 1991, evaluation was the outcome of his earlier evaluation investigation and a closed matter. Exh. 7 at 31; Exh. AB.

38. Personnel officer Charlotte Withers conducted an investigation and concluded that no change to the September 15, 1991, through February 6, 1992, evaluation was needed. Memorandum (Dec. 15, 1992). Exh. 7 at 38 (with Munson's notes); Exh. AC.

39. On December 22, 1992, ASEA business agent David Burdette requested an informal hearing on the evaluation. Exh. 7 at 40; Exh. AD.

40. Munson told ASEA President Jennie Day Peterson that he did not wish to conduct any business with Dave Burdette pending his ULP hearing against ASEA. Peterson asked business agent Chuck O'Connell to assume the performance appraisal appeal and Burdette turned the file over to him.
41. A performance evaluation hearing was scheduled for February 4, 1993, on Munson's complaint regarding the complaint for the period September 15, 1991 through February 2, 1992. Exh. 7 at 41; Exh. AE.
42. Before the performance evaluation hearing, Munson set forth his complaints about the evaluation in a letter to Chuck O'Connell, ASEA business agent. Exh. 7. His main complaint concerned the letter of instruction about the home phone report requirement. Munson also complained that ASEA failed to pursue the matter initially when he first received the letter, and that it should not be referenced in the evaluation. Munson further complained about the absence of the letter from his personnel file for a period of months, the existence of secret files at DOC, and the quality of the factual inaccuracies investigation. Exh. 7 at 42.
43. The informal performance evaluation hearing took place on February 4, 1993. Exh. AF. A personnel specialist who conducted the hearing, Ron Gillette, issued his memorandum recommendation on February 8, 1993. In it he recited at length testimony on whether the allegations in the memorandum of instruction about the phone report requirement was true. However, he did not decide the truth of the matter. He simply concludes that the facts that the instruction was written and was in the personnel file were true and therefore the evaluation's reference to it should not be changed. Exh. 7 at 45; Exh. AF. Munson stated he asked O'Connell to appeal this decision. Burdette stated that this hearing was the final step in a performance evaluation dispute, and no further action was possible. ASEA did not notify Munson of this fact.
44. The hearing testimony contained several references to Munson's conflicts with representatives of ASEA, particularly shop steward Dave Hendrickson and business agent Dave Burdette. Munson stated that Hendrickson told him that the union was not anxious to represent him because it had been told a lot of bad things about him. Munson also stated that Hendrickson told him he brought his problems on himself. However, Munson also stated that he did not have a problem communicating with ASEA offices, with the exception of his inability to reach Milliman after the APSIN matter. He had talked to Jennie Day Peterson about concerns he had about secret files and his problems, although after September of 1992 she refused to speak to him.
45. Munson felt the impact of ASEA's failure to represent him adequately was a series of bad evaluations that he believes will affect his opportunities in the department. For example, he was turned down for a transfer to Nome. Munson stated he was dissatisfied with ASEA's efforts on his behalf. He was satisfied only with the evaluation for the period April 24, 1991, -- June 16, 1991, indicating that no change had occurred from the previous evaluation. Munson felt that ASEA could have remedied these problems by having the APSIN discipline thrown out because DOC did not follow its discipline policy and because improprieties occurred at the investigative interview. He felt that ASEA could have disproved that he violated the perimeter policy by obtaining log books that should have exculpated him and that it could have proven that the policy was not properly adopted. He was also dissatisfied that a grievance was not filed for the DOC's prohibition against lunches in the facility.
46. Burdette's uncontradicted testimony was that ASEA treats agency fee payers the same as union members, except the fee payer may not vote in union elections. He stated that ASEA has a committee that reviews requests that ASEA file a grievance or unfair labor practice charge. Shop stewards can file step one grievances except for evaluation disputes, which must be filed by ASEA business agents.
47. Munson amended his unfair labor practice charge on September 18, 1992, to include the circumstances surrounding the evaluations he was provided in September of 1992 and to include allegations of collusion between Burdette and DOC, among other things. Exhs. W & X.
48. The Agency conducted an investigation into the unfair labor charge, finding probable cause to believe a violation of AS 23.40.110 had occurred and issued a notice of accusation on December 16, 1992.
49. A hearing on the unfair labor practice charge was held before the Alaska Labor Relations Board on April 12, 1993,

at which the parties presented testimony and other evidence.

### Conclusions of Law

1. This Agency has jurisdiction under AS 23.40.110 to consider this matter.
2. As the complainant in this unfair labor practice charge, Munson has the duty to prove each element of his charge by a preponderance of the evidence. 2 AAC 10.430.
3. A union has a duty to represent its members fairly. The Alaska Supreme Court has stated,

A union breaches its duty of fair representation when its "conduct toward(s) a member of the collective bargaining unit is arbitrary, discriminatory, or in bad faith." Furthermore, a union does not breach its duty of fair representation merely by refusing to bring an employee's grievances to arbitration: Though we accept the proposition that a union may not arbitrarily ignore a meritorious grievance or process it in perfunctory fashion, we do not agree that the individual employee has an absolute right to have his grievance taken to arbitration regardless of the provisions of the applicable collective bargaining agreement. To hold otherwise would greatly undermine the settlement machinery agreed to by the union and the employer as contained in the collective bargaining agreement.

Kollodge v. State, 757 P.2d at 1034 (citations omitted).

4. In Kollodge the Court identified three elements of the duty of fair representation: (1) all unit members must be treated without hostility or discrimination; (2) the labor organization must exercise its discretion in good faith and honestly; and (3) the labor organization may not act arbitrarily. Id. at 1035.
5. To fulfill its responsibilities under the collective bargaining agreement, a labor organization must have the discretion to evaluate problems, review evidence, and make decisions about the relative merits of a matter. The individual unit member's level of satisfaction is not the standard to be met.
6. The evidence in this case does not support a violation of this duty. To the contrary it shows that ASEA pursued a number of matters, *i.e.*, grievances, complaints, and performance appraisal disputes, for Munson. Despite Munson's dissatisfaction, ASEA appears to have been largely successful in its efforts on the performance evaluations, although less successful addressing the letters of instruction.
7. ASEA did not treat Munson with hostility or discrimination in its handling of his various grievances and complaints. For example, there is no evidence that ASEA discriminated against Munson because he was an agency fee payor rather than an ASEA member.
8. ASEA acted in good faith and honestly in its handling of Munson's complaints. For example, the decision not to file a grievance on the APSIN matter was made in apparent good faith on the merits for the reason that Munson lacked a business justification for his action. The decision not to pursue the evaluation grievance beyond step II was made after discussion between the shop steward and business agent. The evidence in the record does not support a conclusion that the decision was made dishonestly or in bad faith.
9. ASEA did not act arbitrarily in its representation of Munson.
10. This Agency's only concern about ASEA's handling of Munson's disputes is the apparent failure to advise Munson when a decision was made not to pursue a matter or when a matter had come to an end. Much of Munson's dissatisfaction with ASEA's representation appears to stem from his lack of understanding of his rights under the collective bargaining agreement. While this misunderstanding could in some part be attributed to Munson's adversarial and combatant manner in his dealings with ASEA representatives, we believe, nevertheless, that a labor organization has an obligation to keep its members informed of its actions and decisions. In this case, however, ASEA's conduct did not damage Munson. At most it contributed to misunderstandings for which Munson shares responsibility. The conduct

does not constitute discriminatory, bad faith, dishonest or arbitrary action in violation of ASEA's duty to Munson.

11. None of the matters of concern to Munson had a clear consequence in the workplace. He was not denied a raise, passed over for promotion, suspended or demoted. Munson felt he had been given less desirable assignments, perhaps had lost a transfer opportunity as a result of his evaluations, and could lose opportunities in the future, but none of these allegations is more than a suspicion. The letters of instruction were not pursued initially as complaints beyond the first step. There was an opportunity to address them later when references to them appeared in the performance evaluations. Those evaluation disputes were vigorously pursued by ASEA. The decision not to file a grievance on the APSIN dispute appeared justified and the evaluation grievance if pursued further could not have obtained for Munson anything more than he obtained in his evaluation disputes. It is unclear what, if any, remedy would have been appropriate even if Munson did prove, which he has not, that ASEA breached its duty to him.

## ORDER

The complaint filed by Henry Munson in this case is DISMISSED.

ALASKA LABOR RELATIONS AGENCY

B. Gil Johnson, Chairman

James W. Elliott, Board Member

Darrell Smith, Board Member

## APPEAL PROCEDURES

An Agency decision and order may be appealed through proceedings in superior court brought by a party in interest against the Agency and all other parties to the proceedings before the Agency, as provided in the Alaska Rules of Appellate Procedure and the Administrative Procedures Act.

The decision and order becomes effective when filed in the office of the Agency, and unless proceedings to appeal it are instituted, it becomes final on the 31st day after it is filed.

## CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the Decision and Order in the matter of Henry T. Munson v. Alaska State Employees Ass'n/AFSCME Local 52, AFL-CIO, case no. 93-136-ULP, dated and filed in the office of the Alaska Labor Relations Agency in Anchorage, Alaska, this 25th day of June, 1993.

Norma Wren

Clerk IV

This is to certify that on the 25th day of June, 1993, a true and correct copy of the foregoing was mailed, postage prepaid to

Henry T. Munson

Allison Mendel

Don Clocksin

Signature