

[Labor Relations Agency Stationery]

ORDER AND DECISION CONCERNING CHALLENGES TO CERTAIN  
CLASSIFICATIONS IN THE SUPERVISORY UNIT

ORDER AND DECISION NO. 12

Findings of Fact:

(1) The State Labor Relations Agency's ORDER AND DECISION NO. 8 authorized an election among supervisory employees of the State of Alaska. Said order stipulated that: "Job classifications in the supervisory unit falling within the managerial exception stipulated to be between the State of Alaska and the Alaska Public Employees Association in a stipulation dated June 15, 1973, shall be permitted to vote. However, no challenges based on the managerial stipulation of June 15, 1973, may be summarily over-ruled by the election supervisor. A copy of such stipulation is attached as Exhibit "B" and by this reference herein incorporated. If there are such challenges and regardless of whether or not they are sufficient in number to affect the outcome of the election, these challenges will be resolved by the Labor Relations Agency in a hearing."

(2) The State of Alaska did make the challenges referred to above.

(3) A quorum of the Labor Relations Agency, Messrs. Hofling and Reed, conducted a hearing on the challenges on April 1, 1974, in Juneau.

(4) The State of Alaska, represented by Commissioner Joseph R. Henri of the Department of Administration and Assistant Attorney General James Douglas of the Department of Law, relied in part on a previously submitted brief which argued that certain classifications should be excluded from the unit as being managerial, citing various NLRB rulings as a precedent for such an exclusion.

(5) The Labor Relations Agency's position was that there is no grounds under the Alaska Public Employment Relations Act to exclude "managerial" positions per se, since the APERA, unlike the National Labor Management Relations Act, does not exclude supervisory employees from the definition of "employee", whereas the NLRB extended the supervisory exclusion of the National Labor Management Relations Act to managerial employees. However, the Labor Relations Agency stated its recognition of the possibility of conflicts of interest arising out of the inclusion of certain classifications with other classifications in the same bargaining unit, particular as such conflicts of interest might pertain to the formulation and implementation of collective bargaining policy, which might

lead to the conclusion that collective bargaining units as originally authorized might not be appropriate. The Alaska Public Employment Relations Act enumerates certain criteria for the establishment of appropriate bargaining units, one of them being "community of interest."

(6) The State concedes that the exclusions being sought from the supervisory unit did not include classifications having substantial responsibilities for the formulation and implementation of collective bargaining policy .

(7) There was no showing that the classifications concerned would be subject to conflicts of interest by virtue of being in a unit of supervisory employees.

Conclusions:

(1) Employees in the classifications concerned have the right to self-organization under the Alaska Public Employment Relations Act.

(2) Employees in the classifications concerned have the requisite community of interest with other employees in the supervisory unit.

(3) Employees in the classifications concerned are not shown to be in jeopardy of being placed in a conflict of interest position by virtue of being included in the supervisory unit .

(4) Employees in the classifications concerned do not have substantial responsibilities with respect to the formulation and implementation of policies with respect to collective bargaining.

Order:

It is hereby ordered that the following classifications be included in the supervisory unit:

<u>Classification</u>	<u>Department</u>
Administrative Ass't III	Fish and Game
Administrative Officer I	Fish and Game
	Highways
Administrative Officer II	Military Affairs
	Highways
Administrative Officer III	Administration
	Health and Social Services
	Commerce
	Natural Resources
	Public Works
	Highways
	Economic Development
	Environmental Conservation
Deputy Director	Health and Social Services
Administrative Services	
Director, Administrative Services	Health and Social Services
Legal Administrator	Law
Deputy Director	Public Works
Marine Transportation	

Dated this 1st day of April, 1974

/s/ C. R. "Steve" Hafling  
C. R. "Steve" Hafling, Chairman

/s/ Morgan Reed  
Morgan Reed, Member