

[Labor Relations Agency]

ORDER AND DECISION PERTAINING TO CLARIFICATION
OF ORDER AND DECISION NO. 15

ORDER AND DECISION NO. 15-A

Findings of Fact:

1. Order and Decision No. 15 was issued in response to various petitions for unit clarification and involved requests that certain positions be reclassified from non-supervisory to supervisory.

2. The execution of Order and Decision No. 15 was stayed in part by the introduction of additional evidence and argument submitted within the thirty days allowed by said Order and Decision. The partial stay was granted with respect to the classification of Probation Officer III. Additional evidence and arguments were submitted by both the Department of Corrections and the Department of Administration. The Department of Corrections argues that all Probation Officers III should be deemed supervisory; the Department of Administration concedes that, using the guidelines set forth in Order and Decision No. 15, some, but not all, of the Probation Officers III should properly be reclassified as supervisors. The guidelines set forth in Order and Decision No. 15 include the following conclusion:

"3. When a question arises as to different employees performing different levels of duties within the same classification, the Labor Relations Agency should base its decisions on an employee-by-employee basis, that is, on the basis of what each individual actually performs rather than what the Classification Specification sets forth."

3. The Department of Administration, Division of Personnel, has developed a questionnaire which it proposes to send to each employee now in the Supervisory bargaining Unit, as well as to employees now in the General Government Unit who allege they should be reclassified as Supervisors, which would ascertain whether or not the employee in question meets the definition of supervisory in the regulations and as further clarified by Order and Decision No. 15.

4. The question has arisen as to whether or not the Department of Administration has the authority to make initial determinations and to take appropriate actions with respect to the status of an individual as being supervisory or non-supervisory, subject to appeal to the Labor Relations Agency.

5. When the Supervisory Unit representation election was authorized by the Labor Relations Agency questions arose as to which classifications were supervisory and which non-supervisory. These questions were in effect remanded to the State and to the Alaska Public Employees Association for settlement according to the regulatory definition. The Labor Relations Agency did not make any case-by-case determinations. Furthermore, the Labor Relations Agency did not then and does not now have either the data or the apparatus to make a prior determination without formal hearings.

Conclusions:

1. The Department of Administration should proceed with

its proposed questionnaire.

2. The Department of Administration should be deemed to have the authority to make determinations, appealable to the Labor Relations Agency, subject to any good faith requirements to first negotiate on the matters with the employee organization concerned, as to the proper unit placement in terms of the regulations and the Orders and Decisions of the Labor Relations Agency of new classifications, changed classifications, or misclassifications. Likewise, the Department of Administration should be deemed to have the preliminary authority to make such determinations within a classification as to the actual duties performed by an individual and to make unit placements accordingly.

3. The foregoing conclusions apply equally to other petitions of a similar nature not before the Labor Relations Agency at the time of issuance of Order and Decision No. 15 and now pending.

DECISION AND ORDER:

1. The State shall make first determination of the proper unit placement of individuals according to the regulations and the Orders and Decisions of the Labor Relations Agency and subject to the requirements of collective bargaining agreements between the State and employee organizations.

2. Such determinations by the State shall be appealable to the labor Relations Agency by the employee(s) and/or the employee organization(s) concerned, and if such appeal is made the parties will be heard by the Labor Relations Agency on the first available agenda.

3. The State agrees that those Probation Officers III whose names are listed below should be in the Supervisory Unit, and it is so ordered effective April 1, 1975.

Barton Penny
Daniel Hoy
Artis C. Masingill, Jr.
Richard Illias
Duncan Fowler
Fred Fowler
Frederick Baird

4. Those Probationary Officers III concerning whom there is a question shall be notified promptly by the State of the fact that there is a question and shall be afforded fifteen calendar days following receipt of such notification to file individual petitions for hearing by the Labor Relations Agency.

5. Those petitions filed subsequently to Order and Decision No. 15 shall be treated in accordance with the foregoing sections of this order.

Dated: April 3, 1975

C. R. "Steve" Hafling, Chairman

/s/ Morgan Reed
Morgan Reed, Member

/s/ Ronald M. Henry
Ronald M. Henry, Member

[Signature On File]