

[Labor Relations Stationery]

July 26, 1976

ORDER AND DECISION NO. 25
PERTAINING TO REPRESENTATION PETITION
BY "ASSOCIATED FACULTY", AFFILIATED
WITH THE NATIONAL EDUCATION ASSOCIATION

Findings of Fact

A duly qualified petition was filed by the Associated Faculty, seeking a bargaining unit of all employees of the University of Alaska at the Anchorage campus having academic rank and who are employed 50% or more of full-time to teach, do research and perform public service for academic support, but excluding all Community College teachers, Community College librarians, Community College counselors, confidential employees, supervisory employees and temporary employees.

A hearing was held by the Agency in Anchorage on May 5, 1976 on the matter at hand. All parties were given full opportunity to present all material and relevant evidence and to examine and cross-examine witnesses.

Counsel for the University of Alaska reiterated the University's position that the State Personnel Board did not have jurisdiction over the matter, on the grounds that University employees are not employees of the State but are employees of a local government entity and that therefore the Department of Labor had jurisdiction.

This objection having been previously made and over-ruled by the Agency the hearing proceeded with the understanding that the University's objection was a continuing one.

Both parties were given the opportunity to file post-hearing briefs. The Associated Faculty availed itself of this opportunity; the University did not. The University contended that the unit sought is not appropriate, for reasons including the following:

- 1.The governance of the University is by a single Board of Regents.
- 2.The only appropriate faculty unit, excluding the Community Colleges, is state-wide.
- 3.Faculty at both the Fairbanks and the Anchorage have a community of interest as defined by the Public Employment Relations Act, as well as meeting the other criteria for determining that they should constitute a single unit. For example, they come under a common pension plan and other fringe benefit plans.
- 4.The Public Employment Relations Act states that there shall be no unnecessary fragmenting (of units), and that units shall be as large as practicable.
- 5.Prior decisions of the Labor Relations Agency have upheld the foregoing mandate against fragmentation and all units certified by the Agency to date have been state-wide.

The Associated Faculty contended that the unit sought is appropriate, for reasons including the following:

- 1.Extent of organization: the Anchorage campus is well organized by the Associated Faculty, whereas

repeated and strenuous efforts by the Associated Faculty to organize the Fairbanks campus have met with almost complete failure, thereby indicating a lack of community of interest. Since the Anchorage faculty are desirous of exercising their rights to organize and bargain collectively and the Fairbanks campus faculty are not, the result of denying the petition for creation of an Anchorage unit would be to allow the Fairbanks faculty to frustrate the Anchorage faculty in the exercise of their rights.

2. Fairbanks is much more a research institution than Anchorage; the latter being much more of a teaching institution. This is evidenced by the great disparity between faculty-student ratios between the two campuses. Another difference is that Fairbanks is a four year campus, while the faculty in Anchorage instruct only third and fourth year students. The type of courses taught varies between the two campuses.
3. There is very little interchange of faculty between the two campuses.
4. The two campuses are approximately 400 miles apart, with indisputable differences in climate.
5. There is support for the Petitioner's contentions to be found in decisions from other states, and

although the NLRB, as per Section 9(C) (5) of the National Labor Relations Act has held that the extent to which employees are able to organize shall not be controlling, the United States Supreme Court has held that while extent of organization is not in fact a controlling factor it is a factor that should be considered in determining the appropriateness of a unit.

Conclusions:

1. The citations given by Counsel for the Associated Faculty in no case deal with a statute in any way parallel to the Alaska Public Employment Relations Act. The Alaskan legislative mandate, that "Bargaining units shall be as large as is reasonable and unnecessary fragmenting shall be avoided" is unique.

2. The other criteria set forth in the PERA for determination of appropriate units for collective bargaining are:

- Community of interest
- wages, hours and other working conditions
- history of collective bargaining
- desires of the employees.

With respect to community of interest it cannot be said that there is a complete lack of community of interest; both campuses have faculties meeting the normal academic criteria for University faculties. There are matters of common concern to both faculties that are not of common concern to other groups of University employees.

With respect to wages, hours and working conditions it was not demonstrated, save with respect to the research vs. teaching differences between the two campuses, that there are significant differences within the meaning of the PERA.

There is no history of collective bargaining.

With respect to the desires of the employees, while it seems apparent that there is a difference between the desires of the Anchorage faculty as compared to the Fairbanks faculty, this difference can hardly be taken to mean that it is a governing factor, given the conclusions above. Had the legislature intended that in such cases as this the desires of the employees should be the controlling factor it hardly seems logical that they should have included the statement that "Bargaining units shall be as large as is reasonable and unnecessary fragmenting shall be avoided."

3. In every case of determination of the appropriateness of a unit by the Agency the principle has been followed that an appropriate unit must be exhaustive of the classification or classifications concerned and must be state-wide. There is insufficient justification in the instant case to depart from this principle.

ORDER AND DECISION

The petition by the Associated Faculty for the collective bargaining unit described hereinabove is denied.

SIGNED: _____ DATE: JULY 26, 1976
C.R. "Steve" Hafling, Chairman

SIGNED: _____ DATE: JULY 26, 1976
Ronald M. Henry, Member

SIGNED: _____ DATE: JULY 26, 1976
Morgan Reed, Member

[Signatures On File]