

[Labor Relations Agency Stationery]

BEFORE THE ALASKA LABOR RELATIONS AGENCY

INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS, LOCAL 1547)
)
and)
)
PUBLIC EMPLOYEES LOCAL UNION 71,)
)
Petitioners,)
)
and)
)
INTERNATIONAL UNION OF OPERATING)
ENGINEERS, LOCAL UNION 302,)
)
Intervenor,)
)
vs.)
)
UNIVERSITY OF ALASKA,)
)
Respondent.)
)

Petition 84-8

ORDER AND DECISION NO. 94

BACKGROUND OF THE IBEW - LTC JOINT PETITION

This is the third case decided by this Agency concerning the non-supervisory, non-confidential support staff employed at the University of Alaska.

In Order and Decision No. 34, the Agency denied a separate unit of support staff employees at the Anchorage campus. The Agency followed its basic policy of requiring

statewide units. The Agency suggested either one unit of all employees, statewide, or two units statewide. One unit of general maintenance and custodial personnel, the second unit of clerical, technical and administrative employees.

In Order and Decision No. 90, heard and rendered last year, the record of which was incorporated in its entirety into this case, the Agency suggested that two units appeared to be appropriate. The Agency has historically noted the differences of skills and working conditions of the building and construction trades as opposed to the clerical and administrative employees in Order and Decision No. 1, 3, 5 and 16.

The Petitioners filed a joint Petition following the Agency's suggestion of those classifications of employees specifically mentioned in Order and Decision Mo. 90. The University took the position that one unit statewide is the only appropriate unit, and filed a Motion to Dismiss prior to the hearing. Said Motion was denied.

Prior to the hearing, numerous pre-hearing conferences were held to clarify the issues, the particular employees sought to be included in the unit, the positions of the parties, and scheduling.

Hearings were held in Fairbanks, Anchorage and Juneau. Post hearing briefs have been submitted to the Agency.

At the hearing, parties stipulated that a group of personnel classified as APT were to be excluded from the

proposed unit. These individuals are coaches and other classifications that work for a set salary and are not on the hourly wage scale that entitles an employee to overtime.

Post hearing Motions to Supplement the Record have been granted. Numerous position evaluation questionnaires that describe the duties and the job classifications have been reviewed by the Agency.

BACKGROUND OF THE INTERVENOR'S PETITION

The Intervenor's Petition is to represent a group of approximately 25 employees who are employed at the University of Alaska, Fairbanks power plant. This is the only power plant located at any University campus throughout the State.

The Agency denied a similar Petition in Order and Decision No. 3 finding that such a unit is contrary to the legislative mandate that units be as large as reasonable and unnecessary fragmentation be avoided.

This legislative mandate has allowed the State to have only nine bargaining units for its 17,000 employees. The University system presently has one bargaining unit.

The University argued that the Intervenor's unit would cause unnecessary fragmentation. The Intervenor argued that since collective bargaining has matured in Alaska, that this Agency should look again into the unnecessary fragmentation issue.

RELEVANT NATIONAL LABOR RELATIONS BOARD AND PUBLIC SECTOR DECISIONS

The National Labor Relations Board's (NLRB's) basic policy is to not include office clericals in essentially maintenance type units within the private sector universities. Stanford University 79 LRRM 1356, Georgetown University 82 LRRM 1046, Duke University 78 LRRM 1547. This policy follows the Board's policy in private sector employment.

However, in Cornell University 74 LRRM 1269 (1970), the Board ordered an election of all of Cornell's non-academic, non-supervisory personnel throughout the university system. Such a unit was petitioned for by the University. In the Trustees of Boston University 98 LRRM 1109 (1978), the Board ordered an election of all of Boston University's employees except for the medical school staff. The Boston University case is distinguishable as it has two campuses within 1.3 miles of each other. It appears to this Agency that the NLRB does not have a consistent policy for private sector universities.

The Agency reviewed the numerous citations of the National Public Employment Reporter and contacted many of our statewide counterparts who operate under similar state statutes. At the local level, the county school district level, there are numerous wall to wall units that include clericals, administrative and maintenance individuals. At the public statewide university level, no unit similar to the one sought by the University of Alaska was found. The Agency notes that many states do not have a statute that contains our legislature's mandate that the units be as large as is reasonable with unnecessary fragmentation to be avoided.

The Agency having considered the record and testimony, having the supplemental materials, exhibits and briefs, hereby makes its Findings of Facts on the Petitioner's Amended Joint Petition:

1. We find that the 30% criteria for sufficient showing of interest has been met.

2. Wages. That the University has a uniform wage system for all salaried employees. All employees are entitled to the same benefits.

3. Hours. The clerical and administrative staff, with the exception of certain computer programmers, work the normal 8:00 a.m. to 4:30 p.m. day. The great majority of the maintenance staff work the normal hours, also. More physical plant and custodians deviate from the normal hours than do clericals and administrative.

4. Working Conditions. The working conditions of the maintenance personnel are primarily manual and physical labor. The carpenters, plumbers, electricians, custodians and food service personnel have a different work environment than the clerks; secretaries and administrators. The former have a primarily shop environment, the latter have a primarily office environment.

5. Desires of the Employees. There is no desire of the Petitioners to have a unit with the clerical and administrative staff. The Petitioners consider themselves as a separate and distinct unit servicing the University through

their skilled or general manual efforts.

6. Community of Interest. All of the employees who testified had the same interest in having the University work smoothly and efficiently. All University employees share certain common interests in that regard. The Petitioners' career advancement is vertical, not horizontal. The few employees who left the maintenance-physical plant to become clericals are noted. But the on-the-job journeyman type skills for the traditional blue collar tradesmen of the physical plant follow the normal career ladder progression, as do the custodians. The Petitioners have different job functions, different training and skills, separate supervision, and little interchange with the work functions of the clericals and administrative employees.

The Petitioners have common supervisors and a more common work area than do the clericals who obviously report to their offices.

7. History of Collective Bargaining. There is no history of collective bargaining within the petitioned for unit. The history of collective bargaining within the State was noted in Order and Decision No. 90. There are and have been councils on the Fairbanks, Anchorage and Juneau campuses where the employees and the management have met and conferred. Those councils and meetings are not conferences between management and a labor organization. Accordingly, there is no history as per NLRB standards.

8. Unnecessary Fragmentation. The University argued that if the Agency does not include one overall unit, that there is the possibility for a general maintenance unit, a

clerical/administrative unit, an APT unit, a supervisory unit and a confidential unit plus the potential professorial units.

However, the Agency is not persuaded that this unit petitioned for does not meet the legislative criteria.

We find that we have grouped together the largest possible group of individuals in the university system who share the traditional, common interests that form collective bargaining units.

This Agency has allowed expansive testimony and supplemental exhibits. It has heard testimony from University employees on the role model of collective bargaining. We have heard testimony from the State Labor Relations Department in Juneau and counsel from the Alaska Public Employees Association. We have heard testimony concerning the fact that 42% of our Orders and Decisions are on Unit Clarifications.

In finding that the unit sought for is as large as reasonable, we note that it includes the general maintenance personnel at the Anchorage, Fairbanks, Juneau and all of the community college campuses and extension facilities throughout the State. Ample opportunity was given to the University to argue that the unit petitioned for, and clarified at the pre-hearing conferences, was not inclusive of the Juneau maintenance classifications, and this Agency knows that 42% of its time is not spent on Unit Clarifications. The Unit Clarifications are often handled by a Hearing Officer in rather routine disputes in the ever changing organizational structure

of the State government as it attempts to become more effective.

We feel that the legislature included the unnecessary fragmentation language to avoid the nightmares that occurred in other states wherein we might have separate clerical, technical, administrative, maintenance, service, confidential and supervisory units at each campus in the university-wide system that stretches from Ketchikan to Kotzebue.

CONCLUSIONS OF LAW

We, therefore, Conclude as a Matter of Law that the Petitioners have met their burden of proof. We conclude that the unit as petitioned for and clarified in the pre-hearing conferences is appropriate. The unit is a general maintenance type unit that excludes supervisors, confidential employees, APTs as classified by the University, and all professors as set forth in Petitioners' Exhibit No. 2 at the hearing.

Concerning the Intervenor's Petition, we Find:

1. That the 30% criteria has been met.
2. That the power plant employees have a uniform wage system and are a part of the University overall wage system.
3. That the power plant employees' hours and schedules are markedly different from those of any other type of employee at the University. The power plant employees have a rotating schedule and work 12 hour shifts.
4. The power plant employee working conditions fall more closely within those of the maintenance personnel as opposed to the office and clerical individuals. Their working

conditions are clearly separate and apart from the normal mainstream of the University environment. They eat on the job. They have little contact in their routine day-to-day system with other university employees.

5. Desires of the Employees. The power plant employees have a definite desire to have a separate and distinct unit.

6. Community of Interest. The power plant employees have the same general community of interest to have the University work smoothly and efficiently. Their career advancement is vertical and not horizontal. Few, if any, leave their employment to transfer to the physical plant. The power plant is a separate administrative unit within the University, and therefore the employees have a common supervisor and a distinctly more common work area than any other group of employees at the University.

7. History of Collective Bargaining. There is no history of collective bargaining within the petitioned for unit.

8. Unnecessary Fragmentation. While this Agency respects the historical jurisdiction of the Intervenor, we find that the power plant employees are a distinctly small unit at the University. They are similar to other groups of employees at the University who have distinctive skills, and view themselves as having a distinctive community of interest. Those skills and community of interest are more closely aligned with the general maintenance type employees

and blue collar employees in the petitioned for unit than the clerical and administrative personnel excluded from the petitioned for unit. The power plant job descriptions are included in the petitioned for unit.

CONCLUSIONS OF LAW

Following are Findings of Fact and Conclusions of Law, we **ORDER** that:

1. An election be held for the Joint Petitioners' unit. The University shall submit the 2 AAC 10.150 voting roster to the Agency by May 5, 1985. Both parties are to submit suggestions for the timing of the mail ballot election in writing by May 5, 1985. The dates for the election will be set shortly thereafter.

2. We **ORDER** that the Intervenor's Petition be dismissed.

DATED and signed this 25th day of April, 1985, in Anchorage, Alaska.

SIGNED: _____
C. R. "Steve" Hafling, Chairman

SIGNED: _____
Marlene Johnson

SIGNED: _____
Ben Humphries

[Signatures on File]