

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2367 SHESS SB 467

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have met in hotel rooms, union halls, the university campus, and the Teachers have been released from their duties under Sec. 1.5. Sec. 1.5 was written by both parties, agreed to by both parties, and each of you have been found guilty of an unfair labor practice by not following the obvious intent of that section.

Alaska Statute 23.40.140 enables the Agency to "take affirmative action which will carry out the provisions of Alaska Statute 23.40.070 - 23.40.260." This Agency has not taken affirmative action in the form of setting the schedules, as there is a strong public policy that the negotiators (which include numerous Phds., Masters' degree holders, and all being college graduates) should seemingly be able to find a time or place to meet without taking obsteporous positions. We have set forth the guidelines so that the policies of the Act are dealt with by the parties. This Agency wants you to resolve these matters so that the real underlying issues involved in this collective bargaining process can be dealt with satisfactorily.

DATED: October 31, 1983

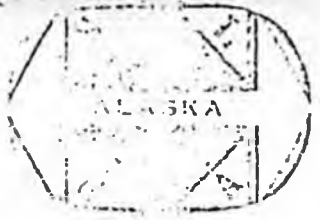
*C. R. "Steve" Haffling*  
C. R. "Steve" Haffling

DATED: October 31, 1983

*Ben Humphries*  
Ben Humphries

DATED: October 31, 1983

*Morgan Reed*  
Morgan Reed



State of Alaska

LABOR RELATIONS AGENCY

P.O. BOX 6791 - ANCHORAGE, ALASKA 99502  
TELEPHONE (907) 243-2630

C. P. STEVENSON, CHAIRMAN  
RONALD M. ...  
HOBBAK ...

BEFORE THE ALASKA LABOR RELATIONS AGENCY

WM. J. MALCOLM, JR., COMMISSIONER

ALASKA COMMUNITY COLLEGE )  
FEDERATION OF TEACHERS, )  
LOCAL No. 2404, )

Complainant. )

and )

UNIVERSITY OF ALASKA, )

Respondent. )

ULPC 83-3

AMENDED ORDER AND DECISION NO. 81(A)

On June 10, 1983, the Petitioner charged the University of Alaska with unfair labor practices alleging the University violated AS 23.40.110(a)(5) by engaging in bad faith bargaining, surface bargaining, and bargaining without any intention of reaching an agreement with the Union. The parties waived the timeliness requirements of notice, and hearings were held the week of June 20, 1983. An oral Order and Decision was delivered by the Agency on June 24, 1983 and this written Order and Decision follows.

The negotiations had two phases. From January 24th until the middle of March, 1983, the parties were engaged in "collective" negotiations in which the parties conceptualized their positions and attempted to make their positions known. The

ANNEXED ORDER AND DECISION NO. 81(A)

Page 2

parties hoped by that by doing same there would be an agreement reached by consensus. The parties' past practices of offering and counteroffering proposals was not followed in this collegial phase. The collegial phase had some success as some 20 items were agreed on. The Agency notes that those items are basically the same as those contained in the prior collective bargaining agreements. While the parties were conceptualizing their ideas, they were, in fact, always referring back to the previous collective bargaining agreements before putting those ideas into tentative approval status. The collegial phase was agreed to by both parties and both parties agreed that the collegial process would not produce a final and total agreement.

During the final week of March, 1983, the parties exchanged their written proposals.

Two weeks later, the petitioner requested the services of the Federal Mediation and Conciliation Service. Meetings with the Federal mediators from Seattle were held in early April, May and June, 1983. The April 15th letter from John Baker, stated that the parties were at impasse and requested the services of the mediator. The parties met with the mediator in

April, in May, and the first week in June of 1932. Numerous correspondence was sent between the parties during that period of time.

The position of the University quickly solidified into a position that the Union had to accept three major items. The position of the University was that the Union had to accept the items as is, and then the 40-50 other issues at the table would be quickly resolved.

Item number one was that the Union capitulate to the University's compensation package. The compensation package took away annual step increases that are in the present contract. The step increases are based upon years of continual service to the University plus advanced degrees being obtained by the professors. The parties have developed vertical and horizontal grids whereby the bargaining unit members can change lanes and achieve higher pay by continual teaching, or by receiving advanced degrees and other criteria. The University wanted to change the grid system into a merit system. However, the merit system was one that was to be developed in the fall by the joint cooperation of the University and the Union. Either party could unilaterally deny the existence of any merit system by simply not agreeing to

AMENDED ORDER AND DECISION NO. 31(A)

Page 4

15. The present salary grid system would then only be applicable to new teachers. After the merit system was agreed to, the system would be implemented into the new contract.

The Agency finds that the proposal of a merit system is in part, illusory. While the University is demanding that the merit system proposal be agreed to by the Union, it is an agreement that either party could unilaterally stop. There is no system proposed to insure the merit system would be in existence before the end of the contract.

The University also proposed an across the board wage increase for all members of the present bargaining unit.

The second major item that the University demanded the Union capitulate to was the Union subsidization issue. The University presently has subsidized the Union by granting the President of the Union six hours of teaching time, Union committee members time off for their duties, as well as providing office space and other rights for Union members. In exchange for the end of the Union subsidization, the University proposed a \$750 payment to each bargaining member. There are over 275 bargaining unit members. The Union members could take the \$750 and pay it to the Union to finance the Union's activities, or the Anchorage Community College instructors could

simply keep their \$750.

The third unilateral demand was that the teachers be required, at the University's discretion, to teach three more hours per semester. Presently, the teachers are required to teach 12, plus a fifth part which involves community service, research or writing, or some other agreed upon part.

While there is no argument that the teachers presently are required to teach a fifth part, the teachers view the authority of the University to unilaterally impose a fifth class as objectionable. The teachers see themselves as being required to teach 25% more actual class time than they were before. The University argues that increased student enrollment necessitates the teachers having more actual class time.

The University proposals as viewed by the Union, are the teachers teach 25% more per year; give away their guaranteed step increases for a system that may or may not be agreed upon by the parties; and, to give away their Union subsidization rights which are presently very extensive.

The University argues that the merit system has to be implemented to reflect changing economic times, Union subsidization should stop, and teachers of the community college

are there to teach; therefore, the fifth part is reasonable because of the increasing student demands.

The National Labor Relations Agency cases, as well as our own Orders and Decisions, have repeatedly discussed the difficult criteria of determining when good faith bargaining is occurring. One of the prime indicia of good faith is that the parties have an open mind and sincere desire to reach an agreement, as well as a sincere effort to reach some common ground. The lack of good faith may be found from subjective states of mind evidenced by various types of overt conduct. PERA contemplates that a bargaining process will occur. Under this scheme, if working conditions and wages are set unilaterally, or in a manner which avoids the bargaining process, good faith bargaining has not occurred. The Agency notes that the individuals outside the bargaining team of the Union made demands which were apparently substantially agreed to by the University even though these demands were not made by the Union bargaining team.

The Agency also realizes the significance of the April 15, 1963 letter from John Nelson to the University which proposed a Federal mediator. The terms impasse and deadlock are used

interchangeably in our statutes and the legal significance is important. When an impasse occurs and bargaining breaks down, as a well recognized matter of Federal law, the employer may unilaterally impose his last offer on the Union members. This Federal principle has not been directly addressed or adopted by this Agency. This Order and Decision does not adopt said principle. However, all litigants before this Board are aware that relevant Order and Decisions of the NLRB and Federal courts are given great weight by this Agency. (See 2 AAC 10.440). The Agency has repeatedly stated its purpose as (a) interpreting statutes and regulations; and, (b) attempting to aid both parties so collective bargaining is given the opportunity to work under our particular State law.

The Agency wishes to take the opportunity to discuss in obiter dictum, its application of the statutes so the parties are not (a) assuming that a unilateral request for mediation will automatically have the Agency request same; or (b) the parties are not facing the impasse to impose their last offer (if said Federal principle is adopted and applied in Alaska law), or, (c) assuming this Agency views one party's request for mediation or declaration of deadlock as the sole prerequisite to

having a strike vote or strike under AS 23.40.20 and (d) explain the legal criteria the Agency looks at in making its determinations.

The Agency realizes that every impasse or deadlock does not necessitate mediation. Impasses often come and go through the bargaining process. Parties take positions and retract them, maneuver for a position in collective bargaining by changing their positions, and resolve impasses without the aid of mediation. That is simply part of the collective bargaining process. The next type of impasse occurs when the parties need outside assistance to aid them. AS 23.40.190 gives the Agency wide discretion in aiding the parties when it states in part, "The Labor Relations Agency may appoint a competent, impartial disinterested person to act as mediator in any dispute either on its own initiative or other requests of one of the parties to the dispute." (Emphasis added.) The Agency has utilized said statute to call the Federal Mediation Conciliation Service to aid the parties. Sometimes the mediation works and the mediator leaves the parties to negotiate. The mediator can be called back by the parties or the Agency if a new impasse is reached.

In most of the collective bargaining negotiations, the parties have reached agreement without a strike or arbitration. The ACCFT/University of Alaska negotiations are a notable exception to the norm in Alaska. AS 23.40.200 requires mediation, a deadlock, and a strike vote as prerequisites to a strike for public school and education and institutional employees. The Agency has, in the past, interpreted aforesaid statutes and will continue to do so as follows:

1. Deadlocks often occur in collective bargaining. The Federal Mediation and Conciliation Service has been repeatedly called on by this Agency to aid the parties in breaking such deadlocks. The deadlock may be over a single item, or a series of items. However, that deadlock under AS 23.40.190 does not ripen into a deadlock or impasse under AS 23.40.200 until there are "irreconcilable differences in the parties' positions after good faith negotiations have taken place." Such good faith negotiations contemplate the use of a mediator to attempt to break the temporary deadlocks that the parties encounter, and full and frank exchange of materials, information, and positions.

2. The determination of when a deadlock has reached

the proportions of one that contemplates the implementations of AS 23.40.200 is a difficult one for the parties and the Agency. The Agency has been requested repeatedly to find that an impasse occurs and that request has been objected to by responding party. The Agency has looked at the length of negotiations, the tone of the negotiations, the positions of the parties (as to whether they have changed their positions since the beginning of negotiations), and other relevant facts brought to the Agency by the parties.

In the present case, the record is clear that the Union was still attempting to reach agreements on several contract portions with the aid of the Federal Mediator, and that the University was also responding to the mediator's efforts by exchanging information and proposals. Based upon those facts, it is clear to the Agency that the impasse did not reach a level where there were "irreconcilable differences after good faith negotiations."

3. The deadlock, under AS 23.40.190, is one that evidences the parties' ability to reach an agreement by themselves. There is no requirement that the parties attempt to exhaustively reach agreement without aid from the Agency or the

Federal Mediation Conciliation Service. The Agency has been quick to request the aid of outside parties whenever both parties have requested same. If one party objects to mediation, the normal procedure has been to confer with both parties to attempt see what the nature of the dispute is, attempt to determine what the significance of the items upon which the parties are deadlocked, and make a determination as to whether the outside assistance is necessary. Often times, the parties are not communicating as well as they could be, and new ideas, new suggestions and new proposals offered by the mediator are helpful before the Agency calls the Federal Mediation and Conciliation Service, we attempt to determine whether the parties had engaged in meaningful discussions over bargaining proposals, offered counterproposals, or otherwise attempted to narrow the gap of disagreement. The number of bargaining sessions and length of time the parties have met without meaningful progress are important factors considered by the Agency before calling upon the Federal Mediation and Conciliation Service. The Agency has often used the Federal Mediation and Conciliation Service and found it to be extremely effective.

4. The Agency also notes that in any negotiation,

significant positions are taken in the area of wages, hours and working conditions of employment. The most significant positions are often directly related to salaried benefits. Major items change from negotiation to negotiation.

There are always other items on the table which seem to be used as bargaining chips that can be added to or taken away, with less overall importance to the major items. The determination whether there is an impasse or deadlock, normally has been granted by the Agency whenever a stipulation has been entered. If a petition is filed and a hearing is held, the Agency looks at the totality of the facts to make its determination.

Based upon the complete record and the totality of the circumstances, the Agency makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the University of Alaska has engaged and is engaging in bad faith bargaining, surface bargaining, and bargaining without any intention of reaching an agreement with the Union.

2. That the University has not refused to meet with

the Union negotiating team at reasonable times.

3. That the issue of the University refusing to negotiate with the Union at reasonable places was decided in ULPC 83-1.

4. That the University engaged in bad faith bargaining by unilaterally demanding that the Union accept the University's proposals on compensation, workload, and Union subsidization.

5. That the merit system proposal is illusory in that either party could unilaterally veto it by simply refusing to accept the other party's system.

6. That the University quickly solidified their proposals on the compensation, workloads, and subsidization issue, and refused to bargain in good faith on the remaining issues at the bargaining table unless the Union accepted the University's three major proposals.

7. That overt acts of the University show the bad faith intent by demanding that the Union accept the three major proposals.

8. That the totality of the conduct shows an obvious bad faith motive. That the University was guilty of surface bargaining by rejecting the Union's proposals, tendering their

own, and not attempting to reconcile the differences. Also, the University refused to discuss items outside the three major issues.

9. That the University did not violate its duty to bargain in good faith by proposing the workload and subsidization offers that reduced the Union's rights and prerogatives. The bad faith was their unilateral demands without a willingness to discuss other items.

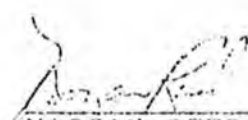
THEREFORE, the Agency FINDS that the University, as a matter of law, had engaged and is engaging in bad faith bargaining, surface bargaining, and bargaining without an intention of reaching an agreement with the Union and that the University has attempted to declare an impasse where none exists;

IS HEREBY ORDERED THAT the University cease and desist from the bad faith practices aforesaid mentioned in the Findings of Fact and Conclusions of Law.

DATED this 10 day of September, 1983.

  
C.R. "STEVE" HAFLING, Chairman  
ALASKA LABOR RELATIONS AGENCY

DATED this 12 day of Sept., 1983.

  
MORGAN REED



State of Alaska

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# LABOR RELATIONS AGENCY

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C. R. "STEVE" HAFLING  
CHAIRMAN  
~~KONRAD KENNEDY~~  
MORGAN REED  
Ben Humphries

11-15-83

WM. J. PAUZAUSKIE  
CONSULTANT

## BEFORE THE ALASKA LABOR RELATIONS AGENCY

ALASKA COMMUNITY COLLEGE )  
FEDERATION OF TEACHERS, )  
LOCAL NO. 2404, )

Complainant, )

vs. )

UNIVERSITY OF ALASKA, )

Respondent. )

ULPC 83-5

### ORDER AND DECISION NO. 83

#### BACKGROUND FACTS

ULPC 83-5 charges the University of Alaska, through its officers and agents, has violated Alaska Statute Sec. 23.40.110-(a)(1), (3) by denying Ralph McGrath, the Union President, employment as a teacher of Labor History at the University of Alaska on an overload basis. Ralph McGrath allegedly prepared the course, its contents and was assured that he would teach same. He was advertised as the teacher of the overload, fall 1983, course.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Agency, having reviewed the total record, hereby makes

the following findings of fact and conclusions of law:

1. That Ralph McGrath did not have a "per se" right to teach the overload course as the University has no duty to assign overload courses to bargaining unit members simply because that person is a bargaining unit member.

2. The University did set up a system to find qualified teachers for overload courses. Teachers applying could be either full time or part time faculty. The faculty pool is determined by the persons expressing an interest to teach the course and having their application placed in a faculty folder at the office of Human Resource Development. The University keeps the folder to determine who is capable and willing to teach any particular part time course.

3. The University relied upon their part time faculty system in ULPC 83-2 for their defense in not hiring Don Mohr to teach a summertime course. The University said that Mr. Mohr did not properly apply for the course by putting his application into the part time faculty pool.

4. Ralph McGrath is the President of ACCFT. He was one of the three persons who properly applied to teach the course and who was potentially available to teach this overload course during the fall of 1983. McGrath met with Cordova in the spring of 1983 and expressed an interest in teaching the course. Ralph McGrath, in fact, prepared the course, ordered the appropriate books and films for the course, and was also advertised as its

teacher in the Fall 1983 Catalog. This catalog was prepared in February, 1983, before Ralph McGrath received his tentative letter of appointment to teach the course on May 1, 1983.

5. The particular course did not have enough students to necessitate its offering during the fall, 1983, semester. Too few students signed up for the course to require the University to actually have the course taught during the fall, 1983, semester.

This Agency does not consider the course having not been offered as rendering the case moot. This Agency finds that important employee interests are at stake, not the least of which is the University not discriminating against bargaining unit members.

6. This Agency finds a violation of AS 23.40.110(a)(1) and .110(a)(3) in that the University of Alaska discriminated in not hiring Ralph McGrath to teach this subject course. The University also interfered with his exercise of rights guaranteed by AS 23.40.080.

The reasons for finding an unfair labor practice are as follows:

- a. Ed Cordova testified at length at the hearing. He was the administrator in charge of employing overload professors. We found that he showed an obvious anti-union animus by not granting the course to Ralph McGrath. Ed Cordova stated, by his own testimony, that his

acts violated his principles and procedures which he had followed for the last eleven (11) years. Ralph McGrath was tentatively approved for the course in May, 1982.

- b. Ralph McGrath was told as late as August 9 by Mr. Cordova that Mr. Cordova saw no problem with Ralph teaching the course, but that there were small bugs to be worked out.
- c. On August 10, 1983, Ed Cordova told Ralph McGrath that Ralph McGrath would not teach the course and the class would be offered to a woman, Ms. Evans.
- d. The list of applicants who could teach the course, according to the University's own regulations, was received by Mr. Cordova on July 25, 1983. The only three individuals mentioned at this hearing who were in that list of persons eligible to teach the course were Mr. Allan, Ms. Evans and Ralph McGrath. On or about August 10 Mr. Cordova left on vacation. He returned to work on August 22. On or about August 22 Mr. Cordova knew that Allan and Evans were not available to teach the course. He had a memo from Ralph McGrath expressing Mr. McGrath's displeasure in not being selected for the course. The memorandum also requested the University's fall, 1983, flow chart. The flow chart and backup information

requested would have shown which teachers were available to the University to teach the course. The flow charts are made for affirmative action guidelines and to ensure assignments are properly made.

- e. On August 29 Mr. Cordova wrote a memorandum to Ralph McGrath wherein Mr. Cordova obviously avoided Ralph McGrath's information request. Mr. Cordova's oral reply to Ralph McGrath also avoided the issue of the flow chart.
- f. During the week of August 22 Mr. Cordova contacted Dr. Blochman who just happens to be a member of the University's negotiating team (these negotiations have been going since early 1983) and made arrangements with Dr. Blochman, admittedly a person well qualified to teach the course, to be granted the assignment. Dr. Blochman never applied for the course and was not on the flow chart.
- g. Mr. Cordova obviously avoided telling Ralph McGrath of his decision to hire Dr. Blochman. On August 22, 1983, and August 29, 1983, and during this hearing, Mr. Cordova was obviously reluctant to tell Ralph McGrath or this Agency who he had contacted as of August 29, 1983. On page 12 of the transcript Mr. Cordova was asked by Mr. Jermain, in direct examination, "OK. Now, by that time, by August 29, 1983,

you had already made the decision that someone else was going to teach that class if it had, in fact, been taught? Answer: True. It was made. Question: Who was the in.. who was the individual? Answer: I had two..two individuals in mind. Two applicants. One was Mr. Allan and the other was Ms. Signiori-Evans." However, it was not until page 120 of the transcript that Mr. Cordova admitted that he offered the course to Dr. Blochman the week of August 22. The demeanor of Mr. Cordova in answering the questions posed to him was relied on by this Agency for this finding.

7. This Agency also finds that Mr. Cordova never informed Ralph McGrath that his reason for not hiring McGrath was for a legitimate business purpose. Ralph McGrath was never told it was too costly for him to teach until this hearing was held, even though McGrath had previously requested a reason. This Agency finds that the University and Union had worked out agreements in the past of allowing a teacher to have time given to a credit bank instead of being granted overload money for teaching a course.

8. The anti-union animus is obvious to this Agency from the above facts that show the University did not follow its own procedures. Ralph McGrath asked for an explanation of why he did not receive the teaching assignment and was not granted a satisfactory explanation. Ralph McGrath requested reasonable

information and was told by Mr. Cordova that the issue was moot. The University never told Ralph McGrath of the financial problem or that the University had selected an individual who was on the management team of negotiations prior to the hearing.

9. Following the Supreme Court of Alaska's Majority Reasoning in ACCFE vs. University of Alaska, et. al., Alaska Supreme Court Opinion No. 2729 dated September, 1983, we find that this case is not one where the employer's conduct is "inherently destructive" of important employees' interests, thereby removing the proof of anti-union motive unnecessary under the Labor Management Relations Act, and the corresponding Alaska law.

10. The University has asserted that even if its acts interfered with the exercise of Ralph McGrath's collective rights, the actions of Ed Cordova should be held lawful because it advances a substantial, legitimate employer interest. See R. Gorman Labor Law 133, (1976). This Agency rejects such a finding.

The facts are that the cost of Ralph McGrath teaching the course was \$5,976.00 plus 20.3% benefits, as compared to \$1,848.00 for Dr. Blochman. The testimony of Ed Cordova was that the cost of Ralph McGrath would be approximately 60% of the labor pool money available for the fall and spring semesters for additional courses. The facts also showed, and we find, that one one-hour lab was given as an overload in 1983 and the last overload prior to that date was granted in the fall of 1980. The University did not present any evidence showing that the budgeted amounts

for the extra courses were, in fact, filled from their budget, what the proposed offerings were, what other monies could have been utilized to pay for those courses if Ralph McGrath were hired to teach the course.

11. Therefore, this Agency finds, after reviewing the entire record, that ample business justification was not shown by the University to render their action as advancing a substantial and legitimate employer interest.

12. Ralph McGrath requested an order of damages for the time he spent in preparation of the course. We DENY said request because the class did not have the requisite number of students to have Ralph McGrath teach it, and the class probably would have been cancelled no matter who taught the course. Ralph McGrath would have received no monies for preparing the course even if he had been assigned to teach it.

This Agency acknowledges and wants economy and government as well as anyone else. However, we are not persuaded that the University's intent was not to save, but are persuaded their intent was to discriminate against Ralph McGrath without valid justification, as he is directly involved in extensive union activity.

13. We find the University should not be allowed to set up a system of who is going to teach overload courses then not follow it absent the appropriate business justification.

14. The fact that Dr. Blochman is a member of the management negotiating team was not, in itself, controlling in this

case. The facts clearly show and we find that two other part time teachers who applied for the course were not available for the course. That Ralph McGrath was the only existing proper applicant for the course before it was offered to Dr. Blochman shortly before registration.

CONCLUSIONS OF LAW

We conclude, as a matter of law, that the University of Alaska committed an unfair labor practice by not offering History 246, The American Labor Movement, course to Ralph McGrath during the fall of 1983.

We ORDER the University to cease and desist from said unfair labor practice.

DATED: October 31, 1983

C. R. "Steve" Haffling  
C. R. "Steve" Haffling

DATED: October 31, 1983

Ben Humphries  
Ben Humphries

DATED: October 31, 1983

Morgan Reed  
Morgan Reed

# Alaska State Legislature

## House of Representatives

Al Adams

Chairman

Committee on Finance



Official Business

[ 8-d ]  
WHILE IN SESSION

Pouch V

State Capitol

Juneau, Alaska 99811

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OUT OF SESSION

P.O. Box 333

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1024 W. 6th

Anchorage, Alaska 99501

(907) 274-0615

August 17, 1983

Mr. Ralph McGrath  
President  
ACCFT  
2533 Providence Avenue  
Anchorage, AK 99508

Dear Mr. McGrath:

You have requested clarification on legislative intent regarding funding for lane and step increases for employees covered by the ACCFT bargaining unit of the University of Alaska for Fiscal Year 1984. Frankly, I don't believe this question was specifically addressed by the House Finance Committee or the Conference Committee on the Budget.


As you are aware the Conference Committee deleted funds for "salary adjustments" in all components of the University budget. It was my understanding that these funds represented lane and step increases for non-covered employees of the University. It was further my understanding that all salary increases for ACCFT employees would be presented to the legislature for funding next session after a new contract had been negotiated between the federation and the University administration. To my knowledge the question of whether or not ACCFT employees were to receive lane and step increases in FY 84 in the event that a settlement was not reached on a new contract and the existing contract remained in effect was never discussed.

In any event the fact that the "salary adjustments" were eliminated from the budget is not relevant to the question of whether or not any employee of the University should receive lane and step increases in FY 84. It was never the intent of the legislature to prohibit the University from paying lane and step increases in FY 84. Rather it was the legislature's position that such increases should be paid out of existing funds--primarily savings generated from normal vacancy and turnover in the University system. This is the way that other executive branch agencies fund the so-called "merit increases" awarded to employees in the state's classified service. Indeed as far as the legislature is concerned, the lane and step increases awarded to university employees is viewed as synonymous with the "merit increases" awarded to other state employees.

Finally, I would like to reiterate that the legislature did not attempt to anticipate any settlement that might be reached between the ACCFT and the University administration. It remains my expectation that a new contract

will be presented to the legislature next session along with a request for funding of the contract. That request will be given due consideration by the House Finance Committee as part of the regular budget process.

Sincerely,



Al Adams, Chairman  
House Finance Committee

APA/el

cc: Rep. Terry Martin, Chairman  
University of Alaska Budget Subcommittee



Official Business

# Alaska State Legislature

## House of Representatives

Pouch V  
State Capitol  
Juneau, Alaska 99811

REC'D OCT 10 1983

October 8, 1983


Wm. J. Pauzauskie  
Consultant  
State of Alaska  
Labor Relations Agency  
P.O. Box 6701  
Anchorage, Alaska 99502

Dear Mr. Pauzauskie,

Thank you for your letter of September 23, 1983 requesting information regarding the intent of the Legislature with respect to salary increases when funding the University of Alaska for FY 1984.

There was never any intent either implied or expressed that the appropriation to the University restrict the payment of lane and step increases. The Legislature views those increases to be the same as merit increases granted by State agencies and paid from savings generated by normal vacancy and turnover in the system.

Sincerely,

  
Representative Jim Duncan

# MEMORANDUM

State of Alaska

*Beavertown*

TO: C.R. "Steve" Hafling  
Chairman, Labor Relations  
Agency

DATE: September 29, 1983

FILE NO: 366-166-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: Appropriation for  
pay increase

By:   
Jonathan E. Rubini  
Assistant Attorney General

By letter of September 12, 1983, you requested our review of the appropriation question raised in Petition 83-1. We purposely did not review the collective bargaining agreement, and our comments are therefore limited to only the appropriation question. Whether the collective bargaining agreement establishes a contractual entitlement to the grid system pay increases, as alleged in Petition 83-1, is a question more appropriately resolved by the agency.

The general operating appropriations for the University of Alaska are set forth at ch. 107, §32, SLA 1983. Neither the appropriation nor, to our knowledge, the legislative record indicate a specific intent to preclude the payment of step and lane increases for covered employees. We are advised, though, that both the House and Senate Budget Committees deleted a specific budget request to include funds to pay step and lane increases. <sup>1/</sup> As indicated in the letter from Representative Adams, Chairman of the House Budget Committee, to Ralph McGrath, the legislature did not intend to preclude payment of any contractual entitlement to a step or lane increase for covered employees in FY 84. The apparent legislative intent was that the University, like other state agencies, should not obtain a specific appropriation for what is viewed as a "merit increase," but should instead fund such increases through the base appropriation for professional services. If covered employees are entitled under the contract to a pay increase, we conclude that the University has authority to fund step and lane pay increases for covered employees under the terms of the existing appropriation for professional services.

Please feel free to call if you have any questions.

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<sup>1/</sup> The legislature's failure to appropriate funds under the budget request does not implicate the limitation set forth in AS 23.40.215. That statute has been interpreted to relate only to the initial legislative consideration of negotiated monetary terms.

RESOLUTION

WHEREAS the University of Alaska is a part of the executive branch of government and a public entity within the meaning of the Alaska statutes and

WHEREAS the legislature passed AS 23.40 et.seq. stating that joint decision-making is a modern way of administering government, and

WHEREAS the legislature found it was in the State's interest to promote harmonious and cooperative relations between government and its employees and to protect the public by recognizing the right of public employees to organize for the purpose of collective bargaining and requiring public employers to negotiate with their employees and

WHEREAS Governor Bill Sheffield has stated that his goal for Alaska is to encourage collective bargaining for public employees and employers, and

WHEREAS the University of Alaska, through its administration, has continually opposed and ignored this mandate by the legislature and

WHEREAS there have been part-time employees employed at the University of Alaska for many years without rights to express their views, and

WHEREAS the University of Alaska, in bad faith and through its Board of Regents, has passed a resolution requesting the Governor and the legislature to exempt these employees from coverage under the State of Alaska Public Employees Relations Act, and

WHEREAS the University of Alaska, in bad faith and through its Board of Regents, also passed a resolution requesting the Governor and the legislature to remove binding arbitration on collective bargaining agreements between the University of Alaska and its employees, including community college teachers who are presently represented, and

WHEREAS the purpose of this resolution is to force teachers at public

institutions to strike for a fair and equitable resolution to their contract thereby affecting not only the rights of the teachers, but the public as well,

THEREFORE be it resolved as follows:

1. That the undersigned oppose any law exempting part-time employees of the University of Alaska or its subdivisions from expressing their right to select or not to select an organization of their choosing for representation in collective bargaining.

2. That the Governor and the legislature know that the AFL-CIO members represented by the undersigned oppose any change whereby binding arbitration is removed in resolving disputes between the University of Alaska and its employees.

BE IT RESOLVED this: 16 day of December, 1983 at Anchorage,  
Alaska by

AFL-CIO ANCHORAGE CENTRAL LABOR COUNCIL.

By: Bill Stewart  
Its President

By: Janet Campbell  
Its Secretary

# FAIRBANKS CENTRAL LABOR COUNCIL

[4-R]

## A. F. of L. - C. I. O.

319 First Avenue  
FAIRBANKS, ALASKA



RECEIVED

JAN 17 1984

ACCT.

### RESOLUTION

WHEREAS the University of Alaska is a part of the executive branch of government and a public entity within the meaning of the Alaska statutes and

WHEREAS the legislature passed AS 23.40 et. seq. stating that joint decision-making is a modern way of administering government, and

WHEREAS the legislature found it was in the State's interest to promote harmonious and cooperative relations between government and its employees and to protect the public by recognizing the right of public employees to organize for the purpose of collective bargaining and requiring public employers to negotiate with their employees and

WHEREAS Governor Bill Sheffield has stated that his goal for Alaska is to encourage collective bargaining for public employees and employers, and

WHEREAS the University of Alaska, through its administration, has continually opposed and ignored this mandate by the legislature and

WHEREAS there have been part-time employees employed at the University of Alaska for many years without rights to express their views, and

WHEREAS the University of Alaska, in bad faith and through its Board of Regents, has passed a resolution requesting the Governor and the legislature to exempt these employees from coverage under the State of Alaska Public Employees Relations Act, and

WHEREAS the University of Alaska, in bad faith and through its Board of Regents, also passed a resolution requesting the Governor and the legislature to remove binding arbitration on collective bargaining agreements between the University of Alaska and its employees, including community college teachers who are presently represented, and

WHEREAS the purpose of this resolution is to force teachers at public institutions to strike for a fair and equitable resolution to their

contract thereby affecting not only the rights of the teachers, but the public as well,

THEREFORE be it resolved as follows:

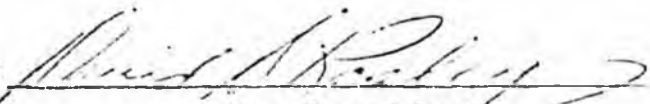
1. That the undersigned oppose any law exempting part-time employees of the University of Alaska or its subdivisions from expressing their right to select or not to select an organization of their choosing for representation in collective bargaining.

2. That the Governor and the legislature know that the AFL-CIO members represented by the undersigned oppose any change whereby binding arbitration is removed in resolving disputes between the University of Alaska and its employees.

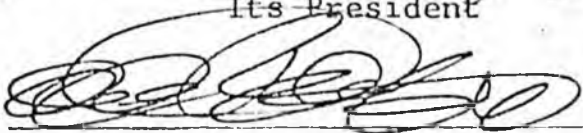
BE IT RESOLVED this 10th day of January, 1984, at Fairbanks, Alaska by

AFL-CIO FAIRBANKS CENTRAL LABOR COUNCIL

By:

  
Its President

By:

  
Its Secretary

RESOLUTION

WHEREAS the University of Alaska is a part of the executive branch of government and a public entity within the meaning of the Alaska statutes and

WHEREAS the legislature passed AS 23.40 et.seq. stating that joint decision-making is a modern way of administering government, and

WHEREAS the legislature found it was in the State's interest to promote harmonious and cooperative relations between government and its employees and to protect the public by recognizing the right of public employees to organize for the purpose of collective bargaining and requiring public employees to negotiate with their employees and

WHEREAS Governor Bill Sheffield has stated that his goal for Alaska is to encourage collective bargaining for public employees and employers, and

WHEREAS the University of Alaska, through its administration, has continually opposed and ignored this mandate by the legislature and

WHEREAS there have been part-time employees employed at the University of Alaska for many years without rights to express their views, and

WHEREAS the University of Alaska, in bad faith and through its Board of Regents, has passed a resolution requesting the Governor and the legislature to exempt these employees from coverage under the State of Alaska Public Employees Relations Act, and

WHEREAS the University of Alaska, in bad faith and through its Board of Regents, also passed a resolution requesting the Governor and the legislature to remove binding arbitration on collective bargaining agreements between the University of Alaska and its employees, including community college teachers who are presently represented, and

WHEREAS the purpose of this resolution is to force teachers at public

institutions to strike for a fair and equitable resolution to their contract thereby affecting not only the rights of the teachers, but the public as well,

THEREFORE be it resolved as follows:

1. That the undersigned oppose any law exempting part-time employees of the University of Alaska or its subdivisions from expressing their right to select or not to select an organization of their choosing for representation in collective bargaining.

2. That the Governor and the legislature know that the AFL-CIO members represented by the undersigned oppose any change whereby binding arbitration is removed in resolving disputes between the University of Alaska and its employees.

BE IT RESOLVED this 22 day of December, 1983 at Sitka  
Alaska by

AFL-CIO SITKA CENTRAL LABOR COUNCIL

By: Norm Burkhardt  
Its President

By: W. W. Ambrose  
Its Secretary

RESOLUTION

WHEREAS the University of Alaska is a part of the executive branch of government and a public entity within the meaning of the Alaska statutes and

WHEREAS the legislature passed AS 23.40 et.seq. stating that joint decision-making is a modern way of administering government, and

WHEREAS the legislature found it was in the State's interest to promote harmonious and cooperative relations between government and its employees and to protect the public by recognizing the right of public employees to organize for the purpose of collective bargaining and requiring public employers to negotiate with their employees and

WHEREAS Governor Bill Sheffield has stated that his goal for Alaska is to encourage collective bargaining for public employees and employers, and

WHEREAS the University of Alaska, through its administration, has continually opposed and ignored this mandate by the legislature and

WHEREAS there have been part-time employees employed at the University of Alaska for many years without rights to express their views, and

WHEREAS the University of Alaska, in bad faith and through its Board of Regents, has passed a resolution requesting the Governor and the legislature to exempt these employees from coverage under the State of Alaska Public Employees Relations Act, and

WHEREAS the University of Alaska, in bad faith and through its Board of Regents, also passed a resolution requesting the Governor and the legislature to remove binding arbitration on collective bargaining agreements between the University of Alaska and its employees, including community college teachers who are presently represented, and

WHEREAS the purpose of this resolution is to force teachers at public

institutions to strike for a fair and equitable resolution to their contract thereby affecting not only the rights of the teachers, but the public as well,

THEREFORE be it resolved as follows:

1. That the undersigned oppose any law exempting part-time employees of the University of Alaska or its subdivisions from expressing their right to select or not to select an organization of their choosing for representation in collective bargaining.

2. That the Governor and the legislature know that the AFL-CIO members represented by the undersigned oppose any change whereby binding arbitration is removed in resolving disputes between the University of Alaska and its employees.

BE IT RESOLVED this 27 day of Dec., 1982 at UAF Ketchikan,  
Alaska by

AFL-CIO KETCHIKAN CENTRAL LABOR COUNCIL

By: Walter M. P. (m)  
( ) Its President

By: Keayne Thompson (act.)  
Its Secretary

RESOLUTION

WHEREAS the University of Alaska is a part of the executive branch of government and a public entity within the meaning of the Alaska statutes and

WHEREAS we, the undersigned, represent more than 20,000 working men and women in the state of Alaska who pay taxes and contribute work; public and civic activities, and participation in our democratic processes and

WHEREAS the legislature, after due and careful consideration, passed AS 23.40 et. seq. stating that joint decision-making is a modern way of administering government, and that where public employees have been granted the right to share in the decision-making process they have become more responsive and better able to exchange ideas and information on operations with their administrators, and

WHEREAS, the legislature found the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method of dealing with disputes and work stoppages, to strengthen the merit principle where civil service is in effect and to maintain a favorable political and social environment, and

WHEREAS the legislature found it was in the State's interest to promote harmonious and cooperative relations between government and its employees and to protect the public by recognizing the right of public employees to organize for the purpose of collective bargaining and requiring public employers to negotiate with their employees and

WHEREAS Governor Bill Sheffield has stated that his goals for Alaska is to encourage collective bargaining for public employees and employers, and

WHEREAS the University of Alaska, has continually opposed this mandate by the legislature and Governor and

WHEREAS the University of Alaska has been found guilty by the Alaska State Labor Relation Agency of numerous unfair labor practices including engaging in discriminatory practices against employees for their belief in their union organization and engaging in bad faith bargaining for the purpose of frustrating the collective bargaining process and

WHEREAS there have been part-time employees employed at the University of Alaska for many years without rights to express their views in their employment and

WHEREAS the issue of part-time employees organizing has been delayed by the University of Alaska before the Alaska Public Labor Relations Agency for over three years on the pretense that the existing regulations needed to be changed to allow greater participation in the selection of a bargaining representative by these employees and

WHEREAS these part-time employees have been purposefully exploited by the University of Alaska and at a time when the Alaska State Labor Relations Agency is finally formulating regulations allowing them to select a bargaining representative, the University of Alaska has passed a resolution requesting the Governor and the legislature to exempt these employees from coverage under the State Labor Relations Act and

WHEREAS this act has been made in bad faith after frustrating the rights of these part-time employees so that they may exercise the right to select or not select a bargaining representative and

WHEREAS all working people in the public sector who have a commitment to their job should be permitted coverage under the State Labor Relations Act to exercise those rights set forth

by the legislature in the passage of our public employees collective bargaining act and

WHEREAS the University of Alaska also passed a resolution requesting the Governor and the legislature to remove binding arbitration on collective bargaining agreements from teachers at the University including community college teachers who presently are represented and

WHEREAS the purpose of this resolution is to force teachers at public institutions to strike for a fair and equitable resolution to their contract thereby effecting not only the rights of the teachers, but the public as well and

WHEREAS such a course of conduct is reprehensible and a drain upon the public resources of the state and not in the best interest of the citizenry of the state or its tax payers and

WHEREAS the University of Alaska has employed a law firm named Owens & Turner which is known in the community as a union busting, and anti-collective bargaining firm and

WHEREAS the University of Alaska has paid this firm from public funds in a little over two years the sum of \$344,189.00 to frustrate employee rights as expressed under our state law and

WHEREAS as taxpayers we believe that this is not in the public interest and is detrimental to progressive government,

THEREFORE be it resolved as follows:

1. That the Governor and the legislature know that the thousands of employees represented by the undersigned oppose any change whereby binding arbitration is removed as a last step in resolving disputes over contracts between the University of Alaska and its employees.

2. That the undersigned oppose any law exempting part-time employees at the University of Alaska or its subdi-

visions from expressing their right to select or not select an organization of their choosing for collective bargaining purposes.

3. That the Governor and the legislature investigate the thousands of dollars paid to the firm of Owens & Turner to defend the University in their violations of state law from their denial of employee rights.

BE IT RESOLVED this 12th day of November 1983 at Anchorage, Alaska by

WESTERN ALASKA BUILDING  
TRADES

By: Richard A. Peltso  
Its President

By: Allen Peltso  
Its Secretary

INTERNATIONAL BROTHERHOOD  
OF ELECTRICAL WORKERS  
LOCAL 1547

By: Don C. Harrison

IRONWORKERS LOCAL 751

By: John A. Abshire

PLUMBERS LOCAL 367

By: Donald P. Wagner

SHEETMETALWORKERS LOCAL 23

By: Donald P. Wagner

CARPENTERS LOCAL 1281

By: Paul G. Sims  
J. W. (Jim) Rimmer

BOILERMAKERS LOCAL 498

By: David G. Glen

HOTEL & RESTAURANT EMPLOYEES  
LOCAL 878

By: Samuel C. Paulsen

ROOFERS LOCAL 190

By: Ray M. Brown

PAINTERS LOCAL 1140

By: Rudolph Trosien

BRICKLAYERS LOCAL 1

By: Ray A. Ferris

LABORERS LOCAL 341

By: Monro Fey

OPERATING ENGINEERS LOCAL  
302

By: Joseph E. Jean

PUBLIC SAFETY EMPLOYEES  
ASSOCIATION

By: Edward J. Harte

ASBESTOS WORKERS LOCAL 97

By: U. L. (Bud) Coperson

CEMENT FINISHERS LOCAL 867

By: Allen Pelt

MACHINISTS LOCAL 601

By: *[Signature]*

PILEDRIERS LOCAL 2520

By: *[Signature]*

UNITED FOOD AND COMMERCIAL  
WORKERS LOCAL 1496

By: *[Signature]*

TEAMSTERS LOCAL 959

By: *[Signature]*

ALASKA COMMUNITY COLLEGES'  
FEDERATION OF TEACHERS  
LOCAL 2404

By: *[Signature]*

ALASKA FEDERATION OF  
TEACHERS

By: *[Signature]*

PUBLIC EMPLOYEES LOCAL 71 AFL-CIO

By: *[Signature]*

RESOLUTION

WHEREAS we the undersigned represent every full time community college teacher in the state of Alaska, and

WHEREAS the mission of the community colleges is to provide ongoing education for the community of Alaska, and

WHEREAS this education is intended to encourage democracy as the ideal system of government in our community, and

WHEREAS the University of Alaska passed a resolution requesting the Governor and the legislature to remove binding arbitration on collective bargaining agreements from teachers at the University including community college teachers who presently are represented and

WHEREAS the purpose of this resolution is to force teachers at public institutions to strike for a fair and equitable resolution to their contract without option of arbitration thereby effecting not only the rights of the teachers, but the public as well, and

WHEREAS this represents a reprehensible denial of democracy within the University system and to its teachers and is a dictatorial move which should be abhorred by the administration, and

WHEREAS the legislature, after due and careful consideration, passed AS 23,40 et. seq. stating that joint decision-making is a modern way of administering government, and where public employees have been granted the right to share in the decision-making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators, and

WHEREAS Governor Bill Sheffield has stated that his goals for Alaska is to encourage collective bargaining for public employees and employers,

THEREFORE be it resolved that the Governor and the legislature know that the employees represented by the undersigned oppose any change whereby binding arbitration is removed as a less step in resolving disputes over contracts between the University of Alaska and its employees.

ACCT, AFT, AFL-CIO

By: Ralph J. McArthur  
President

Date: Dec. 16, 1983

RESOLUTION

WHEREAS the part time employees at the University of Alaska have suffered for years without the right to have input into the conditions under which they work, and

WHEREAS these part time employees have in effect been exploited by the Administration of the University of Alaska, and

WHEREAS all working people in the public sector should be permitted coverage under the State Labor Relations Act to exercise those rights set forth by the legislature in the passage of our public employees collective bargaining act, and

WHEREAS it is the duty of the state education system to, above all, set an example of fairness and representation for workers, and

WHEREAS Governor Bill Sheffield has stated that his goals for Alaska is to encourage collective bargaining for public employees and employers,

THEREFORE be it resolved that the undersigned oppose any law exempting part time employees of the University of Alaska or its subdivisions from expressing their right to select or not select an organization of their choosing for collective bargaining purposes.

AND that the Governor recognize the part time teachers' plight, and

THAT the Governor uphold the part time teachers' right to be represented collectively.

ACCTF, APT, AFL-CIO

By: Ralph J. Mc Grath  
President

Date: Dec. 16, 1983

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.**

**PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT**





State of Alaska

LABOR RELATIONS AGENCY

P.O. BOX 6701 • ANCHORAGE, ALASKA 99502  
TELEPHONE (907) 248-2630

C. R. "STEVE" HAFLING  
CHAIRMAN  
~~XXXXXXXX KENNY~~  
~~XXXXXXXX KENNY~~  
BEN HUMPHRIES  
WM. J. PAUZAUSKIE  
CONSULTANT

BEFORE THE LABOR RELATIONS AGENCY

ALASKA COMMUNITY COLLEGE	)	Complainant in ULPC 83-6,
FEDERATION OF TEACHERS,	)	ULPC 83-7; Respondent in
LOCAL #2404,	)	ULPC 83-9, ULPC 83-10,
	)	Petition 83-4
Complainant,	)	
	)	
vs.	)	
	)	
UNIVERSITY OF ALASKA,	)	Respondent in ULPC 83-6
	)	ULPC 83-7; Complainant in
Respondent.	)	ULPC 83-9, ULPC 83-10,
	)	Petition 83-4

ORDER AND DECISION NO. 84(a)

WHEREAS, the parties have submitted a signed stipulation to the Labor Relations Agency effectuating the guidelines set forth in the Unfair Labor Practice and,

WHEREFORE, this Agency finds good cause for the matters concerning Article 1.5 of the collective bargaining agreement to be submitted to arbitration along the guidelines set out in the stipulation,

IT IS HEREBY ORDERED that the Agency relinquishes jurisdiction over the matters contained in ULPC 83-6; ULPC 83-10, and ULPC 83-1.

This ORDER is to be construed allowing either party to appeal the findings in the Unfair Labor practice immediately

Order and Decision No. 84(a)  
Page 2

pursuant to Alaska law.

DATED: 11/22/83

C. R. "Steve" Hafling  
C.R. "STEVE" HAFLING

DATED: \_\_\_\_\_

\_\_\_\_\_  
BEN HUMPHRIES



State of Alaska

LABOR RELATIONS AGENCY

P O BOX 6701 • ANCHORAGE, ALASKA 99502  
TELEPHONE (907) 248-2633

276-3564

C. R. "STEVE" HAFLING  
CHAIRMAN  
ROXOXOXOXOXOXOX  
MORGAN REED  
Ben-Humphries

WM. J. PAUZAUSKIE  
CONSULTANT

BEFORE THE ALASKA LABOR RELATIONS AGENCY

ALASKA COMMUNITY COLLEGE	)	Complainant in ULPC 83-6,
FEDERATION OF TEACHERS,	)	ULPC 83-7; Respondent in
LOCAL NO. 2404,	)	ULPC 83-9, ULPC 83-10,
	)	Petition 83-4.
Complainant,	)	
	)	
vs.	)	
	)	
UNIVERSITY OF ALASKA,	)	Respondent in ULPC 83-6,
	)	ULPC 83-7; Complainant in
Respondent.	)	ULPC 83-9, ULPC 83-10,
	)	Petition 83-4.

ORDER AND DECISION NO. 84

GENERAL BACKGROUND

To place these cases in focus, the Agency would like to set forth the past background.

1. In the past years (1974, 1979) these parties have had lengthy, continual negotiations which included the filing of unfair labor practices, mediations, strikes, arbitrations and final settlements. The past practice of the parties in regard to Sec. 1.5 of the contract was that the Teachers were given substitute teachers during the period of negotiations.

In March, 1983, collegial bargaining started and the Teachers were released from their class duties pursuant to a mutual agreement which necessarily incorporated Sec. 1.5 of the

then existing contract. The collegial bargaining process ended with tentative agreement being reached on many sections of the contract, those sections being similar to the past contract.

2. In May, 1983, the University solidified its position and entered formal bargaining with the proposition of three (3) major proposals:

- a. Ending subsidization of the Teachers' Union by the University.
- b. Changing the step and lane automatic increases for teachers' salaries into a merit system.
- c. Increasing the actual teaching load of the Teachers from twelve (12) to fifteen (15) hours per semester at the University's discretion.

Simultaneous with the spring semester negotiations the University Management and faculty met and collegially discussed their summer and fall schedules. For the fall semester no members of the Teachers' bargaining team were scheduled to teach Fridays. The Teachers' bargaining team schedules were arranged so that almost all of them taught morning classes, several had afternoon classes, and one had evening classes. The schedules were set by Management.

3. Prior unfair labor practices were filed by the Teachers against the University, namely ULPC 83-1, 83-2 and 83-3. Those cases have gone to a hearing and unfair labor practices against the University have been found by this Agency. The Agency has not relinquished its continuing jurisdiction concerning the

time and place of meetings in ULPC 83-1.

Summertime negotiations took place with the majority of the Teachers' bargaining team not teaching. The University suggested, and the Union agreed, that the scheduling of the summertime meetings would be scheduled around the Teachers' personal schedules. Mr. McGrath went to Hawaii for half the summer and negotiations were somewhat sporadic. The scheduling of the negotiations made it rather obvious that the Teachers did not want to negotiate during the summer from 8:00 a.m. to 5:00 p.m. on a daily basis.

The issue of when and where the parties should meet was not resolved during the summer. The parties were constantly proposing new and different sites, alternate and neutral places. Meetings were held in Building A, the Management's preference; Humana Hospital was a neutral place; the Union offices, under protest by the Union.

Progress was made on many of the remaining and undecided proposals during the summer, even though the meetings were somewhat sporadic.

As the fall schedule approached, the Teachers obviously expected to be relieved of their teaching duties as they had been in the past. The University changed its prior practice of hiring substitutes for the Teachers, and correspondingly allowing the Teachers to negotiate full time relying on Sec. 1.5 of the expired contract. The University wanted to negotiate Monday

and Wednesday from 2:00 to 5:00 p.m. and Fridays, as available. The University subsequently changed its position in wanting to also negotiate Saturdays and Sundays from 7:00 a.m. to 7:00 p.m. The Union countered, proposing to negotiate 8:00 a.m. to 5:00 p.m. daily. No agreement was made concerning the negotiating schedule. The Teachers agreed to meet Monday, Wednesday and Friday, as available, but under protest.

In regard to the new collective bargaining agreement being negotiated, the parties have positioned themselves with the Union basically wanting a status quo contract. The University wants the three major changes which they first expressed at the end of the spring semester when collegial bargaining stopped.

4. This Agency now has four unfair labor practices on time and places filed with it and one petition to enforce Sec. 1.5(a) of the expired but still adhered to contract. The contract is not presently in full force and effect but there is no doubt that the terms and conditions of the contract are. This Agency takes jurisdiction of all the matters put in front of it and is ready to rule on the unfair labor practices and petition.

5. Our intent in making our findings and our guidelines concerning the time and place issues is to insure that the parties negotiate pursuant to the intent of Sec. 1.5 in the expired contract. We believe that this can best be done by having the parties state their reasons in writing, hopefully agree to all terms, and have this Agency take continuing

jurisdiction, if necessary.

OVERVIEW OF OUR DECISIONS

1. ULPC 83-6 is GRANTED and we take continuing jurisdiction over the matter.
2. ULPC 83-7 is DENIED.
3. ULPC 83-9 is DENIED.
4. ULPC 83-10 is GRANTED, in part, DENIED, in part, and continuing jurisdiction is asserted.
5. Petition 83-4 is DENIED.

ULPC 83-6

The issues contained in ULPC 83-6 are:

1. Did the University of Alaska violate 23.40.11(a)(1) and (5) by refusing to negotiate with the Union's bargaining team at reasonable times, and by restricting negotiations to time periods during which the Union's bargaining team had long standing conflicts, the University being aware of such conflicts?
2. Has the University violated 23.40.110(a)(1), (3) and (5) failing to grant release time to members of the Union's bargaining team contrary to its former practice, even though the monies to pay substitute teachers for Union team members is readily available? This Agency finds that:
  - a. The University's demand of limiting negotiation hours was made in bad faith.

b. University's demand of their terms and conditions of the meeting place was made in bad faith, the place being restricted by the three (3) criteria that:

- i. The location should have available to it the support facilities which would facilitate bargaining, such as: typing, stenographic services, photocopying, caucus rooms, telephones and other common support systems.
- ii. Ready access to pertinent information from the files of both the parties and pertinent information from various administrators and faculty.
- iii. Control of the physical bargaining location by the parties themselves rather than some third party host.

3. The Agency makes this bad faith finding based upon the totality of the circumstances. After reviewing the past practices of the parties, these contracts have necessitated many hours of negotiations. The University has three (3) major proposals which they wish to bargain which appear to necessitate lengthy negotiations. A substantial amount of time was necessary for the University to create and propose its merit system document of approximately 90 pages. It is obvious to this Agency that any Union counterproposal will result in lengthy negotiations, as will the negotiation on the present proposal.

The past practices of the parties has shown that negotiations have been held at the University, union halls, hotel rooms and other areas in Anchorage. The University's sudden insistence that a typewriter, xerox machine and University personnel be at hand is inconsistent and made in bad faith. The University has admitted by their own testimony that the faculty are spread over the campus -- a 10-15 minute walk is possibly necessary for administrators to meet with Management to confer on any particular matter. The bad faith of the University was shown by their demand which is, in effect, a limit on negotiations to places on campus. The parties have a duty to meet at reasonable times and places, such a duty does not necessitate meeting only on campus.

4. The Union members cannot be expected to teach twelve (12) hours during the week, which is their normal full load, plus the fifth part, which involves some other duties, prepare for classes, prepare tests, meet with students and meet their other duties which might take as long as twelve (12) hours, plus negotiate Monday and Wednesday for six (6) hours, Friday for eight (8) hours, and Saturday and Sunday for twenty-four (24) hours pursuant to Management's demands.

The Teachers' schedules which were submitted to this Agency and marked as exhibits clearly show that with the Management's demands there would be virtually no time for the Teachers to meet and prepare for negotiations.

5. The University has had a long past practice in allowing full release time to the Teacher negotiators.

6. We do find that the University's denial of any release time for any faculty negotiators for the fall of 1983 was made in bad faith. But we are not deciding exactly what hours should be granted under Sec. 1.5 of the contract. We are setting forth guidelines in our Order to insure that the parties do meet in the future and negotiate this matter in good faith.

7. The ACCFT has filed a grievance against the University based on the refusal of the University to grant release time to the faculty negotiators. At the hearing ACCFT expressed a desire to have the arbitrator decide the issues contained in the grievance. We understand ACCFT's position to be that they want this Agency to decide the non-release of faculty as a ULPC, and have this Agency defer to arbitration on the issue of damages or the other issues in the grievance. We understand the University's position to be one of acquiescing to arbitration.

This Agency has acknowledged the Collyer doctrine where the NLRB defers to arbitration, at its discretion, where:

- a. The dispute arose within the confines of a long and productive collective bargaining agreement without assertions of enmity by Respondent to employees' exercise of protected rights.
- b. Respondent credibly asserts its willingness to arbitrate.

- c. The contract and its meaning lie at the center of the dispute.

We find the meaning of Sec. 1.5 certainly lies at the center of this dispute. The Respondent asserted a willingness to arbitrate, and the parties have asserted a willingness to arbitrate even though assertion of enmity is present. Therefore, our guidelines include that the parties meet and consider what, if anything, they wish to arbitrate and to report back to this Agency concerning same. The Agency will strongly consider deferring to arbitration on any matters put forth by the parties. Our primary intent in our guidelines is to insure that the public, the students and the parties of both sides meet in good faith to obtain a new collective bargaining agreement.

8. Both parties have argued in front of this Agency what they view Sec. 1.5 to mean. Sec. 1.5 places duties on both parties. Sec. 1.5(a) places the duty on the Teachers to schedule negotiations that minimally interfere with their teaching, administrative and other duties. However, both parties have recognized and realized that lengthy negotiations were necessary in the past, and the Management has a corresponding duty to release the Teachers as necessary for the negotiating sessions.

9. The evidence presented leads this Agency to the conclusion that Management has disregarded the principles of Subsection B of Sec. 1.5.

10. Phillip Slattery is a union negotiator who lives

in Sitka, Alaska. Prior to the hearing a substitute teacher was hired to replace him at Sitka Community College. We find the portion of the complaint in regards to Mr. Slattery was effectively dealt with by the parties prior to our hearing. We also find that the parties have effectively rendered the issue of Phillip Slattery moot.

Having made said findings, IT IS OUR ORDER, that the University cease and desist from the aforesaid unfair labor practices and to follow our guidelines in an attempt to resolve ULPC 83-6. Continuing jurisdiction is asserted. Our ORDER incorporates the guidelines set forth at the end of this Order and Decision.

ULPC 83-7

ULPC 83-7 contains the issues of whether the University committed a ULPC by refusing to meet at alternative sites proposed by the Union. This Agency finds that:

1. There is no "per se" rule that the parties alternate sites when they cannot agree upon one mutually agreeable site.
2. That we looked at the record as a whole and decided not to grant this particular unfair labor practice.
3. The granting of the unfair labor practice would set a precedent that if the parties cannot agree upon a mutually agreeable site, that alternate sites' issues would automatically be sought. The proposed precedent violates the spirit of

collective bargaining that the parties mutually agree upon sites, and not unilaterally agree upon alternate sites by being obstreperous.

4. Therefore, we find ACCFT has not met their burden of proof and ORDER the DISMISSAL of ULPC 83-7.

ULPC 83-9

In its complaint the University of Alaska has charged that Local 2404 has violated 23.40.110(c)(2) by refusing to bargain in good faith with a public employer. Specifically, that Local 2404 has engaged in surface bargaining and bad faith bargaining by proposing bargaining sites which the Union allegedly knew were not available to the parties.

We have reviewed the total record of this unfair labor practice and find:

1. That the Union agreed initially to meet at the Chancellor's conference room in Building A, suggesting that there be five sessions in the Chancellor's conference room and then sessions at a site selected by the ACCFT, such as IBEW Hall, Teamsters' Hall or Laborers' Hall. The Union also suggested alternative sites which would involve ongoing sessions for negotiations at one of three mutual sites depending upon the availability of those sites: St. Mary's Episcopal Church at Lake Otis and Tudor, the Alaska Pacific University at East Wesleyan Drive and the Municipality of Anchorage building on

East Tudor.

Those proposals are memorialized by Exhibits 9, 10 and 11 submitted at the hearings.

2. The three union halls were available to the parties at reasonable times. The alternative sites were submitted to the University sites as neutral depending upon the availability of those sites. The University's argument that the Teachers should have known that the sites were unavailable when they proposed them is not persuasive, as the written proposal of the sites specifically stated, if available.

3. Therefore, we ORDER that ULPC 83-9 be DISMISSED as the University has failed to meet the requisite burden of proof.

#### ULPC 83-10

ULPC 83-10 is the University's unfair labor practice alleging a violation of Alaska Statute Sec. 23.40.110(c)(2) in particular surface bargaining by the acts of:

1. Refusing to meet at reasonable times and places that minimally interfere with the other employment responsibilities of the members of the negotiation team, (as is required by Article 1.5 of the collective bargaining agreement executed by the parties).

2. By insisting that negotiations be scheduled during the times which do not conflict with the numerous outside personal and union activities of the members of the Union

negotiating team, when the Union has unilateral control of scheduling such outside activities.

We make the following findings of fact after reviewing the total record:

- a. We DENY the unfair labor practice charged insofar as it alleges that the Teachers have refused to meet at reasonable times and places that minimally interfere with the other employment responsibilities of the negotiating team required by Article 1.5 of the collective bargaining agreement executed by the parties. The Teachers, in fact, agreed to meet at the University's times and places under protest.
- b. We find an unfair labor practice was committed by the Union by insisting that negotiations only be scheduled during the times which do not conflict with the numerous outside personal and union activities of the members of the Union negotiating team, when the Union has unilateral control over the scheduling of such outside activities.
- c. We find that the Union insisted that negotiations not take place on Wednesday afternoons from 3:00 - 5:00 p.m., as that time was set aside for the Anchorage campus' weekly union meeting. We find that the Teachers committed unfair labor practices by insisting that such time was unavailable to have

negotiating sessions. The Union wanted negotiations from 8:00 a.m. - 5:00 p.m. daily Monday through Friday which directly contradicts their Wednesday p.m. objection.

- d. Concerning the first Friday of each month, we find that the Union's unilateral insistence that the first Friday of each month is preempted as their statewide executive board meeting is held, is not unreasonable. The statewide executive board is probably necessary for the union negotiating sessions to be fruitful -- as the Board of Regents' meeting would be absolutely essential to the Management's negotiating strategy. The Union's insistence of meeting 8:00 a.m. - 5:00 p.m. daily does not necessitate actual meetings during all such times. Such time is obviously also set aside for reviewing proposals, preparing strategy, preparing counterproposals, etc.
- e. The third Friday of each month in which the Anchorage Instructional Advisory Council meets is a time that should be negotiated between the parties. The Management cannot expect the negotiating team to be at the Advisory Council at the same time as they are expected to be in negotiating sessions. We do not find the Union's objections to meetings on the first Friday of the month as objectionable, as the Teachers

cannot be in two places at once.

- f. We find the Union's bad faith by this unilateral insistence based upon the fact that they have argued that negotiating should be Monday through Friday from 8:00 a.m. to 5:00 p.m., such times which necessarily include these meetings. The Teachers appeared to be more than willing to have meetings 8:00 a.m. to 5:00 p.m., Monday through Friday, if they did not have to teach their sessions pursuant to Sec. 1.5 of the collective bargaining agreement.
- g. Neither party is attempting to look at the entire situation of Sec. 1.5 of the contract and strike the the proper balance necessary for negotiating while meeting their administrative and other duties, and possibly teaching.
- h. We ORDER the Union to cease and desist from insisting that negotiations not be held on Wednesday afternoon from 3:00 - 5:00 p.m., and DENY any other allegations of bad faith bargaining.

Our remedial Order contained at the end of this Order and Decision, and guidelines set forth therein, are incorporated in this Order and Decision. Our remedial Order is intended to make the parties strike the balance by agreement -- and by taking continuing jurisdiction over this matter, the Agency will consider striking the balance if the parties cannot do so by

negotiating in good faith.

PETITION 83-4

Petition 83-4 requests the Agency to specifically enforce Sec. 1.5(a) of the collective bargaining agreement and specifically to order that the scheduling by the University from 2:00 - 5:00 p.m., Monday and Wednesday, Fridays as available, and Saturday and Sunday from 7:00 a.m. to 7:00 p.m. as the appropriate times. This Agency declines to grant said petition for the following reasons:

1. Sec. 1.5(a) must be read with Sec. 1.5(b) to glean the full intent of the parties. The crucial sections of Sec. 1.5 are that:

- a. Negotiations shall be scheduled at times and places that provide minimal interference with the instructional, administrative and other employment duties of the negotiating team. Negotiations shall be held in Anchorage.
- b. Bargaining unit members who serve as negotiators shall be excused from class duties as necessary in the course of negotiations without prejudice, and approved substitutes shall be provided by the negotiator or the Union.

2. The obvious intent of the two sections is that there will be minimal interference with the instructional, administrative

and other employment duties of the Teachers' negotiating team; (amply federal precedent says that both parties must meet at reasonable times and places); and that Teachers shall be excused from class duties as necessary during the course of negotiations. The parties have contractually realized that negotiating interferes with the instructional duties of the Teachers. The section tends to strike a balance between the needs of the Teachers to negotiate, to teach if possible, on the needs of the Teachers to do both, and be excused from teaching as necessary.

3. The past practice of the parties show that the Teachers have been excused from teaching any classes during negotiations. But that fact alone does not create a waiver of the responsibilities of both parties to meet their bargained terms and conditions of employment while the new contract is being negotiated.

4. Management bases its argument by relying on the plain reading of Sec. 1.5. We find that the plain reading of the statute will not be given the interpretation that the Teachers are going to be required to both teach and negotiate full time. Management's reliance on the Flint arbitration of June 8, 1976, and particularly the final paragraph on page 3, which concerns a hypothetical question about mass negotiating teams, is strained at best. Sec. 1.5 (c) provides "the ACCFT negotiating team may consist of five (5) members. The University shall pay for four (4) ACCFT negotiating team members' substitutes. Subsection (c) was negotiated by the parties and makes Management's position even more incredulous.

We find the position to be another example of how Management is picking at every straw and arguing everything possible to avoid effectuating the true intent of Sec. 1.5, while alleging that an arbitrator's decision of seven (7) years ago supports their position.

This Agency wishes to resolve the six cases of time and place (ULPC 1, 6 and 7, 9 and 10; Petition 83-4), (which could be an all time record for the most hearings on time and place during one contract negotiation), by taking continuing jurisdiction of ULPC 83-6 and ULPC 83-10. It ORDERS the parties to meet the following guidelines in their future collective bargaining meetings. If they cannot resolve the issues of time, place and Sec. 1.5, they must inform the Agency of that fact no later than November 19, 1983, for a further hearing in front of a Hearing Officer.

#### THE GUIDELINES

1. To meet and confer on the student needs at this point and time during this semester, and the spring 1984 semester. To exchange present and proposed assignments and schedules of classes for the individual negotiators so a full response by each party can be made. To set forth in writing the views of both the administration and the individual teachers teaching those classes, utilizing their past experience as to what courses could be substituted in the future and what should not be substituted for now.

2. To exchange the length of time which is necessary for each teacher to prepare for present and 1984 classes and to meet the class requirements. We want both parties to stop proposing unilateral hardline positions. Both parties must realize that extra burdens are going to be placed upon them during the negotiating of this contract. Both parties are to set forth in writing how much time is necessary to prepare for a class or lab. We want the parties to be frank, state how many times the course has been taught in the past, any changes in the textbooks from semester to semester. To determine if it is a regular class or an evening schedule, and to set forth specifically how it would affect the students to have a substitute at this time during the semester and if the substitutes are available for classes in the spring of 1984. To explore what substitutes are available and any particular problems with any particular course.

3. To attempt to arrange a schedule to meet daily or to have scheduled daily meetings with breaks for good cause.

4. To attempt to set meetings from three (3) to four (4) continuous hours.

5. To attempt to reschedule internal conflicting administrative matters except for the first Friday of each month when the statewide union meeting is to be held, and Board of Regents' meetings as are called in the future.

6. To meet, confer and discuss the areas of the previously filed grievance concerning release time. To inform this

Agency of the parties' desire to defer or not defer any issues relating to the grievance to arbitration at the times set forth below.

7. To discuss having all the meetings at those sites proposed by the University and those sites proposed by the Union. If you cannot agree to a formula for negotiation, to then discuss neutral sites. To set forth in writing any objections to any and all of the sites mentioned above. If you do not make an agreement on University or Union sites, to set forth in writing any and all objections to all the neutral sites which have been utilized by the parties in the prior negotiations. (All the while realizing that the arguments of the Management covering their three criteria concerning sites are not proper objections, per se, to any proposed site.)

8. If you cannot immediately agree upon where to meet to discuss the aforementioned issues, contact William J. Pauzauskie at 276-2232 who will make his conference room available for all of you to meet, or will arrange for a room at the federal courthouse for you to meet at, or some other place.

9. To exchange in writing each party's full and complete initial positions on all the matters contained herein no later than November 14, 1983. To exchange your positions in writing concerning counterproposals or why you view the other party's position is unreasonable or made in bad faith. If the matters contained herein concerning times, places, schedules, release

time, arbitration, substitutes, internal conflicting administrative matters, and student needs are not agreed upon by the parties, to deliver full and complete copies of all initial proposals and counterproposals to Mr. Hafling at 430 West 7th Avenue, Anchorage, Alaska 99501 and Mr. Humphries at 3707 Locarno Drive, Anchorage, Alaska 99508, and the Alaska Labor Relations Agency, P. O. Box 6701, Anchorage, Alaska 99502, and personally delivering a copy to William J. Pauzauskie, 1101 West 7th Avenue, Anchorage, Alaska 99501, by November 22, 1983, at 10:00 a.m. To meet at the offices of William J. Pauzauskie on November 23, 1983 at the hour of 9:00 a.m., to have a further hearing on any unresolved matters.

10. If any of the matters mentioned above or contained in this Order are resolved, or partially resolved, by November 21, 1983, those resolutions are to be delivered to Messrs. Hafling, Humphries and Pauzauskie no later than November 22, 1983, at 10:00 a.m.

11. If there are unresolved matters that cannot be agreed upon at the meeting with the Hearing Officer, a further meeting of the full Board will take place on November 30, 1983 at the hour of 9:00 a.m. at a place consistent with the regulatory hearings which are scheduled for November 29, 1983, in Anchorage.

12. Our continuing jurisdiction in ULPC 83-1 is not changed in any way by this Order and Decision, and the case of ULPC 83-1 will be considered with the schedule of hearings set

forth in this Order and Decision so that all matters can be more effectively dealt with at one time and place.

Finally, in the event you would like to comment in obiter dictum, we realize the parties have engaged in lengthy negotiations concerning time and place, Sec. 1.5 of the contract, release time and three (3) major new proposals by the University. Those negotiations have been fruitful to a large degree. The parties are now placed in the position where there are several portions of the new collective bargaining agreement which have been held in abeyance pending the extensive collective bargaining necessary to resolve whether the three major proposals made by the University are going to be accepted by the Union in whole or in part or counterproposals are going to be made by the Union concerning the University's proposed changes.

We believe it is time for the parties to meet and negotiate in good faith on the times and places of meetings, and the application of the mutual duties of Sec. 1.5 of the contract in regards to release time and to finally resolve that matter so that the real factual issues of this collective bargaining process can be dealt with.

To put it bluntly, enough time has been spent talking about the time and place of meetings and release time. Your past negotiating practices in 1976 and 1979 did not revolve around the issue of the time and place of meetings, as this collective bargaining process obviously has. In the past, you

have met in hotel rooms, union halls, the university campus, and the Teachers have been released from their duties under Sec. 1.5. Sec. 1.5 was written by both parties, agreed to by both parties, and each of you have been found guilty of an unfair labor practice by not following the obvious intent of that section.

Alaska Statute 23.40.140 enables the Agency to "take affirmative action which will carry out the provisions of Alaska Statute 23.40.070 - 23.40.260." This Agency has not taken affirmative action in the form of setting the schedules, as there is a strong public policy that the negotiators (which include numerous Phds., Masters' degree holders, and all being college graduates) should seemingly be able to find a time or place to meet without taking obsteporous positions. We have set forth the guidelines so that the policies of the Act are dealt with by the parties. This Agency wants you to resolve these matters so that the real underlying issues involved in this collective bargaining process can be dealt with satisfactorily.

DATED: October 31, 1983

C. R. "Steve" Hafline  
C. R. "Steve" Hafline

DATED: October 31, 1983

Ben Humphries  
Ben Humphries

DATED: October 31, 1983

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BEFORE THE ALASKA LABOR RELATIONS AGENCY

ALASKA COMMUNITY COLLEGES' )  
FEDERATION OF TEACHERS, )  
LOCAL NO. 2404, )

Charging Party, )

vs. )

UNIVERSITY OF ALASKA, )  
Respondent. )

Case Nos. ULP No. 83-6  
ULP No. 83-7  
ULP No. 83-9  
ULP No. 83-10  
Petition 83-4

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UNIVERSITY OF ALASKA, )  
Charging Party )  
and Petitioner, )

vs. )

ALASKA COMMUNITY COLLEGES' )  
FEDERATION OF TEACHERS, )  
LOCAL 2404, )  
Respondent. )

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MEMORANDUM OF LAW ON BEHALF  
OF UNIVERSITY OF ALASKA

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University of Alaska  
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1 scheduled during times which do not conflict with the numerous  
2 outside personal and Union activities of the members of the  
3 Union negotiating team when the Union has unilateral control  
4 with respect to scheduling such outside activities. Finally,  
5 in Petition 83-4 the University seeks to have the terms of  
6 Article I, Section 1.5A of the negotiated agreement concerning  
7 the scheduling of negotiations specifically enforced and  
8 requests an order from the Agency directing the ACCFT to honor  
9 and comply with said provision of the agreement.

10 This Memorandum of Law is submitted in support of the  
11 University's position that: (1) the two unfair labor practice  
12 charges filed by the Union, ULP 83-6 and ULP 83-7 are without  
13 merit and should be dismissed in their entirety; (2) the Union  
14 did engage in the acts of surface and bad faith bargaining  
15 alleged by the University in ULP 83-9 and 83-10 and the Alaska  
16 Labor Relations Agency should issue an appropriate order  
17 directing the Union to cease and desist from engaging in such  
18 activity, and (3) the Union's actions with respect to the  
19 scheduling of negotiations constitute an unfair labor practice  
20 and a violation of Article I, Section 1.5A of the collective  
21 bargaining agreement and the Agency should issue an order  
22 pursuant to AS § 23.40.140 and AS § 23.40.210 directing the  
23 Union to comply with the terms of Section 1.5A by agreeing to  
24 schedule negotiations in a manner which minimally interferes  
25 with the instructional duties of members of the Union  
26 negotiating team.



1 5. In the late spring of 1983, the ACCFT suddenly  
2 developed an aversion to bargaining in the location in  
3 which they had previously agreed to bargain and which  
4 they had mutually agreed to reserve for that  
5 purpose. This was the same location at which they had  
6 routinely bargained since 1974 and the same location  
7 in which all of their tentative agreements with the  
8 University had been reached. This sudden shift of  
9 bargaining emphasis by the ACCFT from the substantive  
10 issues on the bargaining table to the place where they  
11 would meet, occurred very soon after it became evident  
12 that the University of Alaska was in fact quite  
13 serious about the changes it was proposing and  
14 intended to pursue those matters vigorously at the  
15 bargaining table.

16 6. When it became evident that the ACCFT was going to  
17 continue to pursue its shift in bargaining emphasis  
18 and argue repeatedly about when and where it would  
19 meet rather than about the substantive issues on the  
20 bargaining table, the University responded by  
21 announcing that it would meet at any location which  
22 met three reasonable criteria: (1) the location  
23 should have available to it those support facilities  
24 which would facilitate bargaining on the substantive  
25 issues with which the parties were concerned, i.e.,  
26 typing and/or stenographic service, photocopy,  
27 available caucus room for the parties, telephone and  
28 other support systems; (2) ready access to pertinent  
29 information from the files of both of the parties and  
30 pertinent information from various administrators and  
31 faculty who could be called upon to provide additional  
32 insight and/or information on the various substantive  
33 topics which were being discussed at the bargaining  
34 table and (3) control of the physical bargaining

1 location by the parties themselves rather than by some  
2 third party host. The University of Alaska made it  
3 clear that there were several locations on the campus  
4 that met these criteria including the conference room  
5 in Building A, the ACCFT office/conference room, the  
6 faculty lounge and the lounge in the Student Activity  
7 Center.

- 8 7. The ACCFT steadfastly rejected all efforts by the  
9 University to have the negotiations held at a location  
10 which satisfied the three reasonable criteria set  
11 forth above. The ACCFT proposed that the parties meet  
12 at what the ACCFT referred to as "neutral sites" i.e.,  
13 the conference rooms of other labor organizations.  
14 The ACCFT proposed the parties meet in the Teamsters,  
15 Laborers or IBEW conference rooms because they claimed  
16 the conference room in Building A was unacceptable  
17 because of the number of interruptions which occurred  
18 there. However, when the specific reasons proffered by  
19 the ACCFT for not meeting in Building A were satisfied  
20 by the University, the ACCFT still refused to meet at  
21 that location. The ACCFT offered no substantial  
22 reason for its refusal other than to assert that they  
23 "were not comfortable" meeting there. When the  
24 University attempted to compromise on the issue by  
25 agreeing to meet at one of the locations proposed by  
26 the Union, the Union reversed its position and  
27 refused to meet there.
- 28 8. During the hearing the ACCFT conceded that there was  
29 nothing physically objectionable with the conference  
30 room in Building A. Instead, it admitted its  
31 objections to meeting at that location were based upon  
32 intangible, undefined factors. While testifying on  
33 the issue, Union negotiator Nelson could only shrug  
34 his shoulders, look at the ceiling and state that he

1 didn't really have a reason for not meeting in the  
2 conference room in Building A other than that he was  
3 "not comfortable" at that location.

- 4 9. With respect to negotiating times, the Union took the  
5 position during the summer that negotiations  
6 necessarily had to be scheduled around the work  
7 activities of the individual members of the Union  
8 negotiating team. However, a few months later, the  
9 Union insisted that negotiations be scheduled so as to  
10 directly conflict with their normal academic  
11 activities. At the same time, the Union adamantly  
12 refused to move or reschedule any intra-Union  
13 activities such as Union executive committee meetings.
- 14 10. The University offered to meet with the Union to  
15 bargain on Mondays, Wednesdays, Fridays, Saturdays and  
16 Sundays which would be a more than adequate  
17 negotiating schedule if the Union was genuinely  
18 interested in reaching an agreement. The Union's  
19 inflexibility with respect to both bargaining times  
20 and places has been elevated by the Union to the point  
21 that negotiations on substantive issues has been  
22 effectively precluded.
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ARGUMENT

The record evidence presented to the Agency in ULP Case Nos. 83-6, 7, 9 and 10, as well as Petition No. 4 clearly demonstrates that during the course of the negotiations the Union has adopted a fixed and inflexible position with respect to the location and times for negotiations with the University. Additionally the Union has, through the use of a number of different tactics and methods, manifested its intent to manipulate those issues so as to frustrate and prevent meaningful substantive negotiations between the parties.

During negotiations which addressed the location for bargaining, the Union on a number of occasions proposed sites without knowing if those sites were available for use by the parties. Moreover, it was not until after the University agreed to the Union's request that bargaining take place at specific locations that the Union informed the University that the locations it had proposed were in fact not available. These actions by the Union compel the conclusion that the Union is merely going through the motions of negotiating without a sincere desire to reach agreement with the University and has breached its statutory obligation to bargain in good faith. The National Labor Relations Board, (herein "Board" or "NLRB") whose decisions this Agency has frequently relied upon in defining the scope of a party's obligation to bargain in good faith, has condemned the offering of a proposal that cannot be accepted as violative of the good faith bargaining obligation. Roy E. Hanson, Jr. Mfg., 137 NLRB 251, 50 LRRM 1134 (1962). The Board has also held that a proposal which is advanced by a party in negotiations and accepted, but subsequently disavowed by the party originally proposing it, constitutes bad faith and surface bargaining. Texas Coca-Cola Bottling Co., 146 NLRB 420, 55 LRRM 1326 (1964).

As noted supra, the University and Union have successfully negotiated for many years in Conference Room A on

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1 the University campus. Suddenly, the Union has objected to  
2 that location. In an effort to compromise, the University has  
3 proposed other locations on the campus for negotiations but the  
4 Union has adamantly and systematically rejected each  
5 proposal. Moreover, each time the University satisfies a  
6 specific objection asserted by the Union concerning a  
7 particular location, the Union still refuses to meet at the  
8 location and proffers a new and previously unmentioned reason  
9 why the location is unacceptable. Such repeated shifts in  
10 position and attitude by the Union whenever a tentative  
11 agreement on the issue appears to have been reached is  
12 persuasive evidence that the union is not bargaining in good  
13 faith. See, e.g., NLRB v. Big Three Industries, Inc., 497 F.2d.  
14 43, 86 LRRM 3031 (5th Cir. 1974); Federal Mogul Corp. v. NLRB,  
15 524 F.2d 37, 91 LRRM 2207 (6th Cir. 1975).

16 The question of where the parties shall meet to  
17 negotiate a successor labor agreement is, for all practical  
18 purposes, an issue that is peripheral and subordinate to  
19 substantive negotiations between the parties on the important  
20 matters of wages, hours and other terms and conditions of  
21 employment. The NLRB has recognized that if meaningful  
22 collective bargaining is to take place between labor  
23 organizations and employers, one party cannot be permitted to  
24 stall substantive negotiations by insisting to the point of  
25 impasse that the other party acquiesce to demands relating to  
26 preliminary matters. See, e.g., Bartlett-Collins Company, 237  
27 NLRB No. 106, 99 LRRM 1034 (1978) (party's insistence to the  
28 point of impasse that a court reporter be present during  
29 contract negotiations cannot be permitted to stifle substantive  
30 negotiations). The Union's frequent shifts during negotiations  
31 on the preliminary issue of bargaining locations and its rigid  
32 position in rejecting all attempts by the University to  
33 compromise on the issue constitutes bad faith bargaining and  
34 should not be allowed to stall negotiations between the parties

1 on the important substantive issues which remain to be  
2 resolved.

3         The Union has also engaged in bad faith and surface  
4 bargaining with respect to the scheduling of negotiations. In  
5 contrast, the University has demonstrated its good faith and  
6 willingness to compromise on the issue of scheduling of  
7 negotiations by stating that it is available to negotiate on  
8 Mondays, Wednesdays, Fridays, Saturdays and Sundays. Yet the  
9 Union has adopted an inflexible and uncompromising position on  
10 the scheduling of negotiations by adamantly declaring that all  
11 negotiations must be scheduled around intra-union activities.  
12 The Union's obtrusive conduct of insisting that intra-union  
13 activities will take precedence over the effort to negotiate a  
14 successor agreement denies the parties of the opportunity to  
15 meet so that they may even begin to discuss substantive issues  
16 and is inherently destructive of an atmosphere of open-  
17 mindedness which is necessary for meaningful negotiations.  
18 Such conduct has been condemned by the NLRB and found to  
19 constitute a clear breach of the duty to bargain in good  
20 faith. Allis-Chalmers Mfg. Co., 106 NLRB 979, 32 LRRM 1585  
21 (1953). In Allis Chalmers, the employer insisted that  
22 negotiating meetings be scheduled so as not to interfere with  
23 regular company routine. If there was a conflict between  
24 negotiations and company activities, negotiations were  
25 subordinated to the latter. The Board easily recognized that  
26 such an approach to negotiations falls far short of satisfying  
27 the statutory obligation to bargain and issued an appropriate  
28 order directing the employer to cease and desist from such  
29 actions. The Union's actions in the instant case of insisting  
30 that all negotiations must revolve around the Union's own  
31 internal activities, virtually parallel those found to be  
32 impermissible in Allis Chalmers and should likewise be  
33 condemned so that the parties are not precluded from bargaining  
34 on substantive matters.