

---

# Alaska Labor Relations Agency

## 2023 Annual Report

*State of Alaska*  
*Governor Michael J. Dunleavy*

*Department of Labor*  
*and Workforce Development*  
*Catherine Muñoz, Commissioner*



*Tammy Schultz, Chair*  
*Nicole Thibodeau, Administrator*

*3301 Eagle Street, Suite 206*  
*Anchorage, Alaska 99503*

[\*labor.relations@alaska.gov\*](mailto:labor.relations@alaska.gov)

*Phone: 907.269.4895*

*Fax: 907.269.4898*

[\*http://labor.alaska.gov/laborr/home.htm\*](http://labor.alaska.gov/laborr/home.htm)

*Submitted May 14, 2024, in accordance with AS 23.05.370*

## Introduction

The Alaska Labor Relations Agency (ALRA) administers the Public Employment Relations Act (PERA), AS 23.05.060 - 390, for public employers and employees, including the State, municipalities and other political subdivisions, public schools, and the University. The Agency also administers the railroad labor relations laws for the Alaska Railroad Corporation, AS 23.40.070 - 260. ALRA investigates and processes petitions for certification or decertification of bargaining representatives, petitions to clarify the composition of public employee bargaining units and to amend the certification of units, and charges of unfair labor practices. The Agency enforces collective bargaining agreements, determines employee strike eligibility, and makes impasse determinations.

### 1. Board and Staff Members

Six board members are appointed by the Governor and confirmed by the legislature to serve on the ALRA Board. Members serve staggered three-year terms. Under AS 23.05.360(a) board members must satisfy two requirements to be appointed. “The agency must include two members with a background in management, two members with a background in labor, and two members from the general public. All members must have relevant experience in labor relations matters.” No more than three board members may be of the same political party.

In May 2023, the Governor appointed Tammy Schultz to the public seat previously held by Dennis DeWitt and designated her as Chair. Emily Jackson-Hall was appointed to the public seat previously held by Paula Harrison. Jennifer McConnel was appointed to the management seat previously held by Patty Burley. Jennifer Yuhas was appointed to the Labor seat that had been vacant since Dennis Moen resigned in March 2022. In March 2024, the Governor reappointed Justin Mack to a labor seat. Currently, there is a vacant management seat previously held by Tyler Andrews.

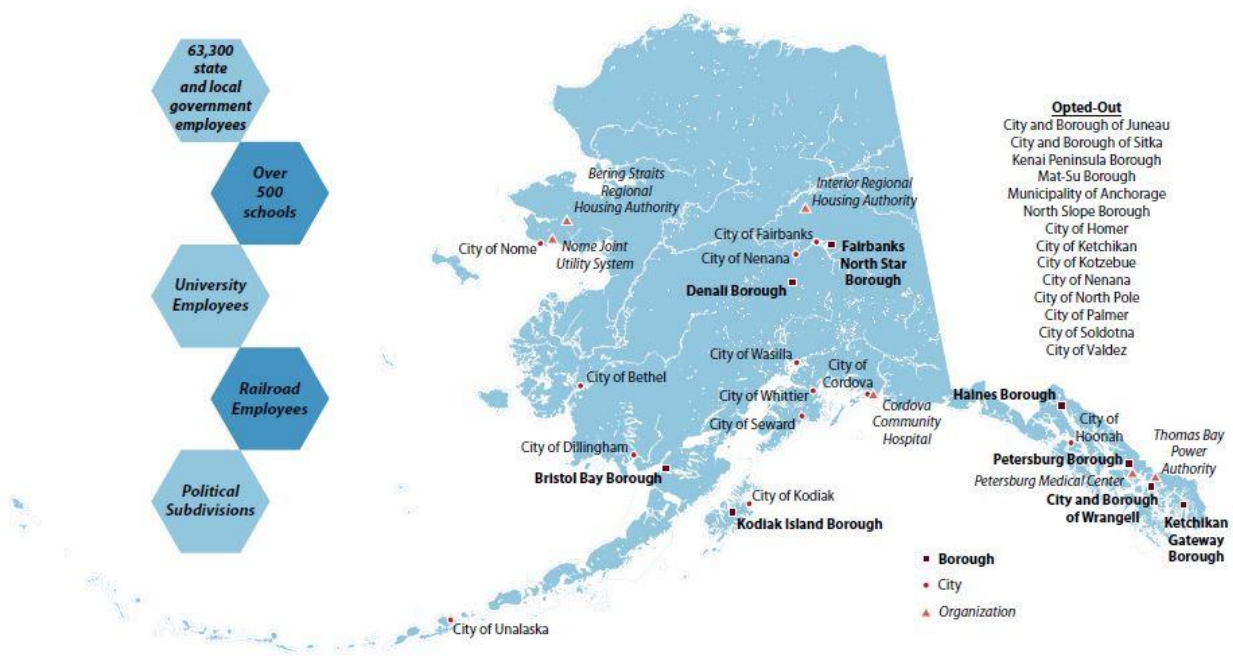
#### Board Members

Tammy Schultz, Chair	Appointed May 12, 2023	Public
Emily Hall, Vice Chair	Appointed May 12, 2023	Public
Jennifer McConnel, Member	Appointed March 1, 2023	Management
Vacant, Member	----	Management
Justin Mack, Member	Appointed March 1, 2024	Labor
Jennifer Yuhas	Appointed May 12, 2023	Labor

Three full-time staff members manage the day-to-day agency operations under the direction of the Agency Administrator/Hearing Examiner.

#### Staff

Nicole Thibodeau	Administrator/Hearing Examiner
Katherine Moody	Hearing Officer/Investigator
Talia Champion	Labor Relations Board Assistant/Human Resource Consultant I



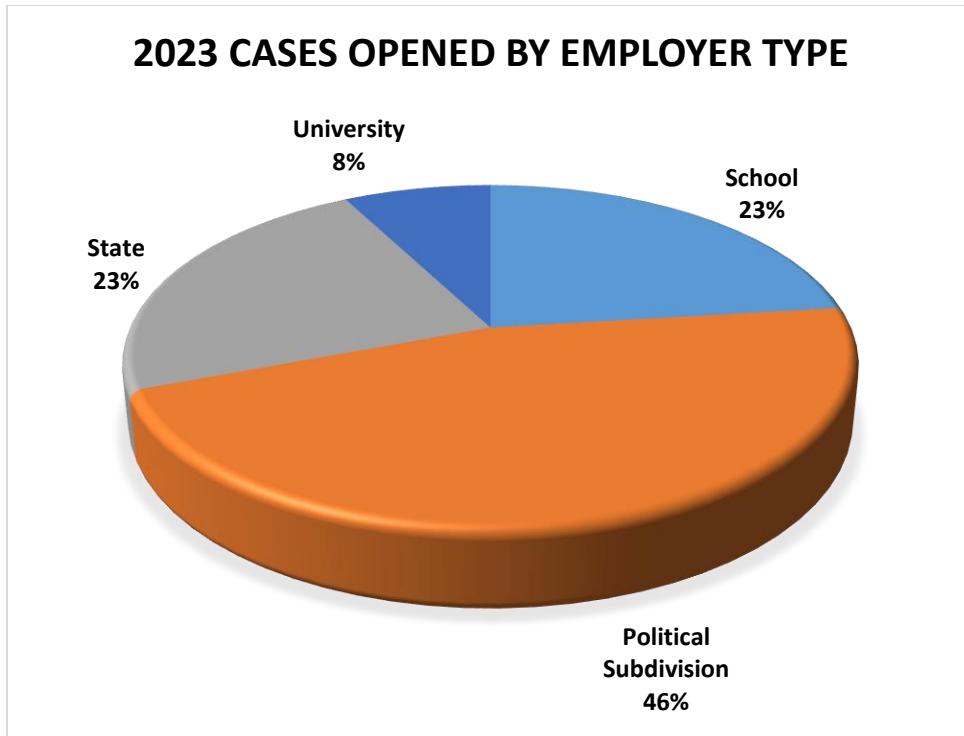
## 2. Jurisdiction

Under the Public Employment Relations Act (PERA) the Agency has jurisdiction over labor relations disputes of all state, university, railroad, public school, and political subdivisions<sup>1</sup> that have not opted out of PERA. Above is a graphic illustrating ALRA’s jurisdiction with known political subdivisions covered by PERA identified on the map.<sup>2</sup> Those known to have opted out of PERA are listed to the right of the map.

As a result, the Agency handles cases from all over the state. A breakdown of cases by employer type below shows how many of each type were filed in 2023.

<sup>1</sup> Because there is no mechanism by which political subdivisions inform the Agency of their PERA status, ALRA does not have a complete listing, and it is subject to change. These are the political subdivisions that are currently known to have opted in or out of PERA.

<sup>2</sup> Count of total state and local government employees is derived from the State of Alaska, Dept of Labor and Workforce Development Research and Analysis monthly employment statistics for Alaska, 2023 state and local government employee annual average estimates <https://live.laborstats.alaska.gov/labforce/000000/01/ces.html>.



## **Agency Activity**

ALRA continues to conduct elections and other proceedings or meetings via Zoom, and MS Teams. When appropriate ALRA will hold proceedings in person. A recent additional efficiency the Agency adopted in 2023 is a move to conducting large elections via electronic voting. This method makes for a very streamlined election process and saves a significant amount of staff and Agency resources. Because of the Agency’s statewide jurisdiction and its scarce resources, most agency work is conducted over email, mail, and telephone. Virtual meetings save the Agency and the public time and money. The hearing room at Eagle Street has been upgraded to accommodate hybrid board meetings and hearings. In collaboration with the Workers’ Compensation Division, equipment was purchased and installed and is functioning in the hearing room.

By working with the Workers’ Compensation Division to combine certain subscriptions, ALRA has realized significant savings in the immediate term and into the future. Minimizing expenses where it can is an ongoing goal the Agency is always actively working towards.

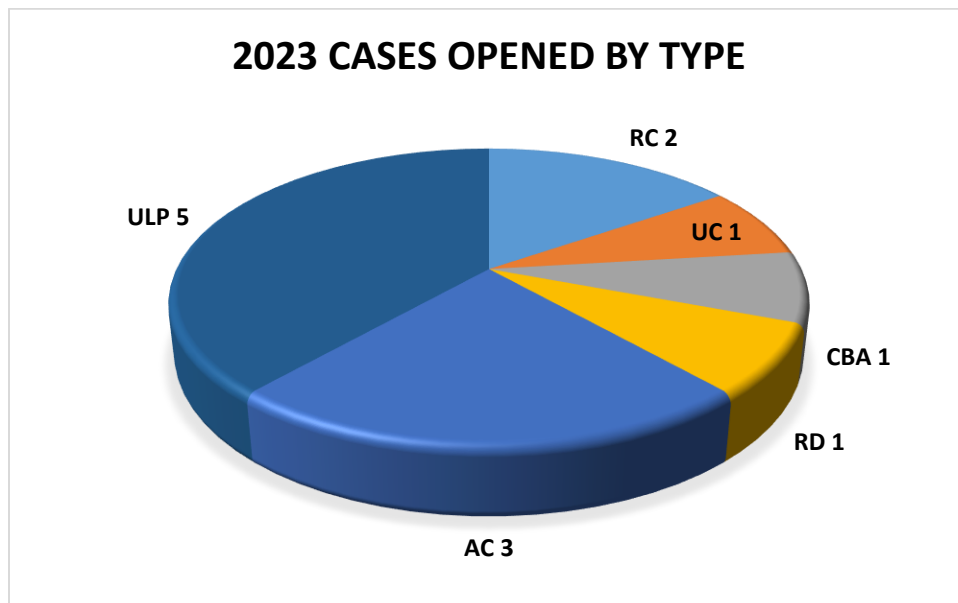
### **1. Adjudications**

ALRA resolves disputes through an adjudicative process that begins with a party filing a petition or complaint with the Agency. When a petition or complaint is filed with the Agency, staff first determine whether ALRA has jurisdiction over the matter. Then staff determine whether the petition or complaint meets the minimum filing requirements of the statutes and regulations. Depending on the type of petition or complaint filed, an investigation into the questions raised will begin. Staff may issue a decision, and all attempts are made to informally

resolve the dispute between the parties. If needed, a hearing will be held before a board panel and a decision and order will be issued.

#### A. Types of cases

Agency staff are responsible for resolving petitions for representation (RC, RD, and RCRD), strike class determination (SC), impasse determinations (SP), unit clarification (UC), unit amendment (AC), religious exemption (RE), enforcement of collective bargaining agreements (CBA), and unfair labor practice complaints (ULP).



##### a. Unfair Labor Practice Complaints AS 23.40.110; AS 42.40.760

Employers, labor organizations, or individual employees may file unfair labor practice (ULP) complaints (charges). Resolving unfair labor practice cases generally consumes a substantial percentage of the Agency’s time because the process requires an investigation, a prehearing conference, and a board hearing. Like all case types, ULP case filings are unpredictable in their nature and complexity because of the unique facts of each case. Types of charges against employers include retaliation for union membership or exercise of employee rights, coercion, domination or interference with an organization, and bad faith bargaining. Charges against unions include coercion, bad faith bargaining<sup>3</sup>, and interference with the employer’s selection of its representative for collective bargaining or adjustment of grievances. Often, petitions include multiple charges against a party. Additionally, employees may file a duty of fair representation claims against unions if they believe the union has failed to adequately represent them.

---

<sup>3</sup> Bad faith bargaining charges arise in the context of collective bargaining: one party believes the other party has failed to bargain in good faith under the law.

The Agency ranks ULP's by level of priority to determine which cases are investigated first. For example, disputes that affect a large number of employees usually receive high priority. Priority level may change during the life of the case depending on specific facts and circumstances. While priority ranking affects which cases are investigated first, the nature and complexity of a ULP case and the extent of the parties' cooperation affect the time it takes to complete a ULP investigation. The Agency's ability to complete investigations timely is also affected when case filings rise significantly or other workload components such as elections or conducting hearings take priority.

During the investigation, if the hearing officer finds there is probable cause that a ULP violation occurred, and informal resolution<sup>4</sup> is unsuccessful, the case is scheduled for hearing. Hearings may be live or based upon the written record. A case may resolve up to or even before the conclusion of the hearing.

A total of five unfair labor practice charges were filed in 2023. Of those five charges filed in 2023, two included bad faith bargaining, and one concerned the interference with employees' protected rights. None included a charge to dominate with organization or activity, and none included a charge to discriminate against protected union employee activity. An employee may file a charge against a union claiming that the union failed to meet its duty to represent the employee. There were two duty of fair representation claims filed in 2023.

During 2023, the Agency closed seven ULP cases and issued formal findings in one case. The hearing officer conducted seven ULP investigations in 2023. Those investigations took an average of 69.5 days to complete. The investigation that concluded with formal findings was normal priority. Parties often request a case be put in abeyance as they attempt to reach settlement as was the case for open ULPs in 2023. In three ULP cases the complaints were withdrawn by the moving party. Two complaints were dismissed due to insufficient information. Two complaints settled.

#### b. Elections/Representation

Under AS 23.40.100 and AS 42.40.750 labor organizations, employers, or employees may file a petition to initiate a secret ballot election for certification or decertification of a labor or employee organization for collective bargaining. Alternatively, parties may notify the Agency that the employer consents to the labor organization's exclusive representation of a particular unit of employees. When this occurs, no election is required if investigation verifies the majority status of the labor organization and no current collective bargaining agreement exists. Representation cases are designated as a high priority for agency workload purposes.

Prior to conducting an election, the Agency resolves any objections raised by a party. For example, the employer may object to the composition of a bargaining unit. If a party files an objection, a hearing may be conducted before the Board, which then issues a decision and order that clarifies who gets to vote in the election. In 2023, two representation petitions were filed. One petition for representation required mediation with the parties to finalize the unit composition before the Agency held an election. In 2023, the Agency held its first electronic ballot election for a unit of about 450 employees. The election process was efficient and received a high voter turnout. It proved to be a streamlined way to conduct large elections, and the Agency plans to use this method in the future for large elections.

---

<sup>4</sup> An effort to resolve the case informally through settlement is always made first and is required by AS 23.40.120.

Parties may also file a representation petition to decertify a unit and choose to be unrepresented. In 2023, one petition for decertification was filed. It was later dismissed for untimely filing where a contract bar is in place.

Petitions for recognition by mutual consent are a type of representation petition filed where the employer consents to the labor organization's exclusive representation of a particular unit of employees. There were no petitions for recognition by mutual consent filed in 2023.

c. Strike Class Petitions (AS 23.40.200; AS 42.40.850)

Under PERA, the Agency hears disputes about strike classifications and impasse matters. Strike classification is important to employees and employers because it determines whether employees have the legal right to strike. PERA divides public employees into three separate classes for purposes of authorization to strike. Class I's, such as police and firefighters, are prohibited from striking. Class II's, such as snow removal workers, may strike for limited periods of time until a court determines that public safety and health are affected. Class III's, which include a wide range of public employees, have a broad right to strike. There were no strike class petitions filed or closed in 2023.

d. Impasse Determinations (AS 42.40.840; 8 AAC 97.270)

Impasse determinations are conducted upon a written request by a party. During negotiations, parties may believe they have reached an impasse and that continued attempts at negotiations seem unproductive. To find a way forward, parties often engage in facilitated conciliation. Agency impasse determinations are a tool parties may be required to use or may voluntarily request in their efforts to reach agreement. One impasse determination was closed in 2023.

e. Unit Clarification and Unit Amendment Petitions (8 AAC 97.050)

Unit clarification (UC) and unit amendment (AC) petitions are filed to resolve disputes over unit composition. An employer's reorganization of its employees' duties or adding or eliminating positions can raise a question of the appropriate bargaining unit for the positions. Representation cannot be at issue in a unit clarification petition, and unit issues that arise in the process of handling a representation petition are not counted here. Staff will conduct an investigation to determine whether these, or any other issues are present, and then issue findings. In 2023 one unit clarification petition was filed, and one was closed. The one closed petition had findings issued and was dismissed.

Unit amendment petitions are filed to change the unit's name, affiliation, site, or location. There were three unit amendment petitions filed in 2023, and three closed in 2023.

f. Claims for Religious Exemption (AS 23.40.225; AS 42.40.880; 8 AAC 97.310)

AS 23.40.225 and AS 42.40.880 allow a public employee to seek an exemption from union membership or agency fee payment on the basis of bona fide religious convictions. There

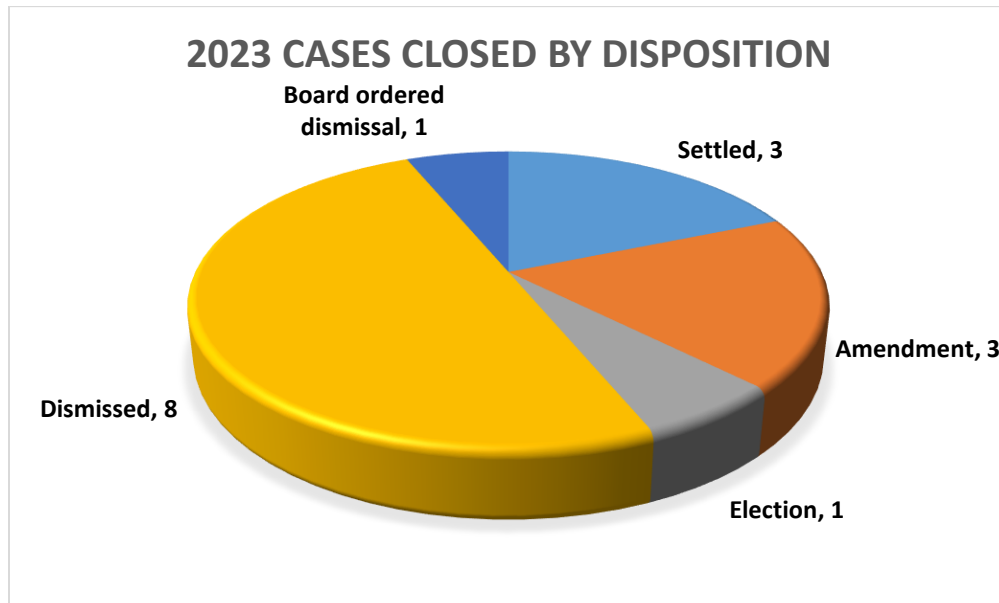
were no claims for exemption filed in 2023. In the wake of *Janus v. AFSCME*, 138 S.Ct. 2448, (2018), it is anticipated that claims for religious exemption will no longer be filed.

g. Petitions to Enforce the Collective Bargaining Agreement (AS 23.40.210; AS 42.40.860(b); 8 AAC 97.510)

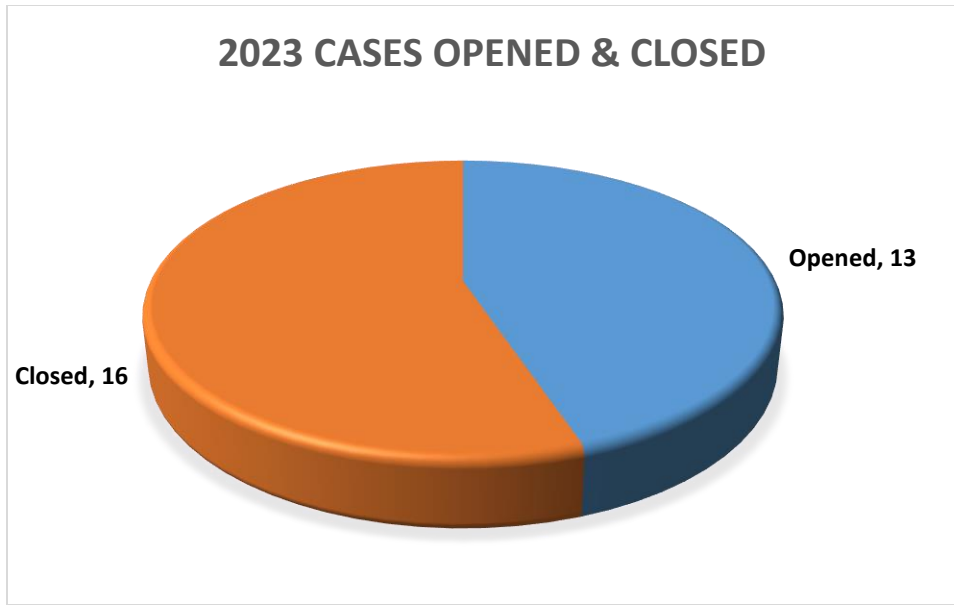
The Agency has statutory authority to enforce the terms of a collective bargaining agreement. Under the statute, all agreements must contain a grievance/arbitration procedure, which the parties must exhaust before filing a petition to enforce the agreement (CBA). There was one petition to enforce the agreement filed in 2023, and it was resolved through mediation with the hearing officer.

## 2. Summary of Agency activity

In 2023, the Agency closed a total of 16 cases, and 13 petitions and complaints were filed. In addition, 47 orders were issued in 2023. In 2023, the Board held one business meeting.







**3. Informal Resolution**

With an emphasis on informal resolution, agency staff conduct formal and informal mediation in all types of cases which can result in settlement. Specifically, AS 23.40.120 and 8 AAC 97.230 apply to ULP cases and require the hearing officer to attempt to resolve the dispute through the use of conference, conciliation, and persuasion. Under AS 23.40.120, if the Agency determines after preliminary investigation that probable cause exists in support of a complaint or accusation, it will attempt to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Sometimes, with the parties’ consent, the Agency may attempt to resolve a complaint or accusation by method of conference, conciliation, and persuasion before a preliminary investigation finds probable cause exists in support of the complaint or accusation. In 2023, the Agency used conference, conciliation, and persuasion to resolve two unfair labor practice cases.

In 2023, the hearing officer engaged in mediation or informal conciliation to resolve four non-ULP cases.

**4. Summary of Decisions and appealed cases**

Few cases go all the way to a hearing before a board panel and include a decision and order. In 2023, there was one case that went all the way to the Board for hearing and Decision and Order 317 was issued in *Palmer Police Department Employees Association v. City of Palmer*. Another case that was set for hearing before the Board settled prior to hearing through mediation with the hearing officer. There were no cases on appeal before the Alaska State Courts.

In *Palmer Police Dept. Emps. Assoc. v. City of Palmer*, the employees filed a petition for representation with the Agency where the City of Palmer had opted out of PERA and did not

implement an alternative collective bargaining framework under its local rules. The Board held that the City of Palmer's exercise of its opt-out right of the Public Employment Relations Act under AS 23.40.255(a) is valid. There was no compelling reason to overturn its prior decision in *Int'l Bhd. of Electrical Workers v. City of Homer, Decision and Order No. 138 (ALRA Dec. 19, 1991)*. Consequently, the petition was dismissed.

## **5. Training**

The ALRA Board is supported by ALRA staff who manage the day-to-day business of the Agency. Staff provide the Board legal advice and information and also provide information to the public and parties. It is important that the Board and staff members participate in continuing education to allow a professional and objective response to the myriad of complex and ever-evolving labor relations issues that come before the Agency. Training provides information and tools that increase the Board and staff's ability to produce a quality work product for the public.

In 2023, the hearing officer attended Administrative Law: Fair Hearings at the National Judicial College (NJC). Both the hearing officer and hearing examiner attended the Northwest Labor and Employment Relations Association (LERA) meeting in Tacoma, Washington, and the hearing examiner attended the Association of Labor Relations Agencies Annual meeting in Vancouver. All staff participated in several online trainings that are normally only offered in person, including presentations on labor relations issues offered by the American Bar Association (ABA), Federal Mediation & Conciliation Service (FMCS) as well as courses offered by the National Center for State Courts (NCSC).

## **6. Summer Externship**

There are now two avenues available for law student interns to follow to intern at the Agency. First, law students could apply through the Seattle University School of Law as part of its externship program. This program, started in 2008, as a combined effort by Seattle University School of Law, Alaska Pacific University, and government entities to provide legal experience and training to law students. Second, law students could apply directly to the Agency or through the intern program at the Department of Law.

The intern program encourages law students to consider relocating to Alaska and working in labor relations law or other legal fields. The Agency has received positive reviews from participating students and from Seattle University School of Law's program director. This program allows the extern to explore public-sector labor relations laws; conduct labor relations research; write legal memoranda; read and digest opinions, briefs, and motions; write summaries of published agency decisions; and confer with agency staff on performing other technical duties they may encounter as new lawyers. In 2023, ALRA did not host a Seattle University law student intern. By expanding the intern program and working with LAW, the Agency will host an intern in 2024.

## **7. Outreach**

Agency staff provide information about the Public Employment Relations Act (PERA) to new and existing representatives from public employee labor organizations and public employers and distinguish it from the National Labor Relations Act (NLRA). As part of their discussions with new representatives, ALRA staff provide a history of the evolution of public labor relations

in Alaska and at the Agency, provide instruction on how to file documents with the agency, and share insight gained through their experience at the Agency. They emphasize the importance of parties developing and maintaining good relationships, particularly after they experience long, difficult negotiations.

In 2023, the Agency fielded labor relations questions, including at least 289 public inquiries. Of those, 122 were regarding PERA and were unrelated to any open matter, and 167 of those were general inquiries unrelated to any open matter.

## **Resources**

The Agency provides information on its website, accessible through the State of Alaska's home page at [www.alaska.gov](http://www.alaska.gov) or directly at <https://labor.alaska.gov/laborr/>. The site contains petitions, complaints, and instructions for filing. It also has a link for contacting the Administrator by e-mail, information about Agency programs and resources, and access to a searchable database of all Agency decisions. The Agency continues to add new materials to the website and welcomes public suggestions.

ALRA maintains a resource library accessible to the public, containing printed copies of public-sector labor relations publications, printed copies of Agency decision and orders, and printed copies of election certificates. Patrons are encouraged to call the office first to ensure the library is not already in use.