

ALASKA LABOR RELATIONS AGENCY

ALASKA GRADUATE WORKERS
ASSOCIATION/UAW,

Petitioner,

and

UNIVERSITY OF ALASKA,

Respondent.

Case No. 23-1784-RC

PETITIONER'S PREHEARING STATEMENT

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CONCISE STATEMENT OF THE DISPUTE

The parties dispute whether the bargaining unit sought by the Alaska Graduate Workers Association/United Automobile Aerospace and Agricultural Implement Workers of America (Union) is a proper under AS 23.40.090.

The Union filed a representation petition seeking to represent, “All employees of the University of Alaska who are enrolled in graduate academic programs, including Fellows.” The unit sought excluded supervisors, employees who are already part of an existing bargaining unit, and undergraduate students. On April 10, 2023, the University filed objections, asserting that the proposed unit did not satisfy AS 23.40.090’s requirements, and suggesting instead that either a wall-to-wall unit consisting of all undergraduate and graduate students, or, in the alternative, a unit of graduate “Teaching Employees” as the University defined that group, would satisfy the AS 23.40.090 requirements.

In response to the University’s objections, the Union asserts that a unit composed of “Graduate Assistants” and Fellows along with all other graduate students performing Graduate Assistant work, is an appropriate unit that this Agency should certify.¹ This unit, while smaller than the unit originally sought in the Union’s February 2023 petition, shares a strong and distinct community of interest, and avoids the issues raised in the University’s objections. This unit satisfies the AS 23.40.090 requirements.

¹ In addition, the Union would include the very small number of undergraduate students who have been hired into graduate Teaching Assistant (TA) positions in various departments (primarily Biology), if, and only if, the University is still hiring undergraduates into these TA positions.

However, the letter codes and labels used by the University in its April 10 objections, including the term “Teaching Employees,” do not always comport with the actual work performed by these individuals, and therefore cannot be the basis for determining who is in the unit and who is not. The graduate students’ actual working conditions and community of interest factors must be examined.

CONCISE STATEMENT OF THE UNION’S POSITION

The bargaining unit should be composed of all Graduate Assistants, as well as all graduate students performing Graduate Assistant work, plus the very few undergraduate students who have been hired into graduate student teaching assistant roles, as this is an appropriate unit under AS 23.40.090.

The majority of graduate student employees at the University are hired into Graduate Student Assistantships.² The University has three types of Graduate Student Assistantships: Teaching Assistantships (TAs), Research Assistantships (RAs), and Engagement Assistantships or Service Assistantships (depending on whether the graduate student is enrolled in the Fairbanks or Anchorage campus).³ These three types of Assistantships form the core of the proposed bargaining unit, and appear to encompass all of the individuals that the University posits would be “Teaching Employees.” Objections at 2. However, the

² Not to be confused with the job title “student assistant” or the category of “Student Assistants” that the University’s April 10 Objections use as a collective term for student employees “employed as student workers” who engage in “general office work, basic computer programing, service, maintenance, etc.” and who have the payroll codes of SN and ST. *See* Objections at 2.

³ This third category is a very small minority of graduate students (the University’s Objections list only one Graduate Service Assistant, Objection at 7, but the Union is aware of a second individual in this type of role).

University also hires Graduate Assistants into other titles, and other payroll codes, to nevertheless work as Teaching Assistants, Graduate Assistants, and Engagement or Service Assistants. These individuals should be included in the bargaining unit as well, due to their shared community of interest.

For example, some Teaching Assistants qualify for work study, and consequently, are officially given the title of “Student Assistant” and assigned payroll code SN or ST. *See* Objections at 2. Yet these individuals are functionally Teaching Assistants, performing the exact same work as the other graduate Teaching Assistants who are assigned payroll code GN or GT. Many graduate students find themselves TA’ing a class one semester under the GN or GT code, and then TA’ing the same class the following semester under the SN or ST code, while their working conditions, expectations, supervision, and duties remain identical. Their application process and working conditions are functionally identical, and in fact, graduate students in both groups may even co-teach classes together, but they are assigned different job titles and payroll codes, based on whether they qualify for work study. The Union would include these graduate student employees in the bargaining unit.

The Union would not, however, include all graduate (or undergraduate) students who merely have the title of “Student Assistant” where their work is unrelated to teaching or research. To put it another way, the Union would not seek to include all “Student Assistants,” as defined by the University’s April 10 Objections, but would include only those who are functionally Graduate Assistants, as established by their function, work, and conditions of employment.

In addition, the Union would include the few graduate student employees of the University whose full-time position is teaching or research, as those employees also share a community of interest with the Graduate Assistants. The Union would include full-time university employees whose work is research or teaching, not all full-time employees who are also enrolled as graduate students. For example, the University has employed a small handful of graduate students in full-time research roles and has assigned them payroll codes like XR – putting them in the second category of employee as defined by the University’s April 10 Objections. These few individuals perform functionally the same work as many RAs, with whom they share a strong community of interest.

Such full-time employees may also TA classes, but because they are full time employees, they are not given the TA title, and are instead categorized as “Adjunct faculty.” They are not included in the Adjunct faculty unit due to their employment status. They have the same duties, functions, and supervision as their TA colleagues – and indeed, often co-teach classes with their classmates who have Graduate Teaching Assistantships. Such individuals should be included in the bargaining unit, lest unnecessary fragmentation occur.

Fellows should be included in the bargaining unit of Graduate Assistant bargaining unit. Graduate Students whose research is financed through Fellowships are functionally equivalent to graduate students whose research is financed through Research Assistantships. They perform the same duties and functions, are subject to faculty oversight, and their

research in both cases serves to further the University's mission. Graduate students may begin at the university as Research Assistants and then transition seamlessly to holding Fellowships that require them to continue the same research, in the same manner, under the same circumstances. Due to their shared community of interest, they should be in the same bargaining unit, to avoid unnecessary fragmentation.

Finally, the Union is aware that in the past few years, the University has allowed a very small handful of undergraduate students to be employed as Teaching Assistants for science classes (primarily in the Biology Department), when the University has been unable to hire enough graduate TAs. These undergraduates were given a "Student Assistant" title but were asked to perform the same work, under the same conditions, as Graduate Teaching Assistants. Because these few individuals perform the same work as Teaching Employees, the Union would include them in the bargaining unit, as excluding them would lead to unnecessary fragmentation, and raises potential skimming issues down the line. The Union has also been informed by faculty that within the last few months, the University leadership has suggested that this practice should be ended, and that only graduate students may be employed as Teaching Assistants. If the University no longer employs undergraduates in graduate TA roles, the Union will abandon its argument that there are undergraduates performing TA work who should be included in the unit.

LIST OF FACTUAL ISSUES

The Union has identified the following apparent factual disputes between the parties:

- Whether graduate students who hold Graduate Student Assistantships (Teaching Assistants, Research Assistants, and Service/Engagement Assistants), including those identified by the University as “Teaching Employees” with payroll codes GN and GT, as well as those in Graduate Student Assistantships that are given other job titles and payroll codes SN and ST, perform the same functions under the same working conditions.
- Whether unrepresented graduate students who are employed full time by the University and whose work is teaching or research perform the same functions under the same working conditions as the above group.
- Whether students holding Fellowships (Fellows) perform the same work and function, under the same working conditions, as graduate students holding Research Assistantships.
- Whether undergraduate students in the Biology and other departments who are employed by the University to perform Graduate Assistant work, by whatever title, perform the same work and function under the same working conditions, as the Graduate Assistants.

CONCISE STATEMENT OF LEGAL ISSUES

The parties dispute how to define the bargaining unit to comport with AS 23.40.090. The Union asserts that a bargaining unit composed of “Graduate Assistants” is a proper unit under Alaska law, because this group shares a community of interest, performs the same work, functions, and duties, requiring the same skills, and are subject to the same general

working conditions. The Union asserts that this unit should include all other graduate students who share a community of interest with the Graduate Assistants, which includes Fellows, as well as graduate students who do the same work under the same conditions as Graduate Assistants, but are given other titles or payroll codes – because in each of these circumstances, the work duties and functions are the same. The Union also asserts that this should include graduate students who are employed full-time by the University where their work is the same as TAs and RAs, again, based on the shared community of interest factors. Finally, the Union asserts that undergraduates who have been hired into graduate Teaching Assistant roles in the Biology department should also be in the bargaining unit, on the basis of their work and working conditions being the same as the Graduate Teaching Assistants.

The Union does not agree with the University’s April 10 Objections that the unit must include all students to satisfy AS 23.40.090. “Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.” AS 23.40.090. The University’s Objections suggest that the Agency should examine the conditions of all student employees as a whole, contrary to this Board’s prior decisions. *United Academics-AAUP/AFT, AFL-CIO v. University of Alaska*, Decision & Order 202, at 13 (April 29, 1996) (“The Agency does not review the work place as a whole and determine the most appropriate unit. The focus is the proposed unit.”). Nor does the Agency consider “**the most** appropriate unit;” it instead determines whether the proposed unit comports with AS 23.40.090. *United Academics-AAUP/AFT, AFL-CIO v. University of Alaska*, Decision & Order 218 (April 15, 1997) (emphasis in original).

It is well established that this Agency determines whether the proposed unit is proper on a case-by-case basis. *Alaska Nurses Association v. Wrangell Medical Center*, Decision & Order 296 (November 30, 2011). Here, the community of interest examination must involve a case-by-case examination across many departments, many job titles, and many payroll codes, to establish that the proposed unit does indeed share a strong community of interest. The actual work duties and requirements for positions must be examined, not simply their titles or payroll codes, which obfuscate the actual work performed.

The Union's proposed unit includes Fellows. Graduate students who receive Fellowships are performing the same duties under the same circumstances as those receiving Research Assistantships, and share a community of interest. They perform the same work and duties, under the same type of supervision, in the same labs, as RAs. The false distinction drawn by the University was rejected by the National Labor Relations Board, which included in the same bargaining unit students engaged in research regardless of the source of their funding. *The Trustees of Columbia Univ. in the City of New York & Graduate Workers of Columbia-GWC, UAW*, 364 NLRB No. 90 (N.L.R.B. Aug. 23, 2016).

The unit proposed by the University in its April 10 Objections, consisting of **all** student employees, regardless of their duties and working conditions, would not be proper, and would be larger than "reasonable." AS 23.40.090. That unit would include so many disparate groups with disparate working conditions that no mutual interest in wages, hours, and other conditions of employment could be found. *Alaska Nurses Association v. Wrangell Medical Center*, Decision & Order 296 (November 30, 2011) (quoting NLRB and Supreme Court precedent for proposition that "The central test is whether the employees share a

‘community of interest,’ that is, substantial mutual interest in wages, hours and other conditions of employment.”).

Nor does the Union agree with the University’s second proposed unit description, which the University would limit to graduate students designated as GNs or GTs. While this group contains many of the students holding Graduate Teaching Assistantships and Graduate Research Assistantships, it excludes the Service Assistantships, as well as anyone who is functionally a TA or RA by another title, including those who qualify for work study. Instead, as advanced by the Union, graduate student workers who perform the same functions and duties, should also be included, as also share a community of interest. The University’s second proposed unit would lead to unnecessary fragmentation solely on the basis of title or payroll code, without regard to the actual working conditions and duties.

PRELIMINARY WITNESS LIST

The Union is continuing to develop its witness list, and, depending on what potential stipulations the parties are able to reach and when the hearing is to be held, will have substantial changes to this list. The Union is continuing to identify additional witnesses and can supplement this list moving forward.

Witness Name	Contact Information and ability to testify telephonically⁴	Brief Subject of Testimony

⁴ Each of the witnesses currently identified by the Union is willing to testify over Zoom, if the Agency determines that such testimony is appropriate. The Union objects to the parties offering testimony **telephonically** rather than over a video conferencing platform like Zoom. If the hearing is held in person in Anchorage, many of the Fairbanks witnesses will need to

Derek Arnold	PO Box 751130, Fairbanks, AK 99775-1130	Working conditions for Research Assistantships and Teaching Assistantships.
Abel Bult-Ito, PhD, UAF Professor of Neurobiology and Neurophysiology	P.O. Box 755895 Fairbanks AK 99775	Working conditions for Research Assistantships, Teaching Assistantships, and Fellowships from faculty's perspective.
Audrey Coble	755 W 42nd Ave, Apt 13, Anchorage, AK 99503-6628. Audrey will need to testify via Zoom if the hearing is not in Anchorage.	Working conditions for Teaching Assistantship; working conditions for graduate student adjunct (TA'ing a class along with other grad TAs but under the adjunct title); working conditions for full-time research employment as grad student.
Kyle Dilliaine	2850 Sarty Ln, Fairbanks, AK 99709-6914	Working conditions for Research Assistantships.
Garrett Dunne	10115 E. Strand Dr., Palmer, AK 99645 Garrett will likely need to testify over Zoom, as he lives, works, and studies in Palmer.	Working conditions for Research Assistantships and Fellowships.
David Harvey	2094 Pine Cone Road, Fairbanks 99709	Working conditions for Research Assistantships and Teaching Assistantships.
Frances Iannucci	1454 Willow Run, Fairbanks, AK 99709-6352	Working conditions for Research Assistantships and Teaching Assistantships.

testify via Zoom. If the hearing is held in person in Fairbanks, many of the Anchorage witnesses will need to testify via Zoom.

Jane Jacob	5400 Mail Trail Rd, #60484, Fairbanks, AK 99709-1001	Working conditions for Teaching Assistantship; working conditions for graduate student adjunct (TA'ing a class along with other grad TAs but under the adjunct title); working conditions for full-time research employment as grad student.
KJ (Kathleen) Janeschek	1101 Florice Drive, North Pole, AK 99705	Working conditions for Teaching Assistantship.
Michelle Johannsen	PO Box 81797, Fairbanks, AK 99708. If the hearing is in Anchorage, Michelle will have to testify over Zoom.	Working conditions for Teaching Assistantship and Research Assistantship
Skye (David) Kushner	2518 Riverview Dr, Fairbanks, AK 99709-4801	Working conditions for Research Assistantship
Allexis Mahanna	6423 Switzerland Dr, Anchorage, AK 99516-6029	Working conditions for Graduate Service Assistantship and regarding work study.
Nora McIntyre	1814 Crandall Ave Kendall NY 14476-9712 Nora is expected to testify over Zoom, no matter where the hearing is located.	Working conditions for Teaching Assistantship, both under the Graduate Teaching Assistant title and under the Study Assistant title due to work study.
Stephanie O'Daly	PO Box 750530, Fairbanks, AK 99775-0530	Working conditions for Teaching Assistantship and Research Assistantship
Pablo Saunders-Shultz	197 Palace Cir Apt B4 Fairbanks AK 99701-1810	Working conditions for Research Assistantship

Abigail Sciffmiller	1762 Army Rd, Apt A, Fairbanks, AK 99709-6570	Working conditions for Teaching Assistantship and Research Assistantship; working conditions for undergraduates TA'ing biology classes alongside Graduate TAs.
Sofia Sytniak	4924 E 43rd Ave Apt A1 Anchorage AK 99508-5607	Working conditions for Teaching Assistantship, under both GN and SN payroll codes.
Justin Terzi	2007 Central Avenue, Fairbanks AK, 99709	Working conditions for undergraduate students hired to be TAs in lieu of Graduate TAs in the biology department.

In addition to the witnesses listed above, the Union anticipates offering additional witnesses, including undergraduate students, adjunct faculty, and faculty, to testify regarding the unique working conditions experienced by the individuals in the Union's proposed unit.

REMEDY SOUGHT

The Union seeks an order from the Board certifying that Union's proposed bargaining unit is appropriate for election:

All employees of the University of Alaska who are enrolled in graduate academic programs, who are Graduate Assistants (including Teaching Assistants, Research Assistants, Service Assistants, and Engagement Assistants), as well as those graduate student employees who perform primarily teaching and/or research, including those holding Fellowships, as well as undergraduates whose work is substantially similar to Graduate Assistants.

ANTICIPATED HEARING LENGTH

The Union anticipates that the presentation of the Union's case will take two weeks at a minimum.

Respectfully committed this 25th of April, 2023.

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