

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL & LABOR RELATIONS
STANDARD OPERATING PROCEDURE

Classification
DOPLR-07

VI. Bargaining Units

A. Purpose

The purpose of this SOP is to provide guidelines, references and procedures to determine the correct bargaining unit placement of positions in the classified and partially exempt services.

B. Scope

This SOP applies to all positions in the classified and partially exempt services. Classified positions that are not included in existing collective bargaining units are designated as the "excluded" unit. This SOP does not apply to the exempt service or the bargaining units in the exempt service.

C. Authority

AS 23.40.090: Alaska Labor Relations Agency (ALRA) authority to designate bargaining units.
ALRA Decisions and Orders regarding unit clarifications
2 AAC 07.330; 335; 340; 345c - Effect on salaries of incumbents following reallocation.
Labor, Trades & Crafts Unit (LTC).
General Government Bargaining Unit agreement (GGU).
Supervisory Bargaining Unit agreement (SU).
Confidential Employees Association (CEA).
Public Safety Employees Association (PSEA).
Alaska Correctional Officers Association (ACOA).

D. Resources and Guidelines

Bargaining unit (BU) determinations are discussed in various ALRA Decisions and Orders. Complete sets of ALRA Decisions and Orders are retained in the Labor Relations Section and are available through the ALRA website. Final decisions regarding individual positions are placed in the Online Position Description System (OPD) or the Position Control Number (PCN) file in Employee Records. Copies of ALRA decisions establishing a precedent for job classes and bargaining units are filed with Classification Services.

E. Units of Employees in the Classified Service Subject to Collective Bargaining

1. General Government (GP and GZ; formerly GG and GY): Statewide unit of classified, nonconfidential, nonsupervisory employees of the Executive Branch not included in another bargaining unit. The unit includes clerical, technical, professional and administrative personnel.
2. Supervisory (SS): Statewide unit of classified, supervisory employees of the Executive Branch not included in another unit.

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3. Labor, Trades and Crafts (LL): Statewide unit of classified, nonsupervisory, trades and crafts employees of the Executive Branch.
4. Confidential (KK): Statewide unit of supervisory and nonsupervisory classified employees in the Executive Branch who assist and act in a confidential capacity to a person who formulates, determines, and effectuates management policies in the area of collective bargaining.
5. Public Safety (AA, AP): Classified, nonsupervisory, nonconfidential employees of the Department of Public Safety who have primary responsibility for the prevention and detection of crime and the enforcement of State laws (fish and game, penal, traffic or highway) and require certification as a police officer by the Alaska Police Standards Council. This unit also includes classified, nonsupervisory, nonconfidential employees of the Department of Transportation and Public Facilities who have primary responsibility for international airport safety and fire protection, and require certification by the Alaska Police Standards Council.
6. Correctional Officer (GC): Classified, nonsupervisory, nonconfidential employees who have primary responsibility for the safety and security of State correctional centers and inmates, and require certification by the Alaska Police Standards Council.
7. Alaska Vocational Technical Teacher's Association (AVTECTA): Classified and exempt employees of the Alaska's Institute of Technology– formerly referred to as the Alaska Vocational Technical Center (AVTEC), whose duties include program development and delivery, counseling, media services and job development.

F. Employees Not Currently Included in Collective Bargaining Units

1. Partially Exempt (PX): Positions designated partially exempt by statute or decision of the Personnel Board pursuant to AS 39.25.120 and 39.25.130.
2. Excluded (EE): Positions in the classified service which ALRA has specifically excluded from existing bargaining units by order and decision; positions no unit has petitioned to represent; and positions excluded from bargaining units by mutual agreement of the State and the otherwise appropriate bargaining unit representative. Examples: Student/College Interns and ALRA positions.

G. Procedures for Bargaining Unit Determinations

The Classification Analyst determines the appropriate collective bargaining unit assignment, subject to internal review and approval procedures. The allocation analysis will record the decision of the Division of Personnel and Labor Relations (DOPLR). Contested decisions may be sent for the appeal process through ALRA and collective bargaining agreements.

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1. New position: The bargaining unit is determined consistent with ALRA regulations and decisional guidelines and is documented in the analysis that allocates the position.
2. Vacant position: The position is placed in the appropriate bargaining unit as documented in the allocation analysis.

The union from which the position is being removed must be notified in writing in accordance with applicable collective bargaining agreement provisions. The effective date of the bargaining unit change of a vacant position will be concurrent with the notice to the union.

3. Filled Position: Collective bargaining agreements restrict the movement of filled positions. The following procedure is established when recommending the movement of a filled position between collective bargaining units:

- a. Prepare the allocation analysis stating what change has been decided. Enter "The bargaining unit change pending" final actions in OPD.

- b. Classification will notify the affected union of the proposed bargaining unit change.

- If the union disagrees with the determined bargaining unit change, the union may petition ALRA for a unit clarification and determination. ALRA staff investigates the request for unit clarification and, if necessary, holds a unit clarification hearing. No change to the position's bargaining unit designation may occur until ALRA has reviewed the issue and made the final determination. When a decision is received, DOPLR will notify the employing agency of the decision and the effective date for a BU change.
- If a position becomes vacant after the union has filed an appeal, DOPLR may change the BU, and notify ALRA and the unions consistent with contract provisions for a vacant position.

4. Movement of positions between bargaining units and the Partially Exempt (PX) service is discussed in SOP 07-IX and AS 39.25.

5. Application of the Supervisory Employee Definition

- a. **Definition**: "Supervisory employee" means an individual, regardless of job description or title, who has authority to act or effectively recommend action in the interest of the public employer in any one of the following supervisory functions, if the exercise of that authority is not merely routine but requires the exercise of independent judgment:

- employing, including hiring, transferring, laying off, or recalling;
- discipline, including suspending, discharging, demoting, or issuing written warnings;
- grievance adjudication, including responding to a first level grievance under a collective bargaining agreement. (8 AAC 97.990 (a) (5))

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- b. This definition applies to all employers covered by Alaska's Public Employment Relations Act and necessarily uses terms applicable to a broad range of public employers. In applying the definition to State employment, it must be read to reflect State employment practices and terms. "Transferring", for example, includes hiring an employee with transfer rights; "recalling" includes accepting a recall of a laid off employee; and "hiring" includes promotion of a current employee, rehire of a former employee, and appointment from a job posting or union referral.
- c. **Supervisory status:** Supervisory status is not defined by the percentage of time the supervisor spends supervising or the number of employees supervised, but by the types and level of authority assigned. To be in the Supervisory Unit, a significant purpose of the incumbent's job must be the supervision of and responsibility for other employees. This authority distinguishes the position from nonsupervisory positions in the work unit in that the incumbent possesses the authority to act or effectively recommend action in the interest of the public employer. Does the employee possess the authority to take or effectively recommend the actions described in subsection 1), 2) or 3) of the definition? Does the employee affect the action? Are recommendations made by the employee routinely adopted? Are recommendations rarely overturned? Does the employee exercise independent judgment? If the answer to these questions is yes, the employee is supervisory.
- d. Conversely, employees who have authority to take only routine actions for the supervisory functions listed in the definition are not supervisory employees. Actions and work are considered routine if the employee follows, and does not deviate from established guidelines. An example of diffused authority that results in routine actions is membership within a hiring panel offering opinions/suggestions, but the actual supervisor makes the decision as to the hire – **consensus vs. hiring independently**. However, if the supervisor makes the decision as to the process to use, as well as whom to recommend for employment, there is evidence of independent judgment.
- e. To apply the definition, review the position description to determine if the subject employee maintains an employer-employee relationship with subordinate State positions. Organization structures and reporting relationships for positions in the same division or work unit can help determine who has authority for supervisory functions. Classifiers therefore use staffing charts, questionnaires, PDs, interviews, and recruitment records to help determine who has supervisory authority.
- f. Special issues: When determining the authority given to a supervisory employee for transfer, layoff and recall functions, one must consider the whole process and not limit consideration to an isolated action.
- In all cases, the supervisory employee is not required to have taken the action, but rather must clearly have the authority to take or cause the action

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- If the position is assigned supervisory responsibilities throughout the PD, and consistent with the provisions set forth in 8 AAC 97.990(a)(5), then it is a supervisor. Classification Services will make a decision that is based upon ALRA Decisions and Order, and on a case-by-case basis.

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