ALASKA LABOR RELATIONS AGENCY
STATE OF ALASKA

UNIVERSITY OF ALASKA, 

Petitioner,

and

UNIVERSITY OF ALASKA FEDERATION OF TEACHERS, LOCAL 2404, 

Respondent,

and

UNITED ACADEMICS, Intervenor.

Case No. 08-1537-UC

HEARING BRIEF
OF UNIVERSITY OF ALASKA

The University is the moving party with respect to certain issues being considered in this Petition for Unit Clarification. Specifically, the University seeks the following: A. Clarification regarding the proper unit placement of UAFT faculty who have been or may be assigned to teach upper division academic courses on the main campuses of UAA and UAS; B. Clarification regarding the proper unit placement of faculty members teaching upper division coursework in programs formerly considered "vocational technical," but which have evolved over the years to include baccalaureate and graduate degree component.

The University does not consider itself the moving party with respect to the
following issues, but asks the ALRA to reject union claims and confirm that:  C. *Essentially all UAF main campus faculty have been and should remain placed in UNAC; and D. Faculty in the SFOS, DANRD, and SNRAS programs properly have been, and should remain, placed in UNAC regardless of their site placement.*

Consistent with the University’s Motion for Partial Dismissal, the University asks the ALRA to reject the following union claims as inappropriate for a unit clarification proceeding:

- That UAA & UAS main campus faculty be merged;
- That all bipartite faculty teaching upper division classes on the main campuses, and currently placed in UNAC, should be severed from their unit and moved to UAFT;
- That all faculty teaching upper division classes on extended sites, and historically placed in UAFT, should be severed from their unit and moved to UNAC.

A. **Main Campus UAFT Faculty with Upper Division Academic Assignments**

The University seeks clarification that would permit it to make routine workload and unit assignment decisions without continual challenge or unnecessary disruption to academic programs and employees.

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1 Because these issues are addressed in the pending motion, they will not be further addressed herein.
The UAFT unit definition excludes faculty who teach any upper division courses at the main campuses. This reflects UAFT's historical role of representing community college faculty, who taught lower division courses. As noted in Bornstein III, there were occasional instances of community college faculty teaching upper division classes prior to and after the merger of the University and Community College programs. UAFT asserts that this practice stands for the proposition that teaching upper division classwork was inherently consistent with UAFT placement. This is incorrect.

In the context of that discussion, Arbitrator Bornstein was considering arguments regarding whether UAFT had continued to exist as a separate and identifiable unit post-merger. The fact that UAFT faculty members were beginning to teach an increasing level of upper division classes was a factor that Bornstein considered as undermining the argument that UAFT continued to exist as a separate identifiable unit. The more upper division classes its members taught, the less ACCFT looked like a recognizable unit distinct from four year college faculty. Because not that many ACCFT members taught in the upper division, Bornstein concluded that this factor weighed in favor of finding that ACCFT continued to have a separate existence. From the beginning, ACCFT faculty members taught in the upper division despite their unit status, not as a mark of it. Because widespread upper division teaching was essentially inconsistent

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2 The only possible exception is for UAFT faculty whose principal assignment is vocational-technical instruction.
3 See Exhibit 502 at p.57.
with the notion that UAFT existed as a separate unit, the University and UAFT later codified this distinction in the UAFT unit definition. The "exclusively lower division" teaching distinction was again codified with the certification of UNAC in 1996.

It is the case that a limited number of UAFT faculty have continued to teach academic upper division courses on the main campus of UAA after the certification of UNAC. Given the long-standing nature of this practice, the University would not object to a finding that these faculty should be grandfathered in UAFT.

UAFT asserts that this limited practice has created a "right" to teach upper division academic courses on the main campuses that overrides UAFT and UNAC unit definitions,\(^4\) and prevents the University from changing bargaining unit assignments upon assignment of upper division courses. At the same time UNAC insists that UAFT faculty may only teach "exclusively lower division" courses on the main campuses. The result is that the University has had to restrict main campus UAFT faculty members' assignments to the lower division level even when UAFT faculty members are academically qualified and fully capable of teaching upper division courses.

The University seeks clarification regarding: (1) the appropriate placement of grandfathered UAFT faculty at UAA who consistently have taught academic upper division courses; (2) the appropriate placement in instances of a short term or

\(^4\) UAFT also points to permissive language in its CBA regarding workload. However, UAFT disregards the context and permissive nature of the language, as well as the material changes to that language upon the advent of UNAC.
emergency assignment of UAFT faculty to academic upper division courses and (3) the propriety of reassignment to UNAC of UAFT faculty members assigned to teach academic upper division coursework on the main campuses with the expectation that such assignment will be ongoing.

B. **Main Campus Faculty with Principal Assignment in Vocational-Technical Programs.**

Pursuant to the respective unit definitions, the UAFT unit on the main campuses of UAA and UAS includes “faculty whose principal assignment is vocational-technical instruction.” Vocational-technical programs historically fell under the purview of the community colleges and, therefore, UAFT. Prior to 1992 the ACCFT unit definition did not contain the term vocational-technical instruction because unit membership was place-based; there was no need to define what was meant by “vocational-technical” faculty. Immediately post-merger it was clear what programs and faculty were vocational-technical and represented by UAFT. Over the ensuing two decades, however, the ability to identify vocational-technical faculty has diminished as new faculty were hired and programs have evolved. Certain “vocational-technical” programs that formerly were purely job preparation certificate or AA/AS programs, which generally involved no upper division instruction, and which, significantly, required a differently credentialed teacher, now have been integrated with BA, BS, or

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5 No faculty at UAF main campus fall into this category.
graduate degree programs with significant upper division teaching. These programs include nursing, aviation, and human services. A number of the faculty teaching in those programs have credentials more closely aligned with UNAC faculty, and teach upper level classes that would be typical of UNAC faculty. In these cases, the fact that a faculty member teaches in a former "vocational-technical" program is less meaningful than the characteristics of the particular academic program, the faculty credentials needed to perform the work, and the type of work actually performed. Thus, a small number of faculty in nominally "vocational-technical" programs have been placed in UNAC. UAFT challenges the University's placement of these faculty in UNAC, believing them to be "vocational-technical" because of the historical roots of the program in which they teach. UNAC asserts that faculty teaching upper division should be represented by its unit.

The University seeks clarification regarding what constitutes a principal assignment of vocational-technical instruction on the main campuses for purposes of proper unit placement.

C. UAF Main Campus Faculty.

Historically there has been no dispute that UAF main campus faculty are in the United Academics unit. No former ACCFT community college faculty were merged onto UAF's main campus because UAF's College of Rural and Community Development (CRCD) has existed as a separate administrative unit that served as the
successor to the community college program. Recently UAFT has claimed that its unit properly contains academic faculty on the main campus of UAF who have bipartite teaching and research workloads, as well as a few UAF main campus faculty in the College of Natural Sciences and Mathematics (CNSM), School of Business, and School of Engineering who have lower division, bipartite (teaching and service) workloads. These programs never were part of the community college program and these UAF main campus faculty have never been represented by ACCFT. The University seeks confirmation that essentially all\(^6\) UAF main campus faculty properly have been, and should remain, placed in UNAC.

D. Placement of SFOS, DANRD, and SNRAS “extended site” faculty in UNAC

Although UAFT generally represents faculty at extended sites (excluding “cooperative extension” faculty),\(^7\) there are a number of UNAC faculty in long-standing extended site placements administered from a main campus site. For instance, Marine Advisory Program (MAP) faculty, who serve an “extension” function for the School of Fisheries and Ocean Sciences (SFOS),\(^8\) have remained in UNAC even though they

\(^6\) A small number of developmental education faculty located on the UAF main campus and who have multi-part service and lower division teaching workloads have remained in UAFT. The University urges that they be treated as an exclusion from the United Academics unit.

\(^7\) Cooperative Extension faculty are located at extended sites but explicitly are placed in UNAC by the terms of both unit definitions.

\(^8\) SFOS is a UAF main campus bachelors and graduate degree granting academic program.
work at sites off of the main campuses. Similarly situated faculty include SFOS Fisheries Industry Technology faculty, faculty at the SFOS Juneau Center at Lena Point; UAF CRCD’s Department of Alaska Native and Rural Development (DANRD) faculty, and UAF’s School of Natural Resources and Agricultural Sciences (SNRAS) faculty in Palmer. None of these programs had any historical connection to community college programs and instead have historical ties to the main campuses that predate merger. UAFT has or should have been aware of these placements for more than a decade, and until recently has not contested the unit placement of any of these faculty.

Respectfully submitted this 1st day of April 2010.

ASHBURN & MASON, P.C.
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DATED: 4/11/2010

By: __________
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CERTIFICATE OF SERVICE
I certify that a copy of the foregoing was hand delivered, faxed, mailed on the ___ day of March, 2010 to:

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(Original and 4 copies to follow)

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PREHEARING STATEMENT BY UNIVERSITY OF ALASKA
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