

ALASKA LABOR RELATIONS AGENCY
 1016 WEST 6th AVENUE, SUITE 403
 ANCHORAGE, ALASKA 99501-1963
 (907) 269-4895 Fax (907) 269-4898

FAXED
 7/18/08

Office use only		CHARGE AGAINST EMPLOYER	
Case No -ULP			
Date Filed		Date Amended	
SEE ATTACHED INSTRUCTIONS and FILING REQUIREMENTS			
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT (Respondent)			
a. Name of Employer <i>University of Alaska</i>		b. Employer Representative to contact <i>Kris Racina</i>	
c. Address (street, city, state, and ZIP code) <i>211 Butrovich Bldg, PO Box 755140 Fairbanks, AK 99775-5140</i>		d. Telephone Number <i>(907) 456-8230</i> Facsimile Number <i>(907) 450-8231</i>	
2a. Full name of party filing charge (if labor organization, give full name, including local name and number) <i>University of Alaska - Federation of Teachers, Local 2404</i>			
2b. Address (street, city, state, and ZIP code) <i>3211 Providence Drive, PSB-214 Anchorage, AK 99508-4670</i>		2c. Telephone Number <i>(907) 562-2660</i> Facsimile Number <i>(907) 786-4097</i>	
2d. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) <i>American Federation of Teachers, AFL-CIO</i>			
3. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of AS 23.40.110(PERA) or AS 42.40.760 (Railroad). The employer has committed the practice described in			
<input checked="" type="checkbox"/> 23.40.110(a)(1) - or 42.40.760(a)(1) Interference, coercion, restraining exercise of rights guaranteed in AS 23.40.080 or AS 42.40.720 <input checked="" type="checkbox"/> 23.40.110(a)(2) - or 42.40.760(a)(2) Domination or interference with formation, existence or administration of union. <input checked="" type="checkbox"/> 23.40.110(a)(3) - or 42.40.760(a)(3) Discrimination in hire or tenure or employee or terms of employment to discourage or encourage union membership. <input type="checkbox"/> 23.40.110(a)(4) - or 42.40.760(a)(4) Discharge or discrimination against employee for participating in proceedings under P.E.R.A. <input checked="" type="checkbox"/> 23.40.110(a)(5) - or 42.40.760(a)(5) Refusal to bargain in good faith.			
4. Collective Bargaining Agreement		Indicate one:	
<input type="checkbox"/> There has never been a collective bargaining agreement covering the parties involved. <input checked="" type="checkbox"/> A copy of the current (or most recent) applicable collective bargaining agreement is attached.			

5. Status of Grievance Proceedings (check all that apply)

a. A grievance has been filed and a copy is attached of each grievance step filing and all employer responses.

b. A copy of the grievance filed at each step and the employer's response(s) is being furnished for investigative purposes only. (Service on employer not required.)

c. Arbitration is scheduled for _____.

d. An arbitration award has been issued and is attached, or will be provided when received.

e. A grievance was not filed because:

6. Statement of Facts

Clear and concise statements of the facts claimed by the party filing this charge to constitute the unfair labor practice(s) (including times, dates, places, occurrences, and participants in occurrences) are set forth in numbered paragraphs on separate sheets of paper attached to each copy of this charge.

7. Remedy Requested

The remedies requested for the claimed unfair labor practices are set forth on separate sheets of paper attached to each copy of this charge.

8. DECLARATION

I, Kathleen Barnard, say on oath or affirm that I have read the foregoing document and believe that all statements made in the document are true.

By [Signature]
(Signature of representative or person making charge)

_____ (Title or office, if any)

SUBSCRIBED AND SWORN TO before me at Seattle, Alaska, this 18th day of June, 2008.

[Signature]
Notary Public in and for Alaska
My Commission Expires: 1/14/10

I certify that on _____ (date) I mailed or hand delivered (circle one) a true and correct copy of this charge, to (include employer representative and, if the state is the employer, include the Attorney General and the Commissioner of Administration) Enter the name and address of person(s) served in the space provided below:

(see attached certificate of service)

Signature

STATEMENT OF FACTS

1. University of Alaska Federation of Teachers, Local 2404 (“UAFT”) (formerly Alaska Community College Federation of Teachers, Local 2404) represents teachers employed by the University of Alaska and is party to a collective bargaining agreement. Attached as Ex. A is copy of the draft version of the parties’ current collective bargaining agreement (the final version has yet to be printed). UAFT is the exclusive bargaining representative for all faculty teaching at extended sites and vocational-technical institutions, regardless of workload. UAFT is also the exclusive bargaining representative for faculty at other University of Alaska locations who carry a bipartite teaching load.¹

2. Carol Klamser is a full-time, tenure-track associate professor in the Associate Degree Nursing Program in the University of Alaska Anchorage (“UAA”) School of Nursing. Kalamser’s primary assignment is at the Kachemak Bay Campus in Homer, an extended site of the UAA. She is a member of the UAFT bargaining unit. Early this year, Klamser told the Director of the School of Nursing, Jean Ballantyne, and the Associate Dean, Jackie Pflaum, that her dream was to teach graduate level. She asked if she could teach a combination of associate level and upper-division classes for nurse practitioners. She was also aware that UAA was planning to add a doctoral program for nursing practitioners, and she wanted to be part of that.

¹ A bipartite work load consists of teaching and service. ACCFT members’ bipartite workload typically consists of four parts teaching, one part service. A tripartite work load consists of teaching, research, and service or other components. Tripartite workloads typically consist of three parts teaching, one part service or other duty, and one part research.

3. In March 2008, Ballantyne and Pflaum proposed that Klamser teach physical assessment, an upper-division class, during the summer 2008 semester and pharmacology and pathophysiology (both upper-division classes) in the fall semester. Ballantyne felt that it would be “very helpful” to the School of Nursing for Klamser to teach these courses (via distance) in the graduate program. Klamser wanted to teach these classes and keep her UAFT tenure-track position.
4. However, when Pflaum and Ballantyne started the process to put Klamser in place to teach those classes, UAA School of Nursing Business Manager Lynn Murphy told them in a March 25, 2008, email that:

As [sic] this point in time- this absolutely cannot happen. Until UA receives approval or denial of any ACCFT member teaching any upper division courses, our hands are tied, with the exception of those who have consistently taught summer semester for us in the past. We can add no new faculty to this task until I hear differently. Upper division includes 300, 400 [and] 600 level courses.

5. Later that same day, March 25, 2008, Ballantyne sent an email to Cheryl Easley, Dean of the UAA College of Health and Social Welfare, asking if “there is anything you [Easley] can do to help” in getting the go ahead for Klamser to teach upper-division classes.
6. Murphy responded by email to Ballantyne, Pflaum and Easley, that same day stating:

I have talked to Labor Relations about this and Rhonda just left me a message wanting some more dialog. This is not a unique situation with Carol as this impacts all our ACCFT faculty that we want to be able to have teach in the BS summer semester. The issue is in front of the state agency at this time .. Labor Relations is working on our behalf to hopefully resolve this issue. ACCFT has no problem allowing their members to teach upper division courses.

UNAC feels that its members are the ones that are qualified to teach upper division courses and anyone teaching an upper division course belongs in their union.

Rhonda asked that we have some patience while we await a determination. She is trying not to muddy the water just yet so will keep you informed of anything I hear.

7. On March 26, 2008, Pflaum sent an email to Klamser stating that:

it isn't clear that you can teach the assessment class this summer due to union concerns. Lynn is working on this. If it can't be remedied this summer, hopefully we can get it resolved before next spring and the pharm class. Will keep you posted. Sorry this is an issue.
8. Klamser contacted the UAA human resource department and spoke with an HR representative. He said UAA would have to move her into the other full-time faculty union, UnAc. if she taught any upper-division class and that UAFT didn't want to lose any members and would fight to keep her if she took an upper-division class. He suggested that perhaps the School of Nursing could take the position that teaching upper-division was not her traditional work load and she would only be teaching upper-division in the summer. He said he would check with Ballantyne about that and get back to her, but he did not get back to Klamser.
9. Instead, Klamser then heard from the University that it would not allow her to teach the physical assessment class this summer, and that they had hired someone else to teach it. This occurred despite the fact that an assignment to teach an upper-division class during the summer semester is not inconsistent with the scope of the UAFT bargaining unit.
10. Moreover, there is no legitimate barrier to assigning her graduate level classes in the during the regular academic year beginning with fall semester, 2008. Because Klamser teaches at Kachemak Bay, an extended site, her bargaining unit

placement, even without use of the process outlined in Art. 5.1 of the party's ~~parties'~~ agreement, would not be inconsistent with her UAFT bargaining unit membership.

11. Nevertheless, In May, 2008, Klamser met with Pflaum and requested that they utilize the form found in Appendix **B** to the parties' current collective bargaining agreement. (It had been Appendix **C** to the previous agreement). Section 5.1 of the previous and current agreements authorizes bargaining unit employees to be assigned upper-division courses upon written agreement. This form has been used in the past to facilitate UAFT faculty members assignment to teach upper-division courses.
12. Pflaum would not sign the form and she told Klamser that some sort of "grievance process" had been initiated surrounding the form.
13. Klamser also spoke to Ballantyne about utilizing the form to allow her to teach the upper-division classes they had planned for her to teach. She gave Ballantyne a partially filled out copy of the form.
14. On May 8, 2008, Ballantyne sent Klamser an email thanking her for giving her a copy of the form. Ballantyne told Klamser that there "will be ongoing discussions with UnAc to try to resolve this issue." She also stated that "when [Pflaum] and I talked with you about possible graduate courses you may be interested in, we talked about you doing the Pharm course in spring 2009 (next year); Hopefully the union issues will be settled and we can proceed; it depends on them."
15. That same day, Klamser replied in an email reiterating that she would "love to teach" the physical assessment class (the summer class she was told she could not

teach this summer) when it came around again. Therefore, Klamser asked Ballantyne whether "there would be a way to apply and be hired for the graduate program (since then I could also teach in the AAS program?) It appears that if this request were granted, the University would then place Klamser in the UnAc bargaining unit and allow her to teach both upper-and lower-division classes.

16. Based on these facts UAFT believes that the University has instituted a policy of refusing to allow any faculty member who is in the UAFT bargaining unit to teach any upper-division courses unless she or he is willing to give up UAFT bargaining unit membership. This is the case even though assignment to teach an upper-division class is consistent with the workload of a UAFT bargaining unit member.

17. In this manner, the University has attempted to circumvent that scope of the UAFT unit, has interfered with the rights of its employees to be represented by their recognized collective bargaining representative, has interfered with the internal affairs – membership rights – of UAFT, has discriminated against UAFT members to discourage their union membership, and has violated its obligation to bargain in good faith by unilaterally changing the wages, hours and working conditions of its employees.

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of June, 2008, I caused the foregoing Charge
Against Employer plus one copy to be deposited in the U. S. mail, first class, postage
prepaid addressed to:

Alaska Labor Relations Agency
1016 West 6th Avenue, Ste. 403
Anchorage, AK 99501-4898

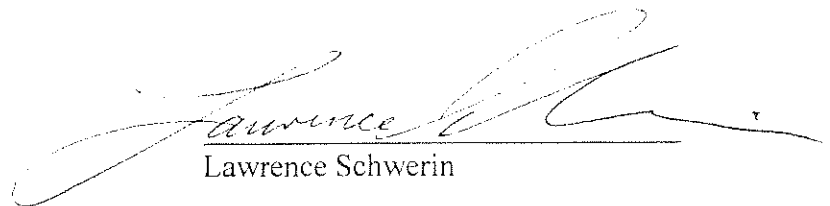
And a true and correct copy of the same addressed to:

University of Alaska
Attn: Kris Racina
P. O. Box 755140
Fairbanks, AK 99775

Annette Keritzer
10th Fl. State Office Building
P. O. Box 110200
Juneau, AK 99811

Alaska Attorney General
Alaska Department of Law – Civil Division
1031 West 4th Ave., Ste. 200
Anchorage, AK 99501-1994

Mark E. Ashburn
Ashburn & Mason P.C.
1227 West 9th Ave., Ste. 200
Anchorage, AK 99501



Lawrence Schwerin

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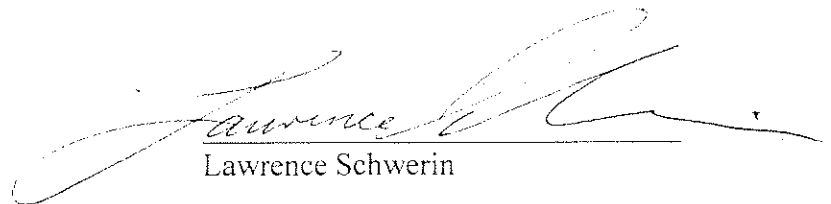
And a true and correct copy of the same addressed to:

University of Alaska
Attn: Kris Racina
P. O. Box 755140
Fairbanks, AK 99775

Annette Keritzer
10th Fl. State Office Building
P. O. Box 110200
Juneau, AK 99811

Alaska Attorney General
Alaska Department of Law – Civil Division
1031 West 4th Ave., Ste. 200
Anchorage, AK 99501-1994

Mark E. Ashburn
Ashburn & Mason P.C.
1227 West 9th Ave., Ste. 200
Anchorage, AK 99501



Lawrence Schwerin