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JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

M E M O R A N D U M

March 31, 1981

TO: Members of the Senate State Affairs Committee

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

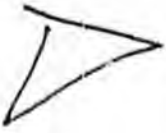
SUBJECT: SB 193 - Amending the State Personnel Act

Senate Bill 193 makes a comprehensive revision of the State Personnel Act, to change personnel practices, to expand the protections granted employees in the exempt and partially exempt services, and to make the Act consistent with the Public Employment Relations Act. The major changes made in the bill are noted below:

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section amends the current law to provide that only those personnel records listed are available for public inspection. In fact, the materials listed are those which are presently made available under existing law for public inspection. The law now states that except for those materials made confidential by the Personnel Rules, state personnel records are public.

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

 The bill deletes the material in the existing paragraph (8) which states that "certificated teachers employed by the state to teach in schools operated by the state" are in the exempt service. After being advised by the Personnel Office of the Department of Education that there were no employees of schools operated by the state, the commission deleted the paragraph. In fact, there are employees considered to fall within this group. They are employed as correspondence study teachers in Juneau and in the Alaska Skills Center in Seward. The commission has not had an opportunity to consider whether it wishes to change its initial action of deleting paragraph (8).

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

Paragraph (19) of this section of the bill adds a group of employees to the partially exempt service who are presently members of the ~~classified service but do not participate in collective bargaining.~~ These are the employees of the Division of Labor Relations within the Department of Administration who are responsible for representing the state in collective bargaining. The majority of the commission recommends that these employees be placed in the partially exempt service in order to insure that they are directly responsive to the policies of the administration.

Section 12. Amending AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The bill proposes that those Personnel Rules which fall within areas of concern to the public be required to be adopted in accordance with the Administrative Procedures Act to insure an opportunity for public comment. All of the Personnel Rules are presently exempt from the requirements of the APA.

Section 13. Amending AS 39.25.150. SCOPE OF THE RULES.

Paragraph (16) of the bill no longer sets a limit of 30 days for disciplinary suspension.

Paragraph (17) of the bill provides that the Personnel Rules shall include procedures for resolving disputes from the general public.

Paragraph (23) of the bill is added to permit the adoption of Rules relating to special employment programs for the disadvantaged.

Section 14. Amending AS 39.25.153. PERSONNEL OFFICERS.

Subsection (a) provides that all personnel officers shall be employees of the department in which they serve.

Subsection (b) amends the powers granted to the personnel officers listed in the statute.

Section 15. Amending AS 39.25.160. GENERALLY.

Subsection (c) extends protection from being required to make contributions to a political party to all employees. The existing

subsection applies only to those employed in the classified service.

Subsection (e) adds a requirement that members of the partially exempt service resign from state employment when seeking political office.

Subsection (f) extends protection from unlawful discrimination to all state employees, not merely to members of the classified service.

Section 17. Amending AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION.

Subsections (c) and (i) repeat the expanded coverage from unlawful discrimination which was granted in AS 39.25.160(f).

TBC:lmk



Ombudsman

Frank Flavin

June 2, 1981

Neil Thomas
Executive Director
Human Rights Commission
431 W. 7th Ave.
Suite 150
Anchorage, Alaska 99501

Dear Mr. Thomas:

On April 3, 1981, this complaint was filed in our Fairbanks office. The complainant alleged that he was denied proper consideration for employment with the Human Rights Commission under AS 39.25.150 which states:

The Personnel Rules shall provide for:

- (25) The granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination... (emphasis added.)

Personnel Rule 5 03.19 states:

If no agency layoff lists exist, or if such eligibles decline appointment or are not available, a person certified as severely handicapped by the director of Vocational Rehabilitation may also be certified to a vacant position by the Director of Vocational Rehabilitation. Such eligibles may be appointed on provisional status for a period not to exceed four months within a twelve-month period.

Finding:

We have found this complaint to be unsupported. The complainant has not been certified as severely handicapped by the Division of Vocational Rehabilitation. In addition, Personnel Rule 5 03.19 does not establish mandatory procedures for hiring handicapped persons and AS 39.25.120 exempts the Human Rights Commission position at issue from AS 39.25.150 (3) and (10). Although paragraph (25) is not specifically exempted, it is rendered so by the exemption of the earlier paragraphs.

Additional Consideration:

NANCY (when returns)

State of Alaska

Reply to:

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Juneau, Alaska 99811
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(907) 452-4001

Re: Ombudsman Complaint F81-0406


Neil Thomas
June 2, 1981
Page 2

The complaint raises a serious issue regarding AS 39.25.150(25). The language used in this statute requires steps to be taken in the Personnel Rules that are not reflected in the language of Personnel Rule 5 03.19.

Robert Walton of our Fairbanks office talked with the Director of the Division of Vocational Rehabilitation, the Executive Director of the Human Rights Commission, the Chief of Recruitment and Examining in the Division of Personnel, Department of Administration and a staff member of the Division of Programs for Handicapped Individuals in the Federal Equal Employment Opportunity Commission. He learned that the common practice in Alaska and nationwide is consistent with the Personnel Rule, not the statute. Because of this inconsistency, and the possibility that AS 39.25.150(25) does not accurately reflect the prevailing Vocational Rehabilitation philosophy, we are sending copies of this letter to the appropriate committees and agencies for their information.

Thank you for your patience and cooperation during the course of this investigation.

Sincerely yours,


Frank Flavin
Ombudsman

FF/RW:jhb

cc: Senator Patrick Rodey, Chair
Senate Judiciary Committee

Senator Vic Fischer, Chair
Senate State Affairs Committee

Representative Mike Miller, Chair
House State Affairs Committee

Senator Bill Ray, Chair
Blue Ribbon Commission

Michael C. Morgan, Director
Division of Vocational Rehabilitation

Bruce Cummings, Director
Division of Personnel

AMERICAN ASSOCIATION
ALASKA



OF UNIVERSITY WOMEN
DIVISION

April 1981

To: Members of the Senate State Affairs
From: Susan R. Clark, Legislative Chair, Alaska Division of the
American Association of University Women
1109 C Street, Juneau, Alaska 99801 (586-6952)

Re: Veterans' Preference for State Employment (SB 193, SB 104)

I would like to begin first with an acknowledgement to Sen. Bradley, because I know that his hard work in this area has been done in good faith and out of a sincere concern for the welfare of those men and women who made personal sacrifices for the sake of our country's safety.

I also want to point out that I personally grew up in the military. My father, godfather, and father-in-law were all career officers in the armed services, and my husband and brother were both active in the military during the Vietnam war. I had planned at one time to make the Navy a career. I also want to point out that the new Alaska division president of A.A.U.W. is herself a veteran.

A.A.U.W. feels that we must bring to the attention of the legislature that while the goals of preference are legitimate, and while the current state statute may not have been enacted for the purpose of discriminating against women, the exclusionary impact upon women is so severe as to require the state to further its goals through a more limited form of preference.

Looking at the current law as too broad, please consider who is covered: a person with a minimum of 90 (181 is a change currently being proposed) days active service serving during World War I, World War II, and Vietnam or Korea who has been honorably discharged. According to the Veterans' Preference Act of 1944, such preference was designed to reward veterans for the sacrifice of military service, to ease the transition from military to civilian life, to encourage patriotic service, and to attract loyal and well disciplined people to civil service occupations. In terms of the last reason, it should be pointed out that preference itself has little if any relevance to actual job performance. The first two reasons for preference seem the most pertinent to Alaska - reward for sacrifice and ease of transition into civilian life. Both reasons are valid, but as lifetime preferences, they are subject to the objection that they give the veteran more than a square deal. Certainly, upon returning to civilian status, a veteran should have access to his or her job, and perhaps for 5 years or so after returning, preference could be given as reward and help for veterans, but there should be some sort of limit on the length of time one can reap rewards for what can be a brief and un Hazardous term of service.

Because the extent to which the status of veteran is one that few women have been permitted to achieve, every hiring preference for veterans, however modest or extreme, must admit inherent gender-bias, and therefore legislated preference must be considered with due caution and careful consideration. The 5 points for veterans and 10 points for disabled veterans comes directly from the 1944 Federal Veterans' Preference Act. These points are added to a veteran's score after other written tests are administered. In Alaska where mere hundredths of a single point can separate job applicants, the system is overly weighted, especially when compared with other handicapped, disadvantaged or suspect classes of people.

Conceding that the goal here is to benefit the veteran, there is no reason to absolve the legislature from awareness that the means chosen to achieve this goal reserves a major sector of public employment to an already established class, which, as a matter of historical fact, is already 80% male in categories other than the clerical and para-professional jobs. The current point system and lifetime preference, only compounds and contributes to sex bias in all levels of state employment.

Women have been overtly excluded from the military, and not just by tradition and culture. During WW I for example "a variety of proposals were made to enlist women for work in the Army as doctors, telephone operators, and clerks, but all were rejected by the War Dept." Navy women did achieve military rank and status during this time, and were the first women to do so. While the Army Nurse Corps was the first official military unit for women, they were not granted full military rank until 1944 - forty-three years later. During the Second World War several temporary women's units were formed including WAAC (Women's Army Auxiliary Corps), WAVES (Women Accepted for Voluntary Emergency Service), and WASP (Women Airforce Pilots). These women, however, were in fact civilians and had no regular military status, and thus no veteran status. In fact, although the WASP personnel were filling some of the most hazardous of flying jobs, that of towing targets for air gunnery practice, and testing planes fresh out of repair depots, they were denied commissions based on the fact that "the authority of the act of September 1941, to make temporary appointments as officers in the U.S. Army 'from among qualified persons' refers to and contemplates men exclusively, and may not be regarded as authority for commissioning women as officers...." These women finally won their hard earned veterans' status in September 1976, but other women who had been active in the war have not.

Women's services were finally established on a permanent basis in 1948, however quotas were placed on the numbers that could enlist. Women were not to exceed 2% of the total enlisted strength, their eligibility requirements were more stringent than were those for men, and career opportunities were also limited. In addition women were involuntarily removed from service for pregnancy, parenthood, and even marriage. These strictures have carried on into the '60's and '70's. Not until 1967 was the 2% quota lifted, and the many restrictive policies concerning women's participation in the military were not modified or eliminated until the 1970's. Amazingly, or perhaps not so, once the barriers were down women joined in large numbers.

In just three years from 1973-1975 the percentage of enlisted women in the military had doubled.

There are two ways to ameliorate the effects of the veterans' preference on women and minorities. One is to modify the point system and to place a time limit on preferential access to jobs. The other solution is to look to expanding what is considered by the word veteran, and thereby include in this law others who have served their country every bit as well and as patriotically as have those on "military active duty". Other states include language that recognizes nurses and other women who were discharged and so served in any "corps or unit of the United States established for the purpose of enabling women to serve with, or as auxiliary to, the armed forces of the United States..." Language should also recognize those who underwent severe hardship because of the war. In WW II both the Aleut Americans and the Japanese Americans were uprooted and forced into relocation camps. We have never rewarded their sacrifices with jobs or appeasements of any sort. In expanding the concept of who is a veteran, we need also to look at the men and women who served in civil defense jobs, with the American Red Cross, the Civil air patrol, as war correspondants, and in the merchant marine (who incidentally were in the same waters as navy destroyers and also under attack, but receive no reward in terms of their patriotism, personal sacrifice and danger).

Looking again at the contributions of women to the war effort, we are but slightly aware of the sacrifices and contributions of over 2 million World War II women who took the places of the absent men working in the American war industries: in shipyards, aircraft plants, ammunition plants. The call to "inlist" in the factories was every bit as organized and strong as for men in the armed forces. Concern about dangerous working conditions and long hours took a back seat to America's call to keep up the production to supply the war with weapons, and ammunition. For the short-handed women in the farm communities, the call was to get out the crops to feed the troops. If personal sacrifice, patriotism and danger is a standard for preference, then these women deserve veterans' status every bit as much as the service veterans. One amazing statistic of which you may be unaware is that during the war period "more deaths occurred from industrial accidents than from combat." Where was and is their reward? For their commitment and patriotism, they received not preferred lifetime access to civil service jobs, but firings. No one helped them with their transition back into "civilian" jobs. For many minority women who were even then the major financial support for their families, this transition meant leaving highly skilled, well paying jobs to go back to the dead end drudgery and poverty wages of domestic work.

It is interesting to note that the Federal Veterans' Preference Act of 1944 included in its preference the wives of disabled service personnel and the unmarried widows of deceased ex-service personnel. We tend to look at patriotic service and personal sacrifice as being a military male prerogative, but I feel we need to look hard at the patriotism and sacrifice of the service personnel spouses who held the country and family together as essentially single parents, frequently having to hold down another job to

support their families because the salary range for enlisted personnel in the military is so low that those families qualify for government assistance. Vietnam vets, in addition, currently have the highest divorce rate of any class of Americans. a rate that is generally high among all military personnel. This means, for example, that those women who held families together during the father's service, and who now must have full time employment to support themselves and their children (of whom women still usually have custody), who traditionally are not educated for well-paying jobs, and who have traditionally been denied many levels of employment advancement, now in addition find that the men to whom they gave support are receiving preferential treatment in the jobs the women need to support their families.

As you can see, equitable expansion of the term veteran would be a formidable legislative task, but should be attempted so that families of veterans and those who served alongside veterans can be recognized. As it now stands, the Alaska statute exacts a substantial price from a group of individuals who have long been subject to employment discrimination, and who, because of circumstances totally beyond their control, have had little if any chance of becoming members of the preferred class. Admitting that any hiring preference for veterans does at this time have a severe impact on the public employment opportunities of women, we nevertheless recognize the sacrifice and hardship of military veterans must not be ignored. Through workable modifications in the law, we can strive together to discover solutions that recognize the needs, sacrifices, and contributions of both the military veteran groups and the groups of minorities and women which are so impacted by historical discrimination.

April 6, 1981

- Senator Jalmar Kertulla
Pouch V
Juneau, Ak 99811

Dear Senator:

We recently found that Senate Bill 193 includes a section 8 that repeals and re-enacts A.S. 39.25.110, but deleted "teachers employed by the state to teach in schools operated by the state." This may have been due to an oversight that the teachers of the Alaska Skill Center and the Correspondence Study Teachers are still included in this category. Several individuals (Terry Cameran, Bruce Cummings, Bob Manners and Jerry Hiley) have testified that the exemption from the classified service remain in effect, and we agree. Would you please keep an eye on this and inform us of any action or further hearings on this bill?

Thank you.

Sincerely yours,

Al Lamberson, Sec-Treas.

for

Ben Ikerd, President
Alaska Skill Center Teachers Association

c.c. Booher
Hiley
Bill Ray, Chairman
Blue Ribbon Commission on the State
Personnel Act
Ikerd
Sen. Vic Fisher, Chairman
Senate State Affairs Committee



Ombudsman

Frank Flavin

State of Alaska

Reply to:

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Juneau, Alaska 99811
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Fairbanks, Alaska 99707
(907) 452-4001

MEMO

DATE: May 14, 1981
TO: Senate State Affairs Committee
FROM: Frank Flavin, Ombudsman
RE: Proposed CS for Senate Bill 193

Proposed Amendment:

In section 39.25.140 at page 8, line 3 of the proposed CS insert subsection (d) of Sec. 39.25.140 of the original SB 193 found at page 8 lines 6 through 8. This subsection to become subsection (c) in the proposed CS to read:

(c) If the proposed amendments concern matters of public policy, the personnel board shall adopt them in accordance with the Administrative Procedure Act (AS 44.62).

The present subsection (c) at page 8 line 3 of proposed CS should become subsection (d) and read:

(d) If the proposed amendments relate only to internal management of the state agencies [when the proposed amendments are submitted to the personnel board,] the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration. The notice required by this subsection shall be posted at least 30 days before any decision is made to amend the personnel rules and shall include an address for the receipt of written comments.

Subsections (d), (e), (f) and (g) should be respectively relettered as subsections (e), (f), (g) and (h).

BASIS

As drafted, Sec. 34.25.140 of the proposed CS presumes that amendment of personnel rules is a matter of concern only to state employees and management. In fact, many procedures, such as recruitment, examination, selection methods and eligible lists directly impact members of the general public. It is safe to say there are as many people who would like to be state employees as those who are. We receive many complaints concerning state hiring practices. The Administrative Procedures Act is the established vehicle for insuring participation by members of the general public.



LABOR RELATIONS AGENCY

P O BOX 6701 • ANCHORAGE ALASKA 99502
TELEPHONE 1907 243.6955

JAN 1 1980

C. W. STEVEN HAFLING
CHAIRMAN
RONALD H. HENRY
MORGAN REED

JAMES R. LUCAS
CONSULTANT

DIV. OF PERSONNEL

ORDER AND DECISION NO. 56 LABOR RELATIONS
PERTAINING TO CORRESPONDENCE
TEACHERS

On November 23, 1979, the Correspondence Teachers organized as an association known as the Centralized Correspondence Study Education Association submitted a petition seeking recognition as a bargaining unit. The Agency finds that it has jurisdiction to determine the appropriate bargaining unit determination under the provisions of A.S.23.40.090. Further the Agency concludes that pursuant to Alaska Regulations 2AAC 10.060 where it does not appear that there has been a prima facie showing of the appropriateness of a bargaining unit the petition may be dismissed. A.S.23.40.090 provides:

"The Labor Relations Agency shall decide in each case in order to insure to employees the fullest freedom in exercising the rights guaranteed by §70 - 260 of this Chapter, the unit appropriate for the purposes of collective bargaining based upon such factors as community of interests, wages, hours and other working conditions of the employees involved, the history of collective bargaining and the desires of the employees. The bargaining unit shall be as large as is reasonable and unnecessary fragmenting shall be avoided."

In the present situation, it appears that the correspondence teachers have heretofore not been members of any organized bargaining unit. They are a small group consisting of

thirteen (13) individuals employed by the Department of Education in Juneau, Alaska. These individuals are certified teachers but they are not employees of any school board nor are they under direct supervision of any local school board. Instead they appear to be under the supervision of administrative employees of the Department of Education. These individuals participate in the teacher's retirement system, but in all other respects would appear to have the same working conditions and interest of the other employees of the Department of Education. The Agency finds as a matter of fact, that allowing the correspondence teachers to establish a separate bargaining unit would lead to unnecessary fragmentation in contravention of the policy established in A.S.23.40.090. The Agency further finds that there is substantial community interest between these employees and the employees presently in the General Government Employees Bargaining Unit represented by the Alaska Public Employees Association. The Agency concludes as a matter of law that the employees should be accreted to the General Government Employees Bargaining Unit presently represented by the Alaska Public Employees Association.

ORDER AND DECISION NO. 56

It is the Order of the Alaska Labor Relations Agency:

1. The petition for representation submitted by the Centralized Correspondence Study Education Association is denied because the proposed bargaining unit is not appropriate.

2. The employees in question are ordered to be included in the General Government Employees Bargaining Unit presently represented by the Alaska Public Employees Association.

DATED this 21 day of December, 1979.

SIGNED: C. R. "Steve" Hafling
C. R. "Steve" Hafling, Chairman

SIGNED: Ronald M. Henry
Ronald M. Henry, Member

SIGNED: Morgan Reed
Morgan Reed, Member



State of Alaska

RF

LABOR RELATIONS AGENCY

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STATE OF ALASKA
LABOR RELATIONS AGENCY
ANCHORAGE

DIRECTOR'S OFFICE

ORDER AND DECISION NO. 56A ¹³ 1990

DIV. OF PERLO NEL

The Agency has received a request for reconsideration of ~~Order and Decision No. 56.~~ ^{of ~~---IONS~~} The Agency has reviewed the records, and is of the opinion that the parties may not have been allowed sufficient time to state their positions with regard to the petition. It is therefore the Order of the Agency that:

1. The effect of Order and Decision No. 56 be stayed pending the Agency's action upon the request for reconsideration.
2. The Agency will hear and consider evidence with regard to the matter to the petition from all of the interested parties at its next scheduled hearing. The parties will be notified of the specific hearing date.

DATED this 13 day of February, 1990.

C. R. "Steve" Harling
C. R. "Steve" Harling, Chairman

Ronald M. Henry
Ronald M. Henry, Member

Morgan Reed, Member

CARPENETI & COUNCIL

ATTORNEYS AT LAW
319 SEWARD STREET, SUITE 203
JUNEAU, ALASKA 99801

WILLIAM T. COUNCIL
WALTER L. CARPENETI

JULIENNE E. DRYANT

(907) 586-1786

November 18, 1980

RECEIVED

NOV 18 1980

N.E.A. ALASKA

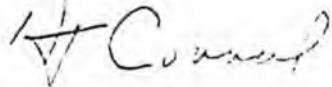
Mr. C. R. Hafling, Chairman
State Labor Relations Agency
P. O. Box 6701
Anchorage, AK 99502

Re: Correspondence Study Teachers

Dear Mr. Hafling:

Enclosed please find an original and three copies of the Correspondence Teachers' Reply Memorandum in Support of Petition for Certification and Determination of Unit Appropriate for Purposes of Collective Bargaining. Copies have been provided to the other appropriate parties.

Sincerely,



William T. Council

WTC/bl

Encl.

cc: William P. Pauzauskie
Patrick E. Murphy
Bruce Ludwig
Robert C. Manners ✓

STATE OF ALASKA
LABOR RELATIONS AGENCY

RECEIVED

NOV 18 1980

N.E.A. ALASKA

In the matter of)
)
The Petition of Centralized)
Correspondence Study Education)
Association for Certification)
and Determination of Appropriate)
Bargaining Unit.)
)
) No. UA 79-2

REPLY MEMORANDUM IN SUPPORT OF PETITION
FOR CERTIFICATION AND DETERMINATION OF UNIT
APPROPRIATE FOR PURPOSES OF COLLECTIVE BARGAINING

1. Appropriate Bargaining Unit Alternatives

Before the hearing in this proceeding held on October 3, 1980, and before the submission of briefs by DLR and APEA, four alternatives had been presented to the Agency in connection with granting the teachers free exercise of their collective bargaining rights, as follows:

No representation

Accretion to Alaska Skill Center
Teachers Association

Inclusion in the General Government
Employees Bargaining Unit, represented
by the Alaska Public Employees Association

Recognition as a separate bargaining
unit represented by the Centralized
Correspondence Study Education Association

At this stage of the proceeding, the issues have been greatly simplified. It is manifest that the parties to this proceeding recognize that only the last two of those

alternatives are legally and factually supportable. No party has argued for the alternative of no representation, since such a result would clearly violate the rights secured by PERA. The Agency recognized the general unacceptability of such a result in Order and Decision No. 36, dated June 19, 1978:

To hold that the unit is too small or too fragmented but at the same time cannot logically be included with any other unit would be to frustrate the intent of the Public Employment Relations Act, which is to guarantee to all state employees . . . the right to join together for the purpose of collective bargaining. (p. 6)

Counsel for the APEA argued strenuously against such a result during the hearing held on October 3, 1980. The DLR disavowed any notion that it favored such a result in its brief:

Past correspondence from this division may have indicated a strong desire for the Correspondence Study teachers to be specifically excluded from the provisions of AS 23.40 or, alternatively, to be accreted to the Alaska Skill Center teachers' bargaining unit. That has not been our intent. (DLR Brief, p. 1)

Similarly, all parties have strenuously opposed accretion to the ASCTA. Mr. Ben Ikerd, president of the ASCTA, testified against such a result during the October 3 hearing. Counsel for the APEA both in his argument during the hearing and in his brief stated very clearly why such a result would not be legally or factually supportable.

Finally, as set out in the above quote from the DLR brief, the state has disavowed any intention of favoring such a result.

The two alternatives remaining are either inclusion in GGU or recognition as a separate bargaining unit. While DLR in its brief strenuously argues against inclusion in GGU, it apparently does not oppose recognition as a separate bargaining unit. In its brief it is stated:

We are, and continue to be, interested only in maintaining the long-standing segregation, for purposes of collective bargaining, of classified employees, exempt employees and partially exempt employees. (Id., p. 1)

Similarly, it is also stated in the DLR brief:

Once again, our sole interest in this case is to preserve the historical distinction between classified, partially exempt and exempt employees. (Id., p. 3)

Since DLR proposes no alternatives other than recognition as a separate bargaining unit, apparently that is the only alternative which in its judgment is legally and factually supportable.

APEA, on the other hand, opposes recognition as a separate bargaining unit and argues strenuously for inclusion in GGU, for which it is the representative for collective bargaining purposes. The basis for its opposition is that a separate bargaining unit would result in unnecessary fragmentation and would be contrary to precedent established by the Agency.

The teachers have maintained throughout these proceedings that either inclusion in GGU or recognition as a separate bargaining unit would be factually and legally supportable, and has requested that the Agency order that an election be held to decide between those two alternatives.

In short, there are only two alternatives which are legally and factually supportable. Either of those two alternatives is acceptable to the teachers, while DLR opposes inclusion in GGU and APEA opposes establishment of a separate bargaining unit. This reply memorandum will accordingly address only DLR's objections to inclusion in GGU and APEA's objections to creation of a separate bargaining unit. No party has raised any serious question concerning the record in this proceeding. It would thus appear that, short of the Agency's requesting further factual presentation or briefing, this matter is ready for decision.

2. Inclusion in GGU is Factually and Legally Supportable

The propriety of inclusion in GGU has been exhaustively discussed in the teachers' opening brief and in the APEA brief. DLR's opposition to this alternative is based solely on their objection to mixing exempt and classified employees in one bargaining unit. The basis for their objection is, in their words, "relatively simple:"

Classified employees are ruled by the State Personnel Act (AS 39.25) and rules promulgated thereunder, while employees in the exempt service are not. (DLR brief, p. 1)

DLR's objection is simply not well-founded. As succinctly discussed in the APEA brief, there is no reason why the

teachers could not be subject to the same terms and conditions of employment addressed in AS 39.25 and incorporated in the agreement between the State of Alaska and the Alaska Public Employees Association covering General Government Unit employees. As counsel for the teachers discussed during the October 3, 1980, hearing, any doubts about this should be laid to rest by the terms of the statute and a single supreme court decision.

AS 23.40.070(2) requires

public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment (emphasis added)

The phrase "terms and conditions of employment" is defined in AS 23.40.250(7) to mean

the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees.

As set out in the APEA brief, PERA supersedes AS 39.25; that is, all "terms and conditions of employment" addressed in AS 39.25 may be the subject of collective bargaining. If there is any doubt about whether the general language of PERA, set out above, includes the terms and conditions of employment provided for in AS 39.25, it should be laid to rest by the court's decision in Kenai Peninsula Borough School District v. Kenai Peninsula Education Association, 572 P.2d 416 (Alaska 1977). In that case, the court concluded that "salaries, fringe benefits, the number of hours worked, and

the amount of leave time are negotiable." (Id., 423) The significance of that decision for this proceeding is that the court's general statement respecting appropriate subjects for collective bargaining is virtually identical to AS 23.40.260(7); what is more important, the court attached as an appendix to that opinion (Id., 424) a list of some thirty-eight items which are appropriate subjects for collective bargaining. That list is exhaustive of the terms and conditions of employment addressed in AS 39.25. In short, should the teachers vote for inclusion within GGU, there is no reason why the subject matter of AS 39.25 cannot be subjects of negotiation in the collective bargaining process.

3. Recognition as a Separate Bargaining Unit is Legally and Factually Supportable

As discussed, the only objection to the teachers' inclusion in GGU is that they are not subject to AS 39.25. It is submitted that the teachers and APEA in their briefs have established beyond any question that DLR's position is not well-founded. DLR does not oppose recognition of the teachers as a separate bargaining unit. APEA, however, does. In so doing, it attempts to perpetuate an improper reading of the statute and this Agency's prior orders and decisions which have throughout this proceeding been posed as an obstacle to the teachers' securing their collective bargaining rights. Dispelling this improper interpretation of the statute and prior orders and decisions is absolutely essential to a correct ruling in this proceeding. AS 23.40.090 provides that the Agency shall, "in order to assure to

employees the fullest freedom" in exercising their collective bargaining rights, determine the unit appropriate for collective bargaining purposes. According to the statute, that determination is to be based on four generally identified factors:

Community of interest

Wages, hours and other working conditions of the employees involved

The history of collective bargaining

The desires of the employees

It is manifest that these four items must always be addressed in determining the appropriate unit. The statute also provides that, in the course of determining the appropriate bargaining unit based on those four factors, the Agency must also avoid unnecessary fragmentation. Counsel for APEA maintains that

the 'unnecessary fragmentation' legislative mandate supersedes, modifies, clarifies and controls the other four factors. Reference to all Agency Orders and Decisions dealing with the subject bear this out. (APEA brief, p. 8)

This is not a correct reading of the statute, and it emphatically is not the way that the Agency has interpreted the statute in its past orders and decisions. As stated in the teachers' opening brief, unnecessary fragmentation is one of five factors, to be balanced against the other four and to be given no more than equal weight. In actuality, the process of determining the appropriate bargaining unit is totally separate from determining whether giving that unit

recognition would result in unnecessary fragmentation. The Agency has interpreted the "unnecessary fragmentation" directive to mean that a bargaining unit must be "exhaustive of the classification or classifications concerned and must be state-wide." Order and Decision No. 25, dated July 26, 1976, p. 5. The teachers do not concede that this is necessarily a correct interpretation of the "unnecessary fragmentation" directive; situations might very well arise in the future experience of the Agency involving groups of employees petitioning for recognition for collective bargaining purposes which do not comprise all similarly situated employees on a state-wide basis. It might very well be that denial of the employee group's petition on the basis that the group seeking representation was not exhaustive of all similarly situated employees on a state-wide basis would result in a denial of the employees' right to the "fullest freedom" in exercising the collective bargaining rights guaranteed by PERA. If the Agency were called upon in a future proceeding to balance the administrative efficiency resulting from recognizing a bargaining unit only if it were exhaustive of all similarly situated employees on a state-wide basis, against guaranteeing the collective bargaining rights of a group which did not meet that requirement, the Agency must, in most cases, necessarily decide in favor of the guarantee of the fullest freedom in exercising collective bargaining rights. To do otherwise would exalt administrative efficiency over very valuable substantive rights guaranteed by the legislature.

Fortunately, that issue is not raised by this proceeding; the group of teachers seeking recognition in this proceeding is exhaustive of all employees similarly situated, on a state-wide basis. The only attempt at rebuttal of this obvious fact is found at page 6 of the APEA brief where it is stated:

The correspondence teachers have emphatically stated that they do not wish association with similarly situated certificated personnel.

The reference is to the teachers represented by ASCTA. That the correspondence teachers and the teachers represented by ASCTA are not "similarly situated" can admit of no serious refutation; see the discussion in the teachers' opening brief at pages 20 through 27 and in appendices 19 and 22 to that brief. If there is any doubt whatsoever about whether the correspondence teachers and the teachers represented by ASCTA are "similarly situated," Order and Decision No. 36, supra, will resolve that doubt. The facts addressed in that decision are strikingly similar, and the reasoning in that decision is dispositive on the question of accretion to ASCTA. Other than arguing for inclusion in GCU, no party to this proceeding has maintained that there is another group of employees in the state with whom the correspondence teachers should be placed for purposes of collective bargaining. The reason for this is self-evident: The group petitioning the Agency in this proceeding for recognition for collective bargaining purposes is exhaustive, on a state-wide basis, of similarly situated employees.

The only possible refutation of this position would be to argue that the teachers and all exempt employees are "similarly situated," and to argue further that the teachers' collective bargaining rights should go unrecognized until a petition is presented to organize all exempt employees in a single unit. But an examination of AS 39.25.110 lays to rest any notion that all exempt employees are "similarly situated." As discussed at length during the October 3, 1980, hearing, the exempt employees will never be organized as a single unit; to wait for such an attempt will result in the permanent denial of the teachers' collective bargaining rights. See the excerpt from Order and Decision No. 36, supra, set out on page 2 of this brief. In short, there are only two alternatives which are legally or factually supportable, and in order to allow the teachers the fullest freedom in exercising their collective bargaining rights guaranteed by PERA, they should be permitted to choose between those two alternatives.

One final point in the APEA brief requires a reply. Counsel for APEA maintains that the teachers must pursue their collective bargaining rights either under 14.20.550 or under PERA. This being the case, so counsel for APEA maintains, the possibility that the teachers have collective bargaining rights under AS 14.20.550 has no relevancy to this proceeding. That is simply not the case; that statute is crucial to a correct determination in this

proceeding for two reasons. First, as set out on pages 19 and 20 of the teachers' opening brief, AS 14.20.550 is an unequivocal indication of the legislature's recognition of the unique status of teachers for collective bargaining purposes. Legislative intent as expressed in that statute clearly rebuts any notion that this group of teachers, due to their small number, should be denied their collective bargaining rights. More importantly, that legislation is relevant, as discussed on pages 6 through 10 of the teachers' opening brief, because the teachers' collective bargaining rights are secured by that statute. As discussed extensively during the October 3, 1980, hearing, this does not mean that the Agency does not have jurisdiction. That statute and PERA must be construed together. In Hafling v. Inlandboatman's Union of the Pacific, 555 P.2d 870 (Alaska 1978), the court held that a previous statute allowing the commissioner of public works to negotiate with ferry system employees was not impliedly repealed by the subsequent enactment of PERA, despite arguable inconsistencies between the two statutes. Instead, the court construed the two statutes together, upholding the ferry system employees' collective bargaining rights under the prior statute, but providing that any negotiations were nevertheless under the jurisdiction of the Agency. The teachers maintain that this is the same situation that pertains here. Alaska Statute 14.20.550 was enacted prior to PERA. While the teachers' right to bargain collectively was secured by a prior enactment, there

is no reason why they should not be amenable to the provisions of PERA. The reasoning of the supreme court in Hafling, supra, is particularly applicable here. In that case, the court observed that, while under the earlier statute successful agreements had been negotiated, there was no assurance that the system would continue to work. The court then stated:

It is preferable then to have any future problems controlled by the same general mechanism that governs collective bargaining agreements by other public employees. (Id., p. 876)

The teachers maintain that the Agency has jurisdiction over any collective bargaining pursuant to AS 14.20.550, and that it should accept that jurisdiction. AS 14.20.550 and PERA should be construed together for the two very important reasons set out by the court in Hafling, supra: First, it provides a uniform mechanism to govern collective bargaining agreements with state employees. Second, it secures a speedy and efficient resolution of any problems that might arise in the course of negotiating or carrying out collective bargaining agreements. The first reason speaks to administrative efficiency, and will benefit the employer. The second reason speaks to protection of the rights of the employees; the record in this proceeding amply demonstrates the need for that protection.

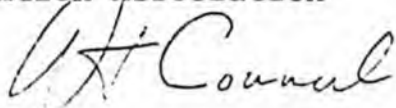
4. Conclusion

For the foregoing reasons, it is respectfully submitted that the Agency order that an election be held among all personnel employed on certified teachers' contracts in the Centralized Correspondence Study School administered by the Alaska Department of Education. Voters should be given the choice of deciding between (1) recognition as a separate bargaining unit, or (2) inclusion in the General Government Employees Bargaining Unit and representation by the Alaska Public Employees Association.

Dated at Juneau, Alaska, this 17th day of November, 1980.

CARPENETI & COUNCIL
Attorneys for Centralized
Correspondence Study
Education Association

By:


William T. Council

STATE OF ALASKA

LABOR RELATIONS AGENCY

In the Matter of)
)
The Petition of Centralized)
Correspondence Study Education)
Association for Certification)
and Determination of Appropriate)
Bargaining Unit.)

No. UA 79-2

PETITION FOR CERTIFICATION OF PUBLIC EMPLOYEE
REPRESENTATIVE AND FOR DETERMINATION OF QUESTION
OF AFFILIATION WITH LABOR ORGANIZATION

1. The petitioners, comprising teachers employed on certified teachers' contracts in the Centralized Correspondence Study Program administered by the Alaska Department of Education (hereinafter referred to as "the teachers") and organized as an association known as the Centralized Correspondence Study Education Association (hereinafter referred to as "CCSEA"), hereby petition the Labor Relations Agency (hereinafter referred to as "the agency") pursuant to 2 AAC 10.010 et seq. and the agency's Order and Decision No. 56B dated December, 19, 1980, to conduct an election on the following two questions:

1.1 First question; representation. Whether or not the teachers wish to engage in collective bargaining with their employer on the terms and conditions of their employment. The choices to be presented to the teachers on that question are:

1.1.1 Whether the teachers wish to engage in collective bargaining with their employer on the terms and conditions of their employment, and accordingly wish to have the agency certify CCSEA as the teachers' public employee representative for collective bargaining purposes; or

1.1.2 Whether the teachers wish not to engage in collective bargaining with their employer on the terms and conditions of their employment.

1.2 Second question; affiliation. Whether or not the teachers wish to have CCSEA, their public employee representative, affiliate with a labor organization to assist in the collective bargaining process. The purpose of a vote on this question is to allow the teachers the opportunity to express by secret ballot their wishes on the question of affiliation. The effectiveness of the vote on this second question is contingent upon the outcome of the election on the first question; in other words, if the teachers on the first question vote against collective bargaining (1.1.2 above), then the results of the election on the second question are irrelevant. The choices to be presented to the teachers on that question are:

1.2.1 Whether the teachers wish to affiliate with the Alaska Public Employees Association for collective bargaining purposes.

1.2.2 Whether the teachers wish to affiliate with the National Education Association for collective bargaining purposes; or

1.2.3 Whether the teachers want no affiliation at all for collective bargaining purposes.

2. In accordance with 2 AAC 10.020, petitioners submit the following information:

2.1 The public employer is the Department of Education, State of Alaska, Sixth Floor, State Office Building, Pouch F, Juneau, Alaska 99811, telephone (907)465-2800. The person to contact on the employer's behalf is William D. Thomson, at the address and telephone number noted in this paragraph.

2.2 As provided in Order and Decision No. 56B, dated December 19, 1980, the unit appropriate for purposes of collective bargaining is comprised of all of the teachers employed on certified teachers' contracts in the Centralized Correspondence Study Program administered by the Alaska Department of Education. All of the teachers work in the Community Building located at 3rd and Main Streets, Pouch GA, Juneau, Alaska 99811, telephone (907)465-2835. The number of employees in the unit is seventeen (17). The teachers have no job classifications or position control numbers.

2.3 The undersigned, comprising in excess of thirty percent of the permanent and probationary employees

in the proposed bargaining unit, want to be represented by CCSEA for collective bargaining purposes, and want the opportunity to vote by secret ballot on the question of CCSEA's affiliation with the above-named labor organizations for collective bargaining purposes.

2.4 Petitioners are teachers employed on certified teachers' contracts in the Centralized Correspondence Study Program administered by the Alaska Department of Education and are organized as an association known as the Centralized Correspondence Study Education Association. CCSEA's address and telephone number are 4950 Steelhead, Juneau, Alaska 99801, telephone (907)789-0111. Neither petitioners nor CCSEA are at present affiliated with any other organization for collective bargaining purposes.

2.5 Copies of a current roster of CCSEA's officers and board members and of CCSEA's constitution and by-laws are attached to this petition as Exhibit A.

2.6 This petition constitutes, pursuant to 2 AAC 10.020(c), the showing of interest of not less than thirty percent of the permanent and probationary employees in the bargaining unit.

2.7 Petitioners request that the agency conduct an election on the question of CCSEA's affiliation for collective bargaining purposes with the above-named labor organizations in order to allow the teachers the

opportunity to express by secret ballot their wishes on the question of affiliation. This request is not to be construed as an acknowledgment by the teachers or the above-named labor organizations that the agency has jurisdiction over the question of affiliation with a labor organization for collective bargaining purposes, nor does the acquiescence by any party to this proceeding in the agency's conducting that election constitute a similar acknowledgment. It is also understood that the agency's consent to conduct the election is not to be construed as an assertion by the agency that it has jurisdiction over questions of affiliation with labor organizations; to the extent that there is any question about the agency's jurisdiction over such questions, then it is understood that no actions by the agency or any party to this proceeding have any relevance to a determination of that question.

3. The undersigned, including the petitioners, CCSEA and the labor organizations, pursuant to 2 AAC 10.120 hereby waive the labor relations hearing provided for in 2 AAC 10.060 and agree to a consent election. The bargaining unit, as approved by the agency in Order and Decision No. 56B, dated December 19, 1980, is comprised of all of the teachers employed on certified teachers' contracts in the Centralized Correspondence Study Program administered by the Alaska Department of Education. The undersigned hereby stipulate

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18-61-81

18-20-81

18-61-81

18-81-81

18-19-81

Jean Ann Alter
Jean Ann Alter, Member Dated: Feb. 19, 1981

Janine Andersen
Janine Andersen, Member Dated: Feb. 19, 1981

Natalie Bradford
Natalie Bradford, Member Dated: 2-23-81

Don Cary
Don Cary, Member Dated: 2-19-81

Guy Condreay
Guy Condreay, Member Dated: 2-19-81

Bob Falle
Bob Falle, Member Dated: 2-19-81

Lee Grogan
Lee Grogan, Member Dated: 2-19-81

Gail Hocker
Gail Hocker, Member Dated: 2-20-81

Barbara Huerth
Barbara Huerth, Member Dated: 2-23-81

Claudia Jones
Claudia Jones, Member Dated: 2-23-81

Duke Ludwig
Duke Ludwig, Member Dated: 2-18-81

Margaret Mackinnon
Margaret Mackinnon, Member Dated: 2-18-81

Phyllis E. Marchese
Phyllis Marchese, Member Dated: 2-23-81

Mary Lou Purvis
Mary Lou Purvis, Member

Dated: 2/20/81

Linda Schultz
Linda Schultz, Member

Dated: 2-19-81

Ann Symons
Ann Symons, Member

Dated: 2-18-81

Judy Woytowich
Judy Woytowich, Member

Dated: 2-19-81

The undersigned hereby stipulate that an election on the issues described in the foregoing petition may be held in accordance with 2 AAC 10.120 and other applicable law and regulation.

ALASKA PUBLIC EMPLOYEES ASSOCIATION

By: John E. Casperson
John E. Casperson

Dated: Feb 26, 1981

NATIONAL EDUCATION ASSOCIATION

By: Robert C. Manners
Robert C. Manners

Dated: 2/20/81

DIVISION OF LABOR RELATIONS

By: [see attached letter]
Robert Stewart

Dated: _____

Finance

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 193 Page 1 of 4
 Title An Act amending the State Personnel Act (AS 39.25)
 Requested by Rules Committee (for the Blue Ribbon Commission) Date 02-20-81

II. FISCAL DETAIL

Agency Affected Administration
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Personnel

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		56.4	62.1	68.3	75.1	82.6
200 TRAVEL		.7	.8	.9	1.0	1.1
300 CONTRACTUAL		6.4	7.0	7.7	8.5	9.4
400 COMMODITIES		6.0	.9	1.0	1.1	1.2
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		69.5	70.8	77.9	85.9	94.3

FUNDING (Thousands of Dollars)

GENERAL FUND		69.5	70.8	77.9	85.9	94.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services: A Regulations Specialist II and a Clerk II will be needed to fulfill the requirements of the Administrative Procedures Act.

Travel was inflated at a rate of 12 per cent. All other factors were inflated at a rate of 10 per cent. FY 82 contains one time furnishing costs in commodities.

The cost of the Hearing Officer and Legal Notices will be sustained by the Personnel Board Budget.

IV. DATE March 12, 1981

PREPARED BY Bruce Cummings
 AGENCY Division of Personnel
 PHONE 465-4430

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Senator Ray
 cc: Keith Specking (Office of the Governor)

Richard B. P. F. Smith

1	POSITION TITLE Regulations Specialist II				RANGE/STEP 16 A	BARG. UNIT. K	LOCATION Juneau	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12	PAGE/LINE	LEG		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION: To properly implement Senate Bill 193, as it has been presented, will require the services of a Regulation Specialist II. The Regulation Specialist II will assist the Director of Personnel in the proper preparation and drafting of new or revised regulations under the Admin. Proc. Act.				
	1	2	3							
4	PERSONAL SERVICES:									
	SALARY	2,291 per mo.	27,492							
5	BENEFITS	15.79 %	4,341							
6	FICA	6.13 %	1,685							
7	HEALTH INS.	150 per mo.	1,800							
8	TOTAL PERSONAL SERVICES		01	35,318						
9	TRAVEL		02	700						
10	CONTRACTUAL		03	3,200						
11	COMMODITIES		04	3,000						
12	EQUIPMENT		05							
13	OTHER									
14	TOTAL COST		complete	42,218						
	CODE	FUNDING SOURCE								
15		FED RCPTS. 1002								
16		GF MATCH. 1003								
17		GEN. FUND 1004		42,218						
18		I-A RCPTS. 1005								
19		PGM RCPTS 1006								
20		OTHER								
21	CONTINUATION									
22	ADDITION	FOR B&M USE ONLY								
4A KEY NUMBER _____ COLUMN NO. _____										

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

Page 2 of 4

REVISED DATE _____

13 REQUEST FOR NEW POSITION.

FY 82

1	POSITION TITLE Clerk II			RANGE/STEP 7 A	BARG. UNIT. K	LOCATION Juneau	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG		
3	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
4	PERSONAL SERVICES:								
	SALARY	1,319 per mo.	15,828						
6	BENEFITS	15.79 %	2,500						
6	FICA	6.13 %	970						
7	HEALTH INS.	150 per mo.	1,800						
8	TOTAL PERSONAL SERVICES		01	21,098					
9	TRAVEL			02					
10	CONTRACTUAL			03	3,200				
11	COMMODITIES			04	3,000				
12	EQUIPMENT			05					
13	OTHER								
14	TOTAL COST			27,298					
15	CODE	FUNDING SOURCE							
16		FED RCPTS. 1002							
17		GF MATCH. 1003							
18		GEN. FUND 1001			27,298				
19		I-A RCPTS. 1005							
20		PGM RCPTS 1009							
21	CONTINUATION								
22	ADDITION			FOR B&M USE ONLY					
4A KEY NUMBER _____ COLUMN NO. _____									

JUSTIFICATION:

To properly implement Senate Bill 193, as it has been presented, will require the services of a Clerk I. The Clerk I will assist the Regulation Specialist II in the proper distribution of the proposals and in the technical requirements.

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

Page 3 of 4

REVISED DATE _____

13 REQUEST FOR NEW POSITION.

FY 82

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 193 Page 4 of 4
 Title An Act amending the State Personnel Act
 Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Labor Relations Agency (Personnel Board)
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		17.0	18.7	20.6	22.6	24.9
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		17.0	18.7	20.6	22.6	24.9

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		17.0	18.7	20.6	22.6	24.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Above costs assume costs of \$75/hour for a hearing Officer and a total of 120 hours; \$500/month for contracted secretarial services and 2.0 publications costs. Inflation beyond FY 82 is calculated at 10%.

IV. DATE 03-06-81 PREPARED BY Judy Crondahl
 AGENCY Administration
 PHONE 465-2277

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 Senator Ray
 33-001 (Rev. 12/80)
 Keith Specking

TO: Senator Vic Fischer
Chairman
Senate State Affairs Committee

DATE : April 6, 1981

FROM: Robert J. Simon
Chairman
Commercial Fisheries Entry
Commission

SUBJECT: SB 193 (Personnel Act
Amendments)

A member of the Commercial Fisheries Entry Commission (CFEC) has listened to a tape recording of the testimony of Cherie Shelley (APEA) regarding the exempt status of CFEC staff. Her testimony was a bit ambiguous regarding the appearance last year of CFEC before the Blue Ribbon Commission on the State Personnel Act.

At the time the Entry Commission was asked to make a presentation to the Blue Ribbon Commission, we offered evidence regarding the legal status of the Entry Commission and the results of a secret ballot which the staff completed regarding their classification preferences. Briefly, the Commission is a quasi-judicial, regulatory commission created outside of the executive. It is not "subject" to the executive, and is therefore appropriately placed in the exempt service under guidelines developed by the Blue Ribbon Commission.

The results of the secret ballot were also disclosed to the Blue Ribbon Commission. No staff member of the CFEC voted in favor of being changed to classified service. Four staff voted for partially exempt service. The remainder voted to stay as exempt. A tape recording was provided the Blue Ribbon Commission of the discussion which occurred between the staff and the commission directors prior to that vote. That tape could be obtained from them if you should wish to review the instructions which were provided the staff.

We are providing you with this memorandum to clarify any misconception which may have resulted from Ms. Shelley's testimony. Should you desire the commission to present formal testimony on this matter, we would be happy to do so. Our testimony would be in favor of the Commercial Fisheries Entry Commission's officers and employees being in the exempt service in accordance with Sec. 39.25.110(11)(A) as proposed in SB 193.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA COMMISSION ON THE STATUS OF WOMEN
338 DENALI STREET, SUITE 850
ANCHORAGE, ALASKA 99501

STATEMENT ON DISCRIMINATION IN STATE EMPLOYMENT

Presented to Blue Ribbon Commission on the
State Personnel Act by
Barbara Schuhmann, Chair
Alaska Commission on the Status of Women
November 19, 1981

Chairman Ray and members of the Blue Ribbon Commission, my name is Barbara Schuhmann and as Chair of the Alaska Commission on the Status of Women I am pleased to be able to address you today on a topic which is of great importance to the well-being of Alaska's women and minorities. The Commission on the Status of Women wanted to undertake an overall review of the state's personnel system, following testimony we received that criticized the system itself as discriminating against women. Our lack of money and time prevented us from undertaking such a study. In addition, the Commission felt that if such a review were undertaken, it could not be limited to questions of sex discrimination, but should include questions as to other bases of unconstitutional discrimination as well.

So, my purpose in coming here today is to thank you for holding these hearings, and to ask that you undertake the review that the Commission would have done if it had the time and resources.

The most recent comprehensive study of the distribution of women and minorities in state government was that done by the Alaska Advisory Committee to the United States Commission on Civil Rights in July, 1980. Among the

findings of that study are that:

- state employment "tends to be mostly white and male;"
- the state offers no child care facilities to encourage women to work for the state;
- when women are hired they are "for the most part relegated to the lowest paying jobs in clerical, secretarial and technical fields;"
- the hiring procedures in some departments are "both consciously and unconsciously discriminatory;"
- the state has not adequately communicated hiring and promotional opportunities.

While there has been some progress made since the release of that report the statistics which it included have not changed significantly.

Persons claiming discrimination on the basis of race or sex against private employers often prove their cases by the use of statistics. If a statistical case were built against the state of Alaska, the state would have a very hard time showing it has not discriminated in hiring and promotion on the basis of race and sex.

According to the report published by the Civil Rights Commission, in 1977 only 8% of those people in the top state salary ranges (22-28) were women, while at the same time women occupied over 35% of those at the lowest end of the salary scale (ranges 05-09). In five state departments not a single woman occupied a position in these top salary ranges.

While women in general were faring so poorly the situation for

Page Three
Statement on Discrimination in State Employment
November 19, 1981

minority women was even worse. In all of the administrative departments of the state government, only one, solitary minority woman could be found who occupied a position in the top salary ranges (22-28).

A more recent survey of the state's affirmative action effort was released by the Division of Equal Employment Opportunity this year, and it does not offer much encouragement. Minority women represent less than 6% of the state's workforce and only 1% of the state's officials and administrators. Women in general fare somewhat better than minority women. Women comprise 42% of the state's workforce but that figure alone may not represent any real growth. Over 90% of the clerical positions in state government are filled by women, according to the Division of Equal Employment Opportunity, while at the same time only 17% of the official and administrators are female.

I think these figures support what we believe to be the case -- that despite the fact that we have a preponderance of highly educated, capable, and experienced females in the Alaskan population, many of these same women experience a tremendous amount of difficulty in breaking into the state personnel system or rising in it once they have entered. You are here today to receive testimony from women and minorities as to the difficulties that they have experienced, and any solutions which they can offer. The Commission which I represent has held public hearings throughout the state at which women have cited many instances where the state personnel system was obstructive to them in their attempts to find suitable employment. I want to share some of their observations with you because the state, as one of the largest single employers in Alaska, can

have a very significant impact on the lives of many by correcting the weaknesses in its personnel system.

In testimony to us women have cited repeated instances where the inflexibility of the personnel system prevented qualified women from obtaining suitable employment or achieving upward mobility. Women in professional positions have had difficulty advancing to supervisory positions and receiving equal compensation for equal work. In some instances they have performed comparable work as male counterparts but have not received equal compensation or have had to take extreme measures to obtain it. It would appear from the testimony we have heard that most women in the lower paid clerical positions (where nearly half of the women employed by the state are located) are afforded practically no incentive to learn new skills or take on additional responsibility; little, if any, on-the-job training for career advancement; and no career ladders or clearly defined steps which, if followed, would help them move toward promotion and advancement. The personnel system needs the flexibility to reward employees for shouldering additional responsibilities. Bonuses based on performance and career ladders that enable staff to advance systematically are essential management tools. Without these incentives the employees will no doubt restrict themselves to performing only those duties which are part of the job description. We need a personnel system which encourages all workers to grow and develop and rewards them for doing so. This is not only fair and equitable - it is good business sense. The somewhat perfunctory merit increase which discriminates quite significantly against those employees found in the

lower ranges of the state salary system, does not qualify as a monetary incentive for excellence such as what I am referring to here.

We experienced frustration with the inflexibility of the personnel system when we attempted to hire staff for our own Commission. We wanted to hire people with very diverse skills so that in a small office they could each do a wide variety of tasks. The classifications of the state personnel system were too rigid to allow for our needs and I'm sure our experience was not unique. This inflexibility costs the state in more ways than one because too often the solution to the problems caused by the inflexibility of the personnel system is to create more exempt positions than already exist. Exempt positions are outside of the very EEO (Equal Employment Opportunity) directives which the Commission strongly supports, and they are frequently overpriced.

I mentioned that merit increases also discriminate against those in the lower salary ranges and I would like to clarify that point. In positions from range 05 to 09, an employee would receive between a 2.6% and a 3% merit increase when moving from step A to B. On the other hand, in positions that are range 15 or above the first step increase is never below 3.5%. Not only are many women trapped in dead end jobs at the lower ranges of the salary scale but they suffer the double hardship of receiving a smaller percentage merit increase as well.

On a more positive note, we believe that there are several efforts presently underway which bear great potential for correcting some of the systemic problems in the personnel procedures which have had adverse impact on women and minorities. First, the practice of expanded certification or the "5 + 5" system is a valuable management tool for obtaining

the opportunity to interview the five most qualified women and minorities to achieve better representation in all levels of the workforce. When the House Committee on Education and Labor reported on the (successful) efforts to extend Title VII to cover government as an employer in 1972, they observed the following:

"Civil Service requirements (are) replete with artificial selection and promotion requirements which place a premium on paper credentials which frequently prove of questionable value as a means of predicting actual job performance."

What the expanded certification process enables a manager to do is to go beyond those paper credentials which may or may not be predictive of job performance; and to go beyond those tests which may be culturally biased; to go to the actual candidates who meet the basic requirements for the job to determine if their interest, motivation and commitment suggest them as the most qualified for the needs of that office -- including the need for better representation of protected classes.

Female state employees have testified to us that the main problem with this tool is that it is optional and many managers simply never request the additional names. We would hope to see a system developed which better encouraged managers to use this tool on a regular basis until their utilization goals were reached.

We also support the law passed several years ago which enables state employees to share jobs. Women frequently interrupt their careers to assume the duties of homemaking and are placed at a disadvantage when it comes to full time employment. They often experience greater need for such options as job sharing, flextime and part time work. Our

concern in these areas is that too many employees are unaware of the existence of these options, or have great difficulty pursuing them. All such programs, including any internships or tuition reimbursement plans should be well publicized in all state offices and information should be readily available. It should not require long distance telephone calls to distant voices in the central offices in Juneau to find out about these programs, as is often the case today.

In addition to expanded certification, the concepts reflected in two bills which were introduced last session have our Commission's support. HB 906 was introduced for your Commission by the Rules Committee and it addresses an issue which we have also addressed in a slightly different context. It is sometimes reasonable to extend preference for non-merit reasons under certain conditions and one of the conditions which has received such preference is that of veterans' scoring. Because of the original purpose of veterans' preference, which included reward for sacrifice and ease of transition into civilian life it is certainly more reasonable to grant this preference only upon return from active duty and for a period of time not to exceed three years, rather than for a lifetime, as is presently the case. Passage of such a bill limiting the duration of any veterans' preference will have a significant impact on what has been a major source of systemic discrimination against women in the state personnel system.

Finally, the Committee Substitute for Senate Bill 248 deserves attention during the next session. The Division of Equal Employment Opportunity now has the responsibility for carrying out the State's

policy equal opportunity, for monitoring the activities of all departments and ensuring that compliance occurs. As I understand it this bill (CSSB 248) would define those responsibilities in state law. We believe it is essential to have a fully functioning, adequately staffed Division of Equal Employment Opportunity and would urge your favorable consideration of this bill as well as a fiscal note sufficient to appoint an Equal Employment Officer for each department within the Executive branch.

In summary I would like to say that the testimony we have heard and the reports we have studied make it clear that:

- state employment, particularly at the higher levels of responsibility and salary, is primarily white and male;
- women are for the most part relegated to the lowest paying jobs in clerical and technical fields;
- no systematic process of recruitment and promotion exists which would enable women to recognize and use opportunities for promotion;
- hiring procedures such as the expanded certification process are helpful, but must be used on a regular rather than a hit-or-miss basis if they are to prove effective.

In addition we believe that the subjects of sexual harassment, comparable worth and discriminatory hiring practices should be thoroughly studied to determine the impact they have on women's employment opportunities and conditions.

Finally, we would urge that as much information as is necessary for comparison and analysis be included in all reports. For example, the

Page Nine
Statement on Discrimination in State Employment
November 19, 1981

recent affirmative action report published by the Division of Equal Employment Opportunity does not contain any salary figures and these are essential data for conducting a thorough and comprehensive review.

We appreciate this opportunity to address you and look forward to your work on resolving some of the aspects of discrimination in state employment.

1 IN THE SENATE

BY BRADLEY

2 SENATE BILL NO. 104

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to veteran's preference in state
7 employment."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 39.25.150(23) is repealed and reenacted to read:

10 (23) the granting of employment preference rights to a veteran
11 in accordance with AS 39.25.185.

12 * Sec. 2. AS 39.25 is amended by adding a new section to read:

13 Sec. 39.25.185. VETERAN'S PREFERENCE. (a) a veteran who applies
14 for employment in the state service, not within the area of promotion,
15 and who possesses the qualifications in the job classification for
16 which he applies shall have

17 (1) five extra points added to his passing score on a merit
18 system examination;

19 (2) ten extra points added to his passing score on a merit
20 system examination if he is a disabled veteran;

21 (3) notification of his position on an eligible list within
22 72 hours of his request for notification;

23 (4) at least 30 days to respond to an inquiry concerning his
24 continued availability for employment before his name is removed from
25 an eligible list;

26 (5) immediate notification of an offer of employment; and at
27 least 72 hours to accept an offer of employment before another person
28 is appointed.

29 (b) If a veteran is not hired for a position for which he is

*Bruce
Cummings*

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1 eligible, he may request and receive a statement of reasons explaining
2 why he was not hired.

3 (c) If a position in the classified service is eliminated and
4 employees must be released, a non-veteran shall be released before a
5 veteran if job qualifications are equal. *and all other things pertinent to positions*

6 (d) If job qualifications are equal, a veteran shall be promoted
7 from one position in the classified service to another before a non-
8 veteran. *If* and if examination results are used in determining qualifica-
9 tion for promotion, the additional points allowed under (a)(1) and (2)
10 of this section remain in effect during the promotion process. *?*

11 (e) In this section

12 (1) "veteran" means a person with ¹⁸¹90 days or more active
13 service in the armed forces of the United States who has been honorably
14 discharged;

15 (2) "disabled veteran" means a ^{person.} veteran who is rated by the
16 United States Veterans' Administration as having at least a ten percent
17 service-connected disability.

AMENDMENT

Page 2, Line 6: After the word "qualifications," insert "and all other things pertinent to position status"

Page 2, Line 8 through 10: After the word "veteran", delete remainder of the sentence and insert the following sentence: "If a veteran or disabled veteran desires to waive his additional preference points for an entry position into the classified service, he may, at his discretion, use those points at a later time for another position within the same job classification exclusive of an area of promotion."

(A)

Page 2, Line 12: Delete "90" and insert "181"

Terry Cramer
Bruce Cummings
Vic - see pgs. 11 & 12, 14, 15, 16
Nan

Introduced: 2/20/81
Referred: State Affairs and
Judiciary

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL (for
the ~~Blue Ribbon Commission~~ on the
State Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 193

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the State Personnel Act (AS 39.25);
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division
11 of personnel is the director of personnel appointed by the commissioner
12 of administration and responsible to the commissioner of administration
13 for the execution of the duties and responsibilities imposed by this
14 chapter and the rules adopted under this chapter. The director of
15 personnel shall [MUST] have at least three years of practical working
16 experience in the field of personnel administration.

17 * Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not
20 more than two members of the board may be members of the same political
21 party.

22 * Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 * Sec. 4. AS 39.25.070(3) is amended to read:

1 (3) hear and determine appeals by employees [IN THE CLASSI-
2 FIED SERVICE] as provided in AS 39.25.170;

3 * Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

4 (7) employ staff members, who shall be in the classified
5 service.

6 * Sec. 6. AS 39.25.080 is repealed and reenacted to read:

7 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,
8 including employment applications and examination materials, are confi-
9 dential and are not open to public inspection except as provided in
10 this section.

11 (b) The following information is available for public inspection,
12 subject to reasonable regulations on the time and manner of inspection:

13 (1) the names and position titles of all state employees;

14 (2) the position held by a state employee;

15 (3) prior positions held by a state employee;

16 (4) whether a state employee is in the classified, partially
17 exempt, or exempt service;

18 (5) the dates of appointment and separation of a state em-
19 ployee; and

20 (6) the compensation authorized for a state employee.

21 (c) A state employee has the right to examine his own personnel
22 files and may authorize others to examine his files.

23 (d) An applicant for state employment who appeals an examination
24 score may review written examination questions relating to the examina-
25 tion unless the questions are to be used in future examinations.

26 * Sec. 7. AS 39.25.090 is amended to read:

27 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules
28 adopted under it apply to all positions in (1) the classified service,
29 and (2) the exempt and partially exempt service as specifically pro-

1 vided.

2 * Sec. 8. AS 39.25.110 is repealed and reenacted to read:

3 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by
4 law, the following positions in the state service constitute the exempt
5 service and are exempt from the provisions of this chapter and the
6 rules adopted under it:

7 (1) persons elected to public office by popular vote or
8 appointed to fill vacancies in elected offices;

9 (2) justices of the supreme court, judges of the court of
10 appeals, judges of the superior court, and judges and magistrates of
11 other state courts established by law;

12 (3) employees of the state court system, and employees and
13 members of the Judicial Council;

14 (4) employees of the state legislature and its agencies;

15 (5) the head of each principal department in the executive
16 branch;

17 (6) officers and employees of the University of Alaska;

18 (7) certificated teachers and noncertificated employees
19 employed by a regional educational attendance area established and
20 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
21 operate schools under the control of a regional educational attendance
22 area school board;

23 (8) patients and inmates employed in state institutions;

24 (9) persons employed in a professional capacity to make a
25 temporary or special inquiry, study or examination as authorized by the
26 governor, the legislature, or a legislative committee;

27 (10) members of boards, commissions, or authorities;

28 (11) the officers and employees of the following boards,
29 commissions and authorities;

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(A) ~~Alaska Commercial Fisheries Entry Commission;~~

(B) Alaska Gas Pipeline Financing Authority;

(C) Alaska Permanent Fund Corporation;

(D) Alaska Energy Center;

(E) Alaska Industrial Development Authority;

(12) the executive officer of the Alaska Commission on Post-secondary Education;

(13) the ombudsman and his staff;

(14) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(15) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

(16) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources except for those employed in the division of geological and geophysical surveys;

(17) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(18) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040.

* Sec. 9. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

1 (b) A person holding a position in the partially exempt service
2 is not required to take an examination or qualify or earn a place on a
3 register, and is not eligible for a hearing by the personnel board in
4 case of dismissal, demotion, or suspension, except as provided in
5 AS 39.25.170. Positions in the partially exempt service are specifi-
6 cally exempt from the rules established under AS 39.25.150(3) - (10),
7 (13), (14), and (17).

8 (c) The following positions in the state service constitute the
9 partially exempt service:

10 (1) deputy and assistant commissioners of the principal
11 departments of the executive branch, including the assistant adjutant
12 general of the Department of Military Affairs;

13 (2) the directors of the major divisions of the principal
14 departments of the executive branch and the regional directors of the
15 Department of Transportation and Public Facilities;

16 (3) attorney members of the staff of the Department of Law
17 and of the public defender agency;

18 (4) one private secretary for each head of a principal de-
19 partment in the executive branch;

20 (5) employees of the Office of the Governor and the office
21 of the lieutenant governor, including the staff of the governor's
22 mansion;

23 (6) the executive director and deputy director of the Alaska
24 Public Utilities Commission;

25 (7) the state forester in the Department of Natural Resour-
26 ces;

27 (8) the director, deputy director, staff legal counsel, and
28 hearing officers of the Alaska Transportation Commission;

29 (9) not more than two special assistants to the commissioner

1 of each of the principal departments of the executive branch, but the
2 number may be increased if the partially exempt service is extended
3 under AS 39.25.130 to include the additional special assistants;

4 (10) the principal executive officer of the following boards,
5 councils, or commissions:

6 (A) Alaska Public Broadcasting Commission;

7 (B) Professional Teaching Practices Commission;

8 (C) Parole Board;

9 (D) Board of Nursing;

10 (E) Real Estate Commission;

11 (F) Alaska Royalty Oil and Gas Development Advisory

12 Board;

13 (G) Alaska Historical Commission;

14 (H) Alaska State Council on the Arts;

15 (I) Alaska Police Standards Council;

16 (J) Council on Science and Technology;

17 (11) Alaska Pioneers' Home managers;

18 (12) hearing examiners in the Department of Revenue;

19 (13) the comptroller in the division of treasury, Department
20 of Revenue;

21 (14) investment officers in the Department of Revenue;

22 (15) the chief of subsistence in the Department of Fish and
23 Game;

24 (16) airport managers in the Department of Transportation and
25 Public Facilities employed at the Anchorage and Fairbanks International
26 Airports;

27 (17) the deputy director of the division of tourism and the
28 deputy director of the division of insurance in the Department of Com-
29 merce and Economic Development;

1 (18) the executive director and staff of the Alaska Public
2 Offices Commission;

3 (19) the director, deputy director, personnel analysts II,
4 labor relations analysts I, labor relations analysts II, senior negoti-
5 ators, and research directors of the division of labor relations in the
6 Department of Administration.

7 * Sec. 10. AS 39.25.130(a) is amended to read:

8 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
9 recommendation of the commissioner of administration, may extend the
10 partially exempt service to include any position [WHICH WAS] in the
11 classified service [ON APRIL 19, 1960,] which, in the judgment of the
12 board:

13 (1) involves principal responsibility for the determination
14 of policy;

15 (2) involves principal responsibility for the way in which
16 policies are carried out; or

17 (3) involves responsibilities and duties of a type not sus-
18 ceptible to the ordinary recruiting and examining procedures.

19 * Sec. 11. AS 39.25.130(c) is amended to read:

20 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
21 recommendation of the commissioner of administration, may extend the
22 classified service to include any position [WHICH WAS] in the partially
23 exempt service [ON APRIL 19, 1960].

24 * Sec. 12. AS 39.25.140 is repealed and reenacted to read:

25 Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director
26 of personnel shall prepare and submit proposed amendments of the person-
27 nel rules to the commissioner of administration for review and approval.

28 (b) The commissioner of administration shall review the proposed
29 amendments and if he approves them, he shall submit them to the person-

→ Dept. Terms - not pub policy SB 193

Internal Management Directives

1 nel board.

2 (c) When the proposed amendments are submitted to the personnel
3 board, the commissioner of administration shall post notice in public
4 buildings throughout the state that the personnel board has the pro-
5 posed amendments under consideration.

6 (d) If the proposed amendments concern matters of public policy,
7 the personnel board shall adopt them in accordance with the Administra-
8 tive Procedure Act (AS 44.62).

9 (e) If the proposed amendments relate only to the internal
10 management of the state agencies

11 (1) notice of the proposed amendments shall be posted for at
12 least 30 days;

13 (2) if requested by the commissioner of administration or by
14 a person receiving notice of the proposed amendments, the personnel
15 board may hold public hearings on the proposed amendments and may
16 appoint a hearing officer to conduct the hearings;

17 (3) the personnel board may amend the proposed amendments;

18 (4) the proposed amendments become effective 45 days after
19 they are submitted to the personnel board unless the board has dis-
20 approved them;

21 (5) the amended rules shall be published in the Alaska
22 Administrative Register and Code for informational purposes.

23 (f) In this section "matters of public policy" include, but are
24 not limited to, matters concerning

25 (1) recruitment;

26 (2) examinations;

27 (3) selection methods;

28 (4) prohibitions and penalties;

29 (5) public records;

*negot.
contract
provision*

- 1 (6) eligible lists;
- 2 (7) hours of work;
- 3 (8) merit increases; and
- 4 (9) hearings and appeals relating to matters listed in (1) -
- 5 (8) of this subsection.

6 * Sec. 13. AS 39.25.150 is repealed and reenacted to read:

7 Sec. 39.25.150. ~~SCOPE OF THE RULES.~~ The personnel rules shall
8 provide for

9 (1) the preparation, maintenance, and revision by the direc-
10 tor of personnel, subject to approval of the commissioner of adminis-
11 tration and the personnel board, of a position classification plan for
12 all positions in the classified and partially exempt services; the
13 position classification plan shall include

14 (A) a grouping together of all positions into classes
15 on the basis of duties and responsibilities;

16 (B) an appropriate title, a description of the duties
17 and responsibilities, training and experience qualifications, and
18 other necessary position specifications for each class of posi-
19 tions;

20 (2) the preparation, maintenance, revision and administra-
21 tion by the director of personnel of a pay plan for all positions in
22 the classified and partially exempt services; the pay plan (A) shall be
23 based upon the position classification plan; (B) shall provide for fair
24 and reasonable compensation for services rendered, and reflect the
25 principle of like pay for like work; (C) may be amended, approved, or
26 disapproved by the legislature in regular or special session; after the
27 pay plan is in effect, a salary or wage payment may not be made to a
28 state employee covered by the plan unless the payment is in accordance
29 with this chapter and the rules adopted under this chapter or unless

1 the payment is in accordance with a valid agreement entered into in
2 accordance with AS 23.40;

3 (3) the use of employee selection methods which will fairly
4 test the capacity and fitness of the person examined to efficiently
5 discharge the duties of the class in which employment is sought;

6 (4) the establishment and maintenance of eligible lists for
7 appointment and promotion providing the names of eligible candidates in
8 order of their relative performance in the examinations;

9 (5) the procedure for certifying eligible candidates;

10 (6) promotions from within the state service when there are
11 qualified candidates in the state service; vacancies shall be filled by
12 promotion whenever practicable and in the best interest of the state
13 service and promotion shall be by competitive examination whenever
14 possible; in considering promotions, applicants' qualifications, per-
15 formance record, seniority, and conduct shall be evaluated;

16 (7) a period of probation not to exceed one year before an
17 appointment to a position becomes permanent, except that a permanent
18 employee receiving a promotional appointment retains permanent status
19 in the service and job class from which appointed for the duration of
20 the probationary period and may be demoted to a former class without
21 right of appeal, notwithstanding AS 39.25.170, but if the employee is
22 dismissed from the service the appeal rights under AS 39.25.170 apply;

23 (8) nonpermanent and emergency appointments to positions in
24 the state service in accordance with AS 39.25.195 - 39.25.200;

25 (9) provisional appointment without competitive examination
26 when appropriate eligible lists are not available;

27 (10) transfers from one department to another and from an-
28 other merit system jurisdiction to the state service;

29 (11) transfers from one area of the state to another;

1 (12) the payment of transportation costs when an employee
2 transfers from one area to another at the request of the employer;

3 (13) the reinstatement of a person who resigns in good stand-
4 ing;

5 (14) layoffs for reason of lack of money or work, abolition
6 of positions, or material changes in duties or organization; both
7 performance and seniority records shall be considered in the develop-
8 ment of layoff orders;

9 (15) the development, maintenance, and use of employee perfor-
10 mance records;

11 (16) the establishment of disciplinary measures which may
12 include disciplinary suspension without pay;

13 (17) the procedures for review of disputed personnel actions,
14 for resolving employee and interagency grievances, and for resolving
15 grievances of the general public concerning the operation of the state
16 personnel system;

17 (18) hours of work for all employees in the state service;

18 (19) methods and procedures covering overtime work and pay;

19 (20) the granting of employment preference rights to a veteran
20 at each time application is made for employment not within the area
21 of promotion, when the veteran possesses the necessary qualifications
22 in the job classification applied for under this chapter; in the exami-
23 nation to determine the qualification of applicants for entrance into
24 the classified service under merit system examination, five additional
25 points shall be added to the passing grade of a veteran and ten addi-
26 tional points shall be added to the passing grade of a disabled veter-
27 an; if a position in the classified service is eliminated, employees
28 shall be released in accordance with rules which give due effect to all
29 factors; if all job qualifications are equal, the veteran shall be

next pg

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1 given preference over the nonveteran and the veteran shall be kept on
2 the job; in this paragraph

3 (A) "veteran" means a person with 90 days or more
4 active service in the armed forces of the United States who has
5 been honorably discharged after having served during any period
6 between April 6, 1917, and December 1, 1919, between September 16,
7 1940, and December 31, 1947, or between June 27, 1950, and Novem-
8 ber 7, 1975;

9 (B) "disabled veteran" means a veteran who is rated by
10 the United States Veterans' Administration as having at least a 10
11 percent service-connected disability;

12 (21) the employment of persons in permanent positions on a
13 part-time basis of 15 hours or more a week, including the employment of
14 two persons to fill one permanent full-time position; these employees
15 shall be designated as permanent part-time employees;

16 (22) the granting of employment preference to severely handi-
17 capped persons; this includes the right to provisional appointment
18 without competitive examination for periods up to four months and the
19 granting of eligibility to a severely handicapped person provisionally
20 appointed under the rules who demonstrates ability to perform the job
21 for permanent appointment without competitive examination; provisional
22 employment under this paragraph may not exceed four months during a
23 12-month period; "severely handicapped" as used in this paragraph means
24 persons certified by the director of the division of vocational reha-
25 bilitation to be severely handicapped;

26 (23) the establishment of programs facilitating the employ-
27 ment of disadvantaged persons, including limitation of competition for
28 appointment and promotion to individuals who meet the program require-
29 ments;

1 (24) the delegation, when feasible, of personnel responsibil-
2 ities and duties to the principal departments of the executive branch;

3 (25) other rules and administrative regulations, not incon-
4 sistent with this chapter, which are necessary for its enforcement.

5 * Sec. 14. AS 39.25.153 is repealed and reenacted to read:

6 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
7 ment of the executive branch has a personnel officer, the personnel
8 officer shall be employed by and located within that department.

9 (b) Subject to the provisions of (d) of this section, the per-
10 sonnel officers for the Departments of Transportation and Public
11 Facilities, Fish and Game, Education, Labor, and Health and Social
12 Services, have the following powers with respect to the classes of
13 positions unique to their departments:

14 (1) to assign positions to an existing class in the state
15 classification plan and to the salary range for that class as estab-
16 lished by the state pay plan or by a valid agreement entered into in
17 accordance with AS 23.40;

18 (2) to administer and score examinations and to place suc-
19 cessful applicants on the eligible lists;

20 (3) to certify those eligible to the appointing authorities.

21 (c) The initial determination of classes of positions unique to
22 the departments listed in (b) of this section shall be made by the
23 personnel officer of the department in consultation with the commis-
24 sioner of his department subject to the approval of the director of
25 personnel in the Department of Administration.

26 (d) The assumption of a power set out in (b) of this section must
27 be approved by the commissioner of administration and must be in harmony
28 with the merit principle of personnel administration (AS 39.25.010).

29 * Sec. 15. AS 39.25.160 is repealed and reenacted to read:

1 Sec. 39.25.160. GENERALLY. (a) A classified employee or an
2 exempt employee in a position named in AS 39.25.110(3) may not take an
3 active part in the management of a political party above the precinct
4 level.

5 (b) A person may not give, render, pay, offer, solicit, or accept
6 money, services, or other valuable thing in connection with securing or
7 making an appointment, promotion, or advantage in a position in the
8 classified service.

9 (c) A person may not require an assessment, subscription, contri-
10 bution, or service for a political party from a state employee.

11 (d) A person may not seek or attempt to use a political party
12 endorsement in connection with an appointment or promotion in the
13 classified service.

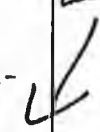
14 (e) An employee in the classified or partially exempt service who
15 seeks nomination or becomes a candidate for state or national elective
16 political office shall immediately resign any position held in the
17 state service.

18 (f) Action affecting the employment status of a state employee or
19 an applicant for a position in state service, including appointment,
20 promotion, demotion, suspension, or removal, may not be taken or with-
21 held on the basis of unlawful discrimination due to race, sex, color,
22 religion, national origin, age, ~~or~~ handicap, *marital status, changes in*
marital status, pregnancy

23 (g) Action affecting the employment status of an employee ~~in~~ the
24 classified service or an applicant for a position in the classified
25 service, including appointment, promotion, demotion, suspension, or
26 removal, may not be taken or withheld on the basis of unlawful discrim-
27 ination due to political beliefs.

28 (h) A person may not knowingly make a false statement, certifi-
29 cate, mark, rating, or report with regard to a test, certification, or

add



marital status, changes in marital status, pregnancy parenthood and other non-merit reason

in human rights statutes

1 appointment made under this chapter or in any manner commit a fraud
2 preventing the impartial execution of this chapter and the personnel
3 rules adopted under this chapter.

4 (i) A person may not obstruct the right of another person to
5 examination, eligibility, certification, appointment, or promotion
6 under this chapter.

7 * Sec. 16. AS 39.25.170 is repealed and reenacted to read:

8 Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR
9 SUSPENSION. (a) An employee may be dismissed, demoted, or suspended
10 by delivery of written notice of the proposed action and the reason for
11 it from the appointing authority to the employee.

12 (b) A permanent employee in the classified service who has been
13 dismissed, demoted, or suspended may appeal the action to the personnel
14 board.

15 (c) An employee who has been dismissed, demoted, or suspended due
16 to unlawful discrimination based on race, sex, color, religion, national
17 origin, age, ~~or~~ ^{marital status, changes in marital status,} handicap, may appeal the action to the personnel board.

18 (d) An employee in the classified service who has been dismissed,
19 demoted, or suspended due to unlawful discrimination based on political
20 beliefs may appeal the action to the personnel board.

21 (e) A permanent employee in the classified service who holds
22 probationary status in his present position may appeal a dismissal from
23 the classified service to the personnel board.

24 (f) An employee who is on leave without pay from a position in
25 the classified service and who is employed by the state in another
26 capacity, either in the exempt or partially exempt service, may appeal
27 a dismissal from the classified service to the personnel board.

28 (g) An employee begins an appeal by filing a written request for
29 review of the action with the personnel board within 15 days of receiv-

pregnancy, parenthood or any other non-merit reason.

1 ing written notice of the action from the appointing authority.

2 (h) If requested by the employee at the time of filing an appeal,
3 the personnel board shall hold a hearing to determine the reasonable-
4 ness of the the action taken by the appointing authority. If the
5 employee requests it, the hearing shall be open to the public. The
6 employee may be represented by another person and has the right to
7 present evidence. Technical rules of evidence do not apply to the
8 hearing.

9 (i) If the personnel board finds that the action complained of
10 was due to unlawful discrimination based on race, sex, color, religion,
11 national origin, political beliefs, age, handicap, *marital status, changes in marital* or in violation of
12 the provisions of this chapter or the personnel rules, the employee
13 shall be reinstated to the position without loss of pay or leave bene-
14 fit for the period of dismissal, demotion, or suspension. In all other
15 cases, the board shall report its findings and recommendations to both
16 parties.

17 * Sec. 17. AS 39.25 is amended by adding a new section to read:

18 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
19 the request of a party to a proceeding begun under AS 39.25.170.

20 (b) If a person refuses to respond to a subpoena issued under
21 this section, or refuses to testify at a hearing authorized by AS 39.-
22 25.170, the personnel board may apply to the superior court for an
23 order requiring the person to respond to the subpoena or to testify.

24 (c) Failure to obey the order of the superior court requiring
25 response to a subpoena or testimony at a hearing may be punished as
26 contempt of court.

27 * Sec. 18. AS 39.25 is amended by adding a new section to read:

28 Sec. 39.25.181. DEFINITIONS. In this chapter,

29 (1) "fraud" means for a person to knowingly

*status, pregnancy, parent hood
or any other non-merit reason.*

1 (A) create or confirm another's false impression which
2 the person does not believe to be true, including false impres-
3 sions as to law or value and false impressions as to intention or
4 other state of mind;

5 (B) fail to correct another's false impression which
6 the person previously has created or confirmed;

7 (C) prevent another from acquiring pertinent informa-
8 tion;

9 (2) "knowingly" means for a person to be aware with respect
10 to conduct or to a circumstance described by a provision of law that
11 his conduct is of that nature or that the circumstance exists; when
12 knowledge of the existence of a particular fact is required, that know-
13 ledge is established if a person is aware of a substantial probability
14 of its existence, unless he actually believes it does not exist;

15 (3) "precinct" means the territory within which resident
16 voters may cast votes at one polling place;

17 (4) "state employee" means a person employed by the state
18 who is paid a wage or salary, but does not include a person hired by
19 the state to work as an independent contractor.

20 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
21 read:

22 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

23 (1) be a member of a national, state, or local political
24 party;

25 (2) take part in a political campaign;

26 (3) express political opinions;

27 (4) register party preference;

28 (5) serve as a voting or nonvoting delegate to a party con-
29 vention;

1 (6) be appointed, nominated, or elected to nonpartisan
2 public office in a local government unit; and

3 (7) make contributions to a political party or a candidate
4 for public office.

5 * Sec. 20. AS 39.25.180 is repealed.

6 * Sec. 21. This Act takes effect July 1, 1981.

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PERSONNEL

Fischer
File SB193

RULES



JUNE 1980

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

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Rule 1

Definitions

Unless the context requires otherwise, the definitions in this Rule govern the construction of these Rules.

"Act" means Title 39, Chapter 25, State Personnel Act, of the Alaska Statutes, as amended.

"Agency" includes "department," "council," "office," and every other government organizational unit of the State of Alaska.

"Alaskan" means a person whose domicile is within the State of Alaska.

"Allocation of Position" means the action taken to place a position in an appropriate class of positions and officially assigning to that position the class title of the appropriate class.

"Appointing Authority" means the authority to appoint to positions in the State service as set out in AS 39.25.020 and includes any official to whom appointing authority has been delegated in conformity with the Act.

"Certification" means the act of submitting available names on the eligible list to an appointing authority for the purpose of making an appointment.

"Certified" means 1) signed by the head of a department or agency or by a responsible person designated by him/her, or 2) issued a certification in accordance with Rule 5 03.0.

"Class" or "Class of Positions" means one or more positions sufficiently similar as to duties and responsibilities, degree of supervision exercised or required, and as to entrance requirements that the same descriptive title may be used to designate them. The same requirements as to education, experience, knowledge and ability may be demanded of applicants, the same tests of fitness may be used to choose qualified persons, and the same schedule of pay made to apply with equity to all positions in the class.

"Class Specification" is a written statement of duties and responsibilities which are characteristic of a class of positions and includes the education, experience, knowledge and ability required to perform the work of the class of positions.

"Classification Plan" means the orderly arrangement into classes of all positions in the classified and partially exempt services.

"Commissioner" means the Commissioner of Administration.

"Complete certification" means three or more eligibles available for appointment.

"Current Rate of Pay" means the salary received by an employee for his scheduled hours of work.

"Demotion" means the change of an employee from a position in one class to a position in another class with a lower salary range.

"Departmental Promotional List" means an eligible list of those employees in a given department who have permanent status and who are on the eligible list for a class of positions at a higher salary level than the positions which the employees currently hold.

"Director" means the Director of Personnel in the Department of Administration.

"Disabled Veteran" means a person who meets the definition of a "Veteran" in these Rules who, in addition, is rated by the United States Veterans' Administration as having at least ten percent service connected disability.

"Dismissal" means separation of an employee from the State service for reasons other than resignation, retirement, or layoff.

"Domicile" means the true and permanent home of a person, from which he has no present intention of removing and to which he intends to return whenever he is away.

"Eligible" means any person who has qualified under these Rules for appointment to positions in a specified class.

"Emergency Employee" means an employee appointed for a period not to exceed 30 calendar days whose appointment was made under conditions requiring immediate action to carry on work required in the public interest.

"Employee" means any person in the State service who is paid a salary or wage and who is wholly or partially subject to the Act as amended and these Rules.

"Examination" means a test or combination of tests held by the Director to determine the relative fitness of applicants for positions in the classified service. These may consist of a written test, oral interview, evaluation of training and experience, performance test, aptitude test, or such other measures of fitness as deemed appropriate by the Director.

"Exempt Service" means those positions in the State service specifically exempted by Section 39.25.110 of the Alaska Statutes. These Rules do not apply to the exempt service.

"Immediate Family" means father, mother, husband, wife, sons, daughters, brothers, and sisters.

"Interdepartmental Promotional List" means an eligible list of those employees of the State who have permanent status and who are on the eligible list for a class of positions at a higher salary level than the positions which the employees currently hold.

"Layoff" means an involuntary separation of an employee in the State service because a position has been abolished, because of insufficient funds, or because of lack of work.

"Maintenance Allowance" means lodging, meals, or other basic necessities representing cash value to the employee and additional cost to the State.

"Nonpermanent Employee" means a person who is employed in a position which is not in the exempt or partially exempt service, who is not a permanent or an emergency employee and whose employment is time-limited.

"Nonpermanent Position" means a work assignment of less than 120 days or one established for a specific program or project.

"Partially Exempt Service" means those positions in the State service listed or provided for in AS 39.25.120 and AS 39.25.130. These Rules apply to the partially exempt service only as provided by law.

"Pay Plan" means a schedule of salaries established pursuant to the Act as amended and these Rules, covering all classes of positions in the classified and partially exempt services.

"Permanent Employee" means an employee who has satisfactorily completed his probationary period in accordance with these rules during current classified service with the State.

"Personnel Evaluation Report" means the appraisal in writing of an employee's work performance on forms prescribed by the Director.

"Position" means an office or employment in the State service composed of specific duties and requiring the full-time or part-time services of one person or the part-time services of one or two persons.

"Position Control Number" is the number assigned by the Director to identify a classified and budgeted position.

"Probationary Employee" means an employee who is serving an initial probationary period in the classified service.

"Probationary Period" is a working test period following an appointment and preceding permanent employment in a class.

"Program or Project Employee" means a nonpermanent employee, including a student intern, who is employed in State service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing function of a department or agency, and which has an established probable date of termination.

"Promotion" means the change of an employee from a position in one class to a position in another class with a higher salary range.

"Reallocation" means the action taken to place an existing position in a new class due to changes in the requirements for the position or amendment of the Classification Plan.

"Resignation" means the termination of employment at the request of the employee.

"Seasonal Position" means a permanent position established to meet recurring seasonal needs of less than twelve months duration during any calendar year where it is anticipated that the same employee will return when needed.

"Second Degree of Kindred" means father, mother, son, daughter, brother, sister, husband, wife, grandfather, grandmother, grandson, granddaughter, uncle and aunt including those involving half or step relationships.

"State" means the State of Alaska.

"Substitute Appointment" means an appointment made to a position which is to be vacant for longer than six months because of an authorized leave of absence where the incumbent has reinstatement rights.

"Suspension" means an enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.

"Termination" means the release from employment of a nonpermanent or emergency employee upon completion of the term of service or the need for services.

"Transfer" is the lateral movement of an employee from one position to another position in the same job class or to a parallel job class at the same pay range without any break in service.

"Veteran" means any person who has received an honorable discharge, an honorable separation or a certificate of satisfactory service from the Armed Forces of the United States of America and who has 90 days or more of active duty during one of the following periods:

between April 6, 1917 and December 1, 1919

or

between September 16, 1940 and December 31, 1947

or

between June 27, 1950 and a date to be determined by the legislature which shall be on or about six months after the termination of hostilities involving forces of the United States in Viet Nam.

Rule 2

CLASSIFICATION

2 01.0 General

The Director shall prepare and maintain a position classification plan which provides for a grouping into classes of all positions in the classified service and the partially exempt service on the basis of duties, responsibilities, and qualifications required.

2 02.0 Class Specifications

The Director shall provide and maintain written specifications for each class of positions which shall include an appropriate title, a description of the duties and responsibilities, training and experience qualifications and other necessary specifications. Class specifications shall be considered as descriptive guidelines and shall not be considered as inclusive of all duties to be found in positions allocated to a particular class. To the extent possible, specifications shall be kept up to date so that positions existing at any time will be covered by current published class specifications.

2 02.1 The statement of minimum qualifications expresses the minimum background in terms of education, experience, and other qualifications which would be required of any new appointee to a position in the class as partial evidence of his ability to perform the work properly, and is not to be construed as imposing in itself any new or additional requirements upon incumbents of positions allocated to the class.

2 02.2 Personal suitability qualifications commonly required of any employee occupying a position in any class such as good citizenship, loyalty, honesty, sobriety, industry, amenability to supervision, and willingness to cooperate with associates shall be qualifications required for each class, even though such traits may not be specifically mentioned in the specifications.

2 03.0 Use of Class Titles

The title of a class shall be the official title of every position allocated to that class for all purposes having to do with the position, and shall be used on all payrolls, budget estimates, and official records and reports relating to the position, but any abbreviations or code symbol approved by the Director may be used in lieu of the title to designate the class of a position in any such connection, and any other title desired by the appointing authority may be used to designate any position for purposes of internal administration and in any other connection not involving the personnel processes covered by the Act or these Rules.

2 04.0 Allocation of Positions

2 04.1 The Director shall, with the advice and assistance of the appointing authorities, allocate all existing and new positions in the classified service and the partially exempt service to the classes which he finds to be appropriate by comparison with class specifications and consideration of other factors affecting classification, such as the organizational location of the position and the relationships of the position to other positions.

2 04.2 Each appointing authority shall report to the Director the establishment of new positions and material changes in the duties and responsibilities of existing positions in the classified and partially exempt services. Each such report shall set forth the duties, responsibilities, and authority of the position, its place in the organization, and such other information as may be required by the Director and such classification recommendations as the appointing authority may deem appropriate.

2 04.3 Each appointing authority shall supply to the Director organizational charts supplemented by functional statements clearly identifying the position for which classification action is requested.

2 04.4 The principal executive officer of each department may, with the approval of the Governor, establish divisions or other administrative or organizational units within the department in the interests of economy and efficiency and in accord with sound administrative practices and principles. All requests for creation of divisions or other units shall be submitted to the Commissioner of Administration for review and submission for action by the Governor (AS 44.17.020). Such approval will be obtained prior to requesting classification or other personnel action.

2 04.5 Positions must be budgeted before classification action is completed. Departments must certify that funds are available or will be as of a given date before a position control number will be issued by the Director. The Director, Division of Budget and Management will be the authority as to existence of funds in departmental budgets with regard to new positions.

2 05.0 Review of Allocations

The Director shall provide for a systematic and periodic review of positions in the classified and partially exempt services for the purpose of adjusting the allocations of positions when the duties and responsibilities may have materially changed, or when current classifications are found by him, upon review, to be in error.

2 06.0 Effective Dates of Allocation Action

The effective date of any allocation action taken by the Director shall normally be the sixteenth of the month following the date on which he took the action unless he specifies another.

2 06.1 Any personnel actions required to be taken as a result of allocation actions shall be taken not later than 30 days or the beginning of the second pay period following the effective date of the allocation action.

2 06.2 The preceding effective date provisions shall apply to allocation review decisions as well as other allocation actions.

2 07.0 Establishment of Positions

2 07.1 No person can be appointed, promoted, transferred or demoted except to an established, classified position.

2 07.2 The duties and responsibilities of each position, after it has been established and classified, shall be recorded in the form of any official position description, copies of which shall be kept on file in the Department of Administration and in the office of the agency in which the position is located.

Rule 3

RECRUITMENT AND EXAMINATION

3 01.0 Recruitment

Written public notice of all examinations for positions in the classified service shall be given by the person or board responsible for the examination and every reasonable effort shall be made to attract qualified persons to compete in the examinations. Copies of announcements shall be posted in public places, and may be sent to public officials, educational institutions, professional and vocational societies, newspapers, and such other individuals, organizations and media consistent with obtaining qualified applicants.

3 01.1 Continuous Examinations

Where it has been determined to be necessary in order to maintain eligible lists adequate for the filling of positions or nonpermanent positions, examinations may be announced on a continuous basis without a designated closing date for the receipt of applications. Such continuous examinations shall be periodically publicized.

3 01.2 Specific Examinations

3 01.21 For any examinations for which a specific closing date for the receipt of applications is designated, public notice shall be given at least 15 days in advance in accordance with procedures established by the Director.

3 01.22 An employee of record who holds permanent status in a position which has been reallocated to a higher class shall be admitted to examination for the higher class if (1) he meets the minimum qualifications for the class and (2) he has not already acquired a place on the eligible list for the class, Rule 3 02.2 notwithstanding.

3 01.3 Promotional Examinations

When it is determined by the Director to be in the best interests of the State service, and where adequate competition exists among permanent employees qualified for promotion, an examination may be announced on a promotional basis. When a promotional examination is announced, applications will be accepted only from employees of the State who have permanent status.

3 02.0 Application for Examination

3 02.1 Forms

Applications for examinations shall be made on forms prescribed by the Director and shall constitute an integral part of every examination. On these forms the Director may require information as to education, training and experience of the applicant and such other information as he may deem pertinent. The Director may require any applicant for any examination to submit documented proof of the possession of any license, certificate, degree or other qualification claimed or required and may refuse credit for such qualification in the absence of proof. No applicant for examination may be accepted after the close of any announced filing period.

3 02.2 Admission to Examination

Any person who submits application on or before any established deadline for filing and whose application clearly indicates that he meets the requirements for admission to the examination in which he wishes to compete, as set forth in the public announcement, shall be admitted to compete in the examination. Where doubt exists as to whether an applicant meets the requirements for admission to the examination, the Director may authorize conditional admission to the examination, but such action shall not be construed as entitling the applicant to become eligible for certification or appointment until the circumstances leading to the conditional acceptance are clarified to the Director's satisfaction. Each applicant whose application has been accepted for any examination shall be notified of the date, time and place of the examination and such notice shall be his authorization to compete in the examination. No persons shall be permitted to compete in any examination without such an authorization or other satisfactory evidence of acceptance or conditional acceptance of his application.

3 02.3 Disqualification of Applicants

The Director may refuse to examine an applicant, or after examination refuse to place his name on an eligible list or may remove his name from an eligible list or may refuse to certify any person on an eligible list who:

3 02.31 has failed to submit his application correctly or within the prescribed time limit;

3 02.32 is found to lack any of the preliminary requirements established for admission to the examination;

3 02.33 is so disabled as to be rendered unfit for the performance of the duties required;

3 02.34 is addicted to the use of narcotics or the excessive use of intoxicating liquors;

3 02.35 has been convicted of any infamous crime or a crime involving moral turpitude;

3 02.36 has made a false statement of material fact in his application;

3 02.37 has been dismissed from public service for delinquency, misconduct, unsatisfactory performance of duties, or other similar cause;

3 02.38 has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;

3 02.39 has directly or indirectly obtained information regarding examinations to which as an applicant he is not entitled.

3 03.0 Character of Examinations

All examinations for job classes in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to discharge efficiently the duties of the position or nonpermanent positions sought by them. Any means or measures may be used which are reasonably well calculated to test the fitness of candidates to become employees in positions or nonpermanent positions of the class for which the examination is held. Such means or measures may include any required statement or any investigation of education, experience, or record of accomplishment; any test of knowledge, skill, capacity, intelligence, or aptitude; and any inquiry into the character, or any other quality or attribute which, in the judgment of the Director, seems desirable. No test or question in any application or examination shall be construed to require the disclosure of any information concerning any political, religious, fraternal, or racial affiliations, preferences, or opinions.

3 04.0 Conduct of Examinations

Examinations shall be conducted in such locations in the State and elsewhere as are convenient for applicants and practicable for administration. They shall be conducted either by or under the control of the Director and all examiners and monitors used in the conduct of examinations shall be provided with such instructions as may be required for fair and impartial administration.

3 05.0 Rating of Examinations

3 05.1 Appropriate scientific techniques and procedures shall be used in rating the results of examinations and determining the relative rankings of the competitors. In all examinations

the minimum ratings by which eligibility may be achieved shall be set by the Director. The final examination grade may be based on all factors of the examination including educational requirements, experience and other qualifying elements as shown in the competitor's application or other verified information. The final earned rating of each competitor shall be determined by averaging the earned ratings on each part of the examination in accordance with the weights established for each part prior to the date of examination. All competitors may be required to obtain at least a passing grade in each part of the examination in order to receive a final passing grade or to be rated on the remaining parts of the examination.

3 05.2 In addition to other factors, the performance record and seniority of an employee in the classified service who has satisfactorily completed an initial probationary period shall be evaluated.

3 05.3 The Director may designate an examining procedure which rates applicants as qualified or not qualified for specialized professional job classes which require licensure and the condition of the eligible list or the history of selection indicates a lack of competition.

3 06.0 Notification of Examination Results

3 06.1 Each person competing in an examination shall be given written notice of his final rating. Upon request and proper identification an eligible shall be given information concerning his relative position, if any, on an eligible list, but such information shall otherwise be kept confidential.

3 06.2 The examination papers and records of ratings of competitors shall be held as official records of the Director's office during the life of the eligible list for which they competed.

3 06.3 Within 30 calendar days following receipt of written notice of his final rating, a competitor, upon request, shall be given the opportunity during regular office hours to examine in the presence of authorized personnel any tests that were used in determining his final rating. Reports regarding character, previous employment, ratings by individual oral board members, background investigations, and similar information obtained by the Director as a result of confidential inquiries, shall be kept confidential.

3 06.4 Any written test used for a continuous recruitment class under Rule 3 01.1 shall not in any case be open for inspection by a competitor until after the test is no longer used for competitive testing. A competitor may obtain information concerning the types of items failed, may have the answer sheet rescored, or make any other reasonable request concerning the means or methods used in determining his grade

that does not involve releasing the specific test items currently in use for competitive examinations being held under continuous recruitment.

3 07.0 Preference in State Employment for Veterans

3 07.1 Application for veterans' preference points shall be made in the manner prescribed by the Director. Documentary proof of service may be required.

3 07.2 To establish disabled veterans' preference, the requirements of Rule 3 07.1 must be fulfilled and, in addition, a letter from the United States Veterans' Administration must be presented, dated within the past six months immediately prior to the date that the candidate is placed on the eligible register, stating that the veteran has currently at least a ten percent wartime service connected disability.

3 07.3 For the purpose of entry into the classified service through the open competitive list and when the required application for and proof of veteran status has been duly established there will be added to the final earned examination rating (Rule 3 05.1) five points for a veteran and ten points for a disabled veteran.

3 08.0 Reexaminations

3 08.1 A candidate who has failed the written portion of an examination may, after the expiration of three months following the date of said examination, be scheduled for retesting, provided the class is open for recruitment at the time of reapplication.

3 08.2 A candidate who has failed the performance portion of an examination may be scheduled to retake the performance portion of the examination, provided said class is open for recruitment.

3 08.3 A candidate who wishes to retake an examination in an effort to raise a passing score may do so after a minimum of three months, provided the class is open for recruitment. The reexamination shall include all portions of the examination and the reexamination scores shall replace the previous scores.

3 08.4 When a candidate becomes actually sick during the course of an examination the Director may, after investigation of the facts, modify the three month reexamination period.

3 09.0 Special Boards of Examiners

For the purpose of examining applicants for specialized scientific, professional, or technical positions, the Director may establish special boards of examiners. Such boards shall conduct competitive examinations as designated and according to guidelines and instruc-

tions provided by the Director. The latter shall continually review the activities of these boards to insure compliance with pertinent laws, rules, and instructions. The eligibles obtained from the special boards shall be certified to vacancies under Rule 4.

Rule 4

ELIGIBLE LISTS

4 01.0 Establishment

The Director shall establish and maintain eligible lists necessary to carry out the purpose of the Personnel Law and Rules.

4 01.1 Each list shall be by job classification and shall consist of the names of all persons who have passed the required competitive examination, ranked in order of final earned rating based upon the competitive examination plus any credited rating based upon satisfactory performance in the classified service, and any credited veterans' preference, provided Alaskans shall be listed in rank order above non-Alaskans.

4 01.2 Credit shall be given to each permanent employee in the classified service who is competing for an appointment, in accordance with a rating scale established and made public by the Director.

4 01.3 If a vacancy exists in a job classification for which there is no appropriate eligible list, the Director may prepare an appropriate list for the class from one or more existing related lists.

4 01.4 The name of any permanent or probationary employee who has been involuntarily separated from the classified service while in good standing because of shortage of work or funds, changes in organization, or other reasons not involving his own conduct or performance, shall be placed on the appropriate lay-off list by agency and position and position classification.

4 01.5 Any permanent or probationary employee who separated in good standing may upon written request, have his/her name placed as a rehire on the eligible list for the job class from which he/she separated. Such a request must be made within two years of the date of separation. Upon advance approval of the Director, the name of the individual may be placed as a rehire on the eligible list for a lower class in the same series or in a parallel class series. If the class no longer exists or if major changes have been made in minimum qualifications, the name may be placed on the list of the most closely related class for which qualified.

4 01.6 Any permanent or probationary employee who has submitted the proper forms through his supervisor and obtained approval may have his name placed on the appropriate eligible list as a transfer.

4 02.0 Application of Lists

Each list shall be statewide in application for all agencies except where these Rules or action of the Director specifically call for establishment of lists by geographical area, agency, or organizational unit. Except as otherwise provided in Rule 5, all vacancies in the classified service shall be filled by certification and appointment from competitive eligible lists.

4 03.0 Duration

The Director shall determine the period during which eligible lists shall remain in effect, but this period shall not exceed two years. When the Director deems it necessary, a new eligible list may be combined with an existing list. The maximum length of time for which the name of any individual shall remain on an eligible list without reexamination shall be two years from the date of original entry on the eligible list.

4 04.0 Removal of Names

In addition to the reasons stated in Rule 3 02.3 and Rule 13, the Director may remove names from eligible lists permanently or temporarily for any of the following reasons:

4 04.1 Appointment through certification from such list to fill a permanent position.

4 04.2 Appointment to fill a permanent position through certification from another list or from a list for another class at the same or higher salary. Any person whose name is so removed may have his/her name restored for the duration of such lists other than the one from which appointment was made by making written application for such action to the Director.

4 04.3 Failure to respond to a written inquiry of the Director or appointing authority relative to availability for appointment within the time limits specified below.

4 04.31 Fourteen calendar days when the applicant resides outside Alaska.

4 04.32 Ten calendar days when the applicant resides within Alaska.

4 04.33 Deleted April 15, 1980.

4 04.4 Failure to respond within five working days to a telegraphed inquiry from the Director or appointing authority relative to availability for appointment.

4 04.5 Declination of appointment for any reasons with regard to conditions which the eligible previously indicated he/she would accept.

4 04.6 Failure to report for duty within the time prescribed by the appointing authority.

4 04.7 Expiration of the term of eligibility on the eligible list.

4 04.8 Failure to promptly advise the Director in writing of his/her current mailing address or any change of address and phone number. For this purpose the return of a letter by the postal authorities, if properly addressed to the last address on record, shall be deemed sufficient grounds for such removal of the name from the eligible list.

4 04.9 Unsatisfactory reference which has resulted in rejection by one or more appointing authorities.

4 04.10 Rejection by two or more departments under Rule 5 03.14.

4 04.11 Appointment through certification to fill a nonpermanent position. Persons whose names are removed for this reason will remain on eligible lists for permanent positions.

4 05.0 Statement of Availability

Whenever an eligible submits a statement restricting the conditions under which he/she will be available for employment, his/her name shall be withheld from all certifications which do not meet the conditions he/she has specified. An eligible may file a new statement at any time during the duration of an eligible list modifying any prior statement as to conditions under which he/she will be available for employment, except that if such statement results in the withdrawal of his/her name from a certification outstanding at the time of receipt of the statement, it may be deemed a declination of appointment. For the purposes of this rule the Director may accept telephone information as having the same effect as a written statement provided the Director confirms the telephone information by letter, clearly stating the conditions under which the eligible will be certified on the basis of such information.

4 06.0 Reinstatement of Names

The name of any candidate placed on the inactive eligible list may be returned to the active eligible list at any time during the life of the list and during his maximum period of eligibility upon the written request of the candidate, provided that the removal was not made under the provisions of Rule 3 02.3, Rule 13, or permanently removed under Rule 4 04.0.

4 07.0 Public Notice

No eligible list shall be established until there has been written public notice of at least 15 calendar days.

Rule 5

CERTIFICATION AND APPOINTMENT

5 01.0 Requests for Employees5 01.1 Classified Service

Whenever an appointing authority wishes to fill a vacated or a new position or nonpermanent position in the classified service, a requisition for an employee shall be submitted to the Director on the prescribed form. Insofar as practicable, each vacancy shall be anticipated sufficiently in advance to permit the Director to determine who may be available and eligible for appointment, or, if necessary, to establish a list of eligibles.

5 01.2 Exempt or Partially Exempt Services

The Director, upon request, may make the names of candidates from eligible lists available to appointing authorities for the purpose of making appointments to positions in the exempt or partially exempt services. If such appointments are offered, the appointees should be advised in writing by the appointing authority that the positions are not covered in the classified service.

5 02.0 Methods of Filling Vacancies

Upon receipt of a request to fill a vacant position or nonpermanent position, the Director shall certify the names from the appropriate eligible list or authorize some other kind of appointment as provided in these Rules. No appointment other than an emergency appointment (Rule 5 07.0) shall be made without such certification or prior authorization. If the position to be filled is a permanent one, the Director shall certify from the agency layoff list. If no such layoff list exists, he/she shall certify from the competitive eligible list he/she deems appropriate, taking into consideration any request made by the appointing authority.

5 02.1 Appointment shall be made on the basis of merit by selection from the highest available eligibles on the certification in accordance with the duties of the position being filled.

5 02.2 When selection is made from the open competitive list, such selection shall be from among the top five available eligibles. If two or more eligibles have identical scores and one such eligible must be reached to consider five eligibles, all such eligibles shall be considered among the top five.

5 02.3 When a certification request has been limited to the departmental or interdepartmental promotional list, selection shall be from among the top five available eligibles.

5 02.4 For those positions or nonpermanent positions not subject to Federal Standards for a Merit System of Personnel Administration: Appointments will be made on the basis of merit by selection from the highest available eligibles on the certification in accordance with the duties of the position being filled. Appointment will normally be made from among the top five eligibles, provided, however, that whenever practicable and in the best interest of the State service vacancies shall be filled by promotion.

In addition, an eligible ranked lower than fifth on the list may be appointed when unique or unusual circumstances are recorded by the appointing authority and a copy submitted to the Director with the appointment documents. Full responsibility for justification of an appointment of such an eligible lies with the appointing authority.

5 02.5 For those positions or nonpermanent positions subject to Federal Standards for a Merit System of Personnel Administration: When there exist unique or unusual circumstances such that all eligibles for a class would not be expected to be able to perform the duties of a particular position, the appointing authority may request from the Director approval to select from the certification on the basis of unique and unusual circumstances. Such requests must be approved prior to the issuance of the certification. When approval is given to select on the basis of unique or unusual circumstances, the appointing authority shall record his evaluation of the selected eligible and each eligible standing higher on the eligible list than the individual selected in regards to the unique or unusual circumstances. Selection shall be made from among the top five available eligibles who would be able to perform the duties of the position.

In considering a request to select on the basis of unique or unusual circumstances the Director shall consider the position description, the class specification of the job class, and other factors relating to the principles of selection on the basis of merit from among the highest available eligibles.

5 03.0 Certification of Eligibles

5 03.1 Certification shall be as follows:

5 03.11 If an agency has established organizational units for layoff purposes under Rule 11 04.31, the one highest on the layoff list for that organizational unit will be certified for one vacancy. If no organizational unit layoff list exists or if such eligibles decline appointment or are not available, the one name highest

on the agency layoff list for the position shall be certified for one vacancy.

5 03.12 If no agency layoff list exists, or if such eligibles decline appointment, or are not available and the reason for seeking certification is because the position has been reallocated to another job class, the incumbent of the position shall be deemed certified to the position as of the effective date of the reallocation action. When these conditions do not exist, the names from the applicable competitive list shall be certified.

5 03.13 The names of any persons on the layoff list of other agencies for the same job class shall be certified along with the competitive eligibles referred to in Rule 5 03.12. Consideration shall be given to the employees on the layoff list. Selection may be made from either the competitive eligible list or the layoff list at the election of the appointing authority concerned.

5 03.14 A candidate certified three times to an appointing authority and not selected will not, at the request of the appointing authority, be again certified to that appointing authority.

5 03.15 An employee whose name is reinstated on the eligible list under provisions of Rule 4 06.0 may, for reinstatement purposes only, be certified at the request of the appointing authority as an additional name on the certification to the agency where he last held permanent status.

5 03.16 An employee whose name is made available under Rule 5 10.5 for interdepartmental transfer may be certified as an additional name on certification for that job class. The hiring authority shall give consideration to persons so certified.

5 03.17 The name of any person on the list as a rehire shall be certified as an additional name for that job class. The hiring authority shall give consideration to persons so certified.

5 03.18 The maintenance of lists of qualified persons in the labor, trades, and craft series in the classification outline may be delegated by the Director to the various departments under administrative regulations issued by the Director. Post audit of minimum qualifications, Alaskan residence and veterans' preference will be performed by the Director.

5 03.19 If no agency layoff lists exist, or if such eligibles decline appointment or are not available, a person certified as severely handicapped by the director of Vocational Rehabilitation may also be certified to a vacant position by the Director of Vocational Rehabilitation. Such eligibles may be appointed on provisional status for a period not to exceed four months within a twelve-month period.

5 03.2 Deleted January 1, 1980.

5 03.3 Concurrent Certification

Groups of eligibles shall be certified to vacancies in order of receipt of requisitions for employees, with due regard for the rights of eligibles standing highest on the list. This section shall not require simultaneous certification of the same name on different certifications made concurrently.

5 03.4 Less than Normal Number of Eligibles

Whenever there are not sufficient names on an eligible list to make a complete certification, the Director may augment those names by a sufficient number of names from other lists deemed appropriate by him to make a complete certification.

5 03.5 Incomplete Certification

When the number of names available for filling any vacancy is fewer than three, except in case of certification from an agency layoff list, the appointing authority may decline certification for that vacancy and proceed to fill the vacancy in any other manner provided in these Rules.

5 03.6 Withdrawal of Certification

In the event appointment is not reported within fourteen days of the date of certification, the Director may withdraw such certification and shall certify the names of eligibles included in such certification on the next requisition received for the appropriate class of employment.

5 03.7 Subfilling Positions

5 03.71 In the absence of a complete certification, the appointing authority may request authorization from the Director to subfill the position at a lower classification level. Upon approval, the appointing authority shall request a certification from the eligible list of the lower classification in accordance with Rule 5 02.0. An employee receiving a subfilled appointment shall be so advised in writing by the appointing authority, and the employee shall perform the duties of the lower classification.

5 03.8 Deleted January 1, 1980.

5 03.9 Preference in State Employment for Alaskans

Preference shall be provided for Alaskans wherein Alaskans shall be certified in rank order ahead of any non-Alaskans on the eligible list.

5 04.0 Position Must Be Classified Before Being Filled

No appointment can be made except to a position that has been classified, or a nonpermanent position that has been approved, and where minimum qualifications have been established and a salary range assigned.

5 04.1 No commitment of appointment or salary rate may be made to a prospective employee until a position has been established, or a nonpermanent position has been approved, and the classification action has been completed, and the proper procedures for filling the vacancy have been followed.

5 05.0 Permanent Appointments

All vacancies in positions in the classified service having an expected duration in excess of the probationary period established for the positions shall be filled by appointment from certification from eligible lists except as otherwise provided in these Rules.

5 06.0 Nonpermanent Appointments

Except when otherwise stated, this Rule shall apply to regular nonpermanent appointments and to nonpermanent program or project appointments.

Nonpermanent appointments require prior written approval of the Director.

The hiring department or agency must certify the following to the Director when seeking approval for nonpermanent hire: 1) that the Legislature appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee; 2) that there is an immediate need to fill an authorized, permanent position and it is impractical either to establish the position or to make certification within a reasonable time; 3) that they could not reasonably have been expected to anticipate the need; 4) that a program or project exists; (this requirement is necessary only when a department or agency is seeking approval to hire program or project employees); and 5) adequate money is available for the duration of the appointment. A person who make a false certification is personally liable in a civil action to an individual terminated under AS 39.25.197 for any resultant damages and for punitive damages of an amount not to exceed three times the gross monthly salary at which the nonpermanent employee was appointed.

Nonpermanent appointments shall be made from eligible lists in accordance with Rule 4, unless in appropriate circumstances the Director has waived this requirement.

Nonpermanent employees may not be placed on the State payroll unless the Director has first approved the personnel action for the employee's department.

A department or agency may not employ any individual as a nonpermanent employee for more than 120 calendar days in a 12-month period unless the Director authorizes an extension. This limitation does not apply to program or project employees.

A department or agency may not use nonpermanent employees to perform a given work assignment for more than 120 calendar days in a 12-month period. This limitation does not apply to program or project employees.

Appointments of program or project employees require prior approval of the Director who must agree a program or project exists.

With prior approval of the Director, an appointing authority may appoint a nonpermanent employee to perform the work of a permanent employee when the permanent employee is on medical, personal or military leave, or in other situations in which the Director determines the appointment of an emergency or permanent employee would be inappropriate or when delay in making a temporary replacement would cause serious disruption. Such employees are not limited to the 120 calendar day limitation. Nonpermanent employees appointed under the provisions of this Rule do not have the rights of employees who hold substitute appointments.

5 07.0 Emergency Appointments

An emergency appointment is an appointment for a period not to exceed thirty (30) calendar days, made under conditions necessitating immediate action to provide for carrying on work that must be continued in the public interest.

An emergency appointment and the circumstances which required it shall be reported to the Director within fifteen days after it is made on a form prescribed by the Director.

In any case in which the need for action for filling a vacancy shall have been known, or could have been known by the exercise of due diligence, far enough in advance to afford opportunity for appropriate action under some other provisions of the Act and these Rules, no emergency shall be deemed to exist and no emergency appointment shall be made.

5 08.0 Provisional Appointments

5 08.1 When authorized by the Director and in the absence of an appropriate eligible list, a provisional appointment of a

qualified person may be made to fill a vacant position. Such an appointment shall be terminated upon expiration of the probationary period established for the position or upon certification and appointment from an eligible list, whichever occurs first.

No person shall receive more than one provisional appointment to the same position nor serve in the position beyond the probationary period, except with prior approval of the Director.

5 08.2 Where the work carried on under provisional appointment is on other than a continuing fulltime basis, the length of the appointment shall be limited to the number of hours which is equivalent to the probationary period on the basis of the work schedule for the agency and the type of employment concerned.

5 08.3 The appointing authority, in nominating a person for provisional appointment, shall transmit to the Director a statement of qualifications of the nominee, in such form as the Director shall prescribe.

5 08.4 No seniority shall be gained as a result of a provisional appointment except for the continuance of seniority in a lower class, unless the appointment later becomes a permanent appointment.

5 08.5 Conversion to Probationary Status

5 08.51 Retroactive probationary status may be granted to a provisional employee who earns a place on the eligible register at the first opportunity and is reachable for appointment.

5 08.52 Probationary status may be made effective no earlier than the date certified to the appointing authority in those cases where the provisional failed to earn a place on the eligible register at the first opportunity.

5 08.53 Retroactive permanent status may be granted to a provisional employee who is otherwise eligible for permanent status upon promotion and who earns a place on the eligible list at the first opportunity and is reachable for appointment.

5 08.54 Permanent status may be made effective no earlier than the date certified to the appointing authority in those cases where the provisional failed to earn a place on the eligible list at the first opportunity and who is otherwise eligible for permanent status upon promotion.

5 08.55 A provisional employee who was certified to his current position under provisions of Rule 5 03.19 and has demonstrated his ability to perform the duties of the position may be appointed to the position as a probationary employee. The demonstrated ability shall be recorded by the appointing authority with a performance evaluation as provided for in Rule 8.

5 09.0 Trainee Appointments

Appointments of students or other suitable persons to serve as interns or apprentices shall be in accordance with an approved and established training program and shall be made to established trainee positions or by underfilling other established positions. Such appointments shall be in accordance with other provisions of these Rules.

5 10.0 Transfer

The lateral movement of an employee from one position to another position in the same job class or to a parallel job class at the same pay range without any break in service.

5 10.1 Intra-agency transfer

5 10.11 The transfer of an employee within an agency to a different position in the same job class may be made at the discretion of the appointing authority.

5 10.12 The transfer of an employee within an agency to a parallel job class at the same pay range shall require prior approval of the Director.

5 10.2 Inter-agency transfer

5 10.21 At the joint request of the appointing authorities and with the prior approval of the Director, an employee may be transferred in the same job class between two departments. The requests must be on the form established by the Director for this purpose. Transfer to a parallel job class may also be accomplished through the same procedure.

5 10.3 Status of transferred employee

5 10.31 On an intra-agency or inter-agency transfer no change in status will result.

5 10.32 When transferred under Rule 5 10.12 the department must indicate the proposed status, the Director must approve, and the employee must be notified by the department of the approved status.

5 10.4 Parallel job class transfer

5 10.41 Transfer to a parallel job class may be made only upon the approval of the Director after it has been determined that the employee possesses the necessary qualifications and the job classes involved have a sufficient relationship. The Director may require a written examination or other evidence for purpose of determining the employee's qualifications for the new class.

5 10.5 Employee request for transfer

5 10.51 A permanent or probationary employee who requests intradepartmental transfer for personal reasons shall submit his request through normal departmental channels to the appointing authority.

5 10.52 A permanent or probationary employee who requests interdepartmental transfer either for personal reasons or as the incumbent of record in a position which has been reallocated to a lower class and for whom intradepartmental transfer has not been accomplished shall submit his request to the Director through the appointing authority. If approved, his name shall be made available to other appointing authorities through Rule 5 03.16.

5 10.6 Other rights accruing to a transferred employee

5 10.61 An employee transferred under provisions of this section shall be entitled to all accrued fringe benefits, and length of service with the State shall remain unbroken.

5 10.7 Transfer for the good of the service

5 10.71 Any transfer effected for the good of the service without the voluntary consent of the employee must be approved by the Director.

5 11.0 Appointment of Federal Employees

A federal civil service employee who qualifies as an Alaskan under these Rules may be appointed to a position in the classified service in a comparable classification without examination if he meets the minimum qualifications for the position to which he is being appointed and has been on permanent status under federal civil service for not less than six months immediately preceding his appointment. Such appointment may not be made if an eligible register consisting of three or more persons is available for filling the position. The employee may be required to serve a probationary period of employment. The qualifications of the federal employee and evidence that other provisions of this Rule have been fulfilled must be approved by the Director prior to the appointment.

5 12.0 Reemployment

5 12.1 An employee who separated in good standing while holding a permanent or probationary appointment may be reemployed in the same job class without examination or certification, provided such reemployment takes place within two years from his date of separation. Upon advance approval of the Director, such reemployment may be in a lower class in the same class series or in a parallel class series.

5 12.2 Deleted April 15, 1980.

5 12.3 Deleted April 15, 1980.

5 13.0 Promotion Boards

The Director may establish policies and procedures for the operation of promotion boards within the departments and agencies of the State. Such boards may conduct competitive examinations of permanent or probationary employees within established policies and procedures. Jurisdiction of promotion boards shall be limited to classifications designated by the Director and activities of the boards shall be continually reviewed. The eligibles obtained from these promotional boards shall be certified to vacancies under Rule 4.

5 14.0 National Emergency or Civil Disaster

In the event of national emergency or civil disaster so declared by the President of the U.S.A., or the Governor of the State of Alaska, such emergency appointments to the State service will be for the duration and/or until services of the employee are no longer required. Current employees may be reassigned to such duties as are necessary for the duration, and such reassigned employees upon cessation of the emergency shall return to their regular duties.

Rule 6

PROBATIONARY PERIODS

6 01.0 Objective

The probationary period in the classified service shall be regarded as an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of the employee to his position, and for rejecting any employee whose performance does not meet the required standards.

6 02.0 Duration

6 02.1 All original, rehire, and probationary promotional appointments in the classified service shall be subject to a probationary period of one year of continuous service, except for appointments to positions assigned to salary ranges 13 and below where the probationary period shall be six months. For each period of leave without pay totaling 23 working days or more, whether taken consecutively or at separate times, the probationary period shall be increased by one month. For periods less than the above, no change will be made in the probationary period.

6 02.2 An employee who is promoted prior to the completion of his probationary period to a higher level position in the same class series shall complete his probationary period in the lower position by service in the higher position and shall be considered as having permanent status in the lower classification at the end of the applicable probationary period following his appointment to the position in that classification and shall complete the full probationary period in the higher class.

6 02.3 Former employees appointed from eligible lists other than the layoff list shall be subject to a complete probationary period beginning the day of the new appointment.

6 02.4 Former employees reappointed from an agency layoff list by the same agency to the same class shall be subject to the probationary period only to the extent of completing any incompleting probationary period. Former employees in layoff status from one agency who are appointed by another agency shall be subject to the probationary period in the different agency.

6 02.5 Employees transferred from the jurisdiction of one appointing authority to that of another appointing authority are subject to the probationary period, except as provided in Rule 5 10.0.

6 02.6 Time served on emergency, nonpermanent or program or project employment shall not be counted as part of the probationary period.

6 02.7 The probationary period of an employee in salary range 13 or below may be extended in extenuating circumstances not to exceed three (3) months at the option of the appointing authority and with the approval of the Director. Notice of such extension and the reason therefore shall be given in writing to the employee prior to the end of the established probationary period, and a copy shall be sent to the Director.

6 03.0 Performance Evaluation Report

At any time or times during the probationary period and in such manner as the Director may prescribe, the appointing authority shall report in writing his evaluation of the employee's work performance to the Director.

6 04.0 Dismissal During the Probationary Period

6 04.1 At any time during a probationary period an employee other than an employee holding permanent status at the time of his probationary appointment may be dismissed from the service at the discretion of the appointing authority after prior notice but without right of appeal or hearing, and the reasons given for the dismissal shall be filed with the Director at the time the notice is given. If dismissal was due to discrimination based on race, color, sex, religion, national origin, or political beliefs, the right to appeal exists.

6 04.2 An employee dismissed in accordance with Rule 6 04.1 of this section may petition the Director for a review of the dismissal action. On the basis of such review, including consultation with the appointing authority, the Director may restore the name of the probationary appointee whose services have been terminated to the register from which he was certified, but the Director shall not in the future certify the name of such person to the same appointing authority from the same register, and in certifying the name of such person to other appointing authorities he shall give full fact concerning the previous unsuccessful probationary period.

6 05.0 Permanent Appointments

Permanent appointments to positions in the classified service shall be made upon satisfactory completion of the probationary period.

6 05.1 Within fifteen days prior to the expiration of an employee's probationary period, the appointing authority shall notify the Director in writing as to whether the services of the probationer have been satisfactory.

6 05.2 If the probationary services have been satisfactory and the employee is being given a permanent appointment, the employee shall be given permanent position status in the classified service beginning the day after the end of the probationary period.

6 05.3 Unless the appointing authority has separated or demoted the employee or extended the probationary period in accordance with other sections of these Rules, the appointment shall become permanent immediately following completion of the probationary period.

6 06.0 Demotion during the probationary period

6 06.1 An employee holding permanent status at the time of probationary appointment may only be demoted after prior notice for unsatisfactory performance of the duties of the higher class. Such notice shall be in writing, setting forth the reasons for the demotion, and a copy shall be filed with the Director at the time the notice is given. Except as stipulated in Rule 6 04.1, the right of appeal does not exist.

6 07.0 Probationary period following promotion

There shall be probationary periods as specified in Rule 6 02.1 before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment shall retain permanent status in the service and the job class from which appointed for the duration of the probationary period, and may be demoted to his former class without right of appeal. If, however, the employee is dismissed from the service, he shall have appeal rights under Rule 12 01.2.

Rule 7

HOURS OF WORK

7 01.0 Scheduled Hours of Work

Each appointing authority, with the prior approval of the Director, shall establish the scheduled hours of work for employees within his department. Such hours shall not be less than the minimum hours described herein and shall, as far as practicable, be uniform for employees in the same unit assigned to perform the same duties.

7 02.0 Minimum Work Week

37 1/2 hours of actual attendance on duty shall constitute the minimum work week for fulltime employees in the classified service and the partially exempt service with due allowance for authorized holidays and leaves of absence with pay.

7 03.0 Normal Work Week

The normal work week shall consist of five consecutive work days, Monday through Friday.

7 04.0 Normal Work Day

The normal work day shall consist of seven and one-half (7 1/2) hours, beginning at 8:00 a.m. and ending at 4:30 p.m. with a one hour period therein constituting a lunch period.

7 05.0 Overtime

7 05.1 All hours of work performed by an employee which fall between any Sunday midnight and the following Sunday midnight, whether scheduled in accordance with Rule 7 01.0 or authorized to meet peak work loads or emergency situations, shall be included in the same work week.

7 05.2 Payment of overtime shall be subject to policies and regulations prescribed by the Commissioner of Administration.

7 05.3 Hours worked in excess of the minimum work week by an employee who is eligible under 7 05.2 shall be considered overtime hours for compensation purposes, provided that overtime shall not be paid in cash unless authorized in writing by the appointing authority.

7 06.0 Other Employment

No employee shall engage in any other employment, either public, private or self employment, during the hours he is scheduled to work for the State, nor outside such hours in a manner or to an extent

which conflicts with the State's interest or that adversely affects his availability and usefulness as an employee of the State. Any employee who engages in any employment outside his normally scheduled hours of duty shall notify the appointing authority of his agency in writing of the nature and extent of such employment.

7 07.0 Legal Holidays

7 07.1 The following days are observed as State holidays:

- (1) the first of January, known as New Year's Day
- (2) the 12th of February, known as Lincoln's Birthday :
- (3) the third Monday in February, known as Washington's Birthday
- (4) the last Monday in March, known as Seward's Day
- (5) the last Monday in May, known as Memorial Day
- (6) the Fourth of July, known as Independence Day
- (7) the first Monday in September, known as Labor Day
- (8) the 18th of October, known as Alaska Day
- (9) the 11th of November, known as Veterans' Day
- (10) the fourth Thursday in November, known as Thanksgiving Day
- (11) the 25th of December, known as Christmas Day
- (12) every day designated by public proclamation by the President of the United States or the Governor of the State as a legal holiday.

7 07.2 If a holiday listed in Rule 7 07.1 falls on a Sunday, the following Monday shall be a holiday.

7 07.3 If a holiday listed in Rule 7 07.1 falls on a Saturday, the preceding Friday shall be a holiday.

7 07.4 Departments which by nature of their duties require holiday work shall establish rules and regulations concerning employees working on holidays. These shall be posted where employees can see them. A copy must be filed with the Commissioner of Administration.

Rule 8

PERSONNEL EVALUATION AND TRAINING

8 01.0 Personnel Evaluation

8 01.1 Standards of performance established as a basis for personnel evaluation shall have reference to the quality and quantity of work performed, the manner in which the service is rendered, the faithfulness of the employee to his duties, and such other characteristics as will measure the value of the employee to the classified service and partially exempt service.

8 01.2 The Director shall prescribe the nature, form, and frequency of the reports and may investigate the accuracy of evaluation reports and take any necessary action to secure the adjustment of an evaluation to conform to the facts as ascertained. To the extent possible it shall be the duty of the Director to provide for uniformity of application of the standards by different rating officers.

8 01.3 The appointing authority or immediate supervisor shall discuss the evaluation with the employee with a view to assisting the employee to better understand what is expected of him and how he is measuring up to these expectations.

8 01.4 The reports and records of an employee's evaluation shall be filed with the Director and may be open to inspection by the employee or the employee's designated agent, by the appointing authority of the employee, and at the discretion of the Director to any other appointing authority who is considering appointment of the employee to his jurisdiction. They may not be open to inspection by any other person outside the Divisions of Personnel and Labor Relations except by proper written demand citing the judicial or statutory authority.

8 02.0 Employee Training

The Director shall cooperate with appointing authorities, employees, and others, in fostering and aiding in programs of preservice training for the State service and inservice training of employees, to the end that the quality of personal services rendered to the State may be raised and that employees may be aided to prepare themselves for advancement in the service.

8 03.0 Intern and Apprenticeship Training Programs

Appointing authorities with the approval of the Director may establish intern or apprenticeship training programs.

8 04.0 Reimbursement Agreement for Educational Costs

Employees receiving training for which they receive reimbursement, travel, or educational costs shall be required to sign an agreement to reimburse the State for all or part of such expenditure should they leave the service of the State as a result of their own action prior to the completion of the required amount of service as contained in regulations to be issued by the Commissioner of Administration.

Rule 9

PAY

9 01.0 General

The Director shall prepare, maintain, and administer a pay plan based upon the classification plan for all positions in the classified service and the partially exempt service in accordance with AS 39.25.150 (2) and Chapter 27 of AS 39. This Rule applies to the partially exempt service in all instances unless specific exception is made.

9 02.0 Administration

The following provisions assume that funds are available and that expenditures have been authorized.

9 02.1 Beginning Salary9 02.11 New Employee

The minimum rate of pay in the assigned salary range for a class shall normally be paid upon initial appointment. Any exception in the classified service shall require the prior approval of the Director. Any exception in the partially exempt service shall require the prior approval of the commissioner of the employing department. All exceptions shall be based on one of the following:

9 02.111 Advance step pay because of the exceptional qualifications of the appointee.

9 02.112 Substep pay due to the lack of minimum qualifications of the appointee or lack of budgeted funds. Substep pay shall normally be accomplished through subfilling at a lower classification. Exceptions to the latter shall require prior approval of the Director.

9 02.113 Advance step pay in classes specifically designated in writing by the Director as being classes where recruitment is exceedingly difficult.

9 02.12 Former Employee

If a former employee eligible for rehire is reappointed to a class or to a parallel class with prior approval of the Director under Rule 5 12.0 in which he/she previously held permanent or probationary status, the appointing authority may make the appointment at the same step in

salary range for the class that the employee occupied before separation, provided that he/she is rehired within a period of two years. If appointed above the beginning step of the range, his/her merit anniversary date shall be the sixteenth of the month following completion of one year of service after rehire.

9 02.121 If a former employee is rehired with prior approval of the Director in a lower class in the same class series, the employee may be paid at the step in the range of the lower class of positions that best reflects the earned step based on creditable State service, or at such other step approved in advance by the Director.

9 02.13 Promoted Employee

9 02.131 When an employee is promoted, his/her entrance salary shall be at a step in the salary range for the new class such as to provide a minimum of an increase equal to the next step in the range of the class where the employee holds permanent or probationary status. In instances where the step in the new range provides less than one full step in the range of the class from which promoted, the next step in the new range is authorized. If an employee has served one-half or more of the time required to be considered for his next step increase he/she shall, upon promotion to a higher salary range, have his/her new salary fixed at the minimum rate of pay of the higher range or such other step as will provide an increase of two steps, whichever is greater. In the determination of the steps upon promotion, Alaska remote area differentials and cost-of-living differentials will be excluded.

9 02.132 The merit anniversary date of a promoted employee shall be the sixteenth of the month following completion of his/her probationary period in the higher class, provided the new range was entered at the minimum rate of pay; if entered at a higher step in the range, then the merit anniversary date shall be the sixteenth of the month following completion of one year of service.

9 02.133 A promoted employee entering the new range at a longevity increment shall be treated as if he/she had earned the increment in the new range and granted further increments accordingly. The anniversary date shall be the sixteenth of the month following the one year of probationary service.

9 02.134 No promotion will be approved by the appointing authority or the Director after an employee has given written notice of resignation.

9 02.14 Transferred Employee

9 02.141 An employee transferred from one position to another position assigned to the same pay range and meeting the test of Rule 5 10.0 shall be appointed at the same step rate held prior to transfer and his/her merit anniversary date shall remain unchanged. Those moving to a position at the same pay range but not considered as a transfer shall have a new merit anniversary date and the step in the range shall remain unchanged.

9 02.142 The merit anniversary date and salary step assignment of an employee whose position is reallocated from one class to another class at the same salary range shall remain unchanged.

9 02.15 Demoted Employee

9 02.151 An employee who is demoted because of inability to perform satisfactorily at the higher level, or for any other just cause, shall enter the new range at the same step as the earned step occupied in the old range, or at such other step approved in advance by the Director.

9 02.152 An employee occupying a position which is assigned to a lower pay range or reallocated to a classification which carries a lower pay range and who continues in the same position shall be treated as follows:

9 02.1521 If his/her current salary is the same as any step in the new range, he/she shall enter the new range at that step.

9 02.1522 If his/her current salary falls within the lower range but between steps, his/her salary will remain frozen until his/her next merit anniversary date at which time he/she shall be placed at the next higher step.

9 02.1523 If his/her current salary exceeds the maximum of the new range, his/her salary shall remain frozen until such time as the employee is promoted to a position having a salary range encompassing the frozen salary or until adjustments to the compensation plan cause the assigned range to encompass the frozen salary.

9 02.153 The merit anniversary date of an employee demoted, pursuant to Rule 9 02.15, shall remain unchanged.

9 02.154 An employee who receives a voluntary demotion may be paid at the step in the range of the lower class of positions that best reflects the earned step based on creditable State service, or at such other step approved in advance by the Director.

9 02.16 Effective Date

An appointment shall normally be made effective on the employee's first working day. An appointment designed to be made effective on the first of a pay period may be so made even though the first of the pay period does not fall on a regular working day.

9 02.2 Merit Increases

9 02.21 Merit increases shall be based upon the appointing authority's evaluation of an employee's performance. A merit increase of one step in the salary range may be given to an employee who has received an overall performance evaluation of "Acceptable" or better on his/her merit anniversary date. The sixteenth day of the month following the satisfactory completion of his probationary period shall constitute an employee's merit anniversary date, unless he enters the pay range above the minimum rate of pay in which case his merit anniversary date shall be the sixteenth of the month following completion of one year of service in the position.

9 02.22 Steps (b), (c), (d), (e), and (f) of the salary range shall be used for merit increases where an employee has demonstrated satisfactory service of a progressively greater value to the State.

9 02.23 Where an employee has received an overall performance evaluation of "Outstanding" a merit increase of two steps in the range may be given on his merit anniversary date at the discretion of the appointing authority. No merit increase may place an employee at a higher salary level than the top step of his assigned salary range.

9 02.24 The merit anniversary date does not change when a merit increase is withheld. If the employee standard of performance reaches acceptable levels later in the merit year, the step increase may be granted effective the sixteenth of any month and no change in the merit anniversary date will result.

9 02.25 When an employee's level of work performance becomes less than "Acceptable," an interim performance evaluation may be prepared. When such an evaluation is prepared, and the level of performance does not reach "Acceptable" within the subsequent 30-day period, one salary step may be withdrawn on the sixteenth day of the month following completion of the 30-day period, provided the employee's salary is other than the entry step of the salary range. No more than one salary step may be withdrawn in a 12-month period. Before a personnel action withdrawing a salary step is prepared, the employee shall be notified in writing that his performance has not improved. If the employee's level of performance subsequently reaches "Acceptable," the salary step may be restored effective the sixteenth of the month following preparation of a performance evaluation report confirming the improved level of performance. Employees on longevity pay steps which were awarded under the provisions of AS 39.27.022 are not subject to the provisions of this Rule. An employee who feels he has been unfairly treated under this rule may bring action under Personnel Rule 12 01.1.

9 02.3 Total Remuneration

9 02.31 The salary paid to an employee in the classified service or partially exempt service shall represent the total remuneration for the employee, exclusive of reimbursement for official travel. Except as otherwise provided in these Rules or upon prior approval by the Director, no employee shall receive pay from the State in addition to the salary authorized under the schedule provided in the pay plan for services rendered by him either in the discharge of his ordinary duties or any additional duties which may be assigned to him or which he may volunteer to perform.

9 02.32 Any maintenance allowance received in lieu of cash shall be considered as part of the total salary. Whenever maintenance is provided in lieu of cash, a schedule of such allowance together with a statement of the policies and rules to be followed in the use of the allowance must be submitted to the Director for prior approval.

9 02.33 Whenever an employee works for a period less than the regularly established number of hours per day, days per week, or weeks per month, the amount paid shall be proportionate to the time actually employed. The payment of a separate salary from two or more State agencies for duties performed in each of such agencies is permissible if the total salary received from these agencies is based upon the respective salary ranges for the positions and divided proportionally to the time spent in each position.

9 03.0 Hourly, Part-time and Partial Monthly Rates

9 03.1 Monthly rates of pay shall normally be paid except that on certification by an appointing authority that payment of monthly rates for certain classes within his jurisdiction is not feasible for stated reasons, the Director may authorize payment of hourly rates for the classes concerned. Such hourly rates shall be computed from the monthly rates established in the pay plan by the following formula:

$$\text{Hourly Rate} = \frac{\text{Monthly rate} \times 12}{(\text{No. of hours per work week} \times 52)}$$

9 03.2 Rates for part-time service shall be proportionate to the rates for full-time service.

9 03.3 An employee hired on a monthly salary who works less than a full pay period will be paid a proportional part of his monthly salary based on the ratio of days worked to the total number of working days in the pay period.

9 04.0 Overtime Compensation

An employee who is normally eligible for overtime in accordance with Rule 7 05.2 and who is scheduled or required to work in excess of the minimum work week as defined in Rule 7 02.0 shall be compensated for such excess hours worked at one and one-half times the hourly rate established in Rule 9 03.1. Such compensation may be in cash or compensating time off. In determining the type of compensation to be made, the wishes of the employee shall be considered; however, the best interest of the State as specified by the appointing authority shall be the final determining factor. An employee who is not normally eligible for overtime compensation may be compensated for overtime in accordance with regulations by the Commissioner of Administration under Rule 7 05.2.

9 05.0 Compensatory Time

9 05.1 No eligible employee shall accrue a balance of more than 300 hours of compensatory time in any accrual year. Any authorized overtime work which would extend the accrual balance beyond 300 hours shall be compensated in cash.

9 05.2 Compensatory time must be liquidated by April 15 of each year unless extended in advance by the Commissioner of Administration for a period not to exceed six months based on the best interest of the State and the concurrence of the affected employees. Any balance remaining on April 16 or the extension date shall be paid in cash at the end of April or the first payday following the period of extension. The period between April 16 and April 15 of the following calendar year shall be known as overtime accrual year.

9 05.3 Any employee who terminates while he has uncompensated overtime shall receive cash payment in full with his last check. Methods applied shall be the same as those employed for the payment of unused annual leave.

9 05.4 In determining when compensatory time off may be taken, the wishes of the employee will be considered; however, the best interest of the State as specified by the appointing authority shall be the final determining factor.

9 06.0 Moving Expenses

9 06.1 Current Employees

Current employees in the classified service or in the partially exempt service who are required by the appointing authority to be transferred from one permanent duty station to another shall be paid for all actual necessary moving and travel expenses from their former to their new permanent duty station according to regulations issued by the Commissioner of Administration.

9 06.2 New Employees

New or former employees being appointed to certain positions requiring professional and technical training or experience may be reimbursed for a part of their transportation and/or moving expenses when, in the judgment of the appointing authority and the Commissioner of Administration, such expenditure is required to recruit qualified employees.

9 06.21 Such maximum reimbursable expenses shall be established by the Commissioner of Administration.

9 06.22 New employees shall be required to sign an agreement to reimburse the State for all or part of such expenditures should they leave the service of the State as a result of their own action prior to the completion of two years of service.

9 07.0 Salary Range Changes

When a class of positions is advanced from one pay range to a higher pay range, the salary of all employees in that class shall be advanced to the corresponding step in the new range. This action shall be called a salary range change. Unless all employees in the class are advanced to the higher pay range, the actions cannot be considered a salary range change.

Rule 10

LEAVES OF ABSENCE

10 01.0 Annual Leave10 01.1 Accrual

10 01.11 Officers and employees of the State, as otherwise provided herein, shall accrue annual leave at the rate of:

10 01.111 One and one-quarter working days for each full monthly pay period in the case of officers and employees with less than two years of service;

10 01.112 One and three-quarter working days for each full monthly pay period in the case of officers and employees with two but less than five years of service;

10 01.113 Two working days for each full monthly pay period in the case of officers and employees with five but less than 10 years of service;

10 01.114 Two and one-half working days for each full monthly pay period in the case of officers and employees with 10 years or more of service.

10 01.115 There shall be no accrual of annual leave during any monthly pay period during which an employee is absent without approved leave.

10 01.12 An officer or employee shall not accrue leave until he has completed ninety (90) calendar days of full-time service after his appointment. Upon completion of ninety (90) days, the employee shall be credited with accrual as provided in Rule 10 01.11 retroactive to the date of his appointment.

10 01.13 An officer or employee appointed to a nonpermanent position shall not accrue leave credit. Employees filling classified part-time or seasonal positions, in accord with the provisions of these Rules, shall accrue leave credit on a pro-rated basis.

10 01.14 Changes in the rate of accrual as provided in Rule 10 01.11 shall take effect at the beginning of the pay period immediately following the pay period in which the officer or employee completes the prescribed period of service. This date shall be referred to as the leave anniversary date.

10 01.15 The Director shall certify to the department or agency head the years and full months of service prior to July 1, 1960, which are to be credited to each employee of the agency for purposes of computing any changes in rate of accrual as provided in Rule 10 01.11.

10 01.2 Use and Payment

10 01.21 Each department or agency head shall establish such policies and procedures as are necessary in the agency to assure that all employees are able to schedule and take accrued annual leave. The appointing authority may at any time direct the employee to take accrued annual leave in excess of sixty (60) days as established under Rule 10 01.23.

10 01.22 Each officer and employee shall take at least five days annual leave during each calendar period beginning January 16 and ending January 15. It is the responsibility of each department or agency head to assure that each employee is given the opportunity to use this leave.

10 01.221 Any employee who does not use this leave shall have the unused portion deducted from his leave balance.

10 01.23 Annual leave accrued but not used shall accumulate to a maximum of not more than sixty (60) days on January 15 of any calendar year. Unused leave in excess of the maximum at the close of business on January 15 of any calendar year shall be cancelled and nothing in this section shall impose any obligation on the part of the department or agency head to permit such unused leave to be posted to the employee's leave balance except when certified by the Commissioner of the employing department that the employee could not be released from his duties to take the subject accrued leave. In those cases the employee is entitled to have excess leave added to his balance for the following calendar year.

10 01.24 Each department and agency head shall maintain a leave record for each officer or employee of the department or agency, as required by the Director of Personnel, and such record shall be subject to annual audit and approval by the Director.

10 01.25 Changed to Rule 9 02.134 January 1, 1980.

10 01.26 Any officer or employee who is separated from full-time State service by layoff, resignation, or dismissal shall receive within thirty (30) days terminal leave in the form of a lump sum payment for the number of working days of accrued annual leave.

10 01.27 If an officer or employee is re-employed in the State service prior to the expiration of the period paid for in Rule 10 01.26, he shall refund to the State an amount equal to the compensation covering the period between the date of re-employment and the expiration of such leave period. The leave represented by such refund shall then be recouped to the officer or employee by the appointing department or agency.

10 01.28 Leave earned during a monthly pay period will be credited on the first day of the following pay period.

10 01.29 Annual leave may be taken by an employee at any time business permits upon permission by the head of the department or agency for whom the employee works. Such approval may be delegated.

10 02.0 Sick leave

10 02.1 Accrual

10 02.11 Officers and employees of the State, except as otherwise provided herein, shall accrue sick leave at the rate of one and one-quarter (1-1/4) days for each full monthly pay period.

10 02.12 An officer or employee appointed to a non-permanent position shall not accrue sick leave credit. Employees filling a classified part-time or seasonal position, in accord with the provisions of these Rules, shall accrue sick leave credit on a pro-rated basis.

10 02.13 Sick leave accrued but not used shall accumulate until termination of full-time employment at which time it shall be automatically cancelled without pay for it.

10 02.14 There shall be no accrual of sick leave during any monthly pay period during which an employee is absent without approved leave.

10 02.2 Availability of Sick Leave

10 02.21 Sick leave shall be granted by the department or agency head only in the following instances:

10 02.211 An employee may be granted sick leave for a medical or dental appointment or illness or injury for himself or his immediate family at the discretion of the supervisor. Such absence, at the discretion of the supervisor, may be required to be supported by a physician's certificate.

10 02.212 Illness within the officer's or employee's immediate family which requires the attendance of the officer or employee or where his presence on the job could jeopardize the health of fellow employees. Such absence in all instances shall be supported by a physician's certificate.

10 02.213 Upon the death of the spouse or other member of the immediate family of an officer or employee, the officer or employee may avail himself of not more than five days of accrued sick leave with pay.

10 02.214 In each case of absence due to illness or injury it shall be the responsibility of the employee to notify his supervisor of his absence immediately and to report periodically the anticipated duration of his absence. Failure to notify the supervisor may result in disciplinary action.

10 02.3 Payment

10 02.31 An officer or employee whose absence has been approved as being justified under Rule 10 02.2 shall be paid for such time lost, to the extent that he has sick leave accrued, at his current salary, less the amount of any time loss payments made to him under the Alaska Workmen's Compensation Act.

10 02.4 Reinstatement of Sick Leave

10 02.41 An employee who separated from the service in good standing and who re-enters the State service within six (6) calendar months after his separation will have his leave account credited with one-half (1/2) of the sick leave that he had accrued at the time of separation.

10 03.0 Maternity Leave

Immediately preceding and following childbirth, a female employee is entitled to take a total of nine (9) weeks' leave. This leave shall be charged first to sick leave and if this is insufficient, to annual leave, then leave without pay for the balance of the period of nine (9) weeks.

Upon application and under extenuating circumstances, additional leave may be granted by the appointing authority. A physician's certificate shall be required to support the additional leave request.

10 04.0 Court Leave

10 04.1 An officer or employee appointed to a full-time position who is called to serve as a juror or subpoenaed as a witness, shall be entitled to court leave.

10 04.2 Court leave shall be supported by written documents such as subpoena, marshal's statement of attendance, and compensation for services, per diem and travel.

10 04.3 The officer or employee shall turn over to his department or agency head for deposit in the State treasury to the credit of the appropriation of the department or agency all monies received from the court as compensation for service and in turn shall be paid his current salary while on court leave.

10 05.0 Not Applicable. The provisions of this Rule do not apply to:

10 05.1 Members of the State Legislature, the Governor, the Lieutenant Governor, and justices and judges of the supreme and superior courts, and nothing in this Rule shall be construed to diminish the salaries fixed by law for these officers by reason of absence from duty on account of illness or otherwise.

10 05.2 Deputy magistrates serving the State on less than a full-time basis.

10 05.3 Certificated teachers employed by the State to teach in schools operated by the Department of Education.

10 05.4 Persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the Governor, the Legislature or a legislative committee.

10 05.5 Members of boards, commissions and authorities who are not otherwise employed by the State.

10 05.6 Nonpermanent employees.

10 06.0 Military Leave

10 06.1 A permanent or probationary employee shall be entitled to a Military Leave of Absence without pay to serve in the Armed Forces of the United States and shall be entitled to the reemployment benefits granted under Section 9 of the Universal Military Training and Service Act, as amended, 50 USC Section 459.

10 06.2 An official or employee of the State who is a member of a reserve component of the United States Armed Forces is entitled to a leave of absence without loss of pay, time, or performance rating on all days during which he is ordered to

training duty, as distinguished from active duty, with troops or at field exercises, or for instruction. The leave of absence may not exceed 16-1/2 working days in any calendar period beginning January 16 and ending January 15.

10 06.3 The filling of a position made vacant by the granting of a Military Leave of Absence of less than six months shall be by nonpermanent appointment under the provisions of Rule 5 06.0. If such authorized leave is for a period of six months or more it may be filled by a substitute appointment under Rule 5 05.0.

10 06.4 A permanent or probationary employee who is ordered by the United States Selective Service System to report for a pre-induction physical examination is entitled to a leave of absence without loss of pay, time or performance rating. The leave of absence shall not exceed three working days.

10 07.0 Leave of Absence to Accept an Exempt or Partially Exempt Appointment

An appointing authority may grant a leave of absence without pay to a permanent employee in the classified service to permit the employee to accept an appointive position in the exempt or partially exempt service. Such leaves shall be deemed to be in effect unless both the employee and the Director of Personnel receive a written notice to the contrary prior to the employee leaving his classified position. If such authorized leave may be expected to have a duration in excess of six months, the vacancy created may be filled by a substitute appointment under Rule 5 05.0.

10 08.0 Sick Leave Without Pay

Upon application by a probationary or permanent employee, a leave of absence without pay may be granted by an appointing authority for disability because of sickness or injury. Such leave shall be limited to one month for each full month of service to a maximum of 24 months. The appointing authority or the Director, from time to time, may require that the employee submit a certificate from the attending physician or from a designated physician. In event of a failure or refusal to supply such certificate or if the certificate does not clearly show sufficient disability to preclude the employee from the performance of his duties, the appointing authority with the approval of the Director may cancel such sick leave and require the employee to report for duty on a specified date.

10 09.0 Other Leaves of Absence, Without Pay

10 09.1 Permanent/Probationary employees may be granted leave without pay, not to exceed a total of twelve months, on the basis of applications for leave without pay approved by their respective department or agency head under the following conditions.

10 09.11 Such leave shall be granted only when it will not result in undue prejudice to the interests of the State beyond any benefits to be realized. An application for leave of absence for travel or study calculated to equip the employee to render more effective service to the State may be deemed to involve such compensating benefits to be measured against the loss of prejudice to the interests of the State involved in keeping open the position, filling it with a nonpermanent employee, or on a substitute basis if the leave exceeds six months until the return of the employee.

10 09.2 A seasonal employee shall be placed on leave without pay when the work load decreases to the point the employee is no longer needed, and the employee is expected to return to the position when the work resumes.

10 10.0 Cancellation of Leaves of Absence

All leaves of absence without pay shall be subject to the condition that the appointing authority may cancel the leave at any time upon prior written notice to the employee and the Director specifying a reasonable date of termination of the leave. The Director, upon prior notice to the employee and the appointing authority, may cancel an approved leave of absence at any time he finds that the employee is using the leave for purposes other than those specified at the time of approval.

10 11.0 Effect of Leave Without Pay on Anniversary Date

The leave anniversary date and the merit anniversary date of an employee shall be set forward one month to account for any leave of absence without pay totaling twenty-three (23) accumulated working days in any anniversary year unless such leave is part of the nine-week maternity leave period or is approved for training purposes by the appointing authority under Rule 10 09.1.

Rule 11

SEPARATION AND DEMOTION

11 01.0 Retirement

Employees in the classified and partially exempt service are eligible for retirement in accord with applicable statutes and the regulations of the Public Employees Retirement System provided that retirement must be voluntary with the employee.

11 02.0 Resignation

11 02.1 An employee may resign from the service by presenting his resignation in writing to the appointing authority. To resign in good standing an employee must give the appointing authority at least 14 calendar days prior notice. A copy of such resignation shall be supplied by the appointing authority to the Director. The Director may make such investigation as he deems to be warranted for the purpose of verifying the facts as to the reasons for each resignation. Upon approval of the appointing authority an employee may withdraw his resignation at any time prior to the effective date of the resignation.

11 02.2 No form of resignation filed without date or with a future date, and that is not intended to be a bona fide and voluntary resignation to be acted upon at the time of filing, shall be accepted by the Director as a resignation.

11 03.0 Suspension

The appointing authority may, by giving written notice to the employee, suspend any employee in the classified service or partially exempt service without pay for delinquency or misconduct.

11 03.1 The reason for suspension shall be given the employee in writing and a copy filed with the Director.

11 03.2 No seniority shall accrue during any period of suspension.

11 03.3 Upon the employee's return to duty, the period of suspension shall be considered as leave without pay for other purposes of these Rules such as effect upon leave and upon anniversary dates.

11 04.0 Layoff

11 04.1 An appointing authority may lay off an employee in the classified service if the employee holds a substitute appointment, or by reason of abolition of position, shortage of work or funds or other reasons outside the employee's control which

do not reflect discredit on the services of the employee. The name of such an employee may remain on the layoff list for a period of two years. If not reappointed within this time, the employee shall be considered to have terminated without prejudice. No loss of earned leave or other earned benefits shall occur during the period the employee is on the layoff list.

11 04.2 No permanent employee or probationary employee in the classified service shall be laid off while there are emergency, provisional or nonpermanent employees serving in the same position classification in the same agency or organizational unit or in other position classifications performing work to which the permanent or probationary employee could reasonably be assigned.

11 04.3 Organizational Units

11 04.31 An appointing authority may propose subdivision of his agency into organizational units for purposes of employment or layoff by submitting to the Director a written plan for such subdivision together with the reasons therefor. The Director shall consider such proposal and the needs of the State service and may recognize organizational units within the agency. Such organizational units may be recognized on the basis of geographic area, function or class of employment and may be different for different classes and types of employment. For purposes of this Rule types of employment are full-time, part-time and seasonal.

11 04.32 The Director shall notify the appointing authority of recognized organizational units and such units shall thereafter be used for employment or layoff. The appointing authority shall post a copy of such notice or shall distribute copies to notify affected employees of the recognition of such units.

11 04.33 The Director may withdraw recognition of such units upon notice to the appointing authority at any time he deems such notice to be in the best interest of the State service.

11 04.4 The order of layoff due to reduction in force shall be based upon performance reports and seniority under a formula established by the Director. The appointing authority may allow an employee to volunteer for layoff before an employee whose name appears higher on the layoff list.

11 04.5 In every case of layoff of a permanent employee, the appointing authority shall, at least fifteen days before the date thereof, give written notice to the employee and the Director, stating the reasons therefor.

11 04.6 In every case of layoff of a probationary employee, the appointing authority shall give written notice to the employee and the Director, stating the reason therefor.

11 04.7 Incumbents of seasonal positions shall be placed on leave without pay at the end of the prescribed work season. Such an employee remains the incumbent of the position and is not on layoff status.

11 04.8 The names of permanent or probationary employees demoted in lieu of layoff, may be placed in order on the appropriate layoff list for the class and agency or other recognized organizational unit from which the layoff took place, in accordance with Rule 11 04.4.

11 04.9 The provisions of this section shall be applicable to the following:

11 04.91 An employee subfilling a position if he is displaced by the filling of the position at the proper classification level by a certified eligible; or

11 04.92 An employee with probationary or permanent status as a substitute appointee if he is replaced by the reinstated incumbent; or

11 04.93 Deleted January 1, 1980.

11 05.0 Dismissal

11 05.1 Employees who do not hold permanent status may be dismissed at any time at the discretion of the appointing authority. The employee shall be advised in writing of the reason for the dismissal and a copy shall be filed with the Director. If dismissal was due to discrimination based on race, color, sex, religion, national origin, or political beliefs, the right to appeal exists.

11 05.2 An employee who holds permanent status may be dismissed by the appointing authority for just cause only. Any dismissal of an employee who holds permanent status will normally be preceded by a suspension of not less than three (3) days nor more than thirty (30) working days to enable the employing department to make a thorough investigation of the cause for dismissal. An employee who is being dismissed for cause shall be provided with a statement in writing setting forth reasons for the dismissal. A copy shall be sent to the Director.

11 05.3 Any employee found in violation of the prohibitions set forth in Rule 13 shall be dismissed. Charges alleging such violation may be initiated by the employee's appointing authority or by the Director.

11 05.4 If an employee is permitted to resign in lieu of dismissal, the appointing authority shall so notify the Director in writing and shall set forth the reasons why the employee would have been dismissed had he not resigned.

11 06.0 Demotion

11 06.1 Demotion for Cause

An appointing authority may demote an employee for just cause. A permanent employee shall, before the action is taken, be furnished with a statement in writing, setting forth the reasons for the demotion. A copy of the statement shall be immediately submitted to the Director.

11 06.2 Voluntary Demotion

A permanent employee may request in writing a voluntary demotion to a lower class of position in the same series of positions.

11 06.3 A demoted employee who has obtained permanent status in a classification shall retain permanent status in the classification to which demoted, provided that the position to which the employee is demoted is in the same class series.

11 06.4 An employee demoted under provisions of Rule 6 06.1 shall be returned to the class in which he holds permanent status, provided that if the promotion was interdepartmental, he shall be appointed to a vacancy in his former classification in the department in which he holds probationary status. If no such vacancy exists, he shall return to the department in which he last held permanent status. The removal of employees to vacate a position in the former department shall be in accordance with Rule 11 04.0.

11 07.0 Termination

Termination means the release from employment of a nonpermanent or emergency employee upon completion of the term of service or the need for services.

Rule 12

DISPUTES: HEARINGS AND APPEALS

12 01.0 Employee Agency12 01.1 General Grievance Procedure

Any employee occupying a position in the classified service who has a grievance relating to his position, working conditions or employment over which the Executive Head of his department may lawfully exercise discretion shall be offered the opportunity to be heard as follows.

12 01.11 The employee shall discuss his grievance with his immediate or intermediate supervisor if the immediate supervisor is unavailable. If not satisfied with the results of this discussion, the employee shall reduce his grievance to writing within 10 working days after learning of the grieved act. The written statement shall set forth the nature of the problem and the action which he feels should be taken to relieve the grievance. The supervisor shall reply to the grievance in writing within 5 working days with a copy to the departmental Personnel Officer. Grievances should be settled fairly, informally, and promptly at or near their place of occurrence.

12 01.12 If not satisfied with the results obtained from the supervisor, the employee may within 5 working days submit his grievance in writing to the departmental Personnel Officer who will immediately notify the Division of Personnel of same. A determination will be made whether a violation or misinterpretation of the Personnel Rules is involved. If the grievance stems from violation or interpretation of the Rules, the Director shall consider the matter and make a written finding to the grievant and the employing department within 5 working days from receipt of the grievance.

12 01.13 If the grievance does not involve a violation or interpretation of the Personnel Rules and is within the lawful discretion of the appointing authority, the departmental Personnel Officer, in conjunction with the employing division head, will investigate the grievance and render a recommendation to the Executive Head of the agency within 10 working days of receipt of the grievance. The agency head or his designated representative will after receiving the grievance and recommendation, render a decision to the grievant within 5 working days.

12 01.14 If a satisfactory solution has not been obtained by the decision of the Executive Head of the agency, the employee may send a request for a hearing to the Commissioner of Administration.

12 01.141 A grievance committee shall be created within 10 calendar days after request for a hearing has been received by the Commissioner of Administration. The committee shall consist of three members, one of whom shall be appointed by the Commissioner of Administration or his designated representative, one designated by the the employee organization or association, if any, with which the employee is associated or of which he is a member, or otherwise by the organization or association named in writing by the employee and one mutually agreeable neutral party. No person may be selected who has made or been called upon to make an administrative decision in the case. The Commissioner of Administration or his representative may designate the chairman.

12 01.142 The committee shall conduct its hearing as near as practical to the place where the grievance occurred.

12 01.143 The employee shall have the right to be accompanied, represented and advised by a representative of his own choosing in presenting his grievance at any step in the procedure. The employee and his representative shall be given a reasonable amount of work time for preparing and presenting the grievance.

12 01.144 The committee shall conduct the hearing expeditiously and in a manner to obtain a clear understanding of the facts. The procedure shall be informal. Technical rules regarding evidence and witnesses do not apply. Witnesses will be considered on duty status if they would otherwise be in a duty status at the time. Witnesses shall be encouraged to express themselves freely without fear of intimidation or reprisal. The committee shall complete its hearing within 14 calendar days.

12 01.145 The committee shall submit a report of its findings and recommendations to the employee's department within 10 calendar days after the hearing has been closed. A copy of the report and recommendations shall be furnished to the employee. Another copy shall be furnished the organization or association with which the employee is associated or of which he is a member, and if the grievance stemmed from the action or actions of a supervisor or another official or member of the employee's

department, a copy of the report shall be placed in his personnel file upon recommendation of the grievance committee when the committee finds that the grievance resulted from misconduct or notably poor judgment on the part of the supervisor, official or employee.

12 01.15 The employee or the department or individual against whom the grievance was filed may appeal the committee's findings or recommendations to the Personnel Board. An appeal to the Personnel Board must be made within 15 days after receipt by the employee of the report of the committee. The Personnel Board upon receipt of an appeal shall review the findings of the grievance committee and may affirm, modify or set aside the findings. If it considers it necessary, the Personnel Board may, upon appeal, conduct a hearing before affirming, modifying or setting aside the findings of the committee. The Personnel Board shall submit a report of its findings or recommendations in the same manner as provided for committee reports under 12 01.145.

12 01.16 The employees covered by these procedures shall have freedom to seek adjudication of their grievances without fear of restraint, interference, coercion, discrimination or reprisal. This principle shall apply equally to any employee taking part in the presentation and adjudication of a grievance.

12 01.17 In this chapter "grievance" means an employee's expressed feeling of dissatisfaction with aspects of working conditions and environment, relationships with supervisors and with other employees and officials, manner of execution or failure to execute personnel laws, rules or policies as established and/or interpreted by the Director, and with disciplinary action excluding dismissal, demotion or suspension over thirty (30) days. Interpretations of the Director are not subject to grievance but may be appealed to the Personnel Board for its adjudication.

12 01.2 Dismissal, Demotion, or Suspension over 30 Days

An employee in the classified service who is dismissed, demoted, or suspended for more than 30 working days in a 12-month period shall have the right to appeal as follows:

12 01.21 Within five days following receipt of notification in writing of such action, he may address an appeal in writing to the Personnel Board through the Director with a copy to the Executive Head of his agency setting forth his reasons for appealing the action.

12 01.22 The Personnel Board shall consider the appeal of the employee, and if a hearing is requested, the Board shall, as soon as practicable, set a date, time and place for such a hearing and shall give at least two weeks notice in writing of the hearing to both the employee and the appointing authority. The hearing shall be closed or open as requested by the employee and the employee may be represented by counsel if he so desires.

12 01.221 If the Board finds that the action complained of was due to discrimination based on race, color, sex, religion, national origin, political beliefs, or in violation of the provisions of the State Personnel Act as amended or these Rules, the employee shall be reinstated to his position without loss of pay or leave benefit for the period of his dismissal, demotion, or suspension.

12 01.222 In all other cases the board shall report its findings and recommendations to the appointing authority and the employee, and in the case of the adjudication of an interpretation of a personnel law, rule or policy by the Director, to the Director in addition to the appointing authority and the employee.

12 01.3 The time limits established herein are designed to expedite the appeal process and shall normally be adhered to. They may be extended by the Director, however, in instances where they impose undue restrictions upon either party.

12 01.4 If a satisfactory solution has not been obtained by the decision of the Executive Head of the agency or the five days have elapsed, the employee may send a request for a hearing to the Director within 10 working days.

12 02.0 Interagency

12 02.1 Any disputes arising from personnel actions involving two or more agencies shall first be considered and, if possible, resolved by appointing authorities of the agencies involved.

12 02.2 If the dispute is not resolved, one or more of the agencies may present the matter to the Director for his review. The Director shall report his findings and recommendations to the agencies involved and to the Commissioner of Administration.

Rule 13

PROHIBITIONS AND PENALTIES

13 01.0 Political Activity

An employee in the classified or partially exempt service shall not take an active part in the management of a political party above the precinct level.

13 02.0 Securing of Positions

No person may give, render, pay, offer, solicit, or accept any money, service, or other valuable things in connection with any appointment, any promotion, or any advantage in a position in the classified service.

13 03.0 Party Assessments

No person may require any assessment, subscription, contribution, or service for any political party from any employee in the classified service.

13 04.0 Party Endorsement

No person may seek or attempt to use any political party endorsement in connection with any appointment or promotion in the classified service.

13 05.0 Nomination and Candidacy

Any employee in the classified service who seeks nomination or becomes a candidate for any state or national elective political office shall immediately resign his position in the State service.

13 06.0 Racial, Religious, or Political Action

No action affecting the employment status of any employee in the classified service or applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal may be taken or withheld on the basis of sex or for racial, political, national origin, religious, or other non-merit reasons. However, this section shall not be construed as prohibiting the Director from establishing programs to facilitate the employment of disadvantaged persons. For such programs competition for appointment and promotion may be limited to those individuals who meet the program requirements.

13 07.0 Fraud

No person may make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made

under any provision of these Personnel Rules or in any manner commit any fraud preventing the impartial execution of these Personnel Rules.

13 08.0 Rights of Others

No State employee or other person may defeat, deceive, or obstruct any person in his right to examination, eligibility, certification, appointment, or promotion under these Rules.

13 09.0 Nepotism

13 09.1 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the appointing authority of the agency.

13 09.2 No person may be employed in a position in any division or subdivision of any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the head of the division or subdivision of the agency.

13 09.3 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to any other employee in the agency without the expressed approval of the appointing authority and the Director.

13 10.0 Information from Applicant

No State agency or agency supported in whole or in part by State funds may request or suggest that an applicant for employment provide information concerning the applicant's religious opinions, or his membership in fraternal organizations or of an applicant for a classified position as to his political convictions.

13 11.0 Outside Employment

13 11.1 No employee or official of the state shall engage in or accept private employment, or render services for private interest when such employment or service is incompatible with the proper discharge of his official duties.

13 11.2 No employee or official of the State may solicit, negotiate for, or promise to accept employment by or anything of substantial value from any person, firm or company with which he or his agency is engaged in the transaction of business on behalf of the state, or which may be affected by his official action.

13 12.0 Investments in Conflict with Official Duties

No employee or official of the state shall invest, or hold any investment directly or indirectly in any financial, business, commercial or private transaction, which creates a conflict with his official duties.

13 13.0 Use of Information

No employee or official of the State shall use information peculiarly within his knowledge or purview concerning the property, government or affairs of the State to advance the financial or other private interest of himself or others.

13 14.0 Gifts and Favors

No employee or official of the State shall accept any form of gift, loan, or any gratuity for the performance of his duties other than that afforded him by the State.

13 15.0 Purchases of Commodities and Services

No employee or official may be a party to the purchase of or influence the purchase of goods or services for the use of the State from any person, company or business in which he has substantial financial interest unless approved in advance by the Commissioner of Administration. Such approval shall be in written form and be open to inspection by the public.

13 16.0 Conflicts of Interests

No employee or official of the State shall engage in any business or transaction, or shall own a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his official duties.

13 17.0 Interpretations

At the request of any concerned employee or official, or on its own motion the Personnel Board shall render interpretive opinions regarding the application of Rule 13. Insofar as possible, all such opinions shall be worded so as not to disclose the identity of any individual seeking an opinion. All such opinions shall be published and kept current as a supplement to the Personnel Rules.

13 18.0 Penalties

Any person who willfully violates any provision of these Personnel Rules is guilty of a misdemeanor. Any State employee who is convicted of a misdemeanor under these Personnel Rules shall immediately forfeit his office or position.

13 18.1 In any case in which a violation of these Rules has occurred and a department head has failed to take action to

enforce the Rules within a reasonable period of time, the Director shall take whatever action is necessary to secure compliance with the Rules.

Rule 14

GENERAL PROVISIONS

14 01.0 Citizenship Qualifications

All employees of the State must be citizens of the United States except where otherwise provided for by law.

14 02.0 Oath of Office

All officers and employees of the State, before entering upon their duties, must take and subscribe to the oath or affirmation required by AS 39.05.130.

14 03.0 Roster of Employees

The Director shall establish and maintain a roster of all employees in the classified and partially exempt service.

14 04.0 Personnel Actions: General

All personnel actions affecting positions in the classified and partially exempt services, and the employees appointed to such positions, shall be issued in writing on such forms as may be prescribed by the Director, and a record of all such actions shall be sent to the Director.

14 05.0 Delegation of Personnel Duties

In accordance with the Act and these Personnel Rules, the Director may delegate personnel responsibilities and duties concerned with personnel to the principal departments covered by the Act.

14 06.0 Coverage of the Rules

These Rules apply to the positions in the classified service and to nonpermanent positions as stated. They apply to the positions in the partially exempt service only when such application is specifically stated.

14 07.0 Public Records

Except for examination materials, performance evaluations, personal history, or other confidential materials so designated by the Director, employee records shall be public records. Such records shall be available for inspection in the presence of authorized personnel by the public during regular office hours in accordance with such procedure as the Director may establish.

14 08.0 Enforcement

The Director may take any necessary action such as terminating or correcting the status of an employee, or bringing an employee's salary into conformance with the classification and pay plan to enforce these Rules and/or to correct any appointment which is not in accordance with the Law or these Rules. Such determinations may be carried to the Personnel Board for review.