

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1361 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

SCOMM

#51:7

OVERVIEW OF THE EFFECT OF COLLECTIVE BARGAINING
ON THE
STATE PERSONNEL ACT AND THE PERSONNEL RULES

Prepared by:

Lori Peterson

Edited by:

Teresa B. Cramer

Senator Bill Ray, Chairman
Blue Ribbon Commission on the
State Personnel Act

August 1979

TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. CLASSIFICATION.....	2
A. Statute.....	2
B. Personnel Rules.....	2
C. Collective Bargaining Contracts.....	2
D. Summary.....	3
III. RECRUITMENT, EXAMINATION AND ELIGIBLE LISTS.....	4
A. Statutes.....	4
B. Personnel Rules.....	4
C. Collective Bargaining Contracts.....	5
D. Summary.....	6
IV. TEMPORARY, EMERGENCY, PROVISIONAL AND PART-TIME APPOINTMENTS.....	7
A. Statutes.....	7
B. Personnel Rules.....	7
C. New Legislation.....	8
D. Collective Bargaining Contracts.....	8
E. Summary.....	9
V. PROBATIONARY PERIODS.....	10
A. Statutes.....	10
B. Personnel Rules.....	10
C. Collective Bargaining Contracts.....	11
D. Summary.....	12
VI. TRAINING.....	13
A. Personnel Rules and Statutes.....	13
B. Collective Bargaining Contracts.....	13
C. Summary.....	14
VII. TRANSFERS.....	14
A. Statutes.....	14
B. Personnel Rules.....	15
C. Collective Bargaining Contracts.....	15
D. Summary.....	16
VIII. PROMOTIONS.....	16
A. Statutes.....	16
B. Personnel Rules.....	16
C. Collective Bargaining Contracts.....	17
D. Summary.....	18
IX. MERIT INCREASES.....	18
A. Personnel Rules and Statutes.....	18
B. Collective Bargaining Contracts.....	18
C. Summary.....	19

TABLE OF CONTENTS (cont.)

X.	LAYOFFS.....	19
	A. Statutes.....	19
	B. Personnel Rules.....	20
	C. Collective Bargaining Contracts.....	20
	D. Summary.....	21
XI.	SUSPENSION, DEMOTION AND DISMISSAL.....	21
	A. Statutes.....	21
	B. Personnel Rules.....	21
	C. Collective Bargaining Contracts.....	22
	D. Summary.....	24
XII.	HEARINGS AND APPEALS.....	24
	A. Statutes.....	24
	B. Personnel Rules.....	25
	C. Collective Bargaining Contracts.....	26
	D. Summary.....	27
XIII.	HOURS OF WORK.....	27
	A. Statutes.....	27
	B. Personnel Rules.....	28
	C. Collective Bargaining Contracts.....	28
	D. Summary.....	30
XIV.	PAY.....	30
	A. Personnel Rules and Statutes.....	30
	B. Collective Bargaining Contracts.....	31
	C. Summary.....	32
XV.	CONCLUSION.....	32
	A. Miscellaneous Contract Provisions.....	33

I. INTRODUCTION

The purpose of this overview is to summarize the effect of collective bargaining on the Personnel Act (AS 39.25) and the Personnel Rules and, as space permits, to identify the different systems for handling personnel procedures established by the contracts considered. This is a topical presentation of the Personnel Act, the Rules and five of the eight collective bargaining contracts covering Alaska's public employees during 1979. No attempt is made to investigate the application of the contracts: The study is limited to summarization of actual contract terminology.

The five contracts studied represent a variety of union memberships and interests: APEA's General Government Unit (GGU) represents non-supervisory members; APEA's Supervisory Unit represents supervisory and managerial members; Confidential Employees Association (CEA) represents members employed in personnel departments; Local 71 represents members belonging to the labor, trades and crafts professions; and Public Safety Employees Association (PSEA) represents regularly commissioned public safety officers.

Because marine employees are classified as exempt and are therefore excluded from the provisions set forth in the Personnel Act (AS 39.25.110(12)) and the Personnel Rules, they have not been considered here. The Inland-boatmen's Union of the Pacific (IBU), the International Order of Masters, Mates and Pilots (MMP) and the Marine Engineers Beneficial Association (MEBA) negotiate with the state on wages, hours, working conditions and other employee benefits covering marine transportation employees engaged in the operation of the state ferry system. AS 23.40.040.

Each of the collective bargaining contracts reviewed here contains a clause committing the union and the state to strengthening merit principles in the bargaining unit and to use all due diligence in maintaining merit principles among public employees. Each contract also contains a statement that the terms of the contract take precedence over personnel rules and departmental operating procedures. One of the contracts provides that if the terms of the contract conflict with the law, the contract supersedes the provision of the law. Additionally, the contracts provide that the parties will renegotiate if any portion of the contract is declared invalid and that the remaining parts of the contract should be considered valid.

There are two Local 71 contract versions, one printed by the state and one by the union. There are no substantive differences between the two, although articles and sections are numbered differently. All citations noted herein are from the union version.

II. CLASSIFICATION

A. Statute:

Sec. 39.25.150. Scope of rules. The personnel rules shall provide for (1) the preparation, maintenance, and revision by the director of personnel...of a position classification plan for all positions in the classified and partially exempt services;

B. Personnel Rules

Actual allocations of positions to job classifications are handled by the Director of the Division of Personnel with assistance from the appointing authorities. This necessitates budgeting prior to the completion of classification actions and certification of the availability of funds by the Director of the Division of Budget and Management. PR 204.5. Periodically, classification allocations in both the classified and partially exempt service are to be systematically reviewed by the Director, and appropriate adjustments are to be made in accordance with findings. PR 2.

C. Collective Bargaining Contracts

All collective bargaining contracts representing employees in the state service recognize the classification, development, modification and assignment of positions to various classifications as a management prerogative. The contract terms on this topic are limited, in most instances, to requirements that job descriptions be updated periodically, and to the enumeration of the classifications within each union.

General Government Unit

The GGU contract provides that the union may require the employing department to prepare an updated position description when it believes the duties and responsibilities of an employee's position description are inconsistent with the employee's assigned duties. The union may then request the department to order a job audit by the Chief of the Classification and Pay Section of the Division of Personnel. If the union believes inequities exist in a class series, between classes or in salary ranges assigned classes, it may notify the Chief of Classification and Pay, who must then respond. In either case, the union may appeal any findings of the Chief of Classification and Pay to the Director of Personnel and then to the Commissioner of Administration. Art. 19.

Supervisory Unit

In the SU contract, disputes or grievances relating to classification are apparently subject to grievance procedures outlined in Article 10, which state that any dispute arising between the unit or an employee and the state is to be settled by the methods outlined in that article. The contract does not otherwise address the topic of classification.

Local 71

Local 71's contract states that the state and the union agree to review all existing classification specifications and descriptions within the union's purview and to take any classification or reclassification action necessary to correct errors. A procedure is set forth for handling disputes on such matters. The Commissioner of Administration is responsible for initiating investigations on classification actions disputed by the union. If the Commissioner of Administration and the union cannot resolve an issue regarding classification, then an arbitrator may be called in for a final binding decision. The arbitrator has authority to establish a new wage rate or classification only for positions in which new types of equipment or operations for which rates of pay have not been previously established are the subject of the dispute.

Confidential Unit

The CEA contract has no provisions addressing the classification process. Any disagreement or dispute regarding classification could conceivably be filed in accordance with grievance procedures set out in the contract. Art. 13.

Public Safety Unit

The PSEA contract enumerates classifications within the union by title and salary range (Art. 15), and grievances regarding classification resulting from violations of the personnel rules or the operating procedures manual can be brought before the Commissioner of Administration. Grievances involving contract terms may be brought to binding arbitration. Art. 10(1).

D. Summary

Of all the contracts studied, Local 71's appears to establish the most involvement in the state's classification system. Only Local 71's contract requires a classification study of positions within the union and provides a separate procedure for resolving classification disputes.

The membership of CEA and SU have the most knowledge of, and in the normal scope of their responsibilities, the most control over classification procedures. Confidential employees in the normal course of their functions handle all classification actions for their departments and are therefore less likely to encounter problems on their own behalf. Similarly, supervisors work closely with the classification plan and are more familiar with its implementation. Conversely, GGU, Local 71 and PSEA members are isolated from the actual classification processes and consequently have less ability to influence classification decisions.

III. RECRUITMENT, EXAMINATION AND ELIGIBLE LISTS

A. Statutes

The Personnel Act states that, in accordance with the merit principle of employing the best qualified persons for state service, the personnel rules shall provide for "the use of sound selection methods, including open competitive examinations...for positions in state service". AS 39.25.150(3). The rules shall also provide for:

the establishment and maintenance of eligible lists for appointment and promotion; the names of eligible candidates shall be placed on eligible lists in order of their relative performance in the examinations. AS 39.25.150(5).

The statutes provide for a veteran's preference system (AS 39.25.150(23)), employment preference for the severely handicapped (AS 39.25.150(25)), and a vocational substitution program for Alaskan residents who live in underemployed or remote areas of the state where opportunities to gain hiring qualifications do not exist (AS 39.25.155).

B. Personnel Rules

The Director of the Division of Personnel is responsible for recruitment of qualified applicants for the classified and partially exempt service. PR 3 01.0.

There are three types of examinations used by the state: continuous examinations, with no closing date for receipt of applications; specific examinations, which do have a time limit on receipt of applications; and promotional examinations, which are only open to permanent employees. PR 3 01.0. The final examination grade may be based on all factors of the examination, including test results, educational requirements, experience and other data from the applicant or other verified information. PR 3 05.1. The performance record and seniority of a permanent employee in the classified service applying for promotion is also evaluated. PR 3 05.2.

Applicants may review tests, except those used for a continuous recruitment class and other information used in the applicant's final rating except information gained as a result of confidential inquiries. PR 3 06.0.

All eligible lists must be by class title, with eligibles ranked following competitive tests and performance ratings. All lists are applicable statewide, unless otherwise designated by the Director, and all vacancies are filled by certification from competitive eligible lists except as otherwise provided in the rules. PR 4 01.0.

The Director is responsible for the certification of such lists for filling vacancies within the classified and partially exempt services. Emergency appointments are an exception to this rule. Eligibles for permanent positions are first to be certified from layoff lists, and if none exist, the Director certifies from competitive eligible lists. Appointments are made on the basis of merit from the selection of the highest on the list in accordance with the duties of the position. Selection is made from the top five available eligibles on competitive lists, and can include eligibles on rehire lists. In unique and unusual circumstances, the appointing authority can choose an applicant below the top five. PR 5.

C. Collective Bargaining Contracts

The contracts examined in this study, with the exception of Local 71's, recognize recruitment, examination, selection, promotions, transfers and the determination of methods for such action as a management prerogative.

General Government Unit

When a member applies for a position within the GGU contract's jurisdiction, the applicant is required to receive notification of her or his eligibility for a competitive examination. If the Division of Personnel finds that an applicant fails to meet the test and examination standards for the position, the unit can receive an explanation of the criteria used in the computation of the final rating on training and experience. Art. 18(9). If a written examination is found to have discriminatory impact on members, the unit and the Deputy Director of the Division of Personnel agree to appoint an advisor to review the examination(s) in question and to make recommendations for corrective action. If the GGU and the Deputy Director cannot reach an agreement on the advisor's recommendations, the matter is referred to the Director for final disposition. Art. 18(10).

The GGU contract also requires that explanation be provided to the union from the Division of Personnel when a member is refused certification on an eligible list. Employees are not required to seek the approval of their supervisors when requesting placement on transfer lists. Art. 18(1).

Supervisory Unit

The SU contract also requires explanation from the Division of Personnel when a member is refused certification on an eligible list. Supervisors cannot remove names of employees from eligible or transfer lists, and placement on transfer lists does not necessitate the approval of a supervisor. Art. 16(1).

The contract does not contain any direct reference to the recruitment and examination processes, but does agree to uphold the merit principle of encouraging the hire of the most qualified. Art. 4.

Public Safety Unit

PSEA's contract stipulates that the merit principle of selecting the most qualified will be upheld. Art. 5. There is no specific mention of the topic of eligible lists in PSEA's contract.

Confidential Unit

CEA's contract requires that employees receive written explanation in instances where they are refused certification on eligible lists or are removed from lists. Placement of an employee's name on a transfer list does not necessitate a supervisor's approval. Art. 12(1). CEA's contract requires that vacancies be filled first from layoff lists, and if none exist, from promotional lists. This serves to give applicants who are current members of the union or previous members preference over applicants from outside the union's jurisdiction. Art. 12(4).

Local 71

Preferential hiring facilities are provided for within the Local 71 contract for the purpose of operating a job referral system, which the state uses in acquiring employees for classifications within the union's purview. A joint hiring committee of two state representatives and two union representatives is established contractually to oversee and control the job referral system, to establish rules and regulations for maintaining the system and to hear grievances, or in the case of a deadlock, to employ an impartial umpire to make a final binding decision. Local 71's contract stipulates that selection of applicants for certification to the state is not discriminatory and that preference is given to residents of Alaska and residents within the immediate vicinity of available positions. The state maintains the right to reject applicants referred by Local 71, but must supply reason(s) for rejection of applicants. In the event that Local 71 cannot supply a qualified applicant upon the state's request within 48 hours, the state may hire from any other source, provided Local 71 is notified of the action. Art. 5.

Because of federal regulations and merit system standards, Occupational Safety Compliance Officers have been exempted from the job referral system and are subject to the testing and examination process used by the state. Art. 43(1).

D. Summary

Collective bargaining appears to have no significant impact on the state's recruitment and examination processes. However, Local 71's job referral system does replace the state's system with an alternative

practice. Federal and statutory mandates of hiring the best qualified are upheld by all of the unions considered in this study.

IV. TEMPORARY, EMERGENCY, PROVISIONAL & PART TIME APPOINTMENTS

A. Statutes

The Personnel Act provides for the existence of emergency, temporary, provisional and permanent part-time appointments in the personnel rules. Temporary appointments are defined by statute as those of a seasonal or temporary nature, and provisional appointments as those occurring without competitive examination when appropriate eligible lists are not available. AS 39.25.150(8),(9) and (10). Permanent part time appointments are defined as employment on the basis of 15 hours or more a week, including employment of two persons to fill one permanent full-time position. AS 39.25.150(24).

B. Personnel Rules

The personnel rules define more clearly the extent of the appointments and their limitations. Temporary appointments are not to exceed six months in duration and are to be made from eligible lists when practicable. The Director of the Division of Personnel may grant extensions to this time limit, and temporary employees may seek employment in other departments immediately following the expiration of this term, but not with the same employing department. PR 5 06.0. The rules also create short term appointments, which are not to exceed 90 days in any one calendar year and may be made for positions in remote areas only. PR 5 06.1.

Emergency appointments are limited to 30 days in duration with no more than three appointments per person in any one calendar year. An emergency is defined as a condition necessitating immediate action to provide work in the public interest, and as filling a need that could not be anticipated. Exception to the limit of three appointments per person in one year is made for guards or attendants for prisoners. PR 5 07.0.

Provisional appointments may be authorized by the Director in the absence of appropriate eligible lists. A provisional employee must be terminated upon the expiration of the probationary period of a regular permanent appointment or the subsequent appointment from an appropriate eligible list. A provisional employee may be converted to probationary status, provided the employee meets the qualifications specified by the Director and is placed on an eligible list in a position that is reachable for appointment. PR 5 08.0.

C. New Legislation

Effective as of January 1, 1980, reference to temporary appointments will be eliminated from the statutes in accordance with new legislation on nonpermanent hire. The following is a summary of Chapter 67, SLA 1979:

State Employees

Categorizes all classified state employees as permanent, non-permanent or emergency employees and provides that a nonpermanent employee may not be appointed and placed on the payroll without the prior written approval of the director of the division of personnel and labor relations. Sets out conditions under which nonpermanent employees may be appointed and limits their service to 120 days in a 12-month period unless they are "program or project employees." Makes a person who falsely certifies a need for a nonpermanent employee personally liable in a civil action to the nonpermanent employee if the employee was terminated as a result. (HCS CSSB 198).

D. Collective Bargaining Contracts

General Government Unit

GGU is recognized as the exclusive representative of temporaries in the unit, and conditions on temporary employment are set out. Temporaries do not come under the definition of "member". The contract limits the temporary employment period to nine months, with no extensions possible. However, by amending the contract, that term has been shortened to six months. Temporaries must meet minimum qualifications of the classifications they are hired for. Following the six month term, a person may be employed as a temporary within a different employing department. Temporaries receive holiday pay, credit for time in service should they become probationary employees and compensation that is at least equivalent to the entry level of the assigned class. Art. 2(2).

Emergency appointments to positions within GGU are limited to a total of no more than 60 days in any calendar year. The contract states that emergency employees are not members of the unit and are therefore not covered by the terms of the contract. They are subject to the personnel rules on emergency appointments. Art. 22.

Supervisory Unit

The SU contract contains a clause similar to that of GGU regarding the representation of temporaries, but does not include provision for retroactive credit for time in service towards the probationary period. Art. 2(2). Emergency appointments are not addressed in the SU contract. By definition, the term "employee" as used in the contract includes permanent, probationary and provisional employees. Art. 1(2)(c).

Public Safety Unit

Temporaries are also recognized as bargaining unit members of PSEA. Temporaries must meet minimum qualifications, be paid at wage levels equivalent to those paid to permanent employees within the same classification and receive evaluations on performance after 30 days in service to be included in their personnel records. Temporaries are also eligible for holiday pay. Art. 2. The duration of temporary employment is not limited by PSEA's contract, and emergency employees are not specifically addressed. Provisional employees are included in the definition of "member" and are therefore subject to the same terms and conditions of the contract as are permanent employees. Art 1(2)(g).

Confidential Unit

Temporary employment is limited to nine months within any calendar year by CEA's contract, and temporaries are eligible to receive holiday pay. Provisional employees are recognized as "members" and are therefore subject to the terms and conditions of the contract as are permanent employees. Art. 2. Emergency appointments are not addressed.

Local 71

Local 71's contract limits the temporary term to not more than 120 calendar days, although the time may be extended by mutual agreement between the union and the state. Temporaries, in lieu of benefits, receive \$1.32 per hour over regular class wages. Seniority is retroactive if a temporary is appointed to permanent status. CETA and PEP temporary appointments are not restricted to the 120 day limit, but are placed at step B of the salary scale following the 120 day period. Art. 25(2) and (3).

Local 71 does not recognize emergency employees within their contract. As an alternative to emergency appointments, Local 71's contract provides for "casual" employees who can be appointed by the Director of Personnel for not more than 15 calendar days. These appointments are not subject to other terms and conditions of the contract, with the exception of overtime compensation. Art. 25(5). Provisional employees are not recognized in Local 71's contract.

E. Summary

Of the contracts examined, Local 71's alters the effect of appointments to the greatest extent. Besides restricting the time in which its members may be employed as temporaries (120 days), Local 71 has created an alternative category for emergency appointments, which the union labels "casual" employment (15 days).

In regard to time limitations on emergency appointments, GGU's contract is the only one that restricts the initial employment period to one shorter than established in the personnel rules. On temporary appointments, both GGU and SU contract amendments restrict extensions beyond the six month period specified by the personnel rules, thus denying the possibility of extensions with the Director's approval.

CEA's contract, rather than limiting the employment period for temporaries, extends the time to nine months and makes no reference to possible extensions. PSEA's contract is the only one that does not address time limitations on temporary appointments.

Temporaries are entitled to holiday and compensation that is equivalent to that of permanent employees within the same classifications. Local 71 is the only union that provides additional compensation (\$1.32 per hour) in lieu of medical and insurance benefits. Three unions address credit for a temporary's time in service: GGU, SU and Local 71.

Provisional employees are generally recognized as being subject to the same provisions as permanent employees, with the exception of Local 71.

V. PROBATIONARY PERIODS

A. Statutes

The objective of the probationary term is to give an appointing authority opportunity to examine and evaluate the performance of the hired employee. The Personnel Act states that the personnel rules shall provide for:

a period of probation not to exceed one year...except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period, and may be demoted to his former class without right of appeal, §170 of this chapter notwithstanding, but if dismissed from the service he has appeal rights under §170 of this chapter. AS 39.25.150(7).

B. Personnel Rules

The probationary period set out in the personnel rules is one year for employees above range 13 and six months for those range 13 and below, which can be extended at the Director's discretion. Employees rehired, promoted or transferred must complete a probationary period for the position they are appointed to, which counts towards the completion of any probationary period uncompleted in a lower classification.

Temporary and emergency employees do not receive credit towards the probationary period for time in service. PR 6 01.0 and PR 6 02.0. During this probationary period, the Director can request employee evaluations at any time. PR 6 03.0.

A probationary employee, unless holding permanent status at the time of probationary appointment, may be dismissed without the right of appeal or hearing, unless dismissal is a result of discrimination. The employee dismissed for reasons other than discrimination may petition the Director for review of such action. The Director may restore an individual's name to an appropriate eligible list, but may not certify the individual to the same appointing authority. PR 6 05.0.

The Director is notified 15 days prior to the expiration of the probationary period, and if performance evaluations are satisfactory, the employee is placed in permanent status. PR 6 05.0. If dismissed from service, a probationary employee has the right to appeal through the Director to the Personnel Board under Rule 12 01.2, but does not have the right to appeal a demotion to a former classification. PR 6 06.0.

C. Collective Bargaining Contracts

General Government Unit

The GGU contract provides for a probationary term of six months for ranges 13 and below. The Director of Personnel may limit, by written agreement with the employee, the probationary period for ranges 5 through 13 to three months. The probationary terms for positions in range 14 and above are one year, but may be shortened to six months at the Director's discretion. Art. 18(7). All probationary employees are required to receive a written performance evaluation mid-way through the probationary term. Art. 18(8). A probationary holding permanent status in another classification is entitled to process disputes up to step four of the grievance procedures. Art. 10(1). In all other aspects, probationary employees are recognized as members and are subject to the terms and conditions of the GGU contract. Art. 2(1).

Supervisory Unit

The SU contract contains no mention of time limitations on probationary periods, so it is assumed that there is no alteration of the personnel rules in this regard. The contract does state, however, that probationary employees receive semi-annual evaluations (Art. 16(4)) and that appeals in response to dismissal of a probationary in permanent status may be submitted to arbitration (step five) for settlement. Because the definition of "employee" includes probationaries (Art. 1(2)(h)), they have access to the grievance procedures up to step four on all other matters. Art. 10.

Public Safety Unit

The PSEA contract provides for a probationary period of one year in duration, which may be extended an additional 90 days for completion of a Public Safety Academy course. The probationary period for promoted employees is limited to six months. Art. 18(1).

Probationary employees are precluded from filing grievances during their initial appointment. However, during the final six months of a probationary term, a grievance pertaining to disciplinary action (except dismissal) may be brought before the Commissioner of Administration. Art. 10(1). Probationaries within PSEA must receive semi-annual performance evaluations. Art. 18(2)(B).

Confidential Unit

Probationary employees within CEA are recognized under the definition of "employee" and are subject to the terms and conditions of CEA's contract. Art. 2. Because the probationary employee is not differentiated from the permanent employee, probationaries presumably have access to grievance procedures to the same extent as do permanent employees. Art. 13.

Local 71

Local 71's contract reduces the probationary period as set out in the personnel rules. Upon completion of a 60-day probationary period, an employee is considered to be in permanent status, and seniority is then retroactive to the date of hire. Art. 25(1). Probationary employees who are discharged or terminated have appeal rights through step three of the grievance procedures. Art. 12. Probationary employees holding permanent status have access to arbitration proceedings (step four) in cases of dismissal. All other grievances received from probationaries can be brought to step three. Art. 13.

D. Summary

Probationary time frames set out in the personnel rules are altered either by limiting or extending the periods by the GGU, PSEA and Local 71 contracts.

The Personnel Act states that an employee in the classified service may appeal a dismissal, a demotion or a suspension of more than 30 days in a hearing before the Personnel Board. AS 39.25.170(a). The phrase "employee in the classified service" has been interpreted by the Supreme Court of Alaska to include permanent employees and to exclude probationary or provisional employees. Whaley vs. State, 438 P.2d 718 (1968). (By extension of this reasoning, temporary employees would also be excluded.)

The statute setting out probationary periods does make clear, however, that promoted employees retain their permanent status in the classes from which they were promoted and therefore do have the right to appeal dismissals from state service under AS 39.25.170, although they may not appeal demotions to their former classes. AS 39.25.150(7).

Under the personnel rules, however, all probationary employees may appeal dismissals which are alleged to result from discrimination based on race, color, sex, religion, national origin or political beliefs to the Director of the Division of Personnel and Labor Relations. PR 6 04.0.

Grievance rights on demotions and dismissal issues for probationary members not holding permanent status vary within each collective bargaining contract. With the exception of CEA, probationary members are precluded from arbitration proceedings.

VI. TRAINING

A. Personnel Rules and Statutes

The Director of Personnel is responsible for the development, in cooperation with appointing authorities, of programs for the improvement of employee effectiveness and morale. AS 39.25.050(3). The personnel rules implementing the statute provide for pre-service and in-service training to raise the quality of employee performance. Appointing authorities, with the Director's approval, can establish intern and apprenticeship training programs. Regulations on reimbursement of educational fees are issued by the Commissioner of Administration and are contingent upon the employee's agreement to remain in state service. PR 8 02.0.

B. Collective Bargaining Contracts

General Government Unit

In the GGU contract, the Division of Personnel agrees to recognize its responsibility to reimburse employees for expenses incurred in job-related training courses. Employees who attend training courses do not lose leave or pay unless the course is for an extended time. The Division of Personnel is also responsible for developing, when practicable, employee training procedures. On-the-job and cross-training are encouraged. The GGU contract requires that the Division of Personnel designate a person within each department to explain training and educational opportunities available to employees. Art. 20.

Supervisory Unit

As stated in the SU contract, the Division of Personnel agrees to recognize the need for educational advancement and shall reimburse, if funds are available, employees' tuition and text fees for job-related training. The unit's contract also provides for compensation during the training sessions. Art. 23(9).

Local 71

Both the state and Local 71 are to consider individual programs for employee training and reach agreement on provisions regarding wages and conditions in accordance with the union's contract. The state agrees to establish a policy committee of four members from each party to the contract to create training policies and procedures in each department. Art. 25(6).

Public Safety Unit

The PSEA contract has more specific provisions regarding employee training than do other union contracts. The Director of Personnel is to select and assign members to particular fields for safety training. Employees submit memos annually requesting training with comments from supervisors regarding the requests, and if a request is denied, a reason must be supplied to the employee. Whenever possible, the state is to attempt to obtain college accreditation for training courses. PSEA members must qualify on pistol and shotgun courses semiannually and must receive periodic retraining as required to maintain certification for job performance in their unique professions. The Division is also obligated to continue its policy of encouraging members to seek further advanced education. A standing advisory committee is established to make recommendations to the Commissioner of Public Safety on academy training, minimum training needs for Police Standards certification and in-service training needs. Art. 9.

Confidential Unit

The CEA contract states that the Division of Personnel will provide 15 hours of training each year to all members and will develop the contents of such training. Art. 14.

C. Summary

With the exception of Local 71 and PSEA, the scope of collective bargaining in relation to training is limited to requiring the Division of Personnel to create training policies and procedures. The topic of reimbursement for such expenses is addressed by GGU and SU. Local 71 and PSEA provide for the establishment of committees to oversee the implementation of training practices. The CEA contract requires that the state provide 15 hours of training annually to all members.

VII. TRANSFERS

A. Statutes

The Personnel Act states that the Personnel Rules shall provide for:

transfers from one department to another and from another merit system jurisdiction to the state service (and) transfers from one area of the state to another. AS 39.25.150(11) and (12).

B. Personnel Rules

The personnel rules define transfers as lateral moves to the same or parallel job classifications. There are two types of transfers: intra-agency and inter-agency. The status of employees is not affected by transfer. PR 5 10.3. The Director retains the right to examine an employee to establish that minimum qualifications are met before approving parallel transfer. PR 5 10.4. Fringe benefits awarded employees are also not affected by transfer. PR 5 10.6. Transfers without employee consent must be approved by the Director. PR 5 10.7.

C. Collective Bargaining Contracts

All of the collective bargaining contracts recognize the transfer of employees and the methods for determining such action as a management right. The contracts contain some provisions regarding transfers.

General Government Unit

GGU's contract states that an employee can request a transfer from the Division of Personnel and prohibits an immediate supervisor from refusing such a request or from removing an employee's name from a register. Art. 18(1).

Supervisory Unit

Provisions in the SU contract state that employees may request placement on transfer lists through the Division of Personnel and that such requests do not require a supervisor's approval. Art. 16(1).

Local 71

According to Local 71's contract, employees may not be compelled to accept transfers to new duty stations. Art. 25(16)(e).

Public Safety Unit

The provisions set forth in PSEA's contract differ significantly from those in other union contracts. Transfers are to be in the best interest of the Department, and length of service is considered in the determination of preference for transfer where other factors are relatively equal. The state is responsible for posting notices of duty posts available on a monthly basis and for maintaining files of transfer requests. When the most senior member's transfer is not honored in filling a vacancy, that member is advised of the reason in writing.

Members who have served in the unit in excess of five years are not subject to involuntary transfer except under extenuating circumstances. Members normally receive 60 days notice prior to transfer, and are granted five days of administrative leave with an additional five days available at the discretion of the Department Commander to effectuate such a move. The state agrees to continue to effect transfers arising out of special need and extenuating circumstance of a personal nature consistent with transfer policy. Transfer is not considered a method for disciplinary action. Grievances concerning involuntary transfers are to be filed with the Commissioner of Public Safety and may only be appealed to the Commissioner of Administration. Art. 12.

Confidential Unit

CEA's contract states that an employee may have her or his name placed on a transfer list by submitting the proper forms to the Division of Personnel and that this does not necessitate the approval of the employee's supervisor. Art. 12(1).

D. Summary

Collective bargaining contracts, with the exception of Local 71's, limit the ability of supervisors to prohibit employees from applying for transfers and being placed on transfer lists. Transfers may be involuntary for GGU, SU, CEA and PSEA members. Local 71's contract prohibits the state from transferring an employee involuntarily to a new duty station. The PSEA contract is the only one which includes procedures for grievance submissions relating to involuntary transfer.

VIII. PROMOTIONS

A. Statutes

The Personnel Act specifies that the personnel rules shall provide for:

promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service, and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority and conduct shall be evaluated. AS 39.25.150(4).

B. Personnel Rules

The personnel rules implement the statute and provide that appointments be made from the top five eligibles on inter-departmental and

departmental promotional lists. Promoted employees retain permanent status within their former classifications and may be demoted to former classifications at any time during the probationary period without the right to appeal.

C. Collective Bargaining Contracts

The promotion of employees and the determination of methods for such action is recognized as a management prerogative by GGU, SU, PSEA and CEA contracts.

General Government Unit

Vacant positions within the GGU are to be open to employees in the unit who are certified as promotionally eligible prior to consideration of outside applicants. The GGU contract also states that employees may refuse promotions and not have their names removed from promotional lists should they decide not to accept a promotional opportunity. Art. 18(6). Promotional evaluations and ratings must be placed in personnel files and be made available to GGU members. Art. 18(8).

Supervisory Unit

SU's contract also stipulates that unit members are to be given consideration over outside applicants and that employees may refuse promotions without being removed from such lists. Art. 16(3). The contract states that an employee who is not satisfied with a score received in the rating of training and experience for a promotional opportunity may apply for reexamination. Art. 16(4). Should an employee be unsatisfied with results after a final review by the Director of Personnel of examination results, she or he may appeal the finding to a final review panel.

The review panel consists of three members: one from SU, one from the Division of Personnel and a third party recognized for expertise in the job functions being examined, who is chosen by the other panel members from a list provided by the U.S. Civil Service Commission. The decisions of the panel are final and binding. Art. 16(5).

Local 71

Local 71's contract provides for promotion of its members by seniority as long as the employee is equally qualified with other employees in the classification and the action is mutually agreed upon by both the state and the union. The contract does not state that employees have the right to appeal final ratings of promotability. Promoted employees remain in permanent status in their new positions and therefore have access to grievance procedures. Promotional listings must be posted for four days before being filled. Art. 25 (9) and (13). Promoted employees retain seniority in their former classifications for a period of three years. Art. 25(12).

Confidential Unit

CEA's contract addresses the salary increase received when promoted, which is to be a two-step minimum. Art. 12(2). Promotional lists are to be used when no appropriate layoff lists exist for appointment to positions. Art. 12(4).

Public Safety Unit

PSEA's contract does not address the topic of promotion.

D. Summary

The collective bargaining contracts now in force leave promotions within management's discretion, with the exception of Local 71's. Contained in Local 71's contract is specific language on the methods by which management may promote members, with greater emphasis on seniority than established in the personnel rules.

IX. MERIT INCREASES

A. Personnel Rules and Statutes

The personnel rules state that merit increases are based on an appointing authority's evaluations of employee performance. A one-step increase is awarded for "acceptable" performance of progressively greater value to the state. At the appointing authority's discretion, an increase of two steps may be granted for "outstanding" performance. Merit increases are limited in that they cannot exceed the top step of an assigned salary range. PR 9 02.0.

Performance that is less than acceptable may result in a one-step withdrawal, following employee notification and a 30 day period in which the employee is given an opportunity to improve performance and thus alter an appointing authority's evaluation. Grievance procedures outlined in PR 12 01.1 are available to employees who have received a merit "decrease". PR 9 02.24 and 9 02.25.

B. Collective Bargaining Contracts

General Government Unit

GGU's contract terms on merit increases are consistent with the personnel rules, with an additional clause stating that the state agrees to modify the evaluation and merit system to make it more meaningful. The contract also states that the administration will not establish a quota or percentage system to determine the number of increases to be

granted, but will discuss the establishment of objective performance evaluation criteria with union representatives. Various provisions regarding merit "decreases" are addressed in GGU's contract, such as: A decrease may not be withdrawn below the entry step of a job classification, and no more than one step may be withdrawn in one year. Art. 4.

Local 71

Local 71's contract does not provide merit increases for members. As an alternative, a service bonus program was negotiated with the state. Members of the union are hired at wage step A and remain in that step for 120 days, at which time they are placed at wage step B. An employee is eligible for another increase after seven years in service. At that time, an employee with seven years of continuous service receives an additional twenty cents per hour. After nine years, the employee is entitled to an increase of forty cents per hour, and after eleven years an increase of fifty cents. These rates are cumulative and an alternative to the longevity bonus program (AS 39.27.022) and merit increases. Art. 20.

Supervisory, Confidential and Public Safety Units

SU and PSEA contracts do not address the topic of merit increases. CEA's contract states that when an employee is promoted, the increase in salary will be at least an advance of two steps if one-half of the merit increase evaluation period has been served, or step A, whichever is greater. Art. 12(2).

C. Summary

With the exception of Local 71, negotiations on merit increases have been limited to agreements to "modify the evaluation and merit system to be more meaningful" and to "establish objective performance evaluation criteria" (GGU) and provisions regarding promotional compensation in conjunction with merit increases (CEA).

Local 71 is the only collective bargaining union that has opted out of receiving merit increases for its membership by substituting the increases with its own service bonus plan.

X. LAYOFFS

A. Statutes

The Personnel Act states that the personnel rules shall provide for:

layoffs for reason of lack of funds or work, abolition of positions, or material changes in duties or organization; both performance

and seniority records shall be considered in the development of layoff orders. AS 39.25.150(15).

B. Personnel Rules

The personnel rules provide that employee layoffs may occur in the classified service when a position is seasonal, a substitute appointment or when positions are abolished due to shortage of work or funds or other reasons that are beyond employee control. An employee may remain on a layoff list for a period of two years and does not lose earned leave or other benefits during that time. PR 11 04.1.

During an emergency, no permanent or probationary employee may be laid off while provisional or temporary employees in the same classification are assigned to positions that could reasonably be assumed by a permanent or probationary employee. PR 11 04.2.

The order of layoff due to reduction of work force is based on performance reports and seniority. PR 11 04.4. Permanent or probationary employees must receive written notice of the reasons for their being laid off. PR 11 04.5 and 11 04.6. The names of permanent or probationary employees who are demoted in lieu of layoff may be placed on layoff lists for the positions from which they were demoted. PR 11 04.8.

C. Collective Bargaining Contracts

The reduction of the state work force due to lack of work, funding or other cause consistent with efficient management is recognized as a management prerogative in CEA, GGU, PSEA and SU contracts.

General Government Unit

Layoff, as defined in GGU's contract, means involuntary separation from service due to abolition of a position, insufficient funds, or lack of work. Art. 1(2)(1). Layoffs of employees are to be performed in accordance with the personnel rules. Art. 3(3). All employees must receive written notification of the reasons for layoff. Art. 31(1).

Supervisory Unit

The only reference to layoff in the SU contract pertains to wages becoming due immediately following separation from service. Art. 12(4).

Local 71

Local 71's contract states that all permanent employees are to be given two weeks notice or two weeks pay prior to discharge, and that a termination or layoff slip must be supplied indicating the actual reason for the action. Art. 12.

Local 71's contract also states that layoffs are to be made in reverse order of duty station seniority. If a member is laid off and holds seniority in a lower classification, the individual may be returned to the lower class and wage level. Art. 25(12).

Public Safety Unit

PSEA's contract states that all employees are to receive two weeks notice or two weeks pay prior to discharge. Art. 18(3).

Confidential Unit

CEA's contract addresses the topic of layoffs only by providing that layoff lists are used in selection for vacancies in the bargaining unit. Art. 12(4).

D. Summary

Provisions set out in the GGU, SU and CEA contracts are in accordance with those in the personnel rules. PSEA and Local 71 contracts affect the rules by providing that employees receive either two weeks notice or pay when layoffs occur. Local 71 also provides that layoffs be made in reverse order on the basis of seniority.

XI. SUSPENSION, DEMOTION AND DISMISSAL

A. Statutes

The Personnel Act states that the personnel rules shall provide for:

the imposition of disciplinary suspension without pay for not longer than 30 days in any 12 month period. AS 39.25.150(17).

B. Personnel Rules

Suspension

The personnel rules state that the appointing authority may suspend an employee for delinquency or misconduct and must inform the employee in writing of the reason for the suspension. An employee in the classified or partially exempt service may be suspended without pay and cannot receive seniority credit for the duration of a suspension. PR 11 03.0.

Dismissal

Employees not holding permanent status may be dismissed at any time at the appointing authority's discretion upon written notification. Dismissal based on improper discrimination is forbidden. A permanent employee may be dismissed by an appointing authority for just cause only, normally preceded by suspension of not less than three nor more

than thirty days. During the suspension, the employing department may make a thorough investigation of the cause and notify the employee and the Director of the reason for dismissal. All violations of the prohibitions set out in Rule 13 are considered "just cause" for dismissal (e.g. political activity; bribery; acceptance of gifts; existence of financial conflict of interest; fraud; nepotism; deception or obstruction of rights; etc.). PR 11 05.0.

Demotion

Appointing authorities may demote employees for just cause and must supply a written statement of the reason for such action to both the Director and the employee. Employees have the right to request voluntary demotions to lower classes within their job series and maintain permanent status in the class to which demoted. PR 11 06.0.

C. Collective Bargaining Contracts

General Government Unit

GGU's contract provides that the union be notified in cases of demotion, dismissal, discharge and suspension of members. Art. 31(2). Provision is also made for employees receiving demotions, either voluntary or for just cause, to remain at the same wage step as held in the higher classification. Art. 18(3) and (4). "Just cause" is defined as incompetence, unsatisfactory performance of duties, unexcused absenteeism, drunkenness, dishonesty or gross disobedience. Art. 1(2)(k). All employees, with the exception of those discharged for "just cause", are required to receive written notification of the reason for discharge prior to termination. Suspended employees must also receive written notification of the reasons for such action. Employees who wish to have such action reviewed must follow the grievance procedures outlined in the contract. Art. 31(1). A grievance on demotion or dismissal may be brought to binding arbitration by an employee holding permanent status. Probationary employees may pursue a grievance on suspension, demotion or dismissal only to step four, and are denied access to binding arbitration. Art. 10(1). All grievances resulting from dismissal, demotion or a single suspension in excess of thirty days shall be entered at step three of the grievance procedures. Art. 10(2).

Supervisory Unit

SU's contract contains the same provisions as those in GGU regarding notification of the employee and the union in cases of discharge, suspension and demotion. It also states that a union representative may be present during all stages of hearings determining such matters. Copies of written reprimands must be made available to representatives by employee request. Art. 25(2).

Members of SU who are demoted either voluntarily or for just cause retain the same wage step, a higher step or a step that best reflects creditable service to the state. Art. 16(6) and (8). Dismissed, demoted or suspended employees in permanent status have access to grievance procedures including binding arbitration. Art. 10(1).

Local 71

Local 71's contract recognizes management's right to discharge permanent employees for just cause (e.g. incompetence, unsatisfactory performance, unexcused absenteeism, etc.). The union is to be notified of the reason for the discharge of a permanent employee prior to the employee's notification. All permanent employees are given two weeks notice or pay prior to discharge, with the exception of those discharged for just cause.

All employees are to be supplied with a termination slip showing the specific reason for termination. Local 71 representatives must be notified in writing concurrent with notice to the employee of reasons for disciplinary actions, and union representatives have the right to be present at all hearings if requested by the employee. Employees holding permanent status have access to binding arbitration on matters concerning demotion, dismissal or suspension. Other employees have appeal rights through step three of the grievance procedures. Art. 12.

Public Safety Unit

PSEA's contract states that conduct unbecoming an officer is grounds for immediate dismissal. Otherwise, all employees must receive two weeks notice or pay prior to discharge. Permanent and temporary members of the union are required to give 30 days written notice before leaving employment, which may be modified by mutual agreement between the employee and the state. Art. 18(3) and (4).

The contract sets out detailed procedures governing the conduct of administrative investigations into a member's alleged misconduct, including the member's right to be informed of a complaint and its origin, union representation, time to prepare a response to allegations, a copy of the record of investigation proceedings and reassignment to "administrative" functions without loss of pay or benefits until the conclusion of the investigation. In addition, members may request an investigation into adverse rumors affecting the member's credibility, integrity or reputation. Probationary employees who have completed six months of the initial probationary period are protected by these rights except in the case of dismissals. Art. 7.

Grievances relating to violations of PSEA's contract terms or involving demotion, discharge or suspensions may be brought to binding

arbitration. During the final six months of the probationary period, an employee may bring a grievance involving any disciplinary action other than dismissal to the Commissioner of Administration. Art. 10(1).

Confidential Unit

CEA's contract states that in cases of discipline, suspension or demotion, CEA will be notified in writing concurrent with the commencement of such action. Employees who directly or indirectly exploit their connection with the employer through outside business activities or who disclose any confidential information pertaining to the employer's business are subject to immediate disciplinary action. Art. 11. Demoted employees must enter classifications at the same step as occupied in the higher range or a step approved by the Director of Personnel. Art. 12(3). The grievance procedure outlined in Article 13 is the sole method for settling disputes on suspension, demotion or dismissal, which are subject to binding arbitration.

D. Summary

It is generally recognized by the five union contracts that discipline, suspension, demotion and dismissal of employees for just cause is a management prerogative. However, the definition of just cause varies slightly in each contract. In most instances, members holding permanent status are provided access to grievance procedures up to and including binding arbitration.

XII. HEARINGS AND APPEALS

A. Statutes

The State Personnel Act provides that:

(a) An employee in the classified service who is dismissed, demoted, or suspended for more than 30 working days in a 12-month period shall be notified in writing by his employer of the action and the reason for it and may be heard publicly by the personnel board and may be represented by counsel at the hearing. In order to be heard, the complainant shall request a hearing within 15 days of dismissal, demotion or suspension.

(b) If the board finds that the action complained of was taken for a political, racial or religious reason, or in violation of this chapter or the rules adopted under this chapter, the officer or employee shall be reinstated to his position without loss of pay or leave benefits for the period of his dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations to both parties. AS 39.25.170.

The personnel rules shall provide for:

the procedures for review of disputed personnel actions and for resolving employee and interagency grievances. AS 39.25.150(18).

B. Personnel Rules

The dispute procedures for hearings and appeals outlined in PR 12 are available to employees in the classified service only. They are as follows:

- Step 1: The employee discusses the action grieved with immediate supervisor.
- Step 2: The employee submits a written statement to the supervisor.
- Step 3: The supervisor replies and submits a copy of the response to the departmental personnel officer.
- Step 4: The employee submits a written grievance to the personnel officer who transmits the information to the Division of Personnel.
- Step 5: There are two alternative methods for procedures at this point:
 - a. If the grievance is not a violation of an interpretation of the personnel rules and is within the discretion of the appointing authority, the departmental personnel officer and the employing division head investigate and make recommendations to the executive head of an agency.
 - b. If the grievance stems from violation of the personnel rules, the Director of the Division of Personnel responds with a written statement of findings to both the grievant and the department.
- Step 6: The agency head or a designated representative makes a decision.
- Step 7: The employee addresses the Commissioner of Administration requesting a hearing.
 - a. A grievance committee is formed to conduct a hearing, which submits a report to the employee's department and the employee's representative following the close of the hearing. (If the grievance is a result of a supervisor's mistake, the committee may order a copy of the decision rendered be placed in the supervisor's personnel file.)

Step 8: An appeal may be submitted to the Personnel Board following receipt of the grievance committee's report.

- a. The Personnel Board reviews and affirms, modifies or vacates findings. The Board may conduct a hearing and then submits a report in the same manner as the grievance committee.

Inter-agency disputes are settled by the appointing authorities representing agencies involved in the disputed personnel action. Final decision on such matters may be made by the Commissioner of Administration.

C. Collective Bargaining Contracts

General Government Unit

GGU's contract sets out grievance procedures which supersede those in the personnel rules. The contract specifies the time limitations on filing grievances and subsequent responses. An employee must first bring a grievance to her or his supervisor, with or without GGU representation, for settlement (step 1). This step may be either verbal (informal) or written (formal) at the employee's discretion. If the dispute is not settled at the supervisor's level, the employee must present the dispute in writing to the division head, again with or without GGU representation (step 2).

If a settlement is not reached at step 2, an employee must seek GGU representation to pursue the grievance. The GGU representative presents an appeal to the Commissioner or head of the agency in question (step 3). Should a satisfactory decision still not be forthcoming, an appeal may be submitted to the Commissioner of Administration (step 4).

The final step is binding arbitration. Any grievance pertaining to the application or interpretation of GGU contract terms or an appeal of demotion or dismissal of an employee holding permanent status may be submitted to arbitration for settlement (step 5). The contract outlines arbitration procedures calling for an arbitrator from the U.S. Federal Mediation and Conciliation Service. Art. 10.

Supervisory Unit

The SU contract contains the same grievance procedures set out in the GGU contract. Art. 10.

Local 71

Local 71's contract provides grievance procedures similar to those outlined above. An employee initially files an appeal with the Steward, then with the executive head of the agency, and then with the Commissioner of Administration. Any grievance regarding the terms of the contract or the demotion or dismissal of a member may be brought to binding arbitration before an arbitrator from the U.S. Federal Mediation and Conciliation Service. Art. 13 and 14.

Confidential Unit

CEA's contract also provides similar grievance procedures. The last alternative for settling a grievance is through the Board of Arbitration before an arbitrator of the U.S. Federal Mediation and Conciliation Service. Unlike the contracts discussed above, the CEA contract does not provide limits to the application of grievance provisions. Art. 13.

Public Safety Unit

PSEA's contract sets forth varying levels to which an employee may carry grievance proceedings. Violations of the personnel rules or the operating procedures manual, involuntary transfers, written reprimands, and disciplinary grievances (except dismissal) of a probationary employee following the initial six month's of the term may be brought to the Commissioner of Administration for final decision. Grievances pertaining to discharge, suspension, demotion and disciplinary actions can be brought to binding arbitration when they are violations of the personnel rules, the operating procedures manual or contract terms. Art. 10(1).

Class grievances are initially submitted to the Commissioner of Public Safety. Art. 10(2). Time limitations are specified in PSEA's contract, as well as enumerated steps for settling grievances up to binding arbitration before a Federal Mediation and Conciliation Service arbitrator. Association grievances are filed with the Commissioner of Public Safety and may be brought to binding arbitration. Art. 10(5) and (6).

D. Summary

All of the collective bargaining contracts examined have grievance procedures superseding those set out in the personnel rules. The contracts generally outline five "steps" in which a grievance may be processed. The final step in all contracts is binding arbitration before an arbitrator from the U.S. Federal Mediation and Conciliation Service. Four contracts limit the scope of arbitration or to whom it is available (PSEA, GGU, SU, and Local 71), and one doesn't (CEA).

In comparing grievance procedures specified by contracts and the personnel rules, time frames do not appear to differ significantly. The personnel rules do not address binding arbitration, but union members must use the procedures outlined in their respective contracts for settlement of disputes.

XIII. HOURS OF WORK

A. Statutes

The Personnel Act states that the personnel rules shall provide for the hours of work for employees and the methods and procedures covering

overtime work and pay, as well as for employees who work part-time at 15 hours or more a week, including two employees filling one permanent full-time position. AS 39.25.150(19), (20) and (24).

B. Personnel Rules

The appointing authority, with the Director's approval, is responsible for the establishment of reasonable working hours, which are not to be less than the minimum work week of 37½ hours. The normal work day consists of 7½ hours from 8:00 to 4:30, Monday through Friday. Overtime availability and compensation are subject to the policies established by the Commissioner of Administration. Holidays are enumerated in this section as well as the rules for following holidays and other rules and regulations that may be adopted by departments required to remain in operation on holidays. PR 7 07.0.

The equations for hourly, part-time and monthly rates are set out in the personnel rules. Part-time compensation is to be proportionate to the rates for full-time service, and actual time on the job is to be the basis for total remuneration. PR 9 03.0. Compensation for overtime may be in cash or in compensatory time off. A maximum of 300 hours of compensatory time may be accrued annually. Anything over that amount must be paid in cash, liquidated annually (unless the Commissioner of Administration approves an extension) and may be taken off when desired by the employee, with the appointing authority's approval.

C. Collective Bargaining Contracts

General Government Unit

GGU's contract states that the determination of employee eligibility for overtime must be in accordance with the Fair Labor Standards Act. A neutral hearing officer is appointed to determine such eligibility and has authority to make binding decisions. Normal working hours as specified by the contract are 37½ hours per week, and anything in excess of the normal week constitutes overtime, which is equalized among those employees who desire additional hours of work. However, it is recognized that the state does have the right to assign and require overtime when an individual's qualifications are necessary to accomplish a particular task. Art. 25(1) and (2).

Employees called back to work within four hours after completion of a shift are subject to recall provisions and the appropriate overtime rate, and employees remaining on call or those who must periodically report their whereabouts are entitled to standby provisions as designated in GGU's contract. Art. 25(3). Shift differentials and holiday provisions are set forth in the contract, which also limits the time an employee may be required to work to a maximum of 15 hours per day. Art. 25(4).

Supervisory Unit

The SU contract contains terms requiring the state's compliance with the Fair Labor Standards Act in determining eligibility for overtime and sets out holiday, standby, recall and shift differential provisions. Art. 18.

Local 71

Local 71's contract provides for overtime on both a daily and weekly basis. Regular working hours consist of $7\frac{1}{2}$ hours per day and $37\frac{1}{2}$ hours per week. Time and a half is paid for the first day worked in excess of $37\frac{1}{2}$ hours, and double time is paid for overtime exceeding two or more days. An employee may not be required to work overtime, which is distributed evenly on the basis of seniority among those who desire it. Art. 22.

Shift differentials for swing and graveyard shifts, hazardous working conditions, recall and standby are provided for in 71's contract. Art. 23, Art. 24 and Art. 26(7) and (8). Working hours for members may be subject to certain variables such as tidal operations, a membership vote in favor of rotating multiple shifts or ferry travel time. Art. 26(2), (10) and (11). Holidays are also provided for in the contract. Art. 32.

Public Safety Unit

PSEA's contract addresses the special interests and functions of its members in regard to overtime and related topics. Provisions are made for shift differentials, holidays, Field Officer Training differentials, standby, recall, early call-in, interruption of vacation, flexible posts, hazardous conditions and sea duty. Art. 15. Members cannot be required to work in excess of 15 hours within a 24 hour period and are entitled to a minimum of 8 hours between shifts. Art. 16(4) and (6). The normal work week is set forth as $37\frac{1}{2}$, and PSEA's contract provides that overtime will constitute hours exceeding $7\frac{1}{2}$ per day. Art. 15(16).

Confidential Unit

CEA's contract states that the normal work week for members consists of $37\frac{1}{2}$ hours, $7\frac{1}{2}$ hours per day, Monday through Friday. Employee overtime eligibility is determined in accordance with the Fair Labor Standards Act guidelines for employees covered by the Act and by policy established by the Commissioner of Administration for those not covered. Holidays are specifically enumerated and the methods for following them. Clauses regarding recall, standby and the maximum hours that an employee may be required to work (16 hours within any 24 hour period) are contained in the contract. Art. 8.

D. Summary

All of the collective bargaining contracts studied contain provisions regarding the "normal" working hours for members (37½ hours per week and 7½ hours per day). Three contracts (PSEA, Local 71 and CEA) state that overtime consists of hours exceeding 7½ in any one day or 37½ in any week. Three contracts (GGU, SU and CEA) provide that overtime eligibility be determined in accordance with the Fair Labor Standards Act.

Guidelines are established by the contracts regarding shift differentials, standby, recall and other variables relating to employee working hours. Holidays are enumerated within each contract, which are identical to those set out in the personnel rules.

XIV. PAY

A. Personnel Rules and Statutes

The Director of the Division of Personnel and Labor Relations has responsibility for the state's pay plan in accordance with AS 39.25.150(2), which states that the personnel rules shall provide for:

the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan shall be prepared after consultation with the appointing authorities or their designee, and with representatives of interested employee groups; the plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered, and shall be based on the principle of like pay for like work; commissioners' salaries are not the maximum limit for the pay plan and in exceptional circumstances higher salaries may be specified; the pay plan may provide for uniform starting pay, increments and area and time differentials; the pay plan prepared under this section may be amended, approved or disapproved by the legislature in regular or special session; after the pay plan is put into effect, no salary or wage payment may be made to a state employee covered by the pay plan unless the payment is in accordance with this chapter and the rules adopted under this chapter;

The application of the rules on pay depends upon funds being available. Various provisions within the rules address salaries for beginning, former, promoted, transferred and demoted employees; merit increases; hourly parttime and monthly rates as well as overtime compensation; compensatory time; and moving expenses (these topics are addressed in other portions of this study).

B. Collective Bargaining Contracts

All of the contracts negotiated with the state set wage schedules for their respective memberships and provide for cost-of-living adjustments based on the Anchorage Consumer Price Index for multi-year contracts.

Also incorporated in the contracts are clauses pertaining to compensation and variables such as geographic differentials, shift differentials, hazardous working conditions, subsistence, recall and standby. Each collective bargaining contract has provisions that are unique to the functions of its membership.

General Government Unit

GGU's contract states that members of the unit are to receive one and one-half their base salaries for hours exceeding 37½ per week. Employees called back to work within four hours after completion of a shift are entitled to overtime (recall), and those ordered to remain at home or to periodically report their whereabouts are entitled to receive 10% of their base salaries while assigned to a standby roster. Geographic and shift differentials are also included in computation of compensation of standby and recall. Art. 25(3). GGU members receive overtime pay for work on holidays and regular pay for holidays enumerated in the contract.

Supervisory Unit

SU's contract also addresses standby, recall, shift differentials for both swing and graveyard shifts, and hazard pay. Art. 18 and 19.

Local 71

Local 71's contract states that union members are entitled to time and one-half for the first day worked in excess of regular hours and two times their base salary for hours exceeding that limit. Any member working over 7½ hours per day is entitled to receive overtime. Art. 22. Shift differentials are provided to members for both swing and graveyard shifts at 3.75% and 7.5% of base salaries respectively. Art. 23. Members are entitled to hazard pay when working at excessive heights, handling explosives or traveling by helicopter. Art. 24. Provision is also made for standby and recall assignments. Art. 26(7).

Public Safety Unit

PSEA's contract provides members with additional compensation for shift differentials, field officer training differentials, geographic differential, standay, recall, early call-in and hazardous working conditions. Other miscellaneous provisions encompass the unique responsibilities of the union's membership.

Confidential Unit

CEA's contract provides that when members work swing or graveyard shifts, they are entitled to one or two step increases above normal pay ranges, respectively. Recall and standby service is defined, and payment for employee time is provided for by the contract. Art. 8.

C. Summary

Each collective bargaining contract contains a salary schedule for its membership and various provisions regarding compensation variables and overtime. Traditionally, salary negotiations are an integral part of the collective bargaining process and are emphasized by the provisions set forth in the contracts studied. There are many diverse factors that are taken into account regarding salaries, which have only been briefly noted above.

XV. CONCLUSION

There are, of course, many other provisions set forth in the five contracts studied relating to the interests of public employees. These topics (with the exception of leaves of absence, insurance, retirement, examination of records and moving expenses) are not addressed by either the Personnel Act or the personnel rules. They do, however, come under the category of "terms and conditions of employment", which are bargainable in accordance with the Collective Bargaining Act. AS 23.40.

The chart on the following page is designed to enumerate some of the additional topics addressed by the five collective bargaining contracts studied. It is by no means a comprehensive list of all provisions set out in the contracts.

MISCELLANEOUS CONTRACT PROVISIONS

Negotiated Contracts Address:	GGU	SU	Local 71	PSEA	CEA
Insurance Benefits--Life, Health, Travel, Accident	*	*	*	*	*
Reimbursement for Job-Related Property Damage	*	*	*	*	
Employee Leave--Sick Leave, Leaves of Absence	*	*	*	*	*
Parking Privileges	*	*			*
Uniforms--Wearing Apparel	*	*	*	*	
Safety Equipment--Tools, First Aid Kits, etc.	*	*	*	*	*
Accessibility to Personnel Records	*	*	*	*	*
Length of Contracts	*	*	*	*	*
Right to "Exclusive Representation"	*	*	*	*	*
Union Leave Accounts	*		*	*	
Subsistence-- Long Term Per Diem By District	*	*	*		*
Subcontracting/Contracting Outside of Membership	*		*		
Time Off to Vote	*	*	*	*	*
Reimbursement of Moving and Travel Expenditures	*	*	*	*	*
Legal Assistance--Providing Defence for Legal Action Against Member as a Result of Performance of Duties	*	*		*	*
Travel and Per Diem Allowances	*	*	*	*	*
Meal Allowances	*	*	*	*	*
Housing--Remote or Bush Areas			*	*	



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

12/15/89
Date

SCOMM

#51:8

REPORT OF THE
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
TO THE
ELEVENTH ALASKA STATE LEGISLATURE
FIRST SESSION

SENATOR BILL RAY
Chairman

JUNEAU, ALASKA
March 27, 1979

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
MEMBERSHIP

Senator Bill Ray, Chairman*

Don Fisher, Transportation Planning, Vice Chairman**

B.B. Allen, Commissioner, Department of Administration***
Alternate: Robert Gates***

Representative Thelma Buchholdt - Chairwoman, Merit System/
Collective Bargaining Subcommittee
Alternate: Representative Mike Miller

Myrt Charney, Executive Director, Legislative Affairs Agency
Alternate: Ken Humphreys

Representative Richard Eliason

Frank Flavin, Ombudsman - Vice Chairman, Categories of Employees
Subcommittee
Alternate: Paddy Moriarity

W.R. Hudson, Commissioner, Department of Administration***

Patrick Hunt, Director, Division of Personnel and Labor Rela-
tions
Alternate: Ken Kareen

Lynda McCurry, Personnel Officer, Department of Labor

Representative Joseph McKinnon - Chairman, Categories of Employees
Subcommittee
Alternate: Representative Sally Smith

Patrick Murphy, Executive Director, Alaska Public Employees Asso-
ciation
Alternate: Darlene Howard

Greg O'Claray, Inlandboatmen's Union of the Pacific - Vice Chair-
man, Merit System/Collective Bargaining Subcommittee
Alternate: Homer Sarber

John Pugh, President, Alaska Public Employees Association
Alternate: Robert Mourant

Ken Spray, Vice President, Business Representative, Local No. 71
Public Employees Union

Membership (continued)

Niel Thomas, Executive Director, Alaska State Commission for
Human Rights***

Alternate: Janet Bradley***

Commission Staff

Teresa B. Cramer, Administrative Assistant/Research Assistant

Lori Peterson, Secretary

Mailing Address

Pouch AG, Mail 0123
Juneau, AK 99811

- * Chairman, Classification, Certification & Recruitment Subcommittee
- ** Vice Chairman, Classification, Certification & Recruitment Subcommittee
- *** Indicates served part of the term.

TABLE OF CONTENTS

I.	OVERVIEW	
A.	Commission Creation.....	1
B.	Commission Structure and Activities.....	1
C.	Conclusion.....	4
II.	MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE.....	5
A.	Overview of the Development of Collective Bargaining in Alaska.....	5
B.	Summary of Issues before the Merit System/ Collective Bargaining Subcommittee.....	6
1.	Structure of the Division of Personnel and Labor Relations.....	6
2.	Procedures for the Adoption of the Personnel Rules.....	11
3.	Relationship of Collective Bargaining Contract Terms to Statutes and Personnel Rules.....	12
4.	Membership and Duties of the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board.....	13
5.	Inclusion of Non-certificated School District Employees Under the Public Employment Relations Act.....	16
6.	Merit Increases.....	16
III.	CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE.....	19
A.	Scope of the Subcommittee's Assignment.....	19
B.	Summary of Issues Presented to the Classification, Certification & Recruit- ment Subcommittee.....	19

TABLE OF CONTENTS (continued)

CENTRALIZATION OR DECENTRALIZATION OF PERSONNEL ADMINISTRATION

1. Centralization or Decentralization.....20

CLASSIFICATION OF POSITIONS

2. Classification Process.....21

3. Division of Personnel Recommendations
to Division of Budget and Management
on Reclassifications.....23

4. Structure of Classes of Positions.....24

CERTIFICATION

5. Certification Process.....25

6. Multiple Applications within a
Job Series.....28

7. Veteran's Preference Points.....28

8. Promotional Lists.....29

9. Hiring from the List of Eligibles.....29

10. Criminal Records of Applicants.....32

AUDITS OF THE PERSONNEL SYSTEM AND PRACTICES

11. Auditing Role of the Division of
Personnel.....32

12. Audits of the Personnel System.....33

13. Disciplinary Measures for Violations
of the Personnel Rules.....34

JOB PERFORMANCE

14. Training Programs.....34

15. Flex Time.....35

16. Use of Employees in Tasks above
Job Specifications.....35

TABLE OF CONTENTS (continued)

THE STATE PERSONNEL ACT AND PERSONNEL RULES

17. The State Personnel Act.....	35
18. The Personnel Rules.....	36

IV. CATEGORIES OF EMPLOYEES SUBCOMMITTEE.....38

A. Overview of the Categories of Employees in the State System.....	38
B. Temporary Employees.....	38
C. Summary of Issues Before the Categories of Employees Subcommittee.....	39
1. Hiring Temporaries from Registers.....	39
2. Time Limits of Employment of Temporaries.....	40
3. Project Employees.....	41
4. Benefits for Temporary Employment.....	41
5. Vacant Permanent Positions.....	42
6. State Employees Who are Enrollees of the CETA Program.....	43
7. Due Process Rights for Temporary Employees.....	46
8. Pool of On-call Permanent Employees as an Alternative to the Hiring of Temporaries.....	48

APPENDICES

Appendix A. Commission Meetings	
Appendix B. Public Employee Unions	
Appendix C. An Act creating a Department of Employee Relations	
Appendix D. An Act relating to the hiring of non- permanent employees in the state personnel system	

I. OVERVIEW

A. Commission Creation

The Blue Ribbon Commission on the State Personnel Act was created by the Second Session of the 10th legislature to study and refine the State Personnel Act and to address a number of issues about the personnel system, collective bargaining, and contract employees which were of concern to the legislature. Some of these issues had been identified by the Office of the Ombudsman in a letter to the Legislative Council, suggesting a comprehensive review of the personnel system, and by the Division of Legislative Audit in its report of January 27, 1977, on the Division of Personnel in the Department of Administration.

B. Commission Structure and Activities

Commission members were drawn from the legislature, the Department of Administration and the Division of Personnel and Labor Relations, public employees unions, the Ombudsman's office, the Human Rights Commission, the Legislative Affairs Agency and departmental program managers. An organizational meeting was held in Juneau on September 15, 1978, at which Senator Bill Ray was elected Chairman. At the October 3, 1978 meeting, Senator Ray appointed subcommittees to carry on the investigation of the commission. Ken Humphreys, Senior Policy Analyst from the Legislative Affairs Agency, was designated to provide research assistance to the commission. In November, the commission hired an administrative assistant and a secretary.

The commission divided its tasks among three subcommittees:

Classification, Certification & Recruitment, chaired by Senator Ray; Merit System/Collective Bargaining, chaired by Representative Thelma Buchholdt; and Categories of Employees, chaired by Representative Joseph McKinnon.

The Classification, Certification & Recruitment subcommittee was designated to consider whether Alaska should have a central personnel system or whether the system should be partially or fully decentralized. The topic included consideration of the problems of certification, recruitment, classification and pay, examinations, and equal employment opportunity. The subcommittee considered the personnel statutes, rules and the practices of the Division of Personnel and the other state departments and agencies.

The Merit System/Collective Bargaining subcommittee studied the relationship between the merit system and collective bargaining as well as problems in the structure of the agencies working in those areas.

The task of the Subcommittee on Categories of Employees was to examine the groups into which state employees are placed, particularly the category of temporary employees. Each of the subcommittees was directed to draft recommendations for consideration by the full commission.

Membership of the three subcommittees overlapped so that each of the subcommittees would be advised of the approach of the others and to insure that problems would not be ignored by one subcommittee on the assumption that another was addressing them.

The subcommittees and the commission held public hearings in Juneau, Anchorage and Fairbanks and solicited written testimony from those who were unable to attend the meetings. (A list of these meetings appears as Appendix A.) A total of 78 people testified about their experiences and concerns. The commission received 23 letters about problems in the personnel system, and was provided copies of the Department of Administration's "Tell Us Off Questionnaire". In addition, commission members submitted memoranda and position papers for consideration by the others.

A conference on Civil Service Reform was co-sponsored by the commission and the National Conference of State Legislatures' Project TRAIN. Representatives of the federal Office of Personnel Management (formerly the U.S. Civil Service Commission), and from the states of Minnesota and Wisconsin addressed commission members on civil service reform efforts in their respective jurisdictions, and Jean J. Couturier, a nationally recognized authority on public management programs, provided a wider view. The speakers participated with the commission members in work sessions as well as making formal presentations of their respective topics.

Some of the commission members participated in a walk-through of the classification process for new positions and the reclassification process for existing positions, to better understand the paper flow. The walk-through was arranged by Lynda McCurry, Personnel Officer of the Department of Labor and commission member. Ken Kareen, Deputy Director of the Division of Personnel and an alternate commission member, assisted in the walk-through with the help of his staff.

The commission learned of problems in the personnel system through the written and oral testimony presented and through the experiences and knowledge of its members, most of whom had dealt closely with various aspects of the system for a number of years. The public testimony presented was not always directed to the appropriate subcommittee, and care was taken to refer specific information and problems to the appropriate body.

In late January, the commission staff compiled the information received into issue summaries for each subcommittee, which then formed the basis for subcommittee work sessions. Recommendations from each of the subcommittees came before the commission for further review and discussion. Only those recommendations adopted by the full commission are presented in this report.

C. Conclusion

The commission has found the subject matter complex. Facets of the system interlock, making it more difficult to change one aspect without also addressing changes to the other aspects. We have only begun to meet the task set out in the resolution which created the commission. Accordingly, in addition to the recommendations included in this report, the commission requests that the legislature extend the life of the commission through June 30, 1980. The commission will then be in a position to present a comprehensive analysis of the state's personnel system and changes to make it more responsive, equitable and efficient.

II. MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE

A. Overview of the Development of Collective Bargaining in Alaska

The State Personnel Act (AS39.25) was enacted in 1961, shortly after Alaska achieved statehood. No comprehensive revision of that act has taken place since that time, although the advent of public employee collective bargaining in 1972 profoundly and fundamentally affected the nature of the rules and regulations governing the conditions of employment of most of the state's employees.

The state's work force has grown substantially since 1961. Almost all of the classified employees belong to one of the unions representing state employees. (See Appendix B for a list of those unions.) Of the remaining employees, some are classified as partially exempt, subject to only some of the Personnel Act and Rules, and the rest are members of the exempt service, and not affected at all by the Act. Membership in the partially exempt and the exempt service is established by statute. AS39.25.110 and AS39.25.120. As of February 16, 1979, there were 9,723 state employees in the classified service and 748 state employees in the partially exempt service. Figures were not available on the number of employees in the exempt service.*

Initially, at statehood, none of the state's employees were unionized. In 1964, legislation was passed to permit state employees of the Division of Marine Transportation engaged in operating the state ferry system to negotiate with the Commissioner of Public

*These figures are taken from Computer Printout R01-02A-4430, dated February 28, 1979.

Works concerning wages, hours, working conditions and other employment benefits. AS23.40.040.

In 1972, the Public Employment Relations Act (P.E.R.A., AS 23.40.070 - .260) was passed, extending collective bargaining rights to all state employees, as well as to employees of political subdivisions of the state, except to elected or appointed officials, teachers and non-certificated employees of school districts. AS23.40.080 and AS23.40.250 (5) and (6). The P.E.R.A. grants employee organizations the right to bargain on matters of wages, hours and other terms and conditions of employment. AS23.40.070(2). Terms and conditions of employment are defined as "the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees, but does not mean the general policies describing the function and purposes of a public employer". AS23.40.250(7).

In a recent case before the Alaska Supreme Court, marine transportation unions were held to be covered by P.E.R.A. as well as the marine transportation collective bargaining statutes, and therefore, one system now covers the state's collective bargaining. Hafling vs. Inlandboatmen's Union of the Pacific, No. 3438, 585 P.2d 870, October 6, 1978.

B. Summary of Issues Before the Merit System/Collective Bargaining Subcommittee

1. Structure of the Division of Personnel and Labor Relations

The Division of Personnel and Labor Relations is responsi-

ble for the operation of the state's personnel system and for representing the state as an employer in collective bargaining matters. It is one of eight divisions within the Department of Administration. The others consist of the following: Division of Administrative Services, Division of Data Processing, Division of Finance, Division of General Services and Supply, Division of Pioneer's Benefits, Division of Retirement and Benefits, and the Division of Equal Employment Opportunity. In addition, the department contains the Office of the Internal Auditor.

The tasks of the Division of Personnel and Labor Relations and the Division of Equal Employment Opportunity differ significantly from the kinds of tasks of the other six divisions within the department. The orientation of the other divisions is towards fiscal matters, and the commissioner of the department must be skilled in those areas. It is less likely that the commissioner will be selected because of his familiarity with labor relations, personnel administration and equal employment laws. The Director of the Division of Personnel and Labor Relations must educate new commissioners on issues concerning the division's activities, and during this time, the governor is probably less well informed about these topics. Given the significant impact labor relations negotiations have on the state's budget, the commission felt this to be undesirable.

Two approaches were suggested to the subcommittee. The first was to divide the Division of Personnel and Labor Relations into two separate divisions within the Department of Administration,

which would require additional funding for a director of labor relations. The second was to recommend the creation of a new Department of Employee Relations, to be headed by a commissioner with experience in labor relations and personnel administration. The subcommittee considered this second recommendation to be a better approach and requested that a draft bill be prepared for its consideration.

The functions of the new department would include administering the state personnel system, representing the state in its labor relations activities, coordinating safety and training programs for state employees and coordinating all executive branch activities involving equal employment opportunity in state government. The budget for the department would be provided by transferring the budgets of the existing divisions involved (Division of Personnel and Labor Relations and the Division of Equal Employment Opportunity) with the addition of funds for the positions of the new commissioner and perhaps a deputy commissioner.

The administration of the state personnel system and the representation of the state in its labor relations activities are the present responsibilities of the Division of Personnel and Labor Relations. Those responsibilities would not change by the creation of the new department, though there would be two separate divisions instead of one division with two subdivisions.

Specific reference to coordinating safety programs for state employees is included in the duties of the new department because the commission was concerned that there is a need for oversight of training programs. Under the federal Occupational Safety and

Health Act, the state is required to provide training for its employees in safety matters, but this requirement is not always met by the programs. Therefore, the commission plans that staff within the new department would monitor whether OSHA requirements were being met by the departments and would provide information on programs which might be of benefit to their employees.

The state's training programs also would benefit from general coordination which could be provided by the new department. Each department would continue to provide specialized programs, but the central office would make information available on programs of general interest and would provide technical assistance as requested. Having one central person in charge of coordination would help to insure that training programs which the state was required to provide (by union contract, for example) would take place.

The commission recognized that the efficiency and productivity of the state's employees depends in large part on the training they receive. For example, governmental accounting procedures differ significantly from procedures used in private industry or taught in college programs. Therefore, an introduction to the differences would make new state accountants more effective in carrying out their responsibilities. This same approach holds true for other areas as well. Training in supervisory and managerial skills would help insure the efficient management of the state's programs and improve employees' performance.

The Equal Employment Opportunity Division coordinates the state's equal employment opportunity programs, including gathering statistics on the work force, providing training to program

managers and supervisors on equal employment opportunity issues, investigating and counseling on complaints of discrimination in state government, and monitoring contract compliance and the state Equal Employment Opportunity and Affirmative Action plans. In addition to this central EEO office, each department has its own EEO officer, who is responsible for providing information and counseling to employees within that department as well as for preparing and monitoring the departmental affirmative action plan. The departmental EEO officer typically has other duties which are of greater priority.

Placing the central Equal Employment Opportunity office as a division of the new Department of Employee Relations would insure effective communication between that division and the divisions of personnel and labor relations in the areas which affect equal employment opportunities for all Alaskans. It should hold the status of a division to reflect the importance of its recommendations and emphasize the state's commitment to equal opportunity.

The commission also recommends that the adoption of Personnel Rules be made subject to the Administrative Procedures Act. A discussion of this recommendation follows.

In the proposal for a Department of Employee Relations, the commission does not address the issue of whether personnel functions should be centralized or decentralized. Considerable discussion has occurred on this topic, and the commission believes that more investigation is needed before it can decide the course it wishes to recommend to the legislature. Accordingly, the bill makes only peremptory amendments in the existing statute which addresses the decentralization of personnel functions to some

departments. AS39.25.153. The commission will advise the legislature of its findings and recommendations on the centralization/decentralization issue at a later time.

2. Procedures for the Adoption of the Personnel Rules

By statute, the Personnel Rules are considered to relate to the internal management of state agencies and are therefore exempted from the Administrative Procedures Act. The Commissioner of Administration is required to post notices of proposed rule changes in public buildings throughout the state, and if requested, the Personnel Board may hold public hearings on the amendments. Unless the Board disapproves the proposals within 30 days, they become effective. AS39.25.140. Rules pertaining to dress codes and appearance standards adopted by departments are made subject to the provisions of the A.P.A. AS39.26.015.

Would the adoption of Personnel Rules under the A.P.A. add greater opportunity for public comment on proposed changes? This is a question for legislative scrutiny. The A.P.A. sets out procedures to provide for hearings and for legislative review on proposed rule changes. AS44.62.210 and 44.62.320. In an emergency situation, the Rules could be amended under the emergency rule provision which permits rules stated to be necessary for the immediate preservation of the public peace, health, safety or general welfare to take effect immediately. AS44.62.250.

There does not appear to be a need to differentiate the methods for adopting the Personnel Rules from the methods required of other state departments in the adoption of their regulations. Therefore, the majority of the commission recommends that legislation

be adopted to provide that the Personnel Rules no longer be exempted from the Administrative Procedures Act.

3. Relationship of Collective Bargaining Contract Terms to Statutes and Personnel Rules

When adopted in 1961, the State Personnel Act, and the Personnel Rules promulgated under its authority, established the terms and conditions of employment for the entire classified service of the state. Since that time, collective bargaining has changed that situation dramatically.

As noted above, almost all of the state's classified employees are represented by public employee unions which negotiate with the state to establish the wages, hours and terms and conditions of employment which apply to their members. The standards of employment for most employees are contained in a multitude of uncoordinated documents--the collective bargaining contract, arbitration decisions interpreting the contract, the Personnel Act and Personnel Rules to the extent not superseded by the contract and departmental operating procedures.

The commission was advised by the Legislative Affairs Agency that amendments to the State Personnel Act which are adopted after the Public Employment Relations Act was passed would serve, to the extent that their intent so indicated, to limit the terms of future contract negotiations. (Opinion/Memorandum of March 9, 1979, by Ken Rosenstein, Legislative Counsel.)

The subcommittee discussed limiting the application of the State Personnel Act to employees not covered by collective bargaining. This would allow the Act and the Rules to be amended

to establish a comprehensive and consistent system for those employees but would require that all union contracts include terms for all aspects of the employment practices of the state affecting union members. This needs more study.

Under the P.E.R.A., collective bargaining agreements, to be valid, must conform to the constitutional provision that merit principles govern employment of persons by the state. Article XII, Sec. 6 of the Constitution of the State of Alaska, and AS 23.40.070(3). If the Personnel Act is to apply only to non-union employees, then a policy statement must be adopted emphasizing that merit principles be complied with, and also providing that the parties would immediately renegotiate any terms failing to meet those standards. This also needs more study.

Such a provision would also be important because federal standards have the same requirements. In most cases, when the state receives federal money for the operation of a program, it makes a commitment that employees hired to operate the program, whether salary money is provided by state or federal funds, will be selected in accordance with merit principles. The federal government retains the right to demand the return of moneys awarded if the hiring system is not found to be in compliance. In the past, the state was forced to modify its certification of eligibles on the hiring registers in order to comply with federal requirements.

4. Membership and Duties of the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board

The Personnel Board is composed of three members appointed

by the governor with confirmation by the legislature in joint session. The appointees must be qualified electors of the state, and there is a balance of two members from the same political party. They serve at the governor's pleasure and for a term of six years. AS39.25.060.

The Labor Relations Agency, for state employees, is the Personnel Board. For other public employees who are members of bargaining units, the Act sets the Department of Labor as the Labor Relations Agency unless the public employer has chosen to adopt its own labor relations system and established a different body for its labor relations agency. AS23.40.060(3).

The Public Employee Retirement Board is composed of five members, three of whom are the members of the Personnel Board of the Department of Administration. AS39.35.030.

The Labor Relations Agency generally is concerned with the organization of bargaining units and the recognition of labor organizations of public employees. It hears and decides complaints alleging that an employer or a labor organization has engaged in unfair labor practices. (Unfair labor practices are generally attempts to interfere with employee rights to organize or failure by either party to bargain in good faith.) It may appoint a mediator where negotiations between a public employer and an organization have deadlocked, either on its own initiative or at the request of any party to the dispute. It may adopt regulations in accordance with the Administrative Procedures Act. It may seek to enjoin strikes of employees whose right to strike is prohibited or limited by statute. AS23.40.

The Personnel Board approves or disapproves the original Personnel Rules and amendments to them, acts upon recommendations for the extension of the partially exempt and classified service, determines appeals by employees in the classified service and establishes its own rules of procedure. AS39.25.070. An employee may appeal to the Personnel Board if the employee has been dismissed, demoted or suspended for more than 30 working days in a 12-month period. The board may reinstate the employee if it finds that the action was taken for a political, racial or religious reason or in violation of Chapter 25 of the statutes or of the Personnel Rules. In all other cases, the board reports its findings and recommendations to both parties. AS39.25.170.

The Retirement Board oversees the operation of the Public Employee Retirement System of Alaska, sets policy, adopts regulations, acts as an appeal board, prescribes the interest rate credited to employee accounts each year and recommends contribution rates for public employees. AS39.35.040.

Testimony before the commission indicated that the Labor Relations Agency workload has increased substantially over the past few years. The Labor Relations Agency has no permanent staff, and relies on the employees of the Labor Relations Division for much of its supporting work. This places the Labor Relations Division in conflicting roles: first, as advocate for the state, and second, as impartial supporter of the Labor Relations Agency. This needs legislative action.

The Personnel Board (which consists of the same three members who form the Labor Relations Agency), in contrast, has a much lighter workload. The subcommittee is continuing to consider

the issue, and the commission is not prepared, at this time, to offer recommendations for the legislature's consideration.

5. Inclusion of Non-certificated School District Employees Under the Public Employees Relations Act

The commission received testimony in support of permitting non-certificated school district employees the right to organize under the P.E.R.A. They are presently specifically excluded from the Act. AS23.40.240(5). The subcommittee has asked the Legislative Affairs Agency to provide it with copies of bills which were introduced in previous sessions. The commission is not prepared at this time to offer any recommendations on this matter to the legislature.

6. Merit Increases

The commission received testimony on the state's merit increase policy. The Personnel Rules provide that a merit increase of one step in the same salary range may be given to an employee who has received an overall performance evaluation of "acceptable" or better and who has demonstrated satisfactory service of a progressively greater value to the State. P.R.9 02.21 and 9 02.22. The commission has not investigated the extent to which two-step merit increases are granted.

The availability of merit increases to state employees is limited by collective bargaining agreements. Members of the general government unit of the APEA are not permitted under their contract to be considered for or to receive two-step merit increases. Members of Local No. 71 do not participate in the merit increase program at all.

In a memorandum dated November 14, 1977, Governor Hammond initiated changes in the procedures and funding of merit increases. All supervisors were required to attend a specialized training course in "Measuring Job Performance". Each performance evaluation was to be reviewed with the division director or the head of the office before it was discussed with the employee. Each position was to be reviewed and the position description updated, and specified standards of achievement were to be provided in writing to each employee on the basis of the updated descriptions.

For the past two years, funding for merit increases has been provided only out of departmental vacancy moneys. Departments no longer receive a separate allocation for that purpose. In the past, the legislature did provide an allocation amounting to 1.75% of the departmental budget to be used, together with any vacancy money, for merit increases to deserving employees.

Merit increases appear to be management's way of rewarding an employee for a job well done. They are proposed to serve a different function from cost-of-living increases or salary increases based on length of service. Public union bargaining sets general salary ranges. Some perceive the existence of both bargaining and the availability of merit increases as a double dip for state employees. The existence of a merit increase program should be taken into account when salaries are negotiated and management holds down wage increases based on the possibility of this individual performance reward.

The foremost question is how to permit a system to reward those employees who are most productive, to encourage outstand-

ing performance and to persuade the best state employees to remain in service with the state, while avoiding unjustified awards to employees who are good friends with their supervisors or to employees whose supervisors are uncomfortable with the obligation of evaluating their staff.

The dilemma presented is how to divide the limited funds available for state employees salaries. If cost-of-living adjustments required by contracts are funded, can the state afford to provide additional merit increase money as it did two years ago?

The commission discussed this issue at length. Because of the obvious complexity, it can make no recommendations to the legislature without further study.

III. Classification, Certification & Recruitment Subcommittee

A. Scope of the Subcommittee's Assignment

This subcommittee was assigned to review those topics within the classification process (by which the state assigns positions to salary ranges, titles and position control numbers), the certification process (through which applicants for positions are evaluated and placed on the state's lists of eligibles) and the recruitment process, as well as to consider whether the system should be decentralized to permit the user departments to take a greater role in those processes, and to review the auditing role of the Division of Personnel on the sum of these activities. In addition, the subcommittee heard testimony on problems concerning a variety of other issues. These issues are interlocking, and the commission was reluctant to change one piece of the puzzle without full consideration of the effect of that change on the other pieces. Therefore, the commission is continuing to consider these issues to develop recommendations to present to the legislature at a later date.

The processes which are described in the discussions below apply generally to state employees. However, they do not apply in all cases to all employees, since by collective bargaining agreements, other procedures have been adopted for members of some unions.

B. Summary of Issues Presented to the Classification, Certification & Recruitment Subcommittee

CENTRALIZATION OR DECENTRALIZATION OF PERSONNEL ADMINISTRATION

1. Centralization or Decentralization

A thread throughout many of the issues presented to the subcommittee is whether the personnel functions of the state should be centralized in the Division of Personnel or decentralized to the separate departments. Decentralization of the certifying of eligibles for unique job classes could result in more accurate classification of positions and evaluation of applicants and take less time than Division of Personnel now requires, leaving the Division with more time to handle the general job classes and fulfill its audit and service roles. The audit role would be more important under a decentralized system because there would be need of insuring consistency among departmental decisions.

Decentralization could result in confusion for applicants if there were no central locations for applying for jobs. However, the Division of Personnel could provide central information offices for applicants. These offices could be coordinated with Department of Labor's Job Service Centers to accept applications and forward them to appropriate departments.

On the other hand, it would be possible to centralize all departmental personnel officers by making them employees of the Division of Personnel. This might insure better communication between the Division and the departments, and better control by the Division over personnel decisions within the departments. Testimony was presented to the commission indicating that a centralized system could result in considerable friction between the Division and the department in question and that this friction could hinder the effectiveness of the personnel officer.

Some departments have statutory authority for hiring their own personnel officers who are also empowered to adopt regulations for those classes of employees which are unique to that department. The departments are: Highways, Fish and Game, Education, Labor and Health and Social Services. AS39.25.153. This statutory authorization is not extensively used, for a variety of reasons, and if the state were to adopt a more decentralized system, then some departmental personnel offices might require additional staff to handle the increased workload.

Further subcommittee meetings are planned for review of this issue and the departmental personnel officers will be invited to present their opinions on the matter before the commission prepares its recommendations.

CLASSIFICATION OF POSITIONS

2. Classification Process

The process used for classifying new positions differs little from the process used for reclassifying existing positions. Testimony has indicated and the commission finds that in some cases both are slow and cumbersome. The process includes:

- a) Preparation of job descriptions (P402's) describing the duties of the position and justifying the requested title and salary range. For new positions, the P402 is prepared by the immediate supervisor of the position. For reclassifications, the present job holder typically prepares the form. This needs study.
- b) Departmental review, which varies widely among departments.
- c) Review and approval by the Division of Budget and Manage-

ment, if the classification or reclassification requires an increase to departmental budget.

d) Classification study by the Division of Personnel and Labor Relations, including a comparison to similar positions in other departments, other states and in private industry if the position does not clearly fall into a particular classification. The Division then assigns a salary range, title and position control number. Attempted analogy of Alaska's problems with other states has been, at times, a controlling factor in reclassification with disparity of results.

While most time is spent in the classification study, the process of classifying positions can develop delays at any of these steps. The time required for reclassifications prompts some program managers to blanket apply for full-time positions and then hire temporaries with their full-time appropriation. This often leads to circumvention of the controls of the merit system.

The subcommittee discussed decentralizing this process. Classification of new positions and of existing positions could be done by the user department's personnel section. The department would prepare Budget and Management forms and submit them directly to the Division of Budget and Management for budget authorization. The Division of Personnel would be given a copy of the entire submittal and would have a limited time to approve or veto the proposed classification action. If no response were received from the Division within the time set, then the action would stand, subject to post-audit review, which would be limited to changing actions found to be contrary to established rule or

law. Another suggested alternative is to allow an agency to only fill requested permanent positions with permanent employees.

This concept makes the classification time responsive to management at the departmental level, which can set priorities for action by its personnel section. Division of Personnel would retain an oversight role to insure consistency in classification standards throughout the state. This process could also be more responsive to applicants.

3. Division of Personnel Recommendations to Division of Budget and Management on Reclassifications

Testimony received by the commission indicates that the Division of Personnel evaluates and makes recommendations on proposed reclassifications only after the Division of Budget and Management has authorized funding for the changes.

Federal law requires that employees be paid on the principle of equal pay for equal work, as does state law. Under federal law, employees who have been underpaid may be entitled to back pay with interest and attorney's fees in case of litigation, if there is evidence of discrimination against a protected class.

The present system of approving reclassifications gives Budget and Management effective veto, in some instances, over reclassifications based upon the unavailability of funds to pay increased salaries. By written policy, the Division of Personnel and Labor Relations cannot begin work on any requests that will result in substantial budgetary impact without prior approval from the Division of Budget and Management. It is presumed that Budget and Management's decision is based on monetary considerations.

Therefore, reclassification requests which are not approved in advance by Budget and Management are not analyzed by the Division of Personnel and Labor Relations. The merit, or lack of merit, of the requests is never determined.

Consequently, Budget and Management is not fully informed of the need for the reclassification when it makes its decision. The priorities established for allocating available departmental funds will not reflect advice from the Division on the potential state liability under the equal wage and equal employment laws if the reclassification is not approved.

4. Structure of Classes of Positions

The commission heard testimony on several components of the structure of the state's job classes.

a) Consolidation of job classifications. At present, there are 1,600 job classifications in the state. Reducing the number could speed the classification process and could help to prevent some of the inequities in salaries assigned to different classifications. At the same time, the consolidation could help to develop rational career ladders within classes.

b) Minimum qualifications for positions. Testimony was presented that minimum qualifications for some positions over emphasize educational requirements, which then eliminate candidates who could perform the work satisfactorily but who lack the educational background specified. This is a particular problem for filling positions in the bush. On the other hand, one witness thought that more stringent educational standards should be required for social workers employed by the state.

The Vocational Substitution program requires establishment of vocational standards as alternatives for education or experience levels now required for non-professional occupational areas. Applicants will be placed on eligible lists for the vocational classification indicated on their applications, ranked by assessment of their technical ability and place of residence, without written examination. The purpose of the program is to establish a liberal system under which Alaskan residents not employed by the state may demonstrate their abilities and be hired.

c) Career ladders. Two alleged problems with career ladders were brought to the commission's attention:

1) In the Public Health Nurse class, there is no viable career ladder system. There are a number of PHN-I's in the state, only a handful of PHN-II positions and a few PHN-III positions. PHN-III's are itinerant health nurses, located in rural areas and traveling throughout a wide area. Nurses working as PHN-I's have no realistic opportunity of remaining in the state in their field and receiving a promotion to another job classification.

2) As reported to the commission, in the Chemist class, there was no position available to chemists just out of college. The Chemist I position requires the applicant to have a master's degree or one year of experience as a chemist. There was no typical entry-level chemist classification which required a college degree in chemistry and no additional experience.

CERTIFICATION

5. Certification Process

The process for certifying applicants and placing them on registers takes, in the majority of cases, from three to eight weeks. There are several components to this problem:

a) Open recruitment. The state's policy of open recruitment of applicants has led to a substantial increase in the number of applications submitted to the Division of Personnel. This increased workload has added to the time taken for evaluation, testing (where required) and placement on the register. The Legislative Auditor suggests in Recommendation No.2 of his report of January 27, 1977, that the Division should accept applications based on forecasted turnover of positions rather than continue accepting all applications submitted. The Division replied that the state would have to have a greater pool of employees before it could accurately forecast future staffing needs. The Division is now closing some classes.

Applicants are encouraged by the fact that the state has accepted an application and believe that there is a vacancy in that position. If no job interview occurs for a considerable time, the applicants become frustrated and feel that they are being unfairly treated by the Division of Personnel. On the other hand, if recruitment is closed for a period of time, then the state could not accept applications for any position within that classification. This could present a severe handicap, particularly for classes with a number of specialized positions.

b) Unreasonable departmental requirements. One applicant found the application process for the position of Correctional Officer I to be unduly cumbersome and overly technical. The Division of Corrections required that he be fingerprinted at

a particular state office within a limited time, although there were other more convenient state locations for being fingerprinted. He was forced to take personal leave in order to meet the division's schedule.

c) Evaluation of applicant's experience. It can take longer for the Division of Personnel to evaluate an applicant's experience than to administer an examination, even though the testing process is lengthy. Testimony presented alleged that for unique job classes and for professional level positions, the personnel analyst in the Division may lack the knowledge of the field necessary to perform an accurate evaluation. If the responsibility for filling positions in unique job classifications were delegated to the user department, this problem would be avoided.

d) Location. The Division of Personnel has offices in Anchorage, Fairbanks and a central office in Juneau. The Juneau office is responsible for evaluation of all applications except those from Anchorage for certain job classifications. Mail delivery and frequent mail delays add to the time required for action on an application. Applicants in other locations do not have ready access to the person making the evaluation and therefore are less able to challenge the results, should they feel that the evaluation is incorrect. Decentralization should be considered.

e) Data Processing. The Legislative Auditor, in his report, recommended that the Division adopt an automated application processing system. The Division indicated in its response that progress was being made on the implementation of that system. The Auditor also recommended that files be kept by social security number and that employee records should be automatically inter-

faced with the Payroll Section for immediate and constant updating. The Division replied that because of considerable public and legislative concern about the expanding use of social security numbers as identity numbers, a social security based filing system did not appear advisable.

As the discussion indicates, these issues will be affected by whether the state moves to a more decentralized or more centralized personnel system.

6. Multiple Applications within a Job Series

The Division of Personnel now requires an application for each job classification within a series. Applicants are therefore required to file several applications and to take several tests if they wish to apply for different levels within the series. In most cases if an applicant can pass the higher level test, he or she should automatically qualify for the lower level positions within that series.

For example, accountants must take different examinations for the different levels within the accounting field. The Division of Personnel has found that giving multiple examinations within a job series is necessary since different levels of a series may require different kinds of skills. Furthermore, performance on an examination for one level does not accurately predict the applicant's performance on an exam for a different level.

7. Veteran's Preference Points

One witness testified that he and his subordinate each applied for a vacancy outside the classification series of their present positions, but closely similar to them. His subordinate received

the job because he was slightly higher on the register as a result of the five points added to his score because he was a veteran.

Upon entry into state service, the Personnel Act provides for the granting of preference to veterans. In determining the qualification of applicants for entrance into the classified service under the merit system examination, five points are added to the passing grade of a veteran and ten points are added to the passing grade of a disabled veteran. AS39.25.150(23). The commission is considering alternatives.

8. Promotional Lists

Because the state's policy is to fill vacancies from promotional lists whenever possible, applicants who are on the competitive (rather than the promotional) registers may never be considered for vacancies. This may lead to the applicant on the competitive register becoming frustrated with the state's hiring system.

9. Hiring from the List of Eligibles (Registers)

a) Currentness of lists. Both program managers and applicants have concerns about the lists of eligibles. Program managers have found that some eligibility lists are not current. This occurs sometimes because of regional preferences of applicants and sometimes because the applicant has become unavailable for work or has accepted another position with the state and is no longer seeking the same level of placement.

An applicant may remain on an eligibility list for a period of two years. There are procedures for supervisors to indicate that an eligible should be removed from the register, but apparently, there is some confusion about how to do so. The Division of

Personnel puts a lower priority on updating the eligible list for this kind of information.

b) Qualifications of top five applicants on registers compared with qualifications of those following. For registers with a large number of applicants, the top five eligibles may not be significantly more qualified than those who follow. Federal regulations used to require that the state hire from the top five interested eligibles for programs funded by federal money, but federal civil service reforms have expanded the alternatives.

Some of those alternatives were listed in a memorandum on Merit Systems in Other Jurisdictions prepared for the commission by Ken Humphreys, Senior Policy Analyst with the Legislative Affairs Agency:

1) Rule of the list. Under this method, eligibles are certified on a pass/fail basis. All who pass are certified as eligible for appointment. This is the most open alternative.

2) Zone or category scoring. Individuals are ranked within specified ranges. Such categories might be called outstanding, well qualified, qualified and not qualified. Selections would be from the highest category unless the number of eligibles in it fell below a certain level, in which case the next category would become eligible. This is the method under the new federal law. It is worth noting that zones or categories may be tailored to suit different job classes.

3) Block scoring. All candidates within a specified block of scores are certified.

4) Rule of _____. Any arbitrary number such as one, seven

or ten may be inserted. The Classification, Certification and Recruitment Subcommittee has recommended that the state move toward a block scoring system. The full commission will study this recommendation.

c) Interviews for top five applicants. Departments are required to hire within the top five on the register (except where they can justify not doing so) but they are not required to interview each applicant within the group.

Supervisors may be prejudiced against an applicant because he or she has been on the register for a considerable length of time, and be less willing to hire him or her for that reason. The failure to interview all of the members of the group rewards those who are aggressive in seeking interviews with program managers and those who are in the location in which there is a vacancy. A prospective employer should have more knowledge of an applicant after an interview than he or she could glean from reading the written application.

The Department of Administration has indicated that they will prepare regulations for a pilot project to require that all of the top five interested applicants have an opportunity for a meaningful interview before a position is filled. The interviews should be scheduled long enough in advance to insure that the applicant will receive notice and be able to attend. The commission believes that this is an item specifically for legislative intent. Supervisors may wish to ask departmental staff in the applicant's area to conduct the interview, if the applicant prefers not to travel to the office with a vacancy. Inter-

views might also be conducted by telephone. Either of these methods is less desirable than an interview between the applicant and the person hiring.

The applicant would be responsible for any transportation costs to the interview.

10. Criminal Records of Applicants

The application form for state employment asks applicants to indicate whether they have been convicted of a felony within the past ten years. Federal law may now prohibit requiring that an applicant respond to that question. The only way to check the truth of an applicant's response, should one be provided, is to make a personal complaint with the Department of Public Safety.

Some commission members believe it is important for the state to know whether an applicant has a criminal record when filling a position where prior criminal activity may be relevant to the duties involved. For example, knowledge of a prior conviction of embezzlement would be relevant when considering an applicant's qualifications for a position which provides access to funds or supplies.

AUDITS OF THE PERSONNEL SYSTEM AND PRACTICES

11. Auditing Role of the Division of Personnel

The Division of Personnel should increase its review of personnel actions taken by departments, so that abuses of the personnel system would decrease. Testimony has indicated that one of the major areas of abuse is in departmental hiring practices. In order to avoid unfair treatment of those individuals hired through

improper departmental actions, the Division should be able to insure that it learns of improper actions promptly. Applicants for state employment should be provided with the name of the person whose duty it is to investigate and resolve abuses.

12. Audits of the Personnel System

The subcommittee considered whether to propose annual audits of the personnel system similar to the audit performed by the Division of Legislative Audit in 1977. An annual audit would reveal problems within the system, and would provide the Division of Personnel and Labor Relations with information about its performance. It could also serve to focus attention on misconceptions of the personnel system and serve to identify need for education about the personnel processes. The subcommittee was advised that the staff of the Division whole-heartedly supports a regular audit program.

The subcommittee was convinced that any audit should be non-political and should be performed considering standards which are valid for the conditions in Alaska. The scope should be defined to make the task manageable and useful. It was agreed that some provision should be made for audits to evaluate the effectiveness of the commission's recommendations, as well as the effectiveness of the personnel system as a whole.

While supporting the concept of annual audits, the commission has not yet defined who should perform the audit, what the scope should be, nor to whom the auditor should report. Therefore, the commission makes no recommendation on that issue at this time.

13. Disciplinary Measures for Violations of the Personnel Rules

There is no workable system to penalize supervisors who circumvent the Personnel Rules or who disobey equal employment opportunity laws in the decisions they make. In the Prohibitions and Penalties section of the Personnel Rules, there is a provision making any person who violates the Rules guilty of a misdemeanor and providing that any state employee who is convicted of that misdemeanor shall immediately forfeit his office or position. P.R.13 18.0. This is an unenforceable remedy, and therefore likely never to be used. An acceptable alternative needs to be formulated.

JOB PERFORMANCE

14. Training Programs

The Division of Personnel has limited staff to provide training programs to state employees. Training needs should include introduction to new state employees of the state's required procedures, EEO and Affirmative Action information, better management practices, introductory budget and financial management information to non-fiscal program managers, explanation of the state's personnel system, classification and reclassification processes and standards, the hiring system, labor relations information and the like.

One problem identified was the reluctance of supervisors to fire unsatisfactory employees. This reluctance may result from the lack of training in the state's standards, processes and some skill developments. But there may be other obstacles which training will not address.

15. Flex Time

Flex time is a system in which employees' hours are staggered so that not all arrive or depart at the same time, though each employee must work a full shift. The use of flex time is a way of responding to individual employee needs while also better meeting the public's need for services during lunch hours and after state offices are normally closed. Experience has shown that having people work at odd times can result in unions demanding extra pay for those hours, increasing the personal service costs to the state. The state permits departments to implement flex time programs, but this option is not widely practiced. The commission recommends that the legislature urge the executive branch to increase the availability of the use of flex time to state employees.

16. Use of Employees in Tasks Above Job Specifications

Supervisors are unwilling to document the performance by their staff of duties above the job classification to which an employee is assigned. This denies the employee credit for work done--either when being considered for promotion or for employment elsewhere--as well as for extra pay for the task in question. The procedures available for documenting work above grade should be fully implemented.

THE STATE PERSONNEL ACT AND PERSONNEL RULES

17. The State Personnel Act

As discussed in the section on the summary of issues before the Merit System/Collective Bargaining Subcommittee, the Person-