

ALABAMA LEGISLATIVE COMMISSION ON GOVERNMENT REFORM

2067 SSA SB 193 - SB 194

2067

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (A) Alaska Public Broadcasting Commission;

7 (B) Professional Teaching Practices Commission;

8 (C) Parole Board;

9 (D) Board of Nursing;

10 (E) Real Estate Commission;

11 (F) Alaska Royalty Oil and Gas Development Advisory

12 Board;

13 (G) Alaska Historical Commission;

14 (H) Alaska State Council on the Arts;

15 (I) Alaska Police Standards Council;

16 (J) Council on Science and Technology;

17 (11) Alaska Pioneers' Home managers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

→ Dept. Terms - not pub policy SB 193

Internal Management Directives

1 nel board.

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

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

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

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

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

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

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

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

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

25 (1) recruitment;

26 (2) examinations;

27 (3) selection methods;

28 (4) prohibitions and penalties;

29 (5) public records;

*negot.
contract
provision*

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

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

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

8 provide for

9 (1) the preparation, maintenance, and revision by the direc-

10 tor of personnel, subject to approval of the commissioner of adminis-

11 tration and the personnel board, of a position classification plan for

12 all positions in the classified and partially exempt services; the

13 position classification plan shall include

14 (A) a grouping together of all positions into classes

15 on the basis of duties and responsibilities;

16 (B) an appropriate title, a description of the duties

17 and responsibilities, training and experience qualifications, and

18 other necessary position specifications for each class of posi-

19 tions;

20 (2) the preparation, maintenance, revision and administra-

21 tion by the director of personnel of a pay plan for all positions in

22 the classified and partially exempt services; the pay plan (A) shall be

23 based upon the position classification plan; (B) shall provide for fair

24 and reasonable compensation for services rendered, and reflect the

25 principle of like pay for like work; (C) may be amended, approved, or

26 disapproved by the legislature in regular or special session; after the

27 pay plan is in effect, a salary or wage payment may not be made to a

28 state employee covered by the plan unless the payment is in accordance

29 with this chapter and the rules adopted under this chapter or unless

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

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

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

9 (5) the procedure for certifying eligible candidates;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

next pg

one
time
5 years
limited term
preference

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

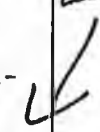
14 (e) An employee in the classified or partially exempt service who
15 seeks nomination or becomes a candidate for state or national elective
16 political office shall immediately resign any position held in the
17 state service.

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

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

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

add



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

*in human rights
statutes*

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

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

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

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

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

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

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

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

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

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

pregnancy, parenthood or any other non-merit reason.

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

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

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

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

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

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

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

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

28 Sec. 39.25.181. DEFINITIONS. In this chapter,

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

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

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

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

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

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

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

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

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

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

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

25 (2) take part in a political campaign;

26 (3) express political opinions;

27 (4) register party preference;

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

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

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

5 * Sec. 20. AS 39.25.180 is repealed.

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

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PERSONNEL

Fischer
File SB193

RULES



JUNE 1980

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

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Rule 1

Definitions

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

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

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

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

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

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

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

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

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

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

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

"Commissioner" means the Commissioner of Administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"State" means the State of Alaska.

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

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

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

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

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

between April 6, 1917 and December 1, 1919

or

between September 16, 1940 and December 31, 1947

or

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

Rule 2

CLASSIFICATION

2 01.0 General

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

2 02.0 Class Specifications

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

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

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

2 03.0 Use of Class Titles

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

2 04.0 Allocation of Positions

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

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

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

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

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

2 05.0 Review of Allocations

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

2 06.0 Effective Dates of Allocation Action

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

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

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

2 07.0 Establishment of Positions

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

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

Rule 3

RECRUITMENT AND EXAMINATION

3 01.0 Recruitment

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

3 01.1 Continuous Examinations

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

3 01.2 Specific Examinations

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

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

3 01.3 Promotional Examinations

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

3 02.0 Application for Examination

3 02.1 Forms

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

3 02.2 Admission to Examination

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

3 02.3 Disqualification of Applicants

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

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

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

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

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

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

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

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

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

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

3 03.0 Character of Examinations

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

3 04.0 Conduct of Examinations

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

3 05.0 Rating of Examinations

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

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

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

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

3 06.0 Notification of Examination Results

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

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

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

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

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

3 07.0 Preference in State Employment for Veterans

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

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

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

3 08.0 Reexaminations

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

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

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

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

3 09.0 Special Boards of Examiners

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

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

Rule 4

ELIGIBLE LISTS

4 01.0 Establishment

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

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

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

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

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

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

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

4 02.0 Application of Lists

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

4 03.0 Duration

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

4 04.0 Removal of Names

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

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

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

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

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

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

4 04.33 Deleted April 15, 1980.

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

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

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

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

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

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

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

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

4 05.0 Statement of Availability

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

4 06.0 Reinstatement of Names

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

4 07.0 Public Notice

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

Rule 5

CERTIFICATION AND APPOINTMENT

5 01.0 Requests for Employees5 01.1 Classified Service

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

5 01.2 Exempt or Partially Exempt Services

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

5 02.0 Methods of Filling Vacancies

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

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

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

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

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

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

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

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

5 03.0 Certification of Eligibles

5 03.1 Certification shall be as follows:

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

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

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

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

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

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

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

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

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

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

5 03.2 Deleted January 1, 1980.

5 03.3 Concurrent Certification

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

5 03.4 Less than Normal Number of Eligibles

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

5 03.5 Incomplete Certification

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

5 03.6 Withdrawal of Certification

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

5 03.7 Subfilling Positions

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

5 03.8 Deleted January 1, 1980.

5 03.9 Preference in State Employment for Alaskans

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

5 04.0 Position Must Be Classified Before Being Filled

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

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

5 05.0 Permanent Appointments

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

5 06.0 Nonpermanent Appointments

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

Nonpermanent appointments require prior written approval of the Director.

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

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

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

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

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

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

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

5 07.0 Emergency Appointments

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

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

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

5 08.0 Provisional Appointments

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

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

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

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

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

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

5 08.5 Conversion to Probationary Status

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

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

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

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

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

5 09.0 Trainee Appointments

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

5 10.0 Transfer

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

5 10.1 Intra-agency transfer

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

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

5 10.2 Inter-agency transfer

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

5 10.3 Status of transferred employee

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

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

5 10.4 Parallel job class transfer

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

5 10.5 Employee request for transfer

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

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

5 10.6 Other rights accruing to a transferred employee

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

5 10.7 Transfer for the good of the service

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

5 11.0 Appointment of Federal Employees

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

5 12.0 Reemployment

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

5 12.2 Deleted April 15, 1980.

5 12.3 Deleted April 15, 1980.

5 13.0 Promotion Boards

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

5 14.0 National Emergency or Civil Disaster

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

Rule 6

PROBATIONARY PERIODS

6 01.0 Objective

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

6 02.0 Duration

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

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

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

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

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

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

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

6 03.0 Performance Evaluation Report

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

6 04.0 Dismissal During the Probationary Period

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

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

6 05.0 Permanent Appointments

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

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

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

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

6 06.0 Demotion during the probationary period

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

6 07.0 Probationary period following promotion

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

Rule 7

HOURS OF WORK

7 01.0 Scheduled Hours of Work

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

7 02.0 Minimum Work Week

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

7 03.0 Normal Work Week

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

7 04.0 Normal Work Day

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

7 05.0 Overtime

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

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

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

7 06.0 Other Employment

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

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

7 07.0 Legal Holidays

7 07.1 The following days are observed as State holidays:

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

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

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

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

Rule 8

PERSONNEL EVALUATION AND TRAINING

8 01.0 Personnel Evaluation

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

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

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

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

8 02.0 Employee Training

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

8 03.0 Intern and Apprenticeship Training Programs

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

8 04.0 Reimbursement Agreement for Educational Costs

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

Rule 9

PAY

9 01.0 General

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

9 02.0 Administration

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

9 02.1 Beginning Salary9 02.11 New Employee

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

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

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

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

9 02.12 Former Employee

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

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

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

9 02.13 Promoted Employee

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

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

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

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

9 02.14 Transferred Employee

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

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

9 02.15 Demoted Employee

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

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

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

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

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

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

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

9 02.16 Effective Date

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

9 02.2 Merit Increases

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

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

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

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

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

9 02.3 Total Remuneration

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

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

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

9 03.0 Hourly, Part-time and Partial Monthly Rates

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

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

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

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

9 04.0 Overtime Compensation

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

9 05.0 Compensatory Time

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

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

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

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

9 06.0 Moving Expenses

9 06.1 Current Employees

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

9 06.2 New Employees

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

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

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

9 07.0 Salary Range Changes

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

Rule 10

LEAVES OF ABSENCE

10 01.0 Annual Leave10 01.1 Accrual

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

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

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

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

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

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

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

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

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

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

10 01.2 Use and Payment

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

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

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

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

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

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

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

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

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

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

10 02.0 Sick leave

10 02.1 Accrual

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

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

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

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

10 02.2 Availability of Sick Leave

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

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

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

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

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

10 02.3 Payment

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

10 02.4 Reinstatement of Sick Leave

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

10 03.0 Maternity Leave

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

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

10 04.0 Court Leave

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

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

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

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

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

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

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

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

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

10 05.6 Nonpermanent employees.

10 06.0 Military Leave

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

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

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

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

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

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

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

10 08.0 Sick Leave Without Pay

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

10 09.0 Other Leaves of Absence, Without Pay

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

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

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

10 10.0 Cancellation of Leaves of Absence

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

10 11.0 Effect of Leave Without Pay on Anniversary Date

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

Rule 11

SEPARATION AND DEMOTION

11 01.0 Retirement

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

11 02.0 Resignation

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

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

11 03.0 Suspension

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

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

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

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

11 04.0 Layoff

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

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

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

11 04.3 Organizational Units

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

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

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

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

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

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

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

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

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

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

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

11 04.93 Deleted January 1, 1980.

11 05.0 Dismissal

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

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

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

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

11 06.0 Demotion

11 06.1 Demotion for Cause

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

11 06.2 Voluntary Demotion

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

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

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

11 07.0 Termination

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

Rule 12

DISPUTES: HEARINGS AND APPEALS

12 01.0 Employee Agency12 01.1 General Grievance Procedure

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 01.2 Dismissal, Demotion, or Suspension over 30 Days

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

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

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

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

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

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

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

12 02.0 Interagency

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

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

Rule 13

PROHIBITIONS AND PENALTIES

13 01.0 Political Activity

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

13 02.0 Securing of Positions

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

13 03.0 Party Assessments

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

13 04.0 Party Endorsement

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

13 05.0 Nomination and Candidacy

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

13 06.0 Racial, Religious, or Political Action

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

13 07.0 Fraud

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

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

13 08.0 Rights of Others

No State employee or other person may defeat, deceive, or obstruct any person in his right to examination, eligibility, certification, appointment, or promotion under these Rules.

13 09.0 Nepotism

13 09.1 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the appointing authority of the agency.

13 09.2 No person may be employed in a position in any division or subdivision of any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the head of the division or subdivision of the agency.

13 09.3 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to any other employee in the agency without the expressed approval of the appointing authority and the Director.

13 10.0 Information from Applicant

No State agency or agency supported in whole or in part by State funds may request or suggest that an applicant for employment provide information concerning the applicant's religious opinions, or his membership in fraternal organizations or of an applicant for a classified position as to his political convictions.

13 11.0 Outside Employment

13 11.1 No employee or official of the state shall engage in or accept private employment, or render services for private interest when such employment or service is incompatible with the proper discharge of his official duties.

13 11.2 No employee or official of the State may solicit, negotiate for, or promise to accept employment by or anything of substantial value from any person, firm or company with which he or his agency is engaged in the transaction of business on behalf of the state, or which may be affected by his official action.

13 12.0 Investments in Conflict with Official Duties

No employee or official of the state shall invest, or hold any investment directly or indirectly in any financial, business, commercial or private transaction, which creates a conflict with his official duties.

13 13.0 Use of Information

No employee or official of the State shall use information peculiarly within his knowledge or purview concerning the property, government or affairs of the State to advance the financial or other private interest of himself or others.

13 14.0 Gifts and Favors

No employee or official of the State shall accept any form of gift, loan, or any gratuity for the performance of his duties other than that afforded him by the State.

13 15.0 Purchases of Commodities and Services

No employee or official may be a party to the purchase of or influence the purchase of goods or services for the use of the State from any person, company or business in which he has substantial financial interest unless approved in advance by the Commissioner of Administration. Such approval shall be in written form and be open to inspection by the public.

13 16.0 Conflicts of Interests

No employee or official of the State shall engage in any business or transaction, or shall own a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his official duties.

13 17.0 Interpretations

At the request of any concerned employee or official, or on its own motion the Personnel Board shall render interpretive opinions regarding the application of Rule 13. Insofar as possible, all such opinions shall be worded so as not to disclose the identity of any individual seeking an opinion. All such opinions shall be published and kept current as a supplement to the Personnel Rules.

13 18.0 Penalties

Any person who willfully violates any provision of these Personnel Rules is guilty of a misdemeanor. Any State employee who is convicted of a misdemeanor under these Personnel Rules shall immediately forfeit his office or position.

13 18.1 In any case in which a violation of these Rules has occurred and a department head has failed to take action to

enforce the Rules within a reasonable period of time, the Director shall take whatever action is necessary to secure compliance with the Rules.

Rule 14

GENERAL PROVISIONS

14 01.0 Citizenship Qualifications

All employees of the State must be citizens of the United States except where otherwise provided for by law.

14 02.0 Oath of Office

All officers and employees of the State, before entering upon their duties, must take and subscribe to the oath or affirmation required by AS 39.05.130.

14 03.0 Roster of Employees

The Director shall establish and maintain a roster of all employees in the classified and partially exempt service.

14 04.0 Personnel Actions: General

All personnel actions affecting positions in the classified and partially exempt services, and the employees appointed to such positions, shall be issued in writing on such forms as may be prescribed by the Director, and a record of all such actions shall be sent to the Director.

14 05.0 Delegation of Personnel Duties

In accordance with the Act and these Personnel Rules, the Director may delegate personnel responsibilities and duties concerned with personnel to the principal departments covered by the Act.

14 06.0 Coverage of the Rules

These Rules apply to the positions in the classified service and to nonpermanent positions as stated. They apply to the positions in the partially exempt service only when such application is specifically stated.

14 07.0 Public Records

Except for examination materials, performance evaluations, personal history, or other confidential materials so designated by the Director, employee records shall be public records. Such records shall be available for inspection in the presence of authorized personnel by the public during regular office hours in accordance with such procedure as the Director may establish.

14 08.0 Enforcement

The Director may take any necessary action such as terminating or correcting the status of an employee, or bringing an employee's salary into conformance with the classification and pay plan to enforce these Rules and/or to correct any appointment which is not in accordance with the Law or these Rules. Such determinations may be carried to the Personnel Board for review.

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ALASKA PUBLIC EMPLOYEES ASSOCIATION

State Headquarters: 340 North Franklin Street, Juneau, Alaska 99801 • Tel: (907) 586-2334

TO: Senate State Affairs Committee

FROM: Darlene S. Livermore ^{DSL} for Cherie Shelley,
Executive Director

SUBJECT: Senate Bill No. 194
Opposition Statement

DATE: April 23, 1981

The current Alaska Statute 39.10.010 provides that it is unlawful for a person who is a spouse, or related by blood within the second degree of kindred (cousins, aunts, uncles) to the executive head of principal state department commissioner to be employed by that department.

SB 194 attempts to place a modified form of existing Personnel Rules, derived through the authority of 39.25.150, into statute. More importantly SB 194 appears to create a major inconsistency with AS 18.80.220. AS 18.80.220 provides that it is an unlawful employment practice to refuse employment or discriminate against an employee, because of marital status or changes in marital status (emphasis added). APEA believes that with the number of working couples working for the State of Alaska, often within the same department, there seems to be no valid reason for such discrimination.

With the Civil Service Reform Act of 1978, the federal government repealed its 97-year-old "members of family restriction" statute that prohibited employment of relatives in certain situations. Instead, the remaining regulation (Section 310 of Title V of the US Code), passed in 1968, is directed at abuse of power by elected officials. This nepotism statute prevents a public official or a member of Congress from appointing or promoting family members.

The formal government stance, backed up by a 1966 addition to Title V of the US Code, prohibits discrimination because of sex and marital status. Evidently it's effective. Under President Carter, eight married couples held jobs, with combined salaries of up to \$100,000.

Similar nepotism rules apply on the state level. For instance, Oregon is one of the few states with a law that prohibits discrimination based on family relationships.

Some other states do not have a real problem with nepotism in state employment. There are several reasons for this. In urban areas, in the lower 48, jobs are plentiful in many fields - professional, industrial and with private companies in a variety of office positions. Spouses and relatives, not necessarily through design, find themselves working in diverse fields, probably across town from each other.

Employment in Alaska is not diversified. Most job opportunities are available in only a few categories - namely, government, fishing and the oil industry. As a result, especially in the rural areas, or even in Juneau, geographic isolation, low population concentration and lack of commerce and industry, narrows the job field considerably.

From a personal point of view, and from experience with cases brought to the attention of APEA, it has been found that the greatest impact of this kind of curtailment has been on women. This seems to be from the simple fact that the expectation seems to be that women should or will step aside for their spouse.

It has been observed by the Association that promotions generally go to the male which in turn places them in conflict with their spouse's position. When this occurs the woman is generally transferred to a non-conflict situation although she may be giving up seniority in her work unit, work well known and personally satisfying, or in more extreme measures, forced to transfer agencies, take or request demotions, or leave the State service.

For the reasons stated, APEA must object to any changes in the current statute.

CS:DSL/p

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 193 (cont'd)

New Section states that an employee may be dismissed, etc. by delivery of written notice of the proposed action and the reason for it from the appointing authority. Employee begins an appeal by filing a written request for review of the action with the Personnel Board within 15 days of receiving written notice (currently employee must request appeal within 15 days of dismissal, demotion, or suspension).

Sec. 17 adds new section to 39.25 which allows the use of subpoenas to compel the testimony of witnesses at hearings before the Personnel Board under 39.25.170.

Sec. 18 adds to 39.25 a new section containing definitions of fraud, knowingly, precinct, and state employee.

Sec. 19 adds new section to 39.25 entitled "Employee Political Rights." Allows a state employee to (1) be a member of a political party; (2) take part in a political campaign; (3) express political opinions; (4) register party preference; (5) serve as a voting or nonvoting delegate to a party convention; (6) be appointed, nominated, or elected to nonpartisan public office in a local government unit; and (7) make contributions to a political party or candidate for public office.

Sec. 20 repeals as 29.35.180, "Status of Present Employees" which is labeled "Obsolete" in updated version of statutes.

Provides Act effective July 1, 1981.

Introduced February 20 and referred to State Affairs and Judiciary.

Nepotism
in State
Employment

SENATE BILL NO. 194, by the Rules Committee by request of the Legislative Council (for the Blue Ribbon Commission on the State Personnel Act). Repeals and re-enacts current section relating to nepotism, AS 39.10.010. Existing section states that it is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a state department or agency to be employed in that department or agency. New section expands on this prohibition, specifying that it applies to departments and agencies in the legislative, judicial, and executive branches & extending it to relatives of Deputy and Assistant Commissioners, and to executive heads of agencies.

Adds subsection which prohibits a person from being appointed to a position in a division of a state department or agency, in any branch of government, if person is related to executive head of the division.

Adds a third subsection which prohibits a person from being appointed to a position in a state department or agency in the executive branch if person is related to an employee in the department or agency "unless the director of personnel and the person who makes the appointment approve the appointment in writing." This is the only case where exceptions may be allowed.