

## ARTICLE 1 - DEFINITION OF TERMS

**1.1 Tense, Number and Gender.**

As used in this Agreement:

- A. Words in the present tense include the past and future tenses, and words in the future tense include the present tense.
- B. Words in the singular number include the plural, and words in the plural number include the singular.
- C. Words of any gender include the masculine, feminine and the neuter, and when the tense so indicates, words of the neuter gender may refer to any gender.

**1.2 Definitions.**

- A. "APEA/AFT Officials" are: President, Board of Directors, Delegates, Chapter Officers, Employee Representatives, any employee serving on APEA/AFT committees and APEA/AFT staff.
- B. "Bargaining unit" means the Supervisory bargaining unit.
- C. "Class Specification" is a written statement of duties and responsibilities that are characteristics of a class of positions and includes the education, experience, knowledge and ability required to perform the work of the class of positions. Examples of these duties will be specifically enumerated.
- ~~D. "Dependent" with respect to the health insurance is limited to:~~
- ~~1. The employee's wife or husband, as the case may be; and~~
- ~~2. The employee's unmarried children under nineteen (19) years of age and residing in the United States of America (including Puerto Rico) or Canada unless qualified as a full time student under the terms of the State Health Care Plan.~~
- ~~3. However, a dependent child who attains their twenty third (23<sup>rd</sup>) birthday will continue to be included within the term "dependent" with respect to medical benefits if proof is furnished to the insurance carrier within thirty (30) days after the birthday that on the birthday the child is incapable of self-sustaining employment by reason of mental retardation or physical handicap and that the child became so incapable prior to attainment of age twenty three (23) and that the child is chiefly dependent upon the employee for support and maintenance. The coverage as to such a child will be continued while the incapacity continues and while the employee's coverage with respect to dependents remains in force, provided the child meets all the requirements of the definition of "dependent" except age. The insurance carrier has the right to require proof of the continuance of the incapacity of the child from time to time while this Agreement remains in force.~~
- E. "Disciplinary Grievance" means a procedure of review provided for in Article 10 whereby a permanent employee can seek review of a dismissal, demotion or single suspension in excess of thirty (30) calendar days.
- F. "Employee Representative" means any Bargaining Unit Member designated as such by APEA/AFT.

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- G. "Employee" means a person in the State service who is paid a salary or wage and holds probationary, permanent or provisional status working in a position that has been designated by the Alaska Labor Relations Agency as a Supervisory Unit position.
- H. "Immediate Family" means the employee's spouse, children, stepchildren, mother, father, grandmother, grandfather, mother-in-law, father-in-law, sister or brother.
- I. "Just Cause" means, but is not limited to, incompetence, unsatisfactory performance of duties, unexcused absenteeism, intoxication, substance abuse, dishonesty and gross disobedience.
- J. "Nonpermanent"
1. "Short-term nonpermanent" means a person in the State service who is paid a salary or wage and holds nonpermanent status working in a position for ninety (90) calendar days or less that has been designated by the Alaska Labor Relations Agency as a Supervisory Unit position.
  2. "Long-term nonpermanent" means a person in the State service who is paid a salary or wage and holds nonpermanent status working in a position for ninety-one (91) calendar days to one (1) one year that has been designated by the Alaska Labor Relations Agency as a Supervisory Unit position.
- K. "Personal Effects" will include all personal property and possessions.
- L. "Personnel File" means all those documents, reports, written or otherwise recorded evaluations of a person's performance while performing duties on behalf of the Employer, and any other material pertaining to that person that is kept in that file.
- M. "Personnel Rules." For the purpose of this Agreement, All references to Personnel Rules will mean those Personnel Rules in effect on the date of the relevant action or event, with regard to those references for purposes of this Agreement.
- N. "Provisional Employees" are those appointed under the regulations established in 2 AAC 07.195, "Provisional Appointment."
- O. "Reclassification/Reallocation" means the reassignment of a position either filled or vacant from one class to another class.
- P. "Subfill." A subfilled position is one for which, in the absence of a complete certification at the classified level, a certification at a lower classification is utilized to fill the position.
- ~~Q. "Travel Status." Bargaining Unit Members will be considered in travel status from the time an authorized trip begins until it ends. For purposes of interpretation, travel status will begin and end when the Bargaining Unit Member leaves and returns to their immediate work station if travel begins and ends during assigned working hours, or when the Bargaining Unit Member leaves and returns to their home if travel begins and ends outside assigned working hours.~~

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1:45 pm. 12/15/09  
12/15/2009

**ARTICLE 2 - RECOGNITION**

**2.1 General Recognition**

The State of Alaska, hereinafter referred to as the Employer, recognizes the Alaska Public Employees Association, hereinafter referred to as APEA/AFT, as the exclusive representative of all permanent, probationary, provisional and nonpermanent employees in the Supervisory Unit for collective bargaining with respect to salaries, wages, hours and other terms and conditions of employment. It is recognized that all new positions and classifications created by the Employer will be placed in the appropriate bargaining unit, consistent with prior Alaska Labor Relations Agency rulings. APEA/AFT will be notified of all new classifications created within ten (10) days of such action and such notification will include the specifications of the job classifications. Both parties recognize that the Alaska Labor Relations Agency will retain its authority to make final determinations of unit classification assignments. No filled positions will be changed to a bargaining unit outside this bargaining unit without written notification to APEA/AFT of such action concurrent with the notification to the department. If APEA/AFT does not notify the Employer within fifteen (15) working days from date of notification of its intent to challenge, the Employer will be free to take the proposed action. The Employer may change a vacant position to a bargaining unit outside this bargaining unit, and APEA/AFT will be notified concurrently with such action. No filled position will be changed to Exempt or Partially-Exempt status without at least thirty (30) calendar days notice to APEA/AFT. No filled position will be changed to Partially-Exempt until approved by the Personnel Board. Changes to Exempt or Partially-Exempt status will not become effective until expiration of the thirty (30) day notice period. The Employer may change a vacant position to Partially-Exempt or Exempt status and APEA/AFT will be notified concurrently with such action.

In instances where a filled position is reclassified to a classification that has historically resided in another bargaining unit, the State may move that position to the other unit, and the APEA/AFT will be notified of the change concurrent with the action and is entitled to appeal the bargaining unit placement to the Alaska Labor Relations Agency.

**2.2 Representation of Nonpermanents**

It is recognized that the need exists to hire nonpermanent employees in positions similar in duties and requirements to permanent positions in the bargaining unit; therefore, notwithstanding AS 39.25.195 the following provisions will apply:

A. An individual hired as a nonpermanent covered by this Agreement must perform the work of the assigned class and may not be paid less than the entry salary step of the range assigned to the class in which the nonpermanent is to work.

B. Assignments of ninety (90) calendar days or less in any twelve (12) month period may be filled through the use of short-term nonpermanent appointments (casuals). The Employer may make such appointments without use of any eligible lists. Any individual hired as a short-term nonpermanent must be terminated following the ninetieth (90th) day of employment. The Employer and APEA/AFT agree that all determinations concerning the terms and conditions of casual employment will be made independently by the Employer, except as provided for in this Article or as specifically provided for in subsequent Articles.

C. Assignments described as Substitute, Normal, Program, and Project Nonpermanents in Division of Personnel Standard Operating Procedure (SOP) No. 02-86-1-2 that are for periods of less than twelve (12) months duration may be filled through the use of long-term nonpermanent appointments. Any individual hired pursuant to this provision will meet the minimum qualifications as required of individuals seeking permanent employment in the class into which they are to be hired. The Employer agrees to hire individuals for these assignments from Eligible Lists. In the event that an employee is worked for longer than twelve (12) months, except as provided in paragraph F. of this Section, the Employer will review the reasonableness of establishing a permanent position. If a permanent position is

For the State:

For the Supervisors:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

established under this Section, the long-term nonpermanent employee will become the incumbent of the permanent position. All long-term nonpermanent employees will be entitled to personal leave accrual, health insurance and legal trust coverage, holidays, those employment application rights afforded to permanent employees and all complaint procedure rights set forth in Article 10.1.

D. Time spent in nonpermanent status will be credited toward probationary status as follows: If the nonpermanent employee is converted to probationary status in the same classification performing similar duties with no break in employment, the employee will be credited with one (1) month toward the probationary period for every consecutive month of nonpermanent employment to a maximum of one-half (1/2) the required probationary period in the job class.

E. Extensions to the time limits established in C. and D. above may be accomplished with the written concurrence of APEA.

F. It will not be a violation of this Agreement to employ JTPA or similar nonpermanent employees and such nonpermanent employees will be members of the bargaining unit. The Employer agrees to abide by the Federal regulations governing such employment programs.

Any dispute arising between the parties, under this paragraph concerning compliance with Federal regulations, will not be subject to Article 10 of this Agreement but may be referred by either party, after discussion, to the Federal agency responsible for such program for resolution.

Neither party waives its right to seek resolution of the matter, when appropriate, in court after exhaustion of the administrative remedies as authorized in this paragraph.

For the State:

For the Supervisors:

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### ARTICLE 3 - STATEMENT OF POLICY AND PURPOSE

It is the policy of the Employer and APEA/AFT to continue harmonious and cooperative relationships between State employees and the Employer and to insure orderly and uninterrupted operations of government. This policy is effectuated by the provisions of the Public Employment Relations Act, AS 23.40, granting public employees the rights of organization and collective bargaining concerning the determination of terms and conditions of their employment. The Employer and APEA/AFT now desire to enter into an Agreement reached through collective bargaining that will have for its purpose, among others, the following:

- A. To recognize the legitimate interests of the employees of the State of Alaska to participate through collective bargaining in the determination of the terms and conditions of their employment.
- B. To promote fair and reasonable working conditions.
- C. To promote individual efficiency and service to the citizens of the State.
- D. To avoid interruption or interference with the efficient operation of State government.
- E. To provide a basis for the adjustment of matters of mutual interest by means of amicable discussion.

Alleged violations of this Article shall be addressed through the complaint-resolution process of Article 10.1.

ARTICLE 4 - MERIT PRINCIPLES

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**4.1 Intent.**

The parties agree that it is their mutual intent to strengthen the merit principles in the bargaining unit and, pursuant to AS 23.40.070(3), will use all due diligence to maintain merit principles among public employees, to the end that public employees be selected, appointed and promoted from among the most qualified, not on the basis of personal connections, political party, race, religion, sex or age.

**4.2 Performance Incentives.**

Performance incentives will be based upon the appointing authority's evaluation of an employee's performance. A performance incentive of one (1) step in the salary range may be given to an employee who has received an overall performance evaluation of "Acceptable" or better on the employee's merit anniversary date. The ~~first sixteenth (16th)~~ day of the ~~month-pay period~~ following the satisfactory completion of the probationary period will constitute an employee's merit anniversary date, unless the employee enters the pay range above the minimum rate of pay, in which case the merit anniversary date will be the ~~sixteenth (16th) of the month-first day of the pay period~~ following completion of one (1) year of service in the position.

Steps (b), (c), (d), (e) and (f) of the salary range will be used for performance incentives where an employee has demonstrated satisfactory service of a progressively greater value to the State. Unless the Employer takes an affirmative action to deny a merit or increase service step through a performance evaluation, the employee will be considered to have "good or better service" and eligible for a step increase on their merit anniversary date.

The merit anniversary date does not change when a performance incentive is not granted. If the employee's standard of performance reaches acceptable levels later in the merit year, the step increase may be granted effective the ~~sixteenth (16th) of any month-first day of the pay period following the acceptable level~~ and no change in the merit anniversary date will result.

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 thirty (30) calendar day period, one (1) salary step may be withdrawn on the ~~sixteenth (16th) day of the month-first day of the pay period~~ following completion of the thirty (30) calendar day period, provided the employee's salary is other than the entry step of the salary range. No more than one (1) salary step may be withdrawn in a twelve (12) month period. Before a personnel action withdrawing a salary step is prepared, the employee will be notified in writing that the performance has not improved. If the employee's level of performance subsequently reaches "Acceptable," the salary step may be restored effective the ~~sixteenth (16th) of the month-first day of the pay period~~ following preparation of a performance evaluation report confirming the improved level of performance. ~~Employees on service steps that were awarded under the provisions of AS 39.27.022 are not subject to the provisions of this rule.~~

The Employer will not establish a quota or percentage system to determine the number of performance increases granted, but the parties agree to accept the standards provided in the September 27, 1979, memorandum on merit increases (incorporated as Appendix A) and all subsequent written decisions issued by the Performance Incentive Committee for determining the granting or not granting of performance increases. The Employer may update or revise the Appendix A memorandum from time to time to implement this Article. If the State chooses to update or revise the Appendix A memorandum it will provide the Association with the change(s) it intends to make and allow the Association a reasonable time to provide its input on the change(s) before a new memorandum is issued.

### **4.3 Appeal Procedures.**

In disputes concerning instances where an employee has not been awarded a performance incentive, the following will be the sole and exclusive method for resolution.

**Level One:** Within fifteen (15) working days of receipt of the evaluation that fails to grant a performance incentive, the employee must appeal said action to the Commissioner of the employing department in memorandum form setting forth the reasons the employee disagrees with the State's action or inaction. Within fifteen (15) working days of receipt of the appeal, the Commissioner will respond in writing, setting forth the rationale for the decision. A copy of the response will be provided to APEA/AFT concurrent with the response to the employee.

**Level Two:** In the event the dispute is not resolved at Level One, the employee may appeal said decision to a neutral third party. The appeal must be submitted through APEA/AFT to the Commissioner, Department of Administration, with a copy of the Level One documents within fifteen (15) working days from the date the Commissioner's decision under Level One was due or received, whichever is earlier.

- A. Within two weeks of receipt, the Commissioner will submit to the neutral third party the performance evaluation report including any rebuttals thereto, the employee's appeal at Level One, the decision and rationale at Level One, pertinent prior performance records, the employee's job description and the class specification. The neutral third party will be selected as described under 4.4 below.
- B. The neutral third party will render a decision within thirty (30) calendar days of receipt of the appeal that will include a rationale for the decision and that will be based upon the information presented.

### **4.4 Third Party Neutral Selection.**

The third party neutral will be selected by alternately striking names from the list of arbitrators provided for in Article 10.6.B.1, until one (1) name remains and that arbitrator will be appointed. Costs associated with the third (3rd) jointly selected member will be borne equally by the parties.

### **4.5 Performance Evaluation Investigations.**

A Bargaining Unit Member who is dissatisfied with a written performance evaluation that rates them as lower than mid-acceptable ~~or lower~~ and does not involve the denial of a performance incentive may obtain review of that evaluation through the following procedure, which will be the sole and exclusive remedy for such disputes.

- A. Within thirty (30) days after receipt of a copy of the finalized evaluation, the Bargaining Unit Member must submit through the Union a written request to the Director of the Division of Personnel, Department of Administration, asking that the Director investigate allegations that the evaluation includes factual inaccuracies, or that in the preparation of the evaluation management has been arbitrary or capricious, or has been motivated by discrimination or bias.
- B. The written request must state specifically the allegations to be investigated and, to the degree that information in support of those allegations is known, identify the facts surrounding the controversy. The list of allegations to be investigated will not be expanded after the initial submission to the Employer except by written mutual agreement of the parties.
- C. Upon receipt of a written request, the Director will direct that an investigation into the

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allegations be made. The person assigned to conduct the investigation will not be anyone in the Department of the member. The assigned investigator will have sixty (60) days to investigate the allegations and to make written recommendations to the Director regarding revision of the evaluation with a copy to the Union. The investigation will include interviews with the member, the rater, other appropriate parties and a review of all appropriate documents.

- D. The Director will issue a final decision within fourteen calendar (14) days after the close of the investigation revising those contested facts found to be inaccurate. Other contested portions of the evaluation will be revised upon a finding by the Director that in the preparation of the evaluation management has been arbitrary or capricious, or was motivated by discrimination or bias.
- E. Time limits may be extended by mutual agreement.

Tentative Agreement

Current Language

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1:47 p.m. 12/15/09  
12/15/2009



**ARTICLE 5 - MANAGEMENT RIGHTS**

It is recognized that the Employer retains the right, except as otherwise provided in this Agreement, to manage the affairs of the State and to direct its work force. Such functions of the Employer include, but are not limited to:

- A. recruit, examine, select, promote, transfer and train employees of its choosing, and to determine the times and methods of such actions;
- B. assign and direct the work; develop and modify class specifications as well as assignment of the salary range for each classification, allocate positions to those classifications; determine the methods, materials and tools to accomplish the work; designate duty stations and assign employees to those duty stations;
- C. reduce the work force due to lack of work, funding or other cause consistent with efficient management; discipline, suspend, demote or dismiss permanent employees for just cause;
- D. establish reasonable work rules; assign the hours of work and assign employees to shifts of its designation.

All of the functions, rights, powers and authority of the Employer not specifically abridged, delegated or modified by this Agreement are recognized by APEA/AFT as being retained by the Employer.

For the State:

For the Supervisors:

Date: \_\_\_\_\_

Date: \_\_\_\_\_