

2/23/10
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ARTICLE 11 - PROTECTION OF RIGHTS

TA *[Signature]*
2/24/10

11.1 Prohibited Work.

The Employer will not knowingly require any Bargaining Unit Member to perform work in violation of any Federal, State, or local laws.

11.2 Revocation of Licenses.

In the event any Bargaining Unit Member will suffer a revocation of a professional license because of violations of any Federal, State or local laws by the Employer, the Employer will provide suitable and continued employment for such Bargaining Unit Member at not less than the member's standard rate of pay at the time of revocation of the employee's license for the entire period of revocation of the license and the Bargaining Unit Member will be reinstated to the position held prior to revocation of license after the license is restored.

11.3 Stolen or Damaged Property.

Bargaining Unit Members will not be responsible for stolen, lost or damaged property except in cases where there is substantial evidence indicating a negligent or deliberate act. This will include the use of credit cards for any purpose or any other method of credit. In cases of Bargaining Unit Members who are continuing their employment, no deduction in pay will result until a period of thirty (30) working days from notice. If the Bargaining Unit Member disputes the matter through the grievance or complaint procedure within thirty (30) working days from notice, no action will be taken until the grievance or complaint has been resolved.

A Bargaining Unit Member will not use his or her own personal property unless prior written approval by the Employer has been obtained. If personal property is authorized and is lost, stolen or damaged while in use on behalf of the Employer and there is no substantial evidence indicating a negligent or deliberate act by the member, it will be replaced or repaired by the Employer.

In cases of separating Bargaining Unit Members or seasonal employees leaving at the end of a season the Employer may withhold from the final paycheck the value of the lost or damaged property pending resolution of the grievance or complaint.

This Section is not intended to preclude disciplinary action or provide for a time frame for that action except as otherwise provided in this Agreement.

11.4 Accidents.

When an accident occurs that, in the Employer's opinion, is chargeable to a Bargaining Unit Member, the Bargaining Unit Member will be notified of such chargeability before any action has been taken with respect to such chargeability. A Bargaining Unit Member will have recourse through the grievance or complaint procedure (as appropriate) beginning with the Commissioner of the Department of Administration level.

11.5 License Requirements.

A. Each Bargaining Unit Member will be responsible for obtaining and retaining all mandatory licenses and certifications necessary to perform the essential functions of his/her position.

B. In the event a new license or certification requirement is established for any job classification or position during the life of this Agreement, incumbents in the affected positions are required to obtain the mandatory license or certification within the established deadlines. The Employer will pay the initial license or certification fee for employees who are incumbents of positions directly affected by the new license or certification requirement.

C. Prior to the implementation of new license or certification requirements for any filled position during the life of the Agreement the Employer will meet and confer with APEA/AFT regarding:

1. The nature and extent of the license or certification requirement
2. Deadlines for obtaining the required license or certification

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3. Alternatives, if any, to the license or certification requirement, including alternate employment for incumbents of positions affected by the new requirement who are unable to obtain the required license or certification by the deadline.

D. In instances in which an employee attempts but is unable to obtain the mandatory license or certification within the deadline established, the employee will be terminated without prejudice. ~~Such employees will be permitted to submit no more than fifteen (15) applications for other job classes, which applications will be given priority handling by the Division of Personnel. Every effort will be made to examine such applications within two (2) weeks after receipt by the Division of Personnel. To receive priority handling, the applications must be accompanied by a letter from the Human Resource Manager of the employing department certifying eligibility under the provisions of this section.~~ The parties will meet and negotiate accommodations to lessen the impact on the employee.

E. In the event the employee obtains the required license or certification within three years after termination without prejudice, the employee will be placed on the layoff list for the job classification from which terminated for the remainder of a three year period commencing on the date of termination. To be placed on the layoff list, the individual must provide proof of certification or licensure to the Division of Personnel and be available for employment. Upon placement on the list, the individual will be entitled to the rights and obligations contained at 17.5.A, 17.5.A.1 and 17.6.

11.6 Mandatory Testing and Fingerprinting.

At least 45 days before the State implements any mandatory disease testing, drug testing or fingerprinting program affecting Bargaining Unit Members not already in effect on the date of the signing of this Agreement, the parties agree to meet and confer on issues including the following:

- A. the reasons why the Employer desires to implement the mandatory testing or printing program; and
- B. what testing or printing procedures the Employer intends to use to insure the confidentiality, reliability and integrity of the results.

ARTICLE 12 - LEGAL ASSISTANCE

Handwritten signatures and initials: TJA, KD, and a date 4/1/10.

~~If the Employer determines that a Bargaining Unit Member did not engage in conduct beyond the scope of the Bargaining Unit Member's authority or that constituted willful misconduct or gross negligence in the performance of the Bargaining Unit Member's duties, upon request, the Employer agrees to provide for the legal defense of the Bargaining Unit Member in any legal action brought against the Bargaining Unit Member as a result of the performance of the Bargaining Unit Member's duties.~~

~~The Bargaining Unit Member must request in writing that the Employer provide the legal defense services available under this Article within ten (10) working days of service of summons and complaint on the Bargaining Unit Member. The complaint and summons will accompany the request. The postmark on the Bargaining Unit Member's request will be accepted as the date of request by the Employer. Failure to submit a written request within the required ten (10) working days may relieve the Employer of any obligation under this Article.~~

12.1 General.

A. Definitions:

Providing a legal defense means that Employer appoints at its expense counsel to represent member in a legal action.

Indemnification means Employer's payment of a judgment or legal obligation that member incurred as a result of member's duties for Employer.

B. Claims against a member as a state employee:

In legal actions under AS 09.50.250 against a member, AS 09.50.253 provides for certification by the Attorney General and for the action to proceed exclusively against the state if the action arose from conduct within the scope of member's employment. A request for certification under AS 09.50.253 is made as provided in AS 09.50.253 and 9 AAC 33.010 and is not subject to the grievance arbitration procedure in Article 10 of this agreement.

C. Claims against a member under a federal or state law expressly authorizing a claim against a state official:

If AS 09.50.253 does not apply because federal or state law expressly authorizes an action against member, Employer will provide a legal defense and indemnify member as provided in 12.2 – 12.6.

12.2 Providing a legal defense.

Employer will provide a legal defense to a member named as a defendant or respondent in a legal action if member was acting within the scope of member's office or employment at the time of the incident out of which the action arose.

The Employer will have the right to determine which attorney will represent the Bargaining Unit Member. If the Bargaining Unit Member objects to the attorney provided by the Employer, the member may request the Employer to appoint another attorney. The Bargaining Unit Member may make only one (1) such request.

12.3 Indemnification.

Employer will indemnify a member for a judgment or legal obligation if the judgment or legal obligation arose from member's action within the scope of member's office or employment except as provided in 12.6.

Employer may provide a legal defense without assuming the obligation to indemnify member by notifying member in writing that it is reserving its right to deny payment of the judgment or obligation under this section.

12.4 Scope of office or employment.

Member is acting within the scope of member's office or employment if

- a. member was employed or authorized to perform the act or omission;
- b. the act or omission occurred substantially within the authorized space or time of the office or employment;
- c. a purpose of the act or omission was to serve the state; and
- d. the act or omission did not constitute willful, reckless, or intentional misconduct, gross negligence, or malicious conduct.

12.5 Disputes.

Employer's decision to withhold a legal defense or indemnification is subject to review by complaint for breach of contract in the superior court of this state and is not subject to the grievance arbitration procedure in Article 10 of this agreement.

12.6 Punitive Damages.

Employer will not indemnify member for a judgment against member for punitive damages.

~~If the Employer determines that the Bargaining Unit Member did not engage in conduct beyond the scope of the Bargaining Unit Member's authority or that constituted willful misconduct or gross negligence, the Employer agrees to compensate the Bargaining Unit Member at the Bargaining Unit Member's normal rate of pay including per diem, without loss of any benefits or seniority to the Bargaining Unit Member; upon a reasonable showing by the Bargaining Unit Member of need, an absence from work will be allowed to prepare the member's case for negotiation or trial. The Employer also agrees to pay any judgment (including punitive damages) rendered against the Bargaining Unit Member if the Employer has provided legal services to the Bargaining Unit Member pursuant to this Article.~~

~~The Employer may undertake the defense of a Bargaining Unit Member pursuant to this Article with reservation. If the Employer has provided legal services under reservation, the obligation to pay a judgment (including punitive damages) against the Bargaining Unit Member is not operative until final determination is made by the Employer of the Bargaining Unit Member's eligibility for legal services under this Article. If the Employer has undertaken the defense of a Bargaining Unit Member with reservation and if a court of competent jurisdiction deems that the Bargaining Unit Member acted beyond the scope of the Bargaining Unit Member's authority or with willful misconduct or gross negligence, then the Employer has no liability whatsoever to the Bargaining Unit Member or any other person as a result of such determination. In such cases as this, the judgment (including punitive damages), costs, and fees will be borne by the~~

State Proposal After Mediation

~~Bargaining Unit Member as in any other instance where the court determines that the Bargaining Unit Member acted beyond the scope of the Bargaining Unit Member's authority or with willful misconduct or gross negligence.~~

For purposes of this Article, Employer means State of Alaska or designated representative of the State or an agency of the State.

ARTICLE 13 - CONDITIONS

13.1 Lunch Break.

A lunch break of not less than thirty (30) minutes or more than one (1) hour will be allowed approximately midway of each shift. Longer periods may be arranged between a Bargaining Unit Member and their supervisor. The Employer will make every reasonable effort to accommodate the Bargaining Unit Member's lunch break preference while insuring adequate staffing at each worksite. An additional lunch period of thirty (30) minutes will be allowed when a Bargaining Unit Member works continuously for two (2) hours or more before or after the normal shift and such additional lunch period will be considered as time worked at the proper overtime rate if applicable. In the event that a Bargaining Unit Member is recalled within two (2) hours of the termination of his or her normal shift, the Bargaining Unit Member will be granted a meal break in accordance with the other provisions of this paragraph.

13.2 Relief Period.

All Bargaining Unit Members will be allowed one (1) relief period during the first (1st) half of the shift and one (1) relief period during the second (2nd) half of the shift. A normal relief period is fifteen (15) minutes. The Employer will establish reasonable rules governing the taking of such relief period after consultation with the local Employee Representative if consultation is requested. Relief periods will normally be taken away from the immediate work area.

When working other than the regular shift, relief periods will be allowed to Bargaining Unit Members consistent with the above schedule.

13.3 Staffing Levels.

The levels of staffing in all institutions will be proper subjects for labor-management committees established in accordance with Article 8.

TA Kent 12/29/09
BJ [Signature] 12/29/09

ARTICLE 14 – PARKING

The State will make a good faith effort to make designated parking facilities available to Bargaining Unit Members, wherever practicable.

APEA/AFT will be consulted regarding any large-scale change in the number and location of bargaining unit spaces.

Where head bolt heater outlets are provided by the Employer, all Bargaining Unit Members will be permitted to use such outlets at no cost and under the conditions as designated by the Employer, consistent with specific Environmental Protection Agency (EPA) or local jurisdiction standards, where existing.

For the State:

TA Kurt

Date: 12/15

For the Supervisors:

[Signature]

Date: 12/15/09

ARTICLE 15 - TIME OFF TO VOTE

The Employer will provide reasonable and necessary time off for Bargaining Unit Members covered by this Agreement to vote in local, municipal, borough, State and Federal elections, provided that the Bargaining Unit Member is unable to vote outside working hours because of actions of the Employer.

For the State:

TA [Signature]
Date: 12/15

For the Supervisors:

BD [Signature]
Date: 12/15/09