

ARTICLE 6 - CONTRACTING OUT

TA RD
4/1/10
BD [Signature]

6.1 Feasibility Study.

~~A. The Employer agrees to notify APEA/AFT within one (1) week of its decision to conduct a formal feasibility study, indicating the job classifications and work areas affected.~~

~~B. Decisions to contract out will be made only after the affected agency has conducted a formal feasibility study determining the potential costs and other benefits that would result from contracting out the work in question. The study will include all costs associated with contracting out the work in question including, but not limited to, wages, benefits, administrative costs, agency overhead, program supervision and audits. The study will similarly determine the costs of performing the work with Bargaining Unit Members.~~

~~C. The Employer will provide APEA/AFT with no less than thirty (30) calendar days notice that it intends to issue bids to contract out bargaining unit work where the decision would result in displacement of Bargaining Unit Members. During this thirty (30) calendar day period, the Employer will not release any bids and APEA/AFT will have the opportunity to submit an alternate plan that will be given fair consideration. The notification by the Employer to APEA/AFT of the results of the feasibility study will include all pertinent information upon which the Employer based its decision to contract out the work, including but not limited to the total cost savings the Employer anticipates.~~

~~D. Nothing in this Article will prevent the Employer from continually analyzing its operation for the purpose of identifying cost-saving opportunities.~~

~~E. No employees will be laid off and their work contracted out unless such study shows that the contracting action would be at less cost to the Employer.~~

6.2 Placement of Employees.

~~A. Once the Employer makes a decision to contract out work that will result in displacement of employees, it will make every effort to place employees elsewhere in State government in the following order of priority: within the division, within the department or within State service generally.~~

~~B. In the event employees must be displaced as a result of contracting out, such displacements will be made in accordance with Article 17.~~

6.3 Compliance.

~~A. Upon request to the issuing agency, APEA/AFT is entitled to receive a copy of any audit performed on any State contract.~~

~~B. In those instances where a contract has been issued under the provisions of Section 6.1 that directly results in the displacement of Bargaining Unit Members, APEA/AFT may request that a cost effectiveness audit be performed during the life of that contract. The State agrees to fund all costs associated with the first six audits under the Agreement; APEA/AFT agrees to fund the costs of any additional requests.~~

~~C. Requests for contract compliance audits will be made directly to the Office of Management and Budget (OMB). Upon receipt of a request, OMB will advise APEA/AFT~~

~~of the proposed schedule for audit conduct and compliance. APEA/AFT will be provided with a copy of the completed audit report within seven (7) working days of completion in final form.~~

ARTICLE 6 - Contracting Out

6.01 Feasibility Studies.

- A. The Employer has the right at all times to analyze its operation for the purpose of identifying cost-saving opportunities.
- B. Decisions to contract out shall be made only after the affected agency has conducted a written feasibility study determining the potential costs and benefits that would result from contracting out the work in question. The Employer agrees to notify the Union within one (1) week of its decision to initiate a feasibility study. The study shall include all costs associated with contracting out the work in question including, but not limited to, wages, benefits, administrative costs, agency overhead, program supervision, and audits. The study shall similarly determine the costs of performing the work with Bargaining Unit Members. Notice to the Union shall include both the job classifications and work areas affected.
- C. Notification to the Union of the results of the feasibility study will include all statistical and analytical information which the Employer will consider in making its decision regarding contracting out the work, including but not limited to the total cost savings the Employer anticipates.
- D.
1. The Employer shall notify the Union of its final decision regarding contracting out.
 2. If the Employer decides to contract out and such contracting out will result in the direct displacement of employees, the Employer shall provide the Union with no less than thirty (30) calendar days notice that it intends to contract out bargaining unit work. The notification by the Employer to APEA/AFT of the results of the feasibility study will include all information upon which the Employer based its decision to contract out the work, including but not limited to the total cost savings the Employer anticipates.
 3. The Union may then submit an alternate plan that is to include potential costs and benefits. During this thirty (30) day calendar period the Employer shall not release any bids and APEA/AFT shall have the opportunity to submit an alternate plan that will be given fair consideration by the Employer. During this thirty (30) calendar day period, the Union shall have the opportunity to discuss the placement of affected employees.
- E. No employees shall be laid off and their work contracted out unless the feasibility study shows that contracting out would cost the Employer less.

6.02 Effect on Employees.

- A. Once the Employer makes a decision to contract out work that will result in the direct displacement of employees, it will make a good faith effort to place employees elsewhere in state government in the following order of priority: 1) within the division, 2) within the department, or 3) within State service generally.

B. In the event employees must be displaced as a result of contracting out, such displacement shall be made in accordance with the layoff provisions of this Agreement.

6.03 Compliance

A. Upon request to the issuing agency, APEA/AFT is entitled to receive a copy of any audit performed on any State contract.

In those instances where a contract has been issued under the provisions of section 6.01 which directly results in the displacement of Bargaining Unit Members, APEA/AFT may request that one cost effectiveness audit be performed during the life of this Agreement. The State agrees to fund all costs associated with such audit.

ARTICLE 7 - EMPLOYER/APEA RESPONSIBILITIES

7.1 Employer Responsibilities.

The Employer agrees that it will not in any manner, directly or indirectly, attempt to interfere between any of its Bargaining Unit Members and APEA/AFT; that it will not in any manner restrain or attempt to restrain any Bargaining Unit Member from belonging to APEA /AFT or from taking active part in APEA/AFT affairs; and that it will not discriminate against any Bargaining Unit Members because of their APEA/AFT membership or any reasonable APEA/AFT activity, provided such activity is not contrary to this Agreement. No Bargaining Unit Members will be discriminated against for upholding of APEA/AFT principles, and any Bargaining Unit Members who work under the instruction of APEA/AFT or who serve on a committee will not lose their positions or be discriminated against for this reason.

7.2 APEA Responsibilities.

- A. APEA/AFT assumes all obligations and responsibility for this unit, and APEA/AFT will retain the right to discipline members in this bargaining unit.
- B. APEA/AFT agrees that this Agreement is binding on each and every member of this bargaining unit and that its members, individually or collectively, accept full responsibility for carrying out all of the provisions of this Agreement.
- C. APEA/AFT will actively combat absenteeism and other practices that may hamper the Employer's operation and APEA/AFT will vigorously support the Employer in efforts to eliminate waste and inefficiency, to improve the quality of work and to promote goodwill between the Employer and Bargaining Unit Members.
- D. APEA/AFT agrees to make a good faith effort to see that the Bargaining Unit Members working under this Agreement obey all reasonable rules and regulations as prescribed by the Employer.

7.3 Nondiscrimination.

- A. The parties agree that they will not unlawfully discriminate in any employment matter against any Bargaining Unit Member with regard to race, color, religion, national origin, age, sex, disability, marital status, change in marital status, pregnancy, parenthood, political affiliation or political belief. Further, the parties agree to support appropriate action against any Bargaining Unit Member involved in sexual harassment.
- B. The parties agree that Bargaining Unit Members will have the right to utilize the Employer's Internal Discrimination Complaint Procedure should a dispute involving the provisions of this section arise. This procedure will be the sole method of resolution of disputes arising from this section.

Handwritten signatures and dates:
Kurt TA 12/29/09
BD [Signature] 12/29/09

TA Kurt R. K 12/14

[Handwritten signature]

12/16/09
None

ARTICLE 8 - LABOR-MANAGEMENT COMMITTEES

8.1 Purpose and Procedures.

- A. To facilitate communication between the parties and to promote a climate conducive to constructive employee relations, joint labor-management committees will be established to discuss matters of mutual interest. Committee size will be determined by mutually agreed-upon arrangements at the appropriate level. The composition of each Association delegation to labor-management committees will be at the discretion of APEA/AFT.
- B. Such committees will meet when necessary. Written agenda will be prepared in advance of any meetings and may be reviewed by the Division of Labor Relations and APEA/AFT, when necessary.
- C. Agreements to establish a labor-management committee will include provisions governing the form and recipient of committee recommendations, as well as the manner and time frame for the recipient's response to committee recommendations.
- D. Approved time spent in meetings (including actual and necessary travel time) will neither be charged to leave credits nor considered as overtime worked. Management will make every effort to reschedule shift assignments or days off so that meetings fall during working hours of Association representatives. Labor-management committee meetings will be conducted in good faith. These committees will have no power to contravene any provisions of this Agreement, nor to enter into any agreements binding the parties, or resolve issues or disputes surrounding the implementation or interpretation of the Agreement. Matters requiring a Letter of Agreement will not be implemented until a signed Letter of Agreement has been approved by the Division of Labor Relations and APEA/AFT Headquarters.
- E. No discussion or review of any matter by the committee will forfeit or affect the time frames of the grievance-arbitration procedure. Issues that should be resolved through the grievance-arbitration procedure will be referred to and handled pursuant to that procedure.
- F. Staff representatives of the Division of Labor Relations and APEA/AFT will render assistance to local joint committees in procedural and substantive issues as necessary to fulfill the objectives of this Article and may participate in such meetings.
- G. At the conclusion of each calendar year the parties may discuss the concept of labor-management committees and whether it should be modified, expanded or continued.
- H. If labor-management training is offered by the Employer, it will be provided to no more than two (2) APEA /AFT officials at no cost.

ARTICLE 9 - SECURITY OF THE PARTIES

TA KU 4/11/10
Bd [Signature]

9.1 Agency Shop.

- A. It is recognized that APEA/AFT owes the same responsibilities to all Bargaining Unit Members and is to provide benefits and services to all Bargaining Unit Members whether or not they are members of APEA/AFT. All Bargaining Unit Members will, as a condition of continued employment, either become a member of APEA/AFT and pay APEA/AFT dues or pay an agency fee to APEA /AFT equal to the amount certified by the Association Business Manager to be necessary to reimburse the Association for the expense of representing the members of the bargaining unit. Payment of APEA /AFT dues will commence no later than thirty (30) calendar days after the date of hire. The Association agrees to provide its agency fee payers with procedural protections meeting or exceeding the requirements set out in *Chicago Teachers Union v. Hudson* 475 U.S. 292.310, 106 S. Ct. 1066, 1078 (1986) ("Hudson") for the assessment of service fees; aAn adequate explanation of the basis for the fee, a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision-maker, and an escrow for the amounts reasonably in dispute while such challenges are pending.

- B. Persons to be employed in the bargaining unit in Juneau, Anchorage and Fairbanks will be notified by the Employer at the time of hire that they have ten (10) working days to report to the local APEA/AFT Office to be advised of their agency shop obligations under this Agreement. The Employer will not sign up new hires for APEA/AFT agency fees or membership dues. The Bargaining Unit Member will report to the local APEA/AFT Office on the employee's own time.

- C. Upon request by APEA/AFT, a Bargaining Unit Member who has been employed for more than thirty (30) calendar days and who is not complying with the agency shop provisions of this Agreement will be terminated by the Employer, provided that the following actions have occurred:
 - 1. The APEA/AFT will notify the Bargaining Unit Member of the amount of money that he/she is in arrears. The notice will inform the Bargaining Unit Member of impending discharge if the full amount owed is not paid to the APEA/AFT within fifteen days after receipt of the notification. A copy of the notification will be mailed simultaneously to the Division of Labor Relations.

 - 2. The APEA/AFT will tender to the Division of Labor Relations a written request for the termination of the Bargaining Unit Member on the basis that the Bargaining Unit Member has not complied with the agency shop provisions of the Agreement within the time period specified in 9.1.A, in that he/she has not paid the arrearage and has not documented that the money is not owed. The Association Business Manager will provide the Director of the Division of Personnel copies of documents showing the Association's compliance with paragraph A. for agency fee payers.

- D. Bargaining Unit Members who choose to change their status from APEA/AFT member to agency fee payer may do so after giving 30 days notice to APEA/AFT. However, the agency fee payers who wish to change their status to APEA/AFT member may do so immediately upon notification to APEA/AFT.

State Proposal After Mediation

- E. The State will furnish to the APEA/AFT Headquarters Office a report showing all personnel transactions adding Bargaining Unit Members to or deleting Bargaining Unit Members from the unit. Such reports will be furnished on a weekly basis and not later than the week following the week in which the information is received by the Division of Finance. APEA/AFT specifically agrees that all information provided will be used only for purposes related to the execution of the Agreement, that APEA/AFT will be responsible for the protection and security of information provided and that APEA/AFT will assume all liability that may result from any improper disclosure or use by APEA/AFT of information provided.
- F. The Employer will neither interfere with nor support APEA/AFT in its discipline of the members of this bargaining unit. This provision will not relieve the Employer of its responsibility to terminate Bargaining Unit Members for nonpayment of APEA/AFT agency fees, initiation fees or membership dues.
- G. The APEA/AFT will defend, indemnify, and save the Employer harmless against any and all claims, demands, suits, grievances, or other liability (including attorney's fees incurred by the Employer) that arise out of or by reason of actions taken by the Employer pursuant to this Article, except those actions caused by the Employer's negligence.
- H. The provisions of this section are effective prospectively from the date of signing of this agreement.

9.2 No Strike or Lockout, Picket Lines

- A. APEA/AFT agrees that during the life of this Agreement, APEA/AFT, its agents or its Bargaining Unit Members will not authorize, instigate, aid or engage in any work stoppage, slowdown, sick-out, refusal to work, picketing or strike against the Employer.
- B. If a picket line is established and sanctioned by APEA/AFT and officially announced by the Business Manager, it will not be a violation of this Agreement and it will not be cause for discipline or discharge in the event a Bargaining Unit Member refuses to enter upon any property involved in such a primary labor dispute or refuses to go through or work behind any such primary line, including primary picket lines at the Employer's place of operation. The provisions of this paragraph do not apply to those class one Bargaining Unit Members described under AS 23.40.200 or to class two employees if enjoined pursuant to AS 23.40.200.
- C. The Employer agrees that during the life of this Agreement there will be no lockout.
- D. Any violation of this Section by APEA/AFT or the Employer is not subject to the grievance-arbitration procedure and either party may pursue such legal remedies as provided by law.
- E. Disciplinary action taken against an employee for violation of this Section is subject to the grievance-arbitration procedure.

9.3 Representatives.

APEA/AFT will have representatives who are not employees of the Employer who will be authorized to speak for APEA/AFT in all matters governed by this Agreement and will be permitted to visit any work area at any time with prior approval of the Employer. Such approval will not be unreasonably withheld or delayed.

9.4 Employee Representatives

- A. In addition to the above, APEA/AFT will, upon written notice to the Employer, authorize a reasonable number of representatives from among the employees of the Employer. The ratio of Employee Representatives will not exceed one (1) Employee Representative for each twenty-five (25) Bargaining Unit Members in the entire bargaining unit nor will there be more than one (1) in twenty-five (25) or fraction thereof per organizational unit. Notwithstanding the above ratio, APEA/AFT will be allowed additional Employee Representatives where there are none located in the geographic area. The total number of Employee Representatives may include up to 80 employees.

APEA/AFT will provide lists of Employee Representatives to each departmental personnel office. The Employer will only recognize an employee as an Employee Representative if the APEA/AFT has informed the Employer in writing of the employee's name and the department(s) and facility(ies) for which he/she has been designated as an Employee Representative.

- B. The Employee Representatives will be allowed to handle complaints and grievances under this Agreement with the proper Employer representative during working hours as well as disseminate information regarding collective bargaining issues directly relating to APEA/AFT and its membership.
- C. When an Employee Representative plans to engage in Association activities, he/she must first schedule the time required with his/her first level supervisor outside the bargaining unit at such time as business permits.

All time spent in Association activities during an Employee Representative's scheduled work hours will be recorded on the Employee Representative's time sheet.

D. Employee Representative Time

1. The Employee Representative will suffer no loss in compensation for up to nine (9) hours of scheduled work hours per calendar month when the Employee Representative is engaged in the activities listed at B above. Time spent by an Employee Representative on Association activities under this subsection will not be counted in the calculation of hours worked except for purposes of fulfilling the "work week" definition in Article 25.
2. Any additional work hours are subject to the provisions of Article 29, Leave, regarding personal and Association Business Leave, and will be considered as leave taken for all purposes.

- E. Departmental Human Resources Managers will attempt to inform Employee Representatives of all new or transferred Bargaining Unit Members to their work areas.

9.5 Super Seniority.

For the purposes of layoff or transfer of positions in the bargaining unit, Negotiating Team members from the date of notice to the Employer of their election and Employee Representatives will head the seniority list of State service, provided that the employee has at least six (6) months of continuous service as a designated Employee Representative.

Super seniority for Negotiating Team members will expire one (1) year after their resignation as a negotiator or the expiration of this Agreement, whichever is earlier.

9.6 Exclusive Negotiations with APEA/AFT.

The Employer will not negotiate or handle grievances with any employee organization other than APEA/AFT with reference to terms and conditions of employment of Bargaining Unit Members in the Supervisory Unit. When individuals or organizations other than APEA/AFT request negotiations or handling of grievances, they will be advised by the Employer to transmit their request to APEA/AFT. Similarly, APEA/AFT will advise any individuals or organizations seeking to negotiate or handle grievances that APEA/AFT is the exclusive representative of Bargaining Unit Members in the Supervisory Unit and will be the only agency to approach the Employer on these matters.

9.7 Check off and Payroll Deductions.

- A. Bargaining Unit Members who desire to have dues, initiation fees, agency fees or other employee benefits as specified in this Section, deducted from the pay to which they would otherwise be entitled and have those funds paid to APEA/AFT, will authorize such payroll deductions by executing a checkoff on a form provided by APEA/AFT that will include the social security number of the Bargaining Unit Member. Upon receiving such authorization, the Employer will make the deductions so authorized and promptly forward these deductions to APEA/AFT subject to Section 1.D. of this Article.
- B. All dues or agency fee assignments executed by Bargaining Unit Members will be effective for as long as such Bargaining Unit Member is employed by the Employer in a classification coming within the purview and life of this Agreement, except as provided in this subsection and Section 1.D. All requests for elimination of payroll deduction of agency fees or membership dues will not be honored by the Employer until after APEA/AFT Headquarters in Juneau has been notified. All requests for changeover of payroll deductions to agency fees or to membership dues will be honored by the Employer immediately upon notification from APEA/AFT.
- C. APEA/AFT will have the right to receipts from deductions of APEA/AFT and EPIC dues, initiation fees or agency fees, APEA/AFT-sponsored insurance premiums and APEA-sponsored employee benefits as agreed to by the parties to this Agreement as previously authorized or as may be authorized by the Bargaining Unit Member. No other employee organization will be accorded payroll deduction privileges with regard to the bargaining unit. The Business Manager of APEA/AFT will immediately notify the Division of Labor Relations of the State of Alaska in writing of any decrease or increase in authorized dues, initiation fees or agency fees deductions. The Employer will then make appropriate changes in payroll deductions without further notice, provided that any change does not conflict with the amount authorized by the Bargaining Unit Member. The Employer agrees to make such deduction promptly and to remit to APEA /AFT within ten (10) working days the amount so deducted, together with a list of Bargaining Unit Members showing amounts deducted from each and the purpose for which each deduction was made.

9.8 List of Bargaining Unit Members.

The Employer will ~~provide-make available to~~ APEA/AFT ~~a~~ ~~with its~~ current ~~monthly~~ list of Bargaining Unit Members once monthly at no cost to APEA/AFT. This list will ~~also~~ include the Bargaining Unit Member's name, ~~social security number~~ ~~employee identification number~~, position control number, range, step, classification title, overtime eligibility status, hire date, mailing address, ~~worksite~~, email address and termination date or last date in pay status, if applicable. The list will also itemize and show any regular deductions made and forwarded to APEA/AFT. Past practice will continue regarding the furnishing of ~~a monthly computer tape~~ Bargaining Unit Member information.

APEA/AFT specifically agrees that all information provided will be used only for purposes related to the execution of the Agreement, that APEA/AFT will be responsible for the protection and security of information provided, and that APEA/AFT will assume liability that may result from any improper disclosure or use by APEA/AFT of information provided.

9.9 Meeting Space.

Where there is appropriate available meeting space in buildings owned or leased by the Employer, this space may be used for meetings by APEA/AFT provided that a request is approved in advance pursuant to the rules of the department or the agency concerned.

9.10 Bulletin Boards.

Past practice with regard to bulletin boards will continue.

9.11 Interoffice Mail.

The Employer will schedule a daily stop, Monday through Friday, excepting holidays, by a courier at the Juneau Headquarters APEA/AFT Business Office for the purpose of delivering and/or picking up business correspondence and related materials between State officials and APEA/AFT officials. This service will be at no cost to APEA. This will not include mailings between APEA/AFT officials, whether or not such officials are employees of the Employer, and will not include mailings between APEA/AFT and the membership.

9.12 Email Communications.

The State communications system is the property of the Employer.

The Employer recognizes the Association's right to communicate with its members through the Internet. Emails from the Association to bargaining unit members shall be related to the Association's duty to bargain on behalf of or to represent bargaining unit members. Emails regarding pending legislation or in-progress partisan election campaigns shall be non-positional, but may direct members to a website link. Disputes about the propriety of Association emails shall be initiated by a written notification to the Association setting out the State's objection. The parties shall thereafter meet as soon as feasible for the purpose of discussing and resolving the issue. If the State does not believe the matter has been adequately resolved, it may limit the Association's access to its communications system. The Association may grieve this action. The Association may file such grievance at Step III and the grievance will be resolved through an expedited arbitration.

Bargaining Unit Members may use their State computer to communicate with each other, and/or the Association, provided such use does not interfere with official state use, or the performance of the Bargaining Unit Member's job duties.

ARTICLE 10 - COMPLAINT – GRIEVANCE - ARBITRATION

TA Kunt
2/23/10
Bd
2/22/10

This Article provides separate dispute resolution processes for Bargaining Unit Members depending upon their status and the nature of the dispute.

Nonpermanent employees: All disputes are subject solely to the complaint procedure except as otherwise provided in this agreement.

Probationary employees not holding permanent status in another classification: Appeals of dismissal, demotion, suspension or other discipline are subject solely to the complaint procedure. Disputes involving other matters are subject solely to the grievance procedure except as otherwise provided in this agreement.

Permanent employees: Disputes are subject to the grievance procedure except as otherwise provided in this agreement.

10.1 Complaint Procedure.

The parties hereby agree to the following Complaint Procedure as the sole means of resolving all disputes and controversies not involving the application or interpretation of the terms of this Agreement, all disputes and controversies arising between the State and long-term nonpermanent employees, and as well as appeals of the dismissal, demotion, suspension or other discipline of probationary employees not holding permanent status in another classification:

- A. A complaint must be brought to the attention of the Employer, consistent with the procedures set forth in this section, within fifteen (15) working days of the effective date of the action or inaction or the date the long term nonpermanent or probationary employee is made aware of such action or inaction, whichever is later. Deadlines for submission of a complaint at succeeding steps will be counted from the date of receipt of a response from the Employer, or the date the response is due, whichever is earlier. Date of receipt of a complaint or a response will be either seven (7) calendar days following date of postmark or the date of a signed verification of receipt.
- B. If the Employer fails to render a decision within the allotted time, the complaint may be advanced to the next step by the Association. Allotted time frames may be extended by mutual agreement.
- C. Complaints will be processed on forms approved by the Employer and the Association.
- D. The complaint will state the facts from which it arises, the rules, procedures or conditions that should be considered and the remedy requested. Adjustments to complaints will not conflict with this agreement or applicable written policies, laws, or regulations.

Appeals should be in writing with a copy of the original complaint attached.

E. Procedure:

- 1. Complaints will be presented on the form approved by the long-term nonpermanent or probationary employee, Employee Representative or Association Representative to the first level supervisor outside the bargaining unit. The complaint may be adjusted with or without the participation of an Association or Employee Representative provided that the complainant has not been denied the opportunity for representation. The supervisor will respond in writing to the complainant within ten (10) working days.

2. If the response is unsatisfactory, an Employee or Association Representative may appeal to the Commissioner or such other administrative head as may be the highest level supervisor of the agency in which the complainant is employed within ten (10) working days after the response is due or received, whichever is earlier. The Commissioner will respond in writing to the Employee or Association Representative within ten (10) working days of receipt of the appeal.

3. Failing resolution, an Association Representative may present the appeal to the Commissioner of the Department of Administration within ten (10) working days after the response is due or received, whichever is earlier. Upon request of the Association a meeting between the Association Representative and the Commissioner or a designee will be convened to discuss the complaint. The Commissioner will respond in writing to the Association Representative within twenty (20) working days of receipt of the complaint or of the meeting, if held, whichever is later. The decision of the Commissioner of the Department of Administration is final and will settle the matter.

F. Extensions to the time limits established in 1 and 5 above may be accomplished with the written concurrence of APEA/AFT.

10.2 Grievance Procedure:

General. Having a desire to create and maintain labor relations harmony, the parties agree that they will promptly attempt to adjust all grievances arising between them. The APEA/AFT or the aggrieved employee or employees will use the following procedure as the sole means of settling grievances, except where alternate dispute resolution and appeal procedures have been otherwise agreed to in this collective bargaining agreement, in which case the applicable alternative procedure will be the exclusive appeal process available to the employee or employees. It is further agreed that the parties covered herein will be bound by any written decisions, determinations, agreements or settlements that may be effectuated through this grievance-arbitration procedure.

A. **Grievance Definition:** A grievance will be defined as any controversy or dispute involving the application or interpretation of the terms of this Agreement arising between APEA/AFT or an employee or employees and the Employer.

B. **Time Frames:** Any grievance must be brought to the attention of the Employer, consistent with the procedures set forth in this Article, within thirty (30) working days of the effective date of the disputed action or inaction or the date the employee is made aware of the action or inaction, whichever is later, to receive the attention of APEA/AFT and the use of the grievance procedure.

The fifteen (15) working days for submission of a grievance will be counted from the date the Employer's response was due or received, whichever is earlier. Date of receipt will be either seven (7) calendar days following date of postmark or a signed verification of a hand-delivered response.

The ten (10) working days for response to a grievance will be counted from the date of receipt of the grievance from APEA /AFT or the employee. Date of receipt will be either seven (7) calendar days following date of postmark or a signed verification of a hand-delivered grievance.

If the Employer fails to comply in rendering a decision in the allotted time frame, the grievance will advance without further delay to the next step of the procedure.

Allotted time frames may be extended by mutual agreement under extenuating circumstances in all steps of the grievance procedure.

- C. Forms: In the interest of timely resolution of grievances, they will be processed on forms approved by the parties.
- D. Mailing: All mailed material relating to Steps Two, Three and Four of a grievance will be accomplished by a proof of receipt method. ~~In order to meet grievance time frame requirements, the State may email the Association a copy of its response.~~
- E. The parties agree that nothing in this Agreement precludes them from mutually agreeing to submit any grievance(s) not resolved at Step Three to mediation.
- F. Removal of Documents: Documents implementing penalties that are later reversed in the grievance-arbitration procedure will be removed from the personnel file. The parties agree that this provision does not preclude the maintenance of such records in the files of the Division of Labor Relations provided such documents will not be forwarded to potential employers within or outside State government.
- G. Special Circumstances
 - 1. Employer Grievances: It is understood that should the Employer wish to file a grievance, the Employer will file the grievance with the Business Manager of the Association. Failing a response consistent with the time frames contained in Step Three or a resolution, either party may request arbitration consistent with Step Four of this Article.
 - 2. Disciplinary Grievances. It is agreed that all grievances resulting from dismissal, demotion for cause, or a single suspension in excess of thirty (30) calendar days of an employee covered by this Agreement will be entered into the procedure at Step Two and must be brought to the attention of the Employer through APEA/AFT within fifteen (15) working days of the effective date of the action, or the date the employee becomes aware of the action, whichever is later, to receive the assistance of APEA/AFT and the use of the grievance procedure.
 - 3. Class Action Grievances. Class action grievances will be submitted by the APEA/AFT representative to the first level supervisor having jurisdiction over the entire class of grievances (i.e., if class is comprised of employees working in more than one (1) department grievances will be submitted at Step Three, if only one (1) department but more than one (1) division, Step Two, etc.). A "class action grievance" is a situation that allegedly adversely affects two (2) or more employees in the same manner, or a situation in which APEA/AFT believes the Employer has violated the agreement but in which there are no known individual grievants. Class action grievances must identify all grievants by name, job class and department of each grievant to the extent possible. The grievance must state clearly and specifically the relief sought, the provisions of the agreement alleged to have been violated, and the specific nature of each violation. The Employer agrees to cooperate with APEA/AFT in reasonable efforts to identify employees who may be considered grievants. Failure to file a class action grievance does not bar the filing of grievance subsequently in behalf of an employee.

Handwritten notes:
Kurt
delet

10.3 Step One: Oral or Written Grievance:

When a grievance arises from an action or an inaction, the employee, either alone or accompanied by an APEA/AFT or Employee Representative, has the option within thirty (30)

working days to lodge an oral or written grievance with the first level supervisor outside the bargaining unit.

That supervisor has ten (10) working days in which to respond in writing to the employee's complaint with a copy to the appropriate APEA/AFT field office. Where appropriate, the decision will be implemented.

If the supervisor does not respond or implement the decision in ten (10) working days, or if the response is not satisfactory to the employee, the aggrieved employee must reduce the complaint to writing within fifteen (15) working days and submit that grievance to Step Two through an APEA/AFT Representative.

Settlements reached at this step will be binding only if such settlements are consistent with the provisions of this contract and policies and regulations of the Employer.

Grievances settled in writing at Step One found to be inconsistent with the contract; policies and regulations of the Employer may be reopened by the Employer through a written notice to APEA/AFT within ten (10) working days from the date of written settlement. Grievances reopened in this manner will proceed immediately to Step Three of the grievance procedure.

10.4 Step Two

Failing to settle the grievance in accordance with Step One, the appeal will be referred to and submitted by an APEA/AFT Representative within fifteen (15) working days after the response from Step One is due or received, whichever is earlier.

The appeal will be presented in writing to the Commissioner or such other administrative head, as may be the highest level supervisor of that department or agency in which the grievant is employed. The Commissioner of that department or agency will respond in writing to the employee and APEA/AFT representative within fifteen (15) working days after receipt of the appeal.

10.5 Step Three

Failing to settle the grievance in accordance with Step Two, the appeal will be submitted in writing by the APEA/AFT Representative within fifteen (15) working days after the response from Step Two is due or received, whichever is earlier.

The appeal will be presented in writing for settlement to the Commissioner of the Department of Administration. The Commissioner of the Department of Administration will respond in writing to the employee and the APEA/AFT representative within twenty (20) working days after receipt of the appeal.

In the event the matter is settled by written agreement between the APEA/AFT Representative and the Commissioner of the Department of Administration, such written agreement will have the same force and effect as a decision or award of the arbitrator and be final and binding on each of the parties and they will abide thereby. Should either party fail or refuse to abide by the written agreement, the prevailing party will be free to take whatever action it deems necessary, and such action will not be considered in violation of this Agreement.

10.6 Step Four: Arbitration

A. Any grievance that involves the application or interpretation of the terms of this Agreement, or is an appeal from demotion or dismissal of a permanent employee, or an appeal from dismissal of a probationary employee holding permanent status in another classification, which is not settled at Step Three, may be submitted to arbitration for settlement. APEA

/AFT will state specifically which Article (s) and Section(s) the State may have violated and the specific manner in which the violation is alleged to have occurred

If either party desires to demand arbitration, the request must be received in writing within forty (40) calendar days after the response from Step Three is due or received, whichever is earlier. The parties will meet within ten (10) calendar days after receipt of the request for arbitration to strike names. APEA/AFT will contact the State to strike names.

B. Board of Arbitration.

1. Selection of Arbitration Panel: Within thirty (30) calendar days of the signing of the Agreement, the Employer and the APEA/AFT will jointly request from the U.S. Federal Mediation and Conciliation Service (USFMCS) the names of twenty-one (21) qualified arbitrators. Each party may add up to three names to the list provided by the USFMCS. From the list of 27 arbitrators the Employer and the APEA/AFT will alternately strike names from the list one name at a time until 11 names remain on the list. This list of 11 arbitrators will be used by the parties to select individual arbitrators for hearings. This does not preclude the parties from compiling a mutually agreeable list without the assistance of the USFMCS.

2. Selection of Arbitrator for Hearing: In the event that arbitration becomes necessary the parties will select the arbitrator by alternately striking from the USFMCS list one (1) name at a time until only one (1) name remains on the list. The parties will alternate on striking the first (1st) name. The name of the arbitrator remaining on the list will be accepted by the parties as the arbitrator, and arbitration will commence on a date agreed to by the parties.

3. Pre-arbitration Meeting: No later than seven (7) days prior to the scheduled arbitration hearing, the parties will meet to exchange information and to attempt to agree on the phrasing of the question(s) to be submitted to the arbitrator. Each party will inform the other of any witnesses it intends to present testimony at the hearing. It is the intention of the parties that post hearing briefs normally not be written. If either party believes it is necessary to write a brief in an upcoming case, it will so inform the other party.

4. Limitations: During the process of the above procedure, there will be no strike or lockout. The arbitrator will have no authority to rule contrary to, to amend, add to, subtract from or eliminate any of the terms of this Agreement.

5. Arbitration Expenses: Expenses incident to the services of the arbitrator will be borne by the losing party. If, in the opinion of the arbitrator, neither party can be considered the losing party, then such expenses will be apportioned as in the arbitrator's judgment is equitable.

6. Arbitration Witnesses: A Bargaining Unit Member who is required to appear as a witness at an arbitration proceeding for APEA/AFT will be subject to the Association Business Leave Bank. Should the Employer deny a Bargaining Unit Member leave to appear as a witness at arbitration, neither party waives its rights to seek legal recourse.

C. Authority of the Arbitrator

1. Questions of procedural arbitrability will be decided by the arbitrator. The parties agree that these threshold issues should normally be resolved before the arbitrator hears arguments on the merits of that dispute. Therefore, the arbitrator will have the authority to rule on procedural arbitrability issues immediately upon the close of arguments on those issues. Either side is free to argue for an immediate ruling, adjournment until a decision is

made, deferral of a decision pending the presentation of the merits, or whatever other manner of proceeding it may deem appropriate. The arbitrator's decision will be final and binding.

If the Employer intends to raise arbitrability issues, APEA/AFT will be notified in writing of the issues not later than twenty (20) calendar days before the hearing so both sides are prepared to address the issues. However, should an arbitrability issue arise within twenty (20) calendar days before the hearing, the Employer will inform APEA/AFT immediately. The parties may agree to proceed on the scheduled hearing date. If they cannot agree, either party may reschedule the hearing to a later date to allow for the appropriate notice.

2. The arbitrator will have no power to modify a penalty or other management action except by finding a contractual violation. The arbitrator will have no authority to rule contrary to, amend, add to, subtract from or eliminate any of the terms of this Agreement.

3. The parties agree that the decision or award of the arbitrator will be final and binding on each of the parties and that they will abide thereby. Should either party fail or refuse to abide by the decision of the arbitrator, the prevailing party will be free to take whatever action it deems necessary and such action will not be considered in violation of this Agreement.