

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 269

Amending Personnel Rules.

IT IS ORDERED:

The Personnel Rules of the Alaska Court System are amended as follows:

1. Rule 1.02, Definitions, is amended by adding a new subparagraph to read:

"Alaska Court System" includes the Supreme Court, the Administrative Office, and the trial courts, but does not include the Alaska Judicial Council or the Commission on Judicial Qualifications."

2. Rule 1.02, Definitions, subparagraph, "Appointing Authority" is deleted in its entirety.

3. Rule 1.02, Definitions, subparagraph "Certification" is amended to read:

"Certification" means the act of submitting available names, certified by the Director of Personnel, or his representative, as eligible, to a hiring supervisor for the purpose of making an appointment.

4. Rule 1.02, Definitions, subparagraph "Class", is amended to read:

"Class" means a group of positions sufficiently similar in duties, authorities, and responsibilities that:

The same descriptive title can be used;  
The same qualifications for entrance can be required;  
The same abilities and skills can be required and, the same pay range can be applied with equity.

5. Rule 1.02, Definitions, subparagraph, "Examination" is deleted in its entirety.

6. Rule 1.02, Definitions, subparagraph, "Pay Grade" is amended to read:

"Pay Range" means one of the official ranges of pay at which positions in the Alaska Court System are paid.

7. Rule 1.02, Definitions, subparagraph, "Position" is amended to read:

"Position" means a specific group of duties and responsibilities in the Alaska Court System

requiring full-time or part-time services of one person.

8. Rule 1.02, Definitions, subparagraph "Selection Process" is amended to read:

"Selection Process" means a job related test or a review of qualifications or a combination of both conducted by competent authority to determine the relative fitness and merit of applicants for positions in the Alaska Court System. These may consist of a written test, oral interview, evaluation of training and experience, performance test, or such other measures of fitness as deemed appropriate by the Director of Personnel.

9. Rule 1.05, Personnel Records, is added to read:

1.05 Personnel Records

The Director of Personnel, or his representative, shall maintain personnel records on each employee. Such records shall include copies of personnel action forms and other documents necessary to accurately record the personnel history of the employee. The employee shall have access to all materials in his personnel file.

The personnel records of Alaska Court System employees are confidential and are not available to the general public. However, the latest performance evaluation are made available to departments in the Executive Branch for employees applying to work for the Executive Branch. Furthermore, leave records, as part of a State employee's file, transfer with an employee between the Branches of Government.

10. Rule 2.02, Periodic Review, is amended to read:

2.02 Periodic Review

The Director of Personnel shall make or cause to have made, reviews of the classification plan and shall promulgate specifications for new classes of positions, revised specifications of existing classes, changes in class titles, changes in pay ranges of classes, and abolition of classes.

11. Rule 2.04, Changes in Duties, is amended to read:

2.04 Changes in Duties

Whenever substantial changes are planned or made in the duties and responsibilities assigned a position, the hiring supervisor of the position shall forthwith notify the Director of Personnel in writing of the substantial changes in the duties and responsibilities assigned a position and request of the Director of Personnel that changes be made permanent. Such notification shall include a written position description setting forth the actual primary duties and other essential duties assigned to the position. Upon investigation and determination of correct classification the Director of Personnel will approve or disapprove the request for permanent changes in duties.

12. Rule 2.05, Allocation of Positions, subparagraph 2.05.01  
is amended to read:

2.05.01 The Director of Personnel shall 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. The Director of Personnel shall initiate classification studies for possible reallocation of positions to assure correct classification and adherence to the principle of equal pay for equal work.

13. Rule 2.05, Allocation of Positions, subparagraph 2.05.02  
is amended to read:

2.05.02 Each hiring supervisor shall report to the Director of Personnel the duties of new 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 of Personnel and such classification recommendations as the hiring supervisor may deem appropriate.

14. Rule 2.05, Allocation of Positions, subparagraph 2.05.03  
is amended to read:

2.05.03 Each hiring supervisor shall supply to the Director of Personnel organizational charts supplemented by functional statements clearly identifying the position for which classification action is requested.

15. Rule 2.06, Procedure for Reallocation, is amended to  
read:

If a supervisor requests a reallocation of an existing position, such request shall include detailed information of the changes in duties. Upon receipt of the request, the Director of Personnel or his designee shall review the position and determine proper class and range to which the position should be assigned. An employee has a right to request a study of his position for possible reclassification without approval for such a study by his supervisor. However, such requests must go through the employee's supervisor to the Director of Personnel.

16. Rule 2.06, subparagraph 2.06.02, Downward Reclassification,  
is amended to read:

2.06.02 Downward Reclassification

When an employee's position is reclassified to a lower pay range his rate of pay shall be frozen, unless his present rate of pay is within his new pay range. If his present rate of pay is within the lower pay range, he shall be placed in the step of the range which corresponds to his present rate of pay or is the

closest one to it, whichever is lower, without a change in merit anniversary date.

If his present rate of pay is within the new pay range, an employee shall be entitled to normal anniversary increases as well as any general wage and salary survey increases. If his present rate of pay is higher than step F in the lower range, the effective date of having the salary frozen will be considered as placement in step F for purposes of eligibility for longevity increases as provided for in AS 39.27.022.

17. Rule 2.08, Effective Dates of Allocation Action, is amended to read:

#### 2.08 Effective Date of Allocation Action

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

18. Rule 3.0, Effective Date, is amended to read:

#### 3.0 Minimum Qualifications

No person may be appointed to a position in the Alaska Court System unless he meets the minimum qualifications set for the position in the Alaska Court System's class specifications, except that the Director of Personnel may waive this requirement for temporary employees in Federally funded training positions so that they may compete for entry level positions. In all such cases a waiver may be granted only upon written request and certification by the hiring supervisor that the employee is performing satisfactorily after having successfully completed a minimum of six (6) months on-the-job training with the Alaska Court System.

19. Rule 3.02, Recruitment, is amended to read:

#### 3.02 Recruitment

Written public notice of all vacancies for positions in the classified service shall be given and every reasonable effort shall be made to attract qualified persons to compete in the selection process. Copies of announcements shall be posted in public places, and may be sent to public officials, minority organizations, educational institutions, professional and vocational societies, newspapers, and such other individuals, organizations and media consistent with obtaining qualified applicants and meeting goals of an affirmative action plan.

For any selection process for which a specific closing date for receipt of applications is designated, public notice shall be given at least seven (7) calendar days in advance in accordance with procedures established by the Director of Personnel.

20. Rule 3.02, subparagraph 3.02.02 Specific Selection Process, is amended to read:

3.02.02 Specific Selection Process

An employee who holds permanent status in a position which has been reallocated to a higher class may be certified to the eligible list of 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.

21. Rule 3.03, Promotional Selection Process, is amended to read:

3.03 Promotional Selection Process

When it is determined by the Director of Personnel to be in the best interest of the Alaska Court System and where adequate competition exists among permanent and probationary employees qualified for promotion, a selection process may be announced on a promotional basis. When a promotional selection process is announced, applications will be accepted only from probationary and permanent employees of the Alaska Court System.

22. Rule 3.04, Applications, is amended to read:

Applications for appointments shall be made on forms prescribed by the Director of Personnel and shall constitute an integral part of every selection process. On these forms the Director of Personnel may require information as to educational, training and experience of the applicant and such other information as he may deem pertinent. The Director of Personnel may require any applicant for any selection process to submit documented proof of the possession of any license, certificate, degree or other such requirement.

23. Rule 3.06, subparagraph 3.06.02 is amended to read:

3.06.02 is found to lack any of the minimum qualifications established for admission to the selection process;

24. Rule 3.06, subparagraph 3.06.03 is deleted in its entirety.

25. Rule 3.06, subparagraph 3.06.04 is deleted in its entirety.

26. Rule 3.06, subparagraph 3.06.05 is amended to read:

3.06.05 has been convicted of a crime which relates to the duties of the position for which he applied;

27. Rule 3.06, subparagraph 3.06.07 is amended to read:

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

28. Rule 3.06, subparagraph 3.06.09 is amended to read:

3.06.07 has directly or indirectly obtained information regarding the selection process which as an applicant would cause him to have an unfair advantage over other applicants.

29. Rule 3.07, Character of Selection Process is amended to read:

3.07 Character of Selection Process

All selection processes for positions 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 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 of the class for which the selection process 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; and any inquiry into the character, or any other quality or attribute which, in the judgment of the Director of Personnel, seems desirable. No test or question in any application or other part of any selection process shall be used to discriminate on the basis of race, color, religion, national origin, sex, physical handicap, age, marital status, change in marital status, pregnancy, or parenthood.

30. The title of Rule 3.10, "Re-examinations" is amended to read "Re-evaluations".

31. Rule 3.10, subparagraph 3.10.01 is amended to read:

3.10.01 A candidate who has failed the oral portion of a selection process may, after the expiration of three (3) months following the date of said evaluation, be scheduled for re-evaluation provided the class is open for recruitment at the time of re-evaluation.

32. Rule 3.10, subparagraph 3.10.02 is amended to read:

3.10.02 A candidate who has failed or done poorly in the performance portion of a selection process may be scheduled to re-take the performance test after at least one (1) week and the results will replace the old results. However, after the second test a candidate must wait at least three (3) months before being allowed to re-take the performance test thereafter provided said class is open for recruitment.

33. Rule 3.10, subparagraph 3.10.03 is deleted in its entirety.

34. Rule 3.10, subparagraph 3.10.04 is renumbered 3.10.03 and is amended to read:

3.10.03 When a candidate because of illness during the course of the examination is unable to complete the exam, the Director of Personnel may, after investigation of the facts, modify the three month re-examination period.

35. Rule 3.11, Eligible Lists, subparagraph 3.11.03 is amended to read:

3.11.03 If a vacancy exists in a class of positions for which there is no appropriate eligible list, the Director of Personnel may prepare an appropriate list for the class from one or more existing related lists.

36. Rule 3.11, Eligible Lists, is amended by adding a new subparagraph, 3.11.04 to read:

3.11.04 The Director of Personnel may certify the name of a candidate who had earned a place on an eligible list to another eligible list for a lower class in the same class series upon receipt of a written request from the candidate for such certification.

37. Rule 3.11, Eligible Lists, subparagraph 3.11.04 is renumbered 3.11.05, and amended to read:

3.11.05 The name of any permanent or probationary classified employee who has been involuntarily separated from the classified service while in good standing because of shortage of work or funds, or because of re-organization, shall be placed on the appropriate layoff lists.

38. Rule 3.14, Removal of Names, subparagraph 3.14.03 is amended to read:

3.14.03 Failure to respond to a written inquiry of the Director of Personnel or hiring supervisor relative to availability for appointment within the time limits specified below.

39. Rule 3.14, Removal of Names, subparagraph 3.14.03(d) is amended to read:

3.14.03(d) Failure to respond within four calendar days to a telegraphed inquiry from the Director of Personnel or hiring supervisor relative to availability for appointment.

40. Rule 3.14, Removal of Names, subparagraph 3.14.03(i) is amended to read:

3.14.03(i) Unsatisfactory reference which has resulted in rejection by one or more hiring supervisors.

41. Rule 3.14, Removal of Names, subparagraph 3.14.03(j) is added to read:

3.14.03(j) Three consecutive rejections of invitations to interview for specific position vacancies.

42. Rule 3.16, Public Notice, is deleted in its entirety.

43. Rule 4.0, General Provisions is amended to read:

4.0 General Provisions

Appointments can be made only to positions having been classified and numbered, and where minimum qualifications have been established and a salary range assigned. When the need arises to fill a position, the Director of Personnel shall certify the names from the appropriate eligible list to the hiring supervisor, or authorize some other types of appointment as provided in these Rules. No appointment other than an emergency appointment shall be made without such certification or prior authorization.

44. Rule 4.01, Subfilling Positions is amended to read:

4.01 Subfilling Positions

In the event qualified applicants are not available for permanent positions in the Alaska Court System, the Director of Personnel may authorize the hiring supervisor filling the position at a lower classification which is commensurate with applicant's qualifications. A condition for approval of such requests shall be a planned program of job assignments and on-the-job training which will qualify the applicant for the higher level job within one year. The one year period of subfill shall constitute the probationary period for the higher level job.

45. Rule 4.02, Permanent Appointments, is amended to read:

4.02 Permanent Appointments

All appointments having an expected duration of more than one year shall be made on a permanent, probationary or substitute basis.

46. Rule 4.03, Temporary and Emergency Appointments is amended to read:

4.03 Temporary Appointments

Appointments in the Alaska Court System having an expected duration of less than the equivalent of one full-time working year shall be considered as temporary and may be filled, without competitive examination, with employees who meet the minimum qualifications. Temporary employees serve at the pleasure of the hiring supervisor and are not eligible to file grievances under Personnel Rule 9.

47. Rule 4.04, Substitute Appointments is amended to read:

4.04 Substitute Appointments

A substitute appointment is an appointment to a non-permanent Federally funded position or to a permanent position from which an incumbent is on authorized leave for more than one year and to which that incumbent has reinstatement rights. Employees hired on a substitute appointment are not eligible for permanent status by virtue of their work on a substitute appointment. Employees holding substitute appointments serve at the pleasure of the hiring supervisor and have the same rights under Personnel Rule 9 as any other probationary employee.



48. Rule 4.05, Acting Appointments is amended to read:

4.05 Acting Appointments

An acting appointment is the temporary promotion of an Alaska Court System employee to a vacant position for the period of time necessary to fill that vacancy on a permanent basis. An acting appointment cannot exceed one calendar year and cannot be made without prior approval of the Director of Personnel. Employees holding acting appointments serve in the higher position at the pleasure of the hiring supervisor and are not eligible to file grievances under Personnel Rule 9 in behalf of their acting position. When an employee is appointed permanently to the higher level position immediately following his acting appointment to that position, his merit anniversary date will reflect the date of acting appointment rather than the date of permanent (probationary) appointment. In no other cases will acting appointments affect merit anniversary dates.

Employees given acting appointments need not meet the minimum qualifications established for the higher level classification. However, a permanent (probationary) appointment cannot be made to a higher level classification without the employee meeting the established minimum qualifications and competing in a merit system selection process as defined in Personnel Rule 3.

49. Rule 4.07.01, Intra-District Transfer is amended to read:

4.07.01 Intra-Jurisdictional Transfer

The transfer of an employee within a judicial district or service area to a different position in the same job class in the same city or town may be made at the discretion of the judicial district's Area Court Administrator or Presiding Judge or in the case of Administration employees, the Administrative Director, and in the case of Supreme Court employees, The Clerk of the Supreme Court. The Director of Personnel must be informed of such transfers prior to their accomplishment.

With prior approval of the Director of Personnel, the judicial district's Area Court Administrator or Presiding Judge or Clerk of Supreme Court for Supreme Court employees may transfer an employee to a different position in the same job class in a different city or town within the judicial district or service area. The employee to be transferred must agree to the transfer and shall be entitled to all accrued fringe benefits in the new position inasmuch as his length of service is unbroken. A new merit anniversary date will be established except that, upon written request of the employee's new hiring supervisor, the Director of Personnel may approve continuing the original merit anniversary date.

50. Rule 4.07.02, Inter-District Transfer is amended to read:

4.07.02 Inter-Jurisdictional Transfer

By mutual agreement of the appropriate hiring supervisors and with the prior approval of the Director of Personnel, an employee may be transferred to a different position in the same job class between courts in different judicial districts or service areas. The employee to be transferred must agree to the transfer and shall

be entitled to all accrued fringe benefits in the new position inasmuch as his length of service is unbroken. A new merit anniversary date will be established except that, upon written request of the employee's new hiring supervisor, the Director of Personnel may approve continuing the original merit anniversary date.

51. Rule 4.08, Probationary Period is amended to read:

4.08 Probationary Period

The probationary period in the Alaska Court System shall be regarded as an integral part of the selection process and shall be used for closely observing the employee's work, for securing the most effective adjustment of the employee to his position, and for rejecting an employee whose performance does not meet the required standards.

52. Rule 4.08.01, Duration is amended to read:

4.08.01 Duration

All initial and promotional appointments shall be subject to a probationary period of at least one year of continuous service. Employees shall complete their probationary period on the 16th of the month following at least twelve months of employment. This will also be the employees merit anniversary date. During the probationary period, leave without pay totaling twenty-three (23) working days or more, whether taken consecutively or at separate times shall cause the probationary period to be increased by one (1) month. For periods of leave without pay of less than twenty-three (23) working days, no change will be made in the probationary period.

53. Rule 4.08.03 is deleted in its entirety.

54. Rule 4.08.05 is renumbered 4.08.04, and amended to

read:

4.08.04

With prior approval of the Director of Personnel, the probationary period of an employee may be extended not to exceed three months. Approval will be granted only when circumstances result in the inability to thoroughly evaluate an employee during his normal probationary period. Requests for extension of probationary periods for trial court employees must first be approved by the Area Court Administrator or Presiding Judge, before being sent to the Director of Personnel for final approval. Requests for extension of probationary periods for Administration employees must first be approved by the Director of Personnel before being sent to the Administrative Director for final approval. Requests for extension of probationary periods for Supreme Court employees must first be approved by the Clerk of the Supreme Court.

Circumstances warranting approval of extension of probationary periods include such things as a change of the probationer's supervisor shortly before the end of the probationary period or the assignment of a long term project which will be completed by the probationer shortly after the end of his normal probationary period.

55. Rule 4.08<sup>5</sup>, Performance Evaluation Report, is amended to read:

4.08.06 Performance Evaluation Report

At any time or times during the probationary period and in such manner as the Director of Personnel may prescribe, the hiring supervisor shall report in writing his evaluation of the employee's work performance to the Director of Personnel. The evaluation shall be discussed with and signed by the employee prior to submission to the Director of Personnel.

56. Rule 4.09, Permanent Appointment, subparagraph 4.09.01 is amended to read:

4.09.01

No later than fifteen days prior to the expiration of an employee's probationary period, the hiring supervisor shall notify the Director of Personnel, in writing, as to whether the services of the probationer have been satisfactory.

57. Rule 4.09, Permanent Appointment, subparagraph 4.09.02 is amended to read:

4.09.02

Unless a probationary employee has, as a condition of employment, been hired for a limited time (as in a Federally funded position for one (1) year), or has been terminated, demoted, or had his probationary period extended in accordance with other sections of these Rules, the employee's appointment becomes permanent immediately following successful completion of the probationary period.

58. Rule 4.10.01, Exempt, is amended to read:

4.10.01 Exempt

The exempt service consists of justices, judges, magistrates, the Administrative Director, the Clerk of the Supreme Court, and other officials whose salary is set by the State legislature or by the Supreme Court.

59. Rule 4.10.02, Partially Exempt, is amended to read:

4.10.02 Partially Exempt

The partially exempt service consists of employees who are not subject to the appointment, dismissal and grievance provisions of these Rules, but whose positions have salaries which are set in accordance with the classification and salary provisions of these Rules and applicable Alaska Statutes. Partially exempt employees serve at the pleasure of their respective hiring authorities and are not eligible to file grievances under Personnel Rule 9. These positions consist of the following:

The Chief Deputy Clerk of the Supreme Court  
The personal secretary to a Supreme Court  
Justice  
The personal secretary to a Superior Court  
Judge  
The personal secretary to the Administrative  
Director  
Law Clerks and Attorneys  
Area Court Administrators  
Members of the Administrative Director's senior  
staff, including:

Administrative Associate  
Director of Personnel  
Magistrate Training Coordinator  
Manager of Fiscal Operations  
Manager of Materiel Operations  
Manager of Technical Operations  
Planning and Grants Coordinator  
Project Coordinator  
Staff Counsel  
State Law Librarian

60. Rule 5.03, Overtime, is amended to read:

5.03 Overtime

Policies and regulations governing overtime shall be established by the Administrative Director.

61. Rule 5.05, Legal Holidays, subparagraph 5.05.03 is deleted in its entirety.

62. Rule 6.03, Hiring Rates, subparagraph 6.03.01 is amended to read:

6.03.01.

Upon a determination of recruiting difficulty and/or unusually high qualifications of the applicant by the Director of Personnel or the showing of other unusual conditions by the hiring supervisor, the Director of Personnel may authorize the appointment of a person at a step other than the first step of the pay range assigned to the class.

63. Rule 6.03.02 is renumbered 6.03.03, and a new subparagraph 6.03.02 is added:

6.03.02

With prior approval of the Director of Personnel, part-time temporary employees, such as high school students receiving on-the-job training, may be hired at a pay rate below the minimum established for comparable full-time positions provided, the hourly rate is not less than that established as a minimum by State and Federal minimum wage laws.

64. Rule 6.03.02, Promoted Employees, is renumbered 6.03.03, and amended to read:

6.03.03 Promoted Employees

When an employee is promoted, his new salary shall be at a step that provides a minimum of one step increase in the range of the position where he holds

permanent or probationary status. In the determination of the one salary step upon promotion, Alaska geographic cost-of-living differentials will be excluded.

65. Rule 6.03.03 is deleted in its entirety.
66. Rule 6.03.04(b), Voluntary, is amended to read:

6.03.04(b) Voluntary

Employees taking a voluntary demotion shall be appointed to the step in the new range which most closely reflects the step in the old range. A new merit anniversary date will be established except that, upon written request of the employee's new hiring supervisor, the Director of Personnel may approve continuing the original merit anniversary date.

67. Rule 7.02, Use and Payment, subparagraph 7.02.01 is amended to read:

7.02.01

Each hiring supervisor shall establish such procedures as are necessary in the Alaska Court System to assure that all employees are able to schedule and take accrued annual leave. Except as provided in other sections of these Rules. No annual leave may be taken without prior approval by the hiring supervisor.

68. Rule 7.02.02 (AS 39.20.230) is amended to read:

7.02.02 (AS 39.20.230)

Each employee shall take at least five days annual leave during each twelve month calendar period beginning January 16 and ending January 15. It is the responsibility of each hiring supervisor to assure that every employee is given the opportunity to use this leave. Any employee who does not use the minimum five days annual leave shall have the unused leave deducted from his leave balance.

69. Rule 7.02.02 (AS 39.20.240), is amended to read:

7.02.02 (AS 39.20.240)

The annual leave which is not used by an employee accumulates for use in succeeding years until it reaches 60 days at the end of the calendar year. Annual leave accrued but not used in excess of 60 days will be cancelled at the close of business on January 15 of any calendar year. However, under unusual and extenuating circumstances the Administrative Director may approve accrual of more than 60 days provided the hiring supervisor makes a written request including a statement certifying that the employee was denied the opportunity to use leave during that calendar year and explaining why Rule 7.02.01 was not complied with.

70. Rule 7.03, Sick Leave (AS 39.20.260), is amended to read:

7.03 Medical Leave (AS 39.20.260)

71. Rule 7.03.01, Accrual, subparagraph (b) is amended to read:

7.03.01 Accrual

Medical 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.

72. Rule 7.03.01, Accrual, subparagraph (c) is amended to read:

(c) Medical leave is transferable from the Executive or Legislative Branches of government when the employee is transferring to the Alaska Court System without a break in service.

73. Rule 7.03.01, Accrual, subparagraph (d) is amended to read:

(d) Temporary employees shall not accrue medical leave. Employees filling classified permanent part-time or permanent seasonal positions shall accrue medical leave credit on a pro-rated basis.

74. Rule 7.03.01, Accrual, subparagraph (e) is deleted in its entirety.

75. Rule 7.03.01, Accrual, subparagraph (f) is renumbered to (e) and amended to read:

(e) There shall be no accrual of medical leave during any monthly pay period during which an employee is absent without approved leave.

76. Rule 7.03.01, Accrual, subparagraph (g) is renumbered to (f) and amended to read:

(f) An employee shall not accrue medical leave while on leave without pay.

77. Rule 7.03.02, Availability of Sick Leave is amended to read:

7.03.02 Use of Medical Leave

The taking of medical leave with pay shall be reduced by the amount of wage continuation payments made under the Alaska Workmen's Compensation Act. Medical leave shall be granted by the supervisor only in the following instances:

When the supervisor is satisfied that the absent employee is in fact sick or injured, except that medical leave may be granted for a medical or dental appointment.

Illness within the employee's immediate family which requires the attendance of the employee; or where his presence on the job could jeopardize the health of fellow employees.

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

Whenever a supervisor has good cause to believe an employee may not in fact be sick or injured, the supervisor may require a doctor's certificate for any medical leave used by the employee.

Except in rural locations where doctors are not regularly available, supervisors shall request a doctor's certificate for medical leave used by an employee:

1. When an employee has been on medical leave for four (4) or more consecutive working days.
2. When an employee is on medical leave because his presence on the job could jeopardize the health of other employees.
3. When an employee uses any medical leave after submitting his resignation.
4. When an employee becomes ill or is injured on his vacation and requests to charge previously approved annual leave to medical leave.

78. Rule 7.04, Reinstatement of Sick Leave (AS 39.20.260(c)), is amended to read:

7.04 Reinstatement of Medical Leave (AS 39.20.260(f))

An employee who re-enters the Alaska Court System service within six months after his separation will have his leave account credited with one-half the medical leave he had accrued at the time of separation.

79. Rule 7.05, Maternity Leave (AS 39.20.280) is amended to read:

7.05 Maternity Leave (AS 39.20.260(c))

A female employee, otherwise qualified for leave of absence, may take a maximum of nine (9) weeks maternity leave immediately preceding and following childbirth. This leave is chargeable first to medical leave; and if that is not sufficient, then to annual leave, then to leave without pay. Upon application and under extenuating circumstances, additional leave may be granted. A physician's certificate will be required to support the additional leave request. A person taking maternity leave shall be treated as any other employee taking medical or annual leave.

80. Rule 7.08 Leave Without Pay, subparagraph 7.03.01 is amended to read:

7.08.01

A permanent employee may be granted a leave of absence without pay, subject to approval by the Director of Personnel for disability because of sickness or injury. Such leave shall be limited to one month for each full year service to a maximum of twenty-four (24) months. The Director of Personnel, from time-to-time, may require that the employee submit a certificate from the attending physician or from a designated physician. In the 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 Director of Personnel may cancel such sick leave and require the employee to report for duty on a specified date.

81. Rule 7.08.02, is amended to read:

7.08.02

Employees may be granted leave without pay, not to exceed a total of ten (10) working days in any anniversary year, for any compelling reason, at the discretion of the Area Court Administrator or Presiding Judge for trial court employees, by the Administrative Director for Administration employees, and by the Clerk of the Supreme Court for Supreme Court employees.

82. Rule 7.08.03 is amended to read:

7.08.03

Permanent employees may be allowed to be absent from duty without pay, in excess of two weeks, on the basis of application for leave without pay approved by the Director of Personnel under the following conditions:

Such leave may be granted when it is in the best interest of the Alaska Court System. For example, an application for leave of absence for travel or study calculated to enable the employee to render more effective service to the Alaska Court System shall be deemed to provide compensating benefits that over-ride the loss to the Alaska Court System in keeping open the position, filling it temporarily, or on a substitute basis pending return of the employee.

All leaves of absence without pay shall be subject to the condition that the Director of Personnel may cancel the leave at any time upon prior written notice to the employee specifying a reasonable date of termination of the leave. The Director of Personnel, upon prior notice to the employee and the employee's supervisor, 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.



83. Rule 7.08.04 is amended to read:

7.08.04

The leave service date and the merit anniversary date of an employee shall be adjusted forward to account for any leave of absence without pay covering a full pay period or totaling twenty-three (23) accumulated working days in any anniversary year. Leave without pay in any anniversary year, whether consecutively or at separate times, will cause the employee's merit anniversary date to be moved forward one month for each twenty-three (23) working days of leave without pay taken.

84. Rule 8.0, Resignation is amended to read:

8.0 Resignation

An employee may resign in good standing from the service of the Alaska Court System by presenting his resignation in writing to his supervisor at least fourteen (14) calendar days prior to its effective date. For trial court employees a copy of such resignation shall be supplied by the supervisor to the Area Court Administrator or Presiding Judge and to the Director of Personnel. For Administration employees a copy of the resignation will be supplied by the supervisor to the Administrative Director and to the Director of Personnel. For Supreme Court employees a copy of the resignation will be supplied to the Clerk of the Supreme Court and to the Director of Personnel. Upon approval of the supervisor, an employee may withdraw his resignation at any time prior to the effective date of the resignation. No form of resignation filed without an effective date shall be accepted as a resignation.

85. Rule 8.01, Suspension is amended to read:

8.01 Suspension

An Alaska Court System employee may be suspended without pay for misconduct, persistent sub-standard performance, or other similar cause, provided that in each case the employee be given written notice signed by the Area Court Administrator or Presiding Judge for trial court employees, by the Administrative Director for Administration employees and by the Clerk of the Supreme Court for Supreme Court employees. The written notice will give the employee the reasons for suspension and the length of the suspension. A copy of the notice will be sent to the Director of Personnel.

86. Rule 8.01, Suspension, subparagraph 8.01.02 is amended to read:

8.01.02

No seniority shall accrue during any period of suspension. 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 accrual and upon merit anniversary dates.

87. Rule 8.02, Layoff, subparagraph 8.02.01 is amended to read:

8.02.01

With prior approval of the Director of Personnel, an employee in the Alaska Court System may be laid off if there is a shortage of work or funds, or for other reasons outside the employee's control which do not reflect discredit on the services of the employee.

88. Rule 8.02, Layoff, subparagraph 8.02.02 is amended to read:

8.02.02

The order of layoff due to reduction in force shall be based on seniority except that performance evaluations will be considered on a formula established by the Director of Personnel for employees with the same amount of longevity. For seniority purposes total State service will be counted including Executive Branch and Alaska Court System service but excluding temporary employment.

The Director of Personnel will promulgate layoff lists after approving the request for organizational units for layoff purposes. These units will be based on such things as geographic location, classification of positions, or function of positions. The Director of Personnel may withdraw recognition of such units when he deems it in the best interest of the Alaska Court System.

89. Rule 8.02.03 is amended to read:

8.02.03

In every case of layoff of a probationary or permanent employee, the affected employee shall, at least fifteen (15) days before the effective date of layoff. Such notice will be given to trial court employees by the Presiding Judge or Area Court Administrator, Administration employees by the Administrative Director and Supreme Court employees by the Clerk of the Supreme Court. In all cases a copy of the written notice will be sent to the Director of Personnel.

90. Rule 8.02.05 is amended to read:

The provisions of this Rule shall also be applicable to an employee subfilling a position, if he is displaced by the filling of the position at the proper classification level by a certified eligible candidate.

91. Rule 8.03, Dismissal, subparagraph 8.03.01 is amended to read:

8.03.01

Employees who do not hold permanent status may be dismissed at any time. The employee shall be advised in writing of the reasons for the dismissal, and a copy shall be filed with the Director of Personnel. However, the right to file a grievance under Rule 9 exists only if the dismissal was

allegedly due to discrimination on the basis of race, color, religion, national origin, sex, physical handicap, age, marital status, change in marital status, pregnancy or parenthood.

92. Rule 8.03, Dismissal, subparagraph 8.03.02 is amended to read:

8.03.02

An employee who holds permanent status may be dismissed for just cause only. An employee who is being dismissed for cause shall be provided with a written statement setting forth the reasons for dismissal and indicating his right to appeal through the established grievance procedure. A copy of the dismissal notice shall be sent to the Director of Personnel.

93. Rule 9.0, Grievance Procedure, is amended to read:

The purpose of this grievance procedure is to:

promote favorable relations between the Alaska Court System and its employees by resolving complaints expeditiously;

correct the cause of grievances and thereby prevent similar complaints;

assure fair and equitable treatment of all employees; and;

promote harmonious working relationships among all levels of employees;

Grievances should be settled fairly and promptly at or near the organizational level where the incident occurred.

9.01 Grievances Defined

Grievances are employee complaints wherein the employee alleges he has received prejudicial, unfair, arbitrary, or capricious treatment in his employment, working conditions, or working relationships in the Alaska Court System. There are two classes of grievances: informal and formal.

9.02 Eligibility to File an Informal Grievance

Any permanent classified employee shall have the right to file an informal grievance on any matter affecting the terms and conditions of his employment over which the Alaska Court System had complete jurisdiction except those major disciplinary actions which shall be filed as a formal grievance (involuntary demotion, reduction in salary for more than six (6) months for disciplinary purposes, suspension without pay for more than thirty (30) calendar days, a dismissal). All other grievances shall be filed as informal grievances.

Employees on a temporary acting, substitute or probationary appointment are not eligible to file an informal grievance unless they allege discriminatory action on the basis of race, color, religion, national origin, sex, physical handicap, age, marital status, change in marital status, pregnancy or parenthood.

9.03 Informal Grievance Procedure

Employees and supervisors are urged to expend every reasonable and deliberate effort to find a mutually acceptable solution to a grievance, by informal means, at the lowest possible organizational level within the Alaska Court System.

Failure of the employee to proceed as prescribed in this Rule shall terminate the grievance procedure.

#### 9.06 Prohibition or Denial

The Administrative Director, every Justice, Judge, Magistrate, Director, Officer, Area Court Administrator, manager, supervisor, and employee of the Alaska Court is prohibited from:

Denying an eligible employee the opportunity to present his grievance;

or subjecting an eligible employee who has or is about to file a grievance to threats, duress, harassment or any overt or covert acts of reprisal.

94. Rule 10.02, Assessments, is amended to read:

#### 10.02 Assessments

No member or representative of the Alaska Court System may require any assessment, subscription, contribution, or service for any political candidate, political party, political activity, charitable organization or non-partisan fund raising activity from an employee in the Alaska Court System.

95. Rule 10.04, Racial, Religious, or Political Action is amended to read:

#### 10.04 Racial, Religious, or Political Action

Except as provided under Rule 10.09 of these Rules, no action affecting the employment status of any employee in the Alaska Court System or applicant for a position in the Alaska Court System, including appointment, promotion, demotion, suspension, or dismissal, may be taken on the basis of race, color, national origin, sex, physical handicap, age, marital status, change in marital status, pregnancy, parenthood or for any other non-merit reason.

96. Rule 10.05, Fraud, is amended to read:

#### 10.05 Fraud

No person may make any false statement, certify, mark, rate, 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.

97. Rule 10.07 Penalties, is amended to read:

#### 10.07 Penalties

Any employee who is judged by the Director of Personnel or Administrative Director to have willfully violated any provision of these Personnel Rules may be dismissed. Employees eligible to file a grievance under Rule 9 are also eligible to file a grievance if dismissed under this Rule.

98. Rule 10.07 Penalties, subparagraph 10.07.01 is amended to read:

#### 10.07.01

In any case in which a violation of these Rules has occurred and a supervisor has failed to take action to enforce the Rules within a reasonable

Informal grievances include, but are not limited to, matters such as minor disciplinary actions, employee-supervisory relationships, duty assignments, change in job location assignments, working conditions, and similar matters.

An employee having a complaint must initially attempt to resolve it by discussion with his immediate supervisor within two (2) working days of the incident that gave rise to the grievance. The immediate supervisor shall, within two (2) working days after the initial discussion, make written reply to the employee of his decision. It is the responsibility of the employee to obtain a copy of that decision at the immediate supervisor's usual place of work. If the employee is dissatisfied with the decision of his immediate supervisor, he may then within two (2) working days discuss the matter with the supervisor's superior who shall inform the employee in writing of his decision within two (2) working days. Again, it is the duty of the employee to obtain a copy of that written decision at the supervisor's superior's usual place of work. If the employee is dissatisfied with the decision at this level, he may within two (2) working days file a written, informal grievance with the Director of Personnel. The Director of Personnel shall have five (5) working days in which to investigate and render his written decision. It is the employee's responsibility to obtain a copy of that written decision from the Director of Personnel's usual place of work. The Director of Personnel's decision is final in the informal grievance procedure.

#### 9.04 Eligibility to File a Formal Grievance

Any permanent classified employee shall have the right to file a formal grievance over action taken against him resulting in any of the following:

- (a) involuntary demotion
- (b) suspension without pay of more than thirty (30) calendar days
- (c) dismissal

All other grievances shall be filed as informal grievances.

Employees on a temporary, acting, substitute or probationary appointment are not eligible to file formal grievances.

#### 9.05 Formal Grievance Procedure

An eligible employee, as defined above, may file a grievance following written notification of major disciplinary action taken against that employee. Dismissal, involuntary demotion, and suspension without pay for more than thirty (30) calendar days are grievable items under the formal grievance procedure. Disciplinary actions shall not be stayed pending the outcome of the formal grievance procedure. Within five (5) working days of receipt of notification of the disciplinary action by the employer, the employee may present a written formal grievance to the Director of Personnel at his usual place of work. In the grievance, the employee shall state clearly and concisely the specific nature of the grievance and corrective action desired with supporting reasons and attachments, if applicable.

The Director of Personnel will investigate the grievance and render a written decision within five (5) working days. It is the responsibility of the employee to obtain that decision from the Director of Personnel's usual place of work.

If the written decision of the Director of Personnel is unfavorable to the employee, the employee may, within two (2) working days of receipt of the decision, notify the Director of Personnel that he or she requests a hearing on the matter.

If the employee requests a hearing, the Director of Personnel shall schedule a hearing to be held within ten (10) working days of the request. The hearing shall be presided over by a hearing officer to be selected by the Administrative Director from among the members of

his senior staff other than the Director of Personnel. The hearing officer shall voluntarily disqualify himself or herself and withdraw from a matter in which he or she cannot afford a fair and impartial hearing or consideration. The employee may request disqualification of a hearing officer by submitting an affidavit to the Administrative Director, within five (5) working days of notice of selection of a hearing officer. The affidavit shall state with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The Administrative Director shall determine the request.

The hearing officer shall conduct the hearings expeditiously and in a manner to obtain a clear understanding of the facts. Procedure shall be informal. Technical rules regarding evidence and witnesses shall not apply. Witnesses who are Alaska Court System employees will be considered on duty status if they would otherwise be on duty status at the time of the hearing. Witnesses shall be encouraged to express themselves freely without fear of intimidation or reprisal. All hearings shall be recorded.

The employee shall have the right to be accompanied, represented, and advised by a representative of his own choosing in presenting his grievance to the Director of Personnel as well as to the hearing officer. The employee and employer may call on witnesses and cross examine opposing witnesses. Within five (5) days after the conclusion of the hearing, the hearing officer shall render a written decision. The decision shall be accompanied by written findings of fact. Copies of the decision shall be provided to the employee and to the Director of Personnel.

If the decision of the hearing officer is unfavorable to the employee, the employee may, within two (2) days of the receipt of the decision, notify the Director of Personnel that he or she requests an appeal of the decision. If the employee requests an appeal, he or she shall immediately meet with the Director of Personnel either in person or by telephone to choose members of an appeal board. The appeal board shall consist of three active members of the Alaska Bar Association. The employee shall choose one member, the Director of Personnel shall choose one member, and these two members shall together choose the third member.

A complete record of the proceedings before the hearing officer, including a tape of the proceedings and any documents or exhibits submitted to the hearing officer, shall be submitted to the appeal board within three (3) working days after the selection of the board. The appeal board shall, on the basis of the record before it, inquire into the following:

(1) whether there was a fair hearing; and (2) whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the employer has not proceeded in the manner required by rule or law, the decision is not supported by the findings, or the findings are not supported by the weight of the evidence or by substantial evidence in light of the whole record. The appeal board shall, within twenty (20) working days after receipt of the record, submit a written decision setting aside, modifying, remanding, or affirming the decision of the hearing officer.

The appeal board may order the employee to submit a written memorandum in support of the appeal, and the employer to submit a written memorandum in opposition to the appeal. The appeal board may, in its own discretion, order the employee and employer to appear before it to present oral arguments. The hearing of oral argument, if any, shall be recorded. The submission of memoranda and the hearing of oral arguments shall be scheduled within the twenty (20) working day period for deciding the appeal.

period of time, the Director of Personnel or Administrative Director shall take whatever action is necessary to secure compliance with the Rules.

99. Rule 10.09, Nepotism, subparagraph 10.09.01, is amended to read:

10.09.01

No person may be employed in a position who is the spouse of or is related by blood or marriage within and including the second degree of kindred to a judicial officer or to the Administrative Director; provided that the Administrative Director may, upon request by the hiring supervisor, approve the employment of a person who is so related to a judicial officer. Such approval shall be in writing, shall set forth the reasons for approval, and shall be placed in the employee's personnel records. This prohibition shall continue for a period of three (3) months after a judicial officer's retirement, resignation, or death. No approval may be granted to a person who is so related to the Chief Justice or to the Administrative Director.

100. Rule 10.09, Nepotism, subparagraph 10.09.02, is amended to read:

10.09.02

No person may be employed in a position in any district, division or section who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the supervisor of the district, division or section; provided that the Administrative Director may, upon request by the hiring supervisor, approve the employment of a person so long as there is no direct supervisory relationship between the employees so related. Such approval shall be in writing, shall set forth the reasons for approval, and shall be placed in both employees' personnel records.

101. Rule 10.09, Nepotism, subparagraph 10.09.03, is amended to read:

10.09.03

No person may be employed in a position 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 Court System without the express approval of the hiring supervisor and the Administrative Director.

102. Rule 10.10, Provisions Not Exclusive, is amended to read:

10.10 Provisions Not Exclusive

The prohibitions and penalties described in these Rules are not intended to be exclusive.


103. The following rules are renumbered as follows:

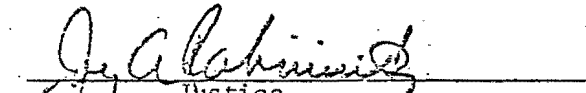
Rule 3.06.05 shall be Rule 3.06.04  
Rule 3.06.08 shall be Rule 3.06.06  
Rule 3.11.05 shall be Rule 3.11.06  
Rule 3.11.06 shall be Rule 3.11.07

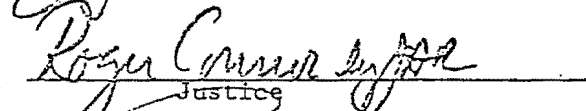
4: 51  
Rule 6.03.02(a) shall be Rule 6.03.03(a)  
Rule 6.03.02(b) shall be Rule 6.03.03(b)  
Rule 6.03.04 shall be Rule 6.03.05  
Rule 6.03.04(a) shall be Rule 6.03.05(a)  
Rule 6.03.04(c) shall be Rule 6.03.05(c)  
Rule 6.04.02 shall be Rule 6.04.01

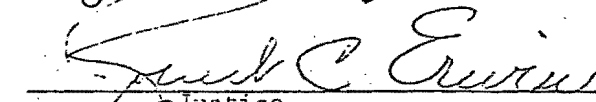
DATED: \_\_\_\_\_

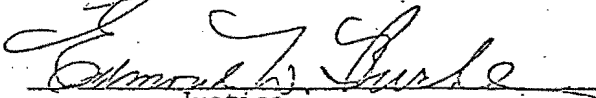
EFFECTIVE DATE: March 1, 1977

  
Chief Justice

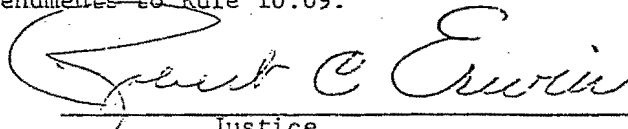
  
Justice

  
Justice

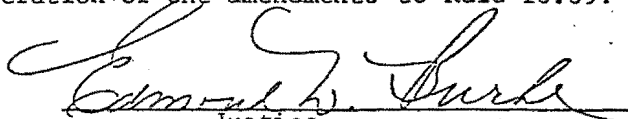
  
Justice

  
Justice

I dissent from the amendments to Rule 10.09.

  
Justice

I abstain from consideration of the amendments to Rule 10.09.

  
Justice