THE SUPREME COURT OF THE STATE OF ALASKA ORDER NO. 360

Amending Personnel Rules.

IT IS ORDERED:

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

1. Rule 1.01, Legal Effect of Rules, is amended to read:

These rules are established under the authority provided in AS 22.20.037. These rules are written in compliance with [SHALL IN NO WAY CONFLICT WITH CHAPTER 78 SLA 1971, RELATING TO THE ADMINISTRATION OF THE ALASKA COURT SYSTEM COURT PERSONNEL ACT, OR THE ALASKA STATUTES, AS AMENDED OR] the general state laws regarding leave, retirement and travel as defined and amended in Title 39, Chapter 20, Articles 2 and 3, Chapter 30, Articles 1, 2 and 3 and Chapter 35.

2. Rule 1.02, Scope of Rules, is being added to read as follows and the remainder of the rules in this section are renumbered accordingly:

Rule 1.02 Scope of Rules

Except as otherwise specified in these rules, the applicability of the Personnel Rules is as follows (See Rule 4.10 for definitions of types of employees):

Classified employees are subject to all Personnel Rules.

Partially Exempt employees are subject to Personnel Rules I through 7, Personnel Rule 10 and the following sections of Personnel Rule 8:

 $\frac{8.0}{8.01}$

Exempt employees are subject to Personnel Rule 5 and 10 except that Rule 10.07 does not apply to justices and judges. The following exempt employees are subject to Personnel Rule 7:

District Court Judges Full-time Magistrates

3. Rule 1.03, Definitions, subparagraph "Act" is amended to read:

"Act" means AS 22.20.037 [CHAPTER 78 SLA 1971] relating to the administration of the Alaska Court System. [, COURT PERSONNEL ACT OF THE ALASKA STATUTES, AS AMENDED AND SUBJECT TO THE GENERAL STATE LAWS REGARDING LEAVE, RETIREMENT, AND TRAVEL AS DEFINED AND AMENDED IN AS 39.30.280.]

4. Rule 1.03, Definitions. A new subparagraph has been added and is to be inserted immediately following the subparagraph "Resignations":

"Salary Range" means a group of six steps of salaries and does not include longevity steps.

5. <u>Rule 1.06</u>, Personnel Records, last paragraph, is amended to read:

The personnel records of Alaska Court System employees are confidential and are not available to the general public. However, the latest performance evaluations 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 EMPLOYEES' FILE, TRANSFER WITH AN EMPLOYEE BETWEEN THE BRANCHES OF GOVERNMENT.]

6. Rule 2.06, Procedure for Reallocation, the following paragraph is being added and the other paragraphs are being renumbered accordingly:

2.06.02 An employee may appeal the results of a reallocation of his position accomplished by a representative of the Director of Personnel by appealing directly to the Director of Personnel. If the employee is not satisfied with the decision of the Director of Personnel, he may appeal it to the Administrative Director. The Administrative Director's decision on allocation of the position is final.

7. Rule 3.03, Promotional Selection Process, the first paragraph is being numbered and amended and a new paragraph is being added as follows:

3.03.01 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 at the discretion of the Director of Personnel. When a promotional selection process is announced, applications will be accepted only from probationary and permanent employees of the Alaska Court System.

3.03.02 Permanent and probationary employees may apply for any job class at any time. If qualified they will be placed on the appropriate eligibility list without specifically announced open recruitment.

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

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 or his representative shall certify the names from the appropriate eligible list to the hiring supervisor, or authorize some other type of appointment as provided in these rules.

9. Rule 4.03, Temporary Appointments, is amended to read as follows:

Appointments in the Alaska Court System having an expected duration of less than the equivalent of one full-time working year (1,950 hours) shall be considered as temporary [AND MAY BE FILLED, WITHOUT COMPETITIVE EXAMINATION, WITH EMPLOYEES WHO MEET THE MINIMUM QUALIFICATIONS]. No temporary employee may work more than 1,950 hours within one continuous appointment. A temporary employee who terminates cannot receive an additional temporary appointment until at least 120 calendar days following termination from his last temporary appointment. Upon written request, the Director of Personnel may waive the maximum of 1,950 hours total employment for temporary employees in Federally funded position

In all cases temporary employees must meet the minimum qualifications established for the Classification to which they are appointed. No temporary appointment may be made without prior certification by the Director of Personnel or his designee that the applicant meets the minimum qualifications.

A temporary employee serves at the pleasure of his [THE] hiring supervisor and is [ARE] not eligible to file grievances under Personnel Rule 9.

10. Rule 4.07.01, Intra-Judisdictional Transfer, is amended ε follows:

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. The [A NEW] merit anniversary date will remain the same. [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.]

11. Rule 4.07.02, Inter-Jurisdictional Transfer, is amended to read as follows:

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. The [A NEW] merit anniversary date will remain the same. [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. 1

12. Rule 4.08.01, Duration, is amended to read as follows:

All initial and promotional appointments shall be subject to a probationary period of at least one (1) year of continuous service. For permanent part-time employees, the probationary period shall be 1,950 hours of service. Employees shall complete their probationary period on the 16th of the month following at least 12 months of employment. This will also be the employee's merit anniversary date. During the probationary period, leave without pay totaling 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 23 working days, no change will be made in the probationary period.

13. Rule 4.10.02, Partially Exempt, is amended to read as follows:

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 supervisors and are not eligible to file grievances under Personnel Rule 9. These positions consists of the following:

 $\frac{\mbox{The Personal Secretary to the Clerk of the Supreme}}{\mbox{Court}}$

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
Manager of Fiscal Operations
Staff Counsel
Director of Personnel
Magistrate Training Coordinator
Manager of Materiel Operations
Manager of Technical Operations
Planning and Grants Coordinator
[RURAL COURT COORDINATOR] Director of Lega
Education and Information
State Law Librarian

14. Rule 5.01, Work Day, is amended to read as follows:

The normal work day shall consist of seven and one-half (7-1/2) hours, beginning at 8:00 a.m. and ending at 4:30 p.m., with a one-hour period therein constituting a lunch period. Half-hour lunch periods may be allowed providing that employees scheduled that way first obtain approval from their supervisor and that the employee takes a half-hour lunch voluntarily. Any employee taking only a half-hour lunch period must file a written statement with the Director of Personnel which indicates his supervisor's approval and indicates that he is voluntarily taking a half-hour lunch period.

15. Rule 5.02, Scheduled Hours of Work, is deleted and replaced by the following:

[RULE 5.02 SCHEDULED HOURS OF WORK:

SO FAR AS PRACTICABLE, ALL FULL-TIME EMPLOYEES WILL BE SCHEDULED TO WORK THE NORMAL WORK DAY AND THE NORMAL WORK WEEK. EXCEPTIONS TO THIS MUST BE REQUESTED IN WRITING AND APPROVED BY THE ADMINISTRATIVE DIRECTOR.]

Rule 5.02 Scheduled Office Hours:

All Court System Offices operating on a full-time basis are to be opened in accordance with the normal work week and normal work day and shall remain open during the lunch hour whenever possible by staggering employees' lunch hours.

16. Rule 5.03, Overtime, is deleted and replaced by the following:

[RULE 5.03 OVERTIME:

POLICIES AND REGULATIONS GOVERNING OVERTIME SHALL BE ESTABLISHED BY THE ADMINISTRATIVE DIRECTOR.]

Rule 5.03 Flexible Scheduling of Work Hours: Flextime and the Four Day Week

Supervisors are permitted to put their employees on flexible schedules so long as neither service to the public nor normal office hours are reduced and so long as the employees volunteer for flexible scheduling. Flexible scheduling is intended as an employee benefit. Therefore only employees who volunteer for the flexible hours should be scheduled that way. Split shifts and split days off are to be avoided and any such scheduling of employees must first be approved by the Director of Personnel.

Flextime is the scheduling of an employee to work seven and one half hours per day between the hours of 6:00 a.m. and 6:30 p.m. Hours worked are to be consecutive other than the lunch period. Flextime must be approved by the employee's supervisor and the Area Court Administrator, or by the Clerk of the Supreme Court for Supreme Court employees and by the Administrative Director for Administration employees.

Flexible scheduling may also include a four day work week of three nine and one half (9-1/2) hour days and one nine (9) hour day totaling thirty seven and one half (37-1/2) hours per week.

17. Rule 6.02.03(a) is deleted and 6.02.03(b) is established as a second paragraph to 6.02.03 and amended as follows:

The merit anniversary date of a [AN] promoted employee [WHO GAINS PERMANENT STATUS UPON THE DATE OF PROMOTION] shall be the l6th of the month following completion of one (1) year of service in the new classification.

18. Rule 6.02.04(b) Voluntary, is amended to read as follows:

Employees taking a voluntary demotion shall be appointed to the <u>same</u> step in the new range <u>as</u> they held prior to promotion plus any earned steps acquired while in the higher range. [WHICH MOST CLOSELY REFLECTS THE DOLLAR AMOUNT PAID IN THE OLD RANGE]. <u>The [A] merit anniversary date will remain unchanged</u>. [BE ESTABLISHED EXCEPT THAT, <u>UPON WRITTEN REQUEST OF THE EMPLOYEE'S NEW HIRING SUPERVISOR</u>, THE DIRECTOR OF PERSONNEL MAY APPROVE CONTINUING THE ORIGINAL MERIT ANNIVERSARY DATE].

19. <u>Rule 6.04</u>, Total Remuneration, is amended to read as follows:

The base salary plus any earned overtime or premium pay, paid to an employee in the Alaska Court System shall represent the total remuneration for the employee, exclusive of reimbursement for official travel. Except as otherwise provided in these rules or upon prior approval by the Director of Personnel, no employee shall receive pay from the Alaska Court System in addition to the salary authorized under the schedule provided in the pay plan for services rendered by him either in the discharge of his ordinary duties or any additional duties which may be assigned to him or which he may volunteer to perform.

20. Rule 6.05, is a new section and is being added to read as follows:

Rule 6.05 Overtime Compensation:

6.05.01 Eligibility

Classified employees being paid salary range 12 and below are eligible to receive overtime compensation. However, partially exempt employees and classified employees being paid salary range 13 and above may apply for overtime eligibility. Overtime eligibility may be approved for such an employee only if the employee demonstrates that a substantial portion of assigned duties is of a non-supervisory and/or non-professional nature, or that other compelling circumstances justify a deviation from the overtime policy. Applications for overtime eligibility must be approved by the Administrative Director after review and recommendation by the Director of Personnel.

6.05.02 Definition

Eligible employees shall receive overtime compensation for all hours worked in excess of 37.5 during one week (Sunday midnight to Sunday midnight). For those hours worked in excess of 37.5 the eligible employee shall either be paid one and a half times his regular hourly rate or shall be given compensatory time off with pay at the rate of one and a half times the hours worked.

6.05.03 Prior Approval Required

Overtime compensation will not be allowed unless the employee has obtained prior approval from the hiring supervisor to work overtime. Such approval must include an estimate of the amount of overtime to be worked. After consultation with the employee to determine the employee's preference, the hiring supervisor authorizing the overtime shall determine whether compensation will be made in the form of pay or compensatory time off. Compensation in the form of pay may be authorized only if funds are available for overtime pay.

In every case, compensation for overtime will be made during the monthly pay period (the 16th of one month through the 15th of the next month) in which the overtime occurred. Neither compensatory time off nor the reporting of salary to be paid for overtime shall be carried over beyond the 15th of any month.

Overtime work of less than 15 minutes will not be considered in overtime computation.

6.05.04 Holiday Pay

Employees eligible for overtime pay who are scheduled to work on a holiday shall receive overtime compensation for the holiday worked.

Employees eligible for overtime pay who are normally scheduled to work on a Saturday or Sunday on which a holiday falls should be given an additional day off with pay during the week of the holiday in lieu of overtime pay for the holiday. If unable to take an additional day off, they will receive overtime compensation for the actual holiday worked and straight time pay for the day worked which is celebrated as a holiday by employees on a normal work week.

Employees on a normal work week who are eligible for overtime pay and whose normal work day off falls on a holiday should be given an additional day off with pay during the week of the holiday. If unable to take an additional day off they will receive overtime compensation for a fifth day worked during that week in which employees on a normal work week worked only four days.

NOTE: See Personnel Rule 7.02.05 for the effect of holidays on employees on a four day work week.

21. Rule 6.06 is a new section and is being added to read as follows:

6.06 Effect of Leave Without Pay on Holiday Pay

If an employee is on leave without pay for the entire day of work before or following a holiday, he is considered to be on leave without pay for the holiday.

Rule 7, "Leaves of Absence" is rescinded and repromulgated to read as follows:

RULE 7

LEAVES OF ABSENCE

7.0 Personal Leave:

7.01 Accrual (AS 39.20.200):

Employees of the Alaska Court System shall accrue personal leave as follows:

Two days (or 15 hours) for each full monthly pay period in the case of employees with less than two years of service.

Two and one-quarter days (or 16.875 hours) for each full monthly pay period in the case of employees with two, but less than five years of service.

Two and one-half days (or 18.75 hours) for each full monthly pay period in the case of employees with five, but less than 10 years of service.

Three days (or 22.5 hours) for each full monthly pay period in the case of employees with 10 years or more service.

Accrual of personal leave shall be reduced on a pro-rated basis for any monthly pay period during which leave of absence without pay is taken.

For accrual purposes, total State service, whether continuous or not, whether in the Executive, Legislative or Judicial Branches of government, will be counted.

An employee is not eligible to take personal leave until he has completed thirty (30) calendar days of full-time continuous state service after his appointment. Upon completion of 30 days, the employee shall be credited with accrual as provided in Rule 7.01 retroactive to the date of his appointment.

Other than those in some federally funded programs, temporary employees shall not accrue leave credit. Employees filling classified permanent part-time or permanent seasonal positions shall accrue leave credit on a pro-rated basis.

Changes in the rate of accrual shall take effect at the beginning of the pay period immediately following the pay period in which the employee completes the prescribed period of service. This date shall be referred to as the leave service date.

An employee shall not accrue personal leave while on leave without pay.

7.02 Use of Personal Leave (AS 39.20.225):

7.02.01

Personal leave may be taken when business permits and when an employee is given his supervisor's prior permission. Routine medical and dental appointments require prior approval by the employee's supervisor.

7.02.02

Personal leave may be taken for medical reasons regardless of whether business permits when an employee's supervisor is satisfied that the employee is absent for medical reasons. Whenever a supervisor is not satisfied that an employee is absent for medical reasons, the supervisor shall request a doctor's certificate verifying the employee was absent for medical reasons. The following constitute medical reasons:

- Medical disability of an employee or an emergency medical or dental appointment.
- (2) Medical disability of a member of the employee's immediate family if the disability is such that the attendance of the employee is required.
- (3) A medical condition of an employee which makes his presence at work a danger to the health of his fellow employees.
- (4) Pregnancy and childbirth is a medical reason for a female employee to take personal leave. A female employee, otherwise qualified for a leave of absence, is entitled to take a maximum of nine weeks leave immediately preceding and following childbirth. If an employee's accrued personal leave is insufficient for this purpose, she may use any banked medical leave she has. If that leave is insufficient, she is entitled to take leave without pay for the balance of the nine week period. Upon application and under extenuating circumstances, additional leave may be granted. A physician's certificate shall be required to support the additional leave request.
- (5) Death of a member of an employee's immediate family (See Personnel Rule 1.02) is to be considered as a medical reason for taking personal leave. No more than five days may be considered as a medical reason for taking leave for this purpose. (See Personnel Rule 7.02.01.)

7.02.03

Personal leave taken for medical reasons shall be reduced by the amount of wage continuation payments made under the Alaska Workmen's Compensation Act (AS 23.30).

7.02.04

Each full-time employee shall take at least five (5) days personal leave during each twelve month period beginning January 16th and ending the following January 15th. 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 (5) days of leave shall have the unused leave deducted from his leave balance.

7.02.05

Employees on a non-standard work day taking personal leave for a day must report leave taken for the full number of hours of work scheduled for that day.

Employees on a non-standard work day must report the difference between seven and one half (7.5) hours and the total number of hours scheduled to work on a holiday, as leave taken or actually work the additional time during the week of the holiday.

7.03 Accumulation of Personal Leave (AS 39.20.240):

Except as provided in 7.02.04 of these rules, personal leave which is not taken by an employee during a 12 month period accumulates for use in succeeding twelve month periods.

7.04 Donation of Personal Leave:

7.04.01

An employee may donate one or more days of personal leave a year to the memorial scholar-ship revolving loan fund or to a scholarship account in the fund as provided for in AS 14.40.810-845.

7.04.02

An employee may donate one or more days of personal leave to another employee who is without personal leave provided it is to be used as personal leave for bonafide medical purposes as defined by Personnel Rule 7.02.02.

Once transferred, leave cannot be re-transferred.

7.05 Payment for Unused Leave and Terminal Leave

Upon termination unused personal leave shall be allowed as a lump sum payment or (effective July 10, 1979) may be paid in installments over a period of time as the employee elects. The payment shall equal the compensation that one employee would have received had he not terminated and had actually used the personal leave prior to termination.

Terminal leave is the use of personal leave at the end of an employee's service. Instead of receiving payment, the employee is kept on the payroll until his leave is exhausted. No additional leave is accrued while on terminal leave. Upon written request, the Director of Personnel may grant terminal leave under only two conditions:

- Immediately prior to an active employee being placed on retirement status.
- Immediately prior to the termination of an active employee who will become vested in the retirement system by virtue of being granted terminal leave.

7.06 Conversion of Accrued Annual Leave to Personal Leave (AS 39.20.255):

An employee who has accrued annual leave shall have that annual leave transferred to his personal leave account.

7.07 Transfer of Accrued Medical Leave to a Leave Bank AS 39.20.256):

7.07.01

An employee who has accrued medical leave shall have forty (40) per cent of that medical leave transferred to his personal leave account and sixty (60) per cent of that medical leave transferred to a medical leave bank. Banked medical leave may be taken only when both of the following conditions are met:

- An employee has no accrued personal leave; and
- An employee has a medical disability exceeding ten (10) consecutive working days in duration.

Once the above two requirements have been met, an employee may take banked medical leave until the medical disability is terminated or until his banked medical leave is exhausted.

Other than the basic nine (9) weeks of maternity leave, leave taken under this rule must be accompanied by a doctor's certificate showing the disability.

In order to use banked medical leave, an employee must first receive approval by making a written request to the Director of Personnel stating the reasons for the request and enclosing the authorizing doctor's certificate.

Leave taken under this rule shall be reduced by the amount of wage continuation payments under the Alaska Workmen's Compensation Act (AS 23.30).

Upon separation from state service, an employee's banked medical leave shall be cancelled without pay.

7.08 Transfer of Leave With the Employee (AS 39.20.300)

When an employee transfers from the Court System to the Legislative or Executive Branch of government without a break in service, his accumulated personal leave and banked medical leave transfers with him and shall be credited to him by the employing department or agency. Conversely, an employee of the Executive Branch or the Legislative Branch who transfers to the Court System without a break in service shall have his accumulated personal leave and banked medical leave credited to him by the Alaska Court System.

7.09 Court Leave (AS 39.20.270):

A full-time employee, temporary or permanent, who is called to serve as a juror or subpoenaed as a witness, shall be entitled to court leave. The employee shall be paid his current salary while on court leave less any additional payment received for court services.

7.10 Military Leave (AS 39.20.340):

A permanent or probationary employee who is a member of a reserve component of the United States Armed Forces is entitled to a leave of absence without loss of pay, time or efficiency rating on all days during which he is ordered to training duty, as distinguished from active duty, with troops or at field exercises, or for instruction. The leave of absence may not exceed sixteen and one half (16-1/2) working days in any one 12 month period.

If a permanent or probationary employee is called to active duty by the Governor, the employee is entitled to five (5) days leave of absence without loss of pay, time, or efficiency rating.

7.11 Leave Without Pay:

NOTE: See Personnel Rule 6.06 for effect of Leave Without Pay on Holiday Pay.

7.11.01

Leave without pay cannot be granted until all personal leave is used. Employees on approved personal leave who exhaust their leave balance will automatically be put on leave without pay. In the case of employees who are using their banked medical leave, leave without pay will not begin until they have exhausted their medical leave bank.

7.11.02

Employees may be granted leave without pay not to exceed a total of 5 working days in any calendar year at the discretion of their immediate supervisor. Leave without pay in excess of 5 days must be approved by the Director of Personnel upon the recommendation of the Area Court Administrator or Presiding Judge for trial court employees and by the Clerk of the Supreme Court for Supreme Court Employees. Administration employees must have leave without pay in excess of 5 days approved by the Administrative Director upon recommendation by the Director of Personnel.

7.11.03

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 23 working days of leave without pay taken.

21. Rule 9.02, Eligibility to file an Informal Grievance, the second paragraph is amended to read as follows:

Employees on a temporary, acting, substitute, or probationary appointment are [NOT] eligible to file an informal grievance provided that it is not on the basis of job performance [UNLESS THEY ALLEGE DISCRIMINATION ACTION ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, PHYSICAL HANDICAP, AGE, MARITAL STATUS, CHANGE IN MARITAL STATUS, PREGNANCY OR PARENTHOOD].

A new section 10.11 is added to read as follows:

23. 10.11 Exception to Rules

Under unusual and extenuating circumstances, the Administrative Director may, upon affirmative recommendation by the Director of Personnel, waive the application of these rules when strict adherence to the rules would cause manifest injustice.

DATED: May 30, 1979

EFFECTIVE DATE: July 1, 1979

Roger H. Com

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