COLLECTIVE BARGAINING AGREEMENT

between the

STATE OF ALASKA

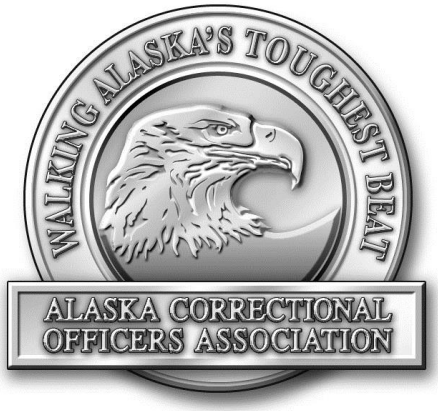
cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

and the

ALASKA CORRECTIONAL OFFICERS ASSOCIATION

representing the

CORRECTIONAL OFFICERS BARGAINING UNIT



July 1, 2012 - June 30, 2015

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PREAMBLE

This Agreement is made by and between the State of Alaska and the Alaska Correctional Officers Association (ACOA), covering the Correctional Officers Bargaining Unit.

This Agreement has as its purpose the following: to promote harmonious, cooperative relations, to strengthen the merit principle, to establish a rational method for dealing with disputes, and to determine wages, hours and other terms and conditions of employment for the Correctional Officers Bargaining Unit (COBU).

ARTICLE 1 - ASSOCIATION RECOGNITION AND REPRESENTATION

cited in Peralta v. Dillard, No. 09-55907 archived on March 18, 2014

1.1 Executive Recognition

The State of Alaska, hereinafter referred to as the Employer, recognizes Alaska Correctional Officers Association (hereinafter referred to as Association or Union) as the exclusive representative of all permanent, probationary, and provisional employees in the Correctional Officers' Bargaining Unit for collective bargaining with respect to wages, hours, and other terms and conditions of employment.

1.2 New or Changed Classifications

A. All new positions and classifications created by the Employer shall be placed in the appropriate bargaining unit, consistent with Alaska Labor Relations Agency (ALRA) rulings. All disputes concerning the appropriate bargaining unit placement of a person employed by the Employer shall be decided by the ALRA and no such question shall be subject to the grievance procedure set forth in this Agreement.

B. The Union shall be notified of all new job classifications created within ten (10) working days of such action. The notification shall include the specifications of the job classifications.

C. No position shall be removed from the Correctional Officer Bargaining Unit (COBU) to a different bargaining unit without written notification to the Association concurrent with the notification to the ALRA. If the Association does not file a written petition with the ALRA challenging the proposed bargaining unit transfer within thirty (30) calendar days of the notification to the Association, the Employer is free to take the proposed action. The Employer may change a vacant position to a bargaining unit outside the COBU, and the Association shall be notified concurrently with such action.

For the purposes of this section, date of notification is the date of receipt by certified mail, or five (5) days following the date of postmark, whichever is earlier.

1.3 Exclusive Representation
The Employer will not negotiate or handle grievances with any individual or employee organization other than an Association approved representative with respect to terms and conditions of employment of bargaining unit members in the COBU. When individuals or organizations other than the Association request negotiations or seek to represent bargaining unit members in grievances or to otherwise represent bargaining unit members in employer/employee matters, the Employer shall advise them that the Association is the exclusive representative for such matters. Similarly, the Association will so advise individuals or organizations making such requests.

ARTICLE 2 - ASSOCIATION REPRESENTATIVES AND ACTIVITIES

cited in Peralta v. Willard, No. 09-55907 archived on March 13, 2014

2.1 Professional Association Staff Representatives
Professional Association representatives who are not employees of the State shall be authorized to speak for the Association in all matters governed by this Agreement and shall be permitted to visit any work area at any time with prior approval of the Superintendent or facility manager or designee. Approval shall not be unreasonably withheld or delayed. Professional Association representatives shall hereinafter be known and referred to as "ACOA Officials." Any ACOA Official permitted to visit a work area shall meet all applicable security clearance requirements.

The Association shall provide a list of ACOA Officials to the Department of Corrections' Human Resource Manager with a copy to the Division of Personnel and Labor Relations of the Department of Administration, whenever the list of Officials changes.

2.2 Officer Representatives

A. The Association may authorize a reasonable number of Officer Representatives upon written notice to the Employer. The number of Representatives shall not exceed 2 (two) per shift at any facility. Officer Representatives include Association Board Members and Shift Representatives. The Employer has no obligation to ensure that there are 2 (two) officer representatives assigned to each shift at any facility.

B. Officer Representatives shall be allowed to handle grievances and/or disputes under this Agreement during working hours. Officer Representatives shall suffer no loss in compensation for time spent handling grievances and/or disputes for up to nine (9) hours per month per representative. All time spent shall be recorded on a state form, which clearly identifies the activities as release time. Additional time may be approved pursuant to the Association Leave Bank. Release from work to perform representative functions will not be unreasonably denied. Board Members shall not be denied Business Leave to attend up to four two day Board meetings per year.

C. The confidentiality of Officer Representative discussions with member(s) regarding contractual or disciplinary issues shall be respected, except when an Officer Representative has information of a criminal nature. Officer Representatives shall not be asked or compelled to disclose information gained while acting in their capacity as an Officer Representative unless it involves knowledge of criminal misconduct.

D. Twice per year and whenever there is a change to the roster, the Association shall provide a list of Representatives to the Department of Corrections' Human Resource Manager with a copy to the Department of Administration, Division of Personnel and Labor Relations. Only those individuals on the Association list shall be entitled to rights described in this Section.

E. For purposes of layoff of positions in the Bargaining Unit, Representatives listed in "D" above shall head the seniority list.

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

2.3 Meeting Space
Appropriate available meeting space in buildings owned or leased by the Employer may be used for Association meetings provided that a request is approved in advance by the Superintendent, facility manager, or designee. Requests will not be unreasonably denied.

2.4 Bulletin Boards and E-mail
The Employer agrees to furnish space for bulletin boards in the facilities to be used by members of the Association for the posting of notices pertaining to Association business. A courtesy copy of each filing shall be supplied to the superintendent at the time of posting. The parties agree that materials which are obscene, defamatory or impair the operation of the Department or which constitute partisan political material shall not be posted.

The Association shall have the right to use State electronic mail, in accordance with State of Alaska Technology Policy (subject to change), in order to disseminate Association information within the Bargaining Unit. The Association and its members shall not use the State's electronic mail for internal Union political campaigns or election activities. The Association shall have the right to use State electronic mail for Association/Employer communications.

ARTICLE 3 - ASSOCIATION SECURITY

3.1 Noninterference
The Employer agrees that it will not in any manner, directly or indirectly, attempt to interfere with the lawful relationship between any bargaining unit member and the Association. It will not in any manner attempt to restrain any bargaining unit member from belonging to the Association or from taking an active part in

Association affairs, and it will not discriminate against any bargaining unit member because of Association membership or activity, upholding Association principles, or working under the instruction of the Association or serving on a committee, provided that such activity is not contrary to this Agreement.

3.2 Agency Shop

A. It shall be a condition of employment that all employees holding a position covered by this Agreement shall either become a member of the Association or pay the Association an agency fee to reimburse the Association for the expense of representing the employees in the Bargaining Unit. Payment of Association dues or agency fees shall commence within 30 (thirty) calendar days of the date of hire. Employees who are members of the Association may withdraw from membership but will then be required to pay the agency fee, which is deducted twice per month.

cited in Peralta v. Dillard, No. 09-55901 archived on March 13, 2014

B. Upon written request by the Association Business Manager, an employee who has been employed for more than thirty (30) calendar days and who is not complying with the agency shop provisions of this Agreement shall be terminated by the Employer, provided that the following actions have occurred:

1. The Association shall notify the employee of the amount of money that he/she is in arrears. The notice shall inform the employee of the impending discharge if the full amount owed is not paid to the Association within fifteen (15) calendar days after the receipt of the notification. A copy of the notification shall be mailed simultaneously to the Director of the Division of Labor Relations.

2. The Association shall tender to the Director of the Division of Personnel and Labor Relations a written request for termination of the employee on the basis that the employee has not complied with the agency shop provisions of the Agreement within the time period specified in B-1, in that he/she has not paid the arrearage and has not documented that the money is not owed.

3.3 Payroll Deductions

Upon receipt by the Employer of a check-off authorization dated and executed by the employee, which includes the employee's social security number, the Employer shall twice monthly deduct from the employee's wages one-half the amount of the Association membership dues or agency fees owed for that month. The Employer will forward the monies so deducted to the Association together with a list of employees from whose wages such monies were deducted not later than the tenth (10th) day of the following calendar month. The Employer shall deduct from an employee's wages only that amount of money, which the Association Business Manager has certified in writing is the amount of the twice-monthly dues or agency fees. The

Association Business Manager shall notify the Director of the Division of Labor Relations in writing of any increase or decrease in authorized dues or agency fees at least sixty (60) days prior to the effective date of a rate change.

If, for any payroll period in which the Employer is obligated to make deductions pursuant to this section, the wages owed by an employee after mandatory deductions are less than the authorized dues or fees to be deducted pursuant to this Article, the employer shall make no deduction from wages owed the employee for that payroll period. Payment of dues or agency fees twice per month shall be made by the employee directly to the Association.

Payroll deduction authorizations for dues or agency fees may be canceled by the employee upon thirty (30) days written notice to the Employer, who shall notify the Association prior to cessation of the deduction. The cancellation of payroll deduction does not relieve the employee from the requirement of Section 2, Agency Shop.

cited in Peralta v. Dillard, No. 08-55907 archived on March 16, 2014

3.4 Information Supplied to the Association

A. The Employer shall provide the Association with a current list of employees once per pay period at no cost to the Association. This list shall include the employee's name, employee identification number, position control number (PCN), organizational routing code, location, termination date or last date in pay status if applicable. The list will also itemize and show any regular deductions made and forwarded to the Association.

B. Once each month, the Employer shall furnish to the Association without cost a report showing all personnel transactions adding to or deleting employees from the Bargaining Unit.

C. The Association specifically agrees that all information provided by the employer under this Section shall be used only for purposes related to the Association's role as the exclusive bargaining representative and that the Association shall be responsible for the protection and security of information provided. The Association shall assume liability that may result from any improper disclosure or use by the Association of information provided.

3.5 Indemnification of the Employer

The Association shall defend, indemnify, and save the Employer harmless against any and all claims, demands, suits, grievances, or any other liability (including attorneys' 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.

ARTICLE 4 - MANAGEMENT RIGHTS

Except – and only to the extent – that specific provisions of this Agreement expressly provide otherwise, it is hereby mutually agreed that the Employer has, and will continue to retain, regardless of the frequency of exercise, rights to operate and manage its affairs in each and every respect. Nothing in this Article shall be considered as superseding those rights granted to the Association in the Articles and/or Amendments of this Agreement.

ARTICLE 5 - NO STRIKE OR LOCKOUT

The Association agrees that during the life of this Agreement, the Association, its agents or its members, will not authorize, instigate, aid, engage in any work stoppage or concerted slowdown, mass illness, refusal to work, picketing of a Correctional work site or strike against the State.

cited in Peralta v. Pillard, No. 09-55907 archived on March 19, 2014

The State agrees that during the life of this Agreement, there shall be no lockout.

The Association further agrees that its members shall, cross the picket line of any other employee organization in order to perform duties as assigned.

ARTICLE 6 - NONDISCRIMINATION AND AFFIRMATIVE ACTION

6.1 Nondiscrimination
Neither party will unlawfully discriminate against any member for purposes of selection, hire, promotion, or other conditions of employment on the basis of race, color, religion, national origin, age, sex, physical handicap, marital status, change in marital status, pregnancy, parenthood, Association activity, political affiliation, or political belief.

6.2 Disputes
The Association agrees that its members have the right to utilize the Employer's Internal Discrimination Complaint Procedure, but that it does not supersede the provisions of the grievance-arbitration procedures of this Agreement.

6.3 Affirmative Action

A. The Employer shall post copies of affirmative action plans and programs on the State of Alaska website.

B. The parties recognize that the subject of affirmative action and progress toward affirmative action goals is an appropriate subject for Labor-Management committee meetings.

ARTICLE 7 - LABOR-MANAGEMENT COMMITTEES

7.1 Purpose
The purpose of Labor-Management committees is to facilitate communication between the parties and to promote a climate conducive to constructive Employer/Employee relations.

7.2 Corrections Labor-Management Committee (Corrections LMC)

A. A joint Labor-Management committee shall be established at the Department level.

B. The Employer and the Association shall each appoint three members to the Corrections LMC. Additional members may be appointed by mutual consent of both parties.

C. The Corrections LMC shall meet quarterly or as needed. Time spent in meetings (including actual necessary travel time) shall neither be charged to personal leave nor be considered as overtime worked. Each party shall be responsible for all other costs, including travel and per diem, incident to the participation of its appointees.

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D. The Corrections LMC shall have no power to contravene any provision of this Agreement, to enter into any agreements binding the parties, or to resolve issues or disputes surrounding the implementation or interpretation of the Agreement. Matters requiring a contract modification shall not be implemented until the Association and the Employer have executed a written Letter of Agreement.

E. No discussion or review of any matter by the Corrections LMC shall forfeit or affect the time frames of any dispute resolution procedure contained in this Agreement. Issues that should be resolved through such procedures shall be referred to and handled pursuant to that procedure. Matters, which have been submitted to any formal dispute procedure or which are in litigation, shall not be discussed.

F. If Labor-Management training is offered by the Employer, it shall be provided to all the members of the Corrections LMC at no cost.

7.3 Establishment of Additional Committees
Other joint Labor-Management committees may be established by written agreement of the parties as appropriate to discuss matters of mutual interest. Agreements establishing committees shall be entered into by the Commissioner of the Department of Administration and the Association.

ARTICLE 8 - PHYSICAL FITNESS TESTING

The parties recognize the need for Correctional Officers to maintain the physical capacity to perform the essential functions of their positions. The parties shall meet in a Labor Management Committee to formulate recommendations regarding physical fitness testing, screening, and ways to facilitate employee fitness.

ARTICLE 9 - EMPLOYMENT STATUS

9.1 Appointments

A. Except as specifically provided in this Agreement, all appointments to positions in the bargaining unit shall be consistent with the Personnel Rules in effect at the time of the appointments.

cited in Peralta v. Bullard, No. 09-55907 archived on March 13, 2014

B. No provision of this Agreement shall be construed to interfere with the rights of injured workers pursuant to AS 39.25.158 and AS 23.40.075.

9.2 Probationary Period

The probationary period shall be regarded as part of the examination process that shall be utilized for closely observing the employee's work and adjustment to the position. Employees who, in the judgment of the Employer, have satisfactorily passed the probationary period shall be retained and given permanent status in the job class at the end of the probationary period. Employees who, in the judgment of the Employer, have not or will not satisfactorily pass the probationary period shall not be retained in the job class.

A. Duration

1. The probationary period for Correctional Officers I and for all Correctional Officers II and III who are hired without a current APSC certification shall be the length of time required to receive APSC certification. Pay increases resulting from APSC Certification shall be retroactive to the date the individual met their certification prerequisites and turned in a complete and correct F-7.

2. The probationary period for Correctional Officers II who have a current APSC certification upon promotion or appointment to the Correctional Officer II classification shall be six (6) months.

3. The probationary period for Correctional Officers III who have a current APSC certification (or who are covered by the grandfather provision of APSC) upon promotion or appointment to the Correctional Officer III classification shall be one (1) year.

B. Employees returning from layoff to the same job class or lower job class shall not be subject to the probationary period except to complete any incomplete probationary period.

9.3 Permanent Status

A. Permanent status in State service shall be attained with satisfactory completion of the initial probationary period. Non-retention during the initial probationary period shall not be subject to the grievance-arbitration procedure established in Article 16.

B. There shall be a probationary period following initial appointment to any job class as provided above. Permanent status in the job class shall be obtained on the day following satisfactory completion of the probationary period unless an employee has been, in accordance with other provisions of this Agreement:

1. Separated;

2. Demoted during the probationary period;

3. Extended in the probationary period; or

4. Notified in writing by the appointing authority prior to the completion of the probationary period that the employee will not successfully complete the probationary period.

Every effort shall be made to notify the member that the probationary period will not be successfully completed at least fourteen (14) days prior to its expiration. Whatever the reason, failure to give fourteen (14) days notice does not mean that the member gains permanent status thereby.

cited in Peralta v. Dillard, No. 09-55907 archived on March 18, 2014

9.4 Rehire

A. An employee who separates from a job class in good standing while holding a permanent appointment may be appointed without examination or certification in the same class of position provided such reappointment: 1) takes place within one (1) year from the employee's date of separation from the job class and 2) that the employee holds a current APSC certification as a Correctional Officer at the time of appointment.

B. Retired Correctional Officers returning under provisions of AS 39.35.150 shall begin seniority upon rehire.

9.5 Demotion

A. Involuntary Demotion for Cause. The Employer may demote an employee holding permanent status in the job class from which demoted only for just cause. The demoted employee shall be furnished with a statement in writing

setting forth reasons for the demotion.

B. Involuntary Demotion for Failure to Complete a Probationary Period. An employee holding permanent status in a job class but serving a new probationary period in a job class may be demoted after notice of unsatisfactory performance without right of appeal of the demotion. Every effort shall be made to notify the employee that the probationary period will not be successfully completed at least fourteen (14) days prior to its expiration. Whatever the reason, failure to give fourteen (14) days notice does not mean that the employee gains permanent status thereby.

C. Voluntary Demotion from Correctional Officer III to II: An employee holding permanent status as a Correctional Officer III may request a voluntary demotion to a Correctional Officer II. If the request is approved, the employee shall retain permanent status in the lower class.

cited in Peralta v. Willard, No. 09-55907 archived on March 19, 2014

D. Demotion Through Reclassification: An employee whose position is reclassified from a Correctional Officer III to a Correctional Officer II and who receives a demotion as a result thereof shall be paid in accordance with Article 21 Section 6, Wages-General Pay Administration and the employee's status shall remain unchanged.

E. Demotion in Lieu of Layoff: An employee who accepts a demotion from Correctional Officer III to Correctional Officer II in lieu of layoff will be subject to the provisions of Section 9.5C. Such an employee retains primary layoff rights in the class from which he/she accepted demotion.

9.6 Resignation

A. Resignation from State Service. An employee may resign from the State by presenting the resignation in writing to the employee's first (1st) level supervisor outside the bargaining unit. To resign in good standing the employee must give the supervisor at least fourteen (14) days notice. After such resignation has been presented it may be withdrawn only by written mutual agreement of the parties.

B. Resignation from a Position. A bargaining unit member may resign from a position to accept appointment to another position in the classified service by submitting written notice to the member's first (1st) level supervisor outside the bargaining unit. After such resignation has been presented it may be withdrawn only by written mutual agreement of the parties.

9.7 Seniority

A. Bargaining Unit Seniority:

1. Employees whose last date of permanent hire in a classification covered by this agreement was prior to January 1, 1999: The member having the longest

term of State service shall be considered number one and all other members shall be listed accordingly.

2. Employees who were hired after December 31, 1998: Bargaining unit seniority shall be based on the bargaining unit member's cumulative permanent employment in a classification covered by Correctional Officer Bargaining Unit agreements. The member with the longest cumulative service in a classification covered in Correctional Officer Bargaining Unit Agreements shall be listed highest, and all other members shall be listed accordingly. The members on this list shall have bargaining unit seniority that is subordinate to those meeting the requirements of the above paragraph. Any ACOA member shall be given seniority credit for all previous years of State service as a Correctional Officer Bargaining Unit member upon hire into this Bargaining Unit. The Commissioner of the Department of Corrections shall quarterly prepare and post the appropriate bargaining unit seniority list online.

cited in Peralta v. Dillard, No. 09-55907 archived on March 18, 2014

B. Breaking of Seniority Ties: Should it become necessary to break identical bargaining unit seniority dates, the following method will be utilized:

FIRST: Total permanent/probationary State service. If a tie still exists, then

SECOND: Random drawing of names involved by the Division of Personnel and Labor Relations.

C. Impact of Seniority: Seniority shall not have any impact on the accrual of leave or other benefits accorded all members.

D. Termination of Seniority:

1. Seniority shall be terminated upon:

a. Discharge

b. Separation from State service, for more than one (1) year.

c. Layoff for a period of two (2) years or more.

d. Failure of the member to accept and report for duty within thirty (30) days after notification of recall from layoff.

e. Non-retention

f. Retention of Seniority: If a member is promoted into a position outside the bargaining unit, the member shall be entitled to one (1) year grace period without loss of seniority.

2. Seniority shall not be interrupted by:

   a. Periods of approved leave.

   b. Occupational Disability Retirement, up to a period of three years.

9.8 Transfers

A. Application for transfer list.

1. Except as noted herein, C.O. II vacancies will be filled by transfer and shall be posted online for a minimum of ten (10) calendar days. Posting will include a statement of closing date and time. Upon posting, the Association will be notified.

2. Current Alaska Police Standards Council (APSC) certified or grandfathered C.O. IIs and C.O. IIIs may only apply for transfer to posted vacancies online or by mail.

Cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

3. Mailed requests shall be sent to the Division of Personnel and must be postmarked by the closing date and time.

4. The Division of Personnel shall provide a list of valid transfer candidates to the hiring manager.

5. The list may be used only for the posted vacancy.

B. Working Transfer Lists

1. Except as provided for in this Article, the most senior member on the list based on the most current quarterly seniority list shall be selected to fill the position. Should any member choose not to accept the awarded position, the member will be disqualified from consideration for transfer for one calendar year from the date of refusal. In the event an employee cannot accept the position he or she has been awarded, he or she may request a waiver of the one-year refusal penalty from the Division Director. Waivers of the refusal penalty will be granted at the Director's sole discretion.

2. For C.O. III vacancies, the hiring manager may elect to work a transfer list or the competitive list or both concurrently.

3. After the effective date of this Agreement, all initial assignments and transfer assignments will require the employee to remain working at their assigned institution for a period of no less than two years.

4. If the hiring manager does not desire to use the transfer process, he or she must notify the Director. The waiver shall be granted at his or her sole discretion in writing and his or her decision is final. A copy of the waiver request shall be sent to the Association.

5. An employee may be provided Administrative Leave or per diem in accordance with the Alaska Administrative Manual to facilitate the move in cases of special need or extenuating circumstances, as deemed appropriate by the Department of Corrections.

C. Special Circumstances

1. A vacancy that is to be filled must be offered by order of seniority to laid off member(s) in the job class.

2. Hiring managers may choose to fill vacancies through voluntary demotion rather than a transfer without first working the transfer list.

cited in Peralta v. Dillard, No. 09-55901 Archived on March 13, 2014

3. The Director of Institutions may:

a. Limit the names considered to a specific vacancy when the hiring facility is in need of a member such as a certified Prisoner Transportation Officer or has specific gender needs. Specific gender needs must be approved by the Division of Personnel prior to Director approval.

b. Fill a vacant position through hardship transfer in accordance with past practice.

c. Consider the staffing and experience levels of the involved institutions.

d. Direct an appointment to a vacant position pursuant to rights or obligations under this agreement, arbitration rulings, or statutes.

e. Maintain the authority to suspend or waive the transfer policy whenever necessary.

D. The transfer policy set forth in Article 9.8 does not apply to Correctional Officers I when initially hired.

ARTICLE 10 - LAYOFF

10.1 Reasons for Layoff

The Employer may lay off a Bargaining Unit member who holds a substitute appointment when the incumbent returns to the position, or by reason of abolition

of the position, shortage of work or funds or other reasons outside of the member's control which do not reflect discredit on the services of the member.

10.2 Organizational Units

A. Each Correctional facility is a separate organizational unit. Facilities, which are co-located and report to the same on-site supervisor (e.g. Wildwood), constitute a single organizational unit.

B. The Training Academy and the Central Office Prisoner Transportation Unit are each a separate organizational unit.

10.3 Order of Layoff

A. Layoff shall be by order of the least senior Officer, computed as defined in Article 9.7.

B. Once the Employer identifies the position it intends to vacate, the following procedure applies:

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

1. Correctional Officer III position:

   a. The C.O. III with the least layoff seniority in the organizational unit shall be designated for layoff.

   b. The designated C.O. III may elect to displace the C.O. I/II with the least layoff seniority in the organizational unit provided that the C.O. III has more layoff seniority than the C.O. I/II.

   c. If the C.O. III displaces the least senior C.O. I/II in the organizational unit and that C.O. I/II is an initial hire probationary employee, the C.O. I/II will be laid off.

   d. If the C.O. III displaces the least senior C.O. I/II in the organizational unit and that C.O. I/II is a permanent employee, the C.O. I/II may displace the least senior C.O. I/II in the Department.

2. Correctional Officer I/II position:

   a. The least senior C.O. I/II in the organizational unit shall be designated for layoff.

   b. If the designated C.O. I/II is an initial hire probationary employee, the designated C.O. I/II will be laid off.

   c. If the designated C.O. I/II is a permanent employee, the C.O. I/II may displace the least senior C.O. I/II in the Department.

D. Conditions of Displacement

1. Upon receipt of the layoff notice and the location in which he or she may exercise an election to displace, the Bargaining Unit member to be laid off shall have ten (10) working days to exercise such election to displace an employee under the provisions set forth above.

2. If a C.O. III elects to displace a C.O. I/II, he or she shall be placed at the appropriate range at the C.O. III's existing step and the merit anniversary date shall remain unchanged. Upon recall to the C.O. III, the employee's hourly rate shall be adjusted upward, step for step, to the appropriate range.

3. If a member elects to displace another member and that displacement entails a change of duty station, the Bargaining Unit member shall be responsible for any travel or moving expenses incurred.

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

D. The order of layoff shall be:

1. Bargaining Unit members shall be listed in ascending order of layoff seniority. The member with the least layoff seniority shall be laid off first (1st), the second (2nd) member second (2nd), etc.

2. Ties: If two (2) or more Bargaining Unit members have identical layoff seniority, the order of layoff shall be determined by the following:

   a. Veterans' Preference per AS 39.25.150(19): A veteran shall be given preference for the position over a non-veteran.

   b. Layoff seniority in the class from which laid off.

   c. If a case cannot be determined by the application of a or b, it shall be at the Employer's discretion to determine which of the two (2) or more Bargaining Unit members to lay off.

10.4 Notification

A. In every case of the layoff of a permanent Bargaining Unit member, the Department shall make every reasonable effort to give written notice to the member at least thirty (30) calendar days in advance of the effective date of the layoff. The Department shall give at least two (2) weeks written notice.

B. In every case of the layoff of a probationary Bargaining Unit member, the Department shall make every reasonable effort to give written notice to the member at least two (2) weeks in advance of the effective date of the layoff.

C. Division of Personnel and Labor Relations staff shall be available to provide counseling and assistance to affected Bargaining Unit members. This

includes assistance in seeking other employment and advice as to the member's rights and benefits.

10.5 Rights of Laid-off Employees

No provision of this Agreement shall be construed to interfere with the rights of injured workers pursuant to AS 39.25.158 and AS 23.40.075.

A. Recall

1. A laid-off Bargaining Unit member shall be placed on the layoff recall list. When a hiring list is requested, the one (1) employee highest on the layoff recall list for that organizational unit in the appropriate class (C.O. III or C.O. I/II) shall be certified for the vacancy.

2. If no organizational unit layoff list exists or if such eligible Bargaining Unit members decline appointment or are not available and the reason for the certification is not because of a reclassification of a filled C.O. I/II flex, the one (1) member highest on the layoff recall list for the Department in that job class shall be certified for the vacancy.

cited in Cangelta v. Dillard, No. 09-55967 archived on March 13, 2014

3. The order of return from layoff shall be the reverse order of the layoff seniority. If two (2) or more laid-off Bargaining Unit members in the same class (C.O. III or C.O. I/II) have identical layoff seniority, the job will be offered first:

   a. to the member who has been on layoff the longest; then

   b. to the member who meets the legal definition of veteran for purposes of veterans' preference.

   c. In any case which cannot be determined by the application of a and b above, it shall be the Employer's discretion to determine which of the two (2) or more laid-off members to recall.

4. A Bargaining Unit member may submit a statement restricting the facilities to which the member will be available for recall. The Employer will request information concerning restrictions of availability from each member at the time of layoff.

5. If a Bargaining Unit member does not file a written statement concerning restrictions of availability, the Employer will place the member on the layoff recall list for the organizational unit from which laid off only.

6. A laid-off Bargaining Unit member who receives a recall offer consistent with the member's designated conditions of availability must accept that offer or lose all layoff rights.

7. For any recall from layoff, which entails a change of duty station, the Bargaining Unit member shall be responsible for any travel or moving expenses incurred.

10.6 Termination of Recall Rights

A Bargaining Unit member's right to be recalled from layoff will terminate when any of the following occur:

A. The member resigns from State service;

B. The member fails to accept a recall offer consistent with the member's designated conditions of availability for recall from layoff;

C. The member has been in layoff status for two (2) years. The recalled member must have a current APSC certification or successfully complete the applicable APSC certification requirements;

cited in Peralta v. Dillard, No. 09-55901 archived on March 13, 2014

D. The member becomes ineligible for APSC certification;

E. The member fails to keep the Department notified of a current address and phone number.

ARTICLE 11 - CONTRACTING OUT

11.1 Feasibility Studies

A. The State 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 feasibility study determining the potential costs and benefits, which would result from contracting out the work in question. The State agrees to notify the Association within two (2) weeks of its decision to initiate a study, or, in the alternative, that it intends to review operational analyses for purposes of contracting out work. Such operating analyses shall constitute a feasibility study under this Article. Notice to the Association shall include the job classifications and work areas affected. Notification by the State to the Association of the results of the feasibility study will include all pertinent statistical and analytical information which the State will consider in making its decision regarding contracting out the work, including but not limited to the total cost savings the State anticipates.

C. The State shall notify the Association of its final decision regarding contracting out.

D. If the State decides to contract out work that will result in the direct displacement of employees, the State shall provide the Association with no less than thirty (30) days notice that it intends to contract out Bargaining Unit work.

E. The Association may then submit an alternative plan that is to include potential costs and benefits. The alternate plan will be given fair consideration by the State, provided the plan is submitted not more than thirty (30) days after the Association has received the notice of intent to contract out. During this thirty (30) day period, the Association shall have the opportunity to discuss the placement of affected employees.

F. No employees shall be laid off and their work contracted out unless the feasibility study shows that contracting out would cost the employer less.

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

11.2 Effect on Members

Once the State makes a decision to contract out work that will result in the direct displacement of members, it will make a good faith effort to place members elsewhere in State government in the following order of priority: 1) within the Department or 2) within State service generally.

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

ARTICLE 12 - NOTICE OF DISCIPLINE AND DISCHARGE

12.1 Definition

A. Discipline and discharge of permanent employees shall be for just cause. Failure to complete a probationary period does not require just cause and shall not be considered a disciplinary action. Discipline is defined as personnel action against a permanent employee resulting from a just cause finding from the Employer.

B. Egregious misconduct which may result in immediate discharge includes, but is not limited to, gross disobedience or insubordination, dishonesty, chemical or alcohol intoxication, physical misconduct, criminal conduct, undue familiarity with offender or their families, abusive or lewd behavior, the unauthorized possession, viewing or accessing of pornography or lewd materials at work or on State equipment, or abandonment of duties.

12.2 Administrative Investigation

A. The member shall be entitled to a fair investigation.

B. When the State determines sufficient information exists to warrant a formal

investigation, which could result in disciplinary action, the State shall provide the Association and member(s) under investigation with a detailed written notice of the specific allegation(s) of misconduct, including the date, time, and location, if known. The member shall have 24-hours to prepare for the interview, unless exigent circumstances exist at which point additional time may be granted.

C Video/Audio recordings – An employee who is subject to an investigation may be allowed to privately view the video and/or listen to the audio recording with an Association Representative immediately prior to his or her administrative interview.

D. When a written complaint is filed by an inmate or citizen against an employee alleging physical assault, sexual misconduct, or other egregious misconduct (as defined by Policy and Procedure), a copy of the complaint or, absent a written complaint, a copy of the written documentation of the complaint by the person who received it, shall be made available to the subject employee with any written allegation of egregious misconduct delivered by the employer.

Cited in Peralta v. Gillard, No. 09-55907 archived on March 13, 2014

E. A member under investigation is entitled to a representative during Investigative Interviews, if the member so desires. It is solely the responsibility of the member to secure such representation. Neither the member nor the Association may unreasonably delay an investigatory interview in order to obtain the services of a particular Association representative. Representation may be provided either in person or telephonically. In cases containing explicit allegations of egregious misconduct, the employee may have up to 72 hours, from time of notice to arrange union representation.

F. Pre-imposition Meeting. A final meeting will be offered to the employee(s) and his or her Association representative (if requested by the employee) after the Employer has made an initial determination that a sanction of a disciplinary suspension of 160 (one hundred sixty) hours or more, demotion for cause, or dismissal is warranted. The purpose of the meeting is to allow the employee to provide any extenuating or mitigating circumstances, which he or she believes, should be considered prior to the imposition of penalty. Nothing herein prevents a pre-imposition meeting in instances of suspensions less than 160 (one hundred sixty) hours.

G. Investigatory interviews may be electronically recorded by the Employer and/or the member and his or her representative. If any party records an interview, they shall provide a copy of the recording to the other parties, upon request. If any party has a recording transcribed, a copy of the transcript shall be provided to the other parties, upon request. On request, the employee will be provided a copy of the recording or transcription prior to the pre-imposition meeting. The employee will be provided a reasonable period

of time to review his/her recorded or transcribed statement for factual accuracy. The review time will not exceed 24 hours. Surreptitiously recording interviews will not be permitted.

12.3 Notice

A. When a formal investigation is concluded and a course of action determined, the State shall promptly notify the member(s) under investigation and the Association. The Employer shall endeavor to provide notice no later than thirty (30) days after the pre-imposition interview. No right to representation exists where the purpose of the meeting is solely to impose discipline based on a previously concluded investigation.

B. When disciplinary actions are imposed, the Employer will furnish the Association with a copy of the written notification to the member(s). A copy shall be faxed, e-mailed, or mailed to the Association offices as soon as practical and mailed to the Association offices promptly thereafter.

C. A copy of all disciplinary actions, including the evidence supporting each action taken by the Employer against Bargaining Unit members will be forwarded to the Association.

Cited in Peralta v. Dillard, No. 09-55907 archived on March 18, 2014

ARTICLE 13 - OVERTIME

13.1 Forty-two (42) Hour Schedule

A. The workweek for employees assigned to a forty-two (42) hour schedule shall consist of forty-two (42) hours in pay status within a maximum of seven (7) days allowing for two (2) consecutive days off and all such employees shall be guaranteed a full workweek. The furlough provisions of 2 AAC 07.407 do not apply.

B. Members shall receive overtime pay at the rate of one and one-half (1 ½) times their regular rate of pay for all hours in pay status over the member's normal scheduled workday. Overtime pay or other premium pay shall not be pyramided or duplicated. Hours paid at the rate of one and one-half (1 ½) the appropriate rate of pay for any reason shall be credited only once in the calculation of hours in the workweek.

13.2 Eighty-four (84) Hour Schedule

A. The workweek for employees on the twelve (12) hour schedule shall be a fourteen (14) day work period consisting of eighty-four (84) hours in pay status with a maximum of seven (7) working days and seven (7) consecutive days off, and all employees shall be guaranteed a full workweek. The furlough provision of 2 AAC 07.407 shall not apply.

B. Employees working a twelve (12) hour shift shall receive a one-half hour

(thirty minutes) duty-free paid meal period as well as two (2) fifteen (15) minute paid relief breaks. Every effort shall be made to provide a meal break midway through the shift not earlier than the three (3) hours after the start of the shift and not later than three (3) hours prior to the end of the shift. Meal breaks that are not given shall be reported before the end of each shift. If the employee does not report the missed meal break, it will be assumed the break was taken. Missed meal breaks will be treated as time worked and will be paid at the applicable rate.

C. There shall be two (2) shifts, day and night. Night shift shall receive the swing shift differential set out in Section 21.

D. Work performed by overtime eligible employees in excess of eighty-four (84) hours of work in the work period is overtime and shall be paid at one and one-half (1 ½) times the appropriate regular or shift rate of pay. Overtime pay or other premium pay shall not be pyramided or duplicated.

cited in Peralta v. Gillard, No. 09-55901 archived on March 18, 2014

E. If a holiday falls on the employee's regularly scheduled day off, the employee shall receive payment for the holiday for eight (8) hours at the straight-time rate provided the employee was in pay status for a portion of the last regularly scheduled workday prior to the holiday and in pay status for a portion of the next regularly scheduled workday after the holiday. Such holiday pay does not count for the purpose of computing overtime, nor the purpose of fulfilling the work period.

F. Every effort will be made to include adjustment(s) for holiday pay in the pay warrant issued for the appropriate pay period. If not possible, the adjustment(s) for holiday pay may appear on the next regularly issued pay warrant for the pay period following the pay period in which the holiday(s) occurred. Penalty pay shall not apply for pay shortages, which result from holiday pay adjustments.

13.3 Assignment of Additional Hours

A. Application

1. When Management decides there is a need to call off duty personnel to work, the following procedure shall be used to provide an equitable opportunity for assignment of additional hours.

2. These procedures do not apply to emergency situations as determined by the Employer or when application would result in a member working more than 16 (sixteen) hours in any 24-hour (twenty-four) period.

3. A record of actual compensated overtime hours worked by the overtime eligible Bargaining Unit member will be maintained and made available for reasonable inspection by appropriate Association representatives.

B. Application Procedures

1. All worksites will use a standardized form on which interested Correctional Officers assigned to that institution must sign to indicate their availability for work assignments during their regularly scheduled days off.

2. The form, entitled "Work Assignment Contact List", will be posted in a designated area in each worksite at the beginning of each shift rotation. Correctional Officers who wish to be called for additional work assignments during their regularly scheduled days off must sign the Work Assignment Contact List before 2400 hours each Monday. After 2400 hours on Monday, Correctional Officers may add their names to the bottom of the Work Assignment Contact List through the end of that shift rotation at which time the list is final. No names shall be added to the Work Assignment Contact List after the end of the last shift in that rotation. The order of name placement of those interested will be randomized.

cited in: Peralta v. Dillard, No. 09-55961 archived on March 10, 2014

3. Correctional Officers not present at the worksite during their regularly scheduled shift by reason of leave, training, or other similar cause may contact the Shift Sergeant, who will sign their names to Work Assignment Contact Lists as provided above.

4. Work Assignment Contact Lists will be used for purposes of scheduling Correctional Officers for work assignments. Correctional Officers on the List will be called in rotation. The Employer's designee is responsible for recording the attempted contact on the form and the nature of the response, if any. If the attempt ends with a message recorder, beeper, etc., there is no requirement that a message be left or additional contact attempt be made before moving to the next name on the list. Correctional Officers may supply up to two (2) telephone numbers on the Work Assignment Contact List and both will be called.

5. A contact attempt is presumed to have been made as recorded. Failure to complete Work Assignment Contact Lists properly may result in discipline.

6. If one full rotation through the Work Assignment Contact List results in the failure to secure an available Correctional Officer, then any method, including but not limited to, contacting Correctional Officers from other worksites or requiring additional work to be performed by any Bargaining Unit member may be used.

7. The Employer can limit use of these procedures to members who meet specialized requirements as determined by the Employer or if selection from the list would result in conflict of the parties' rights or obligations under this Agreement, rulings, determinations, regulations, or statutes.

8. Correctional Officers who place their names on a Work Assignment Contact List for additional work assignments have no entitlement or expectation to specific post or duty assignments, nor are they entitled to recall or standby pay.

C. Randomization

Each work period, the random lists shall be compiled by placing each eligible employee's name into a selection device. Once all names have been deposited, they shall be mixed. After mixing is complete, each name shall be selected one at a time by the Superintendent or his designee. The first name selected shall be placed on the top of the work assignment list, and so forth.

cited in Peralta v. Dillard, No. 08-55907 archived on March 13, 2014

13.4 Continuous Hours of Work

A Bargaining Unit member may not work in excess of sixteen (16) hours within one (1) twenty-four (24) hour period except in an emergency.

13.5 Recall

A. Overtime Eligible Bargaining Unit Members.

1. If an overtime eligible Bargaining Unit member is called back to work within four (4) hours after the completion of the member's shift, the member shall be paid recall premium pay at a rate of one and one-half (1 ½) times the Bargaining Unit member's regular pay rate for actual hours worked. Regular rate of pay is the applicable rate for regularly scheduled work.

2. If an overtime eligible Bargaining Unit member is recalled later than four (4) hours after completion of the member's regular shift, the member shall be entitled to a minimum of four (4) hours recall premium pay at a rate of one and one-half (1 ½) times the Bargaining Unit member's appropriate rate of pay (including the appropriate shift differential). Should total call-back hours worked exceed four (4) hours, an overtime eligible Bargaining Unit member shall receive recall premium pay at a rate of one and one-half (1 ½) times the Bargaining Unit member's appropriate rate of pay (including the appropriate shift differential) for all such hours worked.

3. The recall provisions of A.1 and A.2 do not apply in the following cases:

   a. If the additional work assignment has been scheduled prior to the Bargaining Unit member's leaving the work site at the end of the shift;
   b. If the member who is contacted to return to work is on standby when contacted to return to work;
   c. If the member has volunteered to be called for overtime during a specified pay period;

d. If the member is not required to report to a workstation or other location in order to perform the work.

In such cases, all hours worked will be paid at the appropriate rate of pay.

13.6 Early Call-In

"Early Call-in" shall be defined as the notification of a member to report early and work hours contiguous with his/her next regular scheduled shift. If notified of an early call-in, the employee shall be compensated for all hours worked with a minimum of one (1) hour as worked.

13.7 Standby

A. When members are ordered to be available for immediate recall and either to remain at home or periodically to report their whereabouts, their names shall be placed on a standby roster. Assignments to a standby roster shall be, insofar as possible, equitably rotated among members normally required to perform the anticipated duties, provided that nothing in this Article shall preclude the assignment of an individual to a standby roster whose knowledge makes that individual the most logical choice for the anticipated tasks.

cited in Ferralta v. Pillard, No. 09-55907 archived on March 13, 2014

B. An amount equal to ten percent (10%) of seven and one-half (7 ½) times the employee's hourly base salary will be paid to a member who is assigned to a standby roster for each calendar day or portion of a calendar day of such assignment. The daily rate of compensation shall include geographic and shift pay as appropriate.

13.8 Overtime

When an overtime eligible Bargaining Unit member is required to perform work by telephone after the completion of the member's scheduled work hours, the time worked shall be recorded on the time sheet in fifteen (15) minute increments.

13.9 Pay on a Holiday

Holiday Premium Pay for hours worked on a holiday shall be computed only on the hours worked between 12:01 a.m. and the following 11:59 p.m. on the holiday. This Holiday Premium Pay shall be paid in addition to the eight (8) hours at the straight-time rate for holiday pay and shall not be pyramided or duplicated. The Holiday Premium Rate of pay shall be compensated at time and one-half (1 1/2) for all hours so worked.

13.10 Overtime Pay Calculations

When a Bargaining Unit member who is eligible to receive overtime works a shift that qualifies for shift differential pay, the Employer shall compute overtime on the basis of the following formula:
(Base rate + shift differential) x 1.5

ARTICLE 14 - PERFORMANCE EVALUATIONS

14.1 Performance Evaluations

A. Employees in a probationary status shall receive written performance evaluations midway through and at the completion of the probationary period. Permanent employees not in a probationary status in a job class shall receive annual written evaluations on or before their merit anniversary date.

B. The scope of the performance evaluation shall be limited to those factors relevant to the effective performance of the employee's duties and responsibilities. The evaluation process shall be consistently and equitably applied.

C. Evaluations are due fifteen (15) days prior to the mid-probationary period, completion of probation and the merit anniversary date. The Employer will make every effort to see that the evaluations are received in a timely manner.

Cited in Peralta v. Millard, No. 09-55901 archived on March 10, 2014

D. The denial of a performance incentive increase done through a performance evaluation must be done on or before the date the evaluation is due. If the rater fails to prepare a timely performance evaluation, any performance incentive increase shall be granted to the employee effective on the employee's merit anniversary date. The fact that an evaluation is late shall not delay the transition from probationary to permanent status.

E. Prior to signing an evaluation, the rater will discuss the evaluation with the employee, in part to assist the employee in understanding the degree to which he/she is meeting the requirements of the position. Employees will not be required to concur with the performance evaluation report. At the time the employee signs the evaluation, he/she will be provided a copy. The finalized evaluation will be provided to the member within ninety (90) calendar days of the date of signing by the member.

F. An employee who is dissatisfied with any written performance evaluation may, within fourteen (14) calendar days of discussing the evaluation with the rater and prior to finalization of that evaluation, provide a written rebuttal to it which will be attached to the evaluation and become a permanent part of the employee's personnel file.

G. Employees may request a written performance evaluation at reasonable intervals.

H. Performance evaluations, including rebuttals, shall be placed in the Bargaining Unit member's personnel file.

I. To ensure that performance evaluations meet the standard of being consistently and equitably applied, all performance evaluations shall be

reported on a single approved State form.

14.2 Performance Incentives

Performance incentives shall be based upon the appointing authority's evaluation of an employee's performance.

A. A performance incentive of one (1) step in the salary range may be given to an employee who has received an overall performance evaluation of "Mid-Acceptable" or better on the employee's merit anniversary date. The employee's merit anniversary date shall be the first (1st) day following satisfactory completion of the probationary period, unless the employee enters the pay range above the minimum rate of pay, in which case the merit anniversary date shall be the first (1st) day following completion of one (1) year of service in the position.

Cited in Peralta v. Ortiz, No. 09-55901 archived on March 13, 2014

B. Steps (b), (c), (d), (e), and (f) of the salary range shall be used for performance incentives where an employee has demonstrated satisfactory service of a progressively greater value to the State. Unless the Employer denies a merit increase through a performance evaluation, an employee's step increase will become effective on the merit anniversary date.

C. The merit anniversary date does not change when a performance incentive is not granted. If the employee's performance reaches acceptable levels later in the merit year, the step increase may be granted effective the first (1st) day of the pay period of any month and no change in the merit anniversary date will result.

D. When an employee's level of work performance becomes less than "Mid-Acceptable," an interim performance evaluation may be prepared. When such an evaluation is prepared and the level of performance does not reach "Mid-Acceptable" within the subsequent thirty (30) day period, one (1) salary step may be withdrawn on the first (1st) day of the pay period following completion of the thirty (30) day period, provided the employee's salary is not the entry step of the salary range. No more than one (1) salary step may be withdrawn in a twelve (12) month period. Before a personnel action withdrawing a salary step is prepared, the employee shall be notified in writing that the performance has not improved. If the employee's level of performance subsequently reaches "Mid-Acceptable," the salary step may be restored effective the first day of the pay period following preparation of a performance evaluation report confirming the improved level of performance.

E. The Employer will not establish a quota or percentage system to determine the number of performance incentive increases granted.

14.3 Appeal Procedures

In instances in which an employee has not been awarded a performance incentive or pay increment, the following shall be the sole and exclusive method for resolution:

A. Level One: The employee must appeal within fifteen (15) working days after receipt of a copy of the finalized evaluation which fails to grant a performance incentive or pay increment. The appeal must be made in writing through the Association to the Commissioner of the Department of Corrections, setting forth the reasons the employee disagrees with the Employer's action. The Department shall respond in writing within fifteen (15) working days after receipt of the appeal.

B. Level Two: In the event the matter is not resolved at Level One, the Association may advance the appeal to the Division of Personnel and Labor Relations, Department of Administration. The appeal must be submitted in writing within fifteen (15) working days after the response at Level One is due or received, whichever is earlier, and must include all evidence and arguments which the Association desires to be considered by the Director of the Division of Personnel and Labor Relations.

Cited in Peralta v. Dillard, No. 09-55901, archived on March 18, 2014

The Director shall review the appeal in conjunction with the subject performance evaluation and any rebuttal thereto; the Level One appeal and response, pertinent related performance documents and statements, the employee's job description and class specification.

The Director shall respond to the appeal in writing within twenty (20) working days after receipt of the Level Two appeal. If the Director grants the appeal, the Association and the Department of Corrections shall be so notified concurrently, together with the rationale for the Director's determination.

C. Level Three: In the event that the Director of the Division of Personnel and Labor Relations does not grant the appeal, the Association may advance the appeal to the neutral third (3rd) party selected in accordance with the procedures below by submitting a written request to the Director of the Division of Personnel and Labor Relations within ten (10) working days after the receipt of the denial at Level Two. The request may include additional arguments in support of the Association's position, to which the Director may make a written response; neither party shall submit new evidence in conjunction with these written statements. The Director shall forward copies of the Level Two and Three appeals and responses to the neutral third (3rd) party within ten (10) working days of receipt of the Association's requests. The submission shall include all documents and written arguments reviewed by the Director at Level Two. Any dispute concerning the admissibility or relevance of performance related documents shall be resolved by the neutral third (3rd) party at such time as the appeal is forwarded for final decision.

The neutral third (3rd) party shall render a written decision and rationale within thirty (30) days after receipt of the appeal. The decision shall be binding and non reviewable. Costs associated with the neutral third (3rd) party shall be borne equally by the parties.

D. Selection of a Neutral: The Employer and the Association shall jointly elect the neutral third (3rd) party. In the event that agreement has not been reached within thirty (30) days after signing of the Agreement, the neutral shall be selected by alternately striking names from the list of arbitrators provided for in the Grievance-Arbitration Article until one (1) name remains and that individual shall be appointed.

14.4 Performance Evaluation Disputes with No Merit Increase Due

An employee who is dissatisfied with a written performance evaluation, which does not involve the denial of a performance incentive or pay increment, may obtain review of the evaluation through the following procedure, which shall be the sole and exclusive remedy for such disputes:

cited in Peralta v. Ballard, No. 09-55907 archived on March 18, 2014

A. Within thirty (30) days after receipt of a copy of the finalized evaluation, the employee must submit through the Association a written request to the Commissioner or designee, asking that he/she investigate allegations that the evaluation includes factual inaccuracies, or that in the preparation of the evaluation Management has been arbitrary or capricious, or has been motivated by discrimination or bias.

B. The written request must state specifically the allegations to be investigated, the degree that the information in support of those allegations is known, and identify the facts surrounding the controversy. The list of allegations to be investigated shall not be expanded after the initial submission to the Employer except by written mutual agreement of the parties.

C. Upon receipt of a written request, the Commissioner or designee shall have thirty (30) days to investigate the allegations and to make written recommendations of any revisions of the evaluation, with a copy to the Association. A designee may conduct the investigation under this section.

D. In the event the dispute is not resolved by the Commissioner or designee, the employee through the Association shall submit a written request for a review by the Division of Personnel and Labor Relations, Department of Administration within ten (10) days after receipt of the Commissioner's or designee's recommendations. Absent a request for a review by the Division of Personnel and Labor Relations, Department of Administration, the Commissioner or designee shall adjust the evaluation in accord with his/her recommendations.

E. The Division of Personnel and Labor Relations, Department of Administration shall respond within thirty (30) days of the employee's request for review. The Division of Personnel and Labor Relations, Department of Administration's determination shall be the final level of appeal for these cases. If the Division of Personnel, Department of Administration's response is not satisfactory to the employee, the Association will notify the Employer within thirty (30) days of receiving the Division of Personnel and Labor Relations, Department of Administration's written response, and the entire appeal process and all related material shall become a permanent attachment to the evaluation.

ARTICLE 15 - COMPLAINT RESOLUTION PROCESS

Cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

A. A complaint is defined as: (1) any controversy, dispute, or disagreement arising between the Association or the employee(s) and the Employer that does not concern the application or interpretation of the terms of this Agreement, or (2) is the appeal of the discharge, demotion, or suspension of a probationary employee not holding permanent status in another classification. Such matters are not included in the definition of grievances as provided in Article 16. The following shall be the sole means of settling complaints.

B. A complaint must be brought to the attention of the Employer, consistent with the procedures set forth in this Article, within fifteen (15) working days of the effective date of the action or inaction, whichever is later. Deadlines for submission of a complaint at succeeding steps shall 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 response shall be either seven (7) calendar days following date of postmark or the date of signed verification of receipt.

C. 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.

D. Complaints shall be processed on forms approved by the Employer and the Association.

E. The complaint will state the facts from which it arises, the rules, procedures, or conditions which should be considered and the remedy requested. Adjustments to complaints shall 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.

F. Procedure

1. Complaints will be presented on the provided forms by the Employee or approved Representative per Article 2 of this Agreement to the first level supervisor outside the Bargaining Unit. The complaint may be adjusted with or without the participation of an approved Representative provided that the complainant has not been denied the opportunity for representation. The supervisor shall respond in writing to the complainant within ten (10) working days.

2. If the response is unsatisfactory, an Employee or Representative may appeal to the Commissioner of Corrections or designee within ten (10) working days after the response is due or received, whichever is earlier. The Commissioner shall respond in writing to the Employee or Association Representative within ten (10) working days of receipt of the appeal.

Cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

3. Failing resolution, a Professional 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.

4. Upon request of the Association a meeting and/or teleconference between the Association Representative and the Commissioner or a designee will be convened to discuss the complaint. The Commissioner shall 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 shall settle the matter.

5. Extensions to the time limits established in sections B and F may be waived by mutual agreement.

G. Group Complaints. Complaints that involve more than one (1) complainant may be filed at the level which encompasses all known affected employees and, if necessary, may be appealed upward from that level until final settlement by the Commissioner of the Department of Administration. Time limits and procedures shall be as for individual complaints set out above.

ARTICLE 16 - GRIEVANCE-ARBITRATION

16.1 General

A. Definition of Grievance

A grievance is defined as a dispute over the application or interpretation of the terms of this Agreement. The parties recognize that the application of other rules and regulations of the State may be necessary for the resolution of

the grievance.

B. Consistency
Grievances settled in writing at Step One found to be contradictory to statute or the Alaska Administrative Code may be reopened through a written notice to the Association within thirty (30) calendar days from the date of the written settlement. Grievances reopened in this manner shall proceed immediately to Step Three of the grievance procedure.

16.2 Filing Requirements

A. Authority to File:
All grievances must be filed by or through the Association Business Manager or Agent.

B. Initial Filing Time Frame:
A grievance must be brought to the attention of the Employer, consistent with the procedures set forth in this Article within thirty (30) calendar days of the effective date of the disputed action or inaction, or the date the member is made aware of the action or inaction, whichever is later. A grievance not brought within these time limits shall be considered untimely and shall be void.

cited in Peralta v. Spillard, No. 09-55907 archived on March 13, 2014

C. Advancing the Grievance:
If the Employer fails to render a decision in the allotted time frame, the grievance must be advanced to the next step of the procedure by the Association within the time frames stated below in order to obtain further consideration.

D. Waiver of Grievance Steps and Time Frames:
Individual grievance steps and time limits for filings and responses may be waived by written mutual agreement of the Association and the Employer representative named at the appropriate step.

E. Grievance Format:
Grievances shall be processed in the format of or on the forms provided by the Employer. The grievance shall state the facts giving rise to the grievance, the provisions of the Agreement that may have been violated, and the remedy requested. If such information is not provided, the Employer may return the grievance to the Association without further action. The Association may resubmit the grievance, including the required information, within fourteen (14) calendar days of receipt of the returned grievance. A grievance not resubmitted within these time frames shall be considered untimely and shall be void.

F. Proof of Receipt:
All mailed material relating to Steps One-Four filings of a grievance shall be

accomplished through a proof of receipt method.

16.3 Special Grievance Types

A. Class Action Grievances:

1. A class action grievance is a disputed action or inaction, which affects two (2) or more members in a substantially similar manner. To be accepted for processing, class action grievances must identify at least two grievants and whenever possible, all known grievants, or attempt to identify all others by name, job class, and work location.

2. Class action grievances shall be submitted by the Association Business Manager or Agent to the first (1st) level supervisor having jurisdiction over all grievants. For example, if a class comprises members working in more than one (1) institution or Division, grievances shall be submitted at Step Two; if only one (1) institution but more than one first level supervisor is involved, grievances shall be submitted at Step One to the Superintendent.

cited in Peralta v. Dillard, No. 09-55901 archived on March 16, 2014

B. Disciplinary Grievances:
Grievances involving terminations, suspensions for one hundred sixty (160) hours or more and non-probationary demotions shall be entered at Step Two.

C. Informal Dispute Resolution:

1. The parties desire that differences between members and supervisors be resolved as quickly and satisfactorily as possible. To achieve this goal, members are encouraged to discuss such differences with their supervisors as soon as possible after they become aware of the event(s) leading to the differences and prior to filing a grievance. Supervisors are similarly encouraged to be responsive to such discussion. Adjustments may not conflict with the Agreement or applicable laws or regulations.

2. The time frames for filing a grievance at Step One shall apply whether or not the member elects to engage in informal dispute resolution under this Section.

16.4 Grievance Procedure

A. Step One:
Within thirty (30) calendar days of the disputed action or inaction, or the date the member is made aware of the action or inaction, whichever is later, the Association Business Manager or Agent may submit a grievance in writing to the member's first (1st) level supervisor outside of the Bargaining Unit. The supervisor shall respond in writing to the Association within ten (10) calendar days of its presentation.

B. Step Two:
Failing to settle the grievance at Step One, the Association may advance the grievance by submitting it in writing to the designated Human Resources Representative with a copy to the Commissioner of the Department of Corrections within fourteen (14) calendar days after the response from Step One is due or received, whichever is earlier. The Human Resources Representative shall respond in writing to the Association within twenty-one (21) calendar days after receipt of the appeal.

C. Step Three:
Failing to settle the grievance at Step Two, the Association may advance the grievance by submitting it in writing to the Commissioner of Administration within fourteen (14) calendar days after the response from Step Two is due or received, whichever is earlier. The Commissioner of the Department of Administration shall respond in writing to the Association within thirty (30) calendar days after receipt of the appeal.

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

D. Step Four:
Any grievance which is not settled at Step Three, may be submitted to arbitration for settlement. This request must be submitted to the Commissioner of Administration in writing within thirty (30) calendar days after the response from Step Three is due or received, whichever is earlier. The Association shall state specifically which Article(s) and Section(s) the State may have violated and the manner in which the violation is alleged to have occurred. The parties will meet within twenty-one (21) calendar days after receipt of the request for arbitration to strike names and make arrangements to contact the arbitrator about scheduling the hearing. The Association shall contact the State representative assigned to the case to strike names.

16.5 Board of Arbitration

A. Within thirty (30) calendar days of the signing of this Agreement, the Employer and the Association shall attempt to agree to a list of eleven (11) arbitrators for the Arbitration Selection List. Absent mutual agreement, the parties shall request a list (Western United States only) of arbitrators from the Federal Mediation and Conciliation Service (FMCS), or other source, mutually agreed to by the parties. The current list shall be added to the list from the FMCS or other source (duplicate names shall only be included once on the complete list). The parties shall then alternatively strike names from the list until eleven (11) names are left to constitute the Arbitrator Selection List.

B. For each hearing, the parties will select the arbitrator by alternately striking 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 initial strike process following the execution of this Agreement shall be decided by a toss of a coin. The name of the arbitrator remaining on the list shall be accepted by the parties as the arbitrator, and arbitration shall commence on a mutually

acceptable date.

16.6 Authority of the Arbitrator

A. Questions of procedural arbitrability shall be decided by the arbitrator. The arbitrator shall make a preliminary determination on the question of arbitrability. Once a determination is made that the matter is arbitrable or if such preliminary determination cannot reasonably be made, the arbitrator shall then proceed to hear the merits of the dispute.

B. The parties agree that the decision or award of the arbitrator shall be final and binding. The arbitrator shall have no authority to rule contrary to, amend, add to, subtract from, or eliminate any terms of this Agreement.

16.7 Arbitration Procedures

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

A. No later than seven (7) working days prior to the scheduled arbitration meeting, the parties shall meet to discuss the arbitration and exchange the following information:

1. A statement of the issue(s). If a joint statement(s) cannot be agreed upon, individual statements will be presented;
2. A list of all exhibits each party intends to use to present its case in chief;
3. A list of witnesses each party intends to call;
4. A listing of facts to which the parties stipulate.

B. It is the intention of the parties that post-hearing briefs will not normally be written. If either party believes it necessary to write a brief, it will so inform the other party.

C. The hearing shall be conducted by the arbitrator in whatever manner will most expeditiously permit full presentation of the evidence and arguments of the parties.

D. The award shall be rendered promptly by the arbitrator, normally within thirty (30) calendar days of the conclusion of the hearing or the submission of briefs, if briefs are submitted.

E. The opinion and award shall be in writing and shall be signed by the arbitrator. The parties may agree by mutual consent that no opinion is required in a particular hearing, in which case the arbitrator shall issue only an award.

F. Expenses incident to the services of the arbitrator shall be borne by the losing party. If neither party can be considered the losing party, the arbitrator shall apportion expenses using the arbitration decision as a guide.

G. Documents implementing penalties, which are later reversed, shall be removed from the member's personnel file. This does not preclude the

maintenance of such records in the Labor Relations and Department historical grievance files, provided such documents shall not be forwarded to potential employers within or outside State government.

H. A member who is required to appear as a witness for an arbitration proceeding for the Association shall be granted time off subject to the ACOA Business Leave Bank.

I. Arbitration awards and grievances settled by a formal Letter of Grievance Resolution shall be implemented 45 days after receipt, if neither party has filed an appeal or noticed the other party of intent to appeal. The 45 day time limit may be extended by mutual agreement of the parties.

16.8 Grievance Mediation
Nothing shall preclude the parties from mutually agreeing to submit any grievance(s) not resolved at Step Three to mediation.

cited in Peralta v. Dillard, No. 09-55901 archived on March 13, 2014

ARTICLE 17 - INSURANCE

17.1 Employee Life Insurance
The Employer shall insure the life of every employee in the principal amount of two thousand ($2000).

17.2 Travel Accident Insurance
The Employer will insure the life of every member against accidental death while the member is traveling within the scope of his or her State employment in the amount of $100,000.00.

17.3 Health Insurance
A. Employer Provided Health Insurance:
The Employer will continue to provide a flexible benefits program for the provision of health insurance. Eligible employees shall pay, by payroll deduction, any difference between the Employer's contribution and the total premium required to provide coverage elected by the employee under the flexible benefits program.

Effective July 1, 2012, the Employer health insurance contribution required by Article 17.3 shall be one thousand three hundred and thirty dollars ($1330) per month per eligible employee.

Effective July 1, for each year of this Agreement, the Employer health insurance contribution will increase by an amount of money not exceeding that necessary to maintain comparable coverage under the current Select Benefits Default/Economy Plan.

B. The eligibility of the employees and their dependents for coverage and the precise benefits to be provided shall be as set forth in the insurance plan documents, consistent with AS 39.30.090.

C. The Employer shall provide written notice to the Association of changes to the level of health insurance benefits at least sixty (60) days prior to implementation.

D. The Employer expressly waives its right to require the Association to bargain collectively and the Association expressly waives its right to require the Employer to bargain collectively over all matters relating to the provision of a group health insurance plan established pursuant to AS 39.30.090.

E. The Employer shall recognize the participation of two Association Representatives as full members of the Health Benefits Evaluation Committee established between the Employer and representatives with members or employers covered by the Commissioner's Plan. The HBEC may make recommendations to the Commissioner of Administration concerning provision of efficient, effective health care benefits within the level of the Employer's contribution, including but not limited to utilization review, pre-certification requirements, cost containment measures, employee education, and preferred provider arrangements. The Commissioner of Administration will give the committee's recommendations full consideration.

cited in Peralta v. Dillard, No. 09-55901 archived on March 13, 2014

ARTICLE 18 - MEAL AND RELIEF PERIODS

18.1 Meal Break

A. Forty-two (42) Hour Schedule:

1. A duty free meal break of not less than thirty (30) minutes nor more than one (1) hour shall be allowed approximately midway of each shift.

2. An additional meal break of thirty (30) minutes shall be allowed when a member works continuously for two (2) hours or more before or after the normal work day, and such additional meal break shall be considered as time worked.

3. In the event the member is recalled within two (2) hours of the termination of their normal work day, the Bargaining Unit member shall be granted a meal break in accordance with other provisions of this Article.

B. Eighty-four (84) Hour Schedule:

1. Members working a twelve (12) hour shift shall receive a one-half (1/2) hour duty-free paid meal period. Every effort shall be made to provide the

meal break midway through the shift not earlier than three (3) hours after the start of the shift and not later than three (3) hours prior to the end of the shift.

2. Meal breaks, which are not given, shall be reported before the end of the shift. If a member does not report the missed meal break, it will be assumed the break was taken. Missed meal breaks will be treated as time worked and will be paid at the applicable rate. When a 42-hour member works a 12-hour shift, the member shall be granted a missed meal break in accordance with the provisions in this paragraph.

3. In the event the member is recalled within two (2) hours of the termination of their normal shift, the Bargaining Unit member shall be granted a meal break in accordance with other provisions of this Article.

4. An additional meal break of thirty (30) minutes shall be allowed when a member works continuously for two (2) hours or more before or after the normal shift, and such additional meal break shall be considered as time worked and will be paid at the applicable rate.

cited in Pepella v. Millard, No. 09-55987 archived on March 13, 2014

18.2 Relief Period

A. All members shall be allowed two (2) paid fifteen (15) minute relief periods in each normal workday. The Employer shall establish reasonable rules governing the taking of such relief periods.

B. Relief periods will be taken away from the immediate workstation when the member works in a public area and where the Employer can reasonably provide such separate area.

C. When working other than the normal shift, a fifteen (15) minute paid relief period shall be allowed a member during any work period of at least four (4) hours duration, or as otherwise agreed.

D. If an employee is not allowed to take a relief break, he or she shall be compensated at the appropriate rate for the missed break if it is reported before the end of the shift. If an employee does not report the missed break, it will be assumed the break was taken. In the absence of a shift supervisor, an additional (15) minutes will be paid at the appropriate rate if the missed break is reported in accordance with Department/Institutional procedures.

ARTICLE 19 - HOLIDAYS

19.1 List

All employees shall be entitled to, and compensated for, eight (8) hours at their regular hourly rate of pay for all holidays listed below:

"Holiday" in this Agreement means:

1. The first of January, known as New Year's Day.
2. The third (3rd) Monday in January, known as Martin Luther King Jr. Day.
3. The third (3rd) Monday in February, known as President's Day.
4. The last Monday in March, known as Seward's Day.
5. The last Monday in May, known as Memorial Day.
6. The fourth (4th) of July, known as Independence Day.
7. The first (1st) Monday in September, known as Labor Day.
8. The 18th of October, known as Alaska Day.
9. The 11th of November, known as Veteran's Day.
10. The fourth (4th) Thursday in November, known as Thanksgiving Day.
11. The twenty-fifth (25th) day of December, known as Christmas Day.
12. The holiday formerly known as Lincoln's Holiday shall be treated as a floating holiday. On February 12th of each year, the members' personal leave account shall be credited with eight (8) hours of personal leave.
13. Every day designated by public proclamation by the Governor of Alaska as a legal holiday.

Cited in Peralta v. Dillard, No. 09-55907 Archived on March 18, 2014

19.2 Observance of Holidays

A. Forty-Two (42) Hour Schedule:

A designated holiday will normally be observed on the calendar day on which it falls, except employees who are regularly scheduled to work Monday through Friday will observe the preceding Friday when the holiday falls on Saturday, and will observe the following Monday when the holiday falls on Sunday. Normally, only those employees designated in advance by appropriate supervision will be required to work on a designated holiday. When a designated holiday falls on an employee's scheduled day off, other than Saturday or Sunday, the day of observance will be rescheduled to another day within the pay period.

B. Eighty-Four (84) Hour Schedule:

1. Overtime pay for hours worked on a holiday shall be computed only on the hours worked between 12:01 a.m. and the following 11:59 p.m. on the holiday. This overtime compensation will be paid in addition to the eight (8) hours at the straight-time rate for holiday pay and is subject to Article 13.9.

2. If a holiday falls on the employee's regularly scheduled day off, the employee shall receive payment for the holiday for eight (8) hours at the straight-time rate provided the employee was in pay status for a portion of the last regularly scheduled workday prior to the holiday and in pay status for a portion of the next regularly scheduled workday after the holiday. Such holiday pay does not count for the purpose of computing overtime,

nor the purpose of fulfilling the work period unless worked as provided in Paragraph 1 above.

ARTICLE 20 - LEAVE

20.1 Personal Leave

A. Accrual

1. Accrual of personal leave for full-time employees is according to the following schedule:

Years of Service	Hours/Pay Period
0-2	7.39
2-5	9.23
5-10	11.08
10+	12.93

cited in Peralta v. Dillard, No. 09-5590 archived on March 13, 2014

2. Personal leave accruals for partial periods of service will be on a prorated basis. There shall be no accrual of personal leave during any pay period during which the employee is absent without approved leave.

3. Accrued personal leave is available for use after an employee has completed thirty (30) continuous calendar days of employment. Employees shall use accrued personal leave on an hour for hour basis.

4. Leave Anniversary Date. Changes in the rate of personal leave accrual shall take effect at the beginning of the pay period in which the employee completes the prescribed period of full-time service.

5. Personal leave earned during the pay period will be credited on the first (1st) day of the following pay period.

6. There is no maximum amount of personal leave that may be accrued.

B. Leave Cash In.
Each employee may cash in any amount of personal leave, but in no event shall a payment be made which reduces the leave balance below 84 hours. Payment will be made no later than one (1) pay period after the one in which the request was made.

C. Personal leave may be taken by an employee at any time business permits, upon prior permission by the facility supervisor or designee. An employee's request for personal leave will not be unreasonably denied. However for employees on the 84-hour schedule, approval will not normally be granted for

non-emergency personal business or medical appointments. This does not preclude approval of personal leave for vacation purposes, which is contiguous with the employee's days off.

D. Terminal Leave. Any employee who is separated from State service for any reason including layoff shall receive within three (3) days a lump sum payment for the number of hours of accrued personal leave at the employee's annualized hourly rate of pay.

E. Each facility will develop procedures for scheduling leave on an annual basis ensuring that leave selection is based on seniority.

20.2 Use of Personal Leave for Medical Purposes

A. Personal leave for medical purposes may be granted by the facility supervisor or designee only in the following instances.

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

1. At the discretion of the facility supervisor or designee, an employee may be granted personal leave for a medical appointment or illness or injury of the employee. The employee may be required to support said absence with a physician's certificate. Employees will not be required to provide a physician's certificate for illness of less than three (3) days unless improper use is suspected.

2. At the discretion of the facility supervisor or designee, an employee may be granted personal leave for a medical or dental appointment or illness or injury within the employee's immediate family which requires the attendance of the employee or where the employee's presence on the job could jeopardize the health of fellow employees. Under these conditions the employee may, with the consent of the employee's facility supervisor or designee, use personal leave with pay the same as if the employee were personally under a medical disability; however, such leave may not be granted unless the facility supervisor or designee is satisfied that the absence of the employee is required to attend the dependent with the medial appointment, illness, or disability. The facility supervisor or designee may require a doctor's certification showing that the employee is required to be in attendance.

3. Upon the death of a spouse or other family member of the immediate family of an employee, the employee may use not more than seven (7) working days of accrued personal leave with pay for purposes of funeral leave. Under extenuating circumstances, the facility supervisor or designee may, at his/her discretion, approve the use of additional days of accrued personal leave for this purpose. Immediate family for purposes of funeral leave means the employee's spouse, children, stepchildren, mother, father, mother-in-law, father-in-law, sister, brother, grandparent, or grandchild.

4. In each case of absence due to illness or injury it shall be the responsibility of the employee to notify the employee's supervisor of the absence immediately and to report periodically the anticipated duration of the absence. Failure to notify the supervisor may result in disciplinary action, up to, and including termination.

5. At the discretion of the facility supervisor or designee, an employee may be granted personal leave when requested by local medical officials to respond to an emergency for the purpose of donating blood.

B. Employees shall be allowed to donate personal leave to and receive donations of personal leave from employees in this unit or those represented by a different union or non-covered employees subject to the following conditions:

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

1. Each employee wishing to donate personal leave will fill out, date, and sign a leave slip showing the amount of leave to be donated subject to a minimum of four (4) hours. The leave slip will have written along the bottom, or in the space provided, "Leave donated to (employee name, Employee Identification Number)".

2. The Association will be responsible for gathering all leave donations to be forwarded to the Division of Finance for processing. The Association will transfer to the Division of Finance leave donations in complete pay period amounts, unless the donated amount does not equal a full pay period. Leave donations will be posted by the Division of Finance to the recipient's account during the pay period in which received for use from that pay period forward. Donations shall not be posted for use in a pay period prior to that in which received.

3. The Employer will convert the donated leave to dollars at the annualized hourly rate of the donor. That dollar amount will be converted to leave at the annualized hourly rate of the recipient and the appropriate hours of leave will be added to the recipient's donated leave account for use as medical or bereavement leave. The total amount of leave credited to the recipient's donated leave account shall not exceed seven-hundred and fifty (750) hours during the life of the current Agreement. Donated leave may not be used until all accrued personal leave has been exhausted.

4. Once the Employer has completed the above process, the State will not be obligated for further processing or liabilities resulting there-from. Once the donation has been transferred to the recipient, the donation cannot be withdrawn, modified, or otherwise returned to the donor's leave account. Upon the death of an employee, any unused donated leave shall be paid in cash to the employee's beneficiaries at the employee's annualized

hourly rate.

20.3 Absence and Payment for Court Leave and Jury Duty

A. An employee who is called to serve as a juror or subpoenaed as a witness, other than for Department Business shall be entitled to court leave for time spent in court and traveling to and from the institution and the court. An employee's schedule may be adjusted for the duration of the time the employee is schedule to appear provided the Employer receives twenty-four (24) hours notice.

B. Time spent in court on behalf of the Employer and time spent traveling to and from the institution to court shall be considered time worked.

C. Written documents such as a subpoena, Marshal's statement of attendance and compensation for services, per diem, and travel, may be required to support a request for court leave or assignment to court duty.

cited in Peralta v. Bellard, No. 09-55907, archived on March 18, 2014

D. A member who is required to appear in court and who does not serve for a full day, or who is placed on "on-call" status, shall return to work to complete his/her workday if reasonable time remains for such return. With Management concurrence, the member may not be required to report back to work after completing his/her court attendance and will be credited for a full duty day.

E. Employees shall turn over to the Department all monies received from the court as compensation for service rendered during hours for which the employees are paid a wage by the employer.

20.4 Time Off to Vote.

The Employer shall provide reasonable and necessary time off for Bargaining Unit members to vote in local, municipal, borough, State, and Federal elections, provided that the member is unable to vote outside working hours because of actions of the Employer.

20.5 Other Approved Absence.

Upon application and written approval of the Commissioner, an employee may be granted leave of absence without pay. Continuous service credit shall not accrue during the period of leave.

20.6 Business Leave Bank

A. There is hereby created a Business Leave Bank for the sole and exclusive use of the Association. The Bank shall be administered and managed solely by the Association and subject to periodic audits by the Employer. Each audit shall be preceded by written notice, at least forty-eight (48) hours prior to the audit. Audits shall not be more frequent than twice each calendar year. The Employer shall provide the Association with a monthly statement reflecting, by

name and amount, the additions and withdrawals and the current Business Leave account balance.

B. The first (1st) twelve (12) hours of accrued personal leave of all new Bargaining Unit members shall be transferred to the Association's Leave Bank. Upon request from the President of the Association, when authorized by the membership, the Employer shall transfer from one (1) hour to eight (8) hours from each Bargaining Unit member's personal leave account to the Association Leave Bank. Any additional leave transfers shall be in no less than one (1) hour increments.

C. Leave assessments from Bargaining Unit members new to the unit and donated personal leave will be converted to its dollar value at the hourly rate of the pay of the Bargaining Unit member from whom the leave was received. Those dollars (with benefit costs) shall be placed in the Business Leave Bank. When Business leave is used in accordance with the other provisions of this section, dollars will be withdrawn from the bank equal to the hourly rate (with benefit costs) of the Bargaining Unit member utilizing the leave times for the hours of leave taken. Leave used shall be no less than in one-hour increments.

cited in Peralta v. Willard, No. 09-55901 archived on March 13, 2014

D. The Association agrees that it will not use the Leave Bank for any purpose other than bona fide Association business. The Association further agrees that the Leave Bank balance is not returnable to personal leave accounts. Requests for absences from duty for Business Leave shall be made by the President of the Association or the Association Business Manager and addressed to the appropriate management level as designated in writing by the Employer. Each request will state specifically the purpose of the absence.

E. State reports indicating the amount of dollars deducted and transferred to the Leave Bank shall have a presumption of being accurate.

F. Business leave requests, which have an ACOA tracking number, will have a presumption of being authorized. The State shall not be held responsible in any discrepancy between the leave slip submitted by the member and ACOA.

G. Requests for absences for Correctional Officers business shall not be unreasonably denied. Time paid as Business Leave shall be considered as time worked for the purpose of meeting the minimum required workweek.

20.7 Injury Leave

A. Injury Leave Account.

1. Employer Contribution. For the life of this Agreement, the Employer shall contribute eight dollars ($8) per employee in pay status per month to the

injury leave account.

2. At the end of the fiscal year, the injury leave account shall be audited by the Employer and the funds remaining in the account shall be carried forward to the next fiscal year. Upon completion of any audit, a copy shall be provided to the Association offices.

B. Use of Injury Leave. In a case where an employee suffers a qualifying workplace injury or illness, which is accepted by the Employer and paid under the provisions of the Workers' Compensation Act, the following plan shall apply:

1. Subject to availability of funds, an employee who is qualified to receive lost wage compensation under the provisions of the Workers' Compensation Act, or whose medical bills are being covered by Workers' Compensation for an injury or illness suffered in the line of duty shall be granted paid leave of absence up to a maximum of one thousand (1000) hours during the term of this Agreement. If the employee's absence from regularly scheduled work due to injury is more than one thousand (1000) hours, payment for that absence shall be made solely as prescribed in the Workers' Compensation Act and personal leave provisions of this Agreement. The application and interpretation of the provisions of the Workers' Compensation Act are not subject to the grievance/arbitration provisions of this Agreement.

cited in Peralta v. Dillard, No. 09-55907 archived on March 19, 2014

2. Time spent on Injury Leave shall not result in a reduction to the employee's personal leave balance.

3. A Superintendent or facility manager need not require a physician's statement in cases when an employee suffers a workplace injury which is the result of a qualifying injury and results in the employee's absence from regularly scheduled work for three (3) days or less.

4. Assignment to Work. A member on either Worker's Compensation or on Injury Leave may be assigned limited duty at the discretion of the Department providing such work does not adversely affect the injury or adversely impact the member's ability to obtain medical treatment.

5 Notice. The member shall provide to the member's superintendent documentation that the member's workers' compensation claim has been accepted. The superintendent will then initiate injury leave for the member, effective with the date that workers' compensation benefits began.

20.8 Recruitment Incentive Leave
Any member that recruits a candidate that successfully completes the Academy shall have twenty (20) hours of personal leave credited to their leave account. If this same candidate successfully completes their probationary period, the member shall have an additional twenty (20) hours of personal leave credited to their leave account.

In order to be eligible for the recruitment incentive leave, the member must adhere to the Department policy on recruitment.

ARTICLE 21 - WAGES

21.1 Wage Adjustments
Effective July 1, 2012, the wage scale in effect on July 1, 2011 shall increase by two percent (2%).

cited in Peralta v. Willard, No. 09-55907 archived on March 13, 2014

Effective July 1, 2013, the wage scale shall increase by two percent (2%).

Effective July 1, 2014, the wage scale shall increase by two percent (2%).

21.2 Geographic Differential Pay
The following pay step differentials are an amendment to the basic pay plan provided in Section 1. All members working in these areas shall have the appropriate additional percentage added to their base rate of pay.

Work Facility Location	% Above Basic Pay
Bethel	50.00
Fairbanks	3.00
Juneau	5.00
Ketchikan	0.00
Nome	37.00
Seward	0.00

Effective July 1, 2012, in those locations where the geographic differential rates are reduced, the salary of current employees will be frozen for so long as they remain at the same job at the same duty station or until salary increases or changes in the Bargaining Unit Member's position result in the member receiving a higher salary than the frozen amount.

If the pay of an employee is reduced because of a demotion, the employee's geographic differential remains unchanged and continues as long as the employee remains at the same duty station.

If the pay of an employee is reduced by the reclassification of the position, the

employee will continue to receive the same pay as long as the employee meets the standards set forth above.

21.3 Spring Creek Correctional Center Duty Station Incentive Pay
Employees whose duty station is Spring Creek Correctional Center (SCCC) shall, upon the completion of one (1) consecutive year worked, be paid the equivalent of one (1) step above the earned step on the applicable salary schedule for all work performed at the SCCC.

Employees whose duty station is SCCC shall, upon the completion of two (2) consecutive years worked, be paid the equivalent of two (2) steps above the earned step on the applicable salary schedule for all work performed at the SCCC. Employees who have earned placement at the final step in the range shall receive the equivalent of the appropriate step increase established above.

cited in Peralta v. Dillard, No. 09-55907 archived on March 10, 2014

Payment of the above incentives is to begin on the first day worked following the employee's attainment of the SCCC consecutive years worked prerequisite.

Employees who transfer from SCCC to another institution shall be returned to the members' earned step on the applicable salary schedule. Employees who accept a promotion shall have the promotion calculated based on the step actually earned.

Employees who choose to work at an institution other than SCCC on regular time off will be paid at their earned step rather than the increased step established above.

21.4 Education Incentive Premium Pay
Members who possess or achieve a Bachelor's degree from an accredited institution of higher education shall receive a one time only step increase with proof of degree.

21.5 FTO Instructor Pay
A Bargaining Unit employee who is FTO-qualified shall receive a premium pay of 5% of regular wages for time in conducting scheduled training classes. The State shall pay the expenses reasonably incurred by a Correctional Officer in obtaining and maintaining certification as an FTO, when the officer is appointed and serves as an FTO.

21.6 Pay Increments
Performance incentives shall be granted to the employee effective on the employee's merit or pay increment anniversary date: unless a timely evaluation provides that the employee does not have an annual rating of "mid-acceptable" or better.

Pay increments, computed at the rate of 3.75% of the employee's base salary,

shall be provided after an employee has remained in the final steps within the given range for two years, and every two years thereafter, if, at the time the employee becomes eligible for the increment, the employee's current annual rating by the employee's supervisor is designated as "mid-acceptable or better service."

21.7 Shift Differential

A. If the work starts between 12 noon and 7:59 p.m. the employee shall receive a 3.75 percent increase over their basic wage as established by this Article for all hours worked in each such shift.

B. If the work starts between 8 p.m. and 5:59 a.m. the employee shall receive a 7.5 percent increase over their basic wage as established by this Article for all hours so worked in each such shift.

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

21.8 Hazard Pay
From the effective date of this Agreement, all Bargaining Unit members who are required to work under dangerous conditions shall receive hazard pay of 7.5 percent in four (4) hour increments so worked.

Dangerous conditions shall be defined as working at heights more than twenty-five (25) feet above ground on towers, bridgework or antenna and handling explosives so designated by the Employer, transportation by and working under a helicopter, working from low-altitude, light fixed-wing aircraft (except pilots) and underwater diving.

21.9 RDO Premium Pay
A member who works on their Regular Days Off (RDOs) shall receive time and one-half (1 ½) premium pay for all hours worked on their RDOs regardless of the number of hours worked during their regularly scheduled workweek. The pay shall not pyramid when the member is otherwise eligible for overtime premium pay by other operation of law or contract.

21.10 Prisoner Transportation Officer (PTO) Certification Expense Payment
The State shall pay the expenses reasonably incurred by a correctional officer in obtaining and maintaining qualification as a PTO, when the officer is appointed and serves as a PTO.

21.11 Commercial Drivers License (CDL) Certification Expense Payment
When an officer is appointed and serves as a PTO and is assigned work that requires a CDL, the State shall pay the expenses reasonably incurred by a correctional officer in obtaining and maintaining the CDL.

21.12 Hostage Situation Pay
Incidents may occur where a lockdown situation of a facility is necessary and a

Correctional Officer or Officers are held hostage. During the time the Officer(s) are in hostage status they shall be paid double their normal rate of pay.

21.13 General Pay Administration

A. Beginning Wage:

The minimum rate of pay in the assigned wage range for a class shall normally be paid upon initial appointment or hire. Any exception shall require the written approval of the Director of the Division of Personnel and Labor Relations prior to a Bargaining Unit member beginning employment in the class.

B. Rehired Employees:

cited in Peralta v. Willard, No. 99-55907 archived on March 13, 2014

1. If a current employee eligible for rehire is appointed to a class in which the employee previously held permanent or probationary status or to a parallel class with prior approval of the Director of the Division of Personnel and Labor Relations under Section 9.4, the appointing authority may make the appointment at the same step in the wage range for the class that the employee occupied before separation provided that the rehire occurs within a period of two (2) years. If appointed above the beginning step of the range, the employee's merit anniversary date shall be the first (1st) day following completion of one (1) year of service after rehire. An employee eligible for rehire may be appointed at a pay increment previously earned with a pay increment anniversary date the first day following completion of two (2) years of service after rehire.

2. If a person is rehired in a lower class in the same class series, the person may be appointed at any step up to the step in the range of the lower class of positions that best reflects the earned step based on creditable State service.

C. Promoted Employees:

1. An employee who has served one-half (1/2) or more of the time required to be considered for their next step increase, shall upon promotion to a position in a higher wage range in the Bargaining Unit, be placed at Step A of the higher range or such other step as will provide an increase of two (2) steps, whichever is greater.

2. An employee who has served less than one-half (1/2) of the time required to be considered for their next step increase, shall, upon promotion to a new position in a higher wage range in the next Bargaining Unit, be placed at Step A or such other step as will provide an increase of one (1) step, whichever is greater.

3. A promoted employee entering the new range at a pay increment shall be treated as if that increment had been earned in the new range and granted further increments accordingly.

D. Acting in a Higher Range:

An employee who has received prior written delegation from his/her division director or designee to perform essentially all of the duties of a specific position in a higher pay range than the employee's own for a period of not less than twelve (12) hours shall, retroactive to the first (1st) day, be paid at the step of the higher range that would be appropriate in case of promotion. Upon commencement of duties in the Bargaining Unit member's regular position, the Bargaining Unit member will return to the normal rate of pay.

Employees will be informed of the likely length of a delegation of authority at the time it is offered. Delegation to act at the higher range shall not exceed sixty (60) calendar days unless extended in writing by the Director of Personnel and Labor Relations.

cited in Peralta v. Dillard, No. 09-55901 archived on March 13, 2014

In an emergency, the prior written delegation may be waived; however, written delegation by the Division Director or designee must be received within three (3) working days of the commencement of the duties of the higher range.

It shall not be a violation of this Agreement, nor cause for disciplinary action, should an employee decline to accept a prior written delegation of authority.

E. Demotions:

1. Demotions for cause: An employee who is demoted pursuant to Section 9.5 A (Employment Status), shall enter the new range at no less than the step occupied in the higher range or such higher step as may be determined by the Director of the Division of Personnel and Labor Relations.

2. Voluntary Demotions: An employee who receives a voluntary demotion shall be paid at the step in the range of the lower class of positions that best reflects the earned step based on creditable State service. An employee who receives a voluntary demotion except through reclassification will continue to receive wages, performance incentives and pay increments received by other employees.

F. Reallocation of Position or Class:

1. An employee occupying a position which is assigned to a lower pay range or reallocated to a classification which carries a lower pay range and who

continues in the same position shall be treated as follows:

a. If the employee's current wage is the same as any step in the new range, the employee shall enter the new range at that step.

b. If the employee's current wage falls within the lower range but between steps, the employee's wages shall remain frozen until the employee's next merit anniversary date which results in the award of performance incentive, at which time the employee shall be placed at the next higher step.

c. If the employee's current wage exceeds the maximum of the new range, it shall remain frozen until it is the same as any step or falls between steps which appear on the wage schedule at the lower range, whichever is earlier. Salaries, which are frozen, shall not be subject to any wage increase including contractually negotiated adjustments or cost-of-living adjustments to the wage schedule.

cited in Peralta v. Dillard, No. 09-55901 archived on March 18, 2014

d. For purposes of subsection F.1 (a, b, and c), employees whose positions are subject to a reallocation from one (1) class to another may not be paid at a pay increment unless they have earned such step in the class occupied prior to the reallocation action or until such step is earned in the class to which the position is reallocated. Time served at Step F or a pay increment of the higher range shall be counted as time served at Step F for a pay increment of the lower range.

2. When a job class is moved from one (1) pay range to a higher pay range, the action is called a salary range change. The merit anniversary date and step placement of all employees subject to the action shall remain unchanged. Employees at a pay increment must serve two (2) years at the new range. The simultaneous allocation of some positions to other job classes does not affect the action on the remaining positions.

21.14 Pay Procedures

A. Payday:
Not later than November 1 of each year the State will publish a calendar of pay days for the following calendar year. Pay day will be the second Friday following completion of the pay period. All checks postmarked or deposited by pay day shall be considered timely.

B. Alternate Receipt Location:
Employees who are not at work by reason of being on leave or on travel status for a period anticipated to be five (5) working days or less following the payday shall be considered to have been paid timely if they receive their pay on their first (1st) day back to work after such payday. In such cases where anticipated leave or travel status exceeds five (5) days, it shall be the

responsibility of the employee to make alternate pay arrangements prior to departure.

C. Non Receipt of Check:
If the employee's pay is not deposited or the pay check is not postmarked by pay day, the member shall be entitled to penalty pay of forty dollars ($40.00) for every day thereafter that the check is late, provided the employee files notice with the State within the next regular day of business on a State Employee Notice of Pay Problem Form. Failure to provide notice to the State within the specified time period will forfeit claim for penalty pay until such notice is given. Employees who have their checks mailed to their banks shall be entitled to penalty pay only from the date of written complaint to the State.

D. Itemized Deductions:
The State shall itemize all deductions on paychecks so all employees can clearly determine the purpose for which amounts have been withheld.

Cited in Peralta v. Dillard, No. 09-55901 archived on March 13, 2014

E. Pay Shortages:
Pay shortages shall be paid promptly after receipt and verification of the employee's complaint in accordance with this section and no later than fifteen (15) days after verification of a State Employee Notice of Pay Problem Form. If not paid within the prescribed period, the penalties set forth in Section 21.7 D shall apply for any verified pay shortage greater than one hundred dollars ($100.00). Shortages of less than one hundred dollars ($100.00) shall be paid on the next regular payday.

F. Penalty pay for any single pay shortage shall not exceed four hundred dollars ($400.00).

G. Over Payments:
If an employee is overpaid, he/she will be provided with an accounting of the overpayment at least one (1) month prior to the State commencing repayment. Over payments of greater than one hundred dollars ($100.00) but less than three hundred dollars ($300.00) shall be recovered from the employee in two (2) monthly deductions from the employee's pay warrant.

Overpayments of three hundred dollars ($300.00) or over shall be recovered in not less than three (3) monthly deductions and not more than six (6) monthly deductions from the employee's pay warrant.

Overpayments discovered after twelve months or later from the time the overpayment was made shall be forgiven by the Employer, unless the overpayment was the result of fraud, deception or member's negligence.

H. Termination Pay:
When an employee is terminated, his/her wages, less terminal leave and

retirement contributions, become due immediately and shall be paid during business hours no later than the third (3rd) calendar day after termination; provided all Employer furnished equipment has been returned or accounted for.

If not paid within the prescribed period, the penalties set forth in Section 21.7 C shall apply, except that if the employee voluntarily terminates without two (2) weeks prior notice, the penalties set forth in Section 21.7.C shall not apply until after the following pay period.

All permanent employees shall be given two (2) weeks' notice or two (2) weeks pay prior to non-disciplinary termination.

21.15 Biweekly Pay Schedule

The parties agree to a bi-weekly pay cycle, based on an existing bi-weekly cycle for payroll processing. Leave accrual and any other conditions or benefits calculated based upon a semi-monthly pay cycle will be recalculated to ensure that the conditions or annual benefits are not reduced by conversion to a bi-weekly pay cycle.

cited in Peralta v. Oakland, No. RR-55907 archived on March 13, 2014

ARTICLE 22 - SHIFT ASSIGNMENT

22.1 Hours of Operation

A. Hours of operation shall be established by the Employer.

B. The Employer will notify the Association prior to implementing any large scale change in the hours of operation.

22.2 Shift Assignments

A. Shift assignments shall be made in accordance with the needs of the Employer.

B. Neither permanent assignments nor temporary assignments shall be used as a means of disciplining employees. The parties acknowledge that the changes in assignment may be appropriate as part of a corrective or investigatory action.

C. Except in emergencies or situations in which the employee agrees, shift assignment will not be changed without at least five (5) days notice; except that nothing in this Article precludes temporary reassignment of an employee because of illness, vacation, emergency, training, orientation, or similar causes.

D. When the Employer changes the shift assignment of an employee, the Employer, whenever feasible, will solicit volunteers from among the group of

potentially affected employees and select the senior employee from among the qualified volunteers in the job class. If there are no qualified volunteers, the Employer shall select the least senior qualified employee. For purposes of this section, seniority is construed as Bargaining Unit seniority.

E. Training and education opportunities shall be considered a valid business need for involuntary shift assignments.

22.3 Alternative Workweeks

A. A four (4) day workweek or other form of alternative workweek schedule may be established by written mutual agreement of the Employer and the Association, the terms of which schedules shall be set forth in Letters of Agreement.

B. The Commissioner of Corrections or designee may approve flexible work hours.

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

22.4 Shift Exchanging

A. An employee may be permitted to exchange shifts with other employees in the same classification or level provided:

1. The employee makes a written request to his/her shift supervisor(s) at least twenty-four (24) hours prior to the exchange;

2. The shift supervisor(s) approves the exchange; and

3. The employees exchanging shifts shall not be entitled to any additional compensation (e.g., overtime, holiday pay, shift differential) that they would not have otherwise received.

B. Once approved, the shift exchange becomes a regular work assignment for the period of the exchange.

C. Once approved, shift exchanges shall not be subject to further review, except to cover operational needs. If a shift exchange is denied, the shift supervisor denying the exchange shall state the reason for the denial on the written request.

22.5 Split Shifts

The Employer agrees that employees will not be scheduled to work split shifts except in those instances where there is no reasonable alternative.

22.6 Temporary Duty Assignments

A. When the Employer changes the duty assignment of an employee from an 84-hour assignment to a 42-hour assignment, or vice versa, the Employer, whenever feasible, will solicit volunteers from among the group of potentially

affected employees and select the senior employee from among the qualified volunteers in the job class. If there are no qualified volunteers, the Employer shall select the least senior qualified employee. For purposes of this section, seniority is construed as Bargaining Unit seniority.

B. The Employer shall notify the Association when temporary duty assignments exceed sixty (60) days.

ARTICLE 23 - EQUIPMENT AND CLOTHING

23.1 Equipment

The Employer shall not require employees to furnish their own tools or work implements in order to perform State work.

cited in Peralta v. Millard, No. 09-55907 archived on March 13, 2014

23.2 Uniforms

The Employer shall provide uniforms to all employees that fit properly and include the appropriate departmental patches and badges to all employees.

Item and Number Issued		Frequency of Issue
Shirts	3 each	Yearly
Trousers	3 each	Yearly
Ties	1 each	Initial issue only
Utility Jacket	1 each	When worn or damaged
Hat	1 each	Every 3 years

Effective no later than July 1, 2013, the employer shall make these available to each Officer by providing each Officer with vouchers that will be accepted by a capable supplier the Employer selects and contracts with to provide uniforms for its Officers. The contract terms must include the provision of patches and proper sizing of the uniforms.

At its sole discretion, the Employer may provide uniform and equipment items in addition to those provided for in 23.1 and 23.2, without a continuing obligation. Nothing in this Section shall preclude the employee from restitution from the State for damage or repair costs, other than normal wear and tear, incurred during the performance of duties to non-departmental issue clothing.

ARTICLE 24 - SAFETY AND HEALTH

24.1 Safety Equipment

It shall not be a violation of this Agreement nor grounds for discipline or dismissal, if a Bargaining Unit member refuses to work on an unsafe job, provided the job is found to be unsafe by the Alaska Department of Labor. Any

safety equipment required by the Division of Labor Standards and Safety regulations to make a job safe shall be supplied by the Employer. The Employer shall abide by the Division of Labor Standards and Safety regulations. Disciplinary action shall not be taken under this section until the Department of Labor has made a finding on safety. If the Department of Labor finds the job to be safe and subsequent disciplinary action is taken, the Bargaining Unit member shall have recourse through the grievance-arbitration procedure.

24.2 Monitored Health Program

A. The Employer agrees to inform Bargaining Unit members of identified hazards with which they may come into contact in accordance with the applicable regulations of the Alaska Department of Labor.

B. The parties recognize that certain Bargaining Unit members may, in the regular performance of their duties, come in contact with pathogenic, carcinogenic and toxic substances or with infectious blood, airborne or body fluid borne diseases. When a qualifying member provides proof of having undergone an annual physical, the Employer will reimburse that member for actual, receipted out of pocket, expenditures up to two hundred dollars ($200). No more than one (1) such reimbursement will be made in any twelve (12) month period.

Cited in Peralta v. Dillard, No. 08-55901 archived on March 18, 2014

24.3 Labor-Management Committee on Safety and Health

Within sixty (60) calendar days of the effective date of this Agreement, the parties agree to establish a statewide Safety and Health Committee subject to the provisions of the Agreement. The committee shall consist of not more than four (4) members representing the Employer and four (4) members representing the Association. A specific priority responsibility of the Committee shall be to make recommendations to the Commissioner of the Department of Corrections not later than ninety (90) calendar days after convening and a formal report within six (6) months. This does not preclude continuing discussions and further recommendations subsequent to the formal report. The Committee report must be given serious consideration by the Commissioner of the Department of Corrections prior to the implementation of any policy on this subject.

24.4 Fitness for Duty Testing

A. When an employee holding permanent status as a CO II or CO III is required to submit to a physical or a psychological Fitness For Duty Evaluation (FFDE), for other than promotional reasons, the following shall apply:

1. The employee shall be provided with notice of the FFDE. The notice shall include the letter to the healthcare provider arranging the evaluation and materials to support the requirement of the evaluation, such as position descriptions and Employer observations.

2. The FFDE will be conducted at no charge to the employee. Upon request,

the employee shall be provided with a complete report of the FFDE prior to any meeting with management personnel regarding the results of the examination.

3. The employee will be afforded an opportunity to meet with management personnel following the FFDE and prior to any administrative determination by the Employer regarding the employee's employment status. At the employee's request, Association Representation will be provided at any such meeting(s).

ARTICLE 25 - TRAVEL, PER DIEM AND MOVING

25.1 Travel, Per Diem, Meal Allowances, and Moving Costs
The Alaska Administrative Manual shall apply to all travel, per diem, meal allowances, and moving costs. Issues involving the correct application of the Alaska Administrative Manual are subject to the grievance and arbitration procedures contained in this Agreement.

Cited in Peralta v. Dillard, No. 09-55901 Archived on March 13, 2014

25.2 Travel Status
An employee shall be considered in travel status from the time an authorized trip begins until it ends. For purposes of interpretation, travel status will begin and end when the employee leaves and returns to his/her immediate work station if the travel begins and ends during assigned business hours, or when the employee leaves and returns to his/her home if travel begins and ends outside assigned working hours. An employee is not in travel status for local travel and or "day trips."

25.3 Compensation for Prisoner Transportation Travel Time
The following applies when an overnight stay is required during the course of a prisoner transport.

A. During normal scheduled work hours on days off. If an employee is required to travel for the purpose of prisoner transport during his or her normal scheduled work hours but on his or her regular days off, those hours shall be considered as hours worked and counted towards hours eligible for overtime compensation.

B. During hours other than normal scheduled work hours on days off. If an employee is required to travel for the purpose of prisoner transport at times other than normal scheduled work hours but on his or her regular day off, those hours shall be considered as hours worked and counted towards hours eligible for overtime compensation.

C. During normally scheduled work days. If an employee is required to travel for the purpose of prisoner transport on regularly scheduled work days, travel

time shall be considered as time worked and shall be paid in accordance with other Articles of this Agreement.

D. Time required to report for duty. Time required to report for duty for the purpose of prisoner transport is not considered travel time and shall not be considered as hours worked for purposes of compensation.

E. When an employee is assigned to work away from their duty station, travel time, exceeding what the member would normally spend commuting to and from their permanently assigned duty station, shall be considered as time worked.

25.4 Compensation for Non-PT Travel Time

All employees will be reimbursed for mileage traveled from their residence to duty sites other than their assigned facility in excess of the mileage traveled in their normal commute from their residence to their assigned facility.

cited in Peralta v. Willard, No. 09-55907 archived on March 13, 2014

25.5 Time Required to Report for Duty

Consistent with the Fair Labor Standards Act, time required to report for duty is not considered travel time and shall not be considered time worked for purposes of compensation.

25.6 Privately-Owned Conveyances

Members are not obligated to use their privately-owned vehicles for State business. However, when the State directs members to use their own vehicles for State business, reimbursement shall be consistent with IRS regulations.

ARTICLE 26 - PROTECTION OF RIGHTS

26.1 Illegal Work

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

26.2 Stolen or Damaged Property

A. Bargaining Unit members shall not be responsible for stolen, lost or damaged property, except where there is cause to suspect negligence or deliberate act. This shall include the use of credit cards or any other method of credit. In cases of Bargaining Unit members who are continuing their employment, no deduction in pay shall be made without ten (10) working days notice. If the Bargaining Unit members dispute the matter through the grievance procedure as applicable within the ten (10) working days notice, no deduction will be made until the dispute process has been completed.

B. In cases of separating Bargaining Unit members, the Employer may withhold from the final paycheck the value of the lost or damaged property and may do

so pending completion of the applicable dispute process.

C. This section is not intended to preclude disciplinary action or provide for a time-frame for the action except as otherwise provided in this Agreement.

26.3 Accidents
When an accident occurs, which in the Employer's assessment is chargeable to a Bargaining Unit member, the member shall be notified before any action is taken with respect to such chargeability. A Bargaining Unit member shall have recourse through the grievance procedure as applicable beginning with Step Two with the Commissioner of the Department of Corrections.

26.4 Association Activities
Consistent with A.S. 23.40.080, employees may engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. The Employer agrees that it will not in any manner, directly or indirectly, attempt to interfere between any of its employees and the Association; it will not in any manner restrain or attempt to restrain any employee from belonging to the Association or from taking an active part in Association affairs; and it will not discriminate against any employee because of Association membership or non-membership, or lawful Association activity.

cited in Peralta v. Pillard, No. 08-55907 archived on March 10, 2014

ARTICLE 27 - EXAMINATION OF RECORDS

27.1 Official Personnel Files
A member shall have the right to examine his/her own personnel file or files and to make a reasonable number of copies of material contained in the personnel file or files. At the time any material is placed in the member's personnel file or files by the Employer, a copy shall be forwarded to the member unless the material originated from the member.

Anecdotal records are records not contained in the member's personnel file or files. The parties agree that anecdotal records may be kept in preparation for completing performance evaluations. The member will initial or be provided a copy of any anecdotal note at the time it is originated or as soon as practical thereafter. If the note is not initialed or provided to the member, it shall be considered meaningless. All such notes shall be given to the member at the time the subsequent performance evaluation report is completed.

27.2 Association Review
An Association Official shall have the right to examine any member's personnel file as a function of that person's role as exclusive representative of the member, provided that the member has granted authorization in accordance with A.S. 39.25.080. The Employer will make available original material, or copies of the original material, for examination by the Association Representative at the place

where the personnel file is kept.

27.3 No Secret Files
No secret files shall be kept on any employee and the location of all files containing personnel records shall be made known to an employee upon request.

27.4 Confidential Information
The Association agrees that all nonpublic personnel information (per A.S. 39.25.080) provided to it by the Employer shall be used only for purposes related to the execution of the Agreement; and that the Association shall be responsible for the protection and security of information provided. Confidential pre-hire information shall not be a part of the official personnel file.

27.5 Anonymous Material
No unsigned or anonymous material shall be placed in a Correctional Officer's personnel or anecdotal file.

Cited in Peralta v. Dillard, No. 09-55907 Archived on March 13, 2014

ARTICLE 28 - EDUCATIONAL ADVANCEMENT AND TRAINING

A. Employee Initiated Requests

1. Reimbursement for all or part of costs incurred for career improvement training or education may be obtained, provided that the training or education is job related, has prior written approval of the Employer, and the Employer determines that fiscal resources for training and education are available.

2. Career improvement training or educational opportunity approved by the Employer of less than ten (10) working days duration shall normally be at no loss of annual leave or pay. Courses extending more than ten (10) working days are subject to cooperative Employer-employee financial and leave arrangements, which may include the retention of accrued leave when approved by the Employer.

3. The Employer's prior written approval shall specify the reimbursement and leave terms and amounts.

B. In order to encourage Bargaining Unit members to seek additional education and/or specialized training, the Employer agrees that when operationally practical the Employer will continue to make necessary adjustments to the member's work schedule to permit attendance for educational pursuits.

C. The Employer agrees that, when practicable, it will develop "in house" employee training and encourage on-the-job training and cross-training.

Assignment of such training opportunities will be made as equitably as possible within fiscal and staff limitations.

D. The Department will post the Training Academy schedule at each facility and office at which Correctional Officers are employed. The Department will endeavor to update the Academy schedule on a semi-annual basis. The Association will be furnished a copy of the schedule at the time of each posting. The Department will make available to Correctional Officers the process to apply for training, as well as the requirements and prerequisites for the classes the Officers are required to complete.

E. The Department will determine the appropriate lengths of time for certifications for recurrent training classes, such as CPR and firearms qualifications, and publish that information. A copy of this material will be furnished to the Association. The Department is responsible for updating lesson plans and furnishing a copy to the appropriate personnel providing the training.

cited in Peralta v. Dillard, No. 09-55907 archived on March 16, 2014

ARTICLE 29 - LEGAL INDEMNIFICATION

29.1 General

a. Definitions:

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

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

b. Claims against a member as a state employee:

In legal actions under AS 09.50.250 against a member, AS 09.50.253 provides for certification by the Attorney General and for the action to proceed exclusively against the state if the action arose from conduct within the scope of member's employment. A request for certification under AS 09.50.253 is made as provided in AS 09.50.253 and 9 AAC 33.010 and is not subject to the grievance arbitration procedure in Article 16 of this agreement.

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

If AS 09.50.253 does not apply because federal or state law expressly authorizes an action against member, Employer will provide a legal defense and indemnify member as provided in sections 2 - 6.

29.2 Providing a Legal Defense

Employer will provide a legal defense to a member named as a defendant or respondent in a legal action if member was acting within the scope of member's office or employment at the time of the incident out of which the action arose as follows: member shall have the right to counsel; however, the Employer shall have the right to determine which attorney will represent the member. If the member objects to the attorney provided by the Employer, the following process for selection of a defense attorney shall prevail: The Commissioner of the Department of Corrections and the Attorney General shall meet with the member and/or a representative of the Association in an effort to select an attorney who shall represent the member. The Attorney General shall make the final decisions; except, if in consultation with the member or his/her representative, the Attorney General determines that, due to an actual or potential conflict of interest, he/she or his/her representative cannot adequately defend both the State and the member, he/she shall select an attorney from outside the Attorney General's office to represent the member; such selection shall be subject to the approval of the member or his/her representative.

Cited in Peralta v. Willard, No. 09-55907 archived on March 16, 2014

29.3 Indemnification

A member charged in any civil action in the performance of his/her duties as required by the Employer shall not lose his/her position, pay or benefits.

Employer will indemnify a member for a judgment or legal obligation if the judgment or legal obligation arose from member's action within the scope of member's office or employment except as provided in 29.6.

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

29.4 Scope of Office or Employment

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

a. the member was employed or authorized to perform the act or omission;

b. the act or omission occurred substantially within the authorized space or time of the office or employment;

c. a purpose of the act or omission was to serve the state; and

d. the act or omission did not constitute willful, reckless, or intentional misconduct, gross negligence, or malicious conduct.

29.5 Disputes

Employer's decision to withhold a legal defense or indemnification is subject to review by complaint for breach of contract in the superior court of this state and is not subject to the grievance arbitration procedure in Article 16 of this agreement.

29.6 Punitive Damages

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

29.7 Criminal Charges

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

If a member is charged criminally for acts committed by him or her in the course of or discharge of their duties and in the scope of their employment, the member shall be entitled to reimbursement of reasonable costs and attorney's fees if the member is acquitted or the charges dropped, providing that such charges do not result from the willful commission of wrongful acts or gross negligence of the member. Disputes involving entitlements of a member to reimbursement or the amount of costs and fees to be borne by the Employer, relating to this section, shall be submitted to the grievance arbitration procedure.

ARTICLE 30 - CONCLUSION OF COLLECTIVE BARGAINING

The Agreement expressed herein in writing constitutes the entire agreement between the parties and no oral statement shall add to or supersede any of its provisions.

The parties acknowledge that during the negotiations which preceded this Agreement, each had the unlimited right and opportunity to make proposals with respect to any subject or matter not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been with the knowledge or contemplation of either or both the parties at the time they negotiated and signed this Agreement.

The parties further agree that, notwithstanding the above Section, maintenance of contract matters, should they develop, may be negotiated under the

supplemental agreement provision.

ARTICLE 31 - SAVINGS AND SEPARABILITY

31.1 Savings Clause

A. Violations

If an Article or part of an Article of this Agreement should be decided by a court of competent jurisdiction or the Alaska Labor Relations Agency or by mutual agreement of the State and the Association to be in violation of any Federal, State, or local law, or if adherence to or enforcement of an Article or part of an Article should be restrained by a court of law, the remaining Articles of this Agreement shall not be affected.

B. Replacement

If a determination or decision is made that any part of this Agreement is in violation of Federal, State, or local law, the parties to this Agreement shall convene within fifteen (15) calendar days for the purpose of negotiating a satisfactory replacement.

cited in Peralta v. Dillard, No. 09-55907 archived on March 13, 2014

C. Federal Regulations

Should this Agreement or any section or Article be found in violation of Federal regulations where compliance is required for receipt of federal funds, the State and the Association agree to convene within fifteen (15) calendar days and renegotiate the section or Article to comply with such regulations.

ARTICLE 32 - SUPERSEDING EFFECT OF THIS AGREEMENT

32.1 Superseding Effect of this Agreement

If there is conflict between the terms of this Agreement and any Personnel Memoranda or rules of the merit system, the terms of this Agreement shall supersede those memoranda or rules in their application to the Bargaining Unit.

32.2 Supplemental Agreement

This Agreement may be amended by supplemental agreements at any time during the life of this Agreement. Should either party desire to negotiate a matter of this kind, it shall notify the other party in writing of its desire to and of the specific subjects it wishes to negotiate. Authorized State and Association representatives will sign supplemental agreements thus completed. Unless otherwise agreed to in writing by both parties, supplemental agreements shall remain in effect for the duration of the Agreement.

32.3 Conditions Not Specifically Covered

In the event of any enactment by the Legislature, which creates conditions not specifically covered by this Agreement, the parties agree to confer immediately

for the purpose of arriving at a mutually satisfactory supplement covering such action. Such supplement shall become part of this Agreement.

ARTICLE 33 - LEGISLATIVE ACTION

A. The parties acknowledge that implementation of the monetary terms of this Agreement is subject to AS 23.40.215. The Employer shall submit the required legislation at the earliest possible date and both parties shall support its passage. If the monetary terms of the Agreement are rejected by the Legislature, the parties shall immediately reenter negotiations to be conducted in accordance with AS 23.40.215.

B. The Employer shall be held free of penalty pay or other punitive action for the ninety (90) day period following the date funds become available subsequent to legislative appropriation for the funding of this Agreement, except those payments which would have been required under the predecessor Agreement.

Cited in Peralta v. Dillard, No. 08-55901 archived on March 18, 2014

C. Provisions of this Agreement not requiring legislative funding before they can be put into effect shall be implemented on the effective date of this Agreement or the date otherwise specified in the Agreement.

ARTICLE 34 - PRINTING OF THE AGREEMENT

The parties agree that no later than thirty (30) days after the execution of this Agreement representatives of the Employer and the Association will meet and mutually agree on the finalized version of the Agreement.

The Employer shall reduce the Agreement to writing and will provide the Association with the completed document in Word format electronically (e-mail) within thirty (30) days of the agreed upon specifications. The Association will review the document for accuracy and notify the Employer of any discrepancies that may be found within thirty (30) days. After any discrepancies are resolved, the Association and the Employer shall each post the Agreement to their respective websites. Additionally, copies may be printed by either party as desired. The Employer is not responsible for distribution of the Agreement to the ACOA membership.

ARTICLE 35 - VERBAL OR WRITTEN AGREEMENT

No member covered by this Agreement shall be asked or required to make any written or verbal agreement that may in any way conflict with this Agreement.

ARTICLE 36 - AVAILABILITY OF PARTIES TO EACH OTHER

The parties agree that representatives of the Association and the State shall meet at reasonable times for discussions of this Agreement, its interpretations, continuation, or modification. Both parties agree that an obligation to meet expeditiously and in good faith exists.

This provision is established for the purpose of facilitating two-way communications.

ARTICLE 37 - DURATION OF THE AGREEMENT

cited in Peralta v. Willard, No. 09-55907 archived on March 13, 2014

The Agreement will remain in full force and effect from July 1, 2012 until June 30, 2015.

Either party may give the other party written notice during the period September 1, 2014 through September 30, 2014, of its desire to negotiate a successor Agreement. The parties will schedule the first bargaining session to begin no later than November 15, 2014. Prior to the first session, the Chief Spokesperson from each party shall meet to discuss ground rules to be utilized throughout the negotiation process.

For the Association:

Randy McLellan
President

Date December 4, 2013

Brad Wilson
Chief Spokesperson

Negotiators:

James Lecrone

Martin Crowley

For the State of Alaska:

Becky Hultberg
Commissioner of Administration

Date 12-10-13

Kate Sheehan
Chief Spokesperson

Negotiators:

Amy Rabeau
Bob Hibpshman
Allison Hanzawa
Dana Phillips

cited in Peralta v. Dillard, No. 09-55907, archived on March 13, 2014

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