

ARTICLE 4 - Management Rights

It is recognized that the Employer retains the right to manage its affairs, to determine the kind and nature of work to be performed and to direct the work force except as otherwise provided in this Agreement. All of the functions, rights, powers and authority not specifically modified or abridged by the express terms of this Agreement are the sole and exclusive prerogative of the Employer. Such functions, rights, powers and authority include, but are not limited to:

1. Recruit, examine, select, promote, transfer and train personnel of its choosing, and determine the times and methods of such actions;
2. Develop and modify class specifications, assign the salary range for each classification, and allocate positions to those classifications;
3. Assign and direct the work; determine the methods, materials and tools to accomplish the work; designate duty stations and assign personnel to those duty stations;
4. Reduce the work force due to lack of work, funding or other cause consistent with efficient management;
5. Alter its operations or service;
6. Discipline, suspend, demote or dismiss employees for just cause; and
7. Establish reasonable work rules; assign the hours of work and assign personnel to shifts of its designation.

ASEA/AFSCME LOCAL 52
CONTRACTUAL APPEAL PROCEDURES AND REMEDIES

Grievance Procedure-Article 16

Controversies and disputes involving the application or interpretation of a term of the agreement may be appealed through the grievance procedure. Grievances must be filed within fifteen (15) working days of the effective date of the disputed action or inaction, or the date the employee is made aware of the action or inaction, or the date of receipt of a State Response to a Notice of Pay Problem (NOPP), whichever is latest. A grievance is filed by the grievant, steward or Union Representative at Step 1 to the Employee Relations Program Manager. The Employee Relations Program Manager shall have fifteen (15) working days to respond. If not resolved at Step 1 it may be advanced by the Union Representative to the Attorney General designee, with a courtesy copy to Labor Relations, within fifteen (15) days of receipt of the Step 1 response. The Attorney General designee has twenty (20) working days to respond. If not resolved at Step 2, arbitration may be demanded within 20 working days. Arbitration (Step 3) is a hearing process in which a neutral third party determines whether, in fact, the contract has been violated and whether a remedy is appropriate.

Complaint Procedure-Article 15

The Complaint procedure is an appeal process for disputes that are not violations of the contract and for appeals involving the employment of nonpermanent and employees serving the initial probationary period. The process is similar to the Grievance procedure. If desired, Step 3 (Commissioner of Administration level) results in a meeting / hearing to discuss the Complaint. Arbitration is not a part of the complaint process; the Commissioner decision is final..

Dignity Clause-Article 6.03: Dignity Complaint Procedure

The union may file a Dignity Complaint with the Department "Human Resources Consultant" (i.e. Human Resources Business Partner) on behalf of any GGU Bargaining Unit member who is being treated by co-workers, supervisors, or managers in a way that violates "generally accepted standards of human dignity and courtesy." The Human Resource Consultant must respond within fifteen (15) working days. If the response is not satisfactory, the union can advance the Dignity Complaint to the Department Commissioner within ten (10) working days. The Commissioner must respond within 20 working days. The Commissioner's decision is final..

Classification Review-Article 17

The sole remedy to disputes regarding classification is Article 17.

Art. 17.01 Classification review of an individual position:

Update your Position Description using all the resources available to you (class specifications, other PD's, your steward, etc.) and submit it to the Union. (We must have an original signature). The Union will submit it through prescribed channels and within approximately thirty (30) days you are entitled to a final decision. The negative aspects are: 1. There is no retroactive pay (so the sooner you put in your PD the better); 2. Classifiers in the Department of Administration have the final say (so make sure you put your efforts in up front in the preparation of your PD); 3. Unless your job duties change significantly, you may only use this procedure once every twelve (12) months; 4. In rare circumstances, a position may be reclassified downwards if the duties do not warrant remaining the same or moving upwards,

Art. 17.02 Class or Class Series review:

Each year, between February and March, the union may request the Director of Personnel for up to three .03(3) class or class series reviews. The union and the Director of Personnel shall meet and confer. If the union disagrees with a decision by the Director, the union may request the Commissioner of Administration for reconsideration of the decision.

Performance Evaluations-Article 18

Article 18.01(A)(6) If dissatisfied with an evaluation you may rebut the evaluation within ten (10) working days of discussing the draft form with the Rater. Sign your evaluation at the time you attach the rebuttal. Mark “Do Not Concur,” note “Rebuttal Attached” next to your signature. The goal of the rebuttal is to Bargaining unit members the rebuttal becomes a permanent part of your record.

Article 18.03 Denial of performance incentive. Contact your stewards and/or business agent immediately if you are denied a merit incentive or if one is taken away. Appeals must be filed with the Department Commissioner within fifteen (15) working days of receipt of the finalized evaluation. The second level appeal is to the Director of the Division of Personnel, and the third level is to a “neutral third party,” essentially an arbitrator who makes a final decision based on written briefs.

Article 18.04 A bargaining unit member who is dissatisfied with a written performance evaluation which does not involve the denial of a performance incentive and the overall effectiveness on the job is less than mid-acceptable may obtain review of that evaluation. Within 30 days of receipt of the finalized copy of your evaluation, the Union may request the Director of the Division of Personnel to investigate allegations that the evaluations 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.

Safety and Health-Article 29

Art. 29.01 – The Office of Safety and Health (OSH), State of Alaska Department of Labor, is vested with the authority to investigate complaints of workplace safety and health. Complaints may be filed by an individual or union. Bargaining unit members are protected from discipline if they refuse to perform work duties found to be unsafe by OSH. <https://labor.alaska.gov/lss/oshhome.htm>

OTHER PROCEDURES

Office of Safety and Health (OSH)

The State of Alaska, Department of Labor, is vested with the authority to investigate complaints of workplace safety and health. Complaints may be filed by an individual or Employee Representative and confidentiality will be given upon request. <https://labor.alaska.gov/lss/oshhome.htm>

Unfair Labor Practices-Alaska Statute 23.40.110

A public employer or an agent of a public employer may not (1) interfere, restrain or coerce an employee in the exercise of the employee's rights guaranteed in AS 23.40.080 (self-organize, and form, join or assist an organization to bargain collectively...and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection); (2) dominate or interfere with the formation, existence or administration of an organization; (3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization; (4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, or filed an affidavit, petition or complaint or given testimony under AS 23.40.070-260.

<https://labor.alaska.gov/laborr/home.htm> <https://labor.alaska.gov/laborr/forms/ULP03brochure.pdf>

Human Rights Commission Complaints-Alaska State 18.80

The Human Rights Commission is mandated to eradicate discrimination in employment. The Human Rights Commission receives, investigates and attempts to informally resolve complaints of discrimination filed by individuals. If informal resolution fails, a hearing is held by the Commission and a determination made. <https://humanrights.alaska.gov/>

The U.S. Equal Employment Opportunity Commission (EEOC)

This is the Federal equivalent of the Alaska Human Rights Commission, and has concurrent jurisdiction <https://publicportal.eeoc.gov/Portal/Login.aspx>

The Alaska Equal Employment Opportunity Program

The State of Alaska EEOP office will accept complaints of discrimination from individuals and will try to informally resolve them. The individuals are free to pursue other remedies. <https://doa.alaska.gov/dop/eeo/>

Whistleblower-Alaska Statute 39.90.100

Whistleblower protection is afforded to those individuals who report matters of public concern to a public body. A public employer may not discharge, threaten, or otherwise discriminate against an employee because the employee reported a matter of public concern to a public body.

Office of the Ombudsman

The Office of the Ombudsman also investigates matters of public concern provided the issue is not covered by a Union Contract. The name of the individual filing the complaint will be kept confidential upon request; however, a name must be given. <https://ombud.alaska.gov/>

Ethics Complaints-Alaska Statute 39.52.310-330

Complaints about the conduct of current or former employees may be filed with the Attorney General. Complaints must be written and signed under oath. A copy of the complaint will be sent to the public employee who is the subject of the complaint. For information on what is an Ethics violation, see the Ethics Handbook for Public Employees. <https://law.alaska.gov/doclibrary/ethics/ethicsinfo.html>
<https://law.alaska.gov/doclibrary/ethics/howdo.html>

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