

Minnesota Attorney General: Administrative Rules Proceedings

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Persl 4 Employees covered by personnel rules. Unless otherwise specified, the Personnel Rules apply only to employees in the executive branch of government. All Personnel Rules apply to all classified employees.

Certain Personnel Rules cover unclassified employees which include, unless otherwise specified, all executive branch unclassified employees except those in the offices of the constitutional officers, and those employees included in M.S. 43.064 in the state university system, Higher Education Coordinating Board, and the state community college system whose salaries are established under the provisions of M.S. 43.064.

Persl 9 Labor service. Classes of positions involving unskilled labor, as designated by the Commissioner, shall comprise the labor service.

The Commissioner may at any time review the duties performed by any labor service employee. The appointing authority and the employee shall supply any information requested by the Commissioner in connection with such review. If the Commissioner thereafter determines that the duties performed are not properly those of a position in the labor service, the Commissioner shall take action deemed necessary to comply with the law and these rules.

Any personnel action affecting an employee or a position in the labor service shall be reported to the Commissioner by written notice upon such form as the Commissioner may prescribe.

A. [(a)] Reports of appointment, termination, or interruption of

employment in the labor service shall be effected as follows:

[(1) Temporary appointments shall not exceed seven months in any one calendar year; and shall be reported on forms prescribed by the Commissioner.]

1. [(2)] Employees in the labor service who have been employed for a total of [ten] six months in a period of twelve consecutive months shall be known as classified [civil service] tenured laborers and shall receive the same tenure rights and benefits given other classified employees of the state not in the labor service. The appointing authority's certificate that the employee has met these conditions will establish the employee's tenure rights. Such certification shall be in the manner and form prescribed by the Commissioner.

2. [(3)] [An employee with classified civil service labor tenure] A tenured laborer [as defined in the law] shall be given written notice of disciplinary action and shall have rights in accordance with law (MS 43.24).

B. [(b)] Promotion from the labor service:

[(1)] Employees in the labor service Tenured laborers shall be eligible to compete in promotional selection processes when they [have worked ten of twelve consecutive months preceding the promotional examination and] meet the requirements specified in the examination announcement.

Persl 10 Temporary designation of positions in the unclassified service. The

Commissioner may authorize the designation of a position in the unclassified service for a limited period of time. The appointing authority shall report to the Commissioner the description of the position and the conditions under which it is to be established, which serve to limit the duration of employment, the expected termination date and as well as the nature of the function to which it is to be assigned. Any position which has been designated in the unclassified service by the Commissioner, in accordance with this rule, and which will continue for longer than one two years, shall be reviewed at the end of the second each year by the Commissioner to determine whether it shall continue in the unclassified service. No position, except student worker positions, assigned to the unclassified service in accordance with this rule shall continue longer than three years in the unclassified service and, except as provided by M.S. 15.61, no employee shall continue in a position or positions established in the unclassified service under the provisions of this rule to perform the same function in the same agency for a total of more than three years. (M.S. 43.05)

Persl 11 Contractual services. Notwithstanding Persl Rule 4, this rule also applies to all unclassified employees in the executive branch. Specialized personal services rendered by an individual to the state under contract as an independent contractor as a part of, or incidental to, the individual's regular professional occupation, and not as a state employee, or by individuals employed by a firm contracting with the state, shall be designated as a contractual service and shall not be subject to the provisions of these rules. The appointing authority shall report each such contractual service to the Commissioner on such forms and in such detail as the Commissioner may

prescribe. If, after such investigation as is deemed necessary, the Commisssioner determines that the proposed contractual service constitutes an employer-employee relationship, the Commissioner shall so notify the appointing authority that such proposed contractual service is not consistent with the provisions of the State Personnel Law. No payment shall be made under a contract until the Commissioner has determined that such proposed contractual service is consistent with this rule. Notification of an appointing authority that a proposed contractual service is consistent with the provisions of this rule signifies only that the service does not constitute an employer-employee relationship and does not indicate that funds are available or any approval of any provision of the contract.

A. [(a)] In determining whether the services to be rendered constitute contractual service or an employer-employee relationship, the following guidelines will be used:

1. [(1)] Consultants generally contract to produce certain results or conclusions within given specifications.

2. [(2)] Consultants are generally responsible for approaches, techniques, and results.

3. [(3)] Consultant's services shall be offered and available to the public, and to the State incidentally as a prospective user of such consulting services.

(4.) [(4)] Consultant services are offered to the State as a part of or incidental to the consultant's regular occupation.

(5.) [(5)] Consultant's contracts shall extend for a limited period, with clearly specified time limited indicated in the contract, to attain specific results.

(6.) [(6)] Except where provided in the contract specifying special circumstances related to the nature and requirements of the work to be performed, consultants shall not perform services on state premises, use state equipment or supplies, or utilize state employees.

(7.) [(7)] Consultants generally deliver a completed work, usually organized into a formal report with recommendations.

(B.) [(b)] In addition, to the financial information, the contract shall specify results to be accomplished, delivery dates, and the manner in which the contracutual arrangements are to be conducted.

(C.) [(c)] Retired state employees may be used for contract employment providing their services are necessary for the completion of a specific project in which the former employee was engaged at the time of retirement.

D. [(d)] No agency of the state shall contract for the services of persons who, were they members of the classified service, would occupy positions assigned to schedule "C", except in accordance with law. (MS 43.20,

Subd. 6)

Persl 12 Career executive service. The Commissioner shall designate positions within the classified service of the State to be eligible for inclusion in the career executive service. Eligible positions will carry basic responsibility for high-level professional or scientific competence, policy determination, leadership, or the internal management and administration of a department or other major state unit. Appointments shall be made in the form and manner as prescribed by the Commissioner and shall be made only for employees who have achieved permanent or probationary classified civil service status in the class to which they are assigned at the time they have met the requirements for such eligibility and have passed a selection process developed by the Commissioner. The selection process shall take into consideration the candidate's efforts at self-development, specific goals, objectives and accomplishments, and perspective on the overall program and priorities of state government.

An employee in the C.E.S. need not requalify for the C.E.S. upon being promoted to a higher classification.

Since one of the major objectives of the C.E.S. is employee development, employees in the C.E.S. may accept temporary mobility assignments, not exceeding two years, within the state service, to other units of government, or private industry, with the approval of the Commissioner. The salary of incumbents on such assignments will not be adversely affected. (M.S. 15.51 to 15.59)

[Appointing authorities have discretion with respect to the] The frequency and amount of salary increases granted C.E.S. incumbents shall be in accordance with the compensation plan established by the Commissioner, and [but] such increases shall be related to the accomplishment of challenging objectives and overall accountabilities of the position. (M.S. 43.12, Subd. [19] 20)

Persl 18 Allocation of positions. When a new classified or unclassified position is to be established; [or] a vacant classified or unclassified position is to be filled, or the duties and responsibilities of a classified or unclassified position are changed as a result of changes in the organizational structure of an agency or other action resulting in abrupt changes in the duties and responsibilities, the appointing authority shall notify the Commissioner in the prescribed manner, and the Commissioner shall allocate the position to the appropriate class in the classified service or in the unclassified service, where possible, to a comparable class.

The Commissioner, after making an allocation or comparison, shall notify the appointing authority of that action. The action shall become immediately effective, but the appointing authority may within ten days file with the Commissioner an application for reconsideration, together with any written evidence by way of affidavits, statements or exhibits which the appointing authority may desire to have considered. The Commissioner shall act promptly upon that application and shall notify the appointing authority of the final action.

Persl 19 Reallocation of positions. If, because of [the] changes occurring over a period of time in the kind, responsibility or difficulty of work performed in [the organizational structure of an agency, changes in the duties of the position, or for some other reason] a classified or unclassified position, it seems to be improperly allocated, or compared, the Commissioner shall, independently or upon request of an appointing authority or permanent employee, investigate the duties of the affected position. Following the investigation, the Commissioner may reallocate, change the allocation of, or recompare the position to an appropriate class. In making a request for a review of a position, the appointing authority or permanent employee shall set forth specifically the changes that have occurred in the particular position which warrant the requested action along with other documentation prescribed by the Commissioner. If the Commissioner determines that a request for the reallocation of a position is not properly documented, the request shall be returned to the sender within ten days of receipt of the request, and the employee shall be immediately notified of such action. The Commissioner shall notify the affected employee and the appointing authority of the final classification decision.

Persl 21 Delegation of classification authority. The Commissioner may delegate the authority to allocate and reallocate positions to the appointing authority or the personnel designee. Such delegation shall include a list of the classes [or job families] where such delegated authority is authorized. Any delegation of such authority is subject to review by the Commissioner, who may modify any allocations made[,] for consistency with the state classification

plan. The decision of the Commissioner shall be final.

The Commissioner shall periodically review authority that has been delegated, and modify such authority to insure an effective administration of the classification program consistent with the Personnel Law.

Persl 22 Class specifications. The Commissioner shall provide, and may amend, written class specifications for any class in the classification plan. Each of the class specifications shall include the class title, a general description of the scope of the work, as well as a statement of the qualifications an incumbent should possess to enable that individual to perform the duties of the particular position with reasonable prospects of success. Where a classification consists of only one position, the approved position description may, at the discretion of the Commissioner, constitute the specification for that classification.

Specifications of the classes of positions in the classification plan are hereby declared to have the following force and effect:

A. [(a)] Definitions are descriptive and not restrictive, tending to indicate the kinds of positions allocated to classes, and shall not be construed as limiting in any way or modifying the power of the appointing authority, to appoint, direct, and control the work of employees. The use of a particular expression or illustration of duties shall not be held to exclude others not mentioned that are of a similar kind or quality.

B. [(b)] In determining the class to which any position shall be allocated, the definition of each class shall be considered as a whole, and consideration shall be given to the general duties, areas of accountability, specific tasks, responsibilities, qualifications, as well as relationships to other classes, to the extent that they clearly indicate a picture of the kind of employment the class is intended to embrace.

C. [(c)] Qualifications commonly required of an incumbent for positions of any class, such as honesty, integrity, initiative, and willingness to cooperate, shall be deemed to be implied as qualification requirements for entrance into, and continued employment in each class, even though they may not be specifically mentioned in the class specifications.

D [(d)] Specifications for any class, as interpreted herein, and job analysis data and other relevant information, where available, shall constitute the basis and source of authority for the development or modification of screening devices or techniques to be used in examining for the class.

Persl 24 Work out of class. When an employee is expressly assigned to perform all the duties of a position allocated to a higher level classification that is temporarily unoccupied for reasons other than vacation or short periods of sick leave and such work exceeds 15 consecutive work days in duration, the employee shall be paid for [the duration] all hours of the assignment, at the minimum of the salary range for the higher class or receive a one-step increase, whichever is greater. Appointments to these assignments shall be

made in accordance with Personnel Rules 81 through 91. If the assignment is to a position at an equal or lower level classification, the employee shall be paid at the employee's current rate of pay.

Persl 28 Wage and salary plan. Salary schedules adopted pursuant to the Minnesota Statutes, together with the provisions of these rules or such amendments as may be made in accordance with the law, shall constitute the official wage and salary plan for all positions in the classified service and for all unclassified positions compared to the classified service. (MS 43.12)

Persl 29 Administration of the wage and salary plan. Persl Rule 29, except for subdivisions F. [(f)] and G. [(g)], also applies to those unclassified positions which have been directly compared to a class in the classified service. The following provisions assume that funds are available and expenditures have been authorized by the Commissioner of Finance

A. [(a)] Beginning Salary. The minimum rate of pay shall normally be paid upon appointment to a class. In schedules A and C, the appointing authority may, however, make an original appointment within the salary range but not to exceed the third salary step.

All original appointments beyond the minimum rate for a class shall be documented in the form prescribed by the Commissioner and shall be based upon the exceptional qualifications of the candidate or the unavailability of candidates at the minimum rate, and consideration shall be given to the salaries of current employees in the same or related classifications.

In the Special Teachers salary schedule, appointments may be made up to and including the sixth step under conditions outlined in the compensation provisions relating to that schedule.

B. [(b)] Salary on promotion. Promotional increases shall normally be of one or two salary steps, depending on the actual increase in responsibilities assumed upon promotion, unless greater adjustment is necessary to bring the employee's salary to the minimum of the new pay range. Any promotional increase beyond that provided for above must be approved in advance by the Commissioner based on documentation to support such additional increase.

No salary increase may be granted which would place the employee's rate of pay above the authorized salary range.

C. [(c)] Salary upon reemployment or reinstatement. If a former employee is reemployed or reinstated into a class in which that employee was previously employed, the appointing authority may make an appointment at the same rate of pay the employee had been receiving at the time of separation from the state service, plus any automatic adjustments that may have been made since the employee left the state service. Appointments above such rate of pay must be approved by the Commissioner before they can take effect.

D. [(d)] Salary increases. Salary increases may be granted in accordance with law. (MS 43.12, 43.121, 43.122, 43.126, 43.127 and other applicable provisions.)

E. [(e)] Achievement awards. In addition to being eligible for normal salary increases, employees whose positions are assigned to salary Schedule A are eligible for achievement awards based on demonstrated outstanding performance. Increases in this schedule must be submitted and awarded within the context of a results-oriented management or standards of performance system which has been approved by the Commissioner. An achievement award shall be awarded as prescribed by law. Achievement awards shall be administered in a manner that will encourage and recognize excellence among employees. Achievement award increases may be granted up to 30% of the classified and 30% of the unclassified employees whose salary ranges are set by direct comparison to the classified service authorized for the department at the beginning of the fiscal year. Unclassified positions where the salaries are set by statute are not to be included in the calculations of the number of allowable increases for unclassified employees.

F. [(f)] Salary decreases. Salary decreases for just cause may be made to reduce the salary of the employee within the salary range. In the case of a permanent employee, written notice of intent to effect such reduction in pay, and the reasons for such action, shall be given to the employee at least 5 working days prior to the effective date of the reduction and a copy submitted to the Commissioner prior to the effective date of the reduction. The permanent employee so affected may request a hearing before the Board as provided in the law.

G. [(g)] Salary on transfer. An employee who is transferred to a

different department in the same class or to a similar class shall receive the salary being paid before such transfer. In any case of transfer, no employee shall receive a rate of pay below the minimum of the range for the class to which such employee has been transferred.

H. [(h)] Salary on demotion. An employee who has been demoted to a class in a lower salary range shall be paid a salary rate within the range of the class to which such employee has been demoted except as provided in law. (MS 43.12, Subd. 26.)

I. [(i)] Total remuneration. Notwithstanding Persl Rules 4 and 29, Rule twenty-nine I [(i)] applies to all classified and unclassified employees in the executive branch. Except as otherwise provided in these rules, no employee shall receive pay in addition to the salary authorized for services rendered either in the discharge of the assigned ordinary duties, or additional duties which may be performed by the employee or which the employee may undertake or volunteer to perform.

An employee may receive a separate salary from more than one state agency for hours worked during the same pay period under the following conditions:

1. [(1)] The work assignments performed for another state agency is not part of the employee's normal duties; the employee is qualified to perform the assignment; and the appointing authorities of both agencies and the Commissioner approves the assignment in advance; or

2. [(2)] An employee may be appointed to less than full-time positions in more than one state agency, provided the employee has been appointed under the provisions of these rules, and the combined established work schedules do not exceed a normal 40 hour work week.

3. [(3)] Employees in payroll status in two or more agencies for a total of 75% or more of the time, because of concurrent appointments, shall be eligible for state paid insurance in the same manner as other employees. The state paid premium for such eligible employees shall be borne by the agency in which the majority of the time is worked.

J. [(j)] Hourly rates. Hourly rates of pay shall be paid in accordance with law. (MS 16.027 and 43.01, Subd. 9)

K. [(k)] Project employment. The Commissioner may authorize a rate of pay which may exceed the maximum of the range provided by not more than 70% where skilled craft employment is on a strictly project basis. In cases of project employment, the employee shall not be entitled to any other benefits.

Project employment for purposes of this rule shall be restricted to a planned work program which will normally be completed in a specified time period and is not of a seasonal or regularly recurring nature.

Persl 31 Retroactive pay upon reallocation. Except for reallocations resulting from a position classification study of an agency or subdivision thereof initiated by the Department of Personnel or an appointing authority,

if the incumbent of a position which is reallocated upward to a class existing at the time of the request receives a probationary appointment to the reallocated position, pay for the reallocated position shall commence [up to] sixty calendar days prior to the incumbent employee's probationary appointment to that position, but in [In] no event shall such retroactive pay commence earlier than fifteen calendar days after the receipt in the Department of Personnel of a reallocation request determined by the Department of Personnel to be properly documented.

Persl 39 Eligibility to compete.

(A) [(a)] Open competitive selection processes. Competitive selection processes shall, after public notice, be open to all applicants who meet the reasonable standards or requirements fixed by the Commissioner with regard to factors that relate to the ability of the candidates to perform [with reasonable efficiency and effectiveness in] the duties of the position with reasonable efficiency and effectiveness. Persons with physical disabilities who, when demonstrated to the satisfaction of the Commissioner, could not be selected in the normal manner, shall be selected in such a manner that will fairly test their ability to perform the duties of the position.

In the case of an applicant who is blind, the department will provide the applicant with either a braille selection process, or the services of a reader chosen by the applicant with the approval of the department, or subject to the approval of the applicant, whichever means of screening is available to the department.

No applicant shall be rejected because the applicant lacks educational qualifications, unless such qualifications relate directly to the duties of the class for which the announcement is made, or where such educational requirements are established by federal agencies making grants-in-aid or otherwise contributing to state programs.

~~Persl 39~~ B. (b) Promotional selection processes. Promotional selection processes shall be open to all permanent or probationary employees in the agency or other organization unit for which the selection process is being held who meet the requirements described in the announcements. All unclassified employees appointed for a period in excess of six months, and permanent or probationary employees in the classified service (classified employees employed on an unlimited basis and all unclassified state employees) in any branch of state government who meet the established requirements may apply for promotional selection processes for positions designated as managerial or professional. Emergency, temporary and provisional employees in the classified service; unclassified employees appointed for a period of less than six months; pre-service trainees and interns are not eligible to compete in promotional selection processes for positions designated as professional or managerial.

If the incumbent of the reallocated position has not participated in the selection process for which an unexpired list exists for the class to which the position has been allocated, the employee shall be permitted to complete the same or equivalent selection process. Where significant changes over a

period of time have occurred in the kind, responsibility or difficulty of the work performed in a position, the Commissioner may certify only the name of the incumbent if:

(1) The changed classification is in the same occupational group as the initial classification of the position; and

(2) The operating agency submits a written request detailing the basis for the action; and

(3) The action leading to the change in the allocation of the position did not result from the assignment of the incumbent to work out of class in a manner so as to bypass the selection process, to a vacancy in a new position which had not been allocated to a class, or other action taken without regard for the appropriate selection process.

In any case, where the incumbent of a position which has been reallocated is ineligible to continue in that position in the new class and is not transferred, promoted, or demoted, the layoff provisions of the Personnel Law and Rules apply.

C. (c) Selection processes for incumbents of reallocated positions. The incumbent of a position which has been reallocated in accordance with Personnel Rule 19 shall be permitted to compete in the same or equivalent selection process as last given for the class to which the position has been reallocated, provided:

1. (1) The incumbent did not participate in a written or competitive oral examination process for such a position less than six months previous to the date of reallocation;

2. (2) The reallocation did not result from the assignment of the incumbent to work out of class in a manner so as to bypass the selection process or to a vacancy in a new position which had not been allocated to a class, or from other action taken without regard to the appropriate selection process.

If the incumbent examined in accord with the above successfully completes the examination process, notwithstanding the provisions of Persl 84, the Commissioner may certify only the name of the eligible incumbent, provided the position has been reallocated to another class in the same occupational category as the initial classification.

In certifying eligibles to a position reallocated to a class in a different occupational category than the initial classification of the position the provisions of Persl 84 shall apply.

Where the incumbent of a position which has been reallocated has failed to qualify in the selection process and/or otherwise is ineligible to continue in the position in the new class, the employee must be removed from the position within 30 calendar days from the date of notification to the appointing authority of the incumbent's failure to qualify.

Where the incumbent is ineligible to continue in the position and is not transferred, promoted or demoted, the lay-off provisions of the Personnel Law and Rules apply.

Persl 40 Applications and admission.

A. [(a)] The form of application. The application shall be made on forms prescribed by the Commissioner. The forms shall require information requested by the Commissioner and requested on the announcement. The application form shall contain a statement that wrongful statements on the application may subject the applicant to the penalty provisions of MS 43.35 and Persl Rules 108, 110 or 111.

B. [(b)] Selection processes. Persons [who submit] whose applications are received within the Department of Personnel on or before the last date for filing, and whose applications clearly show that the applicants meet the requirements for admission to the selection process as specified in the official announcement, shall be admitted to compete in the selection process for which they are applying. Where doubt exists as to whether an applicant meets the admission requirements, the Commissioner may conditionally authorize the applicant to participate in the selection process, but such action shall not be construed as entitling the applicant to become eligible for certification or appointment until the circumstances leading to the conditional acceptance are clarified to the Commissioner's satisfaction. Each individual whose application has been accepted shall be notified of the date,

time and place for those parts of the selection process which require the candidate to appear in person. No person shall be admitted to any part of the selection process without proper authorization, or satisfactory evidence of acceptance or conditional acceptance of the application by the Commissioner.

Persl 46 Rating results of selection processes.

A. [(a)] Appropriate scientific techniques and procedures shall be used in scoring the results of selection processes and in determining the relative ranking of competitors. Such techniques may include electronic data processing of test answer or experience and training rating forms filled out by the applicant. [In any case, the] The minimum rating for which eligibility may be achieved shall be set by the Commissioner, taking into account the number of vacancies anticipated during the term of the eligible list. Final rank may be based on all factors of the selection process and other qualifying elements as shown on the competitor's application or [the] other verified information. Final ratings of each competitor shall be determined by averaging the earned score of each part of the selection process in accordance with the weights established for each part prior to the date of any part of the selection process. All competitors may be required to obtain at least a minimum rating in each part of the selection process in order to receive a final passing score or to be rated on the remaining parts of the process.

B. [(b)] The Commissioner may announce, in advance of the establishment of an eligible list, the maximum number of competitors who shall have their

names placed on the list, or who shall be permitted to compete in any of the separate parts of the selection process. Under such procedure, those considered as having passed and who are permitted to take the remainder of the screening process shall be the set number of candidates scoring highest in the process or part thereof. The Commissioner may also establish a procedure for admitting candidates to a subsequent stage of the selection process in rank-order of score on the previous stage and candidates may be invited to complete the examination process as the need to create or enlarge an eligible list is determined.

c. [(c)] [Rating of competitors for the lower class.] Competitors failing to qualify as eligible for the class for which the screening process was conducted may, with the approval of the Commissioner, be rated with reference to their eligibility for a lower class for which a selection process is being conducted and in cases where competitors signify their willingness to accept appointment to such lower class. If found eligible, their names may then be added to the eligible list for such lower class.

Persl 47 Veterans' preference. Veterans and spouses of deceased veterans, as defined in M.S. 43.30, shall be given a credit of five points in addition to the rating earned in the competitive selection process. Names of veterans shall be placed on the list in the order of their final rating, including the preference credit. Veterans with a compensable service connected disability, spouses of deceased disabled veterans, and spouses of disabled veterans who are unable to qualify because of such disability shall be given a credit of ten points in addition to the rating earned in the competitive screening

process.

Veterans with a service connected disability of fifty per cent or more, surviving spouses of veterans so disabled, and spouses of such disabled veterans who because of the disability are unable to qualify shall be given a credit of 5 points in addition to the rating earned in the promotional selection process for their first promotion after securing public employment. (MS 43.30)

Preference points will be applied only after the ~~veteran~~ applicant has attained a final passing examination score.

Persl 61 Reemployment list. The reemployment list shall contain the names of all permanent or probationary employees laid off in the class of employment, and the names of former permanent or probationary employees in the class whose written applications made within three years of separation in good standing are approved by the Commissioner. The Commissioner shall consider the recommendation of the last appointing authority before approving applications of former employees and shall approve or disapprove each application considering the quality of service as evidenced by service reports submitted by the last appointing authority. Names shall be placed on the reemployment list based on the quality of service as indicated in the individual's performance appraisals. A person may remain on a reemployment list for up to three years and must return to state service within four years of separation.

[At the request of the employee, the] [The] name of a laid-off employee shall be placed on the reemployment list for all classes in which the employee possessed permanent or probationary status prior to layoff and for locations and employment conditions for which the employee is eligible and has expressed a willingness to accept employment. [Laid-off employees who wish to have their names placed on a reemployment list or lists must notify the Department of Personnel within 3 years of date of layoff indicating those classes, locations and employment conditions they are willing to consider] Initial notice of which classes, locations and employment conditions the employee is willing to consider shall be made to the Department of Personnel by the appointing authority at the point notification of layoff is given to the Department. Subsequent changes in availability for classes, locations, or employment conditions shall be made any time within three years of the date of layoff by

the laid-off employee.

Persl 65 Removal of names from eligible lists. In addition to the causes stated in Minnesota Statutes 43.14, the Commissioner may remove names from eligible lists permanently or temporarily for any of the following reasons:

A. [(a)] Appointment through certification from such list to fill a permanent position.

B. [(b)] Appointment to fill a permanent position through certification from a list for another class at the same or higher salary. If an employee is on more than one eligible list at the same or higher salary, the employee may be kept on other eligible lists by a written request to the Commissioner.

C. [(c)] Failure to respond within [ten] seven days from the date of mailing to a written inquiry of the Commissioner relative to availability for appointment or failure to respond within [ten] seven days from the date of mailing to a written inquiry of an appointing authority sent by certified mail relative to availability for employment.

D. [(d)] Failure to respond within two days to a telegraph inquiry from the Commissioner relative to availability for appointment.

E. [(e)] Declination of appointment under such conditions as the eligible previously indicated would be acceptable.

F. [(f)] Failure to report for duty within the time prescribed by the appointing authority.

G. [(g)] Expiration of term of eligibility on the eligible list.

H. [(h)] Failure to maintain a record of current address [and telephone number] with the department. For this purpose, the return of a letter by the postal authority, if properly addressed to the last address on the records, or the telephone number given is not correct, shall be deemed sufficient grounds for such removal of the name from the eligible list.

I. [(i)] In the case of agency promotional lists, appointment or transfer of an employee to a new agency or another duly established organizational unit.

J. [(j)] In the case of promotional lists, upon termination in the state service.

K. [(k)] In the case of promotional lists upon certification to three separate positions except that the name of an individual so removed shall continue to be referred to positions in the class in the department which gave the individual a satisfactory or better rating in the selection process for such class.

L. (1) Upon certification at least seven times to the same or different appointing authorities where no appointment is made.

(M) [(m)] Subsequent documentation that the candidate on the eligible list does not meet the requirements of the position(s) to which such candidate may be certified.

Persl 66 Restoration of names to eligible lists. Any eligible whose name is removed from an eligible list as provided above may make a written request to the Commissioner for the restoration of that individual's name to such list for the duration of the list. Such request shall set forth the reasons for the conduct resulting in the removal of the name from the list, and shall further specify the reasons advanced for restoration of the named to the list. The Commissioner, after full consideration of the request, may restore the name to the eligible list, or may refuse such request.

Former employees reinstated in the state service shall have their names restored to an existing statewide promotional list from which they were removed because of separation from the state service, provided the Commissioner approves a written application by the employee for such action and the eligible list is still in existence.

Former employees reinstated in the state service shall have their names restored to any existing agency promotional lists from which they wre removed because of separation from the state service, provided written application by the employee for such action is approved by the appointing authority and the Commissioner.

Probationary or permanent employees whose names have been removed from an agency promotional list because of transfer or original appointment with probationary or permanent status under a new appointing authority may have their names placed on the agency promotional list for the same class in the new agency, provided written application is made by the employee during the duration of the list from which the name was removed, and this application is approved by the new appointing authority and the Commissioner. An appointing authority may make any of the above cited requests on behalf of an eligible employee.

An appointing authority may make any of the above cited requests on behalf of an eligible employee.

(Filed June 28, 1974)

Persl 68 Cooperative use of eligible lists by governmental merit system jurisdictions. Upon the request of an appointing authority, and after due consideration of the needs and interests of the state service, the Commissioner, in the absence of an appropriate state eligible list or when there are not sufficient names on the state eligible list to make a complete certification, may authorize the use of an eligible list established by another governmental merit system jurisdiction employing U.S. Civil Service Commission-approved standards to make an appointment to a classified position in the state service, providing the job classification for which the eligible list was established in the cooperating jurisdiction is determined to be similar in job duties to the position for which it is to be used in the state

service and that the selection process measures knowledges, skills and abilities essential for satisfactory performance in the position in the state service for which the list will be used. Any eligible list adopted under this rule shall be considered to constitute an open competitive list and the ranking and referral of candidates' names shall be in accord with the provisions of Personnel Rules 82 and 84.

Persl 82 Methods of filling vacancy upon receipt of request for an employee. The Commissioner shall certify the proper number of names from the appropriate eligible list or authorize some other kind of appointment as provided in these rules. No appointment except an emergency appointment shall be made without such certification or prior authorization. If the position to be filled is a permanent one, the Commissioner shall certify from the agency layoff list. If no such layoff list exists, the Commissioner shall certify from the agency promotional list. In the absence of the above lists, the Commissioner shall certify from the eligible list deemed appropriate, taking into consideration any requests made by an appointing authority as to the list to be used.

However, if an appointing authority submits specific written statements that the interests of the state would be served best by certification from some list other than agency promotional lists and that the use of such list is not practical, or the Commissioner finds that there are better qualified people on other eligible lists, the Commissioner may certify names from some eligible list other than the agency promotional list. In the case of vacancy in a managerial or professional class, the Commissioner shall certify only from the layoff list, the state-wide promotional eligible list, the

reemployment list, lists secured from other jurisdictions under the provisions of Persl 68 or an open competitive list as provided for in the Personnel Law.

Persl 85 Permanent appointments from eligible lists. All vacancies in positions in the classified service having a duration in excess of six months shall be filled by appointment through certification from eligible lists except as otherwise provided in these rules. In making an appointment from an eligible list the appointing authority shall give consideration to the quality and length of service of any eligible state employees in addition to the primary consideration of the knowledges, skills and abilities of the candidates in relation to the specific vacancy and the needs of the agency. An appointment shall be effective on the date stated on the report of appointment.

Persl 97 Duration of probationary period. All original and promotional appointments shall be tentative subject to the probationary period as determined by the Commissioner of Personnel.

A. [(a)] Half to full-time employees in salary schedule A shall serve a probationary period of six calendar months. Less than half-time employees shall serve a probationary period of nine calendar months.

B. [(b)] Half to full-time employees in salary schedule B shall serve a probationary period of two calendar months. Less than half-time employees shall serve a probationary period of three calendar months.

(C.) [(c)] Half to full-time employees in salary schedule C shall serve a probationary period of four calendar months. Less than half-time employees shall serve a probationary period of six calendar months.

(D.) [(d)] Teachers, institutional education administrators, and educational supervisors shall serve a probationary period of one year.

(E.) [(e)] Employees in the management compensation schedule shall normally serve a probationary period of twelve months. An appointing authority may reduce the length of an individual period to not less than nine months, provided the employee has demonstrated the ability to effectively perform the duties and responsibilities of the position and the training requirements of Rule 166 have been met. With the approval of the Commissioner of Personnel, the probationary period may be extended to provide sufficient time for individual managers to complete mandatory minimum training requirements provided the total probationary period does not exceed two years.

[The total unpaid] (Unpaid) [lease] (leave, to the extent that it exceeds) ten or more work days (1) shall be added to the length of the probationary period.

The probationary period shall include all regular service, excluding time served in emergency, provisional, or temporary employment.

An employee who is promoted prior to the completion of the probationary period to a higher position in the same occupational field and in the same department shall complete the probationary period in the lower position by

service in the higher position. The appointing authority shall certify that employee for permanent status in the lower position at the end of the specified probationary period for such class, or its equivalent period following the employee's original appointment to the position. In the absence of certification, the employee shall be deemed to possess permanent status.

When a probationary employee is granted a leave of absence to accept a position in the unclassified service, the unfulfilled portion of the probationary period in the classified service may be completed by service in the unclassified service position, subject to a positive recommendation of the appointing authority and approval of the Commissioner, provided that the work in the unclassified position is within the same department and general occupational field and is at least equivalent in difficulty and responsibility to the work in the position in the classified service.

All employees appointed from eligible lists other than the layoff list shall be subject to a probationary period beginning the date of the new appointment.

Employees transferred from the jurisdiction of one appointing authority to that of another appointing authority may be subject to a probationary period as provided by this section of the rules.

For the purposes of this rule, classes shall be considered to be in the same occupational field when the appointing authority determines, after an analysis of the positions involved, that it is possible to evaluate the probability of satisfactory service in one class by observing service in the other class.

Persl 106 Retirement. Employees in the classified and unclassified service subject to mandatory retirement provisions of the Minnesota State Retirement Act must retire at the end of the day of their birthday in the year they must retire and may not be an employee of the state after mandatory retirement their 65th birthday. (MS 43.051) Employees in the classified and unclassified service subject to mandatory retirement provisions of the Teachers Retirement Act must retire at the end of the day on August 31 in the academic year in which they reach the age of 65 and may not be an employee of the State after mandatory retirement. (MS 354.44, subd. 1a)

Persl 109 Layoff. The appointing authority may lay off an employee in the classified service by reason of abolition of the position, shortage of work or funds, or other reasons outside the employee's control which do not reflect discredit on the service of the employee.

Duties formerly performed by laid off employees may be assigned to other permanent employees who, in the opinion of the Commissioner, hold positions in an appropriate class.

A. (a) Order of layoff. Layoff of probationary or permanent employees shall be made in inverse order of seniority by employment conditions in the class of work and agency or other organizational unit involved, provided, however, that for positions within a class requiring special licensure, certification or registration and for positions which consist of a formally recognized option within a class, seniority shall be applied within the area of specialization. Except as provided above, no probationary or permanent

employee shall be laid off from any position while any provisional or temporary employee is continuing in a position of the same class in the agency or other organizational unit involved.

Where it is determined that two or more persons in the class in the agency or organizational unit in which layoff is being made have equal seniority, the order of layoff in such tie cases shall be in inverse order of the date of acquisition of permanent status in the class, except where otherwise provided in written contracts with exclusive bargaining representatives.

Where the determination of seniority as provided in this rule does not establish definite seniority differentials, the order of layoff shall be determined by the average of the last two service ratings, if there are two, or the last such rating if there is only one, and the employee with the lowest such average or rating shall be laid off first. If no service ratings are available, the order of layoff shall be determined by the appointing authority in such a manner as to insure the retention in the state service of those employees deemed most valuable, except where otherwise provided in written contracts with exclusive bargaining representatives.

(B.) [(b)] Seniority. Seniority for purposes of layoff or recall from layoff shall be the length of service in a specific class in a specific agency or organizational unit. Leave without pay (and trainee appointments,) except as provided elsewhere in [this] (these) rules, [trainee appointments except for permanent or probationary employees ,] (and) service with a different agency or

organizational unit, shall not count toward seniority in the class, agency, or organizational unit in which the layoff is taking place.

Seniority of an employee in the class to which that employee is demoted shall be limited to service in the agency. Such seniority shall include the total time of the employee's prior seniority in the class from which the employee was demoted, as well as other classes which the Commissioner determines as being sufficiently similar to the class to which demotion occurs. Seniority shall begin on the date of original appointment and thereafter such seniority shall be increased each calendar day without interruption except:

1. (1) Upon termination.

2. (2) Upon interruption of service in the agency for any reason other than leave of absence or layoff.

3. (3) Upon expiration of eligibility for reappointment from the layoff list.

In the case of employees in a trainee class or an employee working under a provisional appointment, seniority shall be credited back to the date of hire at the time the employee begins to serve a probationary period in the same or a related classification in the same department.

C. (c) Limited interruption of employment. Any interruption in

employment not in excess of 15 calendar days, because of adverse weather conditions, shortage of materials or equipment, or for other unexpected or unusual reasons, shall not be considered a layoff.

D. [(d)] Layoff notice. The appointing authority shall notify the employee to be laid off at least 15 days before the effective date of such layoff in writing, and shall certify to the Commissioner the reasons for such layoff. In any case, when an appointing authority fails to certify before the effective date thereof that the layoff was for reasons not reflecting to the discredit of the employee, it shall be deemed a dismissal and shall be subject to the rules regarding dismissal.

In case of seasonal, intermittent, part time or other occasional appointment of employees with classified status, the appointing authority may indicate to the employee and the Commissioner at the time of the appointment the approximate date of termination of employment, and such notices shall be considered to meet the requirements of law. (MS 43.23, Subd. 2)

E. [(e)] Names of laid Off employees to be placed on eligibility lists. The names of permanent or probationary employees laid off or demoted in lieu of layoff shall be placed in order of seniority on the layoff list for the class and agency or other organizational unit from which the layoff took place. The affected employees shall have their names placed also on the reemployment list.

F [(f)] Organizational units. An appointing authority may propose

subdivision of the agency into organizational units for the purpose of employment or layoff by submitting to the Commissioner a written plan for such subdivision, together with reasons therefor. The Commissioner shall consider such proposals and the needs of the state service, and may establish organizational units within agencies. Such organizational units may be established on the basis of geographic areas, function, class of employment, or funding when there are special Federal grants, and may be different for different classes of employment. The Commissioner shall notify the appointing authority of establishment of organization units and such units shall thereafter be used for employment or layoff.

The appointing authority shall post a copy of such notice or shall notify affected employees of the establishment of such organizational units.

The Commissioner may cancel established organizational units upon notice to the appointing authority at any time the Commissioner deems such action to be in the best interest of the state service.

Persl 129 Hours of work. Notwithstanding Persl Rule 4 this rule applies to all classified and unclassified employees in the executive branch. Eight hours of work shall constitute a normal work day and forty hours a normal work week. At the request of the appointing authority, and with the approval of the Commissioner, the work week may be adjusted after consultation with the Commissioner of Administration, the Commissioner may adjust the work week and/or work day of all or a portion of an agency to meet the needs of the state service; however, in such instances, forty hours shall continue to

constitute a normal work week. Lunch and rest periods shall be determined by the appointing authority.

No state department shall operate less than a forty hour week except under provisions of law which allow for specific holidays within the work week.

The Commissioner shall prescribe the actual hours of employment for all employees in the executive branch whenever such action in the Commissioner's opinion is in the best interest of the state service.

Employees whose positions are assigned to the A, B and C and Special Teachers compensation schedules working an assigned shift beginning or ending between the hours of 7:00 p.m. and 5:59 a.m. inclusively shall receive a shift differential prescribed in Minnesota Statutes 43.12, Subdivision 16.

Employees working the regular day schedule who are required to work overtime or who are called back to work for special projects shall not be eligible for the shift differential.

Persl 131 Holidays. Holidays will be observed as prescribed by the legislature. (MS 645.44, Subd. 5)

This rule applies to all classified employees and, notwithstanding Persl Rule 4, all full-time unlimited unclassified employees in the executive branch of government, except hourly non-tenured laborers, temporary employees, emergency employees and project employees. Holiday leave provisions may be established by the appointing authority for employees not covered by this rule.

The following days are holidays and an alternate day off shall be granted

for work done on these days, except where payment is allowed under the overtime provisions of Persl 130.

New Year's Day . . . . . January 1

[President's Birthdays] Washington's and Lincoln's Birthday. . . Third Monday in February

Memorial Day . . . . . Last Monday in May

Independence Day . . . . . July 4

Labor Day . . . . . First Monday in September

Columbus Day . . . . . Second Monday in October

Veterans Day . . . . . November 11

Thanksgiving Day . . . . . Fourth Thursday in November

Christmas Day . . . . . December

A. [(a)] When New Year's Day, Independence Day, Veterans Day or Christmas Day fall on Sunday, the following day shall be considered the official holiday for employees. When these holidays fall on Saturday, the preceding day shall be considered the official holiday for employees. An employee, regardless of work schedule, shall receive the same number of holidays as an employee whose regular work week is Monday through Friday.

B. [(b)] The appointing authority in those agencies which remain open to the public for performance of public business may designate a sufficient number of employees to maintain the continuity of the agency's operations on such days.

C. [(c)] Holidays which occur within the employee's vacation or sick leave period will not be charged to the employee's vacation or sick leave time.

D. [(d)] Employees must be on the payroll on the work day immediately preceding and the work day immediately following a holiday to be eligible for such holiday.

For the purpose of determining eligibility for holiday pay, "on the payroll" shall mean those who are in pay status.

E. [(e)] Employees who work less than full-time or intermittent employees are compensated for holidays on the following basis:

Hours that would have been worked during the pay period had there been no holiday	Holiday hours earned for each holiday in the pay period
0 - 9	0
10 - 19	1
20 - 29	2
30 - 39	3
40 - 49	4
50 - 59	5
60 - 69	6
70 - 79	7
80	8

Intermittent employees shall receive a holiday if they work the day before and the day after a holiday. If such intermittent employee works on a holiday, that employee will be reimbursed for the holiday in addition to the pay for the time worked. This pay shall be in accordance with the above schedule. Seasonal employees are entitled to holidays as defined in this rule.

F. [(f)] Employees who observe religious holidays on days which do not fall on a Sunday or a legal holiday shall be entitled to such days off to observe the religious holiday upon 21 days advance written notice to the appointing authority. Such days off to observe these religious holidays shall be taken without pay, or upon the election of the employee, may be charged against accumulated vacation leave. If the appointing authority can arrange

to have the employee work an equivalent number of hours at another time during the fiscal year to compensate for the days lost for observance of religious holidays, these holidays may be taken against such hours actually worked.

Persl 133 Absence because of illness or injury for which workmen's compensation is paid by the state.

A. [(a)] Hazardous occupation injuries. Employees of the state corrections and welfare institutions, the School for the Deaf, the Braille and Sight Saving School, highway patrol officers, conservation officers and crime bureau agents who incur a disabling injury in the ordinary course of employment may be eligible for injured on duty pay. In order to be eligible for such pay, employees must have been acting in a reasonable and prudent manner in compliance with established rules and procedures of the appointing authority when the injury is incurred. Such injuries must be the direct result of aggressive and/or criminal and/or overt acts, or their consequences, by a person in the custodial control of a correctional, educational or welfare institution, or the injury must have occurred while attempting to apprehend, restrain, or take into custody an institutional inmate or resident, or supected violator of the law.

Eligible employees shall receive compensation in an amount equal to the difference between the employee's regular rate of pay and benefits paid under Workmen's Compensation. Such injured on duty pay shall not exceed an amount equal to 240 times the employee's regular hourly rate of pay for disabling injury, and shall not affect the employee's regular accrued vacation, sick leave, or over-time credits.

Persl 135 Vacation leave. This rule applies to all classified state employees in the executive branch except for hourly non-tenured laborers, emergency employees, project employees or temporary appointment employees and also applies to all full-time unlimited unclassified employees appointed for a period in excess of 6 months in the executive branch except department heads, deputies and those listed in Persl Rule 4. Annual leave provisions may be established by the appointing authority for employees not covered by this rule provided they are not specifically excluded from coverage.

Each eligible non-managerial employee shall earn vacation with pay according to the rate listed below

HOURS OF VACATION ACCRUED DURING EACH PAYROLL PERIOD OF CONTINUOUS SERVICE

Number of Hours Worked During Pay Period	0 thru 5 years	After 5 thru 8 years	After 8 thru 18 years	After 18 thru 25 years	Over 25 years
0 - 9	0	0	0	0	0
10 - 19	3/4	1	1 1/4	1 1/2	1 1/2
20 - 29	1	1 1/4	1 3/4	2	2
30 - 39	1 1/2	2	2 3/4	3	3
40 - 49	2	2 1/2	3 1/2	3 3/4	4
50 - 59	2 1/2	3 1/4	4 1/2	4 3/4	5
60 - 69	3	3 3/4	5 1/4	5 3/4	6
70 - 79	3 1/2	4 1/2	6 1/4	6 3/4	7
80 and over	4	5	7	7 1/2	8

When sick leave and/or annual leave is used in conjunction with the Workers' Compensation benefit, ~~An~~ an eligible employee receiving Workers' Compensation benefits shall accrue vacation leave for the total number of hours compensated by Workers' Compensation, sick leave and annual leave.

Changes in the rate of accumulation for eligible employees shall be made effective at the beginning of the next payroll period following completion of the specified amount of service.

Service shall begin on the date of state employment. Time on suspension or non-medical leave of absence without pay if at least one full payroll period in duration, except as otherwise provided by law or these rules, shall not be counted in determining the date of completion of a full year. An eligible employee being paid for less than the full payroll period of 80 hours will have vacation accrual pro rated for that payroll period. A vacation leave shall not be granted or accrued before completion of six calendar months of service. Upon completion of such period, vacation leave shall accrue to the employee from the beginning of the period of continuous service.

Departments or agencies may determine the time and establish schedules governing the use of vacation leave, except that in no instance will vacation leave be granted in increments of less than one-half hour except to permit utilization of lesser fractions that have been accrued.

Unused vacation leave may be accumulated to a total of ~~208~~ 224 working hours. Supervisors should make every effort to schedule vacation leaves for

their employees on a regular basis each calendar year in order to reduce the possibility of an employee losing vacation or leave because of a maximum accumulation having been exceeded. An eligible employee on military leave, as provided by these rules, shall not be limited to the maximum accrual of vacation leave. Such employee may immediately upon reinstatement from military leave take all vacation in excess of the maximum accumulation. As an alternative, the employee may elect to be credited with the vacation leave in excess of the maximum accumulation, but such leave shall be taken at a time determined by the appointing authority within two years of the date of reinstatement.

Any eligible employee who is separated from the state service by layoff, resignation, death, or otherwise, shall be paid for the number of working hours of unused vacation leave accumulated to that employee's credit.

An employee who is transferred or accepts employment under the jurisdiction of a new appointing authority, or in the unclassified service of the state, or an unclassified employee who transfers to the classified service, without interruption of services to the state shall be entitled to credit of accumulated unused vacation leave earned in the employee's former employment. Notwithstanding Persl Rule 4, any state employee except an elected employee who is separated from the state service or who is transferred or accepts employment under a new appointing authority, is entitled to pay for any accumulated leave. (MS 43.222, 43.223, 43.224)

Department heads and deputies of departments listed in M.S. [15.01,]

15A.081, Subd. 1 plus the Department of Military Affairs [Energy Agency, the Governor's Crime Commission, the Indian Affairs Board, the Higher Education Coordinating Board, the Investment Board, Iron Range Resources and Rehabilitation, Office of Hearing Examiner, the Pollution Control Agency, the State Planning Agency, and the Chancellors of the Community College System and the State University System] shall earn vacation pay at the rate of six hours per full payroll period. Covered departments heads and deputies who currently are eligible to receive more than six hours per full payroll period shall continue to accrue at the higher rate.

Employees in positions designated as managerial shall accrue vacation leave in accordance with a schedule established by the Commissioner.

Persl 136 Sick leave. This rule applies to all classified state employees in the executive branch except for [hourly] non-tenured laborers, emergency employees, project employees, or temporary appointment employees and all full-time [unlimited] unclassified employees appointed for a period in excess of 6 months in the executive branch except those listed in Persl Rule 4. Sick leave provisions may be established by the appointing authority for employees not covered by this rule provided they are not specifically excluded from coverage. Sick leave shall be earned by each eligible employee according to the rate schedule indicated below

HOURS OF SICK LEAVE ACCRUED DURING EACH PAYROLL PERIOD OF CONTINUOUS SERVICE

Number of Hours Worked During Pay Period	Less than [800] 900 hours	[800] 900 hours and maintained

0 - 9	0	0
10 - 19	3/4	1/4
20 - 29	1	1/2
30 - 39	1 1/2	3/4
40 - 49	2	1
50 - 59	2 1/2	1 1/4
60 - 69	3	1 1/2
70 - 79	3 1/2	1 3/4
80 and over	4	2

Changes in the rate of accumulation for eligible employees shall be made effective following the payroll period in which the [800] (900) hour maximum accrual is attained.

An eligible employee being paid for less than a full payroll period of 80 hours will have sick leave pro rated for that payroll period unless the employee is on Workers' Compensation, in which case sick leave would be accrued for the total hours compensated by Workers' Compensation, sick leave, and annual leave provided that sick leave or annual leave is used in conjunction with the Workers' Compensation benefit. Unused sick leave hours may be accumulated to a total of [800] (900) working hours. When the maximum limitation has been accumulated, the rate of accumulation will be reduced to two hours per full payroll period, and these hours shall be placed in a lapsed sick leave bank. Any employee who has such lapsed sick leave recorded may apply to the appointing authority to have the lapsed sick leave restored in the event of an extended illness. The appointing authority may authorize use

of all or any part of the lapsed sick leave after thorough investigation, including submission of complete medical reports providing both a diagnosis and prognosis of the illness. The appointing authority shall report to the Commissioner all instances of lapsed sick leave restored in such form as prescribed by the Commissioner.

Time off on authorized sick leave will be deducted from the first [800] 900 hours. Once the employee no longer possesses [800] 900 hours of sick leave, four working hours for each full payroll period will be accumulated until the [800] 900 maximum limit is again obtained.

Employees may utilize their allowance of sick leave, without regard to length of service, on the basis of application to and approval by the appointing authority, where absence is necessitated by inability to perform the duties of the position by reason of illness, pregnancy, or pregnancy-related problems, or disability, by necessity for medical, dental, or chiropractic care, by exposure to contagious diseases under the circumstances in which the health of employees with whom they are associated or members of the public with whom they deal may be endangered by their attendance on duty, or by illness in their immediate family for such periods as their attendance shall be necessary. Employees may also utilize not more than three days sick leave for the birth or adoption of a child. The term "immediate family" shall be limited to the spouse, minor or dependent children, or parent living in the household of the employee and where the parent has no other person to provide the necessary nursing care. Either the appointing authority or the Commissioner may require medical examination,

medical certificate, or statement from a chiropractor, as deemed necessary for approving the utilization of sick leave. A written statement from a Christian Science practitioner that the employee is a Christian Scientist and is undergoing treatment may be accepted in lieu of a medical statement. Use of a reasonable period of sick leave shall be authorized in case of death of a spouse, the parents of a spouse, and the parents, grandparents, guardian, children, brothers, sisters, or wards of the employee. In no instance will sick leave be granted in increments of less than 1/2 hour except to permit utilization of lesser fractions that have been accrued.

Employees receiving injury on duty pay shall not have this time deducted from their regular accrued sick leave balance.

A former state employee who is reappointed within four years of separation from the state service under the provisions of the act and these rules except as a provisional, temporary or emergency appointee, may have previously accumulated, unused balance of sick leave revived and credited to that employee upon approval of the new appointing authority.

An employee who transfers to the jurisdiction of another appointing authority without interruption in service to the state shall be entitled to a credit in the new employment for the accumulated unused sick leave earned in the former employment.

An employee of a merit system jurisdiction or the federal competitive service with probationary or permanent status may transfer or be appointed to

a position in the state service and may be credited with the amount of sick leave accumulated at the time of transfer, but not more than 12 days. Such credit shall be reduced proportionately as sick leave is accumulated in the state service.

Persl 141 [Maternity] Child bearing/child rearing Leave of Absence Without Pay. [Maternity] A child bearing/child rearing leave of absence shall be granted, when requested incidental to the birth or adoption of a child, to a permanent, probationary, or unclassified [pregnant employee] natural parent or adoptive [mother] parent in the classified or unclassified service for a period not to exceed 6 months. [Maternity] Child bearing/child rearing leave may be extended up to a total maximum of one year by mutual consent between the employee and the appointing authority.

Persl 144 Other leaves of absence without pay. Employees may be allowed to be absent from duty without pay as provided in law (MS 43.22) with the approval of their respective appointing authorities under the following conditions:

A. [(a)] Such leaves shall be granted only when it will not result in undue prejudice to the interests of the state as an employer beyond any benefits to be realized.

B. [(b)] An application for leave of absence for travel or study calculated to equip the employee to render more effective service to the state may be deemed to involve such compensating benefits to be measured against the

prejudice to the state involved in keeping open the position or filling it temporarily until the return of the employee.

C. [(c)] Leave, not to exceed one year, may be granted to an employee to accept a position of fixed duration outside of state service which is funded by a government or private foundation grant and which is related to the employee's current work.

D. [(d)] With ten days advance request, leave shall be granted to an employee to attend a political party caucus or political convention.

The Commissioner shall refuse to approve any proposed leave without pay which is deemed contrary to the best interests of the state.

Persl 160 The development policy. The Commissioner shall set policy, administer and conduct programs of training [and counseling] for the effective development and utilization of classified and unclassified employees, to promote individual, group and departmental efficiency and effectiveness. Training and development is a management tool and as such is utilized at the discretion of the department head. Nothing in these rules should be construed to mean that specific application of this process is a right of the employee. While the primary emphasis of training and development is to improve the state service, it should not be seen as incompatable or inconsistent with the growth of individual employees. The state, through each operating agency has an obligation to provide assistance to employees in reaching specific career goals. The form and level of this assistance is determined by the department

head after taking into consideration the affirmative action goals of the state.

A. Development defined. Employee development is an on-going process intended to help employees attain and maintain a quality of job performance that meets the needs of the state and the ~~needs~~ career objectives of individual employees. Development includes a variety of planned, purposeful activities and experiences designed to improve and/or increase the skills, knowledge and abilities of employees. Typical activities and experiences include project assignments, task force assignments, supervisory coaching, internal job assistance, orientation, job rotation, interchanges, classroom instruction and independent study.

B. Training defined. Training is a specific means or method of employee development. It consists of formal, systematic and structured activities that meet specific, predetermined learning objectives designed to directly improve and/or increase the knowledge, skills and abilities of employees. Formal training usually refers to group instruction or structured independent study. Academic or technical courses, seminars, workshops, institutes, correspondence courses, individualized reading programs, programmed instruction and computer assisted learning are typical examples of formal training. Conferences, conventions, informational meetings, site visitations are usually not included in formal training, unless they are conducted specifically for educational purposes.

C. ~~(c)~~ Individual Development Planning. Each employee shall be

counseled in terms of development and complete an Individual Development Planning Worksheet on an annual basis. First priority for expenditure of state funds will be given to those activities included in the Individual Development Plan.

D. Participation in training. Employees may be selected to participate in training and development activities in two ways:

1. Job assignment. The employee is assigned by the department to participate as a specific work assignment, or as specifically requested by the supervisor. The employee must participate in order to carry out the basic responsibilities of the job.

2. Employee initiated. At the discretion of the department head, employees may be allowed to participate in non-assigned programs to meet specific training and development needs. Participation in these programs must be beneficial to both the organization and the employee.

Persl 161 Training standards.

A. (a) Training time. The Commissioner shall develop guidelines for the amount of time employees spend in training programs. These times shall be reviewed periodically and updated as necessary. Training time shall include both time spent in formal programs, as well as on-the-job training. Where appropriate, the Commissioner shall determine minimum training times for specific programs. Department heads can assign employees to participate in

training and development programs as part of their regular job. The amount of time spent in programs of this nature is determined by the department head.

The department head can approve participation in employee initiated programs:

1. At the department head's discretion, employees may be allowed to participate in programs up to 100 hours of work release time each fiscal year The department head is authorized to grant release time for travel to and from training programs. If granted the travel time is included within the 100 hour maximum.

2. At the department head's discretion, employees may be granted a leave of absence for training that goes beyond the 100 hour limitation provided the granting of such leave will benefit the state. Leaves of absence are governed by Persl 161 (d).

3. Employees are restricted to either release time or tuition reimbursement for employee initiated training, but not both. The department head shall determine if release time or tuition reimbursement is to be granted.

B. (b) Expenses and reimbursement. The Commissioner by policy shall determine the expenses for training programs which may be reimbursed. Such reimbursement shall include expenses such as tuition, registration, laboratory and other required fees.

Expenses and reimbursements authorizations shall be reviewed annually. No expenditures can be made unless funds are available for such training. Each operating department is responsible for all necessary and legitimate expenses incurred as a result of employee participation in job assigned training and development activities.

The department head may approve reimbursement for expenses incurred in employee initiated training:

1. 75% of the tuition or registration costs.

2. Reimbursement for employee initiated courses and programs is contingent upon available funds within each operating department.

3. Full reimbursement for necessary books, materials and fees provided:

a. Books and reusable materials do not become the sole property of the employee.

b. The fees and expenses are not for similar services which are already provided by current state benefits.

c. The fees and expenses are for services that are directly related to the specific training course or program.

4. Employees are restricted to either release time or tuition for

employee initiated training, but not both. The department head shall determine if release time or tuition reimbursement is to be granted.

C. Special Programs. Special programs providing for training and development in excess of the above standards may be established with prior approval of the Commissioner. These programs are optional at the discretion of the operating department and are limited by available funds.

D. [(d)] Leaves of absence for training. Leaves of absence may be granted to employees for work-related programs consistent with the training and development policy of the state. Employees may be granted leave with or without pay, depending on the nature and length of the training program, as well as the benefits to the state. Leave of absence with pay shall be approved by the Commissioner prior to authorization. The Commissioner may identify in advance the types of programs, including stipend programs, for which leave of absence with pay is authorized, and in those instances, such authorization by the Commissioner shall be deemed approval.

Persl 166 Mandatory training. Employees appointed to a position or class which has a training requirement that must be met before the employee gains permanent status shall have one year from the date of appointment to fulfill this requirement. The employee shall gain all rights, privileges and benefits at the end of the normal probationary period as defined in Persl 101 with the exception that the employee may be terminated from that position if the training requirements are not met prior to the completion of the first year after appointment. The probationary period for employees assigned to the

management compensation schedule may be extended to a maximum of two years to provide sufficient time to complete mandatory training requirements. The Commissioner may direct the appointing authority to initiate the appropriate transaction to either demote the employee to the class from which promoted, or terminate the employee if the employee had been hired directly into the current class. (MS 43.22, Subd. 10)

Persl 167 Career training programs. Within available resources, and with prior approval of the Commissioner, each department head shall identify and provide special career training programs for state employees. Special career training programs are those designed to assist employees in meeting their career objectives, and the state in meeting its affirmative action goals. Department heads shall consider projected employment patterns in the development of these programs. Department involvement in these programs ~~is limited to areas~~ shall be related to the activities of ~~the various~~ all state agencies. Programs established under this rule may provide for training and development beyond the standards established in Persl 161.

Persl 168 Reimbursement of training expenses to the state. Employees who participate in training programs or courses longer than 40 classroom hours on state time or in training programs which are funded in whole or in part by state funds are obligated to return to a state job for a minimum period of twice the length of the training program. Department heads may establish greater time commitments for special programs. Employees who fail to fulfill the minimum time commitments are required to reimburse the state for the actual costs of the training plus all salary paid for actual time spent in

training activities. The amount of reimbursement required will be a prorated share of the actual expenses based upon the length of time the employee has returned to a state job.

The state may require the reimbursement of tuition, registration, travel and living costs paid by the state for any course or program not successfully completed, provided the state is not responsible for the failure to successfully complete the course.

Upon request of an employee or department head, the Commissioner may waive the reimbursement requirements of this section for employees who are unable to maintain a level of employment at least equivalent to the held immediately prior to training, due to layoff, illness or a disability of at least six months duration or death.

Persl 170 Human resource Manpower planning. The Commissioner shall develop and implement a comprehensive state-wide human resource manpower planning program to identify, evaluate and develop present and future manpower human resource needs of the state. The program shall be developed in cooperation with state department heads. The Commissioner shall take any action necessary in the development and implementation of the program to meet state personnel requirements.

Department heads shall supply all necessary employee information, employment projections, and necessary documentation on request of the Commissioner to provide an accurate basis for a manpower human resource

planning program.

The [manpower] human resource planning program developed by the Commissioner, together with any subsequent amendments, shall be reported to each appointing authority. Appropriate recruitment, training programs and staff development efforts will be carried out to insure effective implementation of the program.

Persl 172 Certification to occupational [Employment] categories. Each classification shall be assigned to an occupational category by the Commissioner such that a state employee [s] can clearly identify the category to which [their] his or her class is assigned. The Commissioner in assigning classes to categories shall take into consideration the major thrust of positions in a class, the categorization of similar positions in other public and private employment, the definition of categories, and other criteria contained in this rule.

Classes [designated in] assigned to the same occupational category shall, where practicable, be subject to similar treatment with respect to selection, compensation policies, training, and development. The Commissioner shall designate classes as being managerial, professional, technical/paraprofessional, office/clerical, craft, operative, laborer, or service. These categories are defined in Chapter [Nineteen] 18.

Those classes where incumbents function as supervisors shall also be designated as being supervisory. The term "supervisor" is defined in Chapter

[Nineteen] (18.) Classes assigned to the managerial category are assumed to be supervisory in nature and need only be designated as managerial.

[Consideration shall be given to the following criteria before assigning classes to categories:]

[(a) Classes assigned to the managerial category should be at a level where incumbents are accountable for dealing with significant administrative issues. For the purpose of this rule, first and second level supervisory classifications are generally not to be considered managerial.]

[(b) Classes assigned to the professional category shall be those commonly considered to require knowledge of the principles and practices of an academic field or discipline at the journeyman level in a class series.]

[Entry level classes in a series may be designated as professional provided that the journeyman and higher levels in the series are considered to be professional.]

[(c) Classes where incumbents may be expected to function as leadworkers are not to be designated as supervisory.]

Unclassified positions in the executive branch shall be categorized in the following manner:

(A.) [(a)] Those positions compared to positions in the classified service

shall be [designated in] assigned to the same occupational category as the comparable classified position.

B. [(b)] The positions of department heads and their deputies [shall be considered to be] are managerial.

C. [(c)] All other classifications shall be assigned to occupational categories on the basis of the nature of work performed and the definitions and criteria established for the classified service.

Appointing authorities may request, in writing, that the Commissioner reconsider the categorization of a classification. The Commissioner shall review each such request and shall notify the appointing authority of the final determination in writing.

Persl 181

A. [(a)] Means of travel

1. [(1)] State-owned vehicles. An employee may be permanently assigned a state-owned vehicle when required by law or if circumstances make such assignment necessary when recommended by the appointing authority and approved by the Commissioner of Administration.

Departments operating vehicles not in the Central Motor Pool shall operate them on a pool basis following rules of the Department of

Administration for the operation of such state-owned vehicles.

(2) [(2)] Privately-owned automobiles and aircraft. The compensation for use of a personal automobile is [15¢] (16¢) per mile when a motor pool vehicle is not available. Mileage shall be paid based on the most direct route according to [Highway] (Transportation) Department records. Deviations from the shortest direct route, such as vicinity driving or driving from the employee's residence where the employee's residence becomes the point of departure, shall
be shown on the expense account as a daily total, with a separate explanation outlining the reasons for such mileage. No additional reimbursement will be made for incidental expenses to the operation or maintenance of a personal automobile for state business except for payment of toll charges and parking.

The employee who elects to use a personal car on official state business with the approval of the appointing authority when traveling within the state in cases where a motor pool vehicle is available shall be reimbursed at the rate of [10¢] (11¢) per mile. The higher rate may be paid if the use of the motor pool vehicle would have resulted in a greater cost to the state than the reimbursement of the personal car rate.

The reimbursement for mileage shall be adjusted as follows:

A "base rate" gasoline price shall be established by computing the average price per gallon of gasoline delivered to the Central Motor Pool during the month of April, [1975] (1977). A "new rate" shall be calculated in

the same manner for each month commencing in July, [1975] (1977). The difference, if any between the "base rate" and the "new rate" shall be added to the sum of any changes in federal or state gasoline taxes levied on or after April 1, [1975] (1977), and such total shall be referred to as the "adjusted difference". Effective the second month following the computation of the "new rate", mileage reimbursement rates shall be increased or decreased by 1 cent for each full 10 cent increase or decrease in the "adjusted difference". In no event shall such mileage rates be less than the rates of [15] (16) cents or [10] (11) cents as set forth above.

The appointing authority may authorize travel in personal aircraft when it is deemed in the best interest of the state. Mileage reimbursement in such cases shall be 25¢ per mile and shall be based on the shortest route based on direct air mileage between the point of departure and the destination.

(3.) [(3)] Out-of-state travel. Payment for expenses for transportation by personal vehicle for out-of-state travel shall be made on the basis of a single coach air fare for each vehicle used.

If available, motor pool vehicles or state-owned vehicles may be used for out-of-state travel. When a central motor pool vehicle is used, reimbursement will be made to the Central Motor Pool. The expense of such vehicles shall be charged against the out-of-state authorization of the department.

When personal vehicles are used in driving to out-of-state locations not available by commercial transportation, travel reimbursement shall be made on

an actual mileage basis in accordance with these rules.

Any in-state travel expense directly related to an out-of-state trip shall be charged against the annual out-of-state travel allowance for the department involved.

4. [(4)] Commercial transportation. State employees may travel in-state and out-of-state by commercial transportation when authorized by the department head. Air transportation shall be by coach class except in those instances where such space is not available. When an employee has a reservation for a flight that is not going to be used, such employee shall be accountable for the cancellation of such reservation. Air charter service may be used for in or out-of-state travel where such charter service is more practical than commerical transportation.

5. [(5)] Motorcycle reimbursement. Reimbursement for use of a motorcycle on official state business, when authorized in advance by the appointing authority, shall be at the rate of 8¢ per mile. This rate shall not be subject to the escalator provision of Persl 181(a)(2).

B. [(b)] Meals and lodging

[(1)] Employees shall claim reimbursement only for the amount actually paid for meals when in a travel status. The amount must be reasonable, taking into consideration the location in which the meal is obtained.

Maximum reimbursement, including sales tax for meals within the state, shall be [$2.25] ($2.45) for breakfast, [$2.75] ($2.95) for lunch, and [$5.50] ($5.90) for dinner.

Maximum reimbursement, including sales tax for meals outside the state and on trains shall be [$3.00] ($3.20) for breakfast, [$3.50] ($3.70) for lunch, and [$7.50] ($7.90) for dinner.

The maximum reimbursement for meals shall be increased based upon the food away from home component of the consumer's price index for urban wage earners and clerical workers for Minneapolis-St. Paul, new series index (1967=100).

The base period for any adjustment shall be the July, [1975] (1977) index and the April, [1976] (1978) index. For each full 1.5 points rise in the food away from home component of the index during the base period, the maximum reimbursement for dinner shall be increased 5 cents effective July 1, [1976] (1978). The maximum reimbursement for breakfast and lunch shall each also be increased by one-half of the amount of the increase for dinner. If the increased maximum reimbursements for breakfast and lunch results in an amount not equally divisible by five the maximum reimbursement for breakfast shall be rounded-down to the next amount divisible by five, and the maximum reimbursement for lunch shall be rounded up to the next amount that is equally divisible by five.

Reimbursement for an official breakfast, luncheon, dinner, or banquet meeting shall be the actual cost of the meal.

An employee [on] (in) a travel status between employee's work station and a field assignment may claim reimbursement for meals under the following circumstances:

1. [(a)] Breakfast, providing the employee leaves home before 6:00 a.m. and is away from the permanent or temporary station.

2. [(b)] Dinner, providing such employee returns home after 7:00 p.m. and is away from the permanent or temporary station.

3 [(c)] Employees may be reimbursed for noon meals if the employee is in a travel status. Employees stationed in the seven-county metropolitan area shall not be reimbursed for meals obtained in the seven-county metropolitan area except when properly authorized as a special expense in section (d) below. In other areas the cost of a noon meal shall only be reimbursed where such employee would not ordinarily have incurred such a cost and the employee is considered in a travel status. Any request for reimbursement under this section shall include a statement in writing that the employee has complied with provisions of this section of the rules.

Because of variances in in-state and out-of-state hotel or motel accommodations, no fixed amounts are prescribed. It is the responsibility of the appointing authority to instruct the employee to use good judgment in

incurring lodging costs. Charges shall be reasonable and consistent with the facilities available.

C. [(c)] Other Fees and expenses

1. [(1)] Parking fees. Employees using state-owned or private vehicles shall be reimbursed on an actual expense basis. Charges shall be necessary and reasonable, and consistent with the facilities available. When receipt or other evidence of payment is issued to the employee, such receipt must be submitted with the expense reimbursement request.

2. [(2)] Telephone calls. Telephone calls between state offices and cities shall be made using the state telephone network if at all possible. When the state telephone network is not readily available, employees should use a WATS line where such lines are available. Use of either the state telephone network or the WATS line is explained in the state telephone directory.

In cases where it is necessary to place a regular long distance call, the employee should request that the operator bill the call to the home office telephone number. If an employee pays cash for a long distance call, reimbursement for such calls may be obtained by using an employee expense report.

State personnel who must frequently place long distance telephone calls may be eligible for a telephone credit card. The procedure for obtaining a

state telephone credit card is explained in the state telephone directory.

3. [(3)] Personal expenses. Personal expenses for purpose of this rule are defined as dry cleaning, laundry, and baggage handling. Employees continuing in a travel status in excess of one week who do not return home during that week may claim reimbursement not to exceed $3.50 per week for laundry or not to exceed $2.00 for dry cleaning and pressing expenses for each week after the first week. If an employee returns home during a period of time in which an employee continues in a travel status, the employee is not eligible for reimbursement for laundry, dry cleaning or pressing in the subsequent week after such return. Receipts must accompany the claim for reimbursement. The employee's judgment is to be used regarding baggage handling expense. No reimbursement shall be made for personal phone calls, valet service, or similar personal expenses.

D. [(d)] Special expenses. Special expenses shall require prior approval of the appointing authority and the approval of the Commissioner of Personnel, who shall issue guidelines regarding eligible special expenses. This section also applies to any state board, council, or commission member.

E. [(e)] General provisions (1) Station assignments. The appointing authority shall assign employees permanent or temporary stations with such assignments to be in the best interest of the state and travel origin and records shall be based on these permanent or temporary assigned stations. A department head reporting deviation from this provision shall submit a request in accordance with the rules relating to special expenses. Employees away

from such designated stations on unfinished assignments may be allowed mileage reimbursement for trips to their stations on alternate weekends. An employee may return to the station each weekend at state expense if the cost of such return is less than that of remaining in the field.

F. [(f)] Payment of expenses

1. [(1)] Expense accounts. Expense accounts for all state employees shall be submitted to the Commissioner of Finance on the prescribed form (see Accounting Procedures Manual, Section E-2). If a receipt is required and the receipt has been lost or is otherwise unavailable, an affidavit stating the facts covering the expenditure shall accompany the expense account.

A department may be billed directly for expenses such as registration or conference fees, travel agencies, hotels and motels. Such billings shall include the name of the employee and the nature and date of the expense. Payment shall be processed promptly and charged to the allotment classification for travel.

2. [(2)] Advances. A department may upon request advance an estimated amount for approved travel expenses, if greater than $50.00, to an employee who will be traveling on state business.

The authority for advance of travel expense payments may not exceed the maximum allowance permitted under state travel regulations.

In the case of travel expense advances departments having imprest cash funds shall make the advance from such accounts if possible. In other instances, departments shall prepare a statement with supporting expense voucher clearly stating the advance is being made under provisions of Minnesota Statutes, Section 43.33. In all cases after the actual expense is determined, a final employee report for the trip and/or period for which the advance was made shall be prepared and forwarded to the Department of Finance. The advance payment transaction date and transaction number must be shown on the final employee expense report. The final expense voucher shall include the number of the state warrant covering the advance payment. If additional payment is due the employee, an additional state warrant shall be prepared in the usual manner. If an advance payment exceeds the actual expenses, the employee shall return the excess which shall be deposited in accordance with provisions established by the Commissioner of Finance.

G. [(g)] Insurance. Department heads shall require proof of automobile liability insurance in the minimum amount required by law before approving travel involving private automobile mileage allowance.

Any employee flying a personal aircraft on official state business must show proof of adequate liability insurance coverage by a firm licensed to do business in Minnesota. Such coverage shall be in an amount of $50,000 minimum for each passenger seat, $50,000 per person, and $150,000 per accident for public liability for bodily injury, and $50,000 property damage.

It shall be the responsibility of the employee to immediately notify the

appointing authority of any change in insurance coverages under such employee's automobile and aircraft liability insurance.

H. [(h)] Automobile leasing. An employee may be reimbursed for car rental expenses where the use of a state car in the conduct of state business is not possible and the use of a rental car is the only or the least expensive method of transportation. An employee using such rental car must indicate the need for the rental and attach an itemized statement for the rental upon requesting reimbursement.

Persl 182 Relocation expenses

A. [(a)] Authorization. An employee shall be reimbursed for relocation expenses under the provisions of this rule if the conditions of Persl [182(b)(6)] [182 B.6.] are met and if:

1. [(1)] The appointing authority determines that an employee is required to be transferred or reassigned to a different work station, when the transfer or reassignment is not for the employee's sole benefit, or:

2. [(2)] The employee must change residence as a condition of employment, or:

3. [(3)] The employee accepts an appointment at a higher salary range, or:

4. [(4)] The employee is reassigned, transferred or demoted to a vacant position in the employee's state department or agency due to the abolishment, transfer of the function to another governmental jurisdiction or private enterprise, removal to a new location or to another state agency of all or a major portion of the operations of the employee's appointing authority.

An employee transferred under these conditions shall receive prior authorization before incurring any expenses authorized by this rule.

An employee who is demoted during the probationary period after the trial period, shall receive [these] those relocation expenses provided in section [(b)(3) and (b)(4)] B. 3. and B. 4..

Relocation expenses authorized by this rule may be paid to a person initially accepting employment in the state service with the advance approval of the Commissioner. Payment shall be made only after the person becomes a state employee.

B. [(b)] Relocation expenses covered

1. [(1)] Travel status. An employee transferred or reassigned at the convenience of the state service as defined in paragraph [(a)] A. above shall be considered in a travel status for a period of up to sixty days and shall be authorized to be reimbursed for return to such employee's original work station once a week. During the first sixty days the state may also reimburse

the cost of transporting the employee's spouse twice during such period, including the cost of mileage, meals and lodging, but not to exceed a total period of seven calendar days. In addition, the state may reimburse the employee's family for reasonable transportation costs to the new work station at the point that the move is made, including mileage, meals and lodging. Such expenses shall be reimbursed consistent with these rules.

2. [(2)] Realtor's fees. The state may pay the cost of realtor's fees on the home being sold by the employee but in no case shall such payment exceed [$2,000.00] $3,000.00.

3. [(3)] Moving expenses. The state shall pay the cost of moving and packing of household goods. The employee shall obtain two or more bids for packing and moving of household goods. Approval shall be given by the appointing authority before authorizing a mover to pack and ship household goods. The state shall also pay for the cost of moving house trailers where that is the domicile of the employee, including the cost of transporting blocks, skirts, or other attached fixtures. The employee shall obtain two or more bids.

4. [(4)] Miscellaneous expenses. The employee shall be reimbursed up to a maximum of $250.00 for miscellaneous expenses directly related to a move. Such expenses shall be reimbursed when supported by documentation. These expenses may include such things as disconnecting and connecting appliances and/or utilities, or other costs associated with the purchasing or rental of a new residence not covered elsewhere in this rule.

5. [(5)] Liability. Neither the State of Minnesota nor any of its agencies shall be responsible for loss or damage to any employee's household goods or personal effects as a result of such transfer.

6. [(6)] Eligibility. In order to be eligible for any payment of moving expenses or to be eligible for reimbursement of and expenses under this section, the new permanent work station shall be at least 35 miles from the current work station or to change in residence required by an appointing authority as a condition of employment.

Persl 203 "Allocation" means the original assignment of an individual position to an appropriate class, or changes in assignment resulting from changes in the organizational structure of an agency or abrupt changes in the duties of a position, on the basis of the kind, difficulty, and responsibility of the work performed in the position.

Persl 224 "Occupational category" means one of the groups of classes established under Persl 172, and defined in Personnel Rules 208, 222, 225, 237, 243, 246, and 247.

APPROVED AS TO FORM AND LEGALITY

DEC 20 1977 19

WARREN SPANNAUS, ATTORNEY GENERAL

BY /s/ Michael B. Miller

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 20 1977
Joan Anderson Growe
Secretary of State
4:20 P.M.

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

RECEIVED
AUG 25 1977
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, REALLOCATION PAY, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES

STATEMENT OF EVIDENCE

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of Hearing Examiners, 1745 University Avenue, Room 300, St. Paul, Minnesota, and in support thereof, the Department of Personnel will introduce the following evidence:

I. Testimony

Testimony will be presented explaining the various changes proposed, the conditions which led to the needs of the proposed changes including a summary of specific legislation and legislative intent and of specific amendments to the contracts between the State of Minnesota and the unions representing its employees plus the problems in the interpretation of the present rules which are clarified in the proposed changes. It is anticipated that Jim Lee, Ronald Olson, Mark Sundquist and Julie Vikmanis of the Department of Personnel will explain each rule change and show that it is required by law, contract amendment or reasonably necessary as a change in the personnel process.

II. Documentary Evidence

We intend to introduce the following documentary evidence at the hearing in this matter:

A. Memoranda documenting the review by the Personnel Board of the proposed Rule amendments.

B. Correspondence with Representative Carl M. Johnson on the exclusion of Higher Education Coordinating Board employees from the Personnel Rules dated May 6, 1977.

C. Reorganization Order 79 dated October 29, 1976.

D. Agreements between the State of Minnesota and AFSCME Council 6, Teamsters Local 320, the State Residential Schools Education Association, the International Union of Operating Engineers Local 34 and IMAGE.

E. Letter of understanding between the Minnesota Government Engineer's Council and the State of Minnesota dated April 11, 1977.

F. The Career Executive Service salary plan.

G. Memo on relocation expenses. 8/19/77

Depts Exhibit No. M

File No.

Date

III. Statutes, Laws and Rules

The Department will be citing the following statutes, laws and rules:

Minn. Stat. Section 15A.081 subd. 1 as amended by Minn. Laws 1977, Ch. 35
Minn. Stat. Ch. 43 (1976)
Minn. Laws 1977, Ch. 40 Section 1, 452, 455 Section 23

Richard W. Session
Commissioner of Personnel

Dated: August 25, 1977

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

RECEIVED
AUG 25 1977
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, REALLOCATION PAY, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES

STATEMENT OF NEED

The above captioned rules are amendments to existing rules of the Department of Personnel. The last time the above captioned rules were amended was March 15, 1976.

The need to adopt these rules arises because of the need to implement Minn. Laws 1977, Chapter 455 Section 23, agreements negotiated between the State of Minnesota and unions representing its employees, and to bring the rules into conformity with Minn. Laws 1977, Chapter 452 and rules of operation of the Office of the State Register. The authority of the Department of Personnel to promulgate and adopt rules is Minn. Stat. 43.05, subd. 2, 43.12, 43.127, 43.32, 43.323, 43.326 and 43.327.

Specifically:

Minn. Rule Persl 4 is amended to exclude employees of the Higher Education Coordinating Board whose salaries are established under Minn. Stat. Section 43.04 from the coverage of the Personnel Rules. The amendment is necessary to implement an agreement with Representative Carl M. Johnson and the Higher Education Coordinating Board and to treat all employees whose salaries are established pursuant to Section 43.064 in the same manner.

Persl 9 is amended to conform to the amendments to Minn. Statutes Section 43.09, subd. 3 enacted as Minn. Laws 1977, Chapter 452 Section 6 which implemented the collective bargaining agreement between the State and the Minnesota State Employee's Union, AFSCME Council 6.

Persl 10 is amended to clarify what information is needed when a Rule 10 unclassified position is requested, to change when such positions are reviewed from the end of one to two years in order to reduce administrative problems and paper work, and to prevent individuals from being continually reappointed as unclassified employees to what is in effect the same job thus circumventing the examination process.

Persl 11 is amended to conform to Reorganization Order 79 which transferred the administration of Persl 11 to the Department of Administration.

Persl 12 is amended to correct an incorrect statutory citation and to provide statewide consistency in the administration of CES salary increases by providing a uniform method for progression increases based on performance.

Persl 18 and 19 are amended to conform to the agreement between the State and AFSCME Council 6 in order to provide consistency for all state employees and avoid administrative problems as to what an allocation or a reallocation is.

Dept's Exhibit No. K

File No.

Date

Persl 21 is amended to clarify that appointing authorities may be delegated the authority to reallocate as well as to allocate positions because of the greater distinction between allocation and reallocation in Persl 18 and 19.

Persl 22 is amended to permit the position description to be utilized as the classification specificiation for single position classes since, in that case, a position description is a better description of the job than the class specification which is meant to describe a group of jobs. Subd. (d) is amended to broaden the base of information available for use in selection to bring examinations into conformance with EEO Guidelines and other changes in equal employment laws as they occur.

Persl 24 is amended to clarify that employees eligible to be paid for work out of class are to be paid for all time worked out of class and thereby provide consistency and prevent misinterpretation of the intent of that provision.

Persl 28 is amended to clarify that the salary schedule applies to both classified and unclassified employees as Minn. Stat. Section 43.128 requires that they be treated alike.

Persl 29 is amended to require documentation of all appointments beyond the minimum rate for the class in a standard form to ensure statewide consistency in the salary administration.

Persl 29(i) is amended to clarify that the insurance premium for employees who are eligible for state paid insurance but who work for more than one agency shall be paid by the agency for who the employee works the greater amount of the time to avoid confusion as to whom would pay such premiums.

Persl 31 is needed to conform to a contract change between the State and AFSCME Council 6 to make salary provisions consistent throughout state service and to ensure that all employees are compensated on the basis of a level of the work they are actually performing.

Persl 39 is amended to provide that temporary, emergency and professional employees without status in another class are noteligible to compete in professional or managerial promotion selection processes to ensure that the employee will still be in state service at the time the final selection is made. It is further amended to conform to the agreement between the State and AFSCME Council 6 to provide consistency throughout state service and to retain the incumbent of a reallocated position in the position whenever possible by permitting incumbents to complete the selection process for the class to which the position has been reassigned regardless of whether they participated in the last examination for that classification. The six month interval on written exams and competitive orals is needed to ensure that a proper test/retest interval is maintained.

Persl 40 is amended to clarify that applications must be received within the Department of Personnel on or before the last date for filing and thus end disagreements about whether an application was filed on time.

Persl 46 is amended to permit the use of electronic data processing equipment to score examinations and thus increase the speed and accuracy of the scoring process. Persl 46(b) is amended to permit the Commissioner to admit candidates to subsequent stages of an examination process based on their score on the previous stage where a great many applications for a classification will be received and the department does not have the ability to process all passing candidates for subsequent examination stages. This amendment permits the department to admit candidates based on the number of vacancies which occur for the position.

Persl 47 is amended to clarify who is a veteran for purposes of utilizing veteran's preference since the definition of veteran has changed and to clarify that the preference points are added to the final passing score and not the score on an earlier portion of the examination process.

Persl 61 is amended to conform to a change in the contract with the State and AFSCME Council 6 and to provide a consistent practice permitting laid off employees to be considered for reemployment in classification other than the one from which they were laid off.

Persl 65(c) is amended to speed up the selection process by reducing the number of days in which the candidate must respond to an inquiry on availability for appointment from ten to seven. Persl 65(h) is amended to eliminate the eccnomic discrimination which results from the requirement that applicants maintain a current telephone number with the Department of Personnel.

Persl 66 is amended to clarify that the last sentence applies to the entire rule and not just the last paragraph.

Persl 68 is needed to permit the use of eligible lists established by other jurisdictions and thereby eliminate the need to announce an examination for a classification for which there were not qualified individuals currently in state service or when no one on an otherwise viable existing eligible list has indicated a desire to work in the location where the vacancy exists.

Persl 82 is amended to add reemployment lists and lists established under Rule 68 to allow the use of all relevant existing lists when filling a vacancy.

Persl 85 is amended to require that consideration is given to quality and length of service in making appointments as required by the union contracts and Minn. Stat. Section 43.18.

Persl 97 is amended to clarify the addition of unpaid leave to the probationary period and thus eliminate inconsistent interpretation of this rule. It is also amended to provide a definition of "occupational field' which is needed to clarify that term as used in this rule.

Persl 106 is amended to clarify that an individual cannot be a state employee after his or her 65 birthday and thus permit employees subject to earlier mandatory retirement to accept other state jobs not subject to early retirement. This is necessary to conform to state and federal laws which prohibit discrimination based on age.

Persl 109 is amended to clarify when trainee appointments are included in seniority for purposes of lay off and recall and to conform to amendments to the agreement between the State and AFSCME Council 6 thereby providing consistency through state service.

Persl 129 is amended to require the Commissioner of Personnel to consult with the Commissioner of Administration before making changes in work schedules so that non-personnel considerations such as energy conservation and building access are taken into consideration before such changes are made. The rule is further amended to delete a provision relating to shift differentials that is no longer needed as it duplicated in the language of Minn. Stat. 43.12 subd. 16.

Persl 131 is amended to exclude all employees who hold temporary positions from the rule so that all such employees are treated the same and to bring it into conformance with Rules 135 and 136 and the agreements with various unions. Subd.(f) is amended to require 21 days written notice to provide consistency throughout state service, to conform to the union contracts, and to give the employer sufficient opportunity to rearrange schedules, since under the union contracts all schedule changes must be posted 14 days in advance.

Persl 133 is amended to conform to Minn. Laws 1977, Chapter 452 Section 18 and the agreement between the State and the Residential Teacher's Association under which teachers at the School for the Deaf and the Braille and Sight Saving School are entitled to injured-on-duty pay.

Persl 135 is amended to clarify who is an unlimited unclassified employee and to treat them the same as classified employees, to clarify which employees are covered by this rule, to conform to union contract amendments which increase the amount of vacation leave which may be accumulated, and to update the statutory citation relating to department heads and deputies and thereby ensure that as new positions are added to the department heads salary listing they will be automatically included in this provision thus ensuring consistency between the way their salary is set and vacation accrual.

Persl 136 is amended to clarify who is an unlimited unclassified employee, and to treat them the same as classified employees, to clarify which employees are covered by this rule, and to conform to union contract amendments which increase the amount of sick leave which may be accumulated.

Persl 141 is amended to conform to union contract amendments and to eliminate sex discrimination by making childbearing/child-rearing leave available to either parent, regardless of sex. The rules are also amended to clarify that it is not available to employees appointed for periods of six months or less, since this is a six month leave of absence.

Persl 144 is amended to conform to union contract amendments which added two new unpaid leaves of absence and thereby ensure consistency throughout state service.

Persl 160 is amended to provide a uniform statewide policy on training and development and provide definitions of those terms as utilized in Persl 161-169.

Persl 161 is amended to provide uniform statewide training standards to provide consistency across departmental lines and the way training is used, the amount of work release time permitted and the amount of reimbursement for tuition and fees that will be allowed, and reduce the inequities that exist between departments while allowing department heads the discretion needed to meet the individual needs of his or her department.

Persl 166 is amended to add a title to the rule for purposes of clarity.

Persl 167 is needed to implement Minn. Laws 1977, Chapter 455 Section 23 and permit departments to establish special career training programs to meet the needs of their C Schedule employees while ensuring consistency across departmental lines.

Persl 168 is needed to implement Minn. Stat. Section 43.32 and create a single state-wide policy which ensures that the state, as well as the employee, will receive some benefit from the state expenditure for training by requiring that the employee either return to his or her job for a specified period of time or reimburse the State. This will also prevent abuse of the state training program.

Persl 170 is amended to substitute a non-discrimatory term for "manpower" since the State's human resources are both male and female.

Persl 172 is amended to correct an erroneous reference and to delete language which is no longer needed since the categorys referred to are defined in Persl 221, 222 and 234.

Persl 181 is amended to provide the current rate as the new base rate for mileage and meal reimbursements and to update the COLA dates to conform to the agreements between the State and the various unions, to change the reference from the Highway Department to the Transportation Department to conform to statutory admendment and to provide a title for an untitled subdivision for the purpose of clarity.

Persl 182 is amended to increase the amount of realtor's fees which may be reimbursed by the State from $2,000.00 to $3,000.00 to implement the agreement with the Minnesota Government Engineer's Council and to permit the reimbursement of realtor's fees to continue at the same level as in the past by recognizing the inflationary increases in housing prices, and therefore realtor's fees, which have occurred since the rule was last amended in 1974.

Persl 203 is amended to change the definition of "allocation" used in the rules to conform to the amendment of the agreement between the State and AFSCME Council 6 and to ensure consistency in the meaning of "allocation" throughout state service.

Persl 224 is needed to define "occupational category" as used in the Personnel Rules.

Persl 225 through 254 are renumbered to reflect the addition of a new defintion of "occupational category" in its proper alphabetical order.

In addition to the above, the Department of Personnel proposes to amend various rules to correct the spelling, typographical and grammatical errors and to bring the format of the rules into conformity with Rules of Operation of the Office of the State Register, including but not limited to REGSTR 60.

Richard W. Session
Commissioner of Personnel

Dated: August 25, 1977

RECEIVED
AUG 25 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, PAY UPON REALLOCATION, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES

AFFIDAVIT OF MAILING

Chris Goodwill, being first duly sworn, deposes and says:

That on the 9 day of August, 1977, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage paid to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Chris Goodwill

Subscribed and sworn to before me this 9th day of August, 1977.

Denise A. Greene

DENISE A. GREENE
NOTARY PUBLIC – MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES MAR. 1, 1984

Dept's Exhibit No. MJ

File No.

Date

(REV. 4/77)

DEPARTMENT PERSONNEL - 3RD FLOOR SPACE CENTER BUILDING

STATE OF MINNESOTA

Office Memorandum

RECEIVED
AUG 25 1977
OFFICE OF HEARING EXAMINERS

DATE: 8/19/77

TO : Richard W. Session
Commissioner of Personnel

FROM : Chris Goodwill
Office Manager Chris Goodwill

PHONE: 296-7956

SUBJECT: Notice of Hearing of Proposed Personnel Rules

This memorandum will serve as an affidavit that I have mailed a copy of the attached notice of hearing to all department heads, personnel officers, and designated personnel officers. The mailing took place on August 9, 1977.

CG:JL:ps

RECEIVED
AUG 25 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, PAY UPON REALLOCATION, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES

CERTIFICATE OF DELIVERY
SECRETARY
OF STATE LIST

I hereby certify that the attached 14 sheets constitute the complete list of persons, associations, and other interested groups who as of 10:20 o'clock A.m., this 24th day of August, 1977, have requested pursuant to M.S. 1976, Section 15.0412, subd. 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

By Randall W. Sayers

Dept's Exhibit No. I

File No.

Date

DEPARTMENT OF PERSONNEL

Amendments to the Rules of the Department of Personnel

The rules published at State Register Vol. 2, No. 6, p. 254, August 15, 1977 (2 S.R. 254) are adopted and are identical in every respect to their proposed form, with the following amendments:

Persl 19 Reallocation of positions. If, because of [the] changes occurring over a period of time in the kind, responsibility or difficulty of work performed in [the organizational structure of an agency, changes in the duties of the position, or for some other reason] a classified or unclassified position, it seems to be improperly allocated, or compared, the Commissioner shall, independently or upon request of an appointing authority or permanent employee, investigate the duties of the affected position. Following the investigation, the Commissioner may reallocate, change the allocation of, or recompare the position to an appropriate class. In making a request for a review of a position, the appointing authority or permanent employee shall set forth specifically the changes that have occurred in the particular position which warrant the requested action along with other documentation prescribed by the Commissioner. If the Commissioner determines that a request for the reallocation of a position is not properly documented, the request shall be returned to the sender within ten days of receipt of the request, and the employee shall be immediately notified of such action. The Commissioner shall notify the affected employee and the appointing authority of the final classification decision.

Persl 29 Administration of the wage and salary plan. Persl Rule 29, except for subdivisions F. [(f)] and G. [(g)], also applies to those unclassified positions which have been directly compared to [a class in] the classified service. The following provisions assume that funds are available and expenditures have been authorized by the Commissioner of Finance

A. [(a)] Beginning Salary. The minimum rate of pay shall normally be paid upon appointment to a class. In schedules A and C, the appointing authority may, however, make an original appointment within the salary range but not to exceed the third salary step.

All original appointments beyond the minimum rate for a class shall be documented in the form prescribed by the Commissioner and shall be based upon the exceptional qualifications of the candidate or the unavailability of candidates at the minimum rate, and consideration shall be given to the salaries of current employees in the same or related classifications.

In the Special Teachers salary schedule, appointments may be made up to and including the sixth step under conditions outlined in the compensation provisions relating to that schedule.

Persl 31 Retroactive pay upon reallocation. Except for reallocations resulting from a position classification study of an agency or subdivision thereof initiated by the Department of Personnel or an appointing authority, if the incumbent of a position which is reallocated upward to a class existing at the time of the request receives a probationary appointment to the reallocated position, pay for the reallocated position shall commence [up to] sixty calendar days prior to the incumbent employee's probationary appointment to that position, but in [In] no event shall such retroactive pay commence earlier than fifteen calendar days after the receipt in the Department of Personnel of a reallocation request determined by the Department of Personnel to be properly documented.

Persl 39 Eligibility to compete.

Persl 39 B. (b) Promotional selection processes. Promotional selection processes shall be open to all permanent or probationary employees in the agency or other organization unit for which the selection process is being held who meet the requirements described in the announcements. All unclassified employees appointed for a period in excess of six months, and permanent or probationary employees in the classified service classified employees employed on an unlimited basis and all unclassified state employees in any branch of state government who meet the established requirements may apply for promotional selection processes for positions designated as managerial or professional. Emergency, temporary and provisional employees in the classified service; unclassified employees appointed for a period of less than six months; pre-service trainees and interns are not eligible to compete in promotional selection processes for positions designated as professional or managerial.

Persl 61 Reemployment list. The reemployment list shall contain the names of all permanent or probationary employees laid off in the class of employment, and the names of former permanent or probationary employees in the class whose written applications made within three years of separation in good standing are approved by the Commissioner. The Commissioner shall consider the recommendation of the last appointing authority before approving applications of former employees and shall approve or disapprove each application considering the quality of service as evidenced by service reports submitted by the last appointing authority. Names shall be placed on the reemployment list based on the quality of service as indicated in the individual's performance appraisals. A person may remain on a reemployment list for up to three years and must return to state service within four years of separation.

[At the request of the employee] The name of a laid-off employee shall be placed on the reemployment list for all classes in which the employee possessed permanent or probationary status prior to layoff and for locations and employment conditions for which the employee is eligible and has expressed a willingness to accept employment. [Laid-off employees who wish to have their names placed on a reemployment list or lists must notify the Department of Personnel within 3 years of the date of layoff indicating those classes, locations and employment conditions they are willing to consider.] Initial notice of which classes, locations and employment conditions the employee is willing to consider shall be made to the Department of Personnel by the appointing authority at the point notification of layoff is given to the Department. Subsequent changes in availability for classes, locations, or employment conditions shall be made any time within three years of the date of

layoff by the laid-off employee.

C. [(c)] Failure to respond within [ten] seven days from the date of mailing to a written inquiry of the Commissioner relative to availability for appointment or failure to respond within [ten] seven days from the date of mailing to a written inquiry of an appointing authority sent by certified mail relative to availability for employment.

Persl 68 Cooperative use of eligible lists by governmental merit system jurisdictions. Upon the request of an appointing authority, and after due consideration of the needs and interests of the state service, the Commissioner, in the absence of an appropriate state eligible list or when there are not sufficient names on the state eligible list to make a complete certification, may authorize the use of an eligible list established by another governmental merit system jurisdiction employing U.S. Civil Service Commission-approved standards to make an appointment to a classified position in the state service, providing the job classification for which the eligible list was established in the cooperating jurisdiction is determined to be similar in job duties to the position for which it is to be used in the state service and that the selection process measures knowledges, skills and abilities essential for satisfactory performance in the position in the state service for which the list will be used. Any eligible list adopted under this rule shall be considered to constitute an open competitive list and the ranking and referral of candidates' names shall be in accord with the provisions of Personnel Rules 82 and 84.

Persl 97 Duration of probationary period. All original and promotional appointments shall be tentative subject to the probationary period as determined by the Commissioner of Personnel.

A. [(a)] Half to full-time employees in salary schedule A shall serve a probationary period of six calendar months. Less than half-time employees shall serve a probationary period of nine calendar months.

B. [(b)] Half to full-time employees in salary schedule B shall serve a probationary period of two calendar months. Less than half-time employees shall serve a probationary period of three calendar months.

C. [(c)] Half to full-time employees in salary schedule C shall serve a probationary period of four calendar months. Less than half-time employees shall serve a probationary period of six calendar months.

D. [(d)] Teachers, institutional education administrators, and educational supervisors shall serve a probationary period of one year.

E. [(e)] Employees in the management compensation schedule shall normally serve a probationary period of twelve months. An appointing authority may reduce the length of an individual period to not less than nine months, provided the employee has demonstrated the ability to effectively perform the duties and responsibilities of the position and the training requirements of Rule 166 have been met. With the approval of the Commissioner of Personnel, the probationary period may be extended to provide sufficient time for

individual managers to complete mandatory minimum training requirements provided the total probationary period does not exceed two years.

[The total unpaid] (Unpaid) [lease] (leave, to the extent that it exceeds) ten or more work days, shall be added to the length of the probationary period.

The probationary period shall include all regular service, excluding time served in emergency, provisional, or temporary employment.

An employee who is promoted prior to the completion of the probationary period to a higher position in the same occupational field and in the same department shall complete the probationary period in the lower position by service in the higher position. The appointing authority shall certify that employee for permanent status in the lower position at the end of the specified probationary period for such class, or its equivalent period following the employee's original appointment to the position. In the absence of certification, the employee shall be deemed to possess permanent status.

When a probationary employee is granted a leave of absence to accept a position in the unclassified service, the unfulfilled portion of the probationary period in the classified service may be completed by service in the unclassified service position, subject to a positive recommendation of the appointing authority and approval of the Commissioner, provided that the work in the unclassified position is within the same department and general occupational field and is at least equivalent in difficulty and responsibility to the work in the position in the classified service.

All employees appointed from eligible lists other than the layoff list shall be subject to a probationary period beginning the date of the new appointment.

Employees transferred from the jurisdiction of one appointing authority to that of another appointing authority may be subject to a probationary period as provided by this section of the rules.

For the purposes of this rule, classes shall be considered to be in the same occupational field when the appointing authority determines, after an analysis of the positions involved, that it is possible to evaluate the probability of satisfactory service in one class by observing service in the other class.

Persl 141 [Maternity] (Child bearing/child rearing) Leave of Absence Without Pay. [Maternity] (A child bearing/child rearing) leave of absence shall be granted, when requested [incidental to the birth or adoption of a child], to a (permanent, probationary, or unclassified) [pregnant employee] (natural parent) or adoptive [mother] (parent) [in the classified or unclassified service] for a period not to exceed 6 months. [Maternity] (Child bearing/child rearing) leave may be extended up to a total maximum of one year by mutual consent between the employee and the appointing authority.

Persl 160 The development policy. The Commissioner shall set policy, administer and conduct programs of training [and counseling] for the effective development and utilization of classified and unclassified employees, to promote individual, group and departmental efficiency and effectiveness. Training and development is a management tool and as such is utilized at the discretion of the department head. Nothing in these rules should be construed to mean that specific application of this process is a right of the employee. While the primary emphasis of training and development is to improve the state service, it should not be seen as incompatable or inconsistent with the growth of individual employees. The state, through each operating agency has an obligation to provide assistance to employees in reaching specific career goals. The form and level of this assistance is determined by the department head <u>after taking into consideration the affirmative action goals of the state.</u>

A. Development defined. Employee development is an on-going process intended to help employees attain and maintain a quality of job performance that meets the needs of the state and the [needs] <u>career objectives</u> of individual employees. Development includes a variety of planned, purposeful activities and experiences designed to improve and/or increase the skills, knowledge and abilities of employees. Typical activities and experiences include project assignments, task force assignments, supervisory coaching, internal job assistance, orientation, job rotation, interchanges, classroom instruction and independent study.

B. Training defined. Training is a specific means or method of employee

development. It consists of formal, systematic and structured activities that meet specific, predetermined learning objectives designed to directly improve and/or increase the knowledge, skills and abilities of employees. Formal training usually refers to group instruction or structured independent study. Academic or technical courses, seminars, workshops, institutes, correspondence courses, individualized reading programs, programmed instruction and computer assisted learning are typical examples of formal training. Conferences, conventions, informational meetings, site visitations are usually not included in formal training, unless they are conducted specifically for educational purposes.

C. Individual Development Planning. Each employee shall be counseled in terms of development and complete an Individual Development Planning Worksheet on an annual basis. First priority for expenditure of state funds will be given to those activities included in the Individual Development Plan.

D. Participation in training. Employees may be selected to participate in training and development activities in two ways:

1. Job assignment. The employee is assigned by the department to participate as a specific work assignment, or as specifically requested by the supervisor. The employee must participate in order to carry out the basic responsibilities of the job.

2. Employee initiated. At the discretion of the department head, employees may be allowed to participate in non-assigned programs to meet

specific training and development needs. Participation in these programs must be beneficial to both the organization and the employee.

Persl 167 Career training programs. Within available resources, and with prior approval of the Commissioner, each department head shall identify and provide special career training programs for state employees. Special career training programs are those designed to assist employees in meeting their career objectives, and the state in meeting its affirmative action goals. Department heads shall consider projected employment patterns in the development of these programs. Department involvement in these programs [is limited to areas] shall be related to the activities of [the various] all state agencies. Programs established under this rule may provide for training and development beyond the standards established in Persl 161.

Persl 168 Reimbursement of training expenses to the state. Employees who participate in training programs or courses longer than 40 classroom hours on state time or in training programs which are funded in whole or in part by state funds are obligated to return to a state job for a minimum period of twice the length of the training program. Department heads may establish greater time commitments for special programs. Employees who fail to fulfill the minimum time commitments are required to reimburse the state for the actual costs of the training plus all salary paid for actual time spent in training activities. The amount of reimbursement required will be a prorated share of the actual expenses based upon the length of time the employee has returned to a state job.

The state may require the reimbursement of tuition, registration, travel and living costs paid by the state for any course or program not successfully completed, provided the state is not responsible for the failure to successfully complete the course.

Upon request of an employee or department head, the Commissioner may waive the reimbursement requirements of this section for employees who are unable to maintain a level of employment at least equivalent to that held immediately prior to training, due to layoff, illness or a disability of at least six months duration or death.

Persl 224 "Occupational category" means one of the groups of classes established under Persl 172, and defined in Personnel Rules 208, 222, 225, 237, 243, 246, and 247.

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

RECEIVED
AUG 25 1977
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, REALLOCATION PAY, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the State Office Building, Room 83, Aurora and Wabasha Sts., St. Paul, Minnesota, 55155, on September 21, 1977, commencing at 9:30 a.m., reconvening at 7:00 p.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of assocations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Richard W. Session
Commissioner of Personnel

Date: August 1, 1977.

Dept's Exhibit No. F
File No.
Date

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

RECEIVED

AUG 25 1977

OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, REALLOCATION PAY, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the State Office Building, Room 83, Aurora and Wabasha Sts., St. Paul, Minnesota, 55155, on September 21, 1977, commencing at 9:30 a.m., reconvening at 7:00 p.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, Hearing Examiner, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, 612-296-8112, either before the hearing or within 5 working days after the close of the hearing.

The proposed rules, if adopted, would establish standards for employee training, the cooperative use of eligible lists, and reallocation pay and amend existing rules relating to the coverage of the rules, labor service, unclassified service, contractual services, career executive service, allocation and reallocation of positions, selection process, eligible lists, reemployment lists, filling of vacancies, probationary periods, seniority, hours of work, holidays, leaves of absence, travel and relocation expenses, hazardous duty pay, and occupational categories, and renumber many definitional rules. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. §§43.05, subd. 2; 43.18, subd. 18, 19, 20, 25; 43.212; 43.32, subd. 12; 43.323; 43.326; 43.327; and Minn. Laws 1977, ch. 455, §23.

Copies of the proposed rules are now available and one free copy may be obtained by writing to the Department of Personnel, 3rd Floor Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Dept's Exhibit No. 6

File No._____

_____ Date_____

Richard W. Session

Richard W. Session, Commissioner of Personnel

Date: August 1, 1977.

RECEIVED
AUG 25 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, PAY UPON REALLOCATION, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

James B. Lee, being duly sworn on oath deposes and says:

1) That he is an employee of the Department of Personnel of the State of Minnesota.

2) That on the 4th day of August, 1977, he went to the Secretary of State's Office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups of persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 4th day of August, 1977, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

James B Lee

Further affiant sayeth not.

Subscribed and sworn to before me this 4th day of August, 1977.

Denise A. Greene
Notary Public

DENISE A. GREENE
NOTARY PUBLIC – MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES MAR. 1, 1984

Dept's Exhibit No. H
File No.
Date

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PERSONNEL

In the Matter of the Proposed Adoption of Rules of the Department of Personnel Governing Employee Development and Training, Re-allocation Pay, Cooperative Use of Eligible Lists, and the Amendment or Repeal of Certain Existing Rules.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing in St. Paul on September 21, 1977 before Steve M. Mihalchick, Hearing Examiner assigned by the Chief Hearing Examiner.

This is a rules hearing pursuant to Minn. Stat. Ch. 15, to determine whether the proposed rules should be adopted.

Appearing for the Department of Personnel were Donn Escher, Assistant Commissioner; Mark Sundquist; Julie Vikmanis; James Lee; Ronald Olson and Barbara Sims, Special Assistant Attorney General. Nineteen other persons attending the hearing signed the hearing register. The hearing continued until all interested persons had had an opportunity to participate. The hearing reconvened at 7:00 p.m. on September 21, 1977 to receive comments and questions from employees who were unable to attend during working hours. No one appeared at that session.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Department shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Department shall be responsible

for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On August 1, 1977, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing; and
(c) A proposed Notice of Hearing.

2. On August 15, 1977, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 254.

3. On August 9, 1977, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On August 25, 1977, the Department filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need;
(g) The Statement of Evidence, including the names of witnesses to be called;
(h) Copies of all documents listed in the Statement of Evidence; and
(i) Copies of materials received after a Notice of Intent to Solicit Outside Opinion was published by the Department in 1 State Register 1815 (June 20, 1977).

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through September 28, 1977, for the receipt of written comments and statements.

STATUTORY AUTHORITY

6. The general authority of the Commissioner of Personnel to adopt rules is found in Minn. Stat. § 43.05, subd. 2(2) which provides:

[The Commissioner shall:]

"Prepare personnel rules for the purpose of carrying out the provisions of this chapter; these rules shall provide, among other things, for current records of efficiency, and standards of performance, for all officers and employees subject to the provisions of this chapter; the manner of completing appointments and promotions; rejection of eligible candidates; examinations; retention of examination records under the provisions of section 138.163; creation of eligible lists, with successful candidates ranked according to their ratings in the examinations; leaves of absence with and without pay; transfers, reinstatements, layoffs, vacations, and hours of work; public notice of examinations; procedure for changes in rates of pay; compulsory retirement at fixed ages; and other conditions of employment. If a rule is made concerning sick leave for illness in the immediate family of an employee, the term 'immediate family' shall be limited to the spouse, minor or dependent children, or parent where the parent has no other person to provide the necessary nursing care, living in the household of the employee;"

Additional authority for the Commissioner to adopt rules is found in Minn. Stat. §§ 43.12, 43.127, 43.32, 43.323, 43.326 and 43.327.

MINN. RULE Persl 4 - EMPLOYEES COVERED BY PERSONNEL RULES

7. The Department proposes to amend this rule to exclude employees of the Higher Education Coordinating Board, whose salaries are established under Minn. Stat. § 43.04, from the coverage of the personnel rules. Employees of the State University System and the State Community College System, whose salaries are also established under § 43.064, are already excluded from the operation of the personnel rules. This change is needed to treat the employees of the Higher Education Coordinating Board similarly. Legislation was introduced in 1977 to permit the Board to independently establish personnel policies and benefits programs for their unclassified employees. Subsequent correspondence with the Legislature concluded in an agreement that rather than create another separate salary and benefit authority, the most appropriate solution would be to propose a rule change excluding those employees from the personnel rules. The change is reasonable.

MINN. RULE Persl 9 - LABOR SERVICE

8. This rule addresses the subject of Labor Service employees and sets forth certain provisions relating to conditions of employment and procedures regarding the Labor Service. The proposed amendments are required as a result of amendments in Laws

1977, Ch. 452, § 6. That amendment reduced the amount of time that an employee in the labor service must complete to achieve civil service tenure from ten to six months. The proposed rules also clearly differentiate between tenured and non-tenured laborers as required by law, and revise the time at which they are eligible to compete in promotional selection processes to correspond with the time at which they receive tenure. The language proposed is consistent with the legislation and brings the Personnel Rules into conformance with Chapter 43. In the revised "Labor Service", the legislation providing for the temporary appointment of laborers (M.S. 43.09, subd. 7) was repealed. Therefore, present rule A.1. is no longer appropriate and is being deleted.

MINN. RULE Persl 10 - TEMPORARY DESIGNATION OF POSITIONS IN THE UNCLASSIFIED SERVICE.

9. Personnel Rule 10 addresses the Commissioner of Personnel's legal authority to designate positions in the unclassified service. The changes would clarify the information needed when an unclassified position is requested and changes the time at which such positions are reviewed from the end of one year to the end of two years in order to reduce administrative problems and excess paperwork. The revised rule would also prevent employees from being continually reappointed to only slightly different unclassified positions approved under this provision, thus circumventing the selection process necessary for continuing positions.

10. It is reasonable to require that an appointing authority provide the Commissioner with the basic information needed to make a decision regarding the temporary designation of a position in the unclassified service. The proposed rule further provides for review of such unclassified positions after two years, instead of at the end of each year. This change would reduce paperwork by approximately one-third. Because student worker positions are temporary by nature, these positions are always being filled by new employees. As a result, in order to provide these opportunities to the largest number of students on a timely basis and to prohibit these students from gaining tenure rights, it is proper that the positions be assigned to the unclassified service.

Individuals appointed would still be prohibited from filling the same student worker position for more than three years, although the approval for the position itself could be extended for additional periods of time. The specific language which is proposed would aid considerably in clarifying the intent of this rule. This change was supported by the Department of Public Welfare (Pub. Ex. 7).

MINN. RULE Persl 11 - CONTRACTUAL SERVICES

11. This rule addresses the conditions under which contractual services for personal services may be entered. The proposed amendment would delete much of the language relating to the procedure to follow in processing consultant contracts. This change is necessary in order to conform to the Governor's reorganization Order 79 which transferred the administration of Personnel Rule 11 to the Department of Administration.

12. It is necessary and reasonable to delete the requirement that contractual arrangements be reported to the Commissioner of Personnel since the Department of Personnel no longer reviews proposed contracts. The balance of the rule is retained for use as a set of guidelines in determining whether the services to be rendered constitute contractual service or an employer-employee relationship so it can be determined whether a specific individual is covered by the Personnel Rules and entitled to the benefits of the Rules.

MINN. RULE Persl 12 - CAREER EXECUTIVE SERVICE

13. Minn. Stat. § 43.12, subd. 20, states that CES employees shall be paid according to a compensation plan developed by the Commissioner of Personnel. The proposed rule reflects that intent and assures that all CES employees receive equitable treatment across departmental lines. This change would prohibit the various state agencies from administering this compensation schedule inconsistently.

MINN. RULES Persl 18 and 19 - ALLOCATION AND REALLOCATION OF POSITIONS.

14. The proposed changes are necessary in order to conform to the collective bargaining agreement entered into between the

state and AFSCME Council 6, to provide consistency to all state employees and to avoid confusion relating to what an "allocation" or a "reallocation" means. This distinction is necessary to clearly determine an employee's eligibility for retroactive pay upon reallocation and to take qualifying exams if their position is reallocated. Additional proposed changes provide a basis for the rejection of an improperly or poorly documented reallocation request. The required information is not specifically listed because documents that might be required could become obsolete and conversely, new procedures could generate new and valuable types of informative documents.

15. At the hearing, the AFSCME representative expressed concern about the possibility of a delay in rejecting improperly or poorly documented reallocation requests. In its post-hearing comments (Dept.'s Ex. P), the Department agreed and suggested a modification to Persl 19 by inserting the following sentence prior to the last sentence of the rule:

> "If the commissioner determines that a request for the reallocation of a position is not properly documented, the request shall be returned to the sender within ten days of receipt of the request, and the employee shall be immediately notified of such action."

This change, itself, required a further modification of the last sentence of Persl 19:

> "The commissioner shall notify the affected employee and the appointing authority of the final classification decision."

With these modifications, the proposed rules are reasonable. The Department of Personnel supported the proposed changes to Persl 19 (Pub. Ex. 7).

MINN. RULE Persl 21 - DELEGATION OF CLASSIFICATION AUTHORITY

16. This rule authorizes the Commissioner of Personnel to delegate authority in the area of job classification. The proposed change would clarify that appointing authorities may be delegated the authority to "reallocate" as well as to "allocate" positions. This change is necessary because of the clarification and greater distinction made between these terms in Persl 18 and 19.

17. The AFSCME representative did not object to the proposed amendment but stated that employee-initiated reallocation requests should be submitted directly to the Department rather than the appointing authority. In a normal situation, an employee-initiated request would occur only when the appointing authority has at least informally turned down the request. Persl 19 and Minn. Stat. § 43.12, subd. 23, in fact, allow the employee to initiate a reallocation request. In practice, any request that has not been presented to the appointing authority first will be sent to the operating department by Personnel for review. In its post-hearing comments, the Department stated that it will continue to review reallocation recommendations from the operating departments and accept appeals of reallocation decisions. Thus, the employee's rights are adequately protected.

MINN. RULE Persl 22 - CLASS SPECIFICATIONS

18. The proposed amendments permit an employee's position description to be used as the class specification for single position classes; since, in that case, a position description is a better summary of the job than the class specification. The incumbent and the supervisor of a single position classification are better able to provide the most accurate description of the position. The Commissioner of Personnel would reserve the option of retaining a class specification in these cases if the position description does not meet the needs of the Department.

19. A change in Persl 22 D. is proposed that broadens the base of information available for use in the selection process to bring examinations into conformance with EEO guidelines and other changes in equal employment laws as they occur. The AFSCME representative suggested at the hearing that the term "other relevant information" was ambiguous. The Department replied:

> "We think that the key here is the word 'relevant' and the fact that the validity of our examination process is subject to review by the courts. It would be difficult, if not impossible, to define the entire potential field of information which might prove valuable in the development or modification of our examination techniques against a background of constantly changing federal guidelines, court cases and changes in psychometric concepts." (Dept.'s Ex. P)

The Examiner finds the proposed rule to be reasonable. The rule generally describes what is to be contained in a class specification and how it is to be used. It places no requirements on any one outside of the Department.

MINN. RULE Persl 24 - WORK OUT OF CLASS

20. This rule relates to the conditions which apply when an employee is expressly assigned to work out-of-class. The proposed change would clarify that eligible employees are to be paid for all of the time worked out-of-class and, therefore, ensure a consistent statewide practice for all employees. The current language has been misinterpreted by some agencies to exclude the first 15 days of the assignment from payment. This change will clarify existing provisions.

MINN. RULE Persl 28 - WAGE AND SALARY PLAN

21. The proposed amendment clarifies that salary schedules apply to both classified and unclassified employees whose positions are compared to a class in the classified service. Minn. Stat. § 43.128 requires that both types of employees be treated in a similar manner in terms of compensation.

MINN. RULE Persl 29 - ADMINISTRATION OF THE WAGE AND SALARY PLAN

22. The first proposed change requires documentation of all appointments beyond the minimum rate for a class in a standard form to ensure statewide consistency in salary administration programs. Several agencies interpret the current language to indicate that the delegation of authority to make appointments above the minimum rate also eliminates any requirement to document the justification for such appointment. The Department needs the documentation to ensure that all such appointments are made in conformance with rule because ultimate responsibility rests with the Department.

23. Robert Smith, representing IMAGE, expressed concern that the personnel system was "getting away from a merit system". He suggested that some language should be inserted in the rule to assure that new employees are not unreasonably appointed at rates above current employees. In its post-hearing comments, the Department agreed, stating that the concept has been recognized in

their salary administration practices for some time. They suggested that the second paragraph of Persl 29 A. be modified to read:

> "All original appointments beyond the minimum rate for a class shall be documented in the form prescribed by the commissioner, shall be based upon the exceptional qualifications of the candidate or the unavailability of candidates at the minimum rate, and consideration shall be given to the salaries of current employees in the same or related classifications."

The proposed language reasonably treats the conflicting need to appoint exceptional candidates at higher rates of pay against the fair treatment of current employees.

24. Under Minn. Stat. §§ 43.43 and 43.47, employees who work more than 75% of full time are eligible for state-paid insurance benefits regardless of whether they work for one or more agencies. A change is proposed in Personnel Rule 29 I. to clarify that the insurance premium for employees who are eligible for state-paid insurance but who work for more than one agency shall be paid by the agency for whom the employee works the greater amount of time. This change is proposed in order to correct current confusion in this area.

MINN. RULE Persl 31 - RETROACTIVE PAY UPON REALLOCATION.

25. This is a new rule relating to conditions under which employees may receive retroactive pay if their position is reallocated. This change is necessary in order to bring the Personnel Rules into conformance with a collective bargaining settlement between the State and AFSCME Council 6. In this area, it is necessary to ensure that salary provisions for both represented and non-represented employees are consistent throughout the state service and to ensure that all employees are compensated on the basis of the level of work they are actually performing. The specific language is similar to that implemented in the collective bargaining agreement.

26. The AFSCME representative at the hearing noted that the slight change in language of the proposed rule from the union agreement could be interpreted to allow appointing authorities to pay less retroactive pay than that provided in the agreement. In its post-hearing comments, the Department stated that it was its

intention to conform the language to that in the agreement and that it had no objection to modifying the proposed rule to more precisely do so. The Examiner would recommend that the exact language found in Art. XII, § 6, of the agreement be adopted. The proposed rule should be modified as follows:

> "Retroactive pay upon reallocation. Except for reallocations resulting from a study of a department or division initiated by the Department of Personnel or an appointing authority, if the incumbent of a position which is reallocated upward to a class existing at the time of the request receives a probationary appointment to the reallocated position, pay for the reallocated position shall commence ~~up to~~ sixty calendar days prior to the incumbent employee's probationary appointment to that position. ~~In~~ but in no event shall pay commence earlier than fifteen calendar days after the receipt in the Department of Personnel of a reallocation request determined by the Department of Personnel to be properly documented."

MINN. RULE Persl 39 - ELIGIBILITY TO COMPETE

27. Current Persl 39 B., promotional selection processes, has one section dealing with general promotional requirements, and another dealing with selection processes for incumbents of reallocated positions. The Department proposes to renumber the section on reallocation to Persl 39 C.; that will be discussed below. As proposed at the hearing, the amendment to the first section of Persl 31 B. provided:

> "Promotion selection processes. Promotional selection processes shall be open to all permanent and probationary employees in the agency or other organizational unit for which the selection process is being held who meet the requirements described in the announcements. All classified employees employed on an unlimited basis and all unclassified state employees in any branch of state government who meet the established requirements may apply for promotional selection processes for positions designated as managerial or professional."

The intent of the Department was to prohibit certain types of employees in limited appointments from competing in the selection process for a managerial or professional classification. As pointed out by the ASFCME representative at the hearing and by the Department of Public Welfare (Pub. Ex. 7), the proposed language created an unfair advantage for temporary unclassified employees over temporary classified employees. In its post-hearing comments, the Department agreed that the proposed language would give unclassified employees an opportunity to compete for positions

that they would not enjoy if they were serving in an appointment of equal length in the classified service. Therefore, the Department proposed that Persl 39 B. be modified to read:

> "Promotional selection processes. Promotional selection processes shall be open to all permanent or probationary employees in the agency or other organizational unit for which the selection process is being held who meet the requirements described in the announcements. All unclassified employees appointed for a period in excess of six months, and permanent or probationary employees in the classified service, in any branch of state government who meet the established requirements may apply for promotional selection processes for positions designated as managerial or professional. Emergency, temporary and provisional employees in the classified service; unclassified employees appointed for a period of less than six months; pre-service trainees and interns are not eligible to compete in promotional selection processes for positions designated as professional or managerial."

This modification accomplishes what was intended and is easier to read. It is reasonable.

29. Persl 39 C., as noted above, essentially transfers what is currently in Persl 39 B. to a separate section. There are, however, some modifications. The first change expands the opportunity of the reallocated incumbent. The existing rule did not allow employees who had participated in the examination process for the class to which the position had been allocated to retake the examination. The proposed rule will allow them to do so unless they have taken the examination within the last six months. This process will reasonably achieve a more current measure of the qualifications of the incumbent while preventing any unfair advantage the incumbent may have gained by recently taking the examination.

29. The second change removes the requirement that the appointing authority make a written request for certification of only the name of the reallocated incumbent, making this the standard practice. This is reasonably the action to be expected in instances of proper reallocation.

30. A third change makes clear the requirement that incumbents who fail to qualify must be removed within 30 calendar days. No length of time is specified in the existing rule. This clarification results from and conforms to the union agreements.

31. The last change makes clear that the provisions of Persl 84, the general rule on order of certification, applies when the position has been reallocated to a class in a different occupational category from the initial classification. It should be noted that this does not change the existing rule which states that the Commissioner may certify only the name of the incumbent if the changed classification is in the same occupational group as the initial classification. It should further be noted that the same provision is found in the union agreements. One person thought that the occupational group requirement had been deleted and argued against the change (Pub. Ex. 6). The Department of Public Welfare, stating that "occupational categories" were artificial definitions for EEOC reporting purposes, argued that promotions under this rule should be made according to logical "job clusters" or "job families". They further argued that such was a more appropriate categorization under good personnel practices, regardless of what the union contract said (Pub. Ex. 7). In its post-hearing comments, the Department pointed out the administrative burden and inequity of administering a dual system. They argued that the distinctions between occupational categories were meaningful, assisted in differentiating between reallocations and changes in allocations and helped detect by-passing of the selection process by assigning incumbents to work out-of-class (Dept.'s Ex. P). The proposed rule is reasonable.

MINN. RULE Persl 40 - APPLICATIONS AND ADMISSION

32. The proposed change makes the receipt of applications in the Department of Personnel the determining factor in cases of contested timeliness (rather than date of submittal). Submission has proven impossible to verify, resting only upon the word of the applicant. Date of receipt is easily verifiable since all mail is date stamped when received in the Department of Personnel. Use of the departmental date stamp procedure is also preferrable to date of postmark because postmarks are sometimes difficult to read and require retention of envelopes.

MINN. RULE Persl 46 - RATING RESULTS OF SELECTION PROCESSES

33. Existing language in Persl 46 indicates that "appropri-

ate scientific techniques and procedures shall be used in scoring the results of selection processes and in determining the relative ranking of competitors". The first proposed change in this rule specifies that electronic scoring of test answer sheets and experience and training rating forms may be one of those "scientific" techniques. Absent such automated processing, hand-scoring of all selection instruments would slow the establishment of eligible lists and notification of results to candidates. Automated processing is commonplace among organizations with similar volumes of testing.

34. The second proposed change in Persl 46 permits the Commissioner to set minimum ratings for candidate eligibility taking into account such factors as the number of vacancies anticipated during the term of the eligible list. Since both the law and rules require the ranking of candidates, and since there will be only a limited number of positions filled in each classification over time depending upon turnover and new position establishment, little purpose is served by establishing minimum ratings for eligibility beyond what might reasonably be expected to place a candidate in line (in rank) for an opening which might occur. Establishing list length (hence setting minimum scores) on the basis of anticipated need also provides a realistic picture of employment possibilities to candidates and saves the State the cost of providing revised rank information to candidates with no hiring potential. The existing rule did not define the factors to be considered in setting minimum scores.

35. The AFSCME representative was concerned that incumbents of reallocated positions may be disadvantaged if minimum scores are set higher because of a large number of applicants from outside the agency. In its post-hearing comments, the Department conceded that that may occur. However, that must be balanced against the interests of the state where there are a large number of non-incumbents who are better qualified. Several advantages are provided to incumbents in the previously discussed changes in Persl 39 C. The rule proposed here is not unreasonable.

36. The third proposed change in this rule, like the first,

spells out more specifically for the public and applicants the practice of using a tentative ranking procedure. The rule already permits the Commissioner to set a maximum number of competitors which may advance through the various stages of the selection process. The amendment specifies that use of this provision may result in a tentative ranking procedure for completion of the remaining portions of the selection process at a later time. Such procedures make possible the retention of a large number of qualified candidates for later contact without conducting a complete examination process. This saves both the total selection costs for the State as well as time and travel costs for candidates who would gain little from the opportunity to complete the exam process with a low rank on the final eligible list unless there was a need for many candidates.

MINN. RULE Persl 47 - VETERANS PREFERENCE

37. Reasonable minor changes are made to this rule to conform it more precisely to the provisions of Minn. Stat. § 43.30.

MINN. RULE Persl 61 - REEMPLOYMENT LIST

38. An addition to this rule was proposed to make it conform with the union agreement. It increases the reemployment opportunities for laid-off employees by stating that their names shall be placed on the reemployment list for all classes in which the employee possessed permanent or probationary status prior to lay-off and for locations and employment conditions for which the employee is eligible and has expressed a willingness to accept employment. However, the proposed rule required the placement of the laid-off employee's name on these lists "at the request of the employee". At the hearing, the AFSCME representative noted that the union agreement did not require an employee's request and argued that the appointing authorities should take the initiative and explain the employee's rights to him. At the hearing, personnel officers of the operating agencies who were present stated that such a procedure would be acceptable to them. Therefore, the Department, in its post-hearing comments, suggested that the proposed rule be modified to read as follows:

"The name of a laid-off employee shall be placed upon the re-employmentlist for all classes in which the employee possessed permanent or probationary status prior to lay-off and for locations and employment conditions for which the employee is eligible and has expressed a willingness to accept employment. Initial notice of which classes, locations and employment conditions the employee is willing to consider shall be made to the Department of Personnel by the appointing authority at the point notification of lay-off is given to the Department. Subsequent changes in availability for classes, locations, or employment conditions shall be made any time within three years of the date of lay-off by the laid-off employee."

In this form, the rule is clear and reasonable.

MINN. RULE Persl 65 - REMOVAL OF NAMES FROM ELIGIBLE LISTS.

39. The proposed change in Persl 65 C. decreases from ten to seven the number of days which an applicant is given to respond to written inquiry relative to availability of employment before his name may be removed from an eligible list. In past years, the number of days permitted for such response was five. In the last series of rule changes, this was increased to ten in an effort to give applicants broader response opportunity. This has worked a periodic hardship on appointing authorities (and on some applicants hoping for rather immediate hiring decisions) when jobs needed to be filled quickly, and the Department now feels that a number of days somewhere between the two previous alternatives would prove most reasonable for both interests. A full week should give even an undecided applicant ample opportunity to make up his mind about interest in the job or state employment in general without increasing unduly the time involved in what can be an already lengthy hiring process.

40. The Minnesota Government Engineers Council objected to the hardship created by removing names because of failure to respond when the applicant is unavailable for some valid reason such as vacation or illness (Pub. Ex. 4). It also appeared from testimony at the hearing that appointing authorities were applying this rule differently; some measuring the period of time from the date of mailing, others from an estimated date of receipt. In response to the Engineers, the Department pointed out that Persl 66 allows names to be restored to an eligible list upon written request to the Commissioner giving the reasons for res-

toration. That particular rule is so discretionary that it provides little real protection. However, it is necessary to set a cut-off date, and seven days is not unreasonable. In response to the confusion over application of the rule, the Department suggested that the proposed rule be further modified to require response within seven days from the date of mailing of a written inquiry. This change is necessary and reasonable to insure uniform and fair application of the rule.

41. The proposed change in Persl 65 H. eliminates the possibility that a candidate's name may be removed from an eligible list due to failure to maintain a current phone number with the Department of Personnel. This portion of the rule has not been used because some candidates do not maintain private phones and are reluctant to list the phone numbers of others. Continuing the requirement to maintain a current phone number with the Department may constitute undue economic or personal hardship on some applicants and is unnecessary since the emphasis of the rule is upon reaching candidates by certified mail.

MINN. RULE Persl 66 - RESTORATION OF NAMES TO ELIGIBLE LISTS.

42. The proposed change in Persl 66 is a reasonable grammatical one to correct possible misinterpretation of a sentence in the existing rule because it is placed within the last paragraph of that rule rather than set off as a separate paragraph.

MINN. RULE Persl 68 - COOPERATIVE USE OF ELIGIBLE LISTS BY GOVERNMENTAL MERIT SYSTEM JURISDICTIONS.

43. This is a proposed new rule and would permit use of eligible lists established by other governmental merit system jurisdictions for filling State service positions. Some concern was voiced about this proposed rule on the grounds that its use could deny state employees the opportunity to compete for career advancement. Since the use of this rule is anticipated only in situations where state recruitment and examinations efforts have already proven futile, or at best incomplete, rather than to replace state service competition as suggested by various representatives at the public hearing, the Department of Personnel modified the proposed rule to read as follows:

"Cooperative use of eligible lists by governmental merit system jurisdictions. Upon the request of an appointing authority, and after due consideration of the needs and interests of the state service, the Commissioner, in the absence of an appropriate state eligible list or when there are not sufficient names on the state eligible list to make a complete certification, may authorize the use of an eligible list established by another governmental merit system employing U. S. Civil Service Commission-Approved Standards to make an appointment to a classified position in the state service, providing the job classification for which the eligible list was established in the cooperating jurisdiction is determined to be similar in job duties to the position for which it is to be used in the state service and that the selection process measures knowledges, skills, and abilities essential for satisfactory performance in the position in the state service for which the list will be used. Any eligible list adopted under this rule shall be considered to constitute an open competitive list and the ranking and referral of candidates' names shall be in accord with the provisions of Personnel Rules 82 and 84." (Dept's Ex. P)

Minnesota Statutes § 43.31 makes clear the authority of the Commissioner of Personnel to "enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services . . ." and the federal government encourages such procedures as a means of facilitating public service mobility and maximum utilization of manpower. Judicious use of this proposed rule could save public funds and avoid duplication of effort by governmental jurisdictions.

MINN. RULE Persl 82 - METHODS OF FILLING VACANCY UPON RECEIPT OF REQUEST FOR AN EMPLOYEE

44. The proposed change in Persl 82 permits use of reemployment lists and eligible lists established by cooperating governmental merit system jurisdictions as provided in the new proposed rule 68 for filling managerial and professional positions. Existing language was developed to parallel statutory provisions which prohibit limited competition for such positions to employees of one agency only through use of an agency promotional eligible list. Since the rule was worded positively telling which list could be used for such positions, not those which could not, it requires that all eligible lists which may be used for such jobs be included. Since reemployment lists are statewide lists containing names of former employees from any and all state departments and since lists established by other jurisdictions would be

equivalent to competitive eligible lists, they should be included in this inventory.

MINN. RULE Persl 85 - PERMANENT APPOINTMENTS FROM ELIGIBLE LISTS.

45. The proposed change in Persl 85 requires that appointing authorities give appropriate consideration to quality and length of service of any state employee referred from an eligible list for possible appointment to a position. Inclusion of provision for such consideration in the Personnel Rules is mandated by Minn. Stat. §§ 43.18, subd. 4, and 43.19, subd. 4, which indicate that "seniority in length of service shall also be one of the factors in an appointment in the manner as provided by personnel rule."

MINN. RULE Persl 97 - DURATION OF PROBATIONARY PERIOD

46. The first change in this rule is to clarify an existing rule that unpaid leave in excess of ten work days must be added to the length of the probationary period. There has been some confusion in interpreting the provisions of the current language. The Department originally proposed that the pertinent section read:

> "Unpaid leave exceeding ten or more work days shall be added to the length of the probationary period."

In its post-hearing comments, the Department was concerned that its proposal was really no better than the existing language. They therefore suggested that the sentence be revised to read:

> "Unpaid leave in excess of ten work days shall be added to the length of the probationary period."

That is better but still could be misinterpreted. The Examiner would suggest a further modification as follows:

> "Unpaid leave to the extent it exceeds ten work days shall be added to the length of the probationary period."

47. The second change in Persl 97 provides a definition of the term "occupational field"; a term that is used only in this rule. The rule allows employees on probation who are promoted to complete the probationary period for the lower class by service in a higher class, if the position is in the same occupational field and in the same department. The proposed definition states that classes shall be considered to be in the same occupational

field when the appointing authority determines, after an analysis of the positions involved, that it is possible to evaluate the probability of satisfactory service in one class by observing service in the other class. There was some concern expressed by the AFSCME representative that this gave too much discretion to the appointing authorities. The position of the Department, that it is the appointing authority who is in the best position to determine whether two classifications are in the same occupational field, is reasonable, especially in light of the fact that it is the appointing authority who must, at any rate, make the evaluation.

MINN. RULE Persl 106 - RETIREMENT

48. Two minor changes are made to this rule to conform it to the language established by Minn. Stat. §§ 43.051 and 354.44, subd. 1.

MINN. RULE Persl 109 - LAY-OFF

49. This rule contains provisions which apply in the event a lay-off in the classified service is necessary. The proposed amendments would clarify when trainee appointments may accrue seniority for purposes of lay-off and recall and are necessary to conform to collective bargaining agreements between the State and exclusive representatives of state employees. The new language indicates that trainees or provisional appointees shall be credited with seniority back to their date of hire when the employee begins to serve a probationary period in the same or related class in the same department. This is necessary to ensure statewide uniformity in the provisions relating to seniority, lay-off and recall. The specific language is identical to that provided in the union contracts.

MINN. RULE Persl 129 - HOURS OF WORK

50. This rule addresses provisions relating to the hours of work which apply to state employees. The proposed change to require the Commissioner of Personnel to consult with the Commissioner of Administration before making changes in work schedules is necessary to make it clear that non-personnel considerations are included in any proposed change in work schedules. These

considerations would include such areas as energy conservation and building access.

51. The rule is further amended to delete the provision relating to shift differential. This subject is not appropriate for inclusion under this rule relating to hours of work, and, in addition, is not necessary as it is clearly covered in Minn. Stat. § 43.12, subd. 16. There is no difference between the rule and the statute, so repeating the language in the rules is neither necessary nor appropriate.

MINN. RULE Persl 131 - HOLIDAYS

52. This rule relates to holiday provisions which apply to State employees. The first change reflects the change in the name of hourly laborers to non-tenured laborers required by law. The next proposed change would exclude temporary employees and emergency employees from eligibility for holiday pay. This change is necessary to bring the rule into conformance with the various collective bargaining agreements and to ensure that all employees, whether represented or not, are treated in the same manner. It also brings the eligibility of employees for holiday pay into conformance with eligibility for sick and annual leave accrual as provided in Personnel Rules 135 and 136 and the various collective bargaining agreements. It is an accepted personnel practice in almost every private or public jurisdiction that employees hired on a very short-term basis are not eligible for this benefit. The change proposed in the title of the Presidents Birthday is to conform with the terminology of Minn. Stat. § 645.44. The Department of Public Welfare, noting that the rules on annual sick leave clearly define the accrual rights of the employees receiving workers' compensation, suggested that this rule on holidays make a similar clarification (Pub. Ex. 7). The Department should consider such a clarification.

53. The proposed change in Persl 131 F. would require 21 days' advance notice to an appointing authority when an employee desires to observe a religious holiday which does not fall on a Sunday or a legal holiday. This change is necessary to conform to union contracts and to provide the employer sufficient oppor-

tunity to arrange schedules, since, under most union contracts, all schedule changes must be posted 14 days in advance. It should be pointed out that the schedules of non-bargaining unit people may have impact on the scheduling of bargaining unit employees.

MINN. RULE Persl 133 - ABSENCE BECAUSE OF ILLNESS OR INJURY FOR WHICH WORKERS COMPENSATION IS PAID BY THE STATE

54. This rule relates to injured on duty pay authorized by statute. The amendment to include employees of the School for the Deaf and the Braille and Sight Saving School for eligibility is necessary to conform to Laws 1977, Ch. 452, § 9, and the agreement between the State and the Residential Teachers Association. The proposed change reflects the transfer of the Braille and Deaf Schools from Public Welfare to the Department of Education.

MINN. RULE Persl 135 - VACATION LEAVE

55. Changes proposed here are intended to clarify existing provisions and to implement changes necessary as a result of collective bargaining agreements and new laws. Another change is to clarify which employees are covered by the provisions of this rule and to ensure that unclassified employees are treated in the same manner as classified employees. The term "unlimited" does not have a clear meaning in the unclassified service. Substituting the phrase "for a period in excess of six months" makes the rule easier to understand and provides a practice consistent with classified employees who, if they are appointed for a period of less than six months, do not earn vacation. Language was added to further clarify that appointing authorities may establish vacation leave practices only for those employees not specifically covered or excluded by the rule. The next change attempts to clarify when employees receiving workers compensation benefits are eligible for sick and annual leave accrual. The proposed language expresses the intent that the employee accrues vacation and sick leave only during those payroll periods in which vacation or sick leave are used.

56. Another proposed change would increase the maximum accumulation of annual leave from 208 to 224 working hours. This

change is necessary to conform to the provisions of the various collective bargaining agreements and to assure statewide consistency in this regard. The next change is proposed to update the statutory citation relating to department heads and deputies and thereby ensure that as new positions are added to the department heads' salary listing in the statute, they will be automatically included in this vacation leave provision. It will ensure that the annual leave provisions will be consistent for all department heads and deputies whose salaries are established in a similar manner by statute. It also clarifies that employees designated as managerial are subject to the vap cation leave accrual provisions established by the Commissioner in accordance with Minn. Stat. § 43.127.

MINN. RULE Persl 136 - SICK LEAVE

57. Like the previous rule, the terminology is changed from "unlimited" unclassified employees to "appointed for a period in excess of six months" in order to clarify which unclassified employees are covered by the provisions of this rule and to ensure that these employees are treated in a manner similar to classified employees. Another change would increase the maximum accumulation of sick leave from 800 to 900 hours. This is required by the various collective bargaining agreements and is necessary to ensure a consistent statewide practice regarding the accrual of sick leave. Finally, it is proposed that language be added to clarify when employees receiving workers compensation benefits are eligible for sick leave accrual. The changes proposed in this rule would clarify existing provisions and implement the provisions agreed to in collective bargaining agreements.

58. One comment was received on a portion of this rule that is not under consideration for amendment at this time (Pub. Ex. 5). The rule currently allows use of a reasonable period of sick leave to be authorized in the case of a death of a spouse or a close relative. The suggestion is that such use of sick leave be authorized in the case of death or hospitalization of such a close relative. The writer gives good reasons for the change and suggests that because it would have minimal impact, it would not be

a substantial change and could be adopted at this time. Unfortunately, substantial change is not determined so much by the degree of change but whether it deals with an entirely new subject matter of which persons had no notice. That is the case here. The Department should consider the change for a future rules amendment.

MINN. RULE Persl 141 - CHILDBEARING/CHILD-REARING LEAVE OF ABSENCE WITHOUT PAY

59. This rule relates to maternity leave of absence without pay provisions for State employees. The proposed change is necessary to conform to union contract amendments and to eliminate any possible sex discrimination by ensuring that childbearing/child-rearing leaves are available to either parent regardless of sex. The proposed language would ensure that any eligible natural or adoptive parent would be eligible. The rule would also provide that these leaves are not available to employees appointed for a period of six months or less since their employment would have expired prior to the end of the leave of absence.

60. The proposed rule requires that the leave of absence be granted when requested "incidental to the birth or adoption of a child." The AFSCME representative pointed out that Art. X, § 4 D of the union agreement contained no similar restriction. It was the Department's position that this rule did not conflict with that contract provision (Dept's Ex. P). The contract provision is open to various interpretations and inserting the phrase in the rule would allow the Department to unilaterally place an interpretation upon a contract provision outside of the procedures established by the Public Employees Labor Relations Act. The Examiner finds, therefore, that the quoted phrase is unreasonable and should be deleted.

MINN. RULE Persl 144 - OTHER LEAVES OF ABSENCE WITHOUT PAY

61. This change proposes the addition of two additional types of leave: Leave to accept a position outside of state service funded by a government or private foundation grant related to the employee's current work, and leave to attend a political party caucus or convention. These are necessary to conform to the provisions of collective bargaining agreements with the

exclusive representatives of state employees and to ensure a consistent practice throughout the state service for both represented and non-represented employees. The specific language proposed is identical to tha provided in certain collective bargaining agreements.

MINN. RULE Persl 160 - THE DEVELOPMENT POLICY

62. This rule is the introductory rule to Ch. 13 of the Personnel Rules, Employee Development. The 1977 Legislature made significant changes in the area of training and development by attaching a rider to the Department of Personnel appropriations bill (Laws 1977, Ch. 455, § 23). The rider requires three changes:

1. Operating departments must submit training budgets to the legislature.

2. The Commissioner of Personnel must promulgate rules to establish and administer special career training programs for Class (Schedule) C civil service employees.

3. Operating departments must have approved plans to use 50% of their training money for special career training programs for Class (Schedule) C civil service employees.

Prior to passage of Ch. 455, training policy was established by the Training Division of the Department of Personnel in a policy statement issued in October, 1973. The major feature of that policy was the requirement that all training be job-related. Frequently this was interpreted to limit training to only those areas of responsibility included in an employee's current position description. The passage of Ch. 455 mandates that rules be promulgated that require state agencies to be involved in career training as well. In addition to this new legislation, Ch. 43.32, subd. 2, requires that certain conditions concerning training and development be governed by Personnel Rule.

Because the legislation required extensive changes in current policy, the Department took the opportunity to review all training and development rules. As a result, rules have been revised and new rules have been written to conform with changes in the law.

A major reason for revising existing rules is to eliminate inconsistencies and inequities in current policies implemented by

operating departments. For example:

- Reimbursement standards vary from 50-100% among state agencies.
- Work release time standards vary from 0-200 hours among state agencies.
- Combinations of reimbursement and release time allowed vary from either/or to both.

This situation could cause two employees in different departments with similar training needs to be treated very differently because of different agency training policies.

The Department stated that its purpose was not to restrict department responsibility to implement training and development programs as a management tool nor to ignore unique department needs. Rather, it was to provide some basic guidelines that will ensure consistent and equitable treatment of all employees within the resources available to each department.

63. Persl 160 establishes the overall state philosophy on training and development. It formally establishes training and development as a management tool to be used at the discretion of each department head; it is not an employee right or benefit; but each agency is responsible for assisting employees in reaching their career goals. The introductory section of the rule changes the training and development philosophy to include and support career development, which is the main thrust of Ch. 455.

The Council on the Economic Status of Women (hereinafter "Council") offered a number of suggestions dealing with the rules on training and development. On this particular section of the rule, they suggested that affirmative action goals should be considered by the department heads when determining what assistance would be provided to employees in reaching their specific career goals (Pub. Ex. 3). In its post-hearing comments, the Department agreed and suggested that the last sentence of the introductory paragraph of Persl 160 be modified to read:

> "The form and level of this assistance is determined by the department head after taking into consideration the affirmative action goals of the state."

This is important because career development is closely related to promotion opportunities and affirmative action is involved in promotion.

64. Persl 160 A. and B. provide definitions of "development" and "training". As originally proposed, Persl 160 A. provided in part:

> "Employee development is an on-going process intended to help employees attain and maintain a quality of job performance that meets the needs of the state and the needs of individual employees."

The Council suggested, and the Department agreed, that the rule could be improved by changing the word "needs" to "career objectives" of individual employees. The term is more specific and indicates which needs of the employees will be considered in their development plans.

Persl 160 B. states in part: "Training is a specific means or method of employee development." The rule then goes on to list examples of the activities included within the definition. The final sentence states:

> "Conferences, conventions, informational meetings, site visitations are usually not included in formal training."

The Council pointed out that because one purpose of specifically defining "training" is to aid in the preparation of uniform training reports, certain of these activities which are of an educational nature should be included. The Department agreed, and in its post-hearing comments, suggested that the following proviso be added to the end of the sentence: "unless they are conducted specifically for educational purposes." This change should be adopted.

65. Persl 160 C. requires that every employee be counselled in terms of development and complete an individual development planning worksheet annually. It provides that first priority for expenditures of state funds will be given to those activities included in the individual development plan. The Department of Public Welfare wondered, "How is mandated training (assigned [by] higher authority) which arises after the completion of developmental plan handled?" (Pub. Ex. 7). That is somewhat confusing although there is nothing in the rule to prevent the individual development plan from being revised more often than annually to include subsequently mandated training. The Department may wish to

consider an appropriate clarification of the rule.

66. Persl 160 D. draws a distinction between job-assigned and employee-initiated training. The distinction becomes important under Persl 161 which deals with the amount of training time allowed for various programs and the amount of expenses to be reimbursed. Job-assigned training is that in which the employee must participate in order to carry out the basic responsibilities of the job. Persl 160 D.1. states that the employee is, "Assigned by the Department to participate as a specific work assignment." The Council requested that the provision also include training and development activities specifically requested by the supervisor (Pub. Ex. 3). The Department felt that the word "requested" was too vague and could lead to confusion. It did agree, however, that if the supervisor requires specific training, then there should be no expense to the employee. Therefore, they suggested that the rule be modified to read, "Assigned by the Department to participate as a specific work assignment or as specifically required by the supervisor." So modified, the rule is reasonable.

MINN. RULE Persl 161 - TRAINING STANDARDS

67. This rule includes language that allows the department head to assign employees to participate in training and development programs as a work assignment. The purpose of work-assigned training is to provide development for employees which is considered necessary for them to effectively carry out their job responsibilities. Decisions on the amount of time and resources to be invested in this process are made by the department head based upon the organization's need for the increased skill, knowledge or ability that the employee will possess when the training is completed.

68. Employee initiated training can be characterized by being related to but not absolutely necessary for the employee to carry out his job responsibilities and would be of more interest and value to the employee than the state. Because of this, the use of employee-initiated training is limited by Persl 161 A.1. to 100 hours (approximately 5% of the work year) of work-release time. The primary responsibility of each department is to get a

specific job done. The increased skill, knowledge or ability gained by the employee is not integral to accomplishing this basic objective, and therefore, the time away from the job spent in training is not necessarily work productive for the department.

In addition, it is necessary to ensure that all employees have an equal opportunity to participate in this type of training. It is necessary that all employees will be treated equitably, protecting against a situation where some employees will be involved in considerably more than the 100 hours and others very little because the work still has to be completed.

The 100-hour limitation is what the Department considered to be a reasonable percentage of the work year. This number is consistent with the old policy which allowed for participation of 1-3 credit course per quarter or its annual equivalent. It is also similar in amount to vacation accrual of newer employees. The exact number was determined after analysis of various department policies. The 100-hour limitation was accepted by the training directors of the major agencies as a workable compromise. The Division of Vocational Rehabilitation stated that many of its employees required more than 100 hours (Pub. Ex. 8). Based on special circumstances, a department may request a leave of absence with or without pay for an individual employee to participate in training beyond the 100-hour limitation. This provision, as well as 161 C., allows maximum flexibility to the departments to meet their unique needs.

69. Persl 161 A.3. provides that employees may receive only work release time or tuition reimbursement for courses or programs. The intent here is to place a reasonable limit on the amount of contribution that the state should make to something that will primarily benefit the employee. These limitations are necessary to maintain the concept that training and development is a shared experience between the state and the employee. They also allow more equitable use of limited resources and the greatest flexibility to allow each department to work out the best plan for its needs.

70. Persl 161 B. requires the department to bear all necessary and legitimate expenses for job-assigned training and development. If the employer requires participation in a course or program, the employee should not be expected to suffer any financial loss.

71. Persl 161 B. also provides that reimbursement for expenses incurred in employee-initiated training will be limited to 75% of the tuition or registration costs, plus full reimbursement for necessary books, materials and fees, provided such materials do not become the sole property of the employee (in other words, that they become the property of the state), that such fees and expenses are not for similar services already provided by the state, and that such fees and expenses are for services that are directly related to the specific training course or program. The Council requested that the rate be changed to 100% of tuition and registration costs because some employees, especially those on Schedule C, could not even afford to pay 25% of such costs. The Examiner agrees with the Department that it is not unreasonable to require the employee to make some contribution. The Department also noted that Persl 167 specifically allows exceptions from Persl 161 that can be used to meet special situations. A similar exception is made in Persl 161 C. which provides for special programs to be discretionary with the operating department subject to the prior approval of the Commissioner of Personnel. Taken as a whole, proposed Persl 161 reasonably provides for the fair and equitable treatment of all employees while providing the operating departments maximum flexibility to meet unique needs.

MINN. RULE Persl 166 - MANDATORY TRAINING

72. The only change in this rule is to add the title.

MINN. RULE Persl 167 - CAREER TRAINING PROGRAMS

73. This is a new rule needed to implement Laws 1977, Ch. 455, § 23, and permit departments to establish special career training programs to meet the needs of their C Schedule employees. It allows operating departments to establish programs that go beyond the standards established in Persl 161. This flexibility is needed to provide the greatest opportunity for operating depart-

ments to implement realistic programs that take into account the career development interests of each employee, the resources that each agency has to offer, and the agency's responsibilities and programs. It is virtually impossible to develop a single program that would meet all of these needs.

74. The Department of Public Welfare noted that the proposed rule goes beyond the requirements of the 1977 law and suggested that it be limited to reflect special career training for C level staff only (Pub. Ex. 7). The Department replied that the most severe criticism they had received in training and development in the past was not allowing or providing for career development. The criticism has been directed at their policies in all training; not just C Schedule training. Consequently, this rule goes beyond the legislative mandate by opening the concept of career development to all employees, not just C Schedule employees. The rule, as written, makes career development a legitimate part of employee training and development in the State of Minnesota. Of course, the statutory requirement that 50% of the budget be spent on C Schedule employees remains, but need not be repeated in the rules.

75. The Council again suggested that reference to affirmative action and projected employment patterns should be considered when developing these programs. It also suggested that department involvement be expanded from that provided in the rule (Pub. Ex. 3). In its post-hearing comments, the Department agreed that such changes would be appropriate (Dept.'s Ex. P). As modified, the rule provides:

> "Career Training programs. Within available resources, and with prior approval of the Commissioner, each department head shall identify and provide special career training programs for state employees. Special career training programs are those designed to assist employees in meeting their career objectives and the State in meeting its affirmative action goals. Department heads shall consider projected employment patterns in the development of these programs. Department involvement in these programs shall be related to the activities of all state agencies. Programs established under this rule may provide for training and development beyond the standards established in Rule 161."

MINN. RULE Persl 168 - REIMBURSEMENT OF TRAINING EXPENSES TO THE STATE.

76. This rule, as originally proposed, required employees who participate in training programs on state time or in programs that are funded in whole or in part by the state to return to a state job for a minimum period of twice the length of the training program. If they failed to fulfill the minimum time requirements, they were required to reimburse the state for the actual cost of the training, plus all salary paid for actual time spent in training activities. This type of policy is necessary to ensure that the State, as well as the employee, receive some benefit from the State expenditure and to prevent abuse of the training program. The IMAGE representative at the hearing suggested that the rule should be made more flexible by allowing the employee to return to any "government" job and making the reimbursement requirement permissive rather than mandatory (Pub. Ex. 2). The Minnesota Government Engineers Council stated that the rule should distinguish between job-assigned and an employee-initiated training and objected to any requirement being placed on an individual for job-assigned training. They also objected strongly to requiring reimbursement of salary, stating that extended training periods of a year or longer would place the employee in a position of an indentured servant. They argued that this requirement would only tend to discourage participation rather than protect the State's interest as was intended. They found that reimbursement of the cost of training contributed by the State for employee-initiated programs to be acceptable (Pub. Ex. 4). The Department of Public Welfare suggested that the reimbursement provisions should be pro rated, depending upon the length of time that the employee did work after completing the training (Pub. Ex. 7). Some other comments were made at the hearing concerning the administrative burden of requiring reimbursement for all courses or programs regardless of length or cost. Finally, the Council suggested that an additional provision be added to the rule requiring reimbursement of tuition or registration costs for any course not successfully completed (Pub. Ex. 3).

In response to some of these comments, the Department offered some modifications to the rule in its post-hearing comments (Dept.'s Ex. P). The first change that they proposed was to place the minimum time requirement only on employees who participate in training programs "or courses longer than 40 classroom hours". That is a reasonable solution to the problem of administrative costs. In fact, since most employees must give a minimum of one week's notice to resign or transfer, the notice would provide sufficient time for the supervisor to disapprove the request for training.

In response to the Council's suggestion, the Department suggested that the following paragraph be added to the rule:

> "The state may require the reimbursement of tuition, registration, travel and living costs paid by the state for any course or program not successfully completed, provided the state is not responsible for the failure to successfully complete the course or program."

As so modified, the rule is reasonable because, if the State provides training to an employee, it is entitled to the benefit of its expenditures regardless of whether the training was requested by the employee or required by the State. Nonetheless, the Examiner would urge the Department to further modify the rule as suggested by the Department of Public Welfare, that is, pro rate the amount of reimbursement to the portion of the minimum period of service actually completed. There are also some other unusual situations that may occur (e.g., disability, lack of money) for which exceptions should be made. The Examiner would therefore recommend that a hardship exception requiring approval of the Commissioner of Personnel, be provided.

MINN. RULE Persl 170 - HUMAN RESOURCE PLANNING

77. The provisions of this rule currently relate to the manpower planning effort conducted by the Commissioner of Personnel. The only proposed change is to strike the word "manpower" and insert the term "human resource". The purpose of this change is to insert a non-discriminatory term for this effort since the State's human resources are, obviously, both male and female.

MINN. RULE Persl 172 - CERTIFICATION TO OCCUPATIONAL CATEGORIES

78. This rule relates to the assignment of occupational categories to each classification in the state service. The first proposed change would delete the term "employment categories", which is not defined in the Personnel Rules, and substitute the term "occupational categories". The intent of this rule is to address "occupational categories". Next, a change is proposed to correct an erroneous reference to Chapter 19 at the end of the second paragraph. The categories indicated are addressed in Chapter 18 of the Personnel Rules. Finally, certain language is proposed for deletion towards the end of this rule which is no longer necessary because they repeat definitions also found in Persl 221, 222 and 234.

MINN. RULE Persl 181 - TRAVEL EXPENSES

79. This rule addresses provisions relating to the travel and expense payment to State employees. The proposed increases in the rates of mileage and meal allowances are necessary to reflect existing rates which were increased as the result of escalator provisions in the existing rules and collective bargaining agreements. Another change would update the dates which apply to the existing escalator provisions which is necessary to conform to collective bargaining agreements between the State and the various exclusive representatives of State employees. The reference to the Highway Department has been changed to reflect the new name of the Department. The only other change proposed is to provide a subtitle heading to paragraph "D".

MINN. RULE Persl 182 - RELOCATION EXPENSES.

80. This rule outlines the provisions relating to the relocation of State employees. The proposed change would increase the maximum amount of realtor's fees which may be reimbursed by the State from $2,000 to $3,000. This change is necessary to implement an agreement with the Minnesota Government Engineers Council, an exclusive representative of engineers employed by the State. In addition, it would permit the reimbursement of realtor's fees to continue at approximately the same level as in the past by recognizing the inflationary increases in housing prices,

and therefore, realtor's fees which have occurred since the rule was last amended in 1974.

MINN. RULE Persl 203 - DEFINITION OF ALLOCATION

81. The change proposed in this rule is necessary to reflect the definition of "allocation" used previously in Persl 18, to conform to collective bargaining agreements, and to ensure consistency in the meaning of this term throughout the State service.

MINN. RULE Persl 224 - DEFINITION OF OCCUPATIONAL CATEGORY

82. As originally proposed, this rule stated:

> "Occupational category" means one of the group of classes established under Persl 172.

In its post-hearing comments, the Department noted that Persl 172 does not establish any groups of classes but that such groups are established in the definitions found in other rules. They suggest, therefore, that the rule be modified to read:

> "Occupational category" means one of the groups of classes established in Personnel Rules 208, 222, 225, 227, 237, 243, 246 and 247.

So modified, the rule is correct, and it is necessary because the term is used in Persl 172.

83. The remaining changes to the rules are simply to re-number those definitions which already exist and fall alphabetically behind the definition of occupational category.

CONCLUSIONS

1. Due, timely and adequate notice of the hearing was properly served and published by the Department. All other substantive and procedural requirements have been fulfilled.

2. The Department has demonstrated its statutory authority to adopt the proposed rules.

3. Except as noted in Finding 60, the Department has demonstrated the need for and reasonableness of the proposed rules, as modified in Dept.'s Ex. P, by an affirmative presentation of facts.

RECOMMENDATION

The Hearing Examiner recommends that the proposed rules be modified as suggested in the Findings, and that so modified, they be adopted.

Dated this 1st day of December, 1977.

STEVE M. MIHALCHICK
Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, RE-ALLOCATION PAY, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Personnel Commissioner of the State of Minnesota on September 21, 1977 at 9:30 A.M. in the State Office Building Auditorium, St. Paul, Minnesota, after proper notice required by Minn. Stat. Section 15.0412 (1976) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules and the reasonableness thereof.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Amendments to Existing Personnel Rules, Minn. Rules Pers1 4, 9 - 12, 18, 19, 21, 22, 24, 28, 29, 31, 39, 40, 46, 47, 61, 65, 66, 68, 82, 85, 97, 106, 109, 129, 131, 133, 135, 136, 141, 144, 160, 161, 166 - 168, 170, 172, 181, 182, 203, 224, and 225 - 254 are adopted this Ninth day of December, 1977, pursuant to authority vested in me by Minn. Stat. Sections 43.05, Subd. 2(2), 43.12, 43.127, 43.18, 43.19, 43.31, 43.32, 43.323, 43.326, 43.327 and Minn. Laws 1977, Ch. 455 §23 and in accordance with the Administrative Procedures Act, Minn. Stat. Sections 15.0411 to 15.052.

STATE OF MINNESOTA
DEPARTMENT OF PERSONNEL

Clarence E. Harris
ACTING STATE PERSONNEL COMMISSIONER

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PERSONNEL

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, RE-ALLOCATION PAY, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES.

REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on September 21, 1977, before Steve M. Mihalchick, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Personnel on December 1, 1977; and

WHEREAS, the Department of Personnel has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Department of Personnel has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department of Personnel has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Personnel has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 9th day of
December, 1977.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, RE-ALLOCATION PAY, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES.

FINDINGS OF FACT

The above-entitled matter came on for hearing in the State Office Building Auditorium, St. Paul, Minnesota on September 21, 1977, at 9:30 a.m., before Steve M. Mihalchick, a Hearings Examiner assigned by the Chief Hearing Examiner.

The following persons appeared for the Department of Personnel (hereinafter, "Personnel"): Donn Escher, Assistant Commissioner; Mark Sundquist; Julie Vikmanis; James Lee; Ronald Olson; and Barbara Lindsey Sims, Special Assistant Attorney General. Nineteen other persons attending the hearings signed the hearing register. The hearing continued until all interested persons or groups had had an opportunity to participate. The hearing reconvened at 7:00 p.m. on September 21, 1977 to receive comments and questions from employees who were unable to attend during working hours. No one appeared at that session.

Hearing Examiner Mihalchick prepared the Report of the Hearing Examiner (hereinafter "Report"), dated December 1, 1977 pursuant to Minn. Stat. §15.052 Subd. 3 and Minn. Rules H.E. 106.

Based upon all the records and proceedings herein, the Commissioner makes the following:

FINDINGS OF FACT

1. He adopts Findings 1-6 of the Report, which findings relate to the procedural requirements and statutory authority for the proposed rules.

2. He adopts Findings 7-51, 54-58, 61-64, 66-83 of the Report, which findings relate to the need for and reasonableness of proposed rules Persl 4, 9-12, 18, 19, 21, 22, 24, 28, 29, 31, 39, 40, 46, 47, 61, 65, 66, 68, 82, 85, 97, 106, 109, 129, 133, 135, 136, 144, 160, 161, 166-8, 170, 172, 181, 182, 203 and 224 and the need for and reasonableness of renumbering the rules following proposed rule Persl 224.

3. He adopts Findings 52 and 53 of the Report insofar as they relate to the need for and reasonableness of proposed rule Persl 131 but finds that clarification of the rule to define the accrual rights of employees receiving workers' compensation is unnecessary since holidays are not accrued.

4. He adopts Finding 59 of the Report, which finding relates to the need for and reasonableness of proposed rule Persl 141 except the phrase "incidental to the birth or adoption of a child" but declines to adopt Finding 60 of the Report which relates to that phrase and finds its inclusion unreasonable. Although Art. X §4D of the Agreement between the State and AFSCME Council No. 6 does not contain the phrase "incidental to the birth or adoption of a child", the rule as proposed does not conflict with the contract. However in order to make the language of the contract and rule identical it is reasonable to delete that phrase.

5. He adopts Finding 65 of the Report insofar as it relates to the need for and reasonableness of proposed rule Persl 160C but finds that clarification of the rule in the manner suggested is unnecessary since the rule as proposed does not prevent a department counseling employees and updating development plans as often as the department and employee wish but merely establishes that it must be done at least once a year.

6. He finds that proposed rule Persl 168 should be modified as suggested in Finding 76 of the Report. The rule as modified is reasonable and necessary to insure fair treatment for all employees.

CONCLUSIONS

1. He adopts Conclusions 1 and 2 of the Report.

2. He adopts Conclusion 3 of the Report except for the reference to Finding 60.

3. The need for and reasonableness of proposed rule Persl 141 as modified by Finding 4 above has been demonstrated by an affirmative presentation of facts.

Dated: December 9, 1977

Clarence E. Harris

CLARENCE E. HARRIS
Acting State Personnel Commissioner

STATE OF MINNESOTA

DEPARTMENT OF THE ATTORNEY GENERAL

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PERSONNEL GOVERNING EMPLOYEE DEVELOPMENT AND TRAINING, RE-ALLOCATION PAY, COOPERATIVE USE OF ELIGIBLE LISTS, AND THE AMENDMENT OR REPEAL OF CERTAIN EXISTING RULES.

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Barbara Lindsey Sims, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Barbara Lindsey Sims
Special Assistant Attorney General

Dated: December 20, 1977.