

STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEO

## STANDARD OPERATING PROCEDURE

### VIII. REQUESTING A NONPERMANENT POSITION

A. Purpose

The purpose of this SOP is to provide department personnel offices with guidelines, references, and required procedures for requesting a nonpermanent position.

B. Scope

This SOP applies to all nonpermanent position requests. It does not include Emergency Hire.

C. Authority

"An appointment may not be made to a nonpermanent position unless the position has been approved by the director;" Alaska Statute (AS) 39.25.195(c), 2 AAC 07.165(b) (Addendum A and B).

Statutory provisions for nonpermanent employees are found in AS 39.25.195-200 (Addendum A).

Bargaining unit provisions for nonpermanent employees are as follows:

Article 9 of the 1990-1993 General Government Unit Agreement.

Article 2, Section 2, of the 1990-1992 Supervisory Unit Agreement.

Article 13, Section 9, of the 1990-1992 Labor, Trades and Crafts Agreement.

Article 2, Section 2, of the 1990-1992 Confidential Employees Association Agreement.

D. Definitions and Status Codes

1. There are four types of statutory nonpermanent positions:

a. **SUBSTITUTE:** A nonpermanent appointment to a position or a group of positions in the same job class which is temporarily vacated by a permanent employee on leave. Appointments are limited to duration of incumbent's leave or an earlier date specified by the department. Requests for substitutes to fill in for employees who are acting in a higher range will not be approved.

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**STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEE0**

## **STANDARD OPERATING PROCEDURE**

- b. **NORMAL:** Appointment to complete a given work assignment which does not exceed 120 calendar days in a 12-month period in one department.
- c. **PROJECT:** Appointments made with prior written understanding that employment in the position will continue for, at most, the duration of a specified project that is not a regular and continuing function of a department and that has an established probable date of termination.
- d. **PROGRAM:** Appointments to nonpermanent positions created primarily to help the employee; appointment limited to duration of the program. (Interns are in this category.)

### 2. Status Code Information

- a. General Government Bargaining Unit (GGU), Supervisory Bargaining Unit (SU) and Confidential Employees Association (CEA) authorize the establishment of short-term and long-term nonpermanent positions.

#### 1) Short-term Nonpermanent

All nonpermanent positions established for 90 days or less will be identified with one of the following status codes.

TG Short-term nonpermanent program

TJ Short-term nonpermanent project

TS Short-term nonpermanent substitute

TT Short-term nonpermanent normal

The State-paid benefits for employees who occupy short-term nonpermanent positions are supplemental benefits, medicare tax, unemployment insurance and Workers' Compensation. (In the event that a GGU or CEA short-term nonpermanent position goes beyond 120 days, the benefits paid to long-term nonpermanent positions are listed below and shall be awarded retroactive to the date of appointment.)

#### 2) Long-term Nonpermanent

All nonpermanent positions established in the GGU and CEA bargaining units for 121 days and less than twelve months and

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STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEO

## STANDARD OPERATING PROCEDURE

those in the supervisory bargaining unit for 91 days and less than twelve months will be identified with one of the following status codes.

PG Long-term nonpermanent program

PJ Long-term nonpermanent project

PS Long-term nonpermanent substitute

PT Long-term nonpermanent normal

The State-paid benefits for employees who occupy long-term nonpermanent positions are as follows:

GGU Agreement--Annual and sick leave accrual, health and life insurance, and holiday benefits.

Supervisory Agreement--Personal leave accrual, health insurance and legal trust coverage, holidays benefits, employment application rights afforded permanent employees and all grievance/arbitration rights, except those involving termination of employment.

Confidential Agreement--Health and life insurance, personal leave, and holiday benefits.

3) On-call Nonpermanent Substitute (GGU only)

On-call substitute positions are defined as those nonpermanent positions whose incumbent(s) are sporadically scheduled, or called to work to temporary substitute for other employees of the bargaining unit. Sporadically is defined as "occurring occasionally, singly or in scattered instances." On-call substitutes will be identified with the following code:

OS On-call substitute

b. All Other Bargaining Units:

1) Regular nonpermanent

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STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEEO

## STANDARD OPERATING PROCEDURE

NG Program

NJ Project

NS Substitutes

E. Procedure

1. An appointment of a nonpermanent employee may be made only after a request for authorization is approved by the Director of the Division of Personnel. The vehicle for requesting the Director's authorization is form 02-230 (Rev. 7/90). Directions explaining how to complete each section of form 02-230 are as follows:

Request for Nonpermanent Employee (Addendum C).

a. (The First Box)

- 1) Fill in the codes and other information as requested. Do not fill in box marked "Division of Personnel use only." The beginning date cannot precede the date of approval by the Division of Personnel, so allow at least a week of lead time in Juneau, more in other locations. The ending date cannot crossover the fiscal year; an extension must be requested when the funding source for the new fiscal year has been approved by the legislature and signed by the Governor. Please mark the appropriate box if the position is related to the oil spill, permanent fund dividend, or an institution. Each position must have its own position request. On-call may have multiple PCNs on a request only if they have consecutive numbers and have the same job class, location, beginning and ending dates.
- 2) Selections are made from the following sources:
  - Eligible Lists
  - Union Dispatch (LTC job classes)
  - Intern Procedures with school reference
  - Job Service
  - Rehire
  - Other
- 3) For nonpermanent substitutes, show the PCN of the permanent position.

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STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEO

## STANDARD OPERATING PROCEDURE

b. Certifications

- 1) Check the appropriate reason for the request. If you are not sure of the reason, refer back to the four types of nonpermanent positions.

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**STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEO**

## STANDARD OPERATING PROCEDURE

- 2) The certifying officer must have signed a certifying officer's affidavit (form 02-1271) (Addendum D) which states that he/she has read and understands the statutes AS 39.25.195-200. By signing the Request for a Nonpermanent Employee form, the certifying officer is verifying that the stated reason for requesting the position is true and accurate. A false certification can subject a certifying officer to civil and criminal penalties.

Nonpermanent position requests will not be reviewed without a signed affidavit on file in the Division of Personnel. These must be renewed annually.

- 3) Do not complete this section for nonpermanent substitutes.

c. Funding source and authority

- 1) Cite SLA, chapter, page, and line of appropriation, page of budget if appropriate, or RPL No. Funding authority cited must cover the time period of the nonpermanent position and end on June 30, annually, coinciding with the fiscal year, unless the appropriation has another specific ending date.
- 2) Do not complete this section for nonpermanent substitutes.

d. Explanation

- 1) Provide sufficient explanation of reasons for the request in order to document a valid need and conformance to statutory requirements. When writing your explanation, be sure the following questions are answered. Please be specific.

PROJECTS: What is the project? Why is it expected to end on the requested ending date? Why is the position being requested necessary to complete the project?

SUBSTITUTES: Why is this substitute needed? How long is the permanent incumbent of the position going to be absent. If on-call, how will the work be scheduled?

NORMALS: Why was the department unable to anticipate the need for this position? Why will this position end on the requested ending date? What will the position be doing?

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**STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEE0**

## STANDARD OPERATING PROCEDURE

- 2) Keep in mind the legislative findings and intent stated in Section 1, Ch 67, SLA 1979:

The legislature finds and declares that certain inconsistencies and abuses in the hiring of nonpermanent employees have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using nonpermanent State employment to evade departmental accountability and mask poor planning. The legislature further intends that nonpermanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes nonpermanent hire.

By statute, the Division of Personnel presents an annual report on nonpermanent employment to the legislature.

- e. Description of duties
- 1) Provide a sufficient description of duties to accurately classify the position.
  - 2) Do not complete this section for nonpermanent substitutes.
2. If the Division of Personnel's review determines that the request has been appropriately completed and certified that the need for the position could not have been reasonably anticipated or appropriately met through the creation and filling of a permanent position, approval will be given.
- a. Upon approval, the Division of Personnel will complete the last section of the Request for Authorization, enter the position into AKPAY, and return a copy of form 02-230 to the department. Before proceeding with the appointment, the hiring department should note if the approval is "as requested" or "with qualifications noted."
3. In the event a nonpermanent request is disapproved, the request will be returned with a memorandum explaining why.
4. After an approved form has been returned to the department, an appointment may be made. Appointments may be made from eligible lists, union dispatch, intern procedures, job service, rehires, or in limited cases, off the street.

Requesting Nonpermanent Position

**STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEEO**

## STANDARD OPERATING PROCEDURE

- a. The appointment shall be made by one of the following means:
- 1) Eligible List--for all job classes which are represented by the General Government, Supervisory, Confidential, and Public Safety Officers bargaining units. Please note that appointments made to positions that are established as short-term nonpermanent under the Confidential Employees Association, Supervisory, and General Government agreements (less than 90 days) do not require the use of eligible lists when filling the position. Generally, a waiver of the eligible list must be approved by the Division of Personnel when filling a short-term position. Appointments made to positions that are established as long-term nonpermanent under the Confidential Employee Association, Supervisory, and General Government agreements (more than 120 days) require the use of an eligible list when filling the position.
  - 2) Union Dispatch--for job classes represented by the Labor, Trades and Crafts bargaining unit.
  - 3) Intern Procedures--students are selected from schools and colleges for intern positions. See specific hiring procedures for Interns in "Intern Program Guidelines and Procedures." (Addendum E)
  - 4) Job Service--a hiring department may grant a preference to local residents in the appointment of short-term and regular nonpermanent employees. If, in working an eligible list, no local residents are interested in or available for the nonpermanent position, the hiring department may obtain referrals of and make appointment from among qualified local job applicants from the Job Service office of the Department of Labor serving the area, or may continue working the eligible list. (See AS 39.25.196.)
    - a) There are no eligible lists for Clerk I, or Mail Clerk Carrier I and II; applicants are hired through Job Service.
  - 5) Rehires--a former permanent employee may be appointed to a short-term or regular nonpermanent position in the same job class without an eligible list in accordance with 2 AAC 07.225.

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**STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEO**

## **STANDARD OPERATING PROCEDURE**

6) Waiver of Eligible List--the Director of the Division of Personnel may authorize the appointment of employees into short-term nonpermanent positions, of 90 days or less, without the use of eligible lists. Requests for a waiver of the list should accompany the request to establish a short-term nonpermanent position. The audit unit will review both requests. Prior approval must be obtained from the Director for each position that is filled without a list. Waivers will not be required if the list is worked locally and the appointment is made from a job service referral. Please review Addendum F. Requests to waive the use of eligible lists will be reviewed under the following criteria:

1. Is the position at or below range 13?
2. Is the position located outside of Juneau, Anchorage, or Fairbanks?
3. Will the refusal to waive the eligible list result in the termination of an emergency employee who has been trained to perform the duties assigned to the nonpermanent position?
4. Is the request based on the reappointment of a former nonpermanent employee to the same job class? The prior appointment must have been made from a certified eligible list; and, the former nonpermanent employee must have separated in good standing from the same job class within the previous 24 months.
5. Does a national emergency or civil disaster exist which will require the use of additional State personnel for more than 30 days?

If the answer to one or more of the above questions is yes, the request will receive favorable consideration. The Division of Personnel will insure that there are no interested layoff candidates before approving a request to waive an eligible list. The waiver of an eligible list does not include a waiver of the minimum qualifications. Personnel officers are responsible for insuring that minimum qualifications are met. Extensions for short-term nonpermanent positions over the 90 day time limit, with incumbents not hired off an eligible list, can be granted only by a letter of agreement from the bargaining unit.

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**STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEC**

## **STANDARD OPERATING PROCEDURE**

Appointment to positions established as long-term positions in the Supervisory Bargaining Unit, Confidential Employees Association, and General Government Bargaining Unit must be hired off an eligible list. Past practice regarding local preference lists and procedures for transfers and rehires will continue. Transfers and rehires may be appointed to long-term nonpermanent positions without being written to a list. If there are no local candidates available on a list for a long-term position; appointment may be made from the list of candidates available through job service. (Supervisory Bargaining Unit Agreement (SU), Confidential Employees Association Agreement (CEA), and General Government Agreement (GGU) Addendum G, H, and I.)

5. An employee appointed to a nonpermanent position may be placed on the State payroll after the Director of the Division of Personnel has entered the position into AKPAY.

Remember the appointment date cannot precede the beginning date stated on form 02-230.

6. The duration of short-term and long-term nonpermanent positions may, in appropriate circumstances, be extended. Short-term nonpermanent positions will normally be limited to ninety days or less. Extensions of up to 30 additional days may be granted with the prior approval of the Director for General Government and Confidential short-term nonpermanent positions.

Requests to establish positions for a period between 90 to 120 days will be approved for General Government and Confidential Bargaining Units if the request to authorize the position contains facts which show to a reasonable certainty that the need for the nonpermanent position will not continue beyond 120 days. In addition, requests for such positions must indicate that the appointment to these positions will be made from an eligible list. Reminder: If a General Government or Confidential Bargaining Unit short-term nonpermanent position is filled past 120 days, the employing department will be required to pay benefits to the employee retroactively to the date of the appointment. Short-term nonpermanent positions may be extended beyond 120 days only with a written agreement from the union. The employing department is responsible for obtaining this Letter of Agreement. A copy of the Letter of Agreement must be submitted to the Director, Division of Personnel, at the time the extension is requested. Extensions must be requested as follows:

- a. Extensions may be considered but must be submitted at least ten (10) days before the designated ending date.
- b. A memorandum must be submitted to the Audit Unit in the

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**STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEO**

## STANDARD OPERATING PROCEDURE

Administrative Management Services Section requesting to extend the position with the following information: the PCN, class title, a new ending date, why the position did not end on the designated ending date, why the position will end on the newly requested ending date.

- c. At the end of the fiscal year, **all** nonpermanent positions end.

Positions intended to be long-term and established after April 1 of each year and will cross over the fiscal year will end on June 30. A brief statement should be provided in the explanation section of the request stating that the position is intended to be long-term. A projected ending date should be provided. The Audit Section will code the position consistent with the ending date. The position must be included in the department's listing of positions to be extended into the next fiscal year.

A request to extend a position into the next fiscal year must give the new funding source and authority and the reason why the position needs to be extended.

7. A change of duties, class title, or location must be approved by the Division of Personnel.

- a. A change in duties or class title must be requested by submitting a memorandum with the following information: the PCN, the current job class, current job class code, new job class code, the new job class, the new duties, why these duties have been changed and if there is a current incumbent in the position.

1) The incumbent of a nonpermanent position must meet the minimum qualifications of the new job class assigned. The incumbent's application must be submitted with the request.

- b. A memorandum must be submitted to change the location of a nonpermanent position with the following information: the PCN, the class title, the current location, the new location, and why the location needs to be changed.

8. Nonpermanent appointments must be terminated as required by the statute or contracts.

- a. All nonpermanent employees are time restricted by Alaska Statute. The normal restriction is 120 days in a 12-month period. Project and program employees are limited by the duration of the specific program or project. Substitute appointments are restricted by the department's

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STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL/OEEO

## STANDARD OPERATING PROCEDURE

identified ending date or the return of the permanent employee, whichever occurs first.

- b. Any individual hired into a position established as a short-term nonpermanent in the Supervisory Bargaining Unit must be terminated following the ninetieth (90) day of employment.
- c. Any individual hired into a position established as a long-term nonpermanent in the Supervisory, Confidential, and General Government Bargaining Unit who has worked for longer than 12 months except with written concurrence from the Union, will be reviewed for the reasonableness of establishing a permanent position. If the nonpermanent position is established as a permanent position and the incumbent of the nonpermanent position has occupied the position for twelve months or more the incumbent is entitled to the appointment to the permanent position. Extensions of long-term positions for more than 12 months may be granted only by letter of agreement.
- d. It is the employing department's responsibility to monitor all nonpermanent appointments and originate timely separating personnel actions on or before the date that the employment authority has expired. All nonpermanent employees must be terminated no later than the ending date which appears on form 02-230.

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