TEMPORARY TEACHERS APPOINTMENT AGREEMENT
OF THE DEPARTMENT OF EDUCATION

LINDA K. GOTO
Researcher

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Legislative Reference Bureau
State Capitol
Honolulu, Hawaii 96813
FOREWORD

This study of the Department of Education's temporary teachers appointment agreement program was conducted in response to House Resolution No. 221, H.D. 1, adopted during the 1985 Regular Session. Due to the nature of the issues raised in this study and the sparseness of readily available data, much of the information obtained for this study was through personal interviews with, and data provided by, the professionals in the field of education. These persons consulted have been cooperative and responsive, and the Bureau is indebted to them for their valuable assistance and knowledge.

The adoption of the revision to School Code Regulation 5102 by the Board of Education in May 1985 providing most of the temporary teachers with probationary status broadened the focus of this study to address not only the concerns of probationary credit and employment preference but also the concerns over tenure and other concerns involving the temporary teacher program. This study traces the historical development and implementation of the temporary teachers appointment agreement program; the circumstances and impact of the adoption of the 1985 revision to School Code Regulation 5102; the legal, collective bargaining, and cost issues pertaining to temporary teachers; and results of surveys sent to both probationary and temporary teachers here in Hawaii about the temporary teacher program and of surveys distributed among labor relations boards and school districts regarding the temporary teacher situation nationally. The report concludes with findings and recommendations based upon the information gathered in the course of this study regarding both the temporary teacher program and the teacher appointment program of the Department of Education. It is hoped that the contents of this report will assist the Legislature in understanding the facts and issues surrounding not only the temporary teacher program but also the Department of Education teacher appointment program.

The Bureau acknowledges with appreciation the cooperation and contributions of the Superintendent of Education, the Board of Education, Joan Husted of the Hawaii State Teachers Association, and the Department of Budget and Finance for their funding information.

Samuel B. K. Chang
Director

January 1986
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Chapter 1

INTRODUCTION

In 1975, the Department of Education requested that the Board of Education, State of Hawaii, approve several revisions to the School Code, Certificated Policies and Regulations (5000 Series) (School Code). One of the proposed revisions created a new type of teacher appointment designated as the Temporary Teachers Appointment Agreement (hereinafter Agreement). The stated purpose of the Agreement appointment was to allow the Department of Education to meet its current personnel requirements without creating an oversupply of tenured employees. Specifically, the Department was seeking to avoid teaching personnel staff reductions such as the one occurring in 1973 when 1,400 probationary teachers were terminated. The Board of Education approved the proposed revision establishing the Agreement appointment.

For the next ten years, the Department used the temporary teachers agreement appointees (hereinafter Agreement Appointees) to perform the same job duties and responsibilities of tenured and probationary teachers in permanent positions. The Agreement Appointees were treated similarly to probationary and tenured appointees with respect to salaries, benefits, and unit membership except that the Agreement Appointees were given no commitment for reemployment and no accumulation of probationary credit for service toward tenure.

Upon the establishment of the Agreement appointment, the Department employed approximately 465 teachers under Agreement appointments and approximately 340 teachers under a probationary appointment. During the ten-year period that has elapsed since that time, the number of teachers employed under Agreement appointments has increased at a much faster rate than the number of teachers employed under probationary appointments.

Responding to concerns expressed by Agreement Appointees and their own concern over the increasing number of Agreement appointments, the Hawaii State Legislature began to inquire into the allegations of inequitable treatment and the impact of these allegations upon the school system. Accordingly, House Resolution No. 221, H.D. 1 (see Appendix A), was adopted during the 1985 Regular Session requesting that the Legislative Reference Bureau (Bureau) in cooperation with the Board of Education and the Department of Education conduct a study of the impact of granting probationary credit toward tenure to temporary teachers agreement appointees for their service and granting preference to Agreement Appointees for the filling of vacant unencumbered teaching positions, including cost implications and legal and collective bargaining obstacles.

Subsequently, however, in May 1985, the Board of Education approved a revision to the School Code Regulation 5102 (1985 Amendment) proposed by the Department of Education providing that probationary appointments be given teachers occupying a majority of the designated Agreement appointment positions.
Scope of the Study

The focus of the study was difficult to ascertain as the "whereas" clauses of the resolution indicate a broad concern over "...the basic inequities of temporary teaching assignment appointment and the lack of protection which tenure affords..." Standing Committee Report No. 999 accompanying the resolution states a similar concern over the lack of tenure in its finding that Agreement Appointees "...because of their temporary status are not allowed tenure, probationary credit toward tenure, or preference for filling vacant unencumbered teaching positions resulting in teacher morale problems and frustrations." However, the "Be it resolved" clause of the resolution restricts the request for a study by the Legislative Reference Bureau to conducting a feasibility study of only the impact of granting to Agreement Appointees probationary credit and preference for the filling of vacant unencumbered teaching positions, including cost implications and collective bargaining obstacles. The adoption of the subsequent 1985 Amendment to School Code Regulation 5102 is some evidence of the feasibility of granting probationary credit and employment preference to Agreement Appointees.

The Bureau finds that given the 1985 Amendment and the basic concern by the Legislature over the inequities of the Agreement appointment and the tenure issue raised in the committee report and in the whereas clause of the resolution the appropriate focus of the study is two-fold: (1) to address the concerns of the Legislature regarding the impact of giving probationary credit and employment preference to Agreement Appointees; and (2) to determine whether the 1985 Amendment to the School Code resolves the problems underlying the purported inequitable treatment, the morale problems of Agreement Appointees, and the tenure issue. Response to these questions requires a broad review of the temporary teachers appointment agreement experience. The objectives of this study were the following:

(1) To provide a historical perspective on the Agreement appointment process as implemented by the Department of Education;

(2) To provide a thorough analysis of the Agreement appointment from the adoption of the 1975 amendment to School Code Regulation 5102 (1975 Amendment) to the adoption of the 1985 Amendment and its similarities and differences from the probationary appointment;

(3) To provide a profile of the individuals serving under Agreement and probationary appointments during the last school year 1984-1985;

(4) To analyze the 1985 Amendment relating to Agreement Appointees and the impact of this amendment upon the Agreement situation;

(5) To provide an overview of how other state labor boards and school districts have handled similar appointments for purposes of probationary credit and employment preference; and
INTRODUCTION

To provide specific findings and recommendations to the Legislature addressing the remaining and new issues which have arisen from the Agreement appointment situation.

Methodology and Conduct of Study

The research and field work for this study involved the following phases:

(1) Review of the pertinent sections of the Hawaii Revised Statutes, the Department of Education School Code, and the applicable collective bargaining agreements between the Hawaii State Teachers Association and the Board of Education;

(2) Review of reports, studies, and legal decisions pertaining to Agreement Appointees and probationary credit and employment preference;

(3) Survey of all state public employment relations boards regarding the handling of collective bargaining issues relating to Agreement Appointees and probationary credit and employment preference;

(4) Survey of the largest school districts in the United States regarding their use and treatment of similar positions;

(5) Survey of all Agreement Appointees employed by the Department of Education during the 1984-1985 school year;

(6) Survey of Agreement Appointees who received probationary appointments prior to the 1985 School Amendment; and

(7) Interviews with Department of Education administrators, Board of Education members, and Hawaii State Teachers Association personnel involved with policy development and implementation relating to the Agreement appointment.
Chapter 2
TEMPORARY TEACHERS APPOINTMENT AGREEMENT: 1975-1985

Part I. Historical Development of the Temporary Teachers Appointment Agreement Under the Department of Education

The Department of Education derives its authority to employ teachers under Agreement appointments from the Constitution of the State of the Hawaii and the Hawaii Revised Statutes. Pursuant to Article X, Section 1, of the Constitution, the State "...shall provide for the establishment, support and control of a statewide system of public schools...." Article X, Section 2, of the Constitution and sections 26-12 and 296-11, Hawaii Revised Statutes, vest the authority for formulation of policy and for control over the public school system in the Board of Education through its executive officer, the superintendent of education.

To carry out these purposes, the Department has been given the authority by statute to "...appoint...such teachers...as may be necessary for carrying out these purposes of this chapter and regulate their duties, powers, and responsibilities...."¹ The Department has adopted the School Code to govern the internal implementation of the certificated personnel management functions.²

In accordance with these constitutional and statutory authorities, the Department of Education established the Agreement appointment in 1975 by an amendment to Regulation 5102 of the School Code pertaining to the "Recruitment and Employment of Employees (Teachers)." Prior to the 1975 amendment, the Department of Education's policies on teacher staffing were the following. Probationary appointments were given to teachers hired prior to October 1 for any school year, including teachers in temporary vacancies created by a teacher on leave (vicing positions, i.e., positions committed to a permanent hire who is on leave, sabbatical, or otherwise expected to return) and temporarily funded positions. All other teachers filling vacancies in vacant, unbudgeted positions (clearline positions) occurring on or after October 1 were given substitute contracts.³

During the 1972-1973 school year, the Department found more permanent teachers than available clearline teaching positions. The excess was created by a drop in school enrollment and the absence of any assessment by the Department of its certificated personnel staffing needs. At the end of that school year, the Department was forced to reduce its teaching staff by not renewing all of their 1,400 probationary appointment contracts. Ultimately, during the 1973-1974 school year, approximately 950 of those terminated probationary teachers were rehired. The Department continued to be concerned about having a sufficient number of teaching positions for all of its tenured teachers and sought alternatives to protect them.⁴ This concern was reinforced by the Governor's "warm body" policy initiated in 1975 and interpreted by the Executive Branch and the departments to mean that all necessary steps would be taken to assure the continued employment of all permanent state employees.⁵
During this same period, the Department was confronted with an informal complaint by the Hawaii State Teachers Association regarding the substitute teaching situation. The Department's policy of hiring substitute teachers to fill all teaching vacancies occurring on or after October 1 of the school year had resulted in the employment of 400 to 500 long-term substitutes each year. These substitute teachers were not members of the teachers' collective bargaining unit. The Hawaii State Teachers Association took the position that this policy was a form of subcontracting and that these long-term substitutes should be on the regular teachers' salary schedule and be given similar benefits. The Hawaii State Teachers Association and the Department of Education engaged in informal negotiations. An oral agreement was reached that the Department recommend to the Board of Education a revision of the School Code to include a new appointment, the "Temporary Teachers Appointment Agreement." According to the agreement, these Agreement Appointees were to be treated like teachers in probationary and tenured appointments for purposes of salary, benefits, and unit membership except that the Agreement Appointees were to receive no probationary credit and no reemployment commitment. Their contracts could be terminated on only one day's notice without priority for rehire if one of four conditions was met. One concern raised regarding the agreement was whether the Department had the discretion pursuant to section 297-9, Hawaii Revised Statutes, to deny probationary credit to these teachers. The Department of the Attorney General, State of Hawaii, concluded that the Department of Education had this discretion and approved the agreement.

On August 7, 1975, the Board of Education approved the revision to the School Code Regulation 5102. The revision was intended to address both the problems of the substitute teacher and the oversupply of qualified teachers. In essence, the revision altered the policy of providing all teachers hired prior to October 1 of the school year with probationary appointments. Subsequently, probationary appointments would only be given to teachers who were occupying clearline positions. All teachers filling nonclearline or temporary positions were to be given Agreement appointments.

During the period between the approval of the 1975 Amendment and the 1985 Amendment, there was no material change in the Agreement appointment situation. The Department of Education hired increasing numbers of teachers under the Agreement appointment and fewer numbers of teachers under probationary appointments (see Table 1). In the late 1970s, the Hawaii State Teachers Association began placing proposals to provide probationary credit to Agreement appointment teachers on the bargaining table. The Department consistently took the position that these proposals relating to probationary credit were management rights upon which no agreement could be reached under section 89-9, Hawaii Revised Statutes. There was no progress through the collective bargaining process on the probationary credit issue until the 1985 negotiation session.

Within two or three years after the Agreement appointment was implemented, the teachers appointed under Agreement appointments began to complain to the Department of Education. These complaints came particularly from the Filipino teachers employed by the Department in the Students of Limited English Proficiency program. These complaints focused primarily on the lack of preference being given to them for available permanent positions.
Table 1

APPROXIMATE SUMMARY OF TEACHERS HIRED
STATUS AS OF EARLY JANUARY EACH YEAR

<table>
<thead>
<tr>
<th>School Year</th>
<th>Hired as TTAA*</th>
<th>Hired as Prob.</th>
<th>Hired as Tenured</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976-1977</td>
<td>464</td>
<td>343</td>
<td>217</td>
<td>1,024</td>
</tr>
<tr>
<td>1977-1978</td>
<td>398</td>
<td>355</td>
<td>136</td>
<td>899</td>
</tr>
<tr>
<td>1978-1979</td>
<td>338</td>
<td>442</td>
<td>158</td>
<td>938</td>
</tr>
<tr>
<td>1979-1980</td>
<td>484</td>
<td>380</td>
<td>207</td>
<td>1,071</td>
</tr>
<tr>
<td>1980-1981</td>
<td>551</td>
<td>341</td>
<td>188</td>
<td>1,060</td>
</tr>
<tr>
<td>1981-1982</td>
<td>746</td>
<td>322</td>
<td>154</td>
<td>1,222</td>
</tr>
<tr>
<td>1982-1983</td>
<td>742</td>
<td>388</td>
<td>176</td>
<td>1,306</td>
</tr>
<tr>
<td>1983-1984</td>
<td>750</td>
<td>413</td>
<td>161</td>
<td>1,324</td>
</tr>
<tr>
<td>1984-1985</td>
<td>768</td>
<td>536</td>
<td>202</td>
<td>1,506</td>
</tr>
</tbody>
</table>

APPROXIMATE SUMMARY OF TEACHERS REHIRED FROM
VARIOUS APPLICANT POOLS AS OF
SEPTEMBER 30 OF EACH SCHOOL YEAR

<table>
<thead>
<tr>
<th>Year</th>
<th>TTAAs* Rehired</th>
<th>Prob. Rehired</th>
<th>New Hires Employed</th>
<th>Total Hired</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>121</td>
<td>455</td>
<td>190</td>
<td>766</td>
</tr>
<tr>
<td>1977</td>
<td>215</td>
<td>340</td>
<td>166</td>
<td>721</td>
</tr>
<tr>
<td>1978</td>
<td>240</td>
<td>367</td>
<td>168</td>
<td>775</td>
</tr>
<tr>
<td>1979</td>
<td>265</td>
<td>421</td>
<td>227</td>
<td>913</td>
</tr>
<tr>
<td>1980</td>
<td>328</td>
<td>372</td>
<td>233</td>
<td>933</td>
</tr>
<tr>
<td>1981</td>
<td>372</td>
<td>345</td>
<td>347</td>
<td>964</td>
</tr>
<tr>
<td>1982</td>
<td>540</td>
<td>335</td>
<td>289</td>
<td>1,164</td>
</tr>
<tr>
<td>1983</td>
<td>510</td>
<td>386</td>
<td>298</td>
<td>1,194</td>
</tr>
<tr>
<td>1984</td>
<td>572</td>
<td>419</td>
<td>380</td>
<td>1,373</td>
</tr>
</tbody>
</table>

Source: Hawaii, Department of Education, Office of Personnel Services.

*Temporary teacher appointment agreement.
and on the lack of probationary status being given to them.\textsuperscript{12} The Hawaii State Teachers Association began to receive similar complaints.\textsuperscript{13} In the early 1980s, some of the Agreement Appointees took their concerns regarding these issues to the Board of Education level. The Board took a hands off position because these matters were then on the collective bargaining table.\textsuperscript{14} During the 1985 legislative session, the Hawaii State Legislature became aware of the problems encountered by Agreement Appointees and addressed these concerns by the passage of H.R. No. 221, H.D. 1, requesting the Legislative Reference Bureau to conduct a study of the problem.

The 1985 negotiation sessions between the Department of Education and the Hawaii State Teachers Association also brought a break on this issue. The Hawaii State Teachers Association proposed the addition of a provision to the collective bargaining agreement which would have given probationary credit to all nontenured bargaining unit members offered positions before October 15 or March 15 of the school year.\textsuperscript{15} The provision would also have given tenure to all Agreement Appointees with more than five years of service credit upon the issuance of a continuing appointment agreement for an available vacancy. The Department of Education did not want such a provision put into the collective bargaining contract but was willing to negotiate a proposal away from the bargaining table to amend the School Code. Although no agreement was reached regarding the retroactive tenure proposal of the union, there was an informal agreement reached that the Department would recommend a revision to School Code Regulation 5102 giving probationary status to all certified teachers appointed to positions starting before October 1 of the school year.\textsuperscript{16}

Upon the recommendation of the Department of Education, the Board of Education approved the amendment to School Code Regulation 5102 on May 16, 1985.\textsuperscript{17}

**Part II. The Implementation of the 1975 School Code Amendment**

An understanding of the employment picture for Agreement Appointees under the 1975 Amendment is essential to an assessment of the impact of the 1985 Amendment. The Legislative Reference Bureau encountered considerable difficulty in piecing together a complete and accurate picture. This difficulty was due to the lack of readily available information from the personnel records maintained by the Department of Education on Agreement Appointees, probationary teachers, and tenured teachers. During the course of this study, the Bureau sought to obtain longitudinal data showing the employment trend for Agreement Appointees for each school year during the period commencing with the 1975-1976 school year and ending with the 1984-1985 school year. Except for an approximation of the total numbers of teachers appointed under the Agreement appointment, probationary, and tenured appointments for each school year during this period, the Department was unable to provide any specific information on these teacher appointees before the 1984-1985 school year. Another problem was that the Department was unable to provide consistent data because the data was gathered at varying times in different years and was affected by other unspecified variables.
In all fairness to the Department, it must be noted that, to ensure that the study was completed by the 1986 legislative session, a tight schedule had to be maintained which meant data had to be produced on an immediate basis. The data gathering portion of this study was performed during mid-summer to early fall when the Department of Education Office of Personnel Services has a significant workload to ensure the necessary staffing of schools before the opening of school in September. Hence, the information available for the 1984-1985 school year and oral statements of Department administrators regarding the employment situation for Agreement Appointees are the basis for the discussion set forth in this section.

A. General Provisions of the 1975 Amendment

In its implementation of the Agreement appointment under the 1975 School Code Amendment, the Department of Education had a great deal of discretion. The statutes provide the Department with authority to employ teachers. The 1975 School Code Amendment provided the particular authority for the Department to employ teachers in certain types of positions under Agreement appointments. The Department adopted guidelines and established practices providing for the eligibility, termination, reemployment commitment, tenure rights, benefits, and other terms and conditions of employment for Agreement Appointees. The major provisions of the School Code Amendment of 1975 to Regulation 5102 were the following:

1. As to eligibility, teachers were given temporary Agreement appointments when appointed to any of the following positions:
   A. A temporary position (such as those positions in temporarily funded federal or state programs);
   B. A temporary vacancy (replacing a regular teacher who was expected to be absent from duty for a minimum period of 90-calendar days);
   C. A vacancy in a permanent, unobligated position for less than one school year (occurring after October 1);
   D. A position for which no eligible certified person was available (in such a case a person was appointed without meeting the minimum certification standards).

2. As to the duration of the temporary Agreement Appointee's contract, the contract was not to exceed the period stated on the contract.

3. As to termination of the Agreement appointment teacher's contract, the contract could be terminated without a hearing at any time prior to contract expiration only under the following circumstances:
   A. Early return of the incumbent employee to which the position was obligated;
B. Termination of the position; or
C. Placement of a tenured or probationary employee who was staff reduced from another position.21

4. As to reemployment commitment and tenure rights, the Agreement appointment teacher had no rights similar to those of permanent teachers.22

5. As to benefits, the Agreement appointment teacher was eligible for the same benefits as the permanent teacher with respect to compensation, sick leave, vacation, retirement, health fund service awards, service credit, and short-term leaves. However, as to long-term leaves, the leave taken by the Agreement Appointee could not exceed the current contract period. Further, as to probationary service credit, the Agreement appointment teacher had no similar benefit to that of a permanent teacher.23

B. Terms and Conditions of Employment and Benefits Under the Amendment

In implementing the 1975 Amendment, the Department of Education, particularly during the last five years, hired almost twice the number of teachers under Agreement appointments as under probationary appointments (see Table 1). The teachers hired under Agreement appointments (except for those hired for positions for which no eligible person was available) had the same minimum qualifications as teachers under probationary appointments. In fact, most of the teachers hired under both of these appointments came from the same applicant pool.24

The Agreement Appointees also performed the same job duties and responsibilities as probationary and tenured teachers (see Table 2). The Agreement Appointees worked under the same terms and conditions of employment (see Table 3).25 The Agreement Appointees were subject to the same evaluation procedures as probationary teachers. Like probationary and tenured teachers, Agreement Appointees took full responsibility for the educational program of assigned students; provided the full range of instructional services; were responsible for the planning of course objectives and development of course outlines; were responsible for the evaluation of students and for student progress reports and conferences with parents; participated in the school-budget making process; supervised students before, during, and after school; participated in faculty meetings; sponsored school activities; and taught under similar work schedules. There were no functional differences between the Agreement Appointees and the probationary and tenured appointees.

The Agreement Appointees were members of the teachers' collective bargaining unit 5 and were eligible for the same benefits as probationary and tenured teachers except for long-term leaves and for probationary service credit.26
**Table 2**

**COMPARISON OF JOB DUTIES AND RESPONSIBILITIES FOR AGREEMENT APPOINTMENT, PROBATIONARY, AND TENURED TEACHERS**

<table>
<thead>
<tr>
<th>Job Duties and Responsibilities</th>
<th>Tenured Teachers</th>
<th>Probationary Teachers</th>
<th>Agreement Appointment Teachers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Takes full responsibility for the educational program of their assigned students</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Provides full range of instructional services</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Responsible for planning of course objectives</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Responsible for development of course outlines</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Responsible for evaluation of students and preparation of student progress reports</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Confers with parents regarding student evaluation and progress</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Participates in the budget process</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Supervision of students before, during, and after school</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Participates in faculty meetings</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Sponsors student activities</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Works under general supervision of the principal</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Maintains regular work day as provided in the collective bargaining agreement</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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</table>
### Table 3

**COMPARISON OF BENEFITS AND TERMS FOR AGREEMENT APPOINTMENT, PROBATIONARY AND TENURED TEACHERS**

<table>
<thead>
<tr>
<th>Employee Benefits and Terms</th>
<th>Tenured Teachers</th>
<th>Probationary Teachers</th>
<th>Agreement Appointment Teachers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation</td>
<td>Salary appropriate to placement in salary schedule.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Sick leave</td>
<td>18 days per year.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Vacation</td>
<td>Winter, spring, and summer vacation.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Retirement System</td>
<td>Membership in state retirement system is mandatory.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Health Fund Benefits</td>
<td>Provided with medical, dental and life insurance coverage.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>--Medical Plan</td>
<td></td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>--Dental Plan</td>
<td></td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>--Group Life Insurance</td>
<td></td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Service Credit</td>
<td>Service credit for salary increment, longevity step credit, time in class, sabbatical eligibility, seniority in school and seniority in the department.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Service Award</td>
<td>One month's credit for every month of service.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Long-term Leaves</td>
<td>Leave of absence without pay is provided to eligible personnel for disabilities or health conditions, child care, professional improvement, religious holidays and activities, military service, government employment, work study, and other reasons that the department considers reasonable.</td>
<td>Same except limited to term of contract.</td>
<td>Limited to term of contract.</td>
</tr>
<tr>
<td>Short-term Leave</td>
<td>Short-term leaves provided for death of critical illness in the family, funeral, quarantine, preinduction, disaster, PTA convention, mainland conferences, athletic trips, Honolulu Symphony and Honolulu Youth Theater performers and other activities approved by the department.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Tenure Rights</td>
<td>Retain full tenure rights.</td>
<td>Accumulates probationary credit toward tenure.</td>
<td>None</td>
</tr>
<tr>
<td>Collective Bargaining</td>
<td>Full membership in bargaining unit 5.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Membership</td>
<td></td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Substitute Coverage</td>
<td>Provided for any teacher whose functions include the instruction and supervision of students.</td>
<td>Same</td>
<td>Same</td>
</tr>
<tr>
<td>Length of Contract</td>
<td>Continuous employment subject to the following conditions: termination for cause, resignation, retirement, and layoff.</td>
<td>One school year or semester at a time.</td>
<td>Not to exceed the period stated on the employee's contract. May be terminated earlier if one of three conditions is met: early return of the incumbent employee to which the position is obligated; termination of the position; placement of a tenured or probationary employee who is staff reduced from another position. Must be given at least 24 hours notice for early termination.</td>
</tr>
<tr>
<td>Reemployment Commitment</td>
<td>Provided</td>
<td>Provided appropriate priority for rehire subject to the availability of a suitable position) upon expiration of appointment but not guaranteed employment.</td>
<td>None</td>
</tr>
</tbody>
</table>
The major difference between Agreement Appointees and probationary and tenured appointees rested in the job security given. Based upon School Code Regulation 5102, as amended in 1975, the Agreement Appointees had no probationary credit or reemployment commitment. Due to the specific provisions of this regulation, the Agreement Appointees were confined to temporary positions, such as viceing positions, positions in temporarily funded programs, and positions for which no eligible person was available (in such cases a person was appointed without the minimum certification requirements).

C. Temporary Teachers Appointment Agreement vs. Probationary Appointment

The Department of Education produced data for the 1984-1985 school year breaking down Agreement appointments and probationary appointments by funding source, teaching level, school districts, and racial extraction (see Tables 4 and 5). The data comparing the Agreement and probationary appointments show other distinctions between the two appointments.

There were twice the number of teachers appointed under Agreement appointments as under probationary appointments. The distribution of Agreement Appointees and probationary appointees among the various school districts showed marked differences. The ratio of Agreement appointments to probationary appointments was over twice as high in Honolulu and Central Districts compared to Leeward, Maui, and Hawaii Districts. There were certain distinctions which appeared in the breakdown by racial extraction of Agreement Appointees and of probationary appointees. There appeared to be an underrepresentation of Blacks and Filipinos in the probationary positions and an overrepresentation of these ethnic groups in the Agreement appointment positions. There also appeared to be an overrepresentation of Japanese in the probationary positions and an underrepresentation of Japanese in the Agreement positions. The Legislative Reference Bureau is of the opinion that it would have been valuable to compare this data with similar data over the ten year period while the 1975 School Code Regulation 5102 was in effect to determine whether these 1984-1985 school year distinctions were typical of other school years. The Department of Education indicated that it was too difficult to obtain such a breakdown for previous school years.

Part III. Evaluation of the Temporary Teachers Appointment Agreement Situation Under the 1975 Amendment to Regulation 5102

A discussion of the benefits and disadvantages to the parties involved in the Agreement appointment situation under the 1975 Amendment is also necessary to an assessment of the 1985 Amendment. To identify and assess the strengths and weaknesses of the Agreement appointment situation under the 1975 Amendment, the Legislative Reference Bureau relied upon the opinions of various people from the Department of Education and the Hawaii State Teachers Association in oral interviews and the opinions elicited from a survey of Agreement Appointees performed in the course of this study. The following is a summary of the results of this inquiry.
### Table 4

**REPORT ON TEMPORARY TEACHERS APPOINTMENT AGREEMENT**  
**SCHOOL YEAR 1984-85**

<table>
<thead>
<tr>
<th>Classification/Program</th>
<th>Permanent</th>
<th>State Fund</th>
<th>Regional Fund</th>
<th>Elementary</th>
<th>Secondary</th>
<th>Special</th>
<th>State</th>
<th>Local</th>
<th>Hawaiian</th>
<th>Indian</th>
<th>Black</th>
<th>Chinese</th>
<th>Filipino</th>
<th>Hawaiian</th>
<th>Japanese</th>
<th>Korean</th>
<th>Mix-Other Than</th>
<th>Port-Hawaiian</th>
<th>Total of Unknown</th>
<th>Total</th>
<th>Total of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teacher</td>
<td>377</td>
<td>61</td>
<td>71</td>
<td>224</td>
<td>238</td>
<td>47</td>
<td>110</td>
<td>96</td>
<td>83</td>
<td>75</td>
<td>54</td>
<td>8</td>
<td>2</td>
<td>32</td>
<td>1</td>
<td>1</td>
<td>8</td>
<td>36</td>
<td>25</td>
<td>5</td>
<td>220</td>
</tr>
<tr>
<td>Special Education</td>
<td>75</td>
<td>22</td>
<td>37</td>
<td>77</td>
<td>57</td>
<td>39</td>
<td>37</td>
<td>16</td>
<td>17</td>
<td>12</td>
<td>7</td>
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<td>47</td>
<td>4</td>
<td>7</td>
<td>56</td>
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</tr>
<tr>
<td>Counselor</td>
<td>17</td>
<td>16</td>
<td>4</td>
<td>10</td>
<td>27</td>
<td>5</td>
<td>8</td>
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<td>9</td>
<td>2</td>
<td>3</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>Librarian</td>
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<td>16</td>
<td>5</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>4</td>
<td>2</td>
<td>1</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Psychological Examiner</td>
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<td></td>
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</tr>
<tr>
<td>Registrar</td>
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<td></td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Compensatory Education</td>
<td>10</td>
<td>135</td>
<td>13</td>
<td>85</td>
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<td>10</td>
<td>57</td>
<td>427</td>
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</tr>
<tr>
<td>TOTAL</td>
<td>496</td>
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<td>125</td>
<td>386</td>
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<td>48</td>
<td>216</td>
<td>167</td>
<td>129</td>
<td>107</td>
<td>75</td>
<td>15</td>
<td>2</td>
<td>48</td>
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<td>17</td>
<td>58</td>
<td>90</td>
<td>9</td>
<td>307</td>
</tr>
<tr>
<td>Percentage of Total</td>
<td>25%</td>
<td>20%</td>
<td>15%</td>
<td>11%</td>
<td>13%</td>
<td>9%</td>
<td>2%</td>
<td>.2%</td>
<td>.6%</td>
<td>.1%</td>
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<td>.7%</td>
<td>.1%</td>
<td>.1%</td>
<td>.2%</td>
<td>.7%</td>
<td>1%</td>
<td>.1%</td>
<td>1</td>
<td>11%</td>
<td>28%</td>
</tr>
</tbody>
</table>

13
# Table 5

**REPORT ON PROBATIONARY TEACHERS APPOINTMENT**

**SCHOOL YEAR 1984-85**

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Teacher</td>
<td>407</td>
<td>196</td>
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<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Librarian</td>
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<td>7</td>
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<td>3</td>
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<td>5</td>
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<td></td>
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</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>436</strong></td>
<td><strong>196</strong></td>
<td><strong>238</strong></td>
<td><strong>2</strong></td>
<td><strong>39</strong></td>
<td><strong>34</strong></td>
<td><strong>128</strong></td>
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</tr>
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<td><strong>Percentage of Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>9%</td>
<td>8%</td>
<td>20%</td>
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<td>5%</td>
<td>6%</td>
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<td>6%</td>
<td>8%</td>
<td>6%</td>
<td>1%</td>
<td>24%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
There were four significant "benefits" of the Agreement appointment. Three of these benefits inured solely to the Department of Education as the employer. These benefits provided more control to the Department over the teacher employment situation. The fourth could be viewed as a mutual benefit to both the Department and the teachers.

A. Advantages of the Temporary Teachers Appointment Agreement

1. Department of Education's Staffing Requirements and the Protection of Its Tenured Teachers. The most significant benefit of the Agreement appointment was dual: allowing the Department to fill its teacher personnel requirements while simultaneously ensuring the protection of the Department's tenured teachers. Fundamentally, the Agreement appointment was used to create a group of temporary teaching positions as a buffer to minimize the effects of any reduction in force (RIF) of tenured teachers.

The Department's apprehension of a reduction in force stemmed from the one occurring at the end of the 1972-1973 school year when it was compelled to terminate all of its probationary teachers. Although the majority of these probationary teachers were eventually rehired, the Department projected that there would be an oversupply of teachers-in-service for the 1975-1976 school year and very limited needs for the following five-year period (1976-1980). The Department was concerned about having a sufficient number of teaching positions for the number of tenured teachers. The Department used the Agreement appointment to ensure that a similar RIF situation would not jeopardize the employment security of its tenured teachers. The Agreement appointment also benefitted the Hawaii State Teachers Association by providing the union with additional unit members while ensuring the job security of the union's tenured members.

The approach taken by the Department is based upon the principle of seniority preference provided by statute and by internal regulations. Section 297-11, Hawaii Revised Statutes, provides for dismissals of teachers because of a decrease in numbers of pupils or for other causes over which the Department has no control. This provision requires that the dismissals be made on a seniority basis and "...shall begin with those teachers with the least number of years of service...." School Code Regulation No. 5107 sets forth with specificity the guidelines for a reduction in force. The basis for teacher retention during a staff reduction shall be according to seniority in the school.

This approach was consistent with the Governor's position on reduction in force articulated in Executive Memorandum 1975-3, superseded by Executive Memorandum 1981-2. These memoranda require the adherence of all personnel systems in the State to the "warm body" policy as a final guideline for a reduction in force. The basic position of the Administration is that a reduction in force will not jeopardize the employment security of a permanent state employee. "The Administration will take all necessary steps to assure continued employment of all permanent employees who may be affected."
The Agreement appointment was the method created by the Department of Education to maintain its own "warm body" policy and that of the Executive Branch.

2. Department of Education's Discretionary Authority Over these Temporary Teachers Appointment Agreement Positions. A second benefit of the Agreement appointment to the Department of Education was that these positions were subject to a greater degree of discretionary authority on the part of the educational officers than clearline positions. This discretion was due to the lack of reemployment commitment. The principals, for example, could hold off announcing certain teaching vacancies until after September 30 of the school year. All vacancies occurring after this date were temporary Agreement appointments. Temporary Agreement appointments were not subject to the same qualification limitations as the probationary or tenured appointments. Thus there was the opportunity to select an individual for the Agreement appointment who was not certified in a particular subject area.

3. Temporary Positions for Temporarily Funded Programs. Another beneficial aspect of the Agreement appointment is that it has been used by the Department of Education, the Legislature, and the Governor to initiate federal and state temporary programs without a long-term commitment of employment. There has developed an attitude among these bodies that temporary programs should be staffed with temporary positions to preserve the temporary nature of the program. This ensures that the obligation to retain these teachers does not extend beyond the temporary funding source.

According to information provided by the Department of Education for the 1984-1985 school year, there were a total of 25 temporary programs (see Table 6). There were, according to the Department of Education, 769 Agreement appointment positions distributed among these programs—a significant proportion of the approximately 9,000 teaching positions within the Department. But, the Department has further reported that for the 1984-1985 school year a total of only 360 Agreement Appointees were teaching in these temporary state and federally funded programs (see Table 4). The Department indicated that the obvious discrepancy between the number of Agreement appointment teachers and the number of Agreement appointment positions was due to tenured teachers who were occupying Agreement appointment positions.

The Department of Budget and Finance provided more detailed information regarding position counts and funding history for these temporary programs (see Table 7). Of the total 25 programs, 21 have been funded for more than five years. Only marine education, special education-special schools, Honolulu and Leeward Alternative Learning Centers, computer education, and district office teachers have been funded for less than five years. All of these 25 programs except for the Early Provision for School Success program have temporary positions appropriated through fiscal year 1987. There have been great increases in the position counts for these programs since 1976, the first year of implementation of the Agreement appointment. That year, there were 53 positions in these programs. The Budget and Finance figures show there are 546.5 positions appropriated for 1986 and 457 for 1987. Approximately one-half of these positions are in special education (123.5) and Students of Limited English Proficiency (128)
Table 6

LIST OF TEMPORARY TEACHER/PROGRAMS
1984-85

<table>
<thead>
<tr>
<th>Program</th>
<th>Number of Agreement Appointments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marine &amp; Aquatic Teacher</td>
<td>1</td>
</tr>
<tr>
<td>Hawaiian English Program (HEP)</td>
<td>1</td>
</tr>
<tr>
<td>Intensive Basic Skills</td>
<td>25</td>
</tr>
<tr>
<td>Hawaiian Studies</td>
<td>13</td>
</tr>
<tr>
<td>Early Provision for School Success (EPSS)</td>
<td>100</td>
</tr>
<tr>
<td>Special Education (K-12)</td>
<td>119</td>
</tr>
<tr>
<td>Special Education (Special School)</td>
<td>1</td>
</tr>
<tr>
<td>Special Education (Preschool)</td>
<td>29</td>
</tr>
<tr>
<td>Alienation Program</td>
<td>26</td>
</tr>
<tr>
<td>Storefront</td>
<td>3</td>
</tr>
<tr>
<td>Olomana Youth Center</td>
<td>7</td>
</tr>
<tr>
<td>Molokai Alternative Program</td>
<td>1</td>
</tr>
<tr>
<td>Kauai Alternative Program (PASS)</td>
<td>2</td>
</tr>
<tr>
<td>Kona Ho'oponopono</td>
<td>2</td>
</tr>
<tr>
<td>Student of Limited English Proficiency (SLEP)</td>
<td>128</td>
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<tr>
<td>Hilo High Alternative Program</td>
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<tr>
<td>Hawaii Alternative Program</td>
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<tr>
<td>Honolulu Alternative Learning Center</td>
<td>5</td>
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<tr>
<td>Leeward Alternative Learning Center</td>
<td>6</td>
</tr>
<tr>
<td>State Office Teacher--Gifted/Talented HEDDS</td>
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<tr>
<td>Student Activities Coordinator (SAC)</td>
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</tr>
<tr>
<td>District Office Teacher (Art, Music, P.E., Reading, Computer)</td>
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</tr>
<tr>
<td>Federal Funds</td>
<td>206</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>769</strong></td>
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</tbody>
</table>

Source: Hawaii, Department of Education, Office of Personnel Services.
Table 7

POSITION COUNTS FOR TEMPORARY PROGRAMS

<table>
<thead>
<tr>
<th>PROGRAM</th>
<th>FISCAL YEARS</th>
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</thead>
<tbody>
<tr>
<td>Hawaii English Prog.</td>
<td>3.00</td>
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<tr>
<td>Marine Education</td>
<td>2.00</td>
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<tr>
<td>Hawaiian Studies</td>
<td>2.00</td>
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<tr>
<td>Intensive Basic Skills</td>
<td>24.50</td>
</tr>
<tr>
<td>Early Provision For School Success</td>
<td>100.00</td>
</tr>
<tr>
<td>Special Education--Regular Schools</td>
<td>12.50</td>
</tr>
<tr>
<td>Special Education--Preschool*</td>
<td>31.00</td>
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<td>Special Education--Special Schools</td>
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<tr>
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<td>Maui Alternative Prog.</td>
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<tr>
<td>Kailua Learning Center</td>
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<td>Storefront</td>
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<tr>
<td>Kona Ho'oponopono</td>
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<tr>
<td>Hilo High Alternative Prog.</td>
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<td>Hawaii Alternative Prog.</td>
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<td>Honolulu Alternative Learning Center</td>
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<td>Leeward Alternative Learning Center</td>
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<tr>
<td>Students of Limited English Proficiency</td>
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<tr>
<td>Hawaii Educational Dissemination and Diffusion System (HEDDS)</td>
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<td>Student Activities Coordinators</td>
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<td>District Office Teachers--Art, Music, P.E., and Reading</td>
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</tr>
<tr>
<td>District Office Teachers--Computer-in-Education</td>
<td>7.50</td>
</tr>
</tbody>
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*Preschool teachers were first appropriated in FY 1980; however they were not listed separately from the K-12 teachers until FY 1982.

Source: Department of Education, Resource Allocation and Budget Execution.
programs. There has been no overall assessment made by the Department of Education focusing specifically on future staffing needs for each of these temporary programs. However, for the Students of Limited English Proficiency program, the educational specialist indicated that based upon projections of the U.S. Immigration and Naturalization Service, the number of immigrant children entering Department of Education and the position counts for the program will remain about the same for at least the next five years. The only unknown variable is the distribution of positions among different dialects of the Filipino immigrants.

4. The Temporary Teachers Appointment Agreement Provided Additional Teaching Positions. A final purpose arguably served by the Agreement appointment was that this appointment was a source of additional teaching positions for the Department of Education not subject to strong budgetary opposition from the Legislature and the Governor. The Department has represented that while the 1975 School Code Amendment has been in effect it has not requested any new permanent teaching positions in its budget requests submitted to the Legislature because of a perception of the Legislature's reluctance to provide this funding. Despite the lack of permanent funding, these temporary positions appear to be necessary to assure adequate staffing of the Department's educational program. The Agreement appointment has been used as a device to create additional teaching positions within the Department without confronting the Legislature and the Governor with the issue of permanent funding.

This purpose can be considered beneficial to the Agreement Appointees for two reasons. Despite the inequity in the reemployment commitment attached to this appointment, the Agreement appointment has provided teachers with the opportunity to be employed with salaries and benefits like those of teachers in clearline positions. The Agreement appointment also has given the Agreement Appointee an opportunity to demonstrate teaching skills to the Department and establish the contacts with Department administrators perceived to be a decisive factor in obtaining a clearline position.

B. Disadvantages of the Temporary Teachers Appointment Agreement

The disadvantages of the Agreement appointment fall heavily on the teachers. There were five significant ones noted as common problems among the Agreement Appointees.

1. Inequitable Treatment of the Temporary Teachers Agreement Appointees for Probationary Credit and Reemployment Priority. The most apparent problem created by the 1975 Amendment was the differential treatment of the Agreement Appointees for purposes of probationary credit and reemployment commitment. The Agreement Appointees were performing the same job duties and responsibilities under similar terms and conditions of employment as teachers in clearline positions. Yet, the Agreement Appointees had no tenure rights, service credit toward tenure, or reemployment priority.

At the end of the Agreement appointment contract duration, the Agreement Appointee was assured of no continuity of employment or of
teaching position. The Agreement Appointee's reemployment was completely dependent upon the discretionary authority of the educational officers and the teaching staffing needs of the Department; this resulted in continual employment uncertainty. The inequitable character of the Agreement appointment in this situation is obvious.

2. Perceived Inequitable Treatment in Preference Given to Temporary Teachers Agreement Appointees for Clearline Positions. The 1975 School Code Regulation 5102 specifically provided that the Agreement Appointees had no reemployment commitment for either an Agreement appointment position or a clearline position. The guidelines issued by the Department governing probationary teacher reemployment provide priority for reemployment only for probationary and tenured teachers. Contrary to this written policy, the Department's practice was to give preference to Agreement Appointees for the filling of vacancies in both Agreement appointment and clearline positions. Despite this practice, there were significant perceived inequities in preferences which were given to Agreement Appointees for two major reasons.

It appears that one of the major reasons for the perceived inequity in the treatment of Agreement Appointees was the broad discretionary authority given to the principals to select the particular individual who would fill the Agreement appointment and probationary positions within their school. Most of the principals adhered to the hiring preference policy of the Department. Hilo School District in particular gave no priority to Agreement Appointees. The Agreement Appointees were mixed in the same pool with new applicants for permanent positions. Permanent positions were filled with new applicants despite Agreement Appointees being eligible for these positions. When confronted with complaints from Agreement Appointees in Hilo District, the Department upheld the discretionary authority of the principal to deny employment preference to eligible Agreement Appointees. The Department reasoned that the Agreement Appointees were not evaluated according to the same standards as the probationary appointees so that the same reemployment preference need not apply. Yet, during the interviews conducted by the Legislative Reference Bureau, the Department of Education stated that the evaluation for Agreement Appointees was exactly the same as the one for probationary appointees.

It appears that another reason for the perceived inequity in the Agreement appointment employment preference situation was the contractually mandated cutoff date for commitment for an Agreement appointment. The appointment procedure has been to reappoint all tenured teachers in February of the school year for the following school year. The tenured teachers under contract have until July of the same year to apply for transfers for the next school year. After this July cutoff date, the Department rushes to fill all vacant clearline positions with probationary appointees and all temporary and vicing positions with Agreement Appointees. To ensure that teacher staffing at the schools is set by the opening of school in September, the Department has maintained that an applicant for an Agreement appointment must accept this appointment in August or September of the school year. There are vacancies which occur in clearline positions after that date. Yet, once the applicant has accepted a Agreement appointment position, the Department maintained that the applicant was not eligible for a subsequent vacancy in a clearline position. The rationale was that the transfer of a Agreement
Appointee into a clearline position and the placement of a new hire into the Agreement appointment position vacancy would create a major disruption of the school program. Hawaii State Teachers Association personnel agreed with the Department's approach and reasoning on this policy. A Board of Education member disagreed asserting that this approach was unfair because the Department has no similar policy regarding the transfers of principals during the school year.

The long transfer period ending in July for tenured teachers appears to be the reason for the necessity of maintaining a firm commitment date for Agreement Appointees. There is a real push during the month of August to place probationary teachers and Agreement Appointees by the opening of school in September. The teacher is caught in a dilemma of deciding to take the Agreement position offered or to refusing the Agreement appointment position with a slim hope of obtaining a probationary position.

3. The Temporary Program Position Trap. Another significant problem arose from 1975 School Code Regulation 5102.C.1. This regulation provided that temporary Agreement appointments were to be given to teachers "appointed to temporary positions." These temporary positions existed solely in temporarily funded state or federal programs. During the last school year 1984-1985, 360 of the approximately 856 Agreement Appointees employed by the Department of Education were placed in these programs (see Table 4). Some of these Agreement Appointees, particularly in the Students of Limited English Proficiency program, were certified only for this particular program. The lack of certification in a teaching field with clearline positions created a temporary teacher trap for these teachers. These teachers had virtually no chance of moving into a clearline position or obtaining tenure in their position with a temporary program regardless of performance or experience.

4. No Grievances Over Temporary Teachers Appointment Agreement Regulation. During the ten-year period when the 1975 School Code Regulation 5102 was in effect, there was not a single grievance or other legal action filed by any of the Agreement Appointees challenging the regulation. The Hawaii State Teachers Association representative guessed that the absence of any grievances by Agreement Appointees was primarily due to two reasons peculiar to the Agreement appointment. There might have been a hesitancy on the part of Agreement Appointees to pursue legal action because of a fear of Department of Education retaliation, i.e., terminating their Agreement appointment position or a refusing to consider them for future Agreement appointment or clearline positions. The Agreement Appointees also might not have been aware of their rights within the collective bargaining process, due either to ignorance about collective bargaining or a lack of awareness of their membership in the teachers' bargaining unit.

5. Temporary Teachers Agreement Appointees' Morale Problem. As a result of the problems discussed above, the number of informal complaints from Agreement Appointees to the Department began to increase over the length of time that the 1975 Amendment was in effect. According to one department administrator, the two major types of complaints were that a new hire was brought in for an available clearline position in a school where an Agreement Appointee was teaching and that an Appointee with over two years of service with the Department felt that a probationary position has been
The lack of response to these informal complaints was the impetus for the Legislature's intervention in this matter.
Chapter 3
THE 1985 SCHOOL CODE REGULATION 5102

Part I. Circumstances Surrounding the 1985 Amendment

As stated in Chapter 2, the approval of the 1985 Amendment by the Board of Education was the direct result of significant changes in the circumstances surrounding these Agreement appointments. There was an increase in the number of complaints by the Agreement Appointees to the Department of Education and the Hawaii State Teachers Association during the ten-year period in which the 1975 School Code Amendment was in effect. These informal complaints resulted in the introduction and passage of House Resolution No. 221, H.D. 1, requesting a study of the feasibility of granting probationary credit and reemployment commitment to Agreement Appointees, an expression of the Legislature's growing concern over the Agreement appointment problem. The expiration of the Department of Education—Hawaii State Teachers Association collective bargaining agreement in June 1985 presented an immediate opportunity for pressure to be applied and for progress to be made to relieve some of the inequities in the Agreement appointment situation. In addition, a significant circumstance occurred in that for the first time in ten years, the Department was projecting a future shortage of qualified teachers for the number of vacancies occurring in clearline positions. This shortage was due to several reasons.

There was a leveling off in 1983 and 1984 of the downward enrollment trend in the public schools since 1972. The Department predicted a strong upward trend in enrollment to begin in 1985 based upon Department of Health birth statistics showing an increase in the number of kindergarten students. This was accompanied by a decrease both in the number of students in Grade 12 reducing enrollment losses as a result of graduation and a topping out of private school enrollments.

The demographic data of the Department of Education also showed that a significant number of certificated personnel (teachers) were within or near the retirement age range. The Department's statistics showed that 35 percent of the teaching personnel were within the age range of 50-61, indicating substantial numbers of foreseeable vacancies occurring in clearline positions due to attrition.

The other variables which the Department of Education predicted would contribute to the undersupply of qualified teachers were a decrease in the supply of teachers graduating from the state institutions with education training, new education programs, efforts to upgrade the school system, higher certification requirements, a decrease in the number of women entering the field, lack of affordable housing, rising transportation costs, and the geographical location of positions.

Due to these predictions, the Department's concerns over teacher employment shifted from staff reduction to keeping and recruiting teachers.
The climate was ripe for a major substantive change in the teacher appointment process.

Part II. 1985 School Code Amendment to Regulation 5102

A revision to School Code Certificated Personnel Policies and Regulations (5000 Series, Regulation 5102 ("1975 School Code Regulation 5102")) was approved in May 1985 by the Board of Education upon the recommendation of the Department of Education. The recommendation was part of an informal agreement reached during the 1985 collective bargaining negotiations between the Hawaii State Teachers Association and the Department of Education. In making this recommendation, the Department stated that the revised regulation would ease recruitment problems, improve teacher morale, and permit the Department to be more competitive in the teacher employment market. The Department further noted that there were no anticipated compelling arguments against the recommendation and that there was no direct impact on facilities, or personnel, and no educational or financial implications.

Under the 1975 School Code Regulation 5102, to receive a probationary appointment, a nontenured teacher must have been appointed to a clearline position for one school year. All other nontenured teachers were given Agreement appointments. Under the 1985 School Code Certificated Personnel Policies and Regulations, Regulation 5102 (1985 School Code Regulation 5102), the decisive factors for probationary appointments changed to the teacher's date of hire and the certification for the position. If a teacher is certified and appointed before October 1, a probationary appointment is given. If a teacher is uncertified or not appointed until after October 1, the Agreement appointment is given. According to the current provisions of Regulation 5102, Agreement appointments are now given to teachers in the following situations:

1. A temporary vacancy (replacing a regular teacher who is expected to be absent from duty for a minimum period of 90 days after October 1). If less than 90 days, a substitute is to be hired.

2. A permanent, unobligated position for less than one school year (appointed to vacancies occurring after October 1).

3. A position for which no eligible, certified person is available (under this situation a person may be appointed without meeting the minimum certification standards).

Apart from the change in the eligibility requirements, the provisions relating to Agreement and probationary appointments remain essentially unchanged. The 1985 School Code Regulation 5102 has been put into effect for the 1985-1986 school year. The Department estimates that under this Amendment, approximately 500 of the 1,245 probationary teachers for the 1985-1986 school year are teachers who were employed under Agreement appointments during the last school year. The Hawaii State Teachers Association requested during negotiations that the 1985 Amendment be retroactive to the extent that Agreement Appointees with five or more years
of service would receive automatic tenure. No agreement was reached on this issue.\(^{18}\)

The primary effect of the Amendment is that all Agreement Appointees qualifying for probationary appointments this 1985-1986 school year, regardless of their years of service under this appointment, will receive PI status\(^{11}\) (first semester probationary) like new hire probationary teachers. Another effect is that a teacher who has successfully completed the probationary period will not be given tenure unless and until reappointed to a clearline position. While appointment to a clearline position is no longer necessary for receiving a probationary appointment, it is significant in obtaining tenured status. The Department's interpretation of the current Regulation 5102 is that teachers appointed to vicing and temporarily funded positions will not receive tenure while employed in these types of positions.\(^{12}\)

As with the 1975 Amendment, the Department has issued guidelines and procedures for the filling of teacher position vacancies following approval of the 1985 Amendment.\(^{13}\) These guidelines reflect the changing needs of the Department regarding teacher staffing. Unlike the 1975 guidelines, which focused primarily on the selection for reappointment of probationary teachers, the current guidelines focus on standards for selection of potential tenured teachers—the P4s (fourth semester probationary teachers requiring reappointment to a clearline position to receive tenure). The current emphasis in selecting for reappointment of probationary teachers, generally, is on certification; having English language skills and the ability to communicate with students; and unique training or experience for the teaching assignment.\(^{14}\) The guidelines establish a reappointment priority for P4s based upon these qualities as well as satisfactory teaching evaluation and an interview with the school administrator.\(^{15}\) The guidelines provide for an appeal procedure for nonselection through a Probationary Rehire Appeals Board.\(^{16}\)

Part III. Assessment of the Progress in the Temporary Teachers Appointment Agreement Situation Under the 1985 School Code Amendment

The general consensus among the people interviewed is that there is only one significant change made by the 1985 School Code Amendment. It has shifted the bulk of nontenured teachers from Agreement appointments to probationary appointments.\(^{17}\) A review of the issues raised regarding the 1975 Amendment in the context of the 1985 Amendment demonstrates that this is an overly simplistic view of the situation.

The benefits of the 1975 Amendment remain virtually untouched by the 1985 Amendment. The shift of nontenured teachers from Agreement to probationary appointments has no effect upon the Department of Education's twofold purpose of meeting its staffing needs and preserving the job security of its tenured teachers. The rehire priority given to probationary teachers carries no legal obligation of reemployment, so there is no jeopardy created by this new amendment to the job security of these tenured teachers. The "warm body" policy remains unimpaired by the new provisions.
TEMPORARY TEACHERS APPOINTMENT AGREEMENT

The discretionary authority of the principals also remains substantively unchanged. Under the Department of Education guidelines regarding reappointment of probationary teachers, the principals retain the discretion not to reappoint a probationary teacher to a position within the school. With reasonable justification and cause, the principal can interview other probationary teachers with the same or higher levels of seniority for the position occupied by the probationary teacher.18 Regarding reappointment of P4s in particular, the guidelines accord even further discretion to the principals not to reappoint a P4 through the use of evaluations and interviews.19

The scope of the discretion of the principals over the filling of vacancies occurring after October 1 remains the same as under the 1975 Amendment. The opportunity is there for a principal to hold off announcing the vacancy until after that date and to appoint a noncertified teacher to a temporary position if no certified teacher is available.

The 1985 Amendment has a different potential for abuse of discretion by the principals than the 1975 Amendment, especially with reappointments of probationary teachers to a position within the same school. The potential for abuse of discretion of the principal under the current guidelines exists in the provision that a principal with reasonable justification and cause may refuse to reappoint a probationary teacher to a position within the principal's school and interview other probationary teachers with the same or higher levels of seniority.20 This is particularly a problem with the Students of Limited English Proficiency program teachers seeking reappointment to a clearline position outside that program. The requirement of English language skills and the ability to communicate with students may be unequally applied by the different principals resulting in perceived inequitable treatment. There may also be a problem with special education teachers seeking clearline positions in the regular education program. The opportunity exists for principals to apply the requirement of unique training and experience for the teaching assignment to these teachers to deny them access to vacancies in clearline general education positions.

The 1985 Amendment does not affect the temporary nature of the positions in temporarily funded programs. The 1985 Amendment changed the status from temporary Agreement appointment to probationary appointment of the teacher occupying the position, but the nature of the position remains temporary. This raises a question regarding the effect of the 1985 Amendment on the disadvantages present with the 1975 Amendment.

Since the nature of the temporary program positions remains unchanged under the 1985 Amendment, the problem of the temporary teacher trap remains unresolved. There is no problem with a teacher certified only in a temporarily funded teaching position getting a probationary appointment. The problem arises when the teacher becomes a P4 seeking reappointment to a position to obtain tenure. The Department of Education's interpretation of the 1985 Regulation 5102 is that reappointment of a P4 to a clearline position is required before tenure is given.21 A teacher who is certified only for a temporary funded program such as the Students of Limited English Proficiency program still has no chance of obtaining tenure under the current system.
Teachers trapped in these positions should signal to the Department of the need to request permanent funding for these temporary positions.

The 1985 Amendment has resolved, to varying extents, some of the inequities in treatment of these teachers under the 1975 Amendment. The teachers in temporary positions now receive probationary credit for service within the Department of Education. They also have reemployment priority based upon their probationary status giving them a hiring edge over new hires for positions for which they are certified. As noted above, the discretion of the principal to retain a probationary teacher does potentially diminish the effects of the reemployment priority within a particular school. This discretion of the principals may also be a factor discouraging these probationary teachers from filing any grievances as they may fear retaliation by the principal or Department through the reemployment process. For example, a teacher who was not reappointed to a position may hesitate to file a grievance from a fear of being excluded from other positions within the Department.

However, the 1985 Amendment provision of an October 1 cutoff date for probationary status provides additional potential for inequities in the treatment of teachers for probationary credit purposes. Teachers appointed on or before October 1 can receive probationary credit for serving only through the first semester. Teachers appointed after October 1 who complete the second semester do not receive probationary credit for that semester.

The impact of the 1985 Amendment upon the teacher morale problem is most difficult to assess. To the extent that morale problems were due to the lack of reemployment priority and probationary credit (such as the complaint that a new hire was given a position over an Agreement Appointee), the Amendment is responsive to the complaints. Where the morale problems stem from the lack of job security or other perceived inequities, then these morale problems may continue if tenure is not received after fulfilling the probationary period.

Part IV. New Issues Raised by the 1985 Regulation 5102

There are several new issues arising from the 1985 Regulation 5102. The most serious question is tenure. Given the Department of Education guidelines and interpretation of the current Regulation 5102, the issue is whether, at the end of the two-year period when teachers shift from Agreement to probationary appointments which require reappointment to a clearline position to obtain their tenure, there will be sufficient clearline positions to accommodate them. Since the Department has not requested permanent positions from the Legislature, the answer to this issue is solely dependent upon the job market. Although no formal projections have been done, one administrator of the Department anticipates that if the projected enrollment trends and the teacher attrition rate occur, there will be sufficient clearline positions to accommodate all eligible probationary teachers within six to seven years.

A concern arises since P4s who do not receive clearline positions immediately after serving two years of probation will remain P4s indefinitely.
TEMPORARY TEACHERS APPOINTMENT AGREEMENT

until a clearline position becomes available. Teachers in teaching areas with only temporary positions such as the Students of Limited English Proficiency program will be able to move into clearline positions in other teaching fields only after meeting the certification requirements.

There is also the additional problem that some of these temporary positions are in teaching areas where an inadequate supply of teachers is projected. The Department is anticipating a shortage of teachers for special education of the blind, deaf and blind, severely multiply handicapped, orthopedically handicapped, learning disabled, severely emotionally disturbed, mentally retarded and hearing impaired; bilingual teachers for Koreans, Samoans, Vietnamese, and Laotian; as well as librarians and counselors. All of these teaching fields involve temporary programs. To compound the teacher shortage problem, there could be an attempted movement of these teachers certified only in temporary program fields into other teaching fields with clearline positions causing additional vacant positions and a constant turnover in these temporary programs.

These issues may also be the source of morale problems affecting the motivation and desire to remain employed with the Department of Education among the probationary teachers. The giving of probationary status creates an expectation of tenure. The failure to obtain tenure after successful completion of the probationary period may discourage some of these teachers. This problem will be particularly pronounced in the temporary programs where there is no opportunity for tenure and an inadequate supply of certified teachers.
Chapter 4
COST IMPLICATIONS AND COLLECTIVE BARGAINING ISSUES

In requesting a study of the impact of granting Agreement Appointees probationary credit and hiring preference for clearline positions, House Resolution No. 221, H.D. 1, specified that the Legislative Reference Bureau study the impact including cost implications and legal and collective bargaining obstacles. Regarding costs, the Department of Education states that there are no cost implications associated with providing probationary status to the teachers in temporary positions.\(^1\) The only situation in which there would be cost implications is if additional clearline positions had to be funded to provide P4s (fourth semester probationary teachers) with tenure.\(^2\) The Department takes the position that a P4 must be reappointed to an existing clearline position to get tenure. Tenure will not be given to P4s reappointed to vicing and temporary program positions. There will be no cost directly related to granting probationary status, credit, or reemployment priority to these teachers in temporary positions.

Given the progress through collective bargaining on the probationary status, a response to the portion of the resolution relating to collective bargaining and legal obstacles appears to be of limited value. Based upon the resolution and the assumption that there may be additional attempts to negotiate probationary credit and reemployment preference, the following is a brief discussion of the legal and collective bargaining obstacles.

Agreement Appointees are included in the collective bargaining process by their inclusion in unit 5, "Teachers and other personnel of the department of education under the same salary schedule", by an agreement between the Department of Education and the Hawaii State Teachers Association reached at the time the Agreement appointment was created. Chapter 89, Hawaii Revised Statutes, the collective bargaining law for public employees pertains to these temporary teachers. The only potential collective bargaining dispute between the Department of Education and the Hawaii State Teachers Association to granting Agreement Appointees probationary credit, status, or employment preference rests in the negotiability of these subjects under section 89-9, Hawaii Revised Statutes.\(^3\)

The Hawaii State Teachers Association began placing proposals relating to the Agreement Appointees on the collective bargaining table during the late 1970s. The Department consistently took the position that these proposals interfered with their management rights, a matter upon which no agreement could be made under section 89-9(d), Hawaii Revised Statutes.\(^4\) Under chapter 89, Hawaii Revised Statutes, the Hawaii Public Employment Relations Board, now the Hawaii Labor Relations Board, is the agency authorized to resolve disputes between the Department of Education and the union over the negotiability of proposals.\(^5\) The negotiability of these subjects can only be resolved by filing a petition for a declaratory ruling by the Department of Education or the union as provided by Hawaii Labor Relations Board rules and regulations or for prohibited practice charges under sections 89-13 and 89-14, Hawaii Revised Statutes.\(^6\) A review of the Hawaii Public Employment Relations Board decisions shows there has been no determination made under this
provision regarding the negotiability of these particular subjects, probationary credit, and employment preference.

To make a determination regarding the negotiability of the Agreement appointment proposals is a difficult task. Any Agreement appointment proposals have an impact upon both educational policy and working conditions requiring a balancing approach. The Hawaii Public Employment Relations Board has considered the negotiability of various other proposals submitted by the Hawaii State Teachers Association similarly involving an impact upon policy and working conditions. In three previous decisions *In Re Hawaii State Teachers Association and Department of Education, 1 HPERB 253 (1973) (Decision 22)*, *In Re Petition for Declaratory Ruling by the Department of Education, 1 HPERB 311 (1973) (Decision 26)*, and *In Re Hawaii State Teachers Association and Board of Education (Decision 144)*, the Hawaii Public Employment Relations Board considered the negotiability of proposals regarding statewide class size ratio. Decision 22 involved a prohibited practice charge by the Hawaii State Teachers Association that the Department of Education violated a provision of the collective bargaining agreement by abolishing certain temporary support positions and putting personnel occupying those positions back into the classroom. The Department defended on the grounds that the provision in the collective bargaining agreement violated section 89-9(d), Hawaii Revised Statutes, and is void. The Hawaii Public Employment Relations Board ruled that the class size ratio provision was negotiable and not in violation of section 89-9. In so ruling, the Hawaii Public Employment Relations Board reasoned that class size ratio is a hybrid issue involving both educational policy and impacting on working conditions. The Hawaii Public Employment Relations Board found that the proposal was negotiable because the Department of Education failed to present any evidence to show that this proposal would interfere with its management rights.

In Decision 26, the Hawaii Public Employment Relations Board reached the opposite conclusion on the negotiability of a teacher workload proposal establishing specific maximum class size for each grade level. In so concluding, the Hawaii Public Employment Relations Board clarified the approach which must be taken in determining these hybrid issues. The Hawaii Public Employment Relations Board stated that the employer's broad right to establish educational policy must be balanced against the direct impact of the proposal on the teachers' working conditions. Applying this approach to the proposal, the Hawaii Public Employment Relations Board held that the proposal was nonnegotiable because of the substantial interference of the proposal on the employer's rights. The Hawaii Public Employment Relations Board specifically noted that the Department would be forced to hire personnel and expand facilities regardless of its rights and duty to maintain efficient operations. The Hawaii Public Employment Relations Board concluded that while the proposal was concerned with employment conditions, the proposal interfered in far greater measure with the Department's responsibility to establish educational policy and its right to determine the methods, means, and personnel to conduct operations.

In Decision 144, the Hawaii Public Employment Relations Board followed the approach of Decision 26 finding that the effects of the proposals involved were similar to the workload proposal in Decision 26 on the operations and educational policies of the Department. The implementation of the weighted
class size proposals would require the Department to hire more teaching personnel and to expand classroom facilities to maintain the class size standard proposed. The Hawaii Public Employment Relations Board recognized that the proposals did impact upon working conditions but was unable to find that these effects outweighed the substantial interference that these proposals would have on the educational policies and operations of the Department.

Given the application of the balancing approach to a determination of the negotiability of any Agreement appointment proposals, the Legislative Reference Bureau cannot predict how the Hawaii Labor Relations Board would rule if confronted with a prohibited practice complaint or a petition for a declaratory ruling filed by the Department of Education or the Hawaii State Teachers Association. The outcome depends upon the evidence presented by the parties regarding the relative impact of the proposals upon working conditions and upon educational policies and operations. If the Hawaii Labor Relations Board determines that probationary credit, employment preference, or probationary contract proposals are nonnegotiable items, then these would be legal and collective bargaining obstacles.

Decisions from other states regarding negotiability of these items are not particularly helpful. The most relevant decision is Detroit Federation of Teachers v. School Board, 396 Mich. 220, 240 N.W.2d 225 (1975). In that case, the Michigan Supreme Court considered the issue of whether the school board was required to issue probationary contracts to substitute teachers who served as emergency substitutes in regular positions. The issue arose because the school board adopted a policy that all new teaching positions would be filled by emergency substitutes and no probationary appointments were made. The court concluded in part that this dispute related to terms and conditions of employment resolvable by the parties through negotiations or through the grievance procedure provided by the collective bargaining agreement. The implication of this decision is that the subject of probationary contracts for these temporary teachers is a negotiable item.

Unlike Michigan, the Iowa Public Employment Relations Board in Bettendorf Community School District and Bettendorf Education Association, Case No. 598 (Feb. 3, 1976) ruled that a probationary policy stating reasons or conditions for the issuance of a one-year probationary contract to a certificated employee was a permissive but not a mandatory subject of bargaining. The Iowa collective bargaining law unlike Hawaii and Michigan makes a distinction between mandatory and permissive negotiable subjects.

These decisions of other states are not conclusive of the negotiability of Agreement proposals under Hawaii's collective bargaining law. The only legally binding determination regarding negotiability must be rendered by the Hawaii Labor Relations Board based upon a balancing of the evidence presented as to the relative impact of these Agreement appointment proposals upon policy and upon working conditions.
Chapter 5

PROFILE AND ATTITUDES OF TEMPORARY TEACHERS AGREEMENT APPOINTEES

A complete assessment of the Agreement appointment situation requires information about the individuals who have been employed under this appointment and their attitudes about their teaching experience. To obtain information about the Agreement appointment group, the Bureau administered questionnaires to the 1984-1985 Agreement and probationary appointees.

Survey Procedures

The questionnaire sent to 1984-1985 Agreement Appointees consisted of 58 multiple choice and open-ended questions. The questionnaire sent to the probationary teachers contained only 37 multiple choice and open-ended questions. Questions relating to age, marital status, sex, race, residence, education, and teaching experience were asked of both groups. Questions regarding the Agreement appointment experience and their present employment status were asked of both groups, but the format of these questions differed on the Agreement Appointees questionnaire from the probationary appointees questionnaire. Similar questions regarding attitudes about their employment under Agreement appointments were asked of both groups. The Agreement appointment questionnaire had additional questions regarding attitudes about employment preference, reasons for being employed under an Agreement appointment, concerns over the 1985 School Code Amendment, and questions regarding informal complaints and legal action taken by the respondent. A copy of each of these questionnaires is included in Appendices B and C.

The questionnaires were mailed directly to the home addresses of the teachers. A memorandum of transmittal, addressed by the Superintendent of Education to survey respondents, was attached to each questionnaire. In the transmittal memorandum, the confidentiality of responses was assured. A total of 746 Agreement Appointees and 359 probationary teachers were surveyed. The probationary questionnaire was directed only to those teachers with previous Agreement appointment experience, yet it had to be sent to all 1984-1985 probationary teachers because the Department of Education was unable to isolate those with previous Agreement appointment experience from all other probationary teachers. Questionnaires were distributed in mid-September and were to be returned to the Bureau by October 7, 1985. Only those received on or before that date were included in the statistical sample. Questionnaires received after that date were not.

Responses for each of these groups were tabulated and summary statistics for the multiple choice questions were generated using the Crosstabs System. The raw scores for each multiple choice question are presented in Appendices B and C and are discussed later in this chapter.
Survey Results

The sample from which the findings were developed consisted of the following: of the 359 questionnaires delivered to probationary teachers, 185 responded by the cutoff date for a response rate of 52 per cent. However, 39 of the 185 respondents indicated that they had never been employed as an Agreement Appointee with the Department of Education, so only 146 or 40.6 per cent of the questionnaires could be used for data compilation purposes. The margin of error for a survey of this size is five per cent. That is, there is a five per cent chance that the overall results differ from the results that would be obtained in a complete census of those to whom the surveys were sent. Of the 746 questionnaires sent to Agreement Appointees, 356 responded by the cutoff date for a response rate of 47 per cent. The margin of error for a survey of this size is four per cent. Two of the 356 respondents stated that they had never been employed as an Agreement Appointee, so only 354 of the questionnaires could be used for purposes of data compilation.

In analyzing the survey results, the Bureau believes that the data may be biased for several reasons. Although the confidentiality of the responses was guaranteed, some respondents may have been afraid to respond truthfully to certain questions because of a fear of identification or punishment by the Department. Other respondents' critical answers may be exaggerated because of alienation or anger about their employment or teaching experiences with the Department of Education.

Since there was no pilot test of these questionnaires, certain questions are of limited value because of perceived ambiguities and incompleteness. These questions include:

1) Questions 15, 16, 17, and 18 of both questionnaires concerning the respondent's teaching experience other than in an Agreement appointment position. These questions were intended to determine the extent of the respondent's teaching experience, either in or out of the Department of Education other than as an Agreement Appointee. Some respondents interpreted these questions as asking about teaching experiences within the Department of Education other than in an Agreement appointment position. Other respondents interpreted this group of questions correctly.

2) Questions 12 and 18 of both questionnaires regarding the areas of teaching specialization in which the respondent is certified or has previous teaching experience, or both. The data for these questions may not be complete because of limitations of the statistical program regarding multiple responses. That is, there is no way to record a case where the respondent checked off more than four areas of specialization for which the respondent was certified or had previous teaching experience.

3) Question 22 of the Agreement Appointee questionnaire concerning level of probationary status. The multiple choice answers are P1—first semester probationary teachers, P2—second semester probationary, P3—third semester probationary, and P4—fourth
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semester probationary. Only about 50 per cent of the probationary teachers responded to this question although close to 60 per cent of them responded that they were currently employed as probationary teachers with the Department of Education. Some of the nonresponding group either did not understand the question or the multiple choices or did not know their level of probationary status, or both.

Profile of Probationary and Agreement Appointment Teachers

Probationary Teachers with Previous Agreement Appointment Experience. The background data on these probationary teachers confirm the stereotypical profile of Department of Education teachers. The majority of the probationary teachers responding are married (58 per cent) females (79 per cent) between the ages of 25-35 (66 per cent). The majority of the teachers are born in Hawaii and have resided in the State for life. Sixty-four per cent of the teachers responding currently reside on Oahu. Racially, the teachers are Japanese (45 per cent) by almost a two to one margin over the next largest group, Caucasians (23 per cent).

The data regarding the specialized subject matter fields in which these probationary teachers are certified shows a definite hierarchical pattern. Seventy per cent of the total responses indicated certification in general education areas such as elementary education or secondary education. Fewer teachers (12 per cent or less) are certified in specialized areas such as K-12, counseling, library science, and special education.

Regarding secondary level certifications, the specialized subject matter fields with the largest number of certifications are social studies, mathematics, and English. The fewest number of secondary level certifications are in the technical areas: agricultural arts, business education, industrial arts, office education, and distributive education. Regarding K-12 certifications, the most prevalent certification was in reading. In specialist certification, all of the probationary teachers certified are in either counseling or library science. No probationary teachers report holding certification in speech, media, or psychological examination. In special education, the largest percentage of certifications are in the specialties of emotionally handicapped, learning disabled, and mentally handicapped. There are no probationary teachers reporting a certification in visually handicapped or deaf-blind.

Over 90 per cent of the probationary teachers have degrees in education and 80 per cent have teaching experience in other than an Agreement appointment position. Of those teachers reporting other teaching experience, most report only one year of such experience, but 10 per cent report having six to nine years of such teaching experience. Over one-half of the probationary teachers received their education degrees from the University of Hawaii-Manoa.

Over 50 per cent of those teachers with other teaching experience gained their experience in the Hawaii public school system. The data regarding subject matter fields in which other teaching experiences were gained show a hierarchical pattern like the data regarding certification. Seventy per cent
of the total responses indicated teaching experiences in the general education areas of elementary and secondary education and only 30 per cent of the responses in the more specialized education areas such as special education, counseling, and library science, K-12 and specialist certification. The trend in the data for secondary level teaching experience follows the same pattern as the data for secondary level certification. The areas of specialization in which most of the teaching experiences were gained by the probationary group are English, mathematics, and social studies. The areas in which the smallest percentage of teaching experiences was gained are in the technical areas. For other teaching experiences on the K-12 level, the most prevalent response was "other" (meaning certification other than the specified K-12 certifications in art, music, physical education, or reading). The trend in the data for other teaching experiences in the specialist certification areas was the same as the trend in the data for certification held by probationary teachers in these areas. All of the respondents had gained their experience in counseling or library science. For special education, the most prevalent experience is in the learning disabled and mentally handicapped.

**Agreement Appointment Teachers.** There were no significant differences between the general backgrounds, teaching certifications, educational backgrounds, or teaching experiences of the Agreement appointment and probationary appointment groups with the following exceptions. As a group, the Agreement Appointees are older than the probationary teachers. Three out of four of the probationary teachers are between the ages of 20-40 and one out of four are between the ages of 41-65. In comparison, the Agreement Appointees are equally divided between those 40 years and under and those over 40 years.

The data regarding specialized subject matter fields in which the Agreement Appointees are certified follow the exact hierarchical pattern seen in the comparative data for probationary teachers. Regarding secondary education certification, the only difference between the two groups is that there is a much lower percentage of certifications in mathematics for Agreement Appointees than for probationary appointees. Regarding K-12 certification, while "other" is the most prevalent response for both groups, the percentage of certifications in reading for Agreement Appointees is much lower than that of probationary appointees. The percentage of certifications in physical education for Agreement Appointees is much higher than for probationary appointees. Unlike the probationary group, there are Agreement Appointees certified in the specialist certification areas of psychological examination and speech and in the special education areas of visually handicapped and deaf-blind.

While there are no significant differences in the educational backgrounds of the two groups, there is a major difference in the other teaching experiences of the two groups. Eighty per cent of the probationary teachers report having teaching experience other than under an Agreement appointment, while only 53 per cent of Agreement Appointees report similar teaching experience. By a slight margin, Agreement Appointees report that the duration of this teaching experience was less than one year. Like probationary teachers, the most common place where this teaching experience was gained is the Hawaii public school system.
There were basically no differences in the data regarding the subject matter fields in which these other teaching experiences of Agreement and probationary teachers were gained except for the following. In the teaching experiences on the K-12 level, while "other" was the most prevalent response for both groups, the Agreement group also showed a high percentage of teaching experiences in physical education. In the specialist certification areas, while counseling was the most frequent response for both groups of teachers, the Agreement teachers showed teaching experiences in all of the specialist certification areas. For special education experience, both groups showed a high frequency of responses for learning disability and mentally handicapped, and the Agreement group also showed a high frequency of responses for emotionally handicapped.

Agreement Appointment Experience and Attitudes

Probationary Teachers. Regarding the present employment status of probationary teachers with the Department of Education, 87 per cent of the teachers report being in a permanent position. Of the remaining 13 per cent not permanently employed, over 30 per cent have been terminated from the Department. Over 70 per cent of the probationary teacher group are in their second or third semester of probation.

The data regarding the Agreement appointment experience of the probationary teachers show that the great majority (80 per cent) were employed under this appointment for three years or less with an even distribution among the time periods specified in the survey and that they held one or two Agreement appointments (63 per cent). Interestingly, in the group with over three years of experience, there were no probationary teachers in the seven- to eight-year range but there were three teachers in the nine- to ten-year range. There were two teachers who had six to seven Agreement appointments and two who had over seven Agreement appointments.

Contrary to information gathered during the interviews conducted in the course of this study, the data regarding the attitudes of the probationary teachers about the change in their status from Agreement to permanent appointment (including both probationary and tenured appointments) showed no significant morale problem among these teachers. Over 65 per cent of these teachers felt that the change in their status from Agreement to probationary had no effect upon their teaching performance while only 22 per cent felt that this change affected their teaching performance.

Change in status affected the teaching motivation of 40 per cent of the teachers but did not affect the motivation of 50 per cent of the teachers. It is a safe assumption that among those responses indicating that there was an effect upon their motivation that the effect is a positive one. A similar positive effect cannot be assumed, however, for those responses indicating that the change in status did not affect their motivation without data indicating whether these teachers were positively or negatively motivated while in Agreement appointments. Almost one-half of the teachers felt that the change in status did affect their commitment to teaching while slightly less than 40 per cent felt that it did not. A majority of the teachers (60 per cent) felt that the change in status did not affect their relationship with
other school personnel. Both of these findings show a positive attitude about the change in their status.

The data reflecting the attitudes of these probationary teachers about the Agreement appointment experience also show a general positive attitude. A majority of the teachers (56 per cent) felt that their employment under an Agreement appointment did have an impact upon the consideration that was given to them for a permanent teaching position and upon rehire priority for future Agreement appointment positions. The data regarding the reasons that probationary teachers felt that they were offered a permanent position with the Department of Education also reflect positively on the Agreement appointment experience. All of the frequent reasons given were associated with their teaching experience with the Department under an Agreement appointment. The most frequent reason given was the development of a good relationship with a principal or department administrator. The second most frequent reason given was that the teacher was teaching in a school where a permanent position became available. The third most frequent response given was that the teacher was given priority for a permanent position because of being employed under an Agreement appointment.

**Agreement Appointment Teachers.** Almost 75 per cent of the Agreement Appointees are currently employed by the Department of Education. Most of these appointees are employed under probationary appointments and the remaining appointees under Agreement appointments. Forty-four per cent of the teachers are first semester probationary. Some of the 10 per cent "other" respondents may also be employed with the Department under substitute contracts. Only 15 per cent are not currently employed with the Department.

Of the teachers currently under probationary contracts with the Department, the bulk of them are P-1 (first semester probationary) appointees which indicates that the 1985 School Code Amendment had a major impact upon the change in status of Agreement appointment teachers to probationary appointments.

A slightly lower percentage of Agreement appointment teachers than probationary teachers were employed under the Agreement appointment for three years or less. Like the data for probationary teachers regarding the number of Agreement appointments, 65 per cent of Agreement Appointees had one to two of these appointments. There were six Agreement Appointees who were employed in seven to eight Agreement appointment positions and six who were employed in nine to ten of these positions. Regarding the length of time in Agreement appointments, there were five teachers in both the seven- to eight-year experience range and in the nine- to ten-year experience range. Of the four types of teaching positions that Agreement Appointees serve in, close to one-half of the responses indicated that the Agreement appointment was served in a temporary position in a temporarily funded federal or state program.

The data showed no significant morale problem among Agreement appointment teachers as a result of their Agreement appointment status. More teachers felt that the Agreement appointment had no effect upon their teaching motivation, commitment, performance, relationship with school
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personnel, or consideration for a permanent position. Only 25 per cent of the teachers felt that the Agreement appointment status affected their performance as a teacher, and 55 per cent felt that there was no effect. Only 35 per cent felt that Agreement appointment affected their teaching motivation and close to 50 per cent felt that there was no effect. The teachers were less divided upon whether the Agreement appointment affected their teaching commitment with more teachers feeling that the appointment did not have an effect. By a two-to-one margin, the teachers felt that the Agreement appointment did not affect their relationship with other school personnel. Almost 50 per cent of the teachers felt that the Agreement appointment had no impact upon the consideration given them for a permanent position while only 35 per cent felt that there was an impact.

The data regarding complaints by the teachers about being placed in an Agreement appointment position is similarly consistent with a positive attitude of these teachers about their Agreement appointment experience. Approximately 75 per cent of the teachers report that they never complained to either the Department or the Hawaii State Teachers Association about their Agreement appointment status. Of those teachers who complained, more were dissatisfied with the Department’s response and more were satisfied with the Hawaii State Teachers Association’s response. Only 10 per cent of the teachers report that they considered filing a grievance about their Agreement appointment status and only .6 per cent of the teachers report that they actually took any steps to file such a grievance. The most common reasons given for not pursuing a grievance or other legal action were a feeling that the grievance or legal action was futile and an apprehension about not being rehired. Less frequently noted reasons were a lack of information about contractual and legal rights and an apprehension of rejection or criticism by other school personnel.

Over 28 per cent of the respondents state that they did not know that they were members of the teachers collective bargaining unit.

The lack of a morale problem is surprising in light of certain other data such as the following. One out of four teachers responding report that they experienced a situation where a new hire was brought into a permanent teaching position in their school for which the teacher felt qualified. Over 40 per cent of those teachers who experienced this situation reported that this situation occurred more than once.

Sixty per cent of the teachers felt that they were not given any priority for a permanent teaching position because of their Agreement appointment status. However, only 37 per cent of these teachers felt that they were not given priority for another Agreement appointment, and 48 per cent felt that they were given priority for another Agreement appointment.

The most plausible reasons for this lack of a morale problem among these teachers appear to rest in the data regarding why these teachers feel they have received and remained in an Agreement appointment rather than in a probationary appointment. The most frequent response was the shortage of tenured positions or the tight job market. Apparently, these Agreement appointment teachers feel that their temporary employment has been due to matters out of the control of the Department of Education. The least common
reason given was the lack of necessary teaching credentials. One out of two teachers was satisfied that the 1985 School Code Amendment would address their concerns about their Agreement appointment status.

Attitudes of Agreement Appointees with Five Years or More of Experience

The existence of a morale problem among teachers with Agreement appointment experience was not supported by the data gathered from all teachers. However, the data showed that three out of four survey respondents had served four years or less in an Agreement appointment. The Bureau decided to examine whether there was a morale problem among teachers who were employed under Agreement appointments for longer than this period of time. There were 50 teachers who taught five years or more under Agreement appointments. The data for these 50 were cross-tabulated against the data for all questionnaire respondents. The size of the sample was small, so it may not be statistically reliable. The results of the cross-tabulation verified that there is an increased incidence of a morale problem among those Agreement Appointees with five years or more of this experience.

For example, less than 25 per cent of the Agreement Appointees feel that the Agreement appointment status affected their teaching performance. Among those Agreement Appointees with 5 or more years of experience, however, the incidence increased with each year. Over 50 per cent of the teachers in the 7-, 9-, and 20-year ranges felt that their performance was affected by the Agreement appointment.

Motivation and commitment to teaching were also affected significantly by the teacher's years of experience under the Agreement appointment. While only 35 per cent of the Agreement Appointees felt that the appointment affected their motivation and commitment, the percentages were consistently higher for those teachers with 5 years or more of experience. One hundred per cent of the teachers in the 7- and 9-year range felt that their motivation was affected. One hundred per cent of the teachers in the 9-year experience range felt that their commitment to teaching was affected.

Regarding the effect of the length of the Agreement appointment experience upon relationships with other school personnel, the percentage of teachers in the five years and over range who felt that such relationships were affected was consistently high. One hundred per cent of the teachers in the nine-year range felt that their relationships were affected.

Teachers in the five years and over range were more likely to complain to either the Department or the Hawaii State Teachers Association about their Agreement appointment. One hundred per cent of the teachers in the seven-year range complained to the Department and 100 per cent of the teachers in the eight-year range complained to the Hawaii State Teachers Association. If they had complained, the complainants with five or more years were less likely to be satisfied with the response from either the Department or the union than other Agreement Appointees.
The teachers with five or more years of experience were more likely than other Agreement Appointees to consider filing a grievance. One hundred percent of the teachers in the eight-year range report that they considered filing a grievance. However, only those teachers in the five- to six-year range actually filed a grievance.

Regarding satisfaction with the 1985 School Code, the teachers with five or more years of experience were generally satisfied.

Respondent's Comments

A number of the respondents to both questionnaires volunteered comments which provide additional insight into their attitudes about the Agreement appointment.

One probationary teacher commented in these words about how the change in status from Agreement to probationary appointment affected her job performance:

Although I spent many hours overtime, I feel more permanent now and have found myself putting in many many more extra hours and spending a lot more of my own personal income for my classroom than I ever had previously. I feel more stable and secure that I will be using the supplies I buy personally. (Previously, I never knew if I would have special ed or regular ed.)

Another respondent commented about how the change in status influenced the respondent's planning:

By knowing you are there more permanent [sic] you tend to have better long-range planning and better morale.

Some Agreement Appointees noted the positive aspects of their teaching experience under the Agreement appointment:

I was motivated to put more into the job in every way possible--such as volunteering to accompany several other teachers/students to the music festival at Farrington High School. I worked with the PTA in school campus beautification on a Saturday. I was more enthusiastic in working with and teaching the students. I was willing to spend hundreds of dollars of my own money on the students for motivational purposes.

Others felt that the Agreement appointment experience was negative:

Occasionally my morale became low because I saw tenured teachers loafing while I was working hard and receiving no probation or tenure.

Regarding the impact upon the commitment to teach, one probationary teacher wrote as follows:
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There is security (job) and one feels more committed if given that permanent status. As a TTAA, the future was uncertain and while waiting around for a permanent position there was always this question in the back of my mind, "Is waiting worth it?"

Another Agreement Appointee stated about the uncertainties of the Agreement appointment:

Being in a TTAA, I feel that the funds could be pulled at any time and I would be the first to go. Therefore, I am prepared to look for a non-education related job which in turn weakens my commitment to the teaching profession.

An Agreement respondent noted about the problems of the Agreement appointment and the effect upon commitment to teaching:

Every September you never know if you will have a job. No matter how much you do for a school there is not a commitment for re-hire. This job gets very depressing. You are often given several subjects to teach or the "bad" kids because you're hired last. This is also depressing. You start wondering why you wanted to teach.

Comments from the Agreement Appointees about the effect of their Agreement appointment status upon their relationship with other school personnel showed that the Agreement appointment had a definite negative impact upon the relationships at the school as follows:

Other teachers felt they were better qualified. I have the feeling that older teachers feel that if you don't have tenure then [sic] something must be wrong with you.

I felt that perhaps the administration was not as concerned about my job performance. For instance, I had very limited contact with the principal who made almost no efforts to monitor my progress or performance. However, the other school personnel were extremely supportive.

Knowing that I was only a TTAA appointee, I felt other teachers did not consider me an integral part of the school itself.

I definitely felt on the defensive at all times and felt uneasy about voicing my concerns on controversial matters.

I want to be sure to continue to have positive relationships with other personnel because I will, more than likely, continue to work with them.

There were mixed comments regarding the impact of the Agreement appointment upon consideration for a permanent position. For example, one probationary teacher stated:
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Yes, it gave school administrators a chance to see me perform—I guess they liked what they saw and went out of their way to secure a contract for me.

An Agreement Appointee stated adversely:

I feel that the principals, knowing that I was once a TTAA, did not seriously consider me for permanent, teaching positions. I feel it was a disadvantage.
Chapter 6
NATIONAL OVERVIEW

During the background research phase of this study, the Legislative Reference Bureau attempted to obtain information regarding the temporary teacher experience in other states. The Bureau was unable to locate any reports, studies, or other information relating to temporary teachers from other states or school districts. To obtain the necessary information, the Bureau sent out two surveys: one survey to all agencies administering the state public sector collective bargaining law and the other survey to school districts on the mainland with a total school enrollment of 40,000 or more students.

In addition to the surveys, the Bureau requested the state public employment relations boards (Boards) and the school district to submit court and administrative agency decisions pertaining to temporary teachers, to probationary credit, and to employment preference. The Bureau also requested copies of collective bargaining laws for public school teachers from each school district.

Part I. Survey of Public Employment Relations Boards

A. Board Survey Method

The Boards are usually the agencies involved in administering the collective bargaining laws for public employees, including teachers. The overall objective of the survey was to determine the legal trends under state public sector collective bargaining laws for temporary teachers, and probationary credit and employment preference in public sector collective bargaining. The questionnaire contained 46 multiple choice and open-ended questions. The specific purpose of this questionnaire was to determine: (1) whether other states have temporary teaching appointments or other similar appointments for teachers; (2) whether teachers employed under these appointments are included or excluded in the teachers' collective bargaining unit; (3) whether probationary credit and employment preference are negotiable or nonnegotiable subjects; and (4) whether temporary teachers are given probationary credit and employment preference for permanent positions. A copy of the questionnaire is included in Appendix D.

The questionnaires were mailed to the Boards on August 6, 1985, with a requested return date of August 31, 1985. This return date was extended to September 30, 1985, by request of some of the Boards. Some of the questionnaires were answered by the state school district offices because the Board transmitted the questionnaire to the school district for response.

Of the 43 Board surveys mailed, 16 Boards or 37 per cent responded. The respondents were Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Maryland, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont, Washington, and Wisconsin. The margin of error for a survey of this size is 5 per cent.
The data, which was hand tabulated, may not be statistically reliable for two reasons. The sample size is small; also, the Boards, while responsible for administering the collective bargaining law, may not be familiar with the temporary teacher situation in the various school districts within their state. This may explain the great number of no responses to the questionnaire questions. The percentages of responses are reported in Appendix D.

B. Board Survey Results

Collective Bargaining. Eighty-one per cent of the Boards responding report that their state has a collective bargaining law for public school teachers. Only Georgia and New Mexico report no such law. These laws are administered by one of the following: employment relations boards or commissions, departments of education or labor, or local school boards.

Temporary Teachers. Most of the Boards (62.5 per cent) reported that their states have teachers who fill temporary vacancies for a regular teacher who is absent for a minimum of 90 days (vicing positions). To a lesser extent, the Boards reported that their states have teachers appointed to fill unobligated positions for less than one year (37.5 per cent), teachers appointed without the minimum certification requirements (43.8 per cent), and teachers appointed to other temporary positions (43.8 per cent).

Collective Bargaining Unit. Slightly more than one-half of the Boards were unable to respond as to whether temporary teachers have been included or excluded in a collective bargaining unit. Of those which did respond, most of them report that these teachers were included in the regular teachers’ bargaining unit. The legal basis for the determination varied from collective bargaining law, court or agency decisions, attorney general opinions, board of education rules and regulations, and in-house procedures.

Probationary Credit. Only Washington, Oklahoma, Illinois, and Delaware report having probationary credit for teachers. The credit given is usually provided for by statute. Most of the states (62.5 per cent) have not resolved the issue of whether probationary credit is a negotiable item. None of the Boards report a determination that probationary credit is negotiable or subject to a "meet and confer" requirement. Most Boards did not respond as to whether probationary credit was given to temporary teachers. Of those which did respond, most report that no probationary credit was given. Two states--South Dakota and New Mexico--report that the negotiability of the probationary credit issue has been determined by their state to be nonnegotiable. South Dakota is the only one reporting that credit was given to teachers appointed to unobligated positions and without minimum certification requirements.

Employment Preference. Fifty per cent of the Boards did not respond regarding whether their states have a hiring preference for permanent positions for temporary teachers. Of those responding, 43.8 per cent state that there was no hiring preference. Fifty per cent of those responding also state that there had been no determination as to the negotiability of employment preference. Of the two Boards which reported that a determination has been made, South Dakota reports that employment...
preference is negotiable and Wisconsin reports it nonnegotiable. South Dakota is the only respondent stating that this issue is subject to a meet and confer requirement.

The results of the Board survey are of limited value in determining the collective bargaining and legal implications of providing probationary credit and employment preference to Agreement Appointees. Only a minority of the states surveyed have teachers performing functions similar to Agreement Appointees. Hawaii’s unique statewide educational system appears to be the reason for the relatively greater need for this appointment and the relatively larger number of teachers serving under this appointment in Hawaii. The need for this appointment and the increasing number of teachers employed under this appointment also appear to have been the reason for the controversy over probationary credit and employment preference.

In addition, most of the states surveyed have no probationary credit or employment preference for temporary teachers. South Dakota is the only state responding which gives probationary credit to some of its temporary teachers. Regarding employment preference, only Illinois reports giving employment preference for permanent positions to temporary teachers. Two states—New Mexico and South Dakota—report that probationary credit has been determined to be a nonnegotiable subject. Only two states—South Dakota and Wisconsin—have made a determination regarding the negotiability of employment preference and the determinations were split between negotiable and nonnegotiable. However, none of those states making determinations regarding the negotiability of probationary credit and employment preference have a public sector collective bargaining law with a management rights clause like Hawaii’s management rights clause. New Mexico has no collective bargaining law for public school teachers. South Dakota has no management rights clause in its collective bargaining law, and Wisconsin has a management rights clause with language and scope different from that of Hawaii. Hence, the determinations of other states regarding the negotiability of employment preference and probationary credit are not persuasive authority for a similar determination under Hawaii’s public sector collective bargaining law.

Part II. Survey of School Districts

A. School District Survey Method

The overall objective of the school district survey was to determine the following: (1) whether other major school districts have teachers performing functions like those of Agreement Appointees; (2) whether school districts who do have teachers performing like Agreement Appointees treat these teachers like permanent teachers for purposes of benefits and job duties and responsibilities; (3) whether the school districts have employment preference and probationary credit for these teachers functioning in Agreement appointment positions; and (4) whether there has been a determination made regarding the negotiability or nonnegotiability of probationary credit and employment preference. The questionnaire contained 36 multiple choice and open-ended questions. A copy of the questionnaire is included in Appendix E.
The questionnaires were mailed to the 107 largest school districts in the United States, all with school enrollments in excess of 40,000 students, on September 4, 1985, with a requested return date of October 4, 1985. The return date was extended to November 4, 1985, by request of some of the respondents.

Of the 107 school districts surveyed, 39 responded for a response rate of 36 per cent. The margin of error for a survey of this size is 5 per cent. The data were tabulated and summary statistics for each question were generated using the Crosstabs System. The data may not be statistically reliable because of the smallness of the sample size. The raw score responses to each question are presented in Appendix E.

B. School District Survey Results

Most of the school districts responding have school enrollments of 100,000 students or less and have 200 schools or less. There were no school districts responding with school enrollments between 200,000 to 600,000 students or with 300 to 800 schools. The two largest school districts have enrollments between 900,000 to 1 million students. There was one school district with over 1,000 schools.

Over one-half of the school districts report having a grade span of kindergarten through Grade 12 (K-12). Three of the school districts report a grade span from pre-kindergarten to postgraduate (PK-PG).

Over 70 per cent of the school districts have 5,000 full-time teachers or less. There are seven school districts with 5,000 to 10,000 full-time teachers like Hawaii's Department of Education. No school districts responding have 30,000 to 50,000 full-time teachers. Over 60 per cent of the respondents have collective bargaining laws for their teachers.

Most of the school districts report employing teachers who perform functions like Agreement Appointees. For example, close to 80 per cent of the districts have teachers appointed to fill vacancies for teachers on leave (vicing positions). Over one-half of the districts employ teachers to fill permanent, unobligated positions for less than one school year. Over 65 per cent of the school districts have teachers employed in temporarily funded state or federal programs. Less than one-half of the school districts have teachers employed without minimum certification.

Over one-half of the school districts having teachers appointed to permanent unobligated positions, or without minimum certification requirements, or to temporarily funded programs, provide these teachers with long-term contracts over 90 days. Contracts for teachers in vicing positions, however, can be of varying duration: long-term, short-term, or day-to-day.

The school districts report that teachers performing Agreement appointment functions receive the same compensation, sick leave, health insurance, service credit toward retirement, and substitute coverage as teachers in permanent positions. Except for those teachers appointed to vicing positions, all of the teachers performing functions like those of
Agreement Appointees receive the same retirement benefits as permanent teachers. Short-term and long-term leaves are given to teachers filling permanent positions and temporarily funded positions, but are not generally given to teachers appointed to vicing positions or without the minimum certification requirements. Teachers performing Agreement appointment functions are generally not given the same vacation, service award, tenure, contract duration, and reemployment commitment benefits as permanent teachers.

Regarding job duties and responsibilities, the school districts report that except for participation in the budget process, teachers performing Agreement appointment functions are required to perform the same job duties and responsibilities as permanent teachers.

Only teachers appointed to positions with temporarily funded programs are included in the teachers' collective bargaining units.

Seventy per cent of the school districts have probationary credit toward tenure for public school teachers. The requirements for tenure vary among the school districts from one semester plus one day to three years of satisfactory service. The most common requirement is three years. Close to one-half of the school districts have made a determination regarding the negotiability of probationary credit. Most of those districts making a determination have found probationary credit to be a nonnegotiable item. The most common legal basis for this determination is statute.

A small minority of the school districts give probationary credit and employment preference to teachers performing functions like Agreement Appointees. Regarding the negotiability of employment preference, only 35 per cent of the school districts responding have made a determination. Of those school districts making a determination, a little more than one-half found employment preference to be nonnegotiable. The legal authorities for the determination vary in different school districts from statute and collective bargaining agreement to administrative agency or court decision.

Despite Hawaii's unique statewide educational system, the limited data gathered from other school districts regarding their temporary teacher situation show that the employment practices of the Department for Agreement appointments were not unique. The Department has followed the trend of temporary teacher employment practices of other school districts. Temporary teachers in other school districts like Agreement Appointees, while being expected to perform the same job duties and responsibilities, have not been given the same benefits. The benefits typically withheld from temporary teachers are those associated with continuous employment—vacation, service award, tenure, probationary credit, and reemployment commitment.
Chapter 7

FINDINGS AND CONCLUSIONS

The Agreement appointment concept was a viable solution to the two-fold problem confronting the Department of Education regarding its teacher personnel program in 1975: satisfying the Department's teacher staffing needs while preserving the "warm bodies" of tenured teachers. The Agreement appointment was also a sound answer to the practical need for temporary staff to fill vicing positions and temporarily funded positions. In short, the Agreement appointment gave the Department the increased flexibility needed to handle the uncertainties in teacher employment created by tight funding and a minimal job market for teachers.

All of the parties involved in the Agreement appointment situation, including the teachers employed under this appointment, have recognized the tight funding and limited job market problems of the Department. The absence of a significant morale or attitude problem among these Agreement appointment teachers indicates acceptance of the necessity and value of the Agreement appointment concept as a temporary solution to these economic realities. Despite acceptance of the Agreement appointment concept, there have still been complaints from the teachers about the Agreement appointment system arising from feelings of perceived inequities, particularly from those teachers who have continued to serve in temporary appointments for an extended period of time.

In response to the complaints, the Legislature, in adopting the resolution requesting this study of the Agreement appointment problem, characterized the issues giving rise to basic inequities in the Agreement appointment as a lack of probationary credit and employment preference for clearline positions. The approval of the 1985 School Code Amendment by the Board of Education has effectively resolved these concerns for most of the Agreement Appointees employed during the 1984-1985 school year by providing them with probationary status. The assessment performed during the course of this study shows that some of the perceived inequities noted by House Resolution 221, H.D. 1, are not simply the result of a lack of probationary credit and reemployment preference. Some of these inequities have been the result of certain problems in the administration of the teacher appointment process, including the absence of effective long-range planning, of setting specific and measurable objectives, of implementation timetables, and most importantly of assessment of program effectiveness. The 1985 School Code Amendment providing probationary credit and reemployment preference will not have an impact upon the administrative problems, nor will the Amendment resolve the problem of tenure for these teachers. The Department has been fortunate that there have been no major morale or legal problems over the past ten years. The Department can no longer rely upon past circumstances and assumptions about tight funding and limited job market problems to avoid improving the system for appointing teachers.

It is the belief of the Legislative Reference Bureau that to effectively resolve the problems of the perceived inequities in the system and of tenure a comprehensive evaluation of the Department's teacher appointment program.
and development of a solid plan for teacher recruitment, selection, retention, and evaluation are needed. Without this evaluation and plan, there will be no resolution of all of the problems with the Agreement appointment process, of teacher recruitment and selection, and no perspective on the evolution of the problem. With these objectives in mind, the Bureau's findings and recommendations are directed not only to the particular problems of the Agreement Appointees but also their broader implications for the whole teacher appointment program of the Department.

Planning for the Agreement Appointment Process

The 9,000 public school teachers employed by the Department are the operational backbone of the educational system. Yet, in its efforts to meet its teacher staffing needs, the Department appears to have had no effective long-range plan regarding implementation of the objectives to be accomplished by the Agreement appointment\(^1\) and no projection of the long-range consequences of such an insecure employment situation on the total teacher appointment program. The Agreement appointment therefore continued with no real change during the 10-year period between 1975-1985.

Before the Legislative Auditor's 1973 Management Audit, the Department did not perform any projections of its certificated personnel (teachers) staffing needs. One result of the lack of projections was an excess of teachers for the number of clearline positions during the 1972-1973 school year. The reduction-in-force occurring at the end of that school year was the direct consequence of the lack of a systematic appraisal of staffing needs.

Following this reduction-in-force, the Department began issuing a report every five years projecting its certificated personnel staffing needs for the next five-year period. Despite doing these projections, the Department apparently did not use them for effective long-range planning for recruitment, selection, and retention of both probationary and temporary teachers. Rather, the Department appears to have operated on a year-to-year plan. If an in-depth, systematic assessment of the impact of these projected needs upon the future employment situation for the individuals in its teacher applicant pool had been performed, then the Department could have used the assessment to minimize the last minute hiring of teachers. Moreover, the Department would have been able to notify the applicants of their employment status with the Department, permitting the applicants to make career plans and program plans.

For the past ten years, the Department has maintained a stable applicant pool of 3,000 teachers from which probationary and Agreement appointments have been filled. Being placed in the applicant pool is best characterized as a continuous state of employment limbo for these teachers, particularly for the Agreement Appointees who were given no reemployment commitment by the Department.

The contractually mandated transfer period for tenured teachers to move from one school to another (running from February to July) also appears to add to the difficulty of effective long-range planning.\(^2\) This long transfer period creates an unstable work force situation until one month before school
is due to open in September. During the month of August, the Department has to issue all of its probationary and Agreement appointment contracts to ensure that upon the opening of school each class in the State has a teacher. The data summarized in Table 1, p. 8, show that for each school year between 1975-1985, the Department has hired from 900 to 1,000 teachers from the applicant pool during this one-month period. This last minute employment situation makes a deliberate plan for individual teacher placement difficult, and results in perceived inequities in the treatment of individuals.

Although the Department maintains a consistently high reemployment rate for Agreement and probationary appointees, continuity of individual teachers in particular schools, positions, and teaching fields has not always been feasible during the short hiring period. Principals had to exercise discretion over filling of Agreement and probationary appointments, creating some perceived favoritism problems. The probationary teachers, in their survey responses, noted that the development of a good relationship with a principal or Department administrator was the principal reason for being given a permanent position. The number of teachers being hired also required a firm commitment date for Agreement appointments. This firm commitment date precluded Agreement Appointees from being eligible for vacant clearline positions opening up after they were committed to temporary positions. Often, the vacant clearline positions went to a new hire creating frustration for Agreement Appointees committed to Agreement appointment positions.

A lack of effective long-range planning on the state level results in a lack of planning at all levels of the Department--even down to the classroom level. The comments from the Agreement Appointees on the questionnaires reflected some of the planning problems created by the last minute contract with the Department. Some of the specific problems cited by the teachers in their comments were the following:

1. A lack of opportunity on their part for long-range program planning, development, and evaluation.
2. The inability to make long range career plans.
3. A feeling of a lack of permanence in any position within the teaching field.
4. A lack of commitment and dedication to the Department and to the field of education generally.
5. A lack of opportunity to grow professionally by a reevaluation of program and methods.

Although most of the Agreement Appointees have been given probationary status under the 1985 School Code Amendment, there are still many unresolved issues in the teacher recruitment and selection program requiring deliberate planning by the Department. Some of the remaining issues include: questions of the future tenure prospects for these new probationary teachers; the effect of these tenure prospects upon the probationary policy of the Department; the impact of the predicted teacher shortage upon the (temporarily funded) positions without tenure
opportunities; and alternative methods and criteria for recruitment, selection, employment, and retention of both probationary and Agreement appointment teachers.

Effective planning for teacher selection and retention with specific and measurable objectives, cost assessments, alternative methods of recruitment and selection, timetables for action, and a system of assessing program effectiveness are critical at this point in time to mitigate any effects of the predicted teacher shortage.

It is therefore recommended that the Department:

1. Reformulate objectives, implementation timetables, and evaluation measures for the teacher appointment program for all three appointments: agreement, probationary, and tenured based upon the current employment situation for teachers.

2. Adopt an effective long-range plan for teacher recruitment, selection, and retention which should include, but not be limited to, the following:
   A. The impact of the projected staffing needs of the Department upon the applicants currently in the teacher applicant pool;
   B. A priority list among applicants for vacant teaching positions based upon established and published criteria and establishment of a system for communicating with applicants regarding the status of their application with the Department;
   C. The impact of the projected staffing needs of the Department upon the future tenure prospects of teachers currently serving under probationary appointments with the Department, and alternative methods for determining probation and tenure of teachers, particularly for teachers in temporarily funded positions;
   D. Formulation of alternative methods of recruitment and selection to meet the needs of the predicted teacher shortage of the Department; and

3. Reevaluate the duration and timing of the tenured teacher transfer period as it relates to the Department's planning for teacher placement.

4. Formulate a system for maintaining a current applicant pool, including, but not limited to, procedures for reapplication or renewal of application every two years.

Implementation of Agreement Appointment Policies and Objectives

As a result of the apparent lack of a comprehensive plan for teacher recruitment and selection, the Department has also neglected the development
of specific guidelines and procedures for recruiting, selecting, evaluating, and retaining Agreement Appointees.

The Department administrators represented that in the implementation of the 1975 School Code Amendment, the practices of the Department regarding Agreement Appointees were to: (1) recruit and select Agreement Appointees and probationary appointees from the same applicant pool; (2) evaluate Agreement Appointees according to the same evaluation process as probationary appointees; and (3) give reemployment preference to Agreement Appointees for both Agreement appointment and clearline positions.

Despite these purported practices, the Department did not promulgate guidelines or procedures making these practices uniform throughout the educational system. The 1977 guidelines issued under the 1975 School Code Amendment addressed the selection and recruitment of probationary teachers. These guidelines, however, do not provide for any specific preference to be given to Agreement Appointees for vacant clearline positions. These guidelines provide no uniform criteria for the recruitment, selection, evaluation, or retention of Agreement Appointees. Accordingly, it permits varying practices in recruitment, selection, evaluation, and retention of Agreement Appointees throughout the Department.

The absence of standard practices at the Department level has permitted varying practices at the district and school level regarding both Agreement and probationary appointments. Compounding the problem is an apparent lack of communication and information regarding the personnel policies and practices of the Department both to teachers within the Department and to teachers and others outside the Department. An example of the lack of communication is shown by the data from the Agreement appointment survey showing that 28 per cent of the respondents did not know that they were members of the teachers collective bargaining unit. The result has been complaints from Agreement Appointees about new hires being given preference for clearline positions, accusations of favoritism in the teacher hiring system of the Department, and frustration among the Agreement Appointees over the lack of tenure.

Apart from the absence of uniform practices, there was also no procedure in the Agreement appointment process for reviewing the implementation of the probationary and Agreement appointments by the districts and schools. The Department has chosen to uphold the districts and schools discretionary authority over the implementation of these policies.

The current guidelines are a step in the right direction. These guidelines provide more control and direction by the Department over the district and school implementation of policies relating to Agreement and probationary appointments. The selection criteria for probationary teachers provided in the guidelines are specific, including unique training and experience for specialized positions. The guidelines specifically state that temporary teachers and new hires are to be considered for hiring after qualified probationary employees have been accommodated. Notably missing is a definite priority for Agreement Appointees over new hires for these vacant clearline positions. The 1985 guidelines also provide for a review of reappointments of probationary teachers by principals and require that
principals show reasonable justification and cause for interviewing other applicants for the position held by the probationary teacher. There is also an appeal procedure specified.

It is recommended that the Department:

1. Formulate more specific guidelines for teacher recruitment, selection, evaluation, and retention.

2. Formulate criteria for the selection and retention of Agreement Appointees and a priority system which includes Agreement Appointees for the filling of clearline positions.

3. Provide to all teachers employed by the Department through orientation or other programs, complete information about the teacher employment policies and practices of the Department, including but not limited to, the employment procedures of the Department, the rights and duties of teachers serving under the various appointments, and the teacher evaluation process and criteria.

Evaluation in the Agreement Appointment Process

During the Department's ten-year administration of the Agreement appointment policies, it appears that no effective assessment of the Agreement appointment has been done. Any effective assessment of program effectiveness should have revealed the following perceived inequities of the Agreement appointment system found by the Legislative Reference Bureau: (1) distinctions in benefits between Agreement and probationary teachers performing the same functions; (2) differential implementation at the school and district level of the preference given to Agreement Appointees for vacancies in clearline positions; (3) applicants committing to an Agreement appointment before all clearline positions have been filled; (4) Agreement Appointees being trapped in temporary teaching positions by qualifications and certification; (5) the lack of tenure for Agreement Appointees after completing two years of service with the Department; (6) preference being given to new hires over eligible Agreement Appointees for clearline positions; and (7) the lack of a meaningful performance evaluation for Agreement Appointees.

Evaluations of the effectiveness of the Agreement and probationary appointments and of the whole teacher recruitment, selection, retention, and evaluation program are particularly necessary given the major shift in teachers from Agreement to probationary appointments under the 1985 School Code Amendment and the projected teacher shortage. One of the major concerns which should be considered in this evaluation is the temporarily funded state and federal programs, both from a programmatic and staffing viewpoint. Many of the problems associated with teacher appointments under the 1985 School Code Amendment surround these temporarily funded programs, and arise from the temporary nature of the positions. There are approximately 500 teaching positions in these programs. None of these programs will allow the teachers holding positions in the programs to obtain
tenure, and this creates an incentive for the teachers to move into clearline positions in other teaching fields. There are further complications because these temporary positions are in teaching fields where a shortage of teachers is forecasted. The programmatic concerns arise from the long duration of most of these programs. Despite the temporary funding given to these programs, 21 of them have been so funded for over five years. A determination should be made by the Department regarding whether temporary funding for these programs is still appropriate, particularly state programs, and to estimate the costs and other issues associated with providing permanent funding to these programs.

Before either of these evaluations can be performed, the Bureau believes that there should be a review of the personnel records management of the Department. As previously discussed, a major problem encountered by the Bureau during the course of this study was the lack of readily available information from the personnel records maintained by the Department. A review of the records is necessary to be certain the baseline data necessary to permit an evaluation of temporary programs and teachers appointments has been routinely and uniformly collected, verified, and reported. Pethtel, in "Approaches to Legislative Evaluation of Education Reform and Success", stated this about the importance of data to the evaluation process:

Many educational reform efforts have been preceded by blue ribbon study committees or special legislative task forces that have identified specific educational goals desired. There have been efforts to identify ways to measure educational outcomes and to ensure the legislature agrees with the criteria that will be used to evaluate reforms. Much less attention has been given to making certain the baseline data necessary to permit evaluation is routinely and uniformly collected, verified for accuracy, and consistently reported at the local school level. The expectations about data should be made explicit. The time to think about evaluation and data needs is before a reform measure is passed, not after.

It is recommended that the Legislature:

1. Request that the Department establish specific operational objectives for its teacher appointment program and perform an evaluation of the program based upon these objectives within a specified period of time.

2. Request that the Department make a determination, based upon projections of duration of need and funding for each program, and projections regarding future staffing needs for each program, regarding the temporary programs which should be permanently funded and report their findings to the Legislature, and the Legislature then should act on permanent funding in accordance with Department findings.

3. Determine what baseline data is necessary for the purposes of educational reform and communicate these data needs to the Department for implementation.
FOOTNOTES

Chapter 1

1. House Resolution No. 221, H.D. 1, refers to the temporary appointment as "Temporary Teaching Assignment Appointment". The Department of Education uses the term "Temporary Teachers Appointment Agreement" this report will refer to the temporary appointment as the "Temporary Teachers Appointment Agreement".

Chapter 2

1. Hawaii Rev. Stat., sec. 296-15 which states in full as follows:

"§296-15 Power of appointment, removal. The department of education may, from time to time, appoint and remove such teachers, educational officers, and other personnel as may be necessary for carrying out the purposes of this chapter, and regulate their duties, powers, and responsibilities, when not otherwise provided by law."

2. The Department of Education has promulgated School Code Certificated Personnel Policies and Regulations (5000 Series) (hereafter referred to as School Code) pursuant to Hawaii Rev. Stat., sec. 296-12 which states in its entirety:

"§296-12 Rules, regulations. Subject to chapter 91, the board of education may adopt rules and regulations not contrary to law, for the government of all teachers, educational officers, other personnel, and pupils, and for carrying out the general scheme of education and for the transaction of its business."


4. Ibid.


6. Interview with Joan Husted, Director of Programs, Hawaii State Teachers Association, August 1, 1985 (hereafter Husted interview).


"(d) The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with merit principles or the principle of equal pay for equal work pursuant to sections 76-1, 76-2, 77-31, and 77-33, which would be inconsistent with section 77-13.5, relating to the conversion to appropriate salary ranges, or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualification, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer's operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies."

11. See p. 24 text.

12. Interview with Donald Nugent, Personnel Specialist, Collective Bargaining and Negotiations Section, Department of
Education, August 7, 1985 (hereafter Nugent interview); Yoshii interview.

13. Husted interview.


15. Hawaii State Teachers Association Proposal, November 29, 1984, which states in full as follows:

"ARTICLE VII - ASSIGNMENT AND TRANSFERS

4. (New) Temporary Teaching Appointment Agreement Teachers (TTAAs)

TTAAs who have more than five (5) years of service credit shall be tenured upon issuance of a continuing appointment agreement for an available vacancy. TTAAs in this category shall be offered continuing appointment agreements after probationary teachers in the same area of certification have been placed.

All positions offered to non-tenured bargaining unit members shall accrue probationary credit provided that vacancy is available before October 15 or March 15 of the school year."


20. Ibid.

21. Ibid.

22. Ibid.


25. Ibid.

26. Ibid.; Husted interview.


28. Ibid.


30. Husted interview.

31. School Code, Regulation 5102C.2.c.

32. School Code, Regulation 5102C.2.d.


34. Interview with Albert Yoshii, Assistant Superintendent, Office of Personnel Services, August 20, 1985.


36. Yoshii interview, July 29, 1985. During the external review of this study the Department indicated, however, that it attempted to seek permanent funding for some temporary positions.

37. See results of the 1984-1985 probationary teachers survey discussed in Chapter 5, pp. 32-42.


39. Husted interview.


41. Nugent interview.

42. Husted interview.

43. Interview with John Penebacker, Board Member, Board of Education, August 28, 1985.

44. The Department of Education in their comments upon this study stated that the July ending date for teacher transfers is contractually mandated. The reason for the July ending date is to give tenured teachers the opportunity to compete for desirable job transfer opportunities. Other factors cited by the Department contributing to the late hiring for nontenured teachers are the planning uncertainties due to late release of funds, uncertain enrollment expectations, and late decision making by incumbent teachers regarding leave or resignation. The Department states that they have already recognized that the long transfer period could make it difficult for the Department
to hire teachers trained in shortage fields because of commitments to other job offers. Accordingly, the Department has negotiated into the 1983-1985 collective bargaining agreement a provision permitting the Department to start the process of rehiring nontenured teachers to fill vacancies within an identified shortage field if there are no qualified tenured applicants for the vacancy after the two-week posting period during the transfer period. This provision has enabled the Department to hire teachers in shortage fields as early as June and July, and the Department projects that as the shortage of teachers become more prevalent, the teachers in shortage areas may be hired as early as March.


46. Yoshii interview, July 29, 1985; Husted interview. It should be noted that there have been grievances filed by Agreement Appointees. There also have been complaints filed by Agreement Appointees with the Office of Civil Rights (O.C.R. Docket No. 09-84-1051) and the Equal Employment Opportunity Commission (091-84-0604). Although both the Department and union representatives were hesitant to provide information pertaining to these grievances and complaints, they represented during these interviews that these grievances and complaints filed were not challenging School Code, Regulation 5102, as amended 1975.

47. Interview with Husted.

48. Nugent interview.

Chapter 3


2. Ibid.

3. Ibid., p. 2.

4. Ibid., p. 1. The report failed to state how these variables would "...create a large number of teaching positions and represent pressures in the direction of a teacher shortage."


10. Interview with Joan Husted, Director of Programs, Hawaii State Teachers Association, August 1, 1985.


12. Interview with Don Nugent, Personnel Specialist, Collective Bargaining and Negotiations Section, Department of Education, August 7, 1985 (hereafter referred to as Nugent interview).


15. Ibid., pp. 2-4.

16. Ibid., pp. 5-6.


19. Ibid., p. 3.

20. Ibid., p. 4.


23. Nugent interview.

24. Ibid.

25. Husted interview.
Chapter 4


3. Hawaii Rev. Stat., sec. 89-9(a) states in pertinent part:

"(a) The employer and the exclusive representative shall meet at reasonable times, including meetings in advance of the employer’s budget-making process, and shall negotiate in good faith with respect to wages, hours, the amounts of contributions by the State and respective counties to the Hawaii public employees health fund to the extent allowed in subsection (e), and other terms and conditions of employment which are subject to negotiations under this chapter and which are to be embodied in a written agreement, or any question arising thereunder, but such obligation does not compel either party to agree to a proposal or make a concession."


6. Hawaii Rev. Stat., secs. 89-13 and 89-14 state as follows:

"§89-13 Prohibited practices; evidence of bad faith. (a) It shall be a prohibited practice for a public employer or its designated representative wilfully to:

(1) Interfere, restrain, or coerce any employee in the exercise of any right guaranteed under this chapter;

(2) Dominate, interfere, or assist in the formation, existence, or administration of any employee organization;

(3) Discriminate in regard to hiring, tenure, or any term or condition of employment to encourage or discourage membership in any employee organization;

(4) Discharge or otherwise discriminate against an employee because he has signed or filed an affidavit, petition, or complaint or given any information or testimony under this chapter, or because he has informed, joined, or chosen to be represented by any employee organization;

(5) Refuse to bargain collectively in good faith with the exclusive representative as required in section 89-9;

(6) Refuse to participate in good faith in the mediation, fact-finding, and arbitration procedures set forth in section 89-11;

(7) Refuse or fail to comply with any provision of this chapter;

(8) Violate the terms of a collective bargaining agreement.

(b) It shall be a prohibited practice for a public employee or for an employee organization or its designated agent wilfully to:

(1) Interfere, restrain, or coerce any employee in the exercise of any right guaranteed under this chapter;

(2) Refuse to bargain collectively in good faith with the public employer, if it is an exclusive representative, as required in section 89-9;

(3) Refuse to participate in good faith in the mediation, fact-finding and arbitration procedures set forth in section 89-11;

(4) Refuse or fail to comply with any provision of this chapter;

(5) Violate the terms of a collective bargaining agreement.

§89-14 Prevention of prohibited practices. Any controversy concerning prohibited practices may be submitted to the board in the same manner and with the same effect as provided in section 377-9; provided that the board shall have
exclusive original jurisdiction over such a controversy except that nothing herein shall preclude (1) the institution of appropriate proceedings in circuit court pursuant to section 89-12(e) or (2) the judicial review of decisions or orders of the board in prohibited practice controversies in accordance with section 377-9 and chapter 91. All references in section 377-9 to "labor organization" shall include employee organization."

Chapter 5


3. Teachers with K-12 certification are certified for one of the following subject matter fields: art, music, physical education, reading, or others as determined by the Department of Education.

4. It must be noted that the Agreement Appointees survey was conducted after the 1985 School Code Amendment went into effect. Most of the teachers surveyed were employed as probationary teachers at the time the survey was conducted. Accordingly, the change in status from Agreement appointment to probationary appointment may have had a positive effect upon the morale of those teachers affected by the Amendment.

Chapter 7

1. At a meeting subsequent to the Department's external review of this study, the Office of Personnel Services stated that it keeps multiple volumes of goals and objectives for teacher personnel. If there are multiple volumes of goals and objectives, then the Department should review them to determine whether the goals and objectives are framed with the proper degree of specificity, the goals and objectives have been prioritized to facilitate implementation, and departmental personnel understand the goals and objectives.

2. See chapter 2, footnote 44.

3. One comment received from a probationary teacher which is representative of the type of comments received from the survey respondents regarding the inability to plan and develop programs is the following:

"RELIEF: It's frustrating working at a position, not knowing if you'll be back the next year. It's difficult to plan and develop any kind of program."

Another comment which describes the program evaluation problem of temporary appointees states in pertinent part as follows:

"Part of the quality of teaching is based on the constant reevaluation of what you have taught and how you have taught the lesson. This evaluation is not possible, nor is the readjustment of lesson planning when you are not consistently in the same position. The constant development of new lesson plans, using different materials does not allow for the thoroughness of preparation."

4. One probationary teacher commented upon the impact of the change in status from Agreement to probationary appointment to her professional and personal goals:

"In terms of long range planning for professional and personal goals, knowing that the position would be there so long range plans can be made."

5. An Agreement Appointee wrote about the feeling of impermanence of many Agreement Appointees about the teaching profession:

"Every summer, for the past 5 years, have considered another profession--based on my inability to become permanent."

6. Regarding lack of commitment and dedication to the Department, one respondent wrote:

"It's difficult to commit yourself to an institution that doesn't commit itself to you."

Another survey respondent articulated the impact of the change in status from Agreement to probationary appointment upon her commitment to the teaching profession:

"As a TTAA teacher, I was seriously considering leaving the teaching profession. I love teaching but as a single parent, it has been very stressful
to be placed in a position where future employment is questionable. I am now very committed to remain in the teaching profession."

7. See Chapter 7, footnote 3, second comment.

Honorable Henry Haalilio Peters  
Speaker, House of Representatives  
Thirteenth State Legislature  
Regular Session of 1985  
State of Hawaii  

Sir:

Your Committee on Education, to which was referred H.R. No. 221 entitled: "HOUSE RESOLUTION REQUESTING THE BOARD OF EDUCATION TO ADOPT POLICIES TO IMPROVE THE CONDITION OF TEMPORARY TEACHING ASSIGNMENT APPOINTEES", begs leave to report as follows:

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study of the impact of granting to temporary teaching assignment appointees probationary credit towards tenure and preference for the filling of vacant unencumbered teaching positions.

Your Committee heard testimony from the Department of Education and others in favor of this resolution.

Your Committee finds that presently there are approximately 600 temporary teacher appointees, who because of their temporary status are not allowed tenure, probationary credit toward tenure, or preference for filling vacant unencumbered teaching positions. In addition, these conditions often lead to teacher morale problems and frustrations.

Your Committee has amended this resolution to correct technical drafting errors.

Your Committee on Education concurs with the intent and purpose of H.R. No. 221, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 221, H.D. 1.
REQUESTING THE BOARD OF EDUCATION TO ADOPT POLICIES TO IMPROVE THE CONDITION OF TEMPORARY TEACHING ASSIGNMENT APPOINTEES.

WHEREAS, the Department of Education currently employs 598 teachers on temporary teaching assignment appointments (TTAA); and

WHEREAS, the number of temporary teaching assignment appointees is greater than the 487 teachers on probationary status because of the Legislature's propensity for creation of temporary, rather than permanent, positions; and

WHEREAS, temporary teaching assignment appointees are being treated as second class employees by the Department of Education; and

WHEREAS, they have no tenure, they receive no probationary credit towards tenure for their service, and they have no preference for filling vacant unencumbered teaching positions; and

WHEREAS, because of the basic inequities of temporary teaching assignment appointment and the lack of protection which tenure affords, temporary teaching assignment appointees have morale problems, are reluctant to express disagreement with the authorities because they can be fired on twenty-four hour notice, and are potential victims of abuses in employment; and

WHEREAS, most temporary teaching assignment appointees are teachers of quality and skill, and the lack of employment protection can result in abandonment of the teaching profession when better opportunities arise, to the detriment of the public school system; and

WHEREAS, the public interest and fairness require action to provide temporary teaching assignment appointees with certain basic rights and protection and to retain the appointees within the public school system; now, therefore,

BE IT RESOLVED by the House of Representatives of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, that the Legislative Reference Bureau is requested to conduct a study of the impact of, including cost implications and
legal and collective bargaining obstacles to granting to temporary teaching assignment appointees probationary credit towards tenure for their service and preference for the filling of vacant unencumbered teaching positions; and

BE IT FURTHER RESOLVED that the Board of Education and the Department of Education cooperate with the Legislative Reference Bureau in the conduct of the study; and

BE IT FURTHER RESOLVED that the study be submitted to the Legislature at least ten days prior to the convening of the Regular Session of 1986; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of the Legislative Reference Bureau, Chairperson of the Board of Education, and Superintendent of Education.
### APPENDIX B

**SURVEY OF 1984-85 PROBATIONARY TEACHERS WITH TTAA EXPERIENCE**

**General Information**

1. Have you at anytime been employed by the DOE under a temporary teacher's assignment appointment (TTAA)? (Check the appropriate box.)
   - a. ( ) yes  
   - b. ( ) no  
   - Other  

   If your response to question 1 is "no," please do not respond to the rest of this survey, but simply mail the survey back to the Legislative Reference Bureau. If your response to question 1 is "yes," please continue to answer the rest of the questions in this survey before returning it to the Bureau.

2. What is your age? (Check the appropriate box.)
   - a. ( ) 20-25  
   - b. ( ) 25-30  
   - c. ( ) 31-35  
   - d. ( ) 36-40  
   - e. ( ) 41-45  
   - f. ( ) 46-50  
   - g. ( ) 51-55  
   - h. ( ) 56-60  
   - i. ( ) 61-65  
   - j. ( ) over 65  

3. What is your marital status? (Check the appropriate box.)
   - a. ( ) Single  
   - b. ( ) Married  

4. What is your sex? (Check the appropriate box.)
   - a. ( ) Female  
   - b. ( ) Male  

5. Are you a U.S. citizen? (Check the appropriate box.)
   - a. ( ) yes  
   - b. ( ) no (specify citizenship)  

6. What is your ethnic descent? (Circle one letter only.)
   - B. Black  
   - C. Chinese  
   - D. Filipino  
   - H. Hawaiian  
   - I. Indo-European (includes persons of Pakistani and East Indian descent)  
   - J. Japanese  
   - K. Korean  
   - P. Part-Hawaiian  
   - R. Puerto Rican  
   - S. Samoan  
   - W. White (includes persons of Portuguese, Spanish, or Latin descent with the exception of Filipino and Puerto Rican)  
   - M. Mixed (includes all mixtures other than part-Hawaiian)  
   - O. Other or unknown (specify if other)  

7. What is the zip code for your current place of residence?  

8. On which island are you presently living? (Check the appropriate box.)
   - a. ( ) Oahu  
   - b. ( ) Hawaii  
   - c. ( ) Maui  
   - d. ( ) Kauai  
   - e. ( ) Molokai  
   - f. ( ) Lanai  
   - Other  

---

64
9. What is your place of birth? (Check the appropriate box.)
   a. ( ) Hawaii 96
   b. ( ) Mainland U.S. (specify state) 42
   c. ( ) Foreign Country (specify country) 5

10. How many years have you been a resident of the State of Hawaii? (Check the appropriate box.)
   a. ( ) not a resident 2
   b. ( ) less than 1 0
   c. ( ) 1 0
   d. ( ) 2 1
   e. ( ) 3 6
   f. ( ) 4 3
   g. ( ) 5 2
   h. ( ) 6-9 4
   i. ( ) 10-15 15
   j. ( ) 16-20 12
   k. ( ) 21-25 but not lifetime 8
   l. ( ) 26-30 but not lifetime 9
   m. ( ) over 30 but not lifetime 7
   n. ( ) lifetime 74

Educational Background

11. From which educational institutions did you receive your education? Fill out each line up to the highest level of education obtained.
   a. High School ___________________________ State Date
   b. Bachelor's ___________________________ State Date
   c. 5th Year ______________________________ State Date
   d. Master's ______________________________ State Date
   e. Doctorate ______________________________ State Date

12. In what areas of specialization are you fully certified to teach? (Circle one or more of the appropriate letters and numbers.)
   a. Elementary Teacher
   b. Secondary Teacher
      (1) Agricultural Arts 1 (13) Languages 5
      (2) Art 5 (14) Mathematics 8
      (3) Business Education 1 (15) Music 3
      (4) Distributive Education 0 (16) Office Education 1
      (5) English 9 (17) Physical Education 3
      (6) Guidance 4 (18) Reading 1
      (7) Hawaiian Studies 3 (19) Science 4
      (8) Health 3 (20) Social Studies 20
      (9) Health and Physical Education 4 (21) Speech 0
      (10) Home Economics 3 (22) Teaching English to Speakers of Other Languages 3
      (11) Industrial Arts 1
      (12) Industrial Technical 1

   c. K-12 Certification 18
      (1) Art 3
      (2) Music 1
      (3) Physical Education 1
      (4) Reading 8
      (5) Other (specify) 5

   d. Specialist Certification 12
      (1) School Counselor 6
      (2) School Librarian 3
      (3) Media 0
      (4) Psychological Examiner 0
      (5) Speech and Hearing 0
      (6) Other (specify) 3

65
13. Do you have a degree in education?  
   a. yes ( )  
   b. no ( )  

14. If you answered "yes" to question 13, from which college or university did you obtain your education degree?  
   a. ( ) University of Hawaii - Manoa  
   b. ( ) University of Hawaii - Hilo  
   c. ( ) Brigham Young University, Hawaii Campus  
   d. ( ) Mainland U.S. (please specify)  
   e. ( ) Foreign (please specify)  
   f. ( ) Other (please specify)  

15. Have you completed any years of teaching other than in a TTAA position with the DOE?  
   a. yes ( )  
   b. no ( )  

16. If you answered "yes" to question 15, how many years of teaching* have you completed other than in a TTAA position?  

   *For the purposes of this survey, "teaching" is defined as a classroom teacher, school counselor, school librarian, speech therapist, and experience obtained while employed on a full-time contractual basis for an entire school year for an accredited public or private school at levels K-12.

   a. ( ) less than 1  
   b. ( ) 1  
   c. ( ) 2  
   d. ( ) 3  
   e. ( ) 4  
   f. ( ) 5  
   g. ( ) 6-9  
   h. ( ) 10-15  
   i. ( ) 16-20  
   j. ( ) 21-25  
   k. ( ) 26-30  
   l. ( ) 30+  
   m. Other  

17. Where were your teaching experiences obtained?  
   a. ( ) Hawaii Public School System  
   b. ( ) Hawaii Private School System  
   c. ( ) Mainland Public School System  
   d. ( ) Mainland Private School System  
   e. ( ) Foreign Country  

---

<table>
<thead>
<tr>
<th>Special Education</th>
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<tbody>
<tr>
<td>(1) Seriously Emotionally Disturbed</td>
<td>13</td>
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<tr>
<td>(2) Specific Learning Disability</td>
<td>15</td>
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<tr>
<td>(3) Hearing Impaired</td>
<td>1</td>
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<tr>
<td>(4) Visually Impaired</td>
<td>0</td>
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<td>(5) Mentally Retarded</td>
<td>16</td>
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<td>(6) Orthopedically Retarded</td>
<td>3</td>
</tr>
<tr>
<td>(7) Severely/multiply Handicapped</td>
<td>7</td>
</tr>
<tr>
<td>(8) Deaf-Blind</td>
<td>0</td>
</tr>
<tr>
<td>(9) Special Education</td>
<td>11</td>
</tr>
<tr>
<td>(10) Other (specify)</td>
<td>3</td>
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</tbody>
</table>

| Other certification (please specify) | 10 |

<table>
<thead>
<tr>
<th>Teaching Experience Other Than in TTAA Position</th>
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</thead>
<tbody>
<tr>
<td>15. Have you completed any years of teaching other than in a TTAA position with the DOE? (Check the appropriate box.)</td>
</tr>
<tr>
<td>a. yes ( )</td>
</tr>
<tr>
<td>b. no ( )</td>
</tr>
</tbody>
</table>

| 16. If you answered "yes" to question 15, how many years of teaching* have you completed other than in a TTAA position? (Check the appropriate box.) |
| a. ( ) less than 1 |
| b. ( ) 1 |
| c. ( ) 2 |
| d. ( ) 3 |
| e. ( ) 4 |
| f. ( ) 5 |
| g. ( ) 6-9 |
| h. ( ) 10-15 |
| i. ( ) 16-20 |
| j. ( ) 21-25 |
| k. ( ) 26-30 |
| l. ( ) 30+ |
| m. Other |

| 17. Where were your teaching experiences obtained? (Check one or more of the appropriate box(es)) |
| a. ( ) Hawaii Public School System |
| b. ( ) Hawaii Private School System |
| c. ( ) Mainland Public School System |
| d. ( ) Mainland Private School System |
| e. ( ) Foreign Country |
18. In what areas of specialization were your teaching experiences? (Circle one or more of the appropriate letters and numbers.)

<table>
<thead>
<tr>
<th>Area</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Elementary Teacher</td>
<td></td>
</tr>
<tr>
<td>b. Secondary Teacher</td>
<td>116</td>
</tr>
<tr>
<td>(1) Agricultural Arts</td>
<td>1</td>
</tr>
<tr>
<td>(2) Art</td>
<td>6</td>
</tr>
<tr>
<td>(3) Business Education</td>
<td>3</td>
</tr>
<tr>
<td>(4) Distributive Education</td>
<td>1</td>
</tr>
<tr>
<td>(5) English</td>
<td>17</td>
</tr>
<tr>
<td>(6) Guidance</td>
<td>5</td>
</tr>
<tr>
<td>(7) Hawaiian Studies</td>
<td>6</td>
</tr>
<tr>
<td>(8) Health</td>
<td>4</td>
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<tr>
<td>(9) Health and Physical Education</td>
<td>2</td>
</tr>
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<td>(10) Home Economics</td>
<td>4</td>
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<td>(2) Music</td>
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</tr>
<tr>
<td>(3) Physical Education</td>
<td>1</td>
</tr>
<tr>
<td>(4) Reading</td>
<td>2</td>
</tr>
<tr>
<td>(5) Other (specify)</td>
<td>8</td>
</tr>
<tr>
<td>d. Specialist Certification</td>
<td>10</td>
</tr>
<tr>
<td>(1) School Counselor</td>
<td>5</td>
</tr>
<tr>
<td>(2) School Librarian</td>
<td>3</td>
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<tr>
<td>(3) Media</td>
<td>0</td>
</tr>
<tr>
<td>(4) Psychological Examiner</td>
<td>0</td>
</tr>
<tr>
<td>(5) Speech and Hearing</td>
<td>0</td>
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<tr>
<td>(6) Other (specify)</td>
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<td>e. Special Education</td>
<td>68</td>
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<td>(1) Seriously Emotionally Disturbed</td>
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<tr>
<td>(2) Specific Learning Disability</td>
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<tr>
<td>(3) Hearing Impaired</td>
<td>2</td>
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</tr>
<tr>
<td>(5) Mentally Retarded</td>
<td>17</td>
</tr>
<tr>
<td>(6) Orthopedically Retarded</td>
<td>3</td>
</tr>
<tr>
<td>(7) Severely/multiply Handicapped</td>
<td>5</td>
</tr>
<tr>
<td>(8) Deaf-Blind</td>
<td>2</td>
</tr>
<tr>
<td>(9) Special Education</td>
<td>6</td>
</tr>
<tr>
<td>(10) Other (specify)</td>
<td>4</td>
</tr>
<tr>
<td>f. Other certification (please specify)</td>
<td>4</td>
</tr>
</tbody>
</table>

**TTAA Teaching Experience**

19. Are you presently teaching under a permanent appointment (probationary or tenured) with the DOE? (Check the appropriate box.)

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>yes</td>
</tr>
<tr>
<td></td>
<td>126</td>
</tr>
</tbody>
</table>
20. If your response to question 19 is "yes," please specify the following about your present teaching position:
   a. Position Title ____________________________
   b. Program Title ____________________________ (if applicable)
   c. School ____________________________
   d. District ____________________________
   e. Grade Level ____________________________
   f. Contract Period ____________________________
   g. Appointment (probationary, tenured or other) ____________________________

21. If your response to question 19 is "no," please specify which of the following is your current employment status with DOE. (Check the appropriate box.)
   a. ( ) on leave from DOE 2
   b. ( ) terminated from DOE 6
   c. ( ) temporary teacher's assignment appointee (TTAA) 6
   d. ( ) other, please specify 186  

22. If you are currently under probationary appointment with DOE, what level probationary teacher are you? (Check the appropriate box.)
   a. ( ) P1 3
   b. ( ) P2 41
   c. ( ) P3 8
   d. ( ) P4 8
   e. ( ) Other 30

23. Regarding your past TTAA positions with the Department of Education, State of Hawaii, how many total years were completed in employment as a temporary teacher's assignment appointee (TTAA)? (Check the appropriate box.)
   a. ( ) less than 1 29
   b. ( ) 1 31
   c. ( ) 2 28
   d. ( ) 3 27
   e. ( ) 4 13
   f. ( ) 5 5
   g. ( ) 6 4
   h. ( ) 7 0
   i. ( ) 8 0
   j. ( ) 9 1
   k. ( ) 10 2
   l. ( ) Other 5

24. Regarding all of your past TTAA positions, which of the following category(ies) of TTAA positions have you been appointed to at any time? (Check one or more of the appropriate boxes.)
   a. ( ) temporary position (such as in a temporarily funded federal or state program) 75
   b. ( ) temporary vacancy (replacing a regular teacher who is expected to be absent from duty for a minimum period of 90 days) 77
   c. ( ) permanent, unobligated position for less than one school year (occurring after October 1) 29
   d. ( ) position for which no eligible person is available, yet without meeting the minimum certification standards 14

25. Regarding all of your past TTAA positions with DOE, what is the total number of TTAA positions that you have received? (Check the appropriate box.)
   a. ( ) 1 58
   b. ( ) 2 33
   c. ( ) 3 27
   d. ( ) 4 11
   e. ( ) 5 8
   f. ( ) 6 1
   g. ( ) 7 1
   h. ( ) over 7, please specify the number 2
   i. ( ) Other 4

68
26. For each of the TTAA positions which you have had, please specify the following information:

<table>
<thead>
<tr>
<th>Position Held/Program Title (if applicable)</th>
<th>School</th>
<th>District</th>
<th>Grade</th>
<th>Contract Level</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. ___________________________</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
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<td>b. ___________________________</td>
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<td></td>
<td></td>
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<tr>
<td>c. ___________________________</td>
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<tr>
<td>d. ___________________________</td>
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<tr>
<td>f. ___________________________</td>
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<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

NOTE: Respond to the following questions only if you are currently employed by DOE in a permanent appointment (probationary or tenured) and if you were previously employed by DOE under a TTAA appointment.

27. Do you feel that the change in your status from TTAA to permanent status has affected your job performance as a teacher?
   a. ( ) yes ( ) no Other

28. If your response to question 27 is "yes," please specify in detail in what ways the change in your status has affected your job performance.

29. Do you feel that the change in your status from TTAA to permanent status has affected your motivation as a teacher? (Check the appropriate box.)
   a. ( ) yes b. ( ) no Other

30. Do you feel that the change in your status from TTAA to permanent status has had some effect upon your commitment to the teaching profession? (Check the appropriate box.)
   a. ( ) yes b. ( ) no Other

31. If your response to question 30 is "yes," please specify in detail the ways in which your commitment to the teaching profession has been affected by the change in your status.

32. Do you feel that the change in your status from TTAA to permanent status has affected your relationship with other personnel in the schools in which you taught (i.e., other teachers, administrators, counselors, etc.)? (Check the appropriate box.)
   a. ( ) yes b. ( ) no Other

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33. If your response to question 32 is "yes," please specify in detail the ways in which the change in your appointment status has affected your relationship with other school personnel.

34. Do you feel that your employment with DOE under a TTAA appointment had any impact upon the consideration that was given to you for a permanent teaching position? (Check the appropriate box.)

a. ( ) yes  b. ( ) no  Other

35. If your response to question 34 is "yes," please specify in what ways your employment as a TTAA impacted upon the consideration that was given to you for a permanent teaching position:

36. Do you feel that your employment with DOE under a TTAA appointment gave you any rehire priority for a TTAA teaching position. (Check the appropriate box.)

a. ( ) yes  b. ( ) no  Other

37. What do you feel are the reason(s) that you were offered a permanent position with the DOE? (Check one or more of the appropriate boxes.)

a. ( ) I developed a good relationship with a principal or other DOE administrator 68
b. ( ) I refused a TTAA contract, so I was available for a permanent position which opened up 12
c. ( ) I was teaching in a school where a permanent position became available 69
d. ( ) I was qualified to teach in a field with an inadequate supply of available teachers 43
e. ( ) I researched the vacancies in permanent positions in the DOE schools and/or school districts and placed myself in a teaching position in a school where permanent vacancies were likely to occur 10
f. ( ) I felt that I was given priority for a permanent teaching position because I was employed under a TTAA appointment 50
g. ( ) I was willing to take a permanent position on another island or in a rural area 25
h. ( ) I made constant contacts with the DOE to express my interest in a permanent position 34
i. ( ) other, please specify below:

END

Thank you!
APPENDIX C

SURVEY OF TEMPORARY TEACHING ASSIGNMENT APPOINTEES FOR 1984-1985 SCHOOL YEAR

General Information

1. Have you at anytime been employed by the DOE under a temporary teacher's assignment appointment (TTAA)? (Check the appropriate box.)
   a. ( ) yes  b. ( ) no  Other
      351  2

   If your response to question 1 is "no," please do not respond to the rest of this survey, but simply mail the survey back to the Legislative Reference Bureau. If your response to question 1 is "yes," please continue to answer the rest of the questions in this survey before returning it to the Bureau.

2. What is your age? (Check the appropriate box.)
   a. ( ) 20-25  30  f. ( ) 46-50  20
   b. ( ) 25-30  77  g. ( ) 51-55  15
   c. ( ) 31-35  70  h. ( ) 56-60  16
   d. ( ) 36-40  64  i. ( ) 61-65  2
   e. ( ) 41-45  60  j. ( ) over 65  0

3. What is your marital status? (Check the appropriate box.)
   a. ( ) Single  124
   b. ( ) Married  230

4. What is your sex? (Check the appropriate box.)
   a. ( ) Female  282
   b. ( ) Male  62

5. Are you a U.S. citizen? (Check the appropriate box.)
   a. ( ) yes  345
   b. ( ) no (specify citizenship)  7
      Other  2

6. What is your ethnic descent? (Circle one letter only.)
   B. Black  5
   C. Chinese  28
   F. Filipino  42
   H. Hawaiian  3
   I. Indo-European (includes persons of Pakistani and East Indian descent)  0
   J. Japanese  132
   K. Korean  5
   P. Part-Hawaiian  19
   R. Puerto Rican  1
   S. Samoan  0
   W. White (includes persons of Portuguese, Spanish, or Latin descent with the exception of Filipino and Puerto Rican)  96
   M. Mixed (includes all mixtures other than part-Hawaiian)  17
   O. Other or unknown (specify if other)  2

7. What is the zip code for your current place of residence?  Zip Code

8. On which island are you presently living? (Check the appropriate box.)
   a. ( ) Oahu  263  d. ( ) Kauai  12
   b. ( ) Hawaii  40  e. ( ) Molokai  4
   c. ( ) Maui  31  f. ( ) Lanai  0
      Other  4

71
9. What is your place of birth? (Check the appropriate box.)
   a. ( ) Hawaii
   b. ( ) Mainland U.S. (specify state)
   c. ( ) Foreign Country (specify country)
   Other

10. How many years have you been a resident of the State of Hawaii?
    (Check the appropriate box.)
    a. ( ) not a resident
    b. ( ) less than 1
    c. ( ) 1
    d. ( ) 2
    e. ( ) 3
    f. ( ) 4
    g. ( ) 5
    h. ( ) 6-9
    i. ( ) 10-15
    j. ( ) 16-20
    k. ( ) 21-25 but not lifetime
    l. ( ) 26-30 but not lifetime
    m. ( ) over 30 but not lifetime
    n. ( ) lifetime

Educational Background

11. From which educational institutions did you receive your education? Fill out each line up to the highest level of education obtained.
    a. High School
    b. Bachelor’s
    c. 5th Year
    d. Master’s
    e. Doctorate

12. In what areas of specialization are you fully certified to teach? (Circle one or more of the appropriate letters and numbers.)
    a. Elementary Teacher
    b. Secondary Teacher
    (1) Agricultural Arts
    (2) Art
    (3) Business Education
    (4) Distributive Education
    (5) English
    (6) Guidance
    (7) Hawaiian Studies
    (8) Health
    (9) Health and Physical Education
    (10) Home Economics
    (11) Industrial Arts
    (12) Industrial Technical
    c. K-12 Certification
    (1) Art
    (2) Music
    (3) Physical Education
    (4) Reading
    (5) Other (specify)
    d. Specialist Certification
    (1) School Counselor
    (2) School Librarian
    (3) Media
    (4) Psychological Examiner
    (5) Speech and Hearing
    (6) Other (specify)
e. Special Education
(1) Seriously Emotionally Disturbed 14
(2) Specific Learning Disability 35
(3) Hearing Impaired 8
(4) Visually Impaired 2
(5) Mentally Retarded 24
(6) Orthopedically Retarded 2
(7) Severely/multiply Handicapped 8
(8) Deaf-Blind 1
(9) Special Education 16
(10) Other (specify) 3

f. Other certification (please specify) 11

13. Do you have a degree in education? (Check the appropriate box.)
   a. yes ( )  b. no ( )  Other 331

14. If you answered "yes" to question 13, from which college or university did you obtain your education degree? (Check the appropriate box.)
   a. ( ) University of Hawaii - Manoa 182
   b. ( ) University of Hawaii - Hilo 7
   c. ( ) Brigham Young University, Hawaii Campus 10
   d. ( ) Mainland U.S. (please specify) 100

   state  college/university
   ( ) Foreign (please specify) 25
   ( ) Other (please specify) 3
   Other 27

Teaching Experience Other Than in TTAA Position

15. Have you completed any years of teaching other than in a TTAA position with the DOE? (Check the appropriate box.)
   a. yes ( )  b. no ( )  185

16. If you answered "yes" to question 15, how many years of teaching* have you completed other than in a TTAA position? (Check the appropriate box.)

   *For the purposes of this survey, "teaching" is defined as a classroom teacher, school counselor, school librarian, speech therapist, and experience obtained while employed on a full-time contractual basis for an entire school year for an accredited public or private school at levels K-12.

   a. ( ) less than 1 33  g. ( ) 6-9  28
   b. ( ) 1  27  h. ( ) 10-15  30
   c. ( ) 2  24  i. ( ) 16-20  8
   d. ( ) 3  12  j. ( ) 21-25  2
   e. ( ) 4  13  k. ( ) 26-30  4
   f. ( ) 5  16  l. ( ) 30+  1
   Other 166

17. Where were your teaching experiences obtained? (Check one or more of the appropriate box(es))
   a. ( ) Hawaii Public School System 186
   b. ( ) Hawaii Private School System 60
   c. ( ) Mainland Public School System 81
   d. ( ) Mainland Private School System 16
   e. ( ) Foreign Country 49

73
18. In what areas of specialization were your teaching experiences? (Circle one or more of the appropriate letters and numbers.)

a. Elementary Teacher

b. Secondary Teacher
   (1) Agricultural Arts
   (2) Art
   (3) Business Education
   (4) Distributive Education
   (5) English
   (6) Guidance
   (7) Hawaiian Studies
   (8) Health
   (9) Health and Physical Education
   (10) Home Economics
   (11) Industrial Arts
   (12) Industrial Technical
   (13) Languages
   (14) Mathematics
   (15) Music
   (16) Office Education
   (17) Physical Education
   (18) Reading
   (19) Science
   (20) Social Studies
   (21) Speech
   (22) Teaching English to Speakers
   (23) Other (specify)

   c. K-12 Certification
      (1) Art
      (2) Music
      (3) Physical Education
      (4) Reading
      (5) Other (specify)

   d. Specialist Certification
      (1) School Counselor
      (2) School Librarian
      (3) Media
      (4) Psychological Examiner
      (5) Speech and Hearing
      (6) Other (specify)

   e. Special Education
      (1) Seriously Emotionally Disturbed
      (2) Specific Learning Disability
      (3) Hearing Impaired
      (4) Visually Impaired
      (5) Mentally Retarded
      (6) Orthopedically Retarded
      (7) Severely/multiply Handicapped
      (8) Deaf-Blind
      (9) Special Education
      (10) Other (specify)

   f. Other certification (please specify)

   TTAA Teaching Experience

19. Under which of the following appointments, if any, are you currently employed with DOE? (Check the appropriate box.)

a. ( ) TTAA
b. ( ) Probationary
c. ( ) Other (please specify)
d. ( ) Not employed by DOE
20. If your response to question 19 is "TTAA," please specify the following about your present TTAA position and skip to question 24.

a. Position Title
b. Program Title (if applicable)
c. School
d. District
e. Grade Level
f. Contract Period

21. If your response to question 19 is "probationary," please specify the following about your present probationary position:

a. Position Title
b. Program Title (if applicable)
c. School
d. District
e. Grade Level
f. Contract Period

22. If your response to question 19 is "probationary," what level probationary teacher are you? (Check the appropriate box.)

a. ( ) P1 166
b. ( ) P2 10
   Other 166

c. ( ) P3 10
d. ( ) P4 10

23. If your response to question 19 is "probationary," please specify the following about your last TTAA position:

a. Position Title
b. Program Title (if applicable)
c. School
d. District
e. Grade Level
f. Contract Period

24. Regarding all of your TTAA positions at anytime, how many years have you completed in employment with the DOE as a temporary teacher's assignment appointee (TTAA)? (Check the appropriate box.)

a. ( ) less than 1 6
d. ( ) 1 119
b. ( ) 2 60
ger. ( ) 6 13
c. ( ) 3 28
f. ( ) 5 28
   Other 4
d. ( ) 4 22
   19

e. ( ) 9 3
f. ( ) 10 2
25. Regarding all of your TTAA positions, which of the following
category(ies) of TTAA positions have you been appointed to at anytime?
(Check the appropriate box(es).)

a. ( ) temporary position (such as in a temporarily funded federal or state program) 199
b. ( ) temporary vacancy (replacing a regular teacher who is is expected to be absent from duty for a minimum period of 90 days) 133
c. ( ) permanent, unobligated position for less than one school year (occurring after October 1) 62
d. ( ) position for which no eligible person is available, yet without meeting the minimum certification standards 23

26. Regarding all of your TTAA positions, what is the total number of TTAA positions that you have received? (Check the appropriate box.)

<table>
<thead>
<tr>
<th></th>
<th>a. ( ) 1 153</th>
<th>g. ( ) 7 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>b. ( ) 2 79</td>
<td>h. ( ) 8 1</td>
<td></td>
</tr>
<tr>
<td>c. ( ) 3 44</td>
<td>i. ( ) 9 2</td>
<td></td>
</tr>
<tr>
<td>d. ( ) 4 29</td>
<td>j. ( ) 10 4</td>
<td></td>
</tr>
<tr>
<td>e. ( ) 5 21</td>
<td>k. ( ) 11 0</td>
<td></td>
</tr>
<tr>
<td>f. ( ) 6 10</td>
<td>Other 6</td>
<td></td>
</tr>
</tbody>
</table>

27. For each of the TTAA positions which you have had, please specify the following information:

<table>
<thead>
<tr>
<th>Position Held/Program Title (if applicable)</th>
<th>School</th>
<th>District</th>
<th>Grade</th>
<th>Contract Level</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>f.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If you are currently employed as a probationary teacher for the 1985-1986 school year, please respond to the following questions about your past experience as a TTAA. If you are still a TTAA teacher, please respond to the question based upon your continuing experiences as a TTAA.

28. Do you feel that your TTAA status has affected your job performance as a teacher? (Check the appropriate box.)

a. ( ) yes b. ( ) no Other 90 196 66

29. If you answered "yes" to question 28, please specify in detail in what ways your TTAA status has affected your job performance.

30. Do you feel that your TTAA status has affected your motivation as a teacher? (Check the appropriate box.)

a. ( ) yes b. ( ) no Other 125 173 56
31. Do you feel that your TTAA status has had some effect upon your commitment to the teaching profession? (Check the appropriate box.)
   a. ( ) yes  b. ( ) no  Other
   141 167 46

32. If you answered "yes" to question 31, please specify in detail the ways in which your commitment to the teaching profession was affected by your TTAA status.

33. Do you feel that your TTAA status affected your relationship with other personnel in the schools in which you taught (i.e., other teachers, administrators, counselors, etc.)? (Check the appropriate box.)
   a. ( ) yes  b. ( ) no  Other
   106 208 40

34. If you answered "yes" to question 33, please specify in detail the ways in which your TTAA status has affected your relationship with other school personnel.

35. Were you aware that as a TTAA, you were a member of the teachers' collective bargaining unit 5? (Check the appropriate box.)
   a. ( ) yes  b. ( ) no  Other
   227 100 22

36. Do you feel that your TTAA status has had any impact upon the consideration that was given you for a permanent teaching position? (Check the appropriate box.)
   a. ( ) yes  b. ( ) no  Other
   126 170 58

37. If you answered "yes" to question 36, please specify in what ways your TTAA status impacted upon the consideration that was given to you for a permanent teaching position:

38. Did you ever experience a situation where a new hire was brought into a permanent teaching position in your school for which you felt you were qualified? (Check the appropriate box.)
   a. ( ) yes  b. ( ) no  Other
   224 22 22

39. If you answered "yes" to question 38, how many times did this situation occur? (Check the appropriate box.)
   a. ( ) once  50
   b. ( ) more than once  38
   Other  268

40. Did you at any time complain to the DOE regarding your TTAA status? (Check the appropriate box.)
   a. ( ) yes  b. ( ) no  Other
   51 270 33
41. If you answered "yes" to question 40, please specify on how many occasions you complained, the nature of the complaint, and the response by the DOE.

42. Did you feel that the response by the DOE was satisfactory to you? (Check the appropriate box.)
   a. ( ) yes  
   b. ( ) no  
   Other  

43. Did you at anytime complain to the HSTA regarding your TTAA status? (Check the appropriate box.)
   a. ( ) yes  
   b. ( ) no  
   Other  

44. If you answered "yes" to question 43, please specify on how many occasions you complained, the nature of the complaint, and the response by the HSTA.

45. Did you feel that the response by the HSTA was satisfactory to you? (Check the appropriate box.)
   a. ( ) yes  
   b. ( ) no  
   Other  

46. Did you ever consider filing a grievance or taking any other legal action arising from your TTAA status? (Check the appropriate box.)
   a. ( ) yes  
   b. ( ) no  
   Other  

47. If you answered "yes" to question 46, did you take any steps to filing a grievance or taking any legal action? (Check the appropriate box.)
   a. ( ) yes  
   b. ( ) no  
   Other  

48. If you answered "yes" to question 47, please specify in detail what steps that you took including the people contacted and the result.
49. If you answered "no" to question 47, what were the reasons that you decided not to take any grievance or legal action. (Check the appropriate box(es).)

a. ( ) apprehension that I would be terminated from my teaching position 32
b. ( ) apprehension that I would not be rehired for any teaching position 67
c. ( ) feeling that the grievance or legal action was futile 79
d. ( ) apprehension that I would be rejected or criticized by other personnel at the school 25
e. ( ) uninformed about my contractual and legal rights 35
f. ( ) feeling that I did not have the resources necessary to obtain legal representation and/or lack of knowledge of legal representation available to me 38
g. ( ) other reasons, please specify below: 19

50. Do you feel that you were given any priority for a permanent teaching position because of your TTAA status? (Check the appropriate box.)

a. ( ) yes b. ( ) no Other

51. Do you feel that you were given any rehire priority for a TTAA teaching position because of your previous TTAA appointments? (Check the appropriate box.)

a. ( ) yes b. ( ) no Other

52. Have you ever refused a permanent teaching position which was offered to you by DOE at anytime during the period you were employed by DOE as a TTAA appointee? (Check the appropriate box.)

a. ( ) yes b. ( ) no Other

53. If you answered "yes" to question 52, what were the reason(s) that you refused the permanent position? (Check the appropriate box(es)).

a. ( ) concerns about the composition of the student body at the school 2
b. ( ) desire to remain in another teaching field 2
c. ( ) position in a school on another island or in an area too distant from your place of residence to be convenient 7
d. ( ) other reasons, please specify below: 15
54. If your response to question 52 is "no," would you refuse a permanent teaching position which was offered to you for any of the following reasons? (Check the appropriate box(es).)

   a. ( ) concerns about the composition of the student body at the school
   b. ( ) desire to remain in another teaching field
   c. ( ) position in a school on another island or in an area too distant from your place of residence to be convenient
   d. ( ) other reasons, please specify below:

55. What do you feel was the reason(s) for your receiving and remaining in a TTAA appointment rather than a probationary appointment? (Check the appropriate box(es).)

   a. ( ) shortage of tenured positions or the tight job market
   b. ( ) funding given by the Legislature or the Governor
   c. ( ) lack of necessary teaching credentials
   d. ( ) not a high priority item of the DOE
   e. ( ) not a high priority item of the union
   f. ( ) other, please specify below:

56. Are you satisfied that the recent school code amendment* will address your concerns regarding your TTAA status? (Check the appropriate box.)

   a. ( ) yes
   b. ( ) no
   c. ( ) not sure or don't know

57. If your response to question 56 is "no," what are the reasons that you are not satisfied?

58. Assuming that your TTAA appointment will be switched to a probationary appointment because of the recent school code amendment,* what concerns, if any, do you have about your future status as a probationary teacher?

*Revision to Regulation 5102 of the School Code Certificated Policies and Regulations (5000 Series) which provides probationary status as of the 1985-1986 school year to most of the teachers who were formerly appointed under TTAA, approved by the Board of Education on May 16, 1985.
APPENDIX D

PUBLIC EMPLOYMENT RELATIONS BOARD SURVEY

I. GENERAL INFORMATION

Name and address of agency:
1.

State:
2.

Name and position title of person responding on behalf of the agency:
3.

Date of response:
4.

II. PUBLIC SECTOR COLLECTIVE BARGAINING LAW
FOR PUBLIC SCHOOL TEACHERS

Does your state have a collective bargaining law(s) which apply(ies) to public school teachers?
5. (a) Yes ( ) 81.3% (b) No ( ) 12.5% 6.3%

If "yes", please specify the title, full citation to the appropriate state statute(s) and the name and address of the administrative agency responsible for administering each such law.
6. (a) Title: (b) Citation: (c) Name and Address of Administrative Agency:

Does your state have one or more of the following groups of teachers? Check each category which applies.

<table>
<thead>
<tr>
<th>GROUP OF TEACHERS</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teachers appointed to a temporary vacancy (replacing a regular teacher who is expected to be absent for a minimum period of 90 days).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
7. Group 1 |
(a) ( ) 62.5% (b) ( ) 18.7% 18.7%

| Teachers appointed to fill permanent, unobligated positions for less than one year. |
8. Group 2 |
(a) ( ) 37.5% (b) ( ) 31.3% 31.3%
<table>
<thead>
<tr>
<th>GROUP OF TEACHERS</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Group 3 Teachers appointed without minimum certification requirements.</td>
<td>(a) ( )</td>
<td>(b) ( )</td>
</tr>
<tr>
<td></td>
<td>43.8%</td>
<td>31.3%</td>
</tr>
<tr>
<td>10. Group 4 Teachers appointed to a temporary position.</td>
<td>(a) ( )</td>
<td>(b) ( )</td>
</tr>
<tr>
<td></td>
<td>43.8%</td>
<td>31.3%</td>
</tr>
</tbody>
</table>

If you have any of the specified groups of teachers, please indicate which of the following groups of teachers have been determined to be included/excluded in a collective bargaining unit:

<table>
<thead>
<tr>
<th>GROUP OF TEACHERS</th>
<th>EXCLUDED FROM ANY BARGAINING UNIT</th>
<th>INCLUDED IN REGULAR TEACHERS' BARGAINING UNIT</th>
<th>INCLUDED IN SEPARATE BARGAINING UNIT FROM REGULAR TEACHERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>11. Group 1</td>
<td>(a) ( )</td>
<td>(b) ( )</td>
<td>(c) ( )</td>
</tr>
<tr>
<td></td>
<td>12.5%</td>
<td>37.5%</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>50%</td>
</tr>
<tr>
<td>12. Group 2</td>
<td>(a) ( )</td>
<td>(b) ( )</td>
<td>(c) ( )</td>
</tr>
<tr>
<td></td>
<td>6.3%</td>
<td>26%</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>69%</td>
</tr>
<tr>
<td>13. Group 3</td>
<td>(a) ( )</td>
<td>(b) ( )</td>
<td>(c) ( )</td>
</tr>
<tr>
<td></td>
<td>18.8%</td>
<td>31.3%</td>
<td>6.3%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>50%</td>
</tr>
<tr>
<td>14. Group 4</td>
<td>(a) ( )</td>
<td>(b) ( )</td>
<td>(c) ( )</td>
</tr>
<tr>
<td></td>
<td>18.8%</td>
<td>25%</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>56.3%</td>
</tr>
</tbody>
</table>

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For each of the categories, please cite the legal authority(ies) (i.e. administrative agency decision, court decision, rules and regulations, statute, collective bargaining agreement and/or other) and the title and full citation for the authority for the determination that such group of teachers was included/excluded from the collective bargaining unit.

<table>
<thead>
<tr>
<th>GROUP OF TEACHERS</th>
<th>LEGAL AUTHORITY</th>
<th>No Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>15. Group 1</td>
<td>Teachers appointed to a temporary vacancy (replacing a regular teacher who is expected to be absent for a minimum period of 90 days).</td>
<td>50%</td>
</tr>
<tr>
<td>16. Group 2</td>
<td>Teachers appointed to fill permanent, unobligated positions for less than one year.</td>
<td>68.8%</td>
</tr>
<tr>
<td>17. Group 3</td>
<td>Teachers appointed without minimum certification requirements.</td>
<td>56.3%</td>
</tr>
<tr>
<td>18. Group 4</td>
<td>Teachers appointed to a temporary position.</td>
<td>62.5%</td>
</tr>
</tbody>
</table>

III. PROBATIONARY CREDIT TOWARD TENURE

Does your state have probationary credit toward tenure for public school teachers?

19. (a) Yes ( ) 25% (b) No ( ) 37.5% 37.5%

If "yes", please cite the legal authority(ies) (i.e. administrative agency decision, court decision, rules and regulations, statute, collective bargaining agreement or other) and the title and full citation for the authority to provide probationary credit for public school teachers.

20. (a) Title: (b) Citation: No Response 66.8%

Has your state made a determination that probationary credit toward tenure is a negotiable or nonnegotiable item for collective bargaining purposes?

21. (a) Yes ( ) 6.3% (b) No ( ) 62.5% 62.5%

If "yes", please state whether the subject is:

22. (a) Negotiable ( ) 0% (b) Nonnegotiable ( ) 87.5% 87.5%
If probationary credit toward tenure has been determined to be a negotiable item or nonnegotiable item, please cite the legal authority(ies) (i.e. administrative agency decision, court decision, rules and regulations, statute, collective bargaining agreement or other) and the title and full citation for the authority for such a determination.

23. (a) Title: [No Response]
   (b) Citation: 93.8%

Has your state made a determination that probationary credit toward tenure is subject to a meet and confer or consultation requirement?

24. (a) Yes ( ) (b) No ( ) 50% 60%

If "yes", please cite the legal authority(ies) (i.e. administrative agency decision, court decision, rules and regulations, statute, collective bargaining agreement, or other) and the title and full citation for the authority for such a determination.

25. (a) Title: [No Response]
   (b) Citation: 100%

Does your state give such probationary credit to the following appointments of teachers?

<table>
<thead>
<tr>
<th>GROUP OF TEACHERS</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teachers appointed to a temporary vacancy (replacing a teacher who is expected to be absent for a minimum period of 90 days).</td>
<td>(a) ( )</td>
<td>(b) ( ) 0% 43.8% 56.3%</td>
</tr>
<tr>
<td>Teachers appointed to fill permanent, unobligated positions for less than one year.</td>
<td>(a) ( )</td>
<td>(b) ( ) 6.3% 31.2% 62.5%</td>
</tr>
<tr>
<td>Teachers appointed without minimum certification requirements.</td>
<td>(a) ( )</td>
<td>(b) ( ) 6.3% 31.2% 62.5%</td>
</tr>
<tr>
<td>Teachers appointed to a temporary position.</td>
<td>(a) ( )</td>
<td>(b) ( ) 0% 37.5% 62.5%</td>
</tr>
</tbody>
</table>
For each category of teacher, please cite the legal authority(ies) (i.e. administrative agency decision, court decision, rules and regulations, statute, collective bargaining agreement or other) and the title and full citation for the authority which was the basis for determining which group(s) of teachers merit probationary credit and which do not.

<table>
<thead>
<tr>
<th>GROUP OF TEACHERS</th>
<th>LEGAL AUTHORITY</th>
<th>CITATION</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>30. Group 1</td>
<td>Teachers appointed to a temporary vacancy (replacing a regular teacher who is expected to be absent for a minimum period of 90 days).</td>
<td>(a)</td>
<td>(b)</td>
</tr>
<tr>
<td>31. Group 2</td>
<td>Teachers appointed to fill permanent, unobligated positions for less than one year.</td>
<td>(a)</td>
<td>(b)</td>
</tr>
<tr>
<td>32. Group 3</td>
<td>Teachers appointed without minimum certification requirements.</td>
<td>(a)</td>
<td>(b)</td>
</tr>
<tr>
<td>33. Group 4</td>
<td>Teachers appointed to a temporary position.</td>
<td>(a)</td>
<td>(b)</td>
</tr>
</tbody>
</table>

IV. EMPLOYMENT PREFERENCE FOR TEACHERS

Does your state have a hiring preference for permanent teaching positions for the following groups of teachers:

<table>
<thead>
<tr>
<th>GROUP OF TEACHERS</th>
<th>YES</th>
<th>NO</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>34. Group 1</td>
<td>(a)</td>
<td>(b)</td>
<td>6.3% 43.8% 50%</td>
</tr>
<tr>
<td>35. Group 2</td>
<td>(a)</td>
<td>(b)</td>
<td>6.3% 43.8% 50%</td>
</tr>
<tr>
<td>36. Group 3</td>
<td>(a)</td>
<td>(b)</td>
<td>6.3% 43.8% 50%</td>
</tr>
<tr>
<td>37. Group 4</td>
<td>(a)</td>
<td>(b)</td>
<td>6.3% 43.8% 50%</td>
</tr>
</tbody>
</table>
For each "yes" response, please cite the legal authority(ies) (i.e. administrative agency decision, court decision, rules and regulations, statute, collective bargaining agreement or other) and the title which was the basis for that determination.

<table>
<thead>
<tr>
<th>GROUP OF TEACHERS</th>
<th>TITLE</th>
<th>CITATION</th>
<th>No Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>38. Group 1</td>
<td>Teachers appointed to a temporary vacancies (replacing a regular teacher who is expected to be absent for a minimum period of 90 days).</td>
<td>(a)</td>
<td>(b)</td>
</tr>
<tr>
<td>39. Group 2</td>
<td>Teachers appointed to fill permanent, unobligated positions for less than one year.</td>
<td>(a)</td>
<td>(b)</td>
</tr>
<tr>
<td>40. Group 3</td>
<td>Teachers appointed without minimum certification requirements.</td>
<td>(a)</td>
<td>(b)</td>
</tr>
<tr>
<td>41. Group 4</td>
<td>Teachers appointed to a temporary position.</td>
<td>(a)</td>
<td>(b)</td>
</tr>
</tbody>
</table>

Has your state made the determination that hiring preference is a negotiable or nonnegotiable item?

42. (a) Yes ( ) 12.5%  (b) No ( ) 50%  

If "yes", please indicate whether the matter has been determined to be:

43. (a) Negotiable ( ) 6.3%  (b) Nonnegotiable ( ) 6.3%  

If hiring preference has been determined to be a negotiable or nonnegotiable item, please cite the legal authority(ies) (i.e. administrative agency decision, court decision, rules and regulations, statute, collective bargaining agreement or other) the title and full citation of the authority for that determination.

44. (a) Title:  (b) Citation:  

Has your state made a determination that hiring preference is subject to a meet and confer or consultation requirement?

45. (a) Yes ( ) 6.3%  (b) No ( ) 43.8%  

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If "yes" please cite the legal authority (i.e. administrative agency decision, court decision, rules and regulations, statute, collective bargaining agreement or other) and the title and full citation for the authority for such a determination.

46. (a) Title: (b) Citation: No Response 93.75%
APPENDIX E

SCHOOL DISTRICT SURVEY

I. GENERAL INFORMATION

1. Name and address of school district: ____________________________________________

2. State: ________________________________________________________________

3. Name and position title of person responding on behalf of the school district:
   ________________________________________________________________

4. Date of response: _______________________________________________________

5. How many public schools are contained within your school district? (Check the appropriate box.)
   a. ( ) under 100 18  h. ( ) 701-800 0
   b. ( ) 100-200 18  i. ( ) 801-900 1
   c. ( ) 201-300 2  j. ( ) 901-1,000 1
   d. ( ) 301-400 0  k. ( ) over 1,000 1
   e. ( ) 401-500 0  l. ( ) other, specify below: 0
   f. ( ) 501-600 0
   g. ( ) 601-700 0

6. What was your student enrollment in the 1984-1985 school year? (Check the appropriate box.)
   a. ( ) under 50,000 12  h. ( ) 601,000-700,000 1
   b. ( ) 50,000-100,000 20  i. ( ) 701,000-800,000 0
   c. ( ) 101,000-200,000 4  j. ( ) 801,000-900,000 0
   d. ( ) 201,000-300,000 0  k. ( ) 901,000-1,000,000 2
   e. ( ) 301,000-400,000 0  l. ( ) over 1,000,000 0
   f. ( ) 401,000-500,000 0  m. ( ) other, specify below: 0
   g. ( ) 501,000-600,000 0

7. What is the grade span for your educational programs? (Check the appropriate box.)
   a. ( ) K-12 21
   b. ( ) PK-12 11
   c. ( ) PK-PG 4
   d. ( ) other, specify below: 3

8. How many full-time teachers were employed in your school district for the 1984-1985 school year? (Check the appropriate box.)
   a. ( ) under 5,000 28  f. ( ) 40,001-50,000 0
   b. ( ) 5,000-10,000 7  g. ( ) over 50,000 1
   c. ( ) 10,001-20,000 1  h. ( ) other, specify below: 0
   d. ( ) 20,001-30,000 1
   e. ( ) 30,001-40,000 0

9. Does your school district have a collective bargaining law(s) for its public school teachers? (Check the appropriate box.)
   a. Yes* ( ) 28  b. No ( ) 13  Other 1
   *If "yes", please attach copies of the collective bargaining law(s).

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10. Does your school district have teachers who perform one or more of the following functions? (Check one or more of the appropriate box(es).)

<table>
<thead>
<tr>
<th>Functions</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Teachers appointed to a temporary vacancy (replacing a teacher who is</td>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>to be absent for a minimum period of 90 days).</td>
<td>31</td>
<td>8</td>
</tr>
<tr>
<td>b. Teachers appointed to permanent, unobligated positions for less than</td>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>one year.</td>
<td>22</td>
<td>17</td>
</tr>
<tr>
<td>c. Teachers appointed without meeting the minimum certification standards</td>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>because no eligible person is available.</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>d. Teachers appointed to a temporary position (such as in a temporary</td>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>funded federal or state program).</td>
<td>26</td>
<td>11</td>
</tr>
</tbody>
</table>

11. If your school district has teachers who perform one or more of the following functions, what is the duration of their contract? (Check the appropriate box for each function category.)

<table>
<thead>
<tr>
<th>Functions</th>
<th>Long Term (over 90 days)</th>
<th>Short Term (90 days or less)</th>
<th>Day-to-Day</th>
<th>No Such Function</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Teachers appointed to a temporary vacancy (replacing a teacher who is</td>
<td>(1) ( )</td>
<td>(2) ( )</td>
<td>(3) ( )</td>
<td>(4) ( )</td>
<td>15</td>
</tr>
<tr>
<td>to be absent for a minimum period of 90 days).</td>
<td>11</td>
<td>9</td>
<td>5</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>b. Teachers appointed to permanent, unobligated positions for less than</td>
<td>(1) ( )</td>
<td>(2) ( )</td>
<td>(3) ( )</td>
<td>(4) ( )</td>
<td>20</td>
</tr>
<tr>
<td>one year.</td>
<td>5</td>
<td>2</td>
<td>14</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>c. Teachers appointed without meeting the minimum certification standards</td>
<td>(1) ( )</td>
<td>(2) ( )</td>
<td>(3) ( )</td>
<td>(4) ( )</td>
<td>18</td>
</tr>
<tr>
<td>because no eligible person is available.</td>
<td>5</td>
<td>4</td>
<td>15</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>d. Teachers appointed to a temporary position (such as in a temporary</td>
<td>(1) ( )</td>
<td>(2) ( )</td>
<td>(3) ( )</td>
<td>(4) ( )</td>
<td>24</td>
</tr>
<tr>
<td>funded federal or state program).</td>
<td>8</td>
<td>6</td>
<td>10</td>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>
12. If your school district has teachers who perform one or more of the following functions, please designate the title of the appointment given to the teachers who perform that function.

<table>
<thead>
<tr>
<th>Functions</th>
<th>Title of Appointment</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Teachers appointed to a temporary vacancy (replacing a teacher who is expected to be absent for a minimum period of 90 days).</td>
<td>a. Teacher, temporary teacher, substitute teacher, terminal contract teacher, long-term assignment, long-term per diem</td>
</tr>
<tr>
<td>b. Teachers appointed to permanent, unobligated positions for less than one year.</td>
<td>b. Teacher, substitute teacher, part-time teacher, long-term assignment, long-term per diem, short-term contract</td>
</tr>
<tr>
<td>c. Teachers appointed without meeting the minimum certification standards because no eligible person is available.</td>
<td>c. Teacher, probationary teacher, provisional teacher, long-term, substitute, teacher out of field, emergency/hardship permit, warrant teacher, temporary per diem</td>
</tr>
<tr>
<td>d. Teachers appointed to a temporary position (such as in a temporary funded federal or state program).</td>
<td>d. Teacher, temporary teacher, substitute teacher, terminal contract teacher, interim substitute, emergency permit, long-term assignment, temporary per diem contingency teacher</td>
</tr>
</tbody>
</table>

13. If your school district has teachers who perform one or more of the following functions, please indicate the number of teachers who performed that function during the 1984-1985 school year.

<table>
<thead>
<tr>
<th>Functions</th>
<th>Number of Teachers</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Teachers appointed to a temporary vacancy (replacing a teacher who is expected to be absent for a minimum period of 90 days).</td>
<td>a. 8 - 466</td>
</tr>
<tr>
<td>b. Teachers appointed to permanent, unobligated positions for less than one year.</td>
<td>b. 10 - 375</td>
</tr>
<tr>
<td>c. Teachers appointed without meeting the minimum certification standards because no eligible person is available.</td>
<td>c. 5 - 1,468</td>
</tr>
<tr>
<td>d. Teachers appointed to a temporary position (such as in a temporary funded federal or state program).</td>
<td>d. 10 - 2,031</td>
</tr>
</tbody>
</table>

14. Please specify the number of teachers during the 1984-1985 that your school district employed under the following appointments: (Check the appropriate box.)

a. Probationary 50 - 4,075  
b. Tenured 69 - 18,417
15. If your school district has teachers appointed to a temporary vacancy (replacing a regular teacher who is expected to be absent for a minimum period of 90 days), do these teachers receive the same treatment as teachers in permanent positions for the following enumerated benefits. (Check the appropriate box in each benefit category.)

<table>
<thead>
<tr>
<th>Benefits</th>
<th>Yes</th>
<th>No</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Compensation</td>
<td>(1) ( ) 22 (2) ( ) 5 (3) ( ) 4 (8)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Sick leave</td>
<td>(1) ( ) 20 (2) ( ) 6 (3) ( ) 7 (6)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Vacation</td>
<td>(1) ( ) 8 (2) ( ) 7 (3) ( ) 11 (11)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Retirement benefits</td>
<td>(1) ( ) 12 (2) ( ) 12 (3) ( ) 8 (7)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Health (medical, dental, life insurance)</td>
<td>(1) ( ) 19 (2) ( ) 5 (3) ( ) 7 (7)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Service credit (for retirement)</td>
<td>(1) ( ) 17 (2) ( ) 8 (3) ( ) 6 (8)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. Service award</td>
<td>(1) ( ) 5 (2) ( ) 18 (3) ( ) 16 (10)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>h. Short-term leaves</td>
<td>(1) ( ) 9 (2) ( ) 11 (3) ( ) 12 (7)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Long-term leaves</td>
<td>(1) ( ) 3 (2) ( ) 16 (3) ( ) 13 (7)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>j. Tenure rights</td>
<td>(1) ( ) 2 (2) ( ) 19 (3) ( ) 12 (6)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>k. Contract duration</td>
<td>(1) ( ) 2 (2) ( ) 11 (3) ( ) 13 (6)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>l. Reemployment commitment</td>
<td>(1) ( ) 3 (2) ( ) 19 (3) ( ) 10 (7)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>m. Substitute coverage</td>
<td>(1) ( ) 53 (2) ( ) 3 (3) ( ) 5 (8)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

16. If your school district has teachers appointed to fill permanent, unobligated positions for less than one year, do these teachers receive the same treatment as teachers in permanent positions for the following enumerated benefits? (Check the appropriate box for each benefit.)

<table>
<thead>
<tr>
<th>Benefits</th>
<th>Yes</th>
<th>No</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Compensation</td>
<td>(1) ( ) 18 (2) ( ) 4 (3) ( ) 4 (13)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Sick Leave</td>
<td>(1) ( ) 21 (2) ( ) 2 (3) ( ) 5 (11)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Vacation</td>
<td>(1) ( ) 9 (2) ( ) 5 (3) ( ) 11 (14)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Retirement benefits</td>
<td>(1) ( ) 19 (2) ( ) 3 (3) ( ) 6 (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Health (medical, dental, life insurance)</td>
<td>(1) ( ) 20 (2) ( ) 2 (3) ( ) 6 (11)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Service credit (for retirement)</td>
<td>(1) ( ) 21 (2) ( ) 2 (3) ( ) 5 (11)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. Service award</td>
<td>(1) ( ) 9 (2) ( ) 3 (3) ( ) 13 (14)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>h. Short-term leaves</td>
<td>(1) ( ) 15 (2) ( ) 5 (3) ( ) 9 (10)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Long-term leaves</td>
<td>(1) ( ) 10 (2) ( ) 9 (3) ( ) 9 (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>j. Tenure rights</td>
<td>(1) ( ) 8 (2) ( ) 11 (3) ( ) 8 (11)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>k. Contract duration</td>
<td>(1) ( ) 11 (2) ( ) 9 (3) ( ) 8 (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>l. Reemployment commitment</td>
<td>(1) ( ) 9 (2) ( ) 12 (3) ( ) 7 (11)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>m. Substitute coverage</td>
<td>(1) ( ) 23 (2) ( ) 1 (3) ( ) 4 (11)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
17. If your school district has teachers appointed without minimum certification requirements where no qualified person is available, do these teachers receive the same treatment as teachers in permanent positions for the following enumerated benefits? (Check the appropriate box in each benefit category.)

<table>
<thead>
<tr>
<th>Benefits</th>
<th>Yes</th>
<th>No</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Compensation</td>
<td>(1) ( ) 18 (2) ( ) 1</td>
<td>(3) ( ) 4</td>
<td>16</td>
</tr>
<tr>
<td>b. Sick Leave</td>
<td>(1) ( ) 20 (2) ( ) 1</td>
<td>(3) ( ) 3</td>
<td>15</td>
</tr>
<tr>
<td>c. Vacation</td>
<td>(1) ( ) 12 (2) ( ) 4</td>
<td>(3) ( ) 6</td>
<td>17</td>
</tr>
<tr>
<td>d. Retirement benefits</td>
<td>(1) ( ) 17 (2) ( ) 2</td>
<td>(3) ( ) 4</td>
<td>16</td>
</tr>
<tr>
<td>e. Health (medical, dental, life insurance)</td>
<td>(1) ( ) 19 (2) ( ) 1</td>
<td>(3) ( ) 4</td>
<td>16</td>
</tr>
<tr>
<td>f. Service credit (for retirement)</td>
<td>(1) ( ) 20 (2) ( ) 1</td>
<td>(3) ( ) 3</td>
<td>15</td>
</tr>
<tr>
<td>g. Service award</td>
<td>(1) ( ) 9 (2) ( ) 2</td>
<td>(3) ( ) 3</td>
<td>19</td>
</tr>
<tr>
<td>h. Short-term leaves</td>
<td>(1) ( ) 15 (2) ( ) 4</td>
<td>(3) ( ) 5</td>
<td>15</td>
</tr>
<tr>
<td>i. Long-term leaves</td>
<td>(1) ( ) 12 (2) ( ) 6</td>
<td>(3) ( ) 6</td>
<td>16</td>
</tr>
<tr>
<td>j. Tenure rights</td>
<td>(1) ( ) 9 (2) ( ) 9</td>
<td>(3) ( ) 5</td>
<td>15</td>
</tr>
<tr>
<td>k. Contract duration</td>
<td>(1) ( ) 10 (2) ( ) 6</td>
<td>(3) ( ) 7</td>
<td>16</td>
</tr>
<tr>
<td>l. Reemployment commitment</td>
<td>(1) ( ) 17 (2) ( ) 10</td>
<td>(3) ( ) 6</td>
<td>16</td>
</tr>
<tr>
<td>m. Substitute coverage</td>
<td>(1) ( ) 18 (2) ( ) 2</td>
<td>(3) ( ) 4</td>
<td>15</td>
</tr>
</tbody>
</table>

18. If your school district has teachers appointed to a temporary position (such as in temporarily funded state or federal programs), do these teachers receive the same treatment as teachers in permanent positions for the following enumerated benefits? (Check the appropriate box in each benefit category.)

<table>
<thead>
<tr>
<th>Benefits</th>
<th>Yes</th>
<th>No</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Compensation</td>
<td>(1) ( ) 24 (2) ( ) 1</td>
<td>(3) ( ) 1</td>
<td>13</td>
</tr>
<tr>
<td>b. Sick Leave</td>
<td>(1) ( ) 28 (2) ( ) 1</td>
<td>(3) ( ) 0</td>
<td>12</td>
</tr>
<tr>
<td>c. Vacation</td>
<td>(1) ( ) 16 (2) ( ) 3</td>
<td>(3) ( ) 7</td>
<td>14</td>
</tr>
<tr>
<td>d. Retirement benefits</td>
<td>(1) ( ) 23 (2) ( ) 3</td>
<td>(3) ( ) 1</td>
<td>12</td>
</tr>
<tr>
<td>e. Health (medical, dental, life insurance)</td>
<td>(1) ( ) 25 (2) ( ) 1</td>
<td>(3) ( ) 1</td>
<td>12</td>
</tr>
<tr>
<td>f. Service credit (for retirement)</td>
<td>(1) ( ) 24 (2) ( ) 1</td>
<td>(3) ( ) 0</td>
<td>12</td>
</tr>
<tr>
<td>g. Service award</td>
<td>(1) ( ) 12 (2) ( ) 3</td>
<td>(3) ( ) 8</td>
<td>16</td>
</tr>
<tr>
<td>h. Short-term leaves</td>
<td>(1) ( ) 20 (2) ( ) 3</td>
<td>(3) ( ) 4</td>
<td>12</td>
</tr>
<tr>
<td>i. Long-term leaves</td>
<td>(1) ( ) 16 (2) ( ) 6</td>
<td>(3) ( ) 5</td>
<td>12</td>
</tr>
<tr>
<td>j. Tenure rights</td>
<td>(1) ( ) 13 (2) ( ) 10</td>
<td>(3) ( ) 4</td>
<td>12</td>
</tr>
<tr>
<td>k. Contract duration</td>
<td>(1) ( ) 14 (2) ( ) 7</td>
<td>(3) ( ) 4</td>
<td>14</td>
</tr>
<tr>
<td>l. Reemployment commitment</td>
<td>(1) ( ) 13 (2) ( ) 10</td>
<td>(3) ( ) 4</td>
<td>12</td>
</tr>
<tr>
<td>m. Substitute coverage</td>
<td>(1) ( ) 23 (2) ( ) 1</td>
<td>(3) ( ) 2</td>
<td>13</td>
</tr>
</tbody>
</table>
19. If your school district appoints teachers to a temporary vacancy (replacing a regular teacher who is expected to be absent for a minimum period of 90 days), do these teachers perform the same duties and responsibilities as teachers in permanent positions for the following:
(Check the appropriate box for each job duty and responsibility category.)

<table>
<thead>
<tr>
<th>Duties and responsibilities</th>
<th>Yes</th>
<th>No</th>
<th>other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Takes full responsibility for the educational programs of their assigned students</td>
<td>(1) ( ) 31 (2) ( ) 3</td>
<td>(3) ( ) 0</td>
<td>5</td>
</tr>
<tr>
<td>Range of instructional services</td>
<td>(1) ( ) 32 (2) ( ) 1</td>
<td>(3) ( ) 0</td>
<td>6</td>
</tr>
<tr>
<td>Planning of course objectives</td>
<td>(1) ( ) 30 (2) ( ) 3</td>
<td>(3) ( ) 1</td>
<td>5</td>
</tr>
<tr>
<td>Development of course outlines</td>
<td>(1) ( ) 27 (2) ( ) 5</td>
<td>(3) ( ) 2</td>
<td>5</td>
</tr>
<tr>
<td>Evaluation of students and preparation of student progress reports</td>
<td>(1) ( ) 33 (2) ( ) 0</td>
<td>(3) ( ) 0</td>
<td>6</td>
</tr>
<tr>
<td>Conference with parents</td>
<td>(1) ( ) 32 (2) ( ) 1</td>
<td>(3) ( ) 0</td>
<td>6</td>
</tr>
<tr>
<td>Participation in the budget process</td>
<td>(1) ( ) 17 (2) ( ) 7</td>
<td>(3) ( ) 6</td>
<td>9</td>
</tr>
<tr>
<td>Supervision of students before, during and after school</td>
<td>(1) ( ) 32 (2) ( ) 2</td>
<td>(3) ( ) 0</td>
<td>5</td>
</tr>
<tr>
<td>Participation in faculty meetings</td>
<td>(1) ( ) 34 (2) ( ) 0</td>
<td>(3) ( ) 0</td>
<td>5</td>
</tr>
<tr>
<td>Sponsorship of student activities</td>
<td>(1) ( ) 36 (2) ( ) 7</td>
<td>(3) ( ) 0</td>
<td>6</td>
</tr>
<tr>
<td>Works under general supervision of principal</td>
<td>(1) ( ) 34 (2) ( ) 0</td>
<td>(3) ( ) 0</td>
<td>5</td>
</tr>
<tr>
<td>Maintains same work hours as permanent teachers</td>
<td>(1) ( ) 34 (2) ( ) 0</td>
<td>(3) ( ) 0</td>
<td>5</td>
</tr>
</tbody>
</table>
20. If your school district has teachers appointed to fill permanent, unobligated positions for less than one school year, do these teachers perform the same job duties and responsibilities as teachers in permanent positions for the following: (Check the appropriate box for each job duty and responsibility category.)

<table>
<thead>
<tr>
<th>Duties and responsibilities</th>
<th>Yes</th>
<th>No</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Takes full responsibility for the educational programs of their assigned students</td>
<td>(1) ( ) 24 (2) ( )</td>
<td>1</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Range of instructional services</td>
<td>(1) ( ) 25 (2) ( )</td>
<td>0</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Planning of course objectives</td>
<td>(1) ( ) 23 (2) ( )</td>
<td>2</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Development of course outlines</td>
<td>(1) ( ) 21 (2) ( )</td>
<td>2</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Evaluation of students and preparation of student progress reports</td>
<td>(1) ( ) 25 (2) ( )</td>
<td>0</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Conference with parents</td>
<td>(1) ( ) 25 (2) ( )</td>
<td>0</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. Participation in the budget process</td>
<td>(1) ( ) 16 (2) ( )</td>
<td>6</td>
<td>(3) ( ) 4</td>
<td>13</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>h. Supervision of students before, during and after school</td>
<td>(1) ( ) 25 (2) ( )</td>
<td>0</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Participation in faculty meetings</td>
<td>(1) ( ) 25 (2) ( )</td>
<td>0</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>j. Sponsorship of student activities</td>
<td>(1) ( ) 22 (2) ( )</td>
<td>2</td>
<td>(3) ( ) 2</td>
<td>13</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>k. Works under general supervision of principal</td>
<td>(1) ( ) 25 (2) ( )</td>
<td>0</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>m. Maintains same work hours as permanent teachers</td>
<td>(1) ( ) 25 (2) ( )</td>
<td>0</td>
<td>(3) ( ) 2</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
21. If your school district has teachers appointed without the minimum certification requirements because no eligible person is available, do these teachers perform the same job duties and responsibilities as teachers in permanent positions for the following: (Check the appropriate box for each job duty and responsibility category.)

<table>
<thead>
<tr>
<th>Duties and responsibilities</th>
<th>Yes</th>
<th>No</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Takes full responsibility for the educational programs of their assigned students</td>
<td>21</td>
<td>1</td>
<td>16</td>
</tr>
<tr>
<td>Range of instructional services</td>
<td>21</td>
<td>1</td>
<td>16</td>
</tr>
<tr>
<td>Planning of course objectives</td>
<td>20</td>
<td>2</td>
<td>16</td>
</tr>
<tr>
<td>Development of course outlines</td>
<td>18</td>
<td>3</td>
<td>16</td>
</tr>
<tr>
<td>Evaluation of students and preparation of student progress reports</td>
<td>22</td>
<td>0</td>
<td>16</td>
</tr>
<tr>
<td>Conference with parents</td>
<td>22</td>
<td>0</td>
<td>16</td>
</tr>
<tr>
<td>Participation in the budget process</td>
<td>18</td>
<td>3</td>
<td>17</td>
</tr>
<tr>
<td>Supervision of students before, during and after school</td>
<td>21</td>
<td>1</td>
<td>16</td>
</tr>
<tr>
<td>Participation in faculty meetings</td>
<td>21</td>
<td>1</td>
<td>16</td>
</tr>
<tr>
<td>Sponsorship of student activities</td>
<td>21</td>
<td>1</td>
<td>16</td>
</tr>
<tr>
<td>Works under general supervision of principal</td>
<td>22</td>
<td>0</td>
<td>16</td>
</tr>
<tr>
<td>Maintains same work hours as permanent teachers</td>
<td>22</td>
<td>0</td>
<td>16</td>
</tr>
</tbody>
</table>
22. If your school district has teachers appointed to temporary positions (such as in temporarily funded federal or state programs), do these teachers perform the same job duties and responsibilities as teachers in permanent positions for the following: (Check the appropriate box for each job duty and responsibility category.)

<table>
<thead>
<tr>
<th>Duties and responsibilities</th>
<th>Yes</th>
<th>No</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Takes full responsibility for the educational programs of their assigned students</td>
<td>(1) 28 (2)</td>
<td>1</td>
<td>(3) 0</td>
</tr>
<tr>
<td>b. Range of instructional services</td>
<td>(1) 28 (2)</td>
<td>1</td>
<td>(3) 0</td>
</tr>
<tr>
<td>c. Planning of course objectives</td>
<td>(1) 27 (2)</td>
<td>0</td>
<td>(3) 0</td>
</tr>
<tr>
<td>d. Development of course outlines</td>
<td>(1) 23 (2)</td>
<td>2</td>
<td>(3) 2</td>
</tr>
<tr>
<td>e. Evaluation of students and preparation of student progress reports</td>
<td>(1) 27 (2)</td>
<td>0</td>
<td>(3) 0</td>
</tr>
<tr>
<td>f. Conference with parents</td>
<td>(1) 27 (2)</td>
<td>0</td>
<td>(3) 0</td>
</tr>
<tr>
<td>g. Participation in the budget process</td>
<td>(1) 18 (2)</td>
<td>6</td>
<td>(3) 5</td>
</tr>
<tr>
<td>h. Supervision of students before, during and after school</td>
<td>(1) 28 (2)</td>
<td>1</td>
<td>(3) 0</td>
</tr>
<tr>
<td>i. Participation in faculty meetings</td>
<td>(1) 28 (2)</td>
<td>1</td>
<td>(3) 0</td>
</tr>
<tr>
<td>j. Sponsorship of student activities</td>
<td>(1) 28 (2)</td>
<td>1</td>
<td>(3) 0</td>
</tr>
<tr>
<td>k. Works under general supervision of principal</td>
<td>(1) 27 (2)</td>
<td>0</td>
<td>(3) 0</td>
</tr>
<tr>
<td>l. Maintains same work hours as permanent teachers</td>
<td>(1) 27 (2)</td>
<td>0</td>
<td>(3) 0</td>
</tr>
</tbody>
</table>

23. If your school district does not have teachers who perform one or more of the following functions, please specify how the school district handles these job functions.

<table>
<thead>
<tr>
<th>Functions</th>
<th>Handling of Functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Filling a temporary vacancy (replacing a teacher who is expected to be absent for a minimum period of 90 days).</td>
<td>Responses included: a. Substitute</td>
</tr>
<tr>
<td>b. Filling a permanent, unobligated position for less than one year.</td>
<td>b. Temporary contract, substitute, regular contract, vacant, part-time, prohibited</td>
</tr>
<tr>
<td>c. Filling a position where no eligible person is available.</td>
<td>c. Substitute, provisional</td>
</tr>
<tr>
<td>d. Filling a temporary position (such as in a temporary funded federal or state program).</td>
<td>d. Teacher, part-time employment</td>
</tr>
</tbody>
</table>
24. If your school district has teachers who perform one or more of the following functions, please indicate which of these teachers have been determined to be included/excluded in a collective bargaining unit. (Check the appropriate box for each function category.)

<table>
<thead>
<tr>
<th>Functions</th>
<th>Excluded from any bargaining unit</th>
<th>Included in regular teachers' bargaining unit</th>
<th>Included in separate bargaining unit from regular teachers</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Teachers appointed to a temporary vacancy (replacing a teacher who is expected to be absent for a minimum period of 90 days).</td>
<td>(1) ( ) 11 (2) ( ) 16 (3) ( ) 1 11</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Teachers appointed to permanent, unobligated positions for less than one year.</td>
<td>(1) ( ) 5 (2) ( ) 16 (3) ( ) 0 18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Teachers appointed without meeting the minimum certification standards because no eligible person is available.</td>
<td>(1) ( ) 2 (2) ( ) 13 (3) ( ) 1 23</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Teachers appointed to a temporary position (such as in a temporary funded federal or state program).</td>
<td>(1) ( ) 3 (2) ( ) 20 (3) ( ) 1 15</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

25. Does your school district have probationary credit toward tenure for public school teachers? (Check the appropriate box.)

a. ( ) Yes  
   b. ( ) No  
   Other  

26. Has there been a determination for your school district that probationary credit toward tenure is a negotiable or nonnegotiable item for collective bargaining purposes? (Check the appropriate box.).

a. Yes ( )  
   b. No ( )  
   Other  

27. If so, please state whether the subject is: (Check the appropriate box.)

a. Negotiable ( )  
   b. Nonnegotiable ( )  
   Other  

28. If probationary credit has been determined to be a negotiable or nonnegotiable item, what was the legal authority(ies)* for such a determination? (Check the appropriate box(es).)

a. ( ) Statute  
   b. ( ) Regulation  
   c. ( ) Collective bargaining agreement  
   d. ( ) Administrative agency decision  
   e. ( ) Court decision  
   f. ( ) Other, please specify  

*Please attach copies of each of the legal authorities.

29. If your school district has probationary credit toward tenure, please specify what the requirements are pertaining to such credit. 

Responses included:

One semester, three years, two years, 155 days
30. Does your school district give probationary credit to teachers who perform one or more of the following functions? (Check the appropriate box for each function category.)

<table>
<thead>
<tr>
<th>Functions</th>
<th>Yes</th>
<th>No</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Teachers appointed to a temporary vacancy (replacing a teacher who</td>
<td>(1)</td>
<td>(2)</td>
<td></td>
</tr>
<tr>
<td>is expected to be absent for a minimum period of 90 days).</td>
<td>7</td>
<td>20</td>
<td>12</td>
</tr>
<tr>
<td>b. Teachers appointed to permanent, unobligated positions for less than</td>
<td>(1)</td>
<td>(2)</td>
<td></td>
</tr>
<tr>
<td>one year.</td>
<td>9</td>
<td>12</td>
<td>18</td>
</tr>
<tr>
<td>c. Teachers appointed without meeting the minimum certification standards</td>
<td>(1)</td>
<td>(2)</td>
<td></td>
</tr>
<tr>
<td>because no eligible person is available.</td>
<td>10</td>
<td>12</td>
<td>17</td>
</tr>
<tr>
<td>d. Teachers appointed to a temporary position (such as in a temporary</td>
<td>(1)</td>
<td>(2)</td>
<td></td>
</tr>
<tr>
<td>funded federal or state program).</td>
<td>16</td>
<td>9</td>
<td>14</td>
</tr>
</tbody>
</table>

31. If your school district provides probationary credit for teachers who perform one or more of the following functions, please indicate under what legal authority(ies)* such probationary credit is given. (Check one or more of the appropriate boxes for each function category.)

<table>
<thead>
<tr>
<th>Functions</th>
<th>Statute</th>
<th>Regulations</th>
<th>Collective Bargaining Agreement</th>
<th>Court/Agency Ruling</th>
<th>Other (please specify under box)</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Teachers appointed to a temporary vacancy (replacing a teacher who</td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>27</td>
</tr>
<tr>
<td>is expected to be absent for a minimum period of 90 days).</td>
<td>9</td>
<td>5</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>b. Teachers appointed to permanent, unobligated positions for less than</td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>28</td>
</tr>
<tr>
<td>one year.</td>
<td>7</td>
<td>4</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>c. Teachers appointed without meeting the minimum certification standards</td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>28</td>
</tr>
<tr>
<td>because no eligible person is available.</td>
<td>10</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>d. Teachers appointed to a temporary position (such as in a temporary</td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>21</td>
</tr>
<tr>
<td>funded federal or state program).</td>
<td>16</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

*Please attach copies of each of the legal authorities.
32. Does your school district have a hiring preference for teachers who perform the following functions for filling vacant permanent teaching positions or for filling temporary positions (temporary vacancies; permanent, unobligated positions for less than one year; temporary funded positions; positions for which no eligible person is available)? (Check the appropriate box for each function category.)

<table>
<thead>
<tr>
<th>Functions</th>
<th>Preference for Permanent Positions Only</th>
<th>Preference for Temporary Positions Only</th>
<th>Preference for Both Temporary and Permanent</th>
<th>No Such Hiring Preference</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Teachers appointed to a temporary vacancy (replacing a teacher who is expected to be absent for a minimum period of 90 days).</td>
<td>2</td>
<td>3</td>
<td>11</td>
<td>14</td>
<td>9</td>
</tr>
<tr>
<td>b. Teachers appointed to permanent, unobligated positions for less than one year.</td>
<td>3</td>
<td>2</td>
<td>8</td>
<td>12</td>
<td>14</td>
</tr>
<tr>
<td>c. Teachers appointed without meeting the minimum certification standards because no eligible person is available.</td>
<td>3</td>
<td>2</td>
<td>6</td>
<td>9</td>
<td>19</td>
</tr>
<tr>
<td>d. Teachers appointed to a temporary position (such as in a temporary funded federal or state program).</td>
<td>3</td>
<td>4</td>
<td>9</td>
<td>10</td>
<td>13</td>
</tr>
</tbody>
</table>
33. If your school district has a hiring preference for teachers who perform the following functions for filling of vacant permanent teaching positions, please indicate the legal authority(ies)* which provide for such a preference. (Check one or more of the appropriate boxes for each function category.)

<table>
<thead>
<tr>
<th>Statute</th>
<th>Regulation</th>
<th>Collective Bargaining Agreement</th>
<th>Court/Agency Ruling</th>
<th>Other (please specify under box)</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

a. Teachers appointed to a temporary vacancy (replacing a teacher who is expected to be absent for a minimum period of 90 days).

b. Teachers appointed to permanent, unobligated positions for less than one year.

c. Teachers appointed without meeting the minimum certification standards because no eligible person is available.

d. Teachers appointed to a temporary position (such as in a temporary funded federal or state program).

*Please attach copies of each of the legal authorities.

34. Has there been a determination made for your school district that hiring preference is a negotiable or nonnegotiable item? (Check the appropriate box.)

<table>
<thead>
<tr>
<th>a. Yes ( )</th>
<th>b. No ( )</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>14</td>
<td>11</td>
</tr>
</tbody>
</table>

35. If yes, please indicate whether the matter has been determined to be:

<table>
<thead>
<tr>
<th>a. Negotiable ( )</th>
<th>b. Nonnegotiable ( )</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

36. If hiring preference has been determined to be a negotiable or nonnegotiable item, what was the legal authority* for such a determination? (Please check one or more of the appropriate box(es).)

<table>
<thead>
<tr>
<th>a. Statute ( )</th>
<th>b. Regulation ( )</th>
<th>c. Collective bargaining agreement ( )</th>
<th>d. Administrative agency decision ( )</th>
<th>e. Court decision ( )</th>
<th>f. Other, please specify ( )</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

*Please attach copies of each of the legal authorities.