

# RULES AND REGULATIONS FOR THE CLASSIFIED SERVICE

PERSONNEL COMMISSION  
OF THE  
VISTA UNIFIED SCHOOL DISTRICT

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VISTA UNIFIED SCHOOL DISTRICT

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**VISTA UNIFIED SCHOOL DISTRICT**  
**PERSONNEL COMMISSION RULES AND REGULATIONS**  
**OF THE CLASSIFIED SERVICE**

**CHAPTER 1**

**RULE-MAKING AUTHORITY AND DEFINITIONS**

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**1.1 APPLICATION OF RULES**

**1.1.1 STATUTORY AUTHORITY FOR THESE RULES:** Article 6 (Merit System) in Chapter 5 of Part 25 in Division 3 of the California Education Code (commencing with Section 45240) provides the Personnel Commission with the right and responsibility for establishing Rules and Regulations as may be necessary to ensure the efficiency of the Classified Service and the selection and retention of employees upon the basis of merit and fitness.

**1.1.1.1** The Rules and Regulations contained herein are established by the Personnel Commission pursuant to its authority under Education Code Section 45260; as well as other provisions of law made applicable to the Classified Service.

**1.1.1.2** Since the implementation of new rules or amendments to existing rules can impact the Board of Trustees, the Administration, and the classified employees, the Personnel Commission has hereby established the policy of submitting copies of all proposed Rules, amendments to, or the deletion of existing Rules to the exclusive bargaining representative(s) and the District Superintendent for their review and comments at least fourteen (14) calendar days prior to adoption by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45241 and 45260  
2. Government Code Section 3543.2

**1.1.2 INTERPRETATION AND APPLICATION OF THESE RULES:** The Personnel Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These Rules are to be applied with consideration of their intent. However, specific and applicable provisions of the Rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. In instances where two (2) or more Rules appear to be in conflict, or when no rule provides a clear-cut answer to the problem, the matter shall be decided by the Director, Classified Human Resources, subject to petition for review to the Personnel Commission. The Personnel Commission is open to responsible suggestions to amend Rules which prove to be unclear or subject to more than one interpretation. However, no Rule amendment or new Rule shall have retroactive application.

**REFERENCE:** 1. Education Code Section 45260

**1.1.3 GENERIC TERMINOLOGY:** As used in these rules, the term his refers to feminine gender as well as masculine. Singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

**REFERENCE:** 1. Education Code Sections 73-74 and 45260

**1.1.4 JUDICIAL REVIEW:** If a judicial review or a change in law causes any portion of these Rules to become invalid or unenforceable, such finding or amendment shall not affect the validity or the enforceability of the other Rules or Regulations.

**REFERENCE:** 1. Education Code Sections 6 and 45260

**1.1.5 PRINTING AND DISTRIBUTION OF RULES AND REGULATIONS:** The rules of the commission and copies of this article shall be printed and made available or electronically transmitted to each school, office, and permanent worksite where employees report, and shall be distributed to school libraries for loan to employees.

**REFERENCE:** 1. Education Code Section 45260-45262

**1.1.6 SUBJECTS OF RULES:** The Rules and Regulations shall provide for the procedures to be followed by the District as they pertain to the Classified Service regarding such matters as applications, examinations, eligibility, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job examinations and evaluations, rejection of unfit applicants, and any other matters deemed necessary by the Personnel Commission to ensure the efficiency of the Classified Service and the selection and retention of employees upon a basis of merit and fitness.

**REFERENCE:** 1. Education Code Sections 45260-45261

**1.1.7 EFFECTIVE DATE:** The Rules and Regulations shall be effective the date approved by the Personnel Commission and shall not have retroactive effects.

## **1.2 DEFINITIONS**

**ACT or THE ACT:** The Act shall mean those sections of the Education Code of the State of California applying to the "Merit System" for classified employees in certain school districts that have adopted the Merit System. It shall include all of the provisions of Article 6, Chapter 5, Part 25, as well as the provisions of Chapter 1 and Articles 1 to 4 of Chapter 5 in Part 25.

**ALLOCATION:** The official placing of a position in a given class by the Personnel Commission, or the assignment of a class to a salary schedule or rate.

**ANNIVERSARY DATE:** The date on which an employee is granted an earned salary increment.

**APPEAL:** A formal objection to the imposition of disciplinary action by the Board of Trustees and request for hearing filed by an employee with the Personnel Commission.

**APPLICANT:** A person who has filed a District application to participate or compete in the District's selection process. (See also New Applicant.)

**APPOINTING AUTHORITY:** The Board of Trustees at the Vista Unified School District or its designees, or the Personnel Commission when referring to Personnel Commission employees and positions.

**APPOINTMENT:** The official act of the appointing authority in approving the employment of a person in a specific position.

**ASSIGNMENT:** Placement of an appointee in a position. It also refers to the position to which the employee is placed.

**ASSIGNMENT BASIS:** The portion of the year for which employment is authorized for a specific position or class.

**BEREAVEMENT LEAVE:** A paid leave of limited duration granted to an employee upon the death of a member of his immediate family or household.

**BOARD OF TRUSTEES:** The governing body of the Vista Unified School District composed of five (5) elected representatives of the Vista Unified School District (synonymous with "Governing Board" and "Appointing Authority").

**BUMPING RIGHTS:** The right of an employee, under certain conditions, to displace another employee with less seniority in the class.

**CANDIDATE:** A person who has participated or competed in one or more portions of the District's selection process.

**CAUSE:** Those specific activities, behaviors, or events which are listed within these Rules as being subject to disciplinary action.

**CERTIFICATED SERVICE:** Those persons and positions required by law to possess credentials issued by the State Department of Education for the State of California.

**CERTIFICATION:** The submission of names, by the Director, Classified Human Resources, of candidates from an appropriate eligibility list established by the Personnel Commission or from some other source of eligibility, to the appointing power or to the department head authorized to make selections subject to the approval of the appointing power.

**CLASS:** (Sometimes referred to as "Classification") A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be assigned by the Personnel Commission to designate each position allocated to the group.

**CLASSIFICATION:** The action of the Personnel Commission in placing a position into a "Class."

**CLASSIFIED CONSULTANT:** An individual hired for a specific situation to perform work that is unique, special, and is outside the realm of those duties assigned to our regular classified employees (i.e. not commonly found in the labor market). These individuals will normally possess greater education/experience than that required of a regular classified employee.

**CLASSIFIED HUMAN RESOURCES DEPARTMENT STAFF:** (Previously referred to as the "Personnel Commission Staff") Those persons appointed by the Personnel Commission to carry out the day-to-day operations of the Personnel Commission.

**CLASSIFIED SERVICE:** All persons and positions in the District to which "The Act" applies.

**CLASS SPECIFICATION:** (Sometimes referred to as a "class description") A formal statement of title duties and responsibilities of the position(s) in the class, illustrated by examples of typical tasks, as well as the qualification requirements for employment in the position(s) in the class.

**COMMISSION:** (See Personnel Commission.)

**COMPLAINT:** An alleged violation of the Personnel Commission Rules and Regulations or provisions of the Education Code filed by an employee. This term does not apply to appeals from disciplinary actions, grievances from alleged violations of the employment contract and requests for classification study or salary review.

**CONFIDENTIAL EMPLOYEE(S):** The term applies only to an employee, who, in the course of his/her duties, has access to or possesses information relative to the school district's collective bargaining matters which, if divulged, could adversely affect the interest of the school district. Employees designated as "confidential" are precluded from participating in or belonging to any

organization which represents classified employees in their employer-employee relationship with the school district.

**CONTINUOUS EXAMINATION(S):** A procedure or procedures authorized by the Personnel Commission for the frequent testing of applicants in certain specified classes (or classifications).

**DEMOTION:** A change in assignment of an employee from a position in one class to a position in another class which is allocated to a lower maximum salary rate. A demotion may be voluntary, or the result of a disciplinary action (involuntary).

**DIFFERENTIAL OR DIFFERENTIAL PAY:** A salary allowance in addition to the basic salary rate or schedule, based upon additional skills, responsibilities, or specifically scheduled working hours. It also relates to the size of the interval(s) between steps on a salary range and/or the salary rates (ranges) of related classes.

**DIRECTOR, CLASSIFIED HUMAN RESOURCES:** (Previously referred to as "Personnel Director" and as "Director of Classified Personnel") The individual appointed by the Personnel Commission to act as the head of its Classified Human Resources Department and to act as its designated representative in administering the Merit System under the provisions of law and the Rules and Regulations established by the Personnel Commission.

**DISCHARGE OR DISMISSAL:** Separation from the Classified Service for cause in accordance with the Rules and Regulations of the Personnel Commission. Requires action by the Board of Trustees for implementation.

**DISCIPLINARY ACTION:** The suspension, demotion or dismissal of an employee for cause as defined in these Rules.

**DISTRICT:** The Vista Unified School District.

**DUAL CERTIFICATION:** A procedure authorized by the Personnel Commission which provides for simultaneous certification, under certain specific conditions, from an open eligibility list and a promotional eligibility list in accordance with the examination scores attained by the candidates.

**DUTIES STATEMENT:** A listing of the specific duties assigned to an individual position. It is sometimes referred to as a "position description" or "class description."

**ELIGIBILITY LIST:** A rank order list of the names of persons who have qualified for possible employment through one of the District's competitive examination processes.

**ELIGIBLE:** A person who meets the minimum qualification requirements for employment in the position, who attains a satisfactory score on any and all required examinations and/or interviews and whose name appears on the eligibility list for the position.

**EMERGENCY APPOINTMENT:** The assignment of an individual to a regular classified position for a period of time, not to exceed fifteen (15) working days, in order to prevent the stoppage of public business when persons on an eligibility list are not immediately available.

**EMPLOYEE:** A person who is legally an incumbent of a position, or one who is on the authorized leave of absence.

**EMPLOYMENT LIST:** A list of names from which certifications(s) may be made. The term includes eligibility lists, reemployment lists, as well as lists of individuals who wish to be transferred, demoted, reinstated or re-employed after resignation, or those who wish to be reinstated to a former class after voluntary demotion or reduction to limited term status.

**EMPLOYMENT STATUS:** The condition of an employee's present appointment indicating the degree of permanency with the District.

**EXAMINATION:** The process of testing and evaluating the fitness and qualifications of applicants.

**EXEMPT CLASSIFIED:** Refers to those positions and employees exempt from the regular Classified Service as provided in "The Act".

**EXHAUSTED LIST:** A list of eligibles from which it is impossible to fill a regular full-time or part-time vacancy. A list may be considered exhausted when only two (2) eligibles remain. A list may be exhausted for part-time positions, yet remain in effect for full-time positions, or vice-versa.

**FIELD OF COMPETITION:** Those categories of persons (either from within or outside of the District) that have been identified by the Personnel Commission or its designated representative as possessing the necessary qualifications to participate in the District's selection process.

**FISCAL YEAR:** July 1st of one (1) year through June 30th of the following year.

**FULL-TIME POSITION:** A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is equal to or greater than eighty-seven and a half percent (87.5%) of the normally assigned time of the majority of employees in the Classified Service of the District.

**GOVERNING BOARD:** The Board of Trustees of the Vista Unified School District (see "Board of Trustees" and/or "Appointing Authority").

**GRIEVANCE:** An alleged violation, disagreement, misinterpretation, misapplication, and/or misimplementation of a specific provision of the negotiated employee agreement/contract between the District and the employee association filed by an employee, group of employees or the employee association. This term does not apply to appeals from disciplinary actions; complaints alleging violations of the Personnel Commission Rules and Regulations, Board of Trustee Policies, District Administrative Procedures or provisions of the Education Code;] requests for classification studies; or salary reviews.

**GROUP:** A number of classes related in duties and responsibilities as set forth in the list of classes promulgated by the Personnel Commission.

**HEARING:** A formal presentation and review of evidence, in the presence of the parties involved, in a disciplinary action imposed on an employee and appealed by the employee.

**HIRE DATE:** Date of original or most recent employment with the District. For purposes of establishing an anniversary date the first of the month.

**ILLNESS:** Any pronounced deviation from a normal, healthy state which makes it disadvantageous to the District and/or detrimental to the employee for him to be at work.

**ILLNESS LEAVE:** Paid or unpaid leave given to an employee because of personal illness or injury. Illness leave (known as sick leave) may also be used for specified personal emergencies of limited duration.

**INCUMBENT:** An employee assigned to a position and currently serving in, or on leave from, that position.

**INTERVIEW:** Part of the selection process, usually the final portion of an examination, for the purpose of evaluating the education, experience, and personal qualifications of the candidate(s); also known as an "oral interview." This term also applies to a meeting between an eligible and the appointing power, or its designated representative, to discuss appointment to a specific position vacancy within the District.

**INVESTIGATION:** A fact-finding procedure related to an appeal, a petition or a complaint. An investigation is less formal than a hearing.

**INVOLUNTARY LEAVE:** Leaves of absence resulting from a disciplinary action; a suspension.

**JOB AUDIT:** A personnel job evaluation technique by which the Classified Human Resources Department staff uses various combinations of job audit questionnaires, personal interviews, as well as work site observations and conversations, to collect data on the duties, tasks and responsibilities of a position.

**LAYOFF:** Separation from a permanent position because of lack of work, lack of funds, or because the position has been abolished or reclassified, or because an employee has exhausted all leave privileges after illness or accident. A layoff shall also include any reduction in hours of employment of assignment to a class or grade lower than that in which the employee has probationary or permanent status, voluntarily consented to by the employee, in order to avoid interruption of employment by layoff.

**LEAVE OF ABSENCE:** An approved absence from duty, with or without pay, for a prescribed period of time from a class, but not necessarily from a specific position within the class.

**LIMITED TERM:** A term used in the Education Code and these rules to designate employment for periods of time not to exceed six (6) calendar months, or employment of a temporary employee to substitute during the authorized absence of a permanent employee.

**LIMITED TERM EMPLOYEE:** An employee who is serving as a substitute for a regular employee, or serving in a position established for a limited and specified period of time of six (6) months or less.

**LOYALTY OATH (OR AFFIRMATION):** A statement required for each new employee concerning their support of the United States and California Constitutions; as required by State law and/or school district policy.

**MERGING:** The act of combining two (2) or more eligibility lists for the same class, which were established no more than a year apart, in the rank order of the scores of the eligibles. Even though the eligibility lists have been merged, each list individually expires one (1) year following the date on which it was established by the Personnel Commission; not following the date on which they were merged.

**MERIT SYSTEM:** A personnel management system in which comparative merit and fitness govern each individual's selection and progress through the Classified Service.

**MILITARY LEAVE:** Authorized absence to engage in ordered military duty.

**NEW APPLICANT:** A person who has filed a District application to participate or compete in the Districts selection process and has never been or has not been an employee of the District for sixty-three (63) months prior to the receipt of the application by the District.

**OPEN EXAMINATION:** A competitive examination in which any qualified applicant can compete.

**PART-TIME POSITION:** A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than eighty-seven and a half percent (87.5%) of the normally assigned time of the majority of employees in the Classified Service.

**PERFORMANCE EVALUATION:** A formal written statement of the quantity and/or quality of the work performed or the manner in which duties and responsibilities are carried out by a person employed in the District's Classified Service.

**PERMANENT EMPLOYEE:** In reference to the District's employment status, an employee who has completed an initial probationary period of one hundred thirty (130) days of paid regular service in the Classified Service (excluding days absent for illness or injury), or two hundred sixty (260) days (excluding days absent for illness or injury) for positions designated by Personnel Commission rule as executive, administrative, or supervisory. In reference to employment status in a specific class, an employee who has completed a probationary period for that class.

**PERMANENT POSITION:** A position established for a continuing and indefinite or unlimited period of time, or for a fixed period of time, in excess of six (6) months.

**PERSONAL EMERGENCY LEAVE:** A leave of absence with pay for a limited duration which may be taken for reasons of personal emergency as specified in the Collective Bargaining Agreement and the Rules and Regulations of the Personnel Commission. Such leave is charged against the employee's earned cumulative sick leave and is limited to a maximum of six (6) days per school year.

**PERSONAL NECESSITY LEAVE:** A leave of absence with pay for an unlimited duration which may be taken for reasons of personal need as specified in the Education Code, Collective Bargaining Agreement, and the Rules and Regulations of the Personnel Commission. Such leave is charged against the employee's earned cumulative sick leave.

**PERSONNEL COMMISSION:** The three (3) member committee established pursuant to "The Merit System Act", as in the Education Code Sections 45220-45320 to administer the Merit System in the Vista Unified School District including the establishment of rules and regulations to govern the Classified Service and the oversight of the actions of the Board of Trustees and/or administration in carrying out the requirements of "The Merit System Act" and the Rules and Regulations of the Personnel Commission. The Classified Human Resources Department is the administrative staff of the Personnel Commission.

**POSITION:** A group of duties and responsibilities assigned by competent authority which requires either full-time or part-time employment of one person on a permanent or limited-term basis. A position can only be established by action of the Board of Trustees, or by the Personnel Commission for a member of its own staff.

**POSITION CLASSIFICATION:** The process of categorizing jobs by occupational group, series, class, and grade, according to similarities and differences in duties, responsibilities and qualification requirements.

**PRIVILEGE:** A benefit that is discretionary (that which may or may not be granted); in contrast to a right (that which must be granted).

**PROBATIONARY PERIOD:** A trial period of one hundred thirty (130) days, or two hundred sixty (260) days for executive/administrative/supervisory employees, of paid service (excluding days absent for illness or injury) following appointment to a permanent position from an appropriate eligibility list.

**PROBATIONER:** An employee who has not completed the required probationary period.

**PROFESSIONAL EXPERT:** A person employed by the District in a professional capacity for a specific limited term project. Such persons are excluded from the Classified Service.

**PROMOTION:** A change in the assignment of an employee from a position in one class to a position in another class with a higher maximum salary rate.

**PROMOTIONAL LIST:** An eligibility list resulting from a promotional examination limited to qualified employees of the District.

**PROVISIONAL APPOINTMENT:** A temporary appointment of a person to a permanent or limited term position which is made in the absence of an appropriated eligibility list for a period of time not to exceed ninety (90) working days except in specified circumstances.

**PROVISIONAL EMPLOYEE:** A person employed temporarily while the examination process is being conducted to fill the position.

**REALLOCATION:** Movement of an entire class from one (1) salary range or hourly rate to another salary range or hourly rate on the basis of either internal or external alignment or a change in the salary-setting basis for the class.

**RECLASSIFICATION:** The removal of a position or positions from one (1) class and placement into another. A change in class assignment (upward or downward) as a result of a change in duties.

**REEMPLOYMENT:** Return to duty of a former employee who has been laid off. Also applies to former employees of the District who are returned to duty for limited period of time following their retirement(s).

**REEMPLOYMENT LIST:** A list of names, in rank order of seniority, of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, abolishment or reclassification of positions, exhaustion of illness or accident leave privileges, or other reasons specified in the Rules and Regulations of the Personnel Commission, and who are eligible for reemployment without examination in their former class or classes within a period of thirty-nine (39) months following the last day of employment with the District.

**REGULAR APPOINTMENT:** An appointment made from an eligibility list to fill a regular full-time or part-time position vacancy.

**REGULAR EMPLOYEE:** An employee who has probationary or permanent status with the District.

**REGULAR STATUS:** Probationary or permanent status in the Classified Service of the District.

**REHIRE DATE:** The date of most recent regular employment with the District.

**REINSTATEMENT:** A reappointment of a former employee, within a period of thirty-nine (39) months following the date of his/her resignation, without examination; to a position in one of the person's former classes, or in a related lower class. Such reappointment requires the District to restore all rights and benefits previously earned by the person prior to the resignation.

**RESIGNATION:** A voluntary statement from an employee requesting to be separated from employment.

**RESTORATION:** The reinstatement to duty of an employee or former employee with all of the rights, benefits, and burdens held prior to the break in service. This term includes reemployment as well as reinstatement following demotion or dismissal when an appeal is sustained by the Personnel Commission.

**RESTRICTED:** Specially funded classes, positions, and employment where competition is limited to persons in low income groups, from designated impoverished areas, and other criteria which restrict the privileges of all citizens to compete for employment.

**RIGHT:** A benefit which is bestowed on a person by law or rule and must be granted to the person.

**RULE OF THREE:** The scope of choice available to the appointing authority or power for making its selection from an eligibility list. Specifically, it refers to selection from the first three (3) ranks of eligibles that are ready, willing, and able to accept appointment to a specific position.

**RULES AND/OR REGULATIONS:** As used in this context refers to the Vista Unified School District Personnel Commission Rules and Regulations of the Classified Service.

**SALARY ANNIVERSARY DATE:** The date on which the employee is granted an earned salary increment.

**SALARY RANGE:** A series of consecutive salary steps that comprise the rates of pay for a classification. A salary range usually consists of seven (7) steps.

**SALARY RANGE PLACEMENT:** The act of placing a specific classification onto a specified range of the salary schedule or salary matrix by the Personnel Commission.

**SALARY RATE:** That amount of money authorized to be paid on an hourly, daily, weekly, monthly, or annual basis for a particular classification, assignment or contract.

**SALARY SCHEDULE:** The complete list of ranges, steps, and rates of pay for the Classified Service.

**SALARY STEP:** A specific rate of pay in a salary range. One of the consecutive rates that comprise a salary range, and paid on an hourly or monthly basis.

**SALARY SURVEY:** The collection of current wage and salary data for the purpose of determining the prevailing wage for certain types of work. The data is usually secured from other public agencies and from private sector businesses in the labor market area. The term also includes the written report containing the data collected.

**SENIOR MANAGEMENT:** Positions designated by the Board of Trustees which meet the requirements of Section 45108.5 of the Education Code.

**SENIORITY:** Status secured by length of service (in a classification) to which certain rights attach; including, but not limited to, the calculation of extra points for employees taking promotional examinations, and for determining the order of layoff when positions within a classification are being eliminated or reduced in work hours.

**SEPARATION:** Leaving one's employment with the District. This term includes resignation, dismissal, layoff, retirement, etc. The ending of all status as an employee.

**SERIES:** A number of classes closely related in an occupational hierarchy and arranged in a list in order to indicate levels in a group. The occupational hierarchies established by the Personnel Commission are composed of various series of classes.

**STATUS:** The employee's present standing in the Classified Service, i.e., temporary, limited-term, probationary, permanent, etc.

**STEP ADVANCEMENT:** Movement (on the established anniversary date each year) to a higher step on the salary range for the class as a result of having served the required number of months in the class during the preceding year; until the maximum step (usually the seventh step) has been achieved.

**SUBSTITUTE EMPLOYEE:** A person who is temporarily occupying a regular position during the absence of the incumbent; may also be referred to as a "limited-term employee."

**SUSPENSION:** An enforced absence of an employee without pay for disciplinary purposes, or pending the outcome of an investigation of charges that have been filed against the employee.

**TERMINATION:** The ending of an incumbent's assignment or appointment. (See Resignation.)

**TRANSFER:** The reassignment of an employee without examination from one (1) position to another position within the same class, or to a position in a similar or related class (as determined by the Personnel Commission) having the same salary range, in another school or department.

**UNCLASSIFIED SERVICE:** All positions which (by law) are not a part of either the Classified Service or the Certificated Service of the District.

**UNSATISFACTORY SERVICE:** The performance of assigned duties and responsibilities in a manner which is considered detrimental to the good of the District, or the failure to perform for the good of the District while not on duty.

**VETERANS' CREDIT:** Five (5) points, or ten (10) points for persons disabled as the result of military service, for military or related service rendered during time of war or national emergency, and which are to be added to the final passing score of such person or persons competing in an open examination.

**WAIVER:** The voluntary relinquishment by an eligible of a right to be considered for appointment from an employment list to one (1) or more position locations, or for a specified or unlimited period of time not to exceed the limited duration of the employment list.

**WORKDAY:** That part of a twenty-four (24) hour period during which an employee is scheduled to work in accordance with his/her specific assignment.

**Y-RATE:** A salary step, range and/or rate placement which is different from that to which the employee would otherwise be entitled.

**REFERENCE:** 1. Education Code Sections 45103, 45127, 45194, 45207, 45256, 45260, 45261, 45262, 45269, 45270, 45275, 45285, 45286, 45287, 45290, 45292, 45294, 45296, 45298, 45301, 45302, 45305, 45307 and 45309

### 1.3 VIOLATION OF MERIT SYSTEM LAWS

**1.3.1 VIOLATION SHALL BE CRIMINAL ACT:** Any person who willfully or through culpable negligence violates any of the provisions of Article 6, commencing with Section 45240 of the Education Code is guilty of a misdemeanor.

**REFERENCE:** 1. Education Code Section 45317

**1.3.2 OTHER UNLAWFUL ACTS:** In addition to the prohibition on unlawful acts outlined in Chapter 1.3.1, it is also unlawful for any person:

**1.3.2.1** Willfully, either alone or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to any right of examination, application, or employment under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission.

**1.3.2.2** Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission, or to aid in doing, or make any false representation concerning the same of the person examined.

**1.3.2.3** Willfully to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under the Merit

System laws of the Education Code or the Rules and Regulations of the Personnel Commission.

**REFERENCE:** 1. Education Code Section 45317

## CHAPTER 2

### THE PERSONNEL COMMISSION

---

#### 2.1 ORGANIZATION OF THE PERSONNEL COMMISSION

**2.1.1 TERM(S) OF OFFICE AND GENERAL SELECTION PROCEDURES:** The Personnel Commission is composed of three (3) individuals who must be registered voters, reside in the Vista Unified School District, and be 'known adherents to the principle of the Merit System.' One (1) member of the Personnel Commission is appointed by the Board of Trustees, one (1) member is appointed by the Board of Trustees upon the recommendation of the classified employee organization which represents the largest number of the District's classified employees, and the third (3rd) member is appointed by the other two (2) members of the Personnel Commission.

**2.1.1.1** No member of the governing board of any school district or a county board of education shall be eligible for appointment, reappointment, or continuance as a member of the Personnel Commission. During a Personnel Commissioner's term of office, a member of the Personnel Commission shall not be an employee of the Vista Unified School District.

**2.1.1.2** As used in this chapter, known adherent to the principle of the Merit System, with respect to a new appointee, shall mean a person who by the nature of his/her prior public or private service has given evidence that he/she supports the concept of employment, continuance in employment, in-service promotional opportunities, and other related matters on the basis of merit and fitness. As used in this chapter, "known adherent to the principle of the Merit System," with respect to a candidate for reappointment, shall mean a Personnel Commissioner who has clearly demonstrated through meeting attendance and actions that he/she does, in fact, support the Merit System and its operation.

**2.1.1.3** By law, the term of office for each of the Personnel Commissioners is for a three (3) year period and expires at noon on December 1st of the third (3rd) year. The terms of office have been scheduled so that the term of office of not more than one (1) Personnel Commissioner expires each December 1st.

**REFERENCE:** 1. Education Code Sections 45244, 45245, 45246 and 45247

**2.1.2 SPECIFIC APPOINTMENT PROCEDURES:** On or about September 1st of each year, the Director, Classified Human Resources shall notify the Board of Trustees and the recognized classified employee organization(s) of the name and home address of the Personnel Commissioner whose term will be expiring and whether or not that Personnel Commissioner will accept reappointment for another three-year term. The notification will also provide the name of the appointing authority, and the procedures to be followed in filling the upcoming vacancy.

**2.1.2.1 The Board of Trustees Appointments:** By September 30th, the Board of Trustees shall publicly announce the name of the person it intends to appoint or reappoint. At a board meeting to be held after thirty (30) and within forty-five (45) days of the date the Board of Trustees publicly announced the candidate, the Board of Trustees shall hold a public hearing to provide the public, employees, and employee organizations the opportunity to express their views on the qualifications of the person recommended by the Board of Trustees for appointment. The Board of Trustees at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

**2.1.2.2 The Classified Employees' Appointment:** By September 15th, the classified employee organization having authority to nominate the classified employees' appointee to the Personnel Commission shall publicly submit the name of the person it wishes appoint to the Personnel Commission. At a board meeting to be held after thirty (30), and within forty-five (45) days of the date the employees' nominee was submitted to the Board of Trustees, the Board of Trustees shall hold a public hearing to provide the public, employees, Board of Trustees, District Administration, and employee organizations the opportunity to express their views on the qualifications of the person nominated by the classified employee organization for appointment. The Board of Trustees shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board of Trustees shall then appoint the new nominee.

**2.1.2.2.1** If the Board of Trustees and the classified employees are unable to agree upon a nominee (because the Board of Trustees has made a legitimate claim as to the lack of mandated qualifications of the nominee), or the classified employee organization has refused to submit a nominee by September 30th, the Executive Officer of the State Personnel Board shall, within thirty (30) days, make the necessary appointment.

**2.1.2.2.2** In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on September 1st of the year in which the classified employees' appointment is to be made shall be the one authorized to submit the recommended appointment to the Board of Trustees for action as required by law and these Rules and Regulations.

**2.1.2.2.3** In the event that the classified employees have no exclusive representative, the Director, Classified Human Resources shall solicit nominees from the classified employees. Those qualified nominees accepting the nomination shall be placed on a ballot for a vote by all classified employees of the District. The name of the nominee receiving the greatest number of votes cast in a secret ballot shall be submitted to the Board of Trustees for appointment to fill the vacancy.

**2.1.2.2.4** In the event that a vacancy is created on the Personnel Commission because of the classified employees' failure to agree upon a nominee, the Board of Trustees, upon the recommendation of the Director, Classified Human Resources, may make an emergency appointment only until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

**2.1.2.3 The Commissioners' Appointment:** By September 30th, the appointee of the Board of Trustees and the appointee of the classified employees (or the appointee of the Executive Officer of the State Personnel Board if that is the situation) shall publicly announce the name of the person they intend to appoint or reappoint. At a Personnel Commission meeting to be held after thirty (30), and within forty-five (45) days of the date the Personnel Commission publicly announced its candidate, the Personnel Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board of Trustees the opportunity to express their views on the qualifications of the person recommended

by the Personnel Commissioner for appointment. The Personnel Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

**2.1.2.3.1** In the event that a vacancy would otherwise exist on the Personnel Commission as of December 1st because of the failure of the Personnel Commission to take action on a new appointment, the Personnel Commissioner's prior appointee shall continue in office and to function as a member of the District's Personnel Commission until such time the Personnel Commissioners take the necessary actions(s) to appoint a qualified successor and that person is prepared to assume the duties and responsibilities of the position. If the reason for the lack of appointment is an inability to agree upon a joint appointee, the appointment shall be made by the Executive Officer of the State Personnel Board if no agreement is reached by December 15th.

**REFERENCE:** 1. Education Code Sections 45244-45248  
2. Government Code Section 1302

**2.1.3 FILLING OF VACANCIES DURING TERM OF OFFICE:** In the event that a vacancy occurs during the term of office of any of the Personnel Commissioners, a new appointee shall be selected by the original appointing authority to complete the unexpired term in accordance with the procedures noted below. The Director, Classified Human Resources shall immediately notify the other Personnel Commissioners, the Board of Trustees and the recognized classified employee organization(s) of the name of the Personnel Commissioner, the effective date of the vacancy, the duration of the unexpired term, the name of the appointing authority, and the procedures to be followed in filling the vacancy.

**2.1.3.1 The Board of Trustees Appointment:** Within fifteen (15) days of notification of the vacancy, the Board of Trustees shall publicly announce the name of the person it intends to appoint to fill the unexpired term. At a board meeting to be held after thirty (30) and within forty-five (45) days of the date the Board of Trustees publicly announced its candidate, the Board of Trustees shall hold a public hearing to provide the public, employee, and employee organizations the opportunity to express their views on the qualifications of the person recommended by the Board of Trustees for appointment. The Board of Trustees at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

**2.1.3.2 The Classified Employee's Appointment:** Within fifteen (15) days of notification of the vacancy, the classified employee organization having authority to nominate the classified employees' appointee to the Personnel Commission, shall publicly submit the name of the person it wishes to appoint to the Personnel Commission to fill the unexpired term. At a board meeting to be held after thirty (30) and within forty-five (45) days of the date the employees' nominee was submitted to the Board of Trustees, the Board of Trustees shall hold a public hearing to provide public, employees, Board of Trustees, District Administration, and employee organizations the opportunity to express their views on the qualifications of the person nominated by the classified employee organization for appointment. The Board of Trustees shall appoint the nominee unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board of Trustees shall then appoint the new nominee.

**2.1.3.2.1** If the Board of Trustees and the classified employees are unable to agree upon a nominee because the Board of Trustees has

made a legitimate claim as to the lack of mandated qualifications of the nominee or the classified employee organization has refused to submit a nominee within thirty (30) days of notification of the vacancy, the Executive Officer of the State Personnel Board shall, within thirty (30) days, make the necessary appointment.

**2.1.3.2.2** In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the district's classified staff on September 1st of the year in which the classified employees' original appointment was made shall be the one authorized to submit the recommended appointment to the Board of Trustees for action as required by law and these Rules and Regulations.

**2.1.3.2.3** In the event that the classified employees have no exclusive representative, the Director, Classified Human Resources shall solicit nominees from the classified employees. Those qualified nominees accepting the nomination shall be placed on a ballot for a vote by all classified employees of the District. The name of the nominee receiving the greatest number of votes cast in a secret ballot shall be submitted to the Board of Trustees for appointment to fill the vacancy.

**2.1.3.2.4** In the event that the vacancy goes unfilled because of the classified employees' failure to agree upon a nominee, the Board of Trustees, upon the recommendation of the Director, Classified Human Resources, may make an emergency appointment only until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

**2.1.3.3 The Personnel Commissioner's Appointment:** Within fifteen (15) days of notification of the vacancy, the appointee of the Board of Trustees and the appointee of the classified employees (or the appointee of the Executive Officer of the State Personnel Board if that is the situation) shall publicly announce the name of the person they intend to appoint to fill the vacancy. At a Personnel Commission meeting to be held after thirty (30), and within forty-five (45) days, of the date the Personnel Commission publicly announced its candidate, the Personnel Commission shall hold a public hearing to provide the public, employee, employee organizations, the members of the Board of Trustees the opportunity to express their views on the qualifications of the person recommended by the Personnel Commissioners or appointment. The Personnel Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

**2.1.4 EMERGENCY APPOINTMENT OF PERSONNEL COMMISSIONERS:** Notwithstanding these Rules, the Board of Trustees at the request of the Director, Classified Human Resources shall declare that an emergency exists and shall make one interim appointment to fill a vacancy to insure the continuance of the hiring functions of the Personnel Commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

**2.1.4.1** An interim appointee must meet the requirements of Section 45244 of the Education Code and Rule 2.1.1, and be free of the restrictions contained therein.

**2.1.4.2** An interim appointment in no event shall be valid for more than sixty (60) calendar days.

**REFERENCE:** 1. Education Code Section 45244, 45248, 45260 and 45261

**2.1.5 OFFICERS:** At its first regularly scheduled meeting in December of each year, the Personnel Commission shall elect one of its members to serve as Chairperson and another of its members to serve as Vice-Chairperson for a period of one (1) year or until such time as their successors are duly elected. The Director, Classified Human Resources shall serve as Secretary to the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Government Code Section 1302

**2.1.6 QUORUM AND MAJORITY VOTE:** Two (2) members of the Personnel Commission shall constitute a quorum for any regular or special meeting of the Personnel Commission. The affirmative vote of at least two (2) members of the Personnel Commission is required to carry any motion or action.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Government Code Section 54952.6

**2.1.7 COMPENSATION OF PERSONNEL COMMISSION MEMBERS:** Upon approval of the Board of Trustees, the members of the Personnel Commission shall receive compensation at the rate of fifty dollars (\$50) per meeting, not to exceed two hundred-fifty dollars (\$250) per month. The members of the Personnel Commission shall also be entitled to the same health insurance plans of the District as approved by the Board of Trustees.

**2.1.8 EVENTS CAUSING VACANCY BEFORE EXPIRATION OF TERM:** Personnel Commissioners shall be expected to attend all regular and special meetings of the Personnel Commission. If a member is unable to attend a scheduled meeting, the member shall contact the Director, Classified Human Resources to inform the Personnel Commission of the expected absence. A member of the Personnel Commission shall be deemed to have vacated the seat of the Personnel Commission on the happening of any of the following events before the expiration of the prescribed term:

**2.1.8.1** The death of the Personnel Commissioner.

**2.1.8.2** An adjudication pursuant to a quo warrant proceeding declaring that the Personnel Commissioner is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the Personnel Commissioner will not be able to perform the duties of the office for the remainder of the term.

**2.1.8.3** The Personnel Commissioner's resignation.

**2.1.8.4** The Personnel Commissioner's removal from office by a court of competent jurisdiction.

**2.1.8.5** The Personnel Commissioner ceasing to meet all the legal requirements to continue to be a Personnel Commissioner as outlined in Chapter 2.1.1.

**2.1.8.6** The Personnel Commissioner's absence exceeding four (4) total regular meetings in a fiscal year, except when prevented by sickness, or excused absence.

**2.1.8.7** The Personnel Commissioner's conviction of a felony or of any offense involving a violation of the official duties of a Personnel Commissioner as required by these Rules and/or the law. A Personnel Commissioner shall be deemed to have been convicted under this Rule when trial court judgment is entered.

**2.1.8.8** The decision of a competent tribunal declaring void the Personnel Commissioner's appointment.

**2.1.8.9** The Personnel Commissioner's commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict. In this event, the office shall not be deemed vacant until the order of commitment has become final.

**REFERENCE:** 1. Government Code Section 1060 et seq., 1750, 1770, 3000, 3001, 3100 and 3753  
2. Penal Code Sections 1026 and 1368 et seq.  
3. Welfare and Institutions Code Section 5008 and 6300 et seq.  
4. Education Code Sections 45244, 45245, 45246 and 45247

**2.1.9 REMOVAL OF PERSONNEL COMMISSIONER FOR CAUSE BY PERSONNEL COMMISSION:** Unless one of the causes for vacating a Personnel Commissioner's position is ordered by a court of competent jurisdiction, the Personnel Commission shall be required to declare the position vacant pursuant to this Rule. The Personnel Commission may declare a position vacant pursuant to Chapter 2.1.8 only by majority vote of the Personnel Commission. Such action must be taken at a regular or special meeting of the Personnel Commission, and the proposed declaration of vacancy must be listed as an action item on the official published agenda for said meeting. A copy of the agenda must be delivered in the usual and prescribed manner required by these rules to the Personnel Commissioner being subjected to possible removal (except in cases of a decedent). The Personnel Commission shall solicit input from the Board of Trustees and the employee organizations(s), if any, prior to the final vote. If the majority of the Personnel Commissioners votes to declare a seat vacant, the Personnel Commission shall direct the Director, Classified Human Resources to so inform the removed Personnel Commissioner in writing. The Director, Classified Human Resources shall initiate the necessary legal steps to fill the vacancy as mandated by the Education Code and these Rules and Regulations.

**REFERENCE:** 1. Government Code Section 1060 et seq., 1750, 1770, 3000, 3001, 3100 and 3753  
2. Penal Code Sections 1026 and 1368 et seq.  
3. Welfare and Institutions Code Section 5008 and 6300 et seq.  
4. Education Code Sections 45244, 45245, 45246 and 45247

## **2.2 MEETINGS OF THE PERSONNEL COMMISSION**

**2.2.1 REGULAR MEETINGS:** Subject to cancellation or proper change, the Personnel Commission shall meet on the second (2nd) Tuesday of each month at 4:30 p.m. in the Vista Unified School District Board Room. Whenever the regularly scheduled meeting date happens to fall on a holiday, the Personnel Commission shall meet on the next succeeding Tuesday unless the Personnel Commission at the prior regular meeting takes an action to designate some other day for its meeting.

**2.2.1.1** In cases of emergency, the Personnel Commission may meet at some other time and/or place, provided that at least seventy-two (72) hour notice is given to representatives of the employee organizations and the District's administration as well as being posted on the Personnel Commissioner's official bulletin board.

**REFERENCE:** 1. Education Code Section 45260  
2. Government Code Section 54952-54952.3  
3. Government Code Section 54956.5

**2.2.2 ADJOURNED REGULAR MEETINGS:** The Personnel Commission may adjourn any regular or previously adjourned meeting to a time and place specified in the order of adjournment. When so adjourned, the reconvened meeting is a regular meeting for all intents and purposes. When an order of adjournment of a regular meeting or of a previously adjourned meeting fails to state the hour at which the reconvened meeting is to be held, it shall be held at the hour normally designated for regular Personnel Commission meetings.

**REFERENCE:** 1. Education Code Section 45260  
2. Government Code Sections 54952, 54952.3 and 54956.5

**2.2.3 SPECIAL MEETINGS:** Special meetings may be called at any time by the Personnel Commission Chairperson or by the written request of any member of the Personnel Commission. Written notice for any such meeting shall be delivered personally or by mail to each member of the Personnel Commission. A written notice of such meeting shall also be provided to any of the following persons or organizations if they have filed written requests to be notified of the dates and times of the Personnel Commission meetings: each local newspaper of general distribution, radio or television stations, as well as representatives of any recognized employee organization or group, the Board of Trustees and the Superintendent of Schools. Such notice must be delivered personally or by mail at least seventy-two (72) hours before the time of such meeting as specified in the notice. A copy of the notice shall also be posted on the Personnel Commission's official bulletin board. The meeting notice shall specify the time and place of the special meeting as well as the business to be transacted and no other business shall be considered at that meeting.

**REFERENCE:** 1. Education Code Section 45260  
2. Government Code Section 54956

**2.2.4 PUBLIC MEETINGS:** All regular and special meetings of the Personnel Commission shall be open to the public, and all persons shall be permitted to attend any of the Personnel Commission's meetings except as provided for in Chapter 2.2.5. This Rule shall not be construed as authorizing employees to be absent from duty for attendance at Personnel Commission meetings, unless they have specific business before the Personnel Commission.

**REFERENCE:** 1. Education Code Section 45260  
2. Government Code Sections 54952, 54952.3, 54952.5 and 54953

**2.2.5 CLOSED SESSIONS:** A closed session may be conducted only during a regular or special meeting of the Personnel Commission that has been called with proper notification. Prior to or after holding a closed session, the Personnel Commission shall state the general reason(s) for the closed session and may cite the statutory or other legal authority under which the session is/was being held. In the closed session, the Personnel Commission may consider only those matters covered in its statement of reasons. In the case of a special, an adjourned, or a continued meeting, the statement of reasons shall be made as part of the written meeting notice for such special, adjourned, or continued meeting. In giving the general reason or reasons for holding a closed session, the Personnel Commission is not required or authorized to give names or other information which might constitute an invasion of privacy or otherwise unnecessarily divulge protected facts and information for which the closed session is being held.

**2.2.5.1** The Personnel Commission shall publicly report, in the public portion of the meeting in which the closed session is being held or at its next public meeting, any action taken by the Personnel Commission in the closed session and any roll call vote taken on such items as appointment, employment or dismissal of any classified employee arising during the closed session.

**2.2.5.2** The following are legally authorized exceptions to the open meeting requirement:

- 2.2.5.2.1 Appointment, employment, dismissal, or evaluation of employees.
- 2.2.5.2.2 Consideration of complaints brought against employees.
- 2.2.5.2.3 Consideration of matters affecting national security.
- 2.2.5.2.4 Consideration of legal matters coming within the purview of the attorney/client relationship.
- 2.2.5.2.5 Discussions relative to negotiations, conciliation, mediation, or other matters affecting classified employee labor relations as provided for in Government Code Section 2500 et seq. a meeting on this item may only be held if the Personnel Commission has a representative involved in the negotiating process. If the Personnel Commission has no representative and is not conducting negotiations itself, it cannot hold a closed session relative to discussing matters within the scope of negotiations.

**2.2.5.3** The Personnel Commission may hold closed sessions during any regular or special meeting to consider the appointment, employment, performance evaluation, inquiry for filed complaints or disciplinary matters. As a condition of holding a closed session on the complaint, formal charges, or a disciplinary matter, the affected employee shall be given a written notice regarding the matter and the right to have a public inquiry rather than in a closed session; such notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time scheduled to hold the regular or special Personnel Commission meeting. If notice is not given as prescribed, any action taken by the Personnel Commission relative to the employee shall be null and void. During the examination of a witness, the Personnel Commission may exclude other witnesses even though the inquiry is held as part of a public meeting. If an inquiry is held in closed session, the Personnel Commission may exclude other witnesses as well as the general public while the matter is being investigated. Following the public hearing or closed session, the Personnel Commission may deliberate on the matter and reach its decision in a closed session.

**2.2.5.4** A violation of the confidentiality of a closed session by a member of the Personnel Commission constitutes a misdemeanor under the provisions of Government Code Sections 1222 and 1770 (h). Repeated violations of the confidentiality of a closed session by a Personnel Commissioner may be considered grounds for removal from office.

- REFERENCE:**
- 1. Education Code Sections 35146, 49073, 54957, 54957.1, 54957.2, 54957.6 and 54957.7
  - 2. Government Code Sections 1222, 1770, 3543, 3543.2 and 3549.1

**2.2.6 AGENDA AND SUPPORTING DATA:** Insofar as possible, at least seventy-two (72) hours or twenty-four (24) hours prior to every special meeting, the agenda shall be provided to the designated representatives of all employee organizations representing classified employees, the Personnel Commission members, and the Superintendent of Schools. The agenda(s) will be posted on the Personnel Commission's official bulletin board, and distributed to the news media having requested it/them.

**2.2.6.1** When practicable, supporting data for agenda items will be furnished prior to the meeting date.

**2.2.6.2** Individual employees, employee organizations, and other interested parties may submit their written views on any item on the agenda, except for those matters listed in Personnel Commission Rule 2.2.5, (closed sessions) and/or given a reasonable opportunity to present their views orally during the Personnel Commission meeting. In reaching its decisions, the Personnel Commission has made it a policy to consider all comments and recommendations made to it in this manner.

**2.2.6.3** District personnel, representatives of recognized employee organizations, representatives of the Board of Trustees, District administrators, or other interested parties may submit items to be placed on a Personnel Commission agenda by submitting the items to the Director, Classified Human Resources not less than seven (7) calendar days prior to the scheduled Personnel Commission meeting at which the item is to be considered.

**REFERENCE:** 1. Education Code Section 45260

**2.2.7 AMENDMENTS, DELETIONS, OR ADDITIONS TO RULES:** All proposals, from any source, to amend, delete, or add to these Rules and Regulations will be considered for a "first reading" at the meeting in which they are first presented to the Personnel Commission. They will not, unless an emergency exists, be acted upon when presented for a "first reading."

**2.2.7.1** On a first reading, the Personnel Commission will set a date for Personnel Commission action on the proposal, which date shall normally be the next regularly scheduled Personnel Commission meeting. The Director, Classified Human Resources will refer the proposed Rule changes to the designated representatives of recognized employee organizations representing the District's classified employees, the Superintendent, The Board of Trustees, and others who have indicated their interest in such matters in order to provide them an opportunity to submit their comments or recommendations.

**2.2.7.2** Insofar as possible, the interested parties shall submit their reactions and/or recommendations to proposed Rule changes in writing on or before the stipulated agenda deadline date (see Chapter 2.2.6). However, those who also want to speak to the item(s) at the Personnel Commission meeting will be given that opportunity as provided in Chapter 2.2.6 (Agenda and Supporting Data).

**REFERENCE:** 1. Education Code Section 45260

**2.2.8 MINUTES:** The Director, Classified Human Resources, in his/her capacity as Secretary to the Personnel Commission, shall record in the minutes the time and place of each Personnel Commission meeting, the names of the Personnel Commissioners present, all official acts of the Personnel Commission, and the votes of the Personnel Commissioners. When requested by a Personnel Commissioner, the Director, Classified Human Resources shall record that Personnel Commissioner's approval or dissent and any expressed reasons therefore.

**2.2.8.1** The minutes of each meeting shall be reduced to written form and presented to the Personnel Commission for correction and/or approval at the next regularly scheduled meeting of the Personnel Commission.

**2.2.8.2** The minutes of each Personnel Commission meeting or a true copy thereof shall be open and available for public inspection.

**2.2.8.3** Copies of the Personnel Commission's minutes shall be distributed to the designated representatives of all employee organizations representing the District's classified employees, the Personnel Commission members, the Board of

Trustees, the Superintendent of Schools, and others who have indicated their interest in such matters.

**REFERENCE:** 1. Education Code Section 45260

## **2.3 PERSONNEL COMMISSION EMPLOYEES**

**2.3.1 STATUS OF PERSONNEL COMMISSION EMPLOYEES:** The Director, Classified Human Resources and other persons required to carry out the day-to-day responsibilities of the Personnel Commission shall be selected by the Personnel Commission or its designated representative and shall be employees of the Personnel Commission. The Personnel Commission shall decide on how those employees will be utilized and determine the assigned time of each employee reporting to the Personnel Commission. However, the persons so employed shall be a part of the District's Classified Service and subject to all of the Rules, procedures, benefits, and burdens pertinent to the Classified Service; except as the Personnel Commission may specifically direct.

**REFERENCE:** 1. Education Code Section 45260 and 45264

**2.3.2 GENERAL DUTIES OF THE DIRECTOR, CLASSIFIED HUMAN RESOURCES:** The Director, Classified Human Resources shall perform all of the duties assigned and carry out all of the functions imposed upon this position by law and these Rules and Regulations. The Director, Classified Human Resources shall act as Secretary to the Personnel Commission, and shall issue and receive all notifications on its behalf. The Director, Classified Human Resources shall direct and supervise the employees of the Personnel Commission, and conduct administrative transactions consistent with the law as well as the proper functioning of the office and staff of the Personnel Commission.

**2.3.2.1** In cases where two (2) or more Rules or Regulations appear to be in conflict, or when no Rule provides a clear-cut answer to the problem, the matter shall be decided by the Director, Classified Human Resources, subject to petition/complaint to the Personnel Commission.

**2.3.2.2** Under agreement with the Board of Trustees, the Director, Classified Human Resources shall also perform all Board of Trustees related functions of administering the classified personnel management program, and shall serve as the advisor to the Superintendent and the Board of Trustees on classified personnel matters.

**REFERENCE:** 1. Education Code Sections 45260-45261, 45266 and 45312

## **2.4 COMMUNICATIONS**

**2.4.1 COMMUNICATIONS:** Communications and requests shall, when practicable in the opinion of the Personnel Commission, be in writing. Communications and requests shall be acknowledged and replied to, noting official Personnel Commission action whenever it is appropriate to do so.

**2.4.1.1** Individuals or groups who wish to present proposals for action by the Personnel Commission shall present their requests to the Director, Classified Human Resources for placement on the Personnel Commission agenda. Although the Personnel Commission may, on occasion, designate one of its members to investigate a specific subject or matter, it is against the policy of the Personnel Commission to take up or consider any proposals except at open meetings.

**2.4.1.2** Since it is against the policy of the Personnel Commission to take up or consider matters except at open meetings, individuals or groups who seek interviews with particular Personnel Commissioners regarding matters which may later be placed

before the Personnel Commission for consideration, shall be referred to the Classified Human Resources Department Office. Such individuals or groups will be asked to put the matter(s) in writing so that they may properly be placed on a Personnel Commission agenda.

**REFERENCE:** 1. Education Code Section 45260

## **2.5 PERSONNEL COMMISSION BUDGET**

**2.5.1 BUDGET:** The Director, Classified Human Resources shall, at the first Personnel Commission meeting in April of each year, prepare and submit to the members of the Personnel Commission a proposed operating budget for the next ensuing fiscal year.

**REFERENCE:** 1. Education Code Sections 45253 and 45260

**2.5.2 PUBLIC HEARING IN MAY:** After preparation review and study, the Personnel Commission shall provide for a public hearing on its proposed budget, such hearing to be held not later than May 30th of each year.

**REFERENCE:** 1. Education Code Sections 45253 and 45260

**2.5.3 INPUT SOUGHT:** Prior to the public hearing on its budget, the Personnel Commission shall forward a copy of its proposed budget to the Board of Trustees indicating the time, date, and place of the public hearing, and shall invite the Board of Trustees and District Administration representatives to attend the meeting and to present their views regarding the proposed budget. The Personnel Commission shall fully consider the views and opinions expressed by the Board of Trustees and Administration representatives in adopting its budget for the ensuing fiscal year.

**REFERENCE:** 1. Education Code Sections 45263 and 45260

**2.5.4 ADOPTED BUDGET FORWARDED TO COUNTY SUPERINTENDENT:** Following its adoption of a proposed budget for the ensuing year, the Personnel Commission shall then forward its adopted budget to the San Diego County Superintendent of Schools for approval.

**REFERENCE:** 1. Education Code Sections 45253 and 45260

**2.5.5 COUNTY MAY HOLD PUBLIC HEARINGS:** If the Board of Trustees of the District does not feel that its views as expressed during the Personnel Commission's public hearing on the budget have been fully considered by the Personnel Commission in the adoption of the budget, the Board of Trustees may then forward its concerns to the San Diego Superintendent of Schools. The San Diego Superintendent of Schools, upon receipt of the Board of Trustees' objections or concerns, will schedule a public hearing on the budget concerns. The public hearing shall be held within the boundaries of the District.

**REFERENCE:** 1. Education Code Sections 45253 and 45260

**2.5.6 ADOPTION OF BUDGET BY COUNTY:** The County Superintendent may reject the Personnel Commission's adopted budget, but may not amend the budget without the approval of the Personnel Commission. In the absence of agreement between the Personnel Commission and the County Superintendent of Schools regarding the amount of money to be budgeted for the Personnel Commission's operations, the amount of the prior year's budget, adjusted upward for any salary and fringe benefit increases granted to classified employees by the District, shall determine the amount of the new Personnel Commission budget. However, the items of expenditure within that new budget shall be determined by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45253 and 45260

## **2.6 PERSONNEL COMMISSION ANNUAL REPORT**

**2.6.1 ANNUAL REPORT:** The Director, Classified Human Resources shall prepare an annual report of the Personnel Commission's activities. When approved by the Personnel Commission, the annual report shall be submitted to the Board of Trustees at a regular Board meeting for its review.

**2.6.1.1** The report shall be prepared for Personnel Commission approval as soon as possible after the close of each fiscal year but no later than the Personnel Commission's first (1st) regularly scheduled meeting in November. The report shall cover the Personnel Commission's activities for the preceding fiscal year.

**REFERENCE:** 1. Education Code Section 45266

## **2.7 LEGAL COUNSEL FOR THE PERSONNEL COMMISSION**

**2.7.1 LEGAL COUNSEL:** The legal counsel for the Board of Trustees shall also aid and represent the Personnel Commission in all legal matters. If such counsel refuses, or if the Personnel Commission or legal counsel determines that a conflict of interest may exist, the Personnel Commission may employ its own legal counsel and the reasonable cost therefore shall constitute a legal charge against the District's general funds.

**REFERENCE:** 1. Education Code Section 45313

## CHAPTER 3

### POSITION CLASSIFICATION PLAN

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#### 3.1 THE CLASSIFIED SERVICE

**3.1.1 POSITIONS INCLUDED:** All positions established by the Board of Trustees which are not exempt from the Classified Service by law shall be a part of the Classified Service of the District. All employees serving in the District's classified positions shall be classified school employees. The employees and positions shall be known as the Classified Service.

**REFERENCE:** 1. Education Code Sections 44065, 44066, 44068, 44069, 45103, 45104, 45105, 45105.1, 45106, 45108, 45256, 45256.5 and 45269

**3.1.2 EXEMPTION FROM THE CLASSIFIED SERVICE:** Positions required by law to have certification qualifications, full-time day students employed part-time, part-time students employed part-time in any college work-study program or in a legally authorized work experience program conducted by a community college district, apprentices, and professional experts employed on a temporary basis for a specific project by the Board of Trustees or by the Personnel Commission shall be exempt from the Classified Service.

**REFERENCE:** 1. Education Code Sections 44065, 44066, 44068, 44069, 45103, 45204, 45205, 45205.1, 45106, 45108, 45256, 45256.5, 45257, 45258, 45259, 51760, 51760.3 and 51765

*Revised 03/12/2019*

**3.1.3 "PART-TIME" DEFINED:** A part-time position for the purpose of exemption under Personnel Commission Rule 3.1.2 is a temporary position for which the assigned time, when computed on a monthly basis is less than eighty-seven and a half percent (87.5%) time of the normally assigned time for the majority of employees in the classification to which assigned, or the majority of the employees in the Classified Service, whichever amount of time is the lesser.

**REFERENCE:** 1. Education Code Sections 45256 and 45260

**3.1.4 EFFECT OF EXEMPTION:** Any position or employee totally exempted from the Classified Service by law shall be excluded from the benefits and burdens imposed by these Rules and Regulations, except as otherwise provided by law, the Board of Trustees, or these Rules and Regulations.

**REFERENCE:** 1. Education Code Sections 44065, 45103, 45105.1, 45106, 45256, 45257, 45258 and 45260

**3.1.5 PROFESSIONAL EXPERT ASSIGNMENTS:** Whenever the use of a professional expert assignment is being contemplated, the administration shall submit to the Director, Classified Human Resources a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to the employee so assigned, nor shall a limited-term position be filled by the assignment of a professional expert if the duties and responsibilities to be performed by the person fit an existing class for which a reemployment or an eligibility list exists.

**3.1.5.1** When the person is known who is to be employed as a professional expert, the person's name as well as the data relative to his/her qualifications shall be submitted to the Director, Classified Human Resources. In order to be exempted from the Classified Service as a professional expert, an individual must be

recognized as such by reputable members of his/her own profession. Evidence of professional qualifications must be presented to the Personnel Commission at the time that the written request for such temporary appointment is made. The duration of the authorization for a person to serve as a professional expert shall be determined by the Personnel Commission, based upon the request of the Board of Trustees. However, authorization for service as a professional expert shall not exceed six (6) months. Under extraordinary circumstances, the Personnel Commission may approve an extension of the assignment, with the total period of the original assignment and extension not to exceed twelve (12) months.

**REFERENCE:** 1. Education Code Sections 45256 and 45260

**3.1.6 RESTRICTED POSITIONS:** If specially-funded programs of the District are required, as a part of such program, to employ persons of low-income groups, from designated impoverished areas and such other criteria that limits the privilege of all citizens to compete for employment in such positions, those positions shall (in addition to the regular class title) be classified as "restricted." The selection and retention of employees in such positions shall be made on the same basis as that of persons selected and retained in positions that are a part of the regular school program, except that persons employed in the following "restricted" classifications need not participate in the same type of selection processes as other similar non-restricted positions: 1) The position of Instructional Assistant (Restricted), and 2) Any other position involving personal contact with pupils or parents established to assist regular school personnel that are responsible for school-community relations, educational support services, or prevention of behavioral problems.

**3.1.7 EMPLOYMENT OF COLLEGE STUDENTS UNDER CERTAIN PROGRAMS:** Full-time students employed part-time and part-time students employed part-time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Education Code Sections 51760 - 51770, and which is financed by state or federal funds, shall not be part of the Classified Service. The District may employ such students pursuant to the Education Code. Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45261 and 51760–51770

### **3.2 GENERAL CLASSIFICATION RULES**

**3.2.1 ASSIGNMENT OF DUTIES:** The Board of Trustees shall prescribe the duties and responsibilities of all positions in the Classified Service except those on the Personnel Commission (Classified Human Resources Department) staff. When the duties being performed by an employee are found to be inconsistent with the duties officially assigned to a specific position, the Director, Classified Human Resources shall report the facts to the responsible administrator in order that appropriate action may be taken.

**REFERENCE:** 1. Education Code Sections 45100, 45104, 45105, 45105.1, 45109, 45240, 45241, 45264 and 45266

**3.2.2 THE GENERAL CLASSIFICATION PLAN:** The Personnel Commission shall classify all employees and positions within the jurisdiction of the Board of Trustees or the Personnel Commission, except those positions which the Personnel Commission determines are exempt from the Classified Service pursuant to Rule 3.1.2. The Personnel Commission shall maintain a classification plan for all positions in the Classified Service. The Personnel Commission may create new classes and abolish, divide, or combine existing classes within the classification plan as the needs of the Classified Service require as determined by the Personnel Commission. The list of classes shall contain designation of the salary

rate or range applicable to each class. For purposes of this Rule, classification shall include, but not be limited to:

**3.2.2.1** Allocation of all positions to appropriate classes.

**3.2.2.2** Arrangement of classes into occupational hierarchies (job families).

**3.2.2.3** Determination of reasonable percentage relationships between classes within the occupational hierarchies.

**3.2.2.4** Determination of reasonable percentage relationships between occupational hierarchies.

**3.2.2.5** Preparation of written class specifications.

**REFERENCE:** 1. Education Code Sections 45100, 45104, 45105, 45105.1, 45109, 45241 and 45256

**3.2.3 CLASS SPECIFICATIONS:** For each classification or class of positions in the Classified Service, as initially established or subsequently altered by the Personnel Commission, the Personnel Commission shall establish and maintain a class specification, which shall include:

**3.2.3.1** The official class title.

**3.2.3.2** A definition of the class, indicating the type of duties and responsibilities, as assigned by the District, and placement within the organizational scheme.

**3.2.3.3** A statement of the examples of duties and essential functions to be performed by persons holding positions allocated to the class. The Personnel Commission shall develop this statement from the list of duties presented to it by the Board of Trustees.

**3.2.3.4** A statement of the minimum qualifications for service in the particular class. The minimum qualifications may include education, experience, knowledge, skills, abilities and personal characteristics.

**3.2.3.5** A statement about any license, certificates, or other special requirements for employment or service in the particular class.

**3.2.3.6** A statement about any physical requirements required of positions in the class, and working conditions.

**3.2.3.7** A statement about any additional qualifications considered to be so desirable that any person applying for employment who possesses such qualifications may be given additional credit in the evaluation of his/her qualifications, even though such additional qualifications were not listed as a prerequisite.

**3.2.3.8** Minimum qualifications shall not require a teaching, administrative, or other credential, nor may they require work experience which would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials.

**3.2.3.9** The title of the class shall be used as the title of all positions in the class on payrolls submitted to the Personnel Commission for auditing and in the records and correspondence of the Personnel Commission and the Board of Trustees.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45273, 45276, 45277, 45285

and 45285.5

**3.2.4 INTERPRETATION OF CLASS SPECIFICATIONS:** The class specifications and their various parts have the following force and effect:

**3.2.4.1** The definition and typical tasks are descriptive and explanatory only and not restrictive, indicating the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities, and qualifications requirements and to not prescribe what these details shall be in respect to any position.

**3.2.4.2** The use of a particular expression or illustration as to duties, responsibilities, qualification requirements or other attributes is typical or descriptive of the class and does not exclude others not mentioned but of similar kind and/or quality as determined by the Personnel Commission.

**3.2.4.3** The specification for each class is considered as a whole in determining the class to which any position shall be allocated, giving consideration not to isolated clauses, phrases or words, but to the general duties, responsibilities, specific tasks and qualification requirements as affording a picture of the positions that the class includes.

**3.2.4.4** Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series in such manner as to maintain a proper relationship in the series in which the class is located and proper differentiation within the group of classes.

**3.2.4.5** Qualifications commonly required of all positions and incumbents within the District, such as good physical condition, citizenship or other legal right of employment in this country, honesty, sobriety, freedom from drug addiction, and personal industry, are included as part of the minimum qualifications requirements in the specifications even though they are not specifically listed therein.

**3.2.4.6** The statement of qualification requirements, when considered with other parts of the specification, is to be used as a guide in the announcement and preparation of tests and in the evaluation of the qualifications of candidates seeking appointment, but does not require a particular form or content of test or testing procedure.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45273, 45276, 45277, 45276, 45277, 45285 and 45285.5

**3.2.5 CREATION OF NEW POSITIONS:** When the Board of Trustees creates a new position it shall submit the duties officially assigned to the position, in writing, to the Director, Classified Human Resources. The Board of Trustees may recommend minimum educational and work experience requirements for the position. The Director, Classified Human Resources shall present recommendations to the Personnel Commission for action. The Personnel Commission shall:

**3.2.5.1** Determine if the new position shall be a part of the Classified Service or exempt under Rule 3.1.2.

**3.2.5.2** Classify the position and determine whether the position should be allocated to an existing class or whether a new class should be established.

**3.2.5.3** If a new class is recommended, the Director, Classified Human Resources shall set forth a proposed class specification setting out the title, duties as established by the Board of Trustees, qualifications, and other requirements of a class

specification. The qualifications approved by the Personnel Commission must reasonably relate to the duties assigned to the position by the Board of Trustees.

**3.2.5.4** The Personnel Commission shall recommend the proper salary placement on the appropriate classified salary schedule.

**3.2.5.5** The Director, Classified Human Resources shall notify the Board of Trustees of the Personnel Commission's action.

**REFERENCE:** 1. Education Code Sections 45104, 45105, 45105.1, 45109, 45241 and 45256

**3.2.6 ALLOCATION OF POSITIONS TO EXISTING CLASSES:** All positions substantially similar as to the duties performed and the responsibilities exercised by incumbents of such positions as well as their qualification requirements shall be allocated to the same class.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45273, 45276, 45285 and 45285.5

**3.2.7 CHANGES IN DUTIES OF POSITIONS:** Any substantial change in the duties of existing positions shall be promptly reported in writing by the appointing authority or designated representative to the Director, Classified Human Resources, who shall conduct a review to determine whether the position should be allocated to a new or different class. Should a change in classification be warranted or necessary, the Director, Classified Human Resources shall submit recommendations to the Personnel Commission for action.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45273, 45276, 45277, 45285 and 45285.5

**3.2.8 WORKING OUT OF CLASSIFICATION:** Each classified employee shall be required to perform the duties approved by the Board of Trustees and classified by the Personnel Commission for the class to which the employee is assigned. Classified employees shall not be required to perform duties and responsibilities which are not fixed and prescribed for their positions for any period of time which exceeds two (2) working days within a fifteen (15) day calendar period, except as provided by this Rule. An employee may be worked beyond the scope of the duties normally assigned to the employee's position provided that the employee's salary is adjusted as follows:

**3.2.8.1** When a regular employee in the Classified Service works in a higher classification for a period of time which exceeds two (2) working days within a fifteen (15) day calendar period, the salary of the employee shall be adjusted upward for the entire period of working out of classification.

**3.2.8.2** Minimum amount of said out of class pay shall be five percent (5%).

**3.2.8.3** No more than two (2) employees in a department or at a site shall be asked to work out of classification to cover the same vacancy in the department.

**3.2.8.4** It is the employee's responsibility to request payment for working out of class assignment.

**3.2.8.5** If an employee is required to perform duties which are not allocated to an existing class, the assignment shall be reported to the Director, Classified Human Resources in writing so that a review may be conducted to determine the appropriate pay differential for the temporary assignment.

- 3.2.8.6** Request for differential pay for working out of class shall be submitted to the Director, Classified Human Resources as soon as possible after the assignment has been made.
- 3.2.8.7** Working out of class assignments are designed for temporary situations and shall not be used to place an employee in a long term or permanent assignment in a higher or different classification. No employee shall be assigned to work out of class for more than ninety (90) days in one (1) fiscal year or for more than one (1) assignment without the approval of the Personnel Commission. An example of the kind of exemption allowed by the Personnel Commission would be the temporary replacement of an employee on a long-term illness leave where the employee is assigned to work out of class for the duration of the absent employee's leave.
- 3.2.8.8** A claim for a pay differential for working out of class may be submitted by the employee or the supervisor. The Director, Classified Human Resources will notify the supervisor upon receipt of a claim submitted by an employee.
- 3.2.8.9** A claim for pay differential for working out of class must contain a list of the assigned duties.
- 3.2.8.10** The Director, Classified Human Resources shall review the duties assigned to the position and shall determine if the assigned duties are at a higher level and shall recommend an appropriate pay differential consistent with these Rules to the Personnel Commission.
- 3.2.8.11** If the review by the Director, Classified Human Resources determines that the assigned duties are not at a higher level, the Director, Classified Human Resources shall notify the employee and the appropriate supervisor and present the finding to the Personnel Commission at the next regular meeting of the Personnel Commission.
- 3.2.8.12** These Rules shall not be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.

**REFERENCE** 1. Education Code Sections 45110, 45256, 45260, 45285 and 45285.5

**3.2.9 POSITIONS REQUIRING SPECIAL LANGUAGE OR SKILLS:** The Board of Trustees may request that the Personnel Commission designate certain positions within a class or classes to require the holder of the position to possess a special skill, license, or language. The District must clearly set forth valid reasons for requesting such special requirements. The duties of the position must be the same as those for all other positions within the classification, except for this one (1) special requirement. There can be only one (1) special requirement for a position. Examples of special skills could include a position in the Instructional Assistant classification which has a need for the incumbent to read, speak, and write Spanish; an administrative secretary class where one position requires the use of shorthand skills; and a Gardener classification where one (1) position requires a pesticide certificate.

**3.2.9.1** An announcement calling for an examination for a class with position(s) containing special requirements will contain appropriate information and will indicate that successful candidates possessing the special skill will be given preference over other successful candidates, as authorized in Chapter 5.2.4, but only as to those specific positions.

**3.2.9.2** When a vacancy occurs in a position which has approved special skill requirements, the position shall revert to the standard requirements unless the Board of Trustees states that the position should still possess the special requirements and the Personnel Commission concurs.

**3.2.9.3** If a request to designate a position in a class as requiring a special skill is challenged, the Personnel Commission shall cause a proper investigation to be made, and shall consider the findings and all other pertinent data presented by any concerned and responsible source prior to taking final action on the request.

**3.2.9.4** Layoffs in classifications with positions established pursuant to this Rule shall be conducted pursuant to Chapter 20.

**REFERENCE:** 1. Education Code Sections 45104, 45105, 45105.1, 45109, 45241, 45256 and 45277

**3.2.10 CONFIDENTIAL DIFFERENTIAL:** The Board of Trustees pursuant to Government Code Section 3540.1 may designate certain positions confidential. Employees filling positions designated confidential must, in the course of their regular duties, have regular access to, or possess information relating to, the District's confidential employer-employee relations positions and proposals. The Board of Trustees determination to make a position confidential is subject to review by the Personnel Commission. The Personnel Commission does not have the right to overturn the Board of Trustees' designation of a position as confidential, but has the right to inform the Board of Trustees of its position regarding classification and relationships.

**REFERENCE:** 1. Education Code Sections 45104, 45105, 45105.1 45109, 45241 and 45277

### **3.3 RECLASSIFICATION**

**3.3.1 RECLASSIFICATION/REVIEW POLICY:** The Personnel Commission shall maintain a system whereby the Director, Classified Human Resources shall review or have reviewed the responsibilities of positions as necessary to determine their proper classification and shall cause all positions to be reviewed at least once every four (4) years.

**3.3.1.1** The only basis for reclassification of a position shall be the gradual accretion or growth of duties. Recommendations as to gradual accretion will be made by the Director, Classified Human Resources. The Personnel Commission shall be the final approving authority.

**3.3.1.2** Classification reviews for unusual needs or priorities may be authorized as determined by the Request for a reclassification study of an existing position shall be presented on a form approved by the Personnel Commission to the Director, Classified Human Resources, together with a statement setting forth the reasons for the request. These requests may be initiated by an employee, the District Administration, or a recognized employee organization. Requests initiated by an employee or an employee organization shall include a listing of duties and a statement indicating the reasons the employee feels a reclassification is justified. Requests initiated by the District Administration shall include the above information as well as a statement by the employee's supervisor verifying the authorized duties of the position.

**3.3.1.3** If the Director, Classified Human Resources finds that a position or positions should be reclassified, he/she shall advise the Administration of the findings. If the Administration verifies the duties of the position, or if the duties are not revised to fit within the correct classification, the Director, Classified Human Resources shall

report his/her findings to the Personnel Commission for appropriate action. The Director, Classified Human Resources shall also report the finding in cases where the review indicates that a change of classification is unwarranted.

**3.3.1.4** The determination of how the study would be done and who would do it would be made each year by the Personnel Commission. Studies could be conducted by the Director, Classified Human Resources with temporary staff assistance, outside consultants or a combination of these individuals. The cost to conduct the studies would be included in the annual operation budget of the Personnel Commission. The four (4) year study would cover the following job families Instructional/School Support/Library Media, Transportation/Warehouse Food Services, Maintenance/Operations, and Accounting/Clerical Secretarial/Office Information Systems, Print/Purchasing.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45268, 45285 and 45285.5

**3.3.2 EFFECTIVE DATE OF RECLASSIFICATION:** Reclassification of a position or positions shall become effective on the date prescribed by the Personnel Commission, but shall not have retroactive effect. Changes in classification and salary resulting from the permanent reclassification of a position(s) shall be effective no later than whichever of the following dates is applicable: The first (1st) of the month following the Personnel Commission approval of the reclassification, provided the employee is eligible to be reclassified with the position without examination as specified in these rules; or the first (1st) of the month following the date on which the employee becomes fully qualified for the position by successfully completing all parts of the selection procedure.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45268, 45285 and 45285.5

**3.3.3 NOTIFICATION OF RECLASSIFICATION:** Notification of a recommendation for the classification or reclassification of a position or employee shall be given to the employee(s) affected, their exclusive representative, the employee's supervisor, and the District Administration before the classification proposal is adopted.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45268, 45285 and 45285.5

**3.3.4 RECLASSIFICATION OF VACANT POSITION:** If a reclassification occurs to a vacant position, the position shall be filled through normal selection procedures.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45268, 45285 and 45285.5

**3.3.5 EFFECTS OF RECLASSIFICATION ON INCUMBENTS:** Whenever a position or entire classes of positions are reclassified the rights of incumbents will be determined in accordance with these Rules and Regulations.

**3.3.5.1 RECLASSIFICATION UPWARD:** When all of the positions in a class are reclassified to a higher class, the incumbents of the positions who have been in the class for two (2) or more years may be reclassified by the Personnel Commission with their positions.

**3.3.5.1.1** When one (1) or more within a class, but not all of the positions within that class, are reclassified upward, the Incumbent(s) in the position who has a continuous employment record of two (2) or more years in one (1) or more of the positions being reclassified may be reclassified by the Personnel Commission with the position.

**3.3.5.1.2** In order for an incumbent to be reclassified with the position, the basis for the reclassification of the position must be the gradual accretion of duties and not a sudden change occasioned by reorganization or the assignment of completely new duties and responsibilities. Determination as to the gradual accretion of duties will be on the basis of the guidelines provided by the Rules and Regulations of the Personnel Commission.

**3.3.5.1.3** An employee who has been reclassified with his/her position shall be ineligible for subsequent reclassification with his/her position for a period of at least two (2) years from the date of the prior reclassification action.

**3.3.5.1.4** Those incumbents not able to be reclassified with their positions shall have an opportunity to compete in the Personnel Commission's selection process for promotion into the higher class.

**3.3.5.2 RECLASSIFICATION EQUAL OR LOWER:** When a position or group of positions is reclassified to a class with an equal or lower wage or salary range, an incumbent shall have the following rights:

**3.3.5.2.1** The right to bump a less senior employee in the same class pursuant to bumping procedures outlined in the layoff provisions of these Rules.

**3.3.5.2.2** The right to bump a less senior employee in any equal or lower class in which the incumbent formerly served, pursuant to bumping procedures outlined in the layoff provisions of these Rules.

**3.3.5.2.3** The right to be demoted or to transfer, without examination to the class to which his/her position is reclassified.

**3.3.5.2.4** The employee may choose to transfer, demote, or exercise bumping rights at the employee's option, and his/her choice shall not affect the employee's rights under Personnel Commission Rule 3.3.7.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45268, 45285 and 45285.1

**3.3.6 DEFINITION OF GRADUAL ACCRETION:** For purposes of these guidelines, three (3) or more years of regular service shall be interpreted to mean assignment for at least three (3) complete years within the assignment basis of the class or position. Determination as to gradual accretion will be based on an analysis of data to be supplied by the division or school, as well as the Classified Human Resources Department staff, regarding the following guideline factors:

**3.3.6.1** The nature and scope of each identified change in duties and responsibilities.

**3.3.6.2** The exact or approximate date the incumbent began the performance of the newly acquired duties and responsibilities.

**3.3.6.3** The conditions which led to the association of the added duties and responsibilities with the subject position(s).

**3.3.6.4** Evidence of the employee's performance of the added duties and responsibilities.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45268, 45285 and 45285.1.

**3.3.7 EFFECT ON REEMPLOYMENT AND ELIGIBILITY LISTS:** The reclassification of all positions in a class automatically reclassifies the mandatory reemployment list (if any) for that class. The Personnel Commission shall also review the appropriateness of the current eligibility list for the class to determine whether or not it should be reclassified. Salary reallocations of classes shall have no effect on lists unless a specific finding to the contrary is made by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45268, 45285 and 45285.1

### **3.4 SENIOR MANAGEMENT EXEMPTIONS**

**3.4.1 BOARD MAY DESIGNATE POSITIONS AS SENIOR MANAGEMENT:** The Board of Trustees may adopt a resolution designating certain positions as senior management of the Classified Service. Notwithstanding the provisions of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code (The Rodda Act), the decision of the Board of Trustees shall not be deemed a matter subject to negotiation with any exclusive certified employee organization. The decision of the Board of Trustees to make a position senior management shall be subject to review by the Public Employment Relations Board.

**3.4.1.1** No position funded in whole or in part by the Personnel Commission shall be made a part of the senior management of the Classified Service by the Board of Trustees without the concurrence of the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45256.5, 45260 and 45261  
2. Government Code Sections 3540-3549.3

**3.4.2 SENIOR MANAGEMENT PART OF THE CLASSIFIED SERVICE:** Employees whose positions are designated as senior management of the Classified Service shall be a part of the Classified Service, and shall be afforded all rights, benefits, and burdens of other classified employees, except that they shall be exempt from all provisions relating to obtaining permanent status in a senior management position.

**REFERENCE:** 1. Education Code Sections 45256.5, 45260 and 45261

**3.4.3 DEFINITION OF SENIOR MANAGEMENT:** Positions designated senior management must conform to either of the following two (2) definitions in order to be legally declared senior management of the Classified Service:

**3.4.3.1** An employee in the highest position in a principal district program area, as determined by the Board of Trustees, which does not require certification qualifications, and which has district-wide responsibility for formulating policies or administering the program area.

**3.4.3.2** An employee who acts as the fiscal advisor to the Superintendent.

**REFERENCE:** 1. Education Code Sections 45108.5, 45260 and 45261

**3.4.4 MAXIMUM NUMBER OF POSITIONS:** The maximum number of positions which may be designated as senior management positions shall be as follows:

**3.4.4.1** If the District has less than ten thousand (10,000) units of average daily attendance (ADA), two (2) positions.

**3.4.4.2** If the district has ten thousand (10,000) to twenty-five thousand (25,000) units of average daily attendance (ADA), inclusive, three (3) positions.

**3.4.4.3** If the District has twenty-five thousand and one (25,001) to fifty thousand (50,000) units of average daily attendance (ADA), inclusive, four (4) positions.

**3.4.4.4** If the District has more than fifty thousand (50,000) units of average daily attendance (ADA), five (5) positions.

**REFERENCE:** 1. Education Code Sections 45108.5, 45260 and 45261

**3.4.5 WAIVER REQUEST FOR ADDITIONAL POSITIONS:** The Board of Trustees may apply to the State Board of Education to waive the provisions of Section 45108.5 of the Education Code for the purpose of expanding the number and type of senior management positions. If the Personnel Commission does not agree with the Board of Trustees' request for additional senior management positions, the Personnel Commission shall have the right to file a waiver protest with the State Board of Education.

**REFERENCE:** 1. Education Code Sections 45108.7, 45260 and 45261

**3.4.6 FILLING SENIOR MANAGEMENT POSITIONS:** Positions in the senior management of the Classified Service shall be filled using the Rules and Regulations of the Personnel Commission except as noted below:

**3.4.6.1** The position shall be filled from an unranked eligibility list developed by the Personnel Commission and arrived at by competitive examination(s) as determined by the Personnel Commission. The examination shall include test segments that will allow the candidates to demonstrate managerial ability.

**3.4.6.2** The appointing authority shall have the right to interview all eligible candidates certified by the Personnel Commission from the unranked list.

**3.4.6.3** The Personnel Commission shall determine the minimum qualifications for the position designated senior management, taking particular note of managerial ability necessary to successfully perform in the position and that the final eligibility list shall be unranked rather than ranked.

**REFERENCE:** 1. Education Code Sections 45256.5, 45260 and 45261

**3.4.7 IMPACT OF SENIOR MANAGEMENT DESIGNATION ON INCUMBENTS:** Any classified employee already serving in a position which is subsequently designated senior management of the Classified Service shall retain all rights, burdens and benefits of employment in the Classified Service, including the right to obtain or retain permanency and tenure. The incumbent's eventual successor in the position shall not be entitled to permanency rights in the senior management position.

**REFERENCE:** 1. Education Code Sections 45256.5, 45260 and 45261

**3.4.8 ABOLITION OF SENIOR MANAGEMENT POSITION:** The Board of Trustees may adopt a resolution abolishing any or all positions of the senior management of the Classified Service. An employee occupying a senior management position abolished by the action shall become a member of the Classified or Certificated Service in a position to which he or she would otherwise be entitled if the employee had not been a member of the senior management of the Classified Service.

**3.4.8.1** If the employee in the senior management of the Classified Service had been a member of the regular Classified or Certificated Service, he/she shall be entitled

to a position which is the same as, or similar to, the position to which he or she holds rights outside of the senior management of the Classified Service.

**REFERENCE:** 1. Education Code Sections 45104.5, 45260 and 45261

**3.4.9 NOTIFICATION OF REASSIGNMENT OR DISMISSAL:** Notice of reassignment or dismissal from a position in the senior management of the Classified Service shall be provided in accordance with the following provisions:

**3.4.9.1** The senior management employee may be given a contract of employment stating specific term of employment which shall not exceed three (3) years duration from the effective date of the contract.

**3.4.9.2** The Board of Trustees, with the consent of the employee concerned, may at any time terminate, effective on the next succeeding first (1st) day of July, the term of employment of, and any contract of employment with, a member of the senior management of the Classified Service; and reelect or reemploy the employee, on those terms and conditions as may be mutually agreed upon by the Board of Trustees and the employee, for a new term to commence on the effective date of the termination of the existing term of employment and contract. No contract of employment shall violate any provisions of the Education Code or these Rules and Regulations except as expressly allowed by statute.

**3.4.9.3** In the event the Board of Trustees determines that an employee in the senior management of the Classified Service is not to be reelected or reemployed as such upon the expiration of the employee's term, he/she shall be given written notice thereof by the Board of Trustees at least forty five (45) calendar days in advance of the expiration of the employee's term.

**3.4.9.4** In the event the Board of Trustees fails to reelect or reemploy an employee as a member of the senior management of the Classified Service and the written notice required in Chapter 3.4.9.3 has not been given, the employee shall be deemed reelected for a term of the same length as the one just completed, and under the same terms and conditions of employment (including compensation).

**3.4.9.5** The notice not to reelect or reemploy an employee who is a member of the senior management of the Classified Service shall be in writing and served in person or by certified mail (Return Receipt Requested) to the employee. This requirement will be deemed to have been met if the Notice Not to Reelect or Reemploy is sent certified mail to the last known home address on file in the Classified Human Resources Department Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. The responsibility for keeping the District informed of a home address is the requirement of the employee. For purposes of this Rule, if a notice is mailed, the second (2nd) working day following the postmark date of the notice shall be considered to be the official date of receipt.

**REFERENCE:** 1. Education Code Sections 35031, 45256.5, 45260 and 45261

## CHAPTER 4

### APPLICATION FOR EMPLOYMENT

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#### 4.1 APPLICATION

**4.1.1 FILING OF APPLICATIONS:** All applications for employment shall be made on the official forms furnished by the Personnel Commission. Every item shall be answered in full and the application filed in the Classified Human Resources Department Office on or before the time and date specified in the official vacancy notice.

**4.1.1.1** Applicants taking more than one (1) examination must file a separate and complete application for each examination unless otherwise directed.

**4.1.1.2** For affirmative action and federal/state reporting purposes, questions regarding ethnicity, sex, age, and handicapping condition shall be placed on a separate form. Answers to such questions shall be voluntary, and no other information shall be requested relative to race, religious creed, color, national origin, ancestry, handicapping condition, medical condition, marital status, sex or age prior to employment.

**4.1.1.3** Applications and examination papers are confidential and become the property of the Personnel Commission, and shall not be returned to the applicant.

**REFERENCE:** 1. Education Code Sections 45260 and 45272

**4.1.2 GENERAL QUALIFICATIONS OF APPLICANTS:** Applicants must be permanent residents of, or must otherwise prove their right to work in the United States and must possess all other requirements that are specified in the qualifications established for the class. Every applicant must be mentally and physically competent to perform the duties of the position for which applying.

**4.1.2.1** Every qualified applicant shall have an opportunity to seek, obtain, and hold permanent employment without discrimination because of race, religious creed, color, national origin, ancestry, handicapping condition, medical condition (as defined in Government Code Section 12926), employee organization membership or non-membership and legal activities related thereto, marital status, sex, or age.

**4.1.2.2** Residency within the District shall not be a condition for filing applications or offering employment except in the case of restricted positions which require specific residency.

**4.1.2.3** No maximum age limit shall be set as a condition for initial or continued employment in the District.

**4.1.2.4** Handicapped persons shall be given equal employment opportunity and reasonable accommodation for employment shall be made.

**REFERENCE:** 1. Education Code Sections 45111, 45122, 45123, 45124, 45134, 45260 and 45272  
2. Labor Code Section 2805  
3. Government Code Sections 12921 and 12926

## 4.2 DISQUALIFICATIONS OF UNFIT APPLICATIONS, AND CANDIDATES, AND ELIGIBLES

**4.2.1 CAUSES FOR REJECTION:** An applicant, candidate, or eligible may be refused examination or certification, disqualified from an examination, or removed from an eligibility list for any of the following reasons.

**4.2.1.1** Failure to meet the general qualifications of Chapter 4.1.2.

**4.2.1.2** Knowingly becoming or knowingly remaining a member of the communist party on or after September 9, 1953.

**4.2.1.3** Advocacy of the overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.

**4.2.1.4** Conviction, or a plea of guilty or nolo contendere (i.e., I do not wish to contest) in court to a charge of moral turpitude, or any sex offense, or mistreatment of children.

**4.2.1.5** Presently continuing to serve a judicially imposed sentence including a probationary period for a conviction, unless the District waives this subsection.

**4.2.1.6** Criminal, infamous, dishonest, immoral, or disgraceful conduct according to standards approved by the Personnel Commission.

The following definitions apply to the works in the preceding paragraph:

**Criminal** - Conviction of crime(s) specifically set forth in the Education Code as cause(s) for rejection or termination or a pattern of willful disregard for the law as demonstrated by a history of convictions for misdemeanors, and crimes lesser than those specifically identified in the Education Code, and criminal convictions which indicate poor judgment on the part of the applicant, such as DUI's.

**Infamous** - Crimes against nature.

**Dishonest** - Thefts, burglaries, deception, fraud, or acts intended to deprive lawful possession or ownership, or to obscure or confuse facts or issues.

**Immoral** - Sex offenses, including those set forth in the Education Code as causes for termination.

**Disgraceful** - Drunk, fighting, insulting, slandering, harassing, or unwelcome behavior; conduct involving violence, use or possession of a dangerous or illegal weapon, or making or inferring threats of violence or harmful acts toward a person or property and, including willful acts of pollution or contamination.

A conviction record will be evaluated on the following basis: nature, seriousness and circumstances of the offense(s); age of the person at the time and recency of the offense; number of convictions; relationship of the offense to the position applied for; evidence of rehabilitation and maturing including the employment record with respect to job responsibility and duration; truthfulness in admitting to the offenses; person's attitude; and the duties of the class.

**4.2.1.7** Making a false statement, misstating, or omitting a statement of any material fact on the application or other official documents.

- 4.2.1.8** Obtaining or attempting to obtain either directly or indirectly, privileged information regarding test questions or examination content.
- 4.2.1.9** Practicing any deception or fraud in connection with the Employment Application or in securing examination, certification, or appointment.
- 4.2.1.10** Failure to provide all required materials or to completely disclose all relevant employment information required at time of employment application, such as supplemental applications for employment, conviction information and court documents, as specified on the job application, in the employment application package and/or Job Announcement bulletin.
- 4.2.1.11** Attempting to or making contact with any member of the Board of Trustees or the Trustees or the Personnel Commission with the intent of attempting to favorably influence the recruitment, examination, and/or selections process in any way. Exempted from the restriction would be any protest and/or petition of the recruitment/examination/selection process to the Personnel Commission as a whole by any candidate through the established protest and/or petition process.
- 4.2.1.12** Conviction of drug addiction and/or use of intoxicating beverages to excess, or sale, possession for sale, or transportation of controlled substances, dangerous drugs or narcotics, including marijuana, or the possession or use of narcotics other than marijuana.
- 4.2.1.13** A history of drug addiction without acceptable evidence of rehabilitation.
- 4.2.1.14** Dismissal from a previous employment for cause, if the cause would have subjected the applicant to dismissal from the district.
- 4.2.1.15** Previous dismissal from Vista Unified School District unless the District waives this subsection.
- 4.2.1.16** Dishonorable discharge from the Armed Forces of the United States.
- 4.2.1.17** A record of unsatisfactory service within the District as evidenced by a disciplinary action, a work improvement notice, unsatisfactory job performance notice or a resignation in lieu of dismissal.
- 4.2.1.18** A record of an unstable employment history which demonstrates a lack of commitment to serve the needs of the employer.
- 4.2.1.19** A record of discourteous treatment of, or illegal, unwelcome, or inappropriate conduct or behavior toward the public, children, or of fellow workers, or any other willful failure of good conduct, which, if it had occurred while serving as an employee of the District, could be considered as tending to injure the public service.
- 4.2.1.20** Refusal to furnish testimony, other than self-incrimination, at a hearing or investigation before the Personnel Commission or the Board of Trustees.
- 4.2.1.21** Unsatisfactory health conditions which clearly indicate that the applicant or candidate would be unable to perform the essential duties of the job or would endanger his/her health and safety or the health and safety of others.

- 4.2.1.22** Failure to report for and complete fingerprinting, or employment process as required, or to report to duty after an assignment/start date has been offered and accepted.
- 4.2.1.23** Failure, after due notice, to report promptly for review of any of the reasons for rejection contained in this section, or to complete, expand upon, or provide documentation or details necessary for employment processing.
- 4.2.1.24** Refusal to sign loyalty oath.
- 4.2.1.25** Reporting to work with, using, possessing, or being under the influence of any intoxicating controlled beverages or substance while on duty.
- 4.2.1.26** A demonstrated record or attitude of active discrimination against others because of personal characteristics prohibited by law, regulation, or policy.
- 4.2.1.27** A pattern of behavior demonstrating an inability or unwillingness to work effectively in a diverse employment environment.
- 4.2.1.28** A failure to meet the district safe driving record standard or a pattern of willful disregard for the law as demonstrated by a history of traffic offenses, including, but not limited to, license suspensions, driving without a valid license or without insurance and other traffic offenses.
- 4.2.1.29** General conduct detrimental to the good order and discipline of the Classified Service as demonstrated by recent and/or job-related infractions of any of the causes for rejection outlined in this rule.

**REFERENCE:** 1. Education Code Sections 45111, 45122, 45123, 45124, 45134, 45260, 45261 and 45303

**4.2.2 PETITION FOR RECONSIDERATION (DISQUALIFICATION):** Any applicant, candidate, and/or eligible disqualified based on Chapter 4.2 shall be notified in writing, indicating the reasons for disqualification and advising the individual that he/she has four (4) working days from receipt of notification to file a Petition for Reconsideration (Disqualification) with the Director, Classified Human Resources.

**4.2.2.1** The individual who has filed a Petition For Reconsideration shall conditionally be permitted to take the examination pending final determination of the Petition.

**4.2.2.2** Upon receipt of the Petition, the Director, Classified Human Resources shall conduct an investigation and issue a written decision to the petitioner within five (5) working days. If the Director, Classified Human Resources rejects the disqualification, the applicant shall be notified and given rights as though the disqualification had not occurred. If the Director, Classified Human Resources sustains the disqualification, the applicant may file the Petition with the Personnel Commission within five (5) working days after being notified of the decision of the Director, Classified Human Resources.

**4.2.2.3** Upon receipt of the Petition For Reconsideration (Disqualification), the Personnel Commission shall conduct an investigation/inquiry and shall issue a written decision within ten (10) working days. If the Personnel Commission rejects the disqualification, the applicant shall be given rights as though the disqualification had not occurred. The decision of the Personnel Commission is final and binding on all parties.

**4.2.2.4** Appointment may be made from available eligibles pending final decision on the Petition For Reconsideration (Disqualification), unless ordered otherwise by the Personnel Commission, and shall not be changed even though the outcome is in the petitioner's favor, unless such appointment was fraudulently made.

**REFERENCE:** 1. Education Code Sections 45111, 45122, 45123, 45124, 45134, 45260, 45261 and 45303

**4.2.3 SUBMITTING PROOF OF VETERAN'S CREDIT:** Any applicant who claims veteran's credit must submit Form DD 214 at the time the employment application is submitted. Failure to submit Form DD 214 at the time of application shall result in no veteran's credits being considered or added to any passing score.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45294, 45295 and 45296

**4.2.4 APPLICANT'S NAMES NOT TO BE MADE PUBLIC:** The names of applicants or unsuccessful candidates in any of the District's selection processes shall not be made public.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**4.3 EXAMINATION AFTER REJECTION OR DEMOTION:** An employee with permanent status in a class who has been demoted from a higher class during probation, in accordance with Rule 9.3, or who has been demoted after attaining status in a higher class, in accordance with Rule 19.1, shall not be admitted to an examination for the class from which demotion occurred for one (1) year after the effective date of the demotion.

## CHAPTER 5

### RECRUITMENT AND EXAMINATIONS

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#### 5.1 RECRUITMENTS

**5.1.1 ANNOUNCEMENT OF EXAMINATIONS:** The Personnel Commission shall direct and administer the holding of examinations for the purpose of creating lists for the Classified Service.

**5.1.1.1** No examination announcement may be made and no part of any examination may be held for a new position until the Board of Trustees has authorized the position duties and the Personnel Commission has properly classified the position classification including the establishment of minimum qualifications. (Note: A newly created position is one which does not have a previously separate existence.)

**5.1.1.2** Whenever it is necessary to fill existing or anticipated vacancies and an appropriate eligibility list does not exist (as determined by the Personnel Commission) the Personnel Commission shall announce each examination on an Employment Opportunities bulletin which shall be distributed to all employee work sites and community locations for at least ten (10) working days. The Director, Classified Human Resources shall determine the appropriateness and may place advertisements in newspapers, trade and business journals or other media. The Director, Classified Human Resources shall make every effort to notify community agencies and to ensure that organizations dealing with women, minorities, and the handicapped are notified of each examination.

**5.1.1.3** The Employment Opportunity Bulletin shall contain the title of the class and shall include the following:

**5.1.1.3.1** Information concerning the location of employment (if available) and the expected number of vacancies (if known) and other conditions of employment).

**5.1.1.3.2** A description of the scope of duties and responsibilities of the class.

**5.1.1.3.3** The minimum qualifications required of the class.

**5.1.1.3.4** The salary, benefits, and other compensation.

**5.1.1.3.5** The closing date for filing applications.

**5.1.1.3.6** The subject area in which competitors may be examined.

**5.1.1.3.7** Such other information as will assist interested persons in fully understanding the nature of the employment and procedure necessary to participate in the examination.

**REFERENCE:** 1. Education Code Section 45109, 45260, 45261, 45272 and 45278

## 5.2 EXAMINATIONS

**5.2.1 DETERMINATION OF EXAMINATIONS:** The Personnel Commission shall determine the standards of proficiency to be required for each examination and determine whether the examination shall be:

**5.2.1.1** Open Competitive

**5.2.1.2** Promotional

**5.2.1.3** Promotional and Open Competitive with the Promotional list taking precedence.

**5.2.1.4** Merged Promotional and Open Competitive (Dual Certification)

**5.2.1.5** Continuous

**REFERENCE:** 1. Education Code Sections 45272 and 45284

**5.2.2 OPEN COMPETITIVE EXAMINATIONS:** The entry level classification with the Classified Service of the District shall always have an open competitive examination and veterans' preference points shall be allowed as specified in Chapter 5.2.15. These examinations shall be open to all qualified applicants.

**5.2.2.1** Entry-level positions are defined as the classes lowest on the salary schedule for the class series or occupational hierarchies.

**5.2.3 PROMOTIONAL EXAMINATIONS:** Where an adequate field of competition exists within the District and examinations can reasonably be expected to result in three (3) qualified ranks of eligibles, the field of competition may be limited to promotional applications.

**5.2.3.1** Promotional examinations shall be restricted to permanent employees of the District and former employees on a valid reemployment list who meet the qualifications of the class.

**5.2.3.2** Performance evaluations and employees development appraisals prepared by the immediate supervisor and reviewed by the employee, may be considered in evaluating an employee's general fitness for promotion.

**REFERENCE:** 1. Education Code Section 45103, 45260, 45261, 45272 and 45284

**5.2.4 PROMOTIONAL AND OPEN COMPETITIVE EXAMINATIONS:** Where an adequate field of promotional applicants does not exist or there is doubt as to its adequacy, the Director, Classified Human Resources may advertise the examination among employees and the general public.

**5.2.4.1** Applicants shall be considered as a group in determining passing scores on the examination.

**5.2.4.2** This examination procedure shall result in a promotional and an open eligibility list. The promotional eligibility list shall take precedence when certifying eligibles. When the promotional eligibility list does not contain sufficient ranks of eligibles (defined as having lower than three (3) eligible and willing employees), certification of additional ranks shall then be made from the open list. Example: Only two (2) eligible employees remain on the promotional list and there is a valid open list. The last two (2) eligible employees off the promotional list will be certified along with the first rank of eligibles from the open list. The appointing authority with then

interview the top three (3) ranks of willing and able candidates from the Promotional/Open List.

**REFERENCE:** 1. Education Code Sections 45103, 45250, 45281 and 45272

**5.2.5 MERGED EXAMINATIONS:** Upon the recommendation of the Director, Classified Human Resources, the Personnel Commission may authorize the holding of an examination under merged promotional and open competitive procedures. The resulting eligibility list shall consist of promotional and open competitive eligibles in one (1) merged list. Veteran's credits will not be allowed, however, seniority credit for promotional candidates will be allowed.

**REFERENCE:** 1. Education Code Sections 45282 and 455284.

**5.2.6 CONTINUOUS EXAMINATIONS:** The Personnel Commission may designate examinations for specified classes as continuous examinations. Applications shall be accepted every working day and examinations shall be given as the need arises.

**5.2.6.1** If a Qualifications Appraisal Interview is required, the interview panel may consist of two (2) persons who may be employees of the District or the Personnel Commission, as designated by the Director, Classified Human Resources.

**5.2.6.2** A candidate who is unsuccessful in an examination may not retake the examination for the same classification for a period of ninety (90) calendar days.

**REFERENCE:** 1. Education Code Sections 45273 and 45292

**5.2.7 TYPES OF EXAMINATIONS:** Examination shall be conducted by the Classified Human Resources Department. Examinations shall be administered objectively and shall consist of test parts that relate to job performance. The parts may be any of the following:

**5.2.7.1** Written examination.

**5.2.7.2** Practical demonstration of skill.

**5.2.7.3** Evaluation of application's training and experience submitted on application materials.

**5.2.7.4** Evaluation of training, education, and experience by a qualifications appraisal interview panel.

**5.2.7.5** Instructional assistants are required to demonstrate proficiency in basic reading, writing, and mathematics skills up to or exceeding that required for high school seniors.

**5.2.7.6** Other tests as determined by the Personnel Commission.

**REFERENCE** 1. Education Code Sections 45260 and 45273

**5.2.8 SCORING AND WEIGHING OF TESTS:** All examination parts shall be prepared under the direction of the Director, Classified Human Resources who shall determine passing scores and weight relative percentage weights to each part. The procedure for setting percentage weights shall be impartial.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45274

**5.2.9 QUALIFICATIONS APPRAISAL INTERVIEW EXAMINATIONS:** If an examination requires the use of a Qualifications Appraisal Interview Panel, the Director, Classified Human Resources shall assure that the following rules are followed.

**5.2.9.1** The panel shall consist of at least two (2) persons.

**5.2.9.2** An employee of the District or the Personnel Commission may serve on an interview panel if the employee is not at the first or second level of supervision over a vacant position in the class for which the examination is being held.

**5.2.9.3** Unless specifically directed to evaluate candidates' technical knowledge and skills, the interview panel shall confine itself to evaluating general fitness for employment in the class.

**5.2.9.4** When the interview panel is directed to evaluate technical knowledge and skills, at least two (2) members of the panel shall be technically qualified in the specified occupational area under examination.

**5.2.9.5** Members of the Board of Trustees or Personnel Commission shall not serve on an interview panel.

**5.2.9.6** Interviews shall be electronically recorded and filed in the Classified Human Resources Department Office.

**5.2.9.7** Scores achieved by the candidate on other parts of the examination shall not be made available to the interview panel.

**5.2.9.8** In no case will an oral or performance examination board be provided with confidential reference on employees of the District who are competing in examinations.

**5.2.9.9** In interview panel examinations, ratings accorded competitors shall be expressed in percentages with seventy (70%) being the minimum qualifying rating. Ratings shall be made independently by each interviewer either before or after discussion with other interviews. Ratings shall be made on forms prescribed by the Director, Classified Human Resources, which shall be signed by the interviewer and be delivered to the Director, Classified Human Resources or his/her representative. All final markings shall be made in pen. When a competitor is disqualified by a member of the Qualifications Appraisal Interview Board, the interviewer shall make a record of the reason(s) on the rating sheet.

**5.2.9.10** The rating of the several members of the Qualifications Appraisal Interview Board shall be averaged to determine each candidate's final rating. If the majority of the rating panel gives a candidate a score of at least seventy percent (70%) but the final averaged score is below seventy percent (70%), the candidate shall be given a final rating of seventy percent (70%). If the majority of the rating panel gives a candidate a score below seventy percent (70%), but the final averaged score is above seventy percent (70%), the candidate shall be disqualified regardless of the fact that his/her average rating may be seventy percent (70%) or more. If the panel consists of only two (2) raters, the final score shall be the average of the two (2) raters.

**REFERENCE:** 1. Education Code Sections 45260 and 45273

**5.2.10 EVALUATION OF TRAINING AND EXPERIENCE:** If a part of the examination is an evaluation of the applicant's training and experience, the evaluation shall be individually and independently conducted by at least two (2) members of a committee other than the

interview panel. The scores of all applicants shall be listed in rank order. The Director, Classified Human Resources shall determine and weigh the passing scores of the training and experience evaluation.

**REFERENCE:** 1. Education Code Section 45260

**5.2.11 ADMISSION TO EXAMINATION:** Each applicant whose application has been approved shall be notified a reasonable time in advance of the time, date, and place of the examination and such notice shall be the applicant's authority to take the examination. No candidate may be admitted to any examination without this authorization or other satisfactory evidence of having filled an acceptable application. In addition, each candidate must provide personal identification (with picture I.D.) at time of examination admittance in order to take the test.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**5.2.12 EXAMINATION PROCEDURES:** Competitions in any written test must take the test on the prescribed date unless approved by the Director, Classified Human Resources.

**5.2.12.1** Copies of the questions in a test shall not be made by competitors or other unauthorized persons.

**5.2.12.2** Where written tests are required they shall be so managed that none of the test papers will disclose the name of any competitor until all papers of all competitors in a given examination have been marked and rated. The only exception to this Rule shall be if the Personnel Commission maintains a computerized and automated test scoring system which will automatically and accurately score the exams of all competitors, and which has built-in safeguards to insure that an individual's examination score cannot be falsely altered.

**5.2.12.3** A competitor in any examination who places an identifying mark upon his/her test papers (other than the identifying mark prescribed at the time of examination or makes an attempt to disclose to others the identity of his/her papers prior to the completion of the examination may be disqualified.

**REFERENCE:** 1. Education Code Sections 45250, 45261 and 45273

**5.2.13 RATING REQUIRED:** Candidates may be required to attain a designated minimum rating in each part or in combined parts of the selection process to qualify for participation in the next succeeding part.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45273

**5.2.14 SENIORITY CREDIT:** Seniority credit shall be added to the final passing scores of candidates who have permanency with the District or who are on a valid reemployment list. A full year's credit shall be granted to employees whose regular position is assigned on less than a full calendar year basis or less than an eight (8) hour day. Seniority credit rights shall be considered as having been lost when the services of an employee have been terminated for a period of thirty-nine (39) months or more. The following is the schedule of seniority credits allowed.

**5.2.14.1** One half (.5) Point to service through the first year but less than two (2) years of service.

**5.2.14.2** One (1.0) Points after completion of the second full year of service but less than three (3) years of service.

- 5.2.14.3 One and a half (1.5) Points after completion of the third full year of service but less than four (4) years of service.
- 5.2.14.4 Two (2.0) Points after completion of the fourth full year of service but less than five (5) years of service.
- 5.2.14.5 Two and a half (2.5) Points after completion of the fifth full year of service but less than six (6) years of service.
- 5.2.14.6 Three (3.0) Points after completion of the sixth full year of service but less than seven (7) years of service.
- 5.2.14.7 Three and one half (3.5) Points after completion of the seventh full year of service but less than eight (8) years of service.
- 5.2.14.8 Four (4.0) Points after completion of the eighth full year of service but less than nine (9) years of service.
- 5.2.14.9 Four and a half (4.5) Points after completion of the ninth full year of service but less than (10) years of service.
- 5.2.14.10 Five (5.0) Points after completion of the tenth full year of service and all years thereafter.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45272 and 45281

**5.2.15 VETERAN'S PREFERENCE:** A veteran, as defined in this Rule, shall mean an individual who has served at least thirty (30) days of active duty in the United States Army, Navy, Marine Corps, Air Force, National Guard, or Coast Guard in time of war, or national emergency declared by the President of the United States of America, and who has been discharged or released under conditions other than dishonorable. Generally, the time of war or national emergency is considered to be between the dates listed below:

World War II.....	December 7, 1941 to December 31, 1946
Korea.....	June 27, 1950 to July 27, 1954
Vietnam.....	January 1, 1961 to August 14, 1974
Gulf War.....	August 2, 1990 to November 30, 1995
Iraq/Afghanistan	
War on Terrorism.....	September 11, 2001 to a date to be announced

- 5.2.15.1 Veterans, except disabled veterans, shall have an additional five (5) points added to their final score in the entry-level examinations if they are on an open or open/promotional eligibility list.
- 5.2.15.2 Disabled veterans shall have an additional ten (10) points added to their final score in entry-level examinations if they are on an open or open/promotional eligibility lists. A disabled veteran is an individual classified by the U.S. Veteran's Administration to be ten percent (10%) or more disabled as a result of service in the Armed Forces of the United States.
- 5.2.15.3 Management positions in the Classified Services are not entry-level positions, veteran's preference credits are not authorized and shall not be included in determining the final ranking of names on the eligibility list(s).

**REFERENCE:** 1. Education Code Section 45260, 45261, 45294, 45295 and 45296

**5.2.16 NOTICE OF FINAL SCORE:** Each candidate who qualifies, shall be notified by the Classified Human Resources Department staff within fifteen (15) working days after completion of the examination of his/her standing on the eligibility lists. Candidates who do not qualify shall be notified within fifteen (15) working days after completion of the examination.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**5.2.17 VIOLATION OF THESE EXAMINATION RULES/LAW:** Whenever the Personnel Commission after an investigation and/or a public inquiry, finds that any appointment has been made in violation of the Education Code provisions of the Merit System, or these Rules as they apply to examination procedure, the Personnel Commission may order that no salary warrant shall thereafter be drawn to the employee so appointed, for services rendered after the date of said order. Any violation of the Merit System sections of the Education Code or the Rules and Regulations of the Personnel Commission as they apply to examination procedure shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45310 and 45311.

### **5.3 REVIEW AND PROTEST OF EXAMINATIONS**

**5.3.1 RETENTION OF ALL EXAMINATION RECORDS:** Examination records, including test answer sheets, tape recordings of interviews and the rating sheets of each member of an oral interview panel shall be retained by the Classified Human Resources Department for a period of one (1) year.

**REFERENCE:** 1. Education Code Section 45260, 45261 and 45274

**5.3.2 EXAMINATION RECORDS SHALL BE CONFIDENTIAL:** Examination records shall be confidential. Records, such as test material which has been rented, leased or obtained under a contract, identifiable ratings of oral panel members and confidential references of previous employers shall not be available for review.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45274

**5.3.3 AVAILABILITY FOR REVIEW:** Remaining examination records, such as papers, tapes and scores of the candidate or eligible shall be available for review only by the candidate or eligible or his/her representative. The candidate or eligible or his/her representative may not review the records of another person.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45274

**5.3.4 NOTIFICATION OF RESULTS AND RIGHT OF REVIEW:** Notification of test results shall be provided to candidates as soon as practicable following administration of the test. Candidates shall have the right to review examination records, except records not available for review as set forth in 5.3.2 above. The right to review test segments shall terminate at the end of the fifth (5th) work day following notification. No candidate may remove or copy information from the examination materials.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45274

**5.3.5 PETITION FOR RECONSIDERATION (PROTEST):** Any candidate may file a Petition For Reconsideration (Protest) within the review period set forth in 5.3.4 above setting forth the basis for the protest in detail and stating the remedy sought. Failure to file a Petition For Reconsideration (Protest) with the Director, Classified Human Resources within the review period shall constitute a waiver of the right to protest that portion of the selection process.

However, the filing of the Petition shall not stop or otherwise delay the selection (examination) process unless so ordered by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45274

- 5.3.6 DIRECTOR, CLASSIFIED HUMAN RESOURCES SHALL INVESTIGATE ALL PROTESTS:** Upon receipt of the Petition For Reconsideration (Protest), the Director, Classified Human Resources shall thoroughly investigate the matters set forth in the Petition. The Director, Classified Human Resources may allow more than one (1) answer to a question or may disqualify a question if the circumstances warrant. If any change is made in any test result, the test papers of all candidates will be reviewed and re-scored accordingly. The Director, Classified Human Resources shall issue a written decision within five (5) working days to the candidate in person or by certified mail (Return Receipt Requested). The written decision shall also advise the candidate of his/her right to request that the Petition be filed with the Personnel Commission. The requirement will be deemed to have been met if the decision of the Director, Classified Human Resources is sent by certified mail to the last known home address on file in the Classified Human Resources Department Office. Failure of the candidate to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the time lines outlined in these Rules. The responsibility for keeping the District informed of a home address is the requirement of the candidate. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt. Should the Director, Classified Human Resources deny the relief sought by the candidate, the candidate may request that the Petition be filed with the Personnel Commission within five (5) working days after being notified of the decision of the Director, Classified Human Resources. All correspondence mailed to the candidate shall also be mailed to each Personnel Commissioner.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45274

- 5.3.7 ACTION ON PETITION FOR RECONSIDERATION (PROTEST) BY PERSONNEL COMMISSION:** Upon receipt of the Petition for Reconsideration (Protest), the Personnel Commission shall conduct an investigation/inquiry into the allegations presented on the Petition and issue a written decision within ten (10) working days. The decision of the Personnel Commission shall be served in person on the candidate or mailed to the candidate by certified mail (Return Receipt Requested) to the last known home address on file in the Classified Human Resources Office. The decision of the Personnel Commission shall be final and binding on all parties.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

- 5.3.8 CONFIDENTIALITY OF TEST SCORES:** Test scores shall be considered confidential information and release of information shall be limited to:

**5.3.8.1** Only information relating to eligibles who have been certified shall be released to the appointing authority.

**5.3.8.2** Only information pertaining to an eligible's own scores and current position on the list shall be released to the eligible or his/her representative.

**5.3.8.3** Such other persons as may be specifically ordered by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45272 and 45274

## CHAPTER 6

## ELIGIBILITY FOR EMPLOYMENT

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### 6.1 ELIGIBILITY LISTS

**6.1.1 ESTABLISHMENT AND DURATION OF ELIGIBILITY LISTS:** After an examination, the names of successful applicants shall be arranged in the order of examination score plus additional points when applicable. The completed list constitutes an eligibility list for that class after approval by the Personnel Commission.

**6.1.1.1** Unless specifically authorized in these Rules, all appointments to positions in the Classified Service shall be made from eligibles whose names appear on eligibility lists. The Director, Classified Human Resources shall be responsible for establishing eligibility lists as a result of examinations authorized by these Rules.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45272 and 45300

**6.1.2 CONTENTS OF ELIGIBILITY LIST:** An eligibility list shall contain:

**6.1.2.1** The type of eligibility list - open, promotional, open and promotional with the promotional list taking precedence, or merged promotional and open competitive.

**6.1.2.2** The names of all eligibles in final rank order of total examination scores.

**6.1.2.3** The adjusted scores of each part of the examination and the weighted total score.

**6.1.2.4** The dates of each part of the examination.

**6.1.2.5** The signature of the Director, Classified Human Resources attesting to the accuracy of the information on the eligibility list.

**6.1.2.6** The date the list was ratified or approved by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**6.1.3 CERTIFICATION BY PERSONNEL COMMISSION:** All eligibility lists shall be certified by the Personnel Commission at the first reasonable opportunity.

**6.1.3.1** The Director, Classified Human Resources may submit eligibility lists for ratification and approval by the Personnel Commission subsequent to certification from the list. Appointments may be made from available eligibles pending final decision on the protest and/or appeal and shall not be changed even though the outcome is in the appellant's favor, unless the Personnel Commission has ordered it otherwise.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**6.1.4 TYPES OF ELIGIBILITY:** Appointments to positions shall be made from:

**6.1.4.1 ELIGIBILITY LISTS:** In order of preference:

**6.1.4.1.1** Reemployment: A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, or exhaustion of benefits. These eligibles shall take precedence over all other persons eligible for appointment. Employees laid off from

permanent positions because of lack of work or lack of funds shall have precedence over exhaustion of benefits employees.

**6.1.4.1.2** Promotional: A list of eligibles resulting from an examination limited to qualified permanent employees and qualified laid off employees who have passed all testing and are named on the eligibility list only.

**6.1.4.1.3** Promotional and Open Competitive: Separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.

**6.1.4.1.4** Merged Promotional and Open Competitive: One list of eligibles resulting from a single examination including seniority credit and/or veteran's credit points.

**6.1.4.1.5** Open Competitive: A list of eligibles resulting from an examination open to all qualified applicants.

**6.1.4.2 REQUEST:** Other methods of filling positions include:

**6.1.4.2.1** Transfer: Employees who have requested appointment to a vacant position in the same or related classification. (See Chapter 11.1.2)

**6.1.4.2.2** Reinstatement: Former employees who have requested reinstatement to a vacant position in a class in which they held permanent status. (See Chapter 11.3.1)

**6.1.4.2.3** Demotion: Employees who have requested assignment to a vacant position in a lower classification. (See Chapter 11.2.1)

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**6.1.5 DURATION OF ELIGIBILITY LISTS:** An eligibility list shall be in effect for a period of one (1) year, unless exhausted, and may be extended for an additional year by the Personnel Commission. Names of successful competitors may be added to continuous testing eligibility lists by the Director, Classified Human Resources.

**6.1.5.1** The Personnel Commission may approve the establishment of an eligibility list for a period of six (6) months when announced on the recruitment bulletin for the examination.

**6.1.5.2** When fewer than three (3) ranks of available eligibles are available for certification, the available eligibles may be certified. However, the appointing authority may choose not to appoint any of them and may request additional eligibles.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45300

**6.1.6 MERGER OF ELIGIBILITY LISTS:** If a new examination for a class is given during the first year of the life of an existing list, the examination shall be sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles. The new list shall then be merged with the existing list with eligibles ranked in the order of examination score, plus additional points where applicable. Promotional lists shall be merged only with promotional lists.

**6.1.6.1** When lists are merged under this Rule, the earlier list shall be terminated one (1) year after its establishment and those eligible names shall be removed from the consolidated list, except when the earlier list is extended.

**6.1.6.2** All candidates on an eligibility list which is terminated shall be notified at the time a new examination is scheduled for the class. Each candidate may retake the examination if a period of ninety (90) days has elapsed since the candidate last took the examination. Notification is not required when an eligibility list expires.

**REFERENCE:** 1. Education Code Sections 45160, 45161 and 45291

**6.1.7 REEMPLOYMENT LISTS:** There shall be established for each class, as necessary, a reemployment list which shall take precedence over all other employment lists in filling vacant positions. This list shall contain the names of all regular classified employees who have been laid off or demoted from any position because of lack of work or lack of funds.

**6.1.7.1** An employee who requires a leave of absence for military duty and those who are ordered, pursuant to the laws of the United States, to serve in any civilian war effort or war industry, shall have their names placed over all other names on the reemployment list in the class which they leave.

**6.1.7.2** The duration of the reemployment list for persons laid off shall be thirty-nine (39) months. Employees returning from military leave shall be eligible for reemployment for a period not to exceed six (6) months after discharge.

**6.1.7.3** Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall retain eligibility for reemployment for an additional period of twenty-four (24) months, provided the same tests of fitness under which they qualified for appointment still apply, as determined by the Personnel Commission.

**REFERENCE:** 1. Education Code Section 45298  
2. Military and Veterans Code 395.1 and 395.3

**6.1.8 TERMINATION OF ELIGIBILITY LISTS:** An eligibility list is automatically terminated on one (1) year from the date of its approval unless extended by the Personnel Commission, except the lists established under Chapter 6.1.5.1 shall terminate six (6) months from the date of approval.

**6.1.8.1** An eligibility list is automatically terminated when no eligibles remain on the list.

**6.1.8.2** An eligibility list may be terminated by the Director, Classified Human Resources prior to its expiration when no eligible is available for appointment to a specific permanent position in a class or when there are fewer than three (3) eligibles remaining on the list. Candidates on such lists shall be notified of the proposed termination. The exception to this Rule will apply if a promotional list has less than three (3) names remaining on the list, but an open eligibility list exists. In this case the Director, Classified Human Resources will continue to certify three (3) ranks by merging the remaining promotional employees on to the open list, adding any veteran's and seniority points allowed under these Rules, and then rounding the score to the nearest whole percentage point. The Director, Classified Human Resources will then certify the top three (3) ranks of those willing and able eligibles from the newly combined Promotional/Open List to the appointing authority for selection.

**REFERENCE:** 1. Education Code Section 45300  
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**6.1.9 ELIGIBILITY AFTER APPOINTMENT:** An eligibility list shall be used for full-time, part-time, regular and limited-term assignments in the class. An eligible who accepts part-time assignment shall continue to be eligible for full-time employment, and an eligible who accepts limited-term assignments shall continue to be eligible for regular employment.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45278, 45286 and 45300

**6.1.10 WAIVERS OF CERTIFICATION:** An eligible may make himself/herself unavailable for certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by filing a definitive statement in the Classified Human Resources Department Office.

**6.1.10.1** Certification of eligibles who have made themselves unavailable shall not be made, provided that eligibles may revise or withdraw their unavailability.

**6.1.10.2** An available eligible may waive certification without penalty.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45300

**6.1.11 REMOVAL OF NAMES FROM ELIGIBILITY LISTS:** The name of an eligible may be removed from an eligibility list by the Director, Classified Human Resources for any of the following reasons:

**6.1.11.1** Failure to respond within five (5) business days following the mailing of an inquiry regarding availability for employment.

**6.1.11.2** Any of the causes listed in Chapter 4.2.

**6.1.11.3** Failure to respond for a scheduled interview after certification.

**6.1.11.4** Termination of employment (Promotional Eligibility List only).

**6.1.11.5** Three (3) waivers of certification during the life of the eligibility list, except that waivers relating to part-time or limited-term appointments should not be counted for the purpose of this rule.

**6.1.11.6** Refusing an employment offer after having been properly certified as eligible and available for the appointment.

**6.1.11.7** A written request by the eligible for removal.

**6.1.11.8** Failure by the applicant to keep their address and telephone number information current with the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45300

**6.1.12 NOTIFICATION TO ELIGIBLE OF REMOVAL FROM LIST:** The Personnel Commission shall notify the eligible of the action and the reasons thereof and shall provide the person with the opportunity to petition for review of the decision within five (5) days of notification. The decision of the Personnel Commission shall be final.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45300

## **6.2 CERTIFICATION FROM EMPLOYMENT LISTS**

**6.2.1 APPOINTING AUTHORITY:** The appointing authority shall be the Board of Trustees and its designated managers, except that the Personnel Commission shall be the appointing

authority in the case of employees assigned to the Personnel Commission's Classified Human Resources Department.

**6.2.2 ORDER OF PRECEDENCE IN FILLING VACANCIES:** Certification for filling vacancies in the Classified Service shall be made in the following order:

**6.2.2.1 REEMPLOYMENT LIST:** Persons previously laid off because of lack of work, lack of funds or exhaustion of medical leave privileges shall be assigned to vacant positions within the class in order of seniority.

**6.2.2.2 VOLUNTARY DEMOTION/LATERAL TRANSFER REINSTATEMENT:** All qualified persons requesting increase or decrease in hours, voluntary demotion, lateral transfer or reinstatement shall be certified in addition to eligibles from eligibility lists established by competitive examination.

**6.2.2.3 PROMOTIONAL ELIGIBILITY LIST:** When the vacancy is not filled through the procedures set forth in 6.2.2.1 above, the top three (3) ranks of available eligibles and all reemployment list employees who have passed all testing and named on the promotional eligibility list. If there are no current employees remaining on the list and the list contains eligible reemployment list employee(s), the selection shall be made from the eligible reemployment list employee(s) on the basis of seniority.

**6.2.2.4 OPEN COMPETITIVE LIST:** When the vacancy cannot be filled from the promotional list, the top three (3) ranks of available eligibles on the open competitive list shall be certified. If the top three (3) ranks contain current employee(s) and the list also contains reemployment list employee(s), the selection shall be made from the current employee(s) or the reemployment list employee(s). If there are no current employees in the top three (3) ranks and the list contains eligible reemployment list employee(s), the selection shall be made from the eligible reemployment list employee(s) on the basis of seniority. Eligible reemployment list employees shall have precedence over new applicants regardless of ranking.

**REFERENCE:** 1. Education Code Section 45272

**6.2.3 RULE OF THREE RANKS:** Eligibles shall be placed on the eligibility list in rank order according to their score on the examination. The final scores of candidates shall be rounded to the nearest whole percent. All eligibles with the same percentage score shall be placed in the same rank. Certification from the list shall be the first three (3) ranks of eligibles and all reemployment list employees who have passed all testing and named on the eligibility list that are ready and willing to accept the positions to be filled. Eligible reemployment list employees shall have precedence over new applicants.

**6.2.3.1** For classes approved for continuous testing, certification shall be made at the time the Director, Classified Human Resources can first reasonably certify three (3) ranks of eligibles to the appointing authority.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45272

**6.2.4 CERTIFICATION AND APPOINTMENT FROM ELIGIBILITY LISTS:** When a new position is to be filled, the appointing authority shall notify the Director, Classified Human Resources of the date of anticipated need. The employment request shall state the duties, class title, hours and location of employment and other pertinent information required by the Director, Classified Human Resources.

- 6.2.4.1** When a vacancy occurs in an established position, a Personnel Requisition shall be completed.
- 6.2.4.2** The Director, Classified Human Resources shall determine the availability of eligibles and shall certify the names of all eligibles that are ready and willing to accept the position. Certification shall be in accordance with Chapters 6.2.2 and 6.2.3.
- 6.2.4.3** The administrator concerned shall, within three (3) working days of the interview, make a selection from the persons presented and shall notify the Director, Classified Human Resources who shall see that the necessary employment procedures are carried out.
- 6.2.4.4** If a candidate who was declared eligible for appointment to a position fails to keep an interview appointment or declines the appointment, the appointing authority may fill the vacancy from the remaining eligibles or may request certification of eligibles in accordance with Chapter 6.2.6.
- 6.2.4.5** In the event that there is more than one (1) authorized position in the class to be filled, the Director, Classified Human Resources may certify additional ranks of eligibles to allow approximately two (2) more candidates than the number required to fill the number of vacancies.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45272 and 45277

- 6.2.5 PROCEDURE WHEN FEWER THAN THREE RANKS REMAIN:** When fewer than three (3) ranks of eligibles are available on the promotional list, sufficient names shall be certified from the promotional and then the open competitive lists to allow a choice among three (3) ranks of eligibles.

- 6.2.5.1** When fewer than three (3) ranks of eligible are available for certification, the available eligibles may be certified. However, the appointing authority may choose not to appoint any of them and may request additional eligibles.

**REFERENCE:** 1. Educational Code Sections 45260, 45261, 45272 and 45277

- 6.2.6 CERTIFICATION OF ADDITIONAL ELIGIBLES:** If an eligible that has been certified, refuses appointment or fails to respond for an interview, the appointing authority shall notify the Director, Classified Human Resources. When a request for additional eligibles is made, the Director, Classified Human Resources shall:

- 6.2.6.1** Certify additional eligibles as required.
- 6.2.6.2** Remove the names of eligibles who failed to report for interviews or who refused appointment from the eligibility list.
- 6.2.6.3** Investigate the matter at his/her discretion to determine that any appointment refusal is in fact voluntary.
- 6.2.6.4** Request authorization from the Personnel Commission to refuse further certification should the investigation determine that refusal of appointment by an eligible is in fact not voluntary.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45272 and 45277

- 6.2.7 WITHHOLDING NAMES FROM CERTIFICATION:** The name of an eligible may be withheld from certification by the Director, Classified Human Resources when the eligible:

**6.2.7.1** Expresses unwillingness or inability to accept appointment.

**6.2.7.2** Fails to respond within five (5) working days following the mailing of written inquiry regarding availability.

**6.2.7.3** Cannot be reached in time for appointment when immediate temporary employment is required.

**6.2.7.4** Fails to present the license, registration, certificate or any other credential required.

**6.2.7.5** Any reason listed in Chapter 4.2.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45272 and 45277

**6.2.8 FAILURE TO MAKE APPOINTMENT:** Should the appointing authority fail to make a selection from the top three ranks of eligibles as certified by the Director, Classified Human Resources, the Director, Classified Human Resources shall direct that the position be vacated (if there is a temporary person assigned to fill the vacancy), and remain vacant until such time as the eligibility list for that class expires.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45272 and 45277

**6.2.9 RESTORATION TO ELIGIBILITY LIST:** When the Director, Classified Human Resources has withheld a candidate or eligible from placement on, or certification from the eligibility list, the Director, Classified Human Resources may subsequently approve placement on or restoration to the list subject to ratification by the Personnel Commission, under the following circumstances:

**6.2.9.1** When the withholding or removal was because of the waiver or inability of the eligible to accept employment, or failure to respond to inquiry, appear for an interview or report for duty, and the applicant presents a good and valid reason and certifies to the Personnel Commission that the applicant is now willing and able to accept an appointment.

**6.2.9.2** When the withholding or removal was for a reason listed in Chapter 4.2 and the defect or reason for ineligibility has since been corrected.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45272 and 45277

**6.2.10 CERTIFICATION FROM LIST FOR ANOTHER CLASS:** If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list for another class at the same or higher salary level if the duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled, provided that the Director, Classified Human Resources finds, subject to approval by the Personnel Commission, that the use of the list is in the best interest of the District and that the necessary skills and knowledges were adequately tested in the examination.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45272

**6.2.11 DUTIES OF ELIGIBLES:** It shall be the duty of every eligible to respond promptly after receiving notice of certification. The eligible will be expected to respond within five (5) working days from the date notification is mailed. Failure to respond within the above stated time may result in removal from the eligibility list.

**6.2.11.1** Eligibles are required to keep the Classified Human Resources Department Office informed as to current home address and telephone numbers where they can be reached to schedule employment interviews. Failure to keep the Classified

Human Resources Department Office informed could result in the eligible being bypassed on the eligibility list as unreachable. In that event, the Director, Classified Human Resources shall send a letter inquiring as to continued availability and interest. Failure to respond pursuant to these Rules will result in removal from the eligibility list.

**6.2.11.2** An eligible who has been selected for a permanent position and is unable or unwilling to report by the end of two (2) full weeks (one (1) full month in the case of management classes) may be considered to have refused appointment and the appointing authority may request certification of additional eligibles.

**6.2.11.2.1** The date of the offer of appointment shall be the date on which the eligible is notified by the Director, Classified Human Resources of selection.

**6.2.11.2.2** Notification may be made by telephone, registered or certified mail.

**6.2.11.2.3** The appointing authority may allow a period longer than two weeks at its discretion.

**6.2.11.3** When appointment is to a limited-term or substitute position, the eligible must be available on the date specified by the appointing authority.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45272

**6.2.12 SELECTIVE CERTIFICATION:** If a position within a classification requires a special skill, license, or language requirement, pursuant to Rule 3.2.10, the Director, Classified Human Resources shall determine which eligibles possess the required skill, license, or language and shall certify the names of the first three (3) ranks of eligibles who meet the special requirements. If there are insufficient eligibles who meet the special requirements and who are ready and willing to accept the position, a provisional appointment may be made, pending completion of a recruitment and examination process to fill the position.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45272 and 45277

**6.2.13 CERTIFICATION OF NAMES FOR SHIFT DIFFERENTIAL COMPENSATION:** Assignment to a position for which differential compensation is designated in Chapter 17.3, shall be made on the basis of seniority among those employees within the appropriate class, subject to the following conditions:

**6.2.13.1** The assignment must equal or exceed twenty (20) consecutive working days.

**6.2.13.2** The employee must request, in writing, consideration for the position with differential compensation at the time the opening is posted.

**6.2.13.3** The written request shall be submitted to the Director, Classified Human Resources.

**6.2.13.4** When a vacancy exists in a position for which differential compensation is designated, and where no employee in the class wishes to volunteer for the shift, the assignment shall be given to the least senior employee of the department within that classification. Notification shall be made to the affected employee in writing at least five (5) working days prior to becoming effective.

**6.2.13.5** When a vacancy exists in a position for which differential compensation is designated, and where more than one employee in the class has filed a request for the vacancy, the assignment shall be given to the most senior employee

within that class that has filed a request. Notification shall be given to the affected employee in writing at least five (5) working days prior to becoming effective.

**6.2.13.6** The Director, Classified Human Resources shall notify the appointing authority which employee shall receive the assignment with differential compensation.

**REFERENCE:** 1. Education Code Sections 45160, 45161 and 45183

## CHAPTER 7

### APPOINTMENT TO CLASSIFIED POSITIONS

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#### 7.1. PROCEDURES FOR APPOINTMENT

**7.1.1 PROCEDURES FOR SELECTION:** The appointing authority shall be provided with the names of the top three (3) ranks of eligibles and all reemployment list employees who have passed all testing and are named on the eligibility list from an appropriate employment eligibility list. A selection shall be required when sufficient eligibles are certified for a given vacancy to total three (3) ranks of eligibles. The appointing authority shall make its selection and shall notify the Director, Classified Human Resources who shall see that the necessary employment procedures are carried out. The Director, Classified Human Resources shall inform the appointing authority that an eligible reemployment list employee has precedence over an eligible that is a new applicant.

**REFERENCE:** 1. Education Code Sections 45160, 45161 and 45272

**7.1.2 APPOINTMENT:** Upon selection, each prospective employee shall be given an offer of employment by the Classified Human Resources Department Office. The offer shall include the time and date to report for duty and the salary at time of hire. Appointment to the position shall be subject to ratification by the Personnel Commission, approving that the employee was hired pursuant to these Rules and the Education Code and the Board of Trustees action to employ as the employer, except for Personnel Commission positions.

**7.1.2.1** The prospective employee shall be allowed two (2) weeks to report for duty after an offer of employment to a permanent position has been made or one (1) month in the case of management classes, unless other acceptable arrangements are made by the appointing authority. Should the prospective employee be unable or unwilling to report for duty within the required period, he may be considered to have refused appointment, and should the employee represent a single rank the appointing authority may request that an additional rank of eligibles be certified.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**7.1.3 DISCRIMINATION PROHIBITED:** No applicant or eligible certified for appointment shall be discriminated against because of his/her political or religious opinions or affiliations, race, color, national origin or ancestry, sex, marital status, employee organization membership or non-membership and legal activities related thereto, physical or mental handicap. No questions shall be asked relating to these matters during the selection and interview stages of employment.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45293

**7.1.4 NEPOTISM:** The Personnel Commission's Rule governing the employment of close relatives in a classified position is in the District's best interest: to avoid conflicts of interest between work-related and family-related obligations to reduce favoritism or even the appearance of favoritism to ensure the appropriate administration of contacts with vendors; and to prevent family conflicts from affecting the workplace.

**7.1.4.1** The District will receive employment applications from relatives or co-habitants of employees. However, there are four (4) situations that will prevent the District from hiring a relative or co-habitant of a current employee.

- 7.1.4.1.1 If one relative or co-habitat would supervise or have disciplinary authority over another.
- 7.1.4.1.2 If one relative or co-habitant would audit the work of another.
- 7.1.4.1.3 If the interest of either the relative or co-habitant and the employee, or the relative of the cohabitant and the District would be in conflict.
- 7.1.4.1.4 If hiring of relatives or co-habitants could result in conflict of interest with existing vendors of the District.

**7.1.4.2 DEFINITION OF RELATIVE:** An employee is not permitted to work in a position where his/her supervisor or supervisor's supervisor is a relative. Relative is defined as mother, father, husband, wife, registered domestic partner, son, daughter, brother, brother-in-law, sister, sister-in-law, parent-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandchild, niece, nephew, and "co-habitant" is defined as persons living together within the same residential living unit.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Government Code Section 1091.5

P.C. Appvd: 11/10/98

## 7.2 PROVISIONAL APPOINTMENT

**7.2.1 REASONS FOR PROVISIONAL APPOINTMENT:** The appointing authority may make a provisional appointment when the Director, Classified Human Resources certifies that:

7.2.1.1 No eligibility list exists for the class or;

7.2.1.2 An eligibility list exists, but there is an insufficient number of available eligibles, and the appointing authority requests three (3) ranks of eligibles to interview.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45287, 45288 and 45289

**7.2.2 LENGTH OF PROVISIONAL APPOINTMENT:** A provisional appointment may accumulate to a total of ninety (90) working days. A ninety (90) calendar day interval shall elapse before an employee is again eligible to serve in any full-time provisional assignment. In no case may a person be employed in full-time provisional assignments for a total of more than 126 working days in any fiscal year.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45287, 45288 and 45289

**7.2.3 EXTENSION OF PROVISIONAL APPOINTMENT:** The Personnel Commission may extend the ninety (90) working day provisional appointment for a period not to exceed thirty-six (36) additional working days provided:

7.2.3.1 An examination for the class was completed during the initial ninety (90) working days of an employee's provisional assignment.

7.2.3.2 Satisfactory evidence is presented indicating:

7.2.3.2.1 Adequate recruitment effort has been and is being made.

- 7.2.3.2.2 Extension of this provisional assignment is necessary to carry on vital functions of the District or;
- 7.2.3.2.3 The position cannot be satisfactorily filled by use of other employment lists or procedures.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45287, 45288 and 45289

**7.2.4 SUCCESSIVE 90 DAY APPOINTMENTS:** In the absence of an appropriate eligibility list, successive ninety (90) working day appointments may be made to a position for a period exceeding the one hundred twenty-six (126) working day limitation when:

**7.2.4.1** Continuous examination procedures have been authorized by the Personnel Commission or;

**7.2.4.2** The position is less than twenty (20) hours per week.

**7.2.4.3** Such appointment shall continue only until certification from an appropriate list can be made.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45287, 45288 and 45289

**7.2.5 QUALIFICATIONS OF PROVISIONAL APPOINTEES:** Provisional appointees must meet the qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be made by the Director, Classified Human Resources prior to appointment.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45287, 45288 and 45289

**7.2.6 STATUS OF PROVISIONAL EMPLOYEES:** To be eligible for appointment to a regular position, the provisional appointee must qualify by competitive examination for a place on the eligibility list.

**7.2.6.1** Time served in provisional status shall not be counted as credit toward permanency or completion of the probationary period for the class in which the provisional appointment is made.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45287, 45288 and 45289

**7.2.7 TERMINATING PROVISIONAL APPOINTMENT:** The services of a provisional appointee shall be terminated within fifteen (15) working days after the date on which certification for interview from an eligibility list has been made. A provisional appointment may be terminated at any time, at the discretion of the appointing authority.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45287, 45288 and 45289

### **7.3 SPECIAL APPOINTMENTS**

**7.3.1 PROCEDURE FOR EMERGENCY APPOINTMENT:** If it should become necessary in time of declared emergency to fill positions in the Classified Service to prevent the stoppage of public business, the Board, through its authorized management representatives, may request the Director, Classified Human Resources to make emergency appointments without reference to eligibility lists, for a period not to exceed fifteen (15) working days. The Director, Classified Human Resources shall comply with the request if appropriate.

**7.3.1.1** When such emergency appointments are to be made by the Director, Classified Human Resources, it shall be the duty of the Board of Trustees to provide the Director, Classified Human Resources with written information outlining the date of appointment and nature of duties performed, giving a statement justifying the emergency nature of such appointments, and any other additional information requested by the Director, Classified Human Resources so that an appropriate decision may be made under this Rule.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45290

**7.3.2** **CONDITIONAL APPOINTMENT:** Temporary appointments in an existing class, not to exceed thirty (30) days, may be made in lieu of an appointment to fill a new position pending the classification of the new position by the Personnel Commission. Salary shall be determined by the Director, Classified Human Resources subject to ratification by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**7.3.3** **SUMMER AND OTHER RECESS PERIOD ASSIGNMENTS:** When the Board of Trustees establishes temporary positions during the recess period between the regular September to June school year, or during other recess periods during the school year (including summer school positions), those positions shall be offered to regular employees of the District not regularly employed during these periods. Appointment to these positions shall be among employees requesting summer/recess period employment in the class to which the position has been allocated by the Personnel Commission.

**7.3.3.1** The first priority to fill a school secretary vacancy during summer or other recess period shall go to the current school secretary assigned to that site; then School Support Secretary II, at the site, then School Support Secretary I, at the site, then Health/Attendance Technician, at the site. If no one within the classifications noted above is interested, then a position will be opened up district-wide in the following order, based on seniority within a given classification; School Secretary Secondary/Elementary; then School Support Secretary II, then School Support Secretary I, then Health/Attendance Technician.

**7.3.3.2** The first priority to fill any Instructional Assistant Classification vacancy during a summer recess period shall go to the aide that is on regular assignment to that particular class. If there is a one-on-one aide, and the student is attending summer school, that aide will continue to work with the assigned student, if interested in the assignment. If students from multiple special education classes within the regular school year are combined to create one summer school class, then the aide who has the most students in the summer school class will receive first priority. If that aide is not interested, then the aide from the regular-year class with the next highest number of students in the summer school class may elect to work summer school. This process will be used until all of the aides with students assigned to the summer school class have the opportunity of accepting/declining the assignment in the summer school class. If a summer school position still remains vacant, assignments will be made based on seniority within the required classification and then on seniority of employees determined to be qualified to perform the duties of the position by the Director, Classified Human Resources."

**7.3.3.3** "Other summer school support positions will be selected based on seniority within the class. If a summer support position still remains vacant, assignments will be based on seniority of employees determined to be qualified to perform the duties of the position by the Director, Classified Human Resources."

**7.3.3.4** All employees requesting to work summer school must complete a summer school application form provided by the Classified Human Resources Department Office.

**REFERENCE:** 1. Education Code Sections 45102, 45260 and 45261

#### **7.4. LIMITED TERM AND SUBSTITUTE APPOINTMENTS**

**7.4.1 POSITIONS DEFINED:** Positions established to perform duties which are not expected to exceed six (6) months shall be designated limited term positions.

**7.4.1.1** Positions established to replace temporarily absent employees shall be designated substitute positions.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45286–45290

**7.4.2 PROCEDURE FOR ESTABLISHMENT OF LIMITED TERM/SUBSTITUTE POSITIONS:** When a limited term position is established, the appointing authority shall notify the Classified Human Resources Department in writing of the hours, starting date and length of the assignment. Establishment of limited term positions shall be subject to approval of the Director, Classified Human Resources, and ratified by the Personnel Commission and the Board of Trustees.

**7.4.2.1** A limited term appointment may not exceed six (6) months. A substitute assignment may not exceed the duration of the absence of a regular employee. The appointment may be in the same class as that of the absent employee or the duties may be reduced in level and the appointment may be made from a lower class.

**7.4.2.2** Limited term positions shall be classified by the Director, Classified Human Resources and shall be subject to ratification by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45286–45290

**7.4.3 ELIGIBILITY FOR APPOINTMENT:** Limited term and substitute appointments shall be made from eligibility lists and employment lists.

**7.4.3.1** If an eligible is appointed from an eligibility list to a substitute or limited term position, the individual shall continue to be eligible for substitute or limited term appointments in the same or a related lower class after the eligibility list has expired. The same privilege of continued eligibility shall apply to a former employee who has resigned in good standing and has accepted a limited term appointment within thirty-nine (39) months after resignation.

**7.4.3.2** When no eligible is available to accept a substitute or limited term position, the Director, Classified Human Resources is authorized to certify applicants or candidates for appointment.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45286–45290

**7.4.4 COMPENSATION FOR LIMITED TERM/SUBSTITUTE ASSIGNMENTS:** When a regular employee is given limited term appointment in a second higher class within the bargaining unit of two (2) days or more within a 15 day calendar period, the rate of pay in the second class shall be the employees existing salary step. The minimum amount of said out-of-class pay shall be five percent (5%).

**7.4.4.1** Former employees who accept a limited term or substitute assignment in their previous class shall be placed on the step of the salary schedule closest to their last regular rate of pay. Former employees who accept a limited term or substitute assignment to positions in other classifications shall be placed on the first step of the salary range for that class.

**7.4.4.2** Management and Supervisory appointments will be determined individually.

**7.4.4.3** All other limited term employees shall be paid at the hiring rate for regular appointments in the class.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45286–45290 and 45309

**7.4.5 RIGHTS AND BENEFITS DURING LIMITED TERM ASSIGNMENTS:** Regular employees who are serving in limited term assignments while retaining regular status in another class shall continue to earn and be granted all rights and benefits of a regular employee.

**7.4.5.1** No credit toward completion of probation shall accrue from service in a limited term or substitute appointment.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45286–45290 and 45309

**7.4.6 TERMINATION OF LIMITED TERM APPOINTMENT:** A limited term or substitute appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority. The appointing authority shall immediately notify the Classified Human Resources Department Office when a limited term assignment is being terminated.

**7.4.6.1** A limited term or substitute employee may be dismissed for cause. When the appointing authority dismisses the employee, the Director, Classified Human Resources shall be notified in writing of the cause for the dismissal. The Director, Classified Human Resources may investigate the matter and may remove that person's name from all employment lists.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

## **7.5 EMPLOYMENT OF PERS RETIREES AND VOLUNTEERS**

**7.5.1 GENERAL POLICY ON RETIREES:** Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed up to nine hundred sixty (960) hours per fiscal year. The retired person must be informed that employment is restricted to nine hundred sixty (960) hours in any fiscal year with the District and continuance in employment is at the discretion of the District.

*Amended 09/8/09*

**REFERENCE:** 1. Education Code Section 45135  
2. Government Code Section 21224

**7.5.2 COMPENSATION OF RETIREES:** A retired employee under authority of this Rule shall be entitled only to the appropriate salary earned including overtime compensation.

**7.5.2.1** Retired employees appointed to positions in their last permanent classification shall be placed on the step of the salary schedule closest to their last rate of pay (excludes differential pay). Retired personnel appointed to positions in any other

class shall be placed on the first step of the appropriate range on the salary schedule.

**REFERENCE:** 1. Education Code Section 45260 and 45261

**7.5.3 ASSIGNMENT:** A retired employee employed under this Rule is not subject to reinstatement to PERS nor does the compensation period provide for retirement allowance adjustment.

**7.5.3.1** The appointing authority shall certify to the Director, Classified Human Resources that a retired employee employed under this Rule meets the provisions of this Rule and the combined fiscal year employment will not exceed nine hundred sixty (960) hours.

*Amended 9/8/09*

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**7.5.4 USE OF VOLUNTEERS AND/OR NON-CLASSIFIED EMPLOYEES:** Volunteers and/or non-Classified staff may be used to perform work previously performed by Classified Staff, if that use is in compliance with the law.

**7.5.4.1** As determined by the District Board of Trustees, from time to time it may become necessary to eliminate or reduce the number of classified positions and/or their work hours or days, and/or their duties. The purpose of this section is to set forth the policy position of the Personnel Commission concerning the use of volunteers and/or non-Classified employees who may be used to perform work that had previously been assigned to Classified Personnel who were laid off or had their work days or hours reduced.

**7.5.4.2** The District has the authority to reduce or eliminate services and Classified positions, as well as the work hours or workdays assigned to those positions. If a position has been eliminated or reduced, the work assigned to that position shall not then be assigned to a volunteer or non-Classified employee, except as permitted by law. The District has the responsibility to ensure that work is assigned appropriately within a classification and that volunteers or non-Classified staff are not used unlawfully to perform work previously done by Classified employees who have been laid off or had their work assignment reduced.

**7.5.4.3** If an employee believes that a volunteer and/or non-Classified employee is being used unlawfully to perform work that was previously assigned to one or more Classified employees, he/she may file a complaint in accordance with the procedures set forth in Chapter 18 herein and within the time limits provided herein. In addition to meeting the requirements set forth in Chapter 18, the employee shall clearly set forth the duties being performed by the volunteer and/or non-Classified person which the employee believes were previously assigned to one or more Classified.

**7.5.4.4** If an employee does not agree with the Director's findings the employee may appeal to the Personnel Commission. The appeal shall be in writing and shall set forth the reason(s) why the employee thinks the Director's findings are in error. An employee may also speak to the Personnel Commission at one of its regularly scheduled meetings, but this shall not negate the requirement for the filing of a complaint.

**7.5.4.5** This section is a statement of the policy position of the Personnel Commission with respect to the matters covered in this policy. Nothing in this section is

intended to interfere with, expand, contract, or otherwise modify the authority, rights, obligations, or duties of the Personnel Commission, the District, any exclusive representative, or any employee.

- REFERENCE:** 1. Education Code Sections 35021, 45114, 45115, 45117, 45298, 45308 and 45349.  
2. Government Code Sections 3540 et seq.

## CHAPTER 8

### MINIMUM PRE-EMPLOYMENT REQUIREMENTS

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#### 8.1 HEALTH EXAMINATIONS

**8.1.1 T.B. EXAMINATIONS:** A new employee shall present evidence that he/she has submitted to an examination within the past sixty (60) days to determine that he/she is free of active tuberculosis. The examination shall be by a physician or surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This examination shall consist of an approved intradermal tuberculin test (Mantoux), or if the skin test is positive the employee shall submit to an X-ray of the lungs, or if the employee has previously tested positive, the employee shall submit to an X-ray of the lungs. The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. If a new employee is transferring employment from one school or school district (including private and parochial school) to this district, the sixty (60) days requirement above will be waived if the new employee can produce a certificate as provided for in Section 3450 of the California Health and Safety Code which shows that the employee was examined within the past four (4) years and was found to be free of communicable tuberculosis. This requirement can also be met if it is verified by the school previously employing the new employee that it has such a certificate on file and a copy of such certificate is forwarded to the District. For new employees, evidence of compliance with the requirements of this section must be on file prior to the first day in paid status.

**8.1.1.1** Subsequent to employment, employees are required to undergo the foregoing examination at least once each four (4) years or more often if directed by the Board of Trustees upon the recommendation of the local health officer.

**8.1.1.2** The District may exempt, for a period not to exceed 60 days following termination of the pregnancy, a pregnant employee from the requirement that a positive intradermal tuberculin test be followed by an X-ray of the lungs.

**8.1.1.3** The District reserves the right to designate a particular clinic or hospital where the test will be administered.

**REFERENCE:** 1. Education Code Sections 45122, 45260, 45261 and 49406  
2. Health and Safety Code Sections 3450 and 3451  
3. Administrative Code, Title 5, Section 5505

**8.1.2 MEDICAL EXAMINATIONS:** Every individual appointed to certain positions designated by the Board of Trustees in the Classified Service, or as a limited term, temporary, provisional, or exempt employee shall pass a job related physical examination prior to initial appointment. Promotional eligibles that have been offered employment in a classification possessing different physical requirements may also be required to undergo a medical examination as determined by the District. The examination will be administered after the initial offer of employment but prior to actual finalization of the appointment. The examination shall be administered by a physician chosen by the District. The determination of the kind and extent of the examination shall be determined by the District. Costs associated with this physical shall be borne by the District. The medical examination shall be related to the duties as approved in the class specifications.

**8.1.2.1** The District's physician shall determine the ability of the applicant, candidate, or eligible to perform the essential duties of the class in which he/she shall be employed, and shall notify the District of the medical findings. Reasonable accommodations may be made pursuant to federal and state law.

**8.1.2.2** If the District's physician proposes to disqualify the individual, the doctor shall provide the District with a statement describing the specific condition, the limitations that have resulted in the individual's disqualification and the specific duties the applicant cannot perform.

**8.1.2.3** In consultation with the District's physician, the District shall make a determination if reasonable accommodation can be made for the individual pursuant to federal and state laws. If the determination is that reasonable accommodation can be made, the appointment shall be made. If the determination is that reasonable accommodation cannot be made, the individual will be so notified by the District and informed of the right to file a Petition For Reconsideration (Accommodation) with the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45122, 45260 and 45261

**8.1.3 RETURN TO WORK AND UNSCHEDULED EXAMS:** An employee may be required to undergo a physical including a psychological examination at any time there is deemed to be reasonable cause by the District Assistant Superintendent of Human Resources or designee.

**8.1.3.1** Every employee returning from illness/injury leave of absence may be required to submit to a medical examination to verify sufficient fitness to return to the employee's regularly assigned duties.

**REFERENCE:** 1. Education Code Sections 45122, 45160 and 45161

**8.1.4 SCHOOL BUS DRIVER MEDICAL EXAMINATIONS:** In addition to other examinations that may be required by these Rules, school bus drivers must have a valid medical card as required by State Law. The District shall arrange for and bear the cost up to \$50.00 of the school bus drivers' examination for Permanent District employees.

**REFERENCE:** 1. Education Code Sections 45122, 45260 and 45261

**8.1.5 PETITION TO THE PERSONNEL COMMISSION:** An eligible or an employee who has been on leave of absence rejected for medical reasons may petition the Personnel Commission.

**8.1.5.1** The filing and processing of the petition shall be governed by the procedure set forth in Chapter 4.2.2 herein.

**8.1.5.2** The District may employ outside medical experts to give a medical advisory opinion.

**8.1.5.3** The Commission, based on evidence submitted and the advice of medical experts, shall determine whether or not the denial of appointment or return from leave shall be sustained. The decision of the Personnel Commission shall be final and binding on all parties.

**REFERENCE:** 1. Education Code Sections 45122, 45260 and 45261

## 8.2 CRIMINAL RECORDS

**8.2.1 FINGERPRINTING:** Every new employee shall submit to a criminal records check in accordance with prescribed procedures or shall forfeit eligibility for employment. The District will notify each such employee where and when to report for fingerprinting, which shall take place prior to employment. The cost of any fingerprinting shall be borne by the Employee.

**REFERENCE:** 1. Education Code Section 45125

**8.2.2 REVIEW OF CRIMINAL RECORDS:** All criminal record reports are to be treated as confidential. Any employee who divulges information contained therein to an unauthorized person shall be subject to disciplinary action.

**8.2.2.1** The criminal records report from the California Bureau of Criminal Identification and Investigation and/or the Federal Bureau of Investigation will be reviewed together with the person's application form. If there is a criminal record that was undisclosed and not reviewed prior to employment, the Director, Classified Human Resources may order the dismissal of the employee.

**8.2.2.2** If an employee is to be dismissed because of information disclosed on the criminal records report, the employee shall be removed from all eligibility lists.

**8.2.2.3** The District shall notify the eligible or employee in writing of the action taken and the reasons therefore and shall advise the eligible or employee of his/her right to file a Petition For Reconsideration (Disqualification) in accordance with the procedures set forth in Chapter 4.2.2 herein within five (5) working days of receipt of notification. If a Petition For Reconsideration (Disqualification) is filed, the Personnel Commission shall conduct an investigation/inquiry in accordance with the procedures set forth in Chapter 4.2.2. The decision of the Personnel Commission shall be final and binding on all parties.

**REFERENCE:** 1. Education Code Sections 45125, 45260 and 45261

## 8.3 PRE-EMPLOYMENT REQUIREMENTS

**8.3.1 INCOME TAX WITHHOLDING FORMS:** New employees shall submit the W-4 form for both State and Federal taxes to the Payroll Office at the time of employment.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**8.3.2 PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) APPLICATION:** New employees shall submit a completed application form to the District at the time of employment. This rule shall apply only to those employees entitled to retirement benefits.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**8.3.3 SOCIAL SECURITY NUMBER:** New employees shall submit their social security number to the District at time of employment.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**8.3.4 LOYALTY OATH:** All new employees must take and subscribe to an oath or affirmation of loyalty as required by Article XX, Section 3 of the California State Constitution and the Education Code. Refusal to sign the loyalty oath shall cause the initial employment offer to be withdrawn.

**REFERENCE:** 1. Education Code Sections 7000 - 7006, 45260 and 45261  
2. California State Constitution, Article XX, Section 3

**8.3.5 VERIFICATION OF RIGHT TO WORK STATUS:** All individuals employed after November 1, 1986 are required to provide proof of their right to work in the United States and for the District. An individual's right to work is a minimum qualification for employment with the District.

**8.3.5.1** No individual shall be allowed to be placed in paid status without having on file with the District sufficient documentation as required by Federal law as to that individual's right to work for the District.

**8.3.5.2** No proof will be required until after an initial offer of employment has been made by the District. Every individual will be required to provide verification as required in this rule.

**8.3.5.3** An individual unable to provide verification of his/her right to work in this country and for the District pursuant to this rule, shall have his/her name removed from the eligibility list(s), and shall not be placed on the payroll of the District.

**8.3.6 REQUIREMENT TO NOTIFY DISTRICT OF ANY STATUS CHANGE:** Employees shall notify the District whenever their status changes, such as new address, new telephone number, marital or domestic partner status for health and welfare benefits, increase or decrease in the number of dependents for health and welfare benefits and tax purposes, name of person(s) to notify in case of emergency, etc.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**8.3.7 FILING OF REQUIRED LICENSES OR CERTIFICATES:** Some classifications may require the employee to possess certain licenses and/or certificates. Every new employee must file copies of all licenses and/or certificates required as a condition of employment with the District. As these licenses and/or certificates are renewed, copies of them must also be filed in the District within ten (10) working days of receipt by the employee.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**CHAPTER 9**  
**EMPLOYMENT STATUS**

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**9.1 EMPLOYEE ASSIGNMENTS**

**9.1.1 CERTIFICATION OF ASSIGNMENTS:** The Director, Classified Human Resources shall certify that all persons appointed to a position in the Classified Service are appointed in accordance with these Rules and Regulations.

**9.1.1.1** All changes of status for classified employees shall be in accordance with these Rules and Regulations.

**9.1.2 PAYROLL REVIEW:** The Director, Classified Human Resources shall make a periodic review of the classified payroll roster; the roster shall include names, titles, periods for which payments are to be made, and rates of pay. If, upon review of a payroll report, it is found that any person named thereon has been employed in violation of any provision of the Merit System Act or these Rules and Regulations, notice of such violation shall be reported to the District and the Personnel Commission. Whenever the Personnel Commission, after a public hearing, finds that any appointment has been made in violation of Rules and Regulations of the Personnel Commission as they apply to examination procedures, the Personnel Commission may order that no salary warrant thereafter be drawn to the employee so appointed for services rendered after said order. Any violation of this article or the Rules and Regulations of the Personnel Commission as they apply to examination procedures shall constitute grounds for dismissal of the employee or employees guilty of such violations.

**REFERENCE:** 1. Education Code Sections 45169, 45260, 45261, 45310 and 45311

**9.2 EMPLOYEE ASSIGNMENT**

**9.2.1 ASSIGNMENT DATA:** Upon initial employment and upon each change in classification thereafter, each classified employee shall be furnished:

**9.2.1.1** The employee's class specification.

**9.2.1.2** Notice of salary data, including pay period and the hourly, daily, monthly, annual, and overtime and differential rate of pay, whichever are applicable.

**9.2.1.3** Work location and the duty hours, prescribed work week and work year.

**REFERENCE:** 1. Education Code Sections 45169, 45260 and 45261

**9.2.2 CHANGE OF ASSIGNMENT:** The District shall have the right to assign and reassign daily hours of work and shifts to meet the operational need of the District. When such a change is made, for more than five (5) working days, the employee's supervisor shall notify the employee and the Director, Classified Human Resources in writing stating the effective date of the change.

**REFERENCE:** 1. Education Code Sections 45169, 45260 and 45261

### 9.3 PROBATIONARY STATUS

**9.3.1 INITIAL PROBATIONARY PERIOD:** Each new employee appointed from an eligibility list shall serve an initial probationary period of one hundred thirty (130) days of paid regular service in one classification in the Classified Service excluding days absent for illness or injury; these new employees shall be evaluated prior to the end of the third and fifth month of service. For positions designated by the Personnel Commission as executive, administrative, or supervisory, the probationary period shall be two hundred sixty (260) days of paid regular service in one classification in the Classified Service excluding days absent for illness or injury; these new employees shall be evaluated prior to the end of the third, eighth and eleventh months of service.

**9.3.1.1** Credit toward completion of probation shall be granted only for service in a regular position in a class after appointment from an eligibility list.

**REFERENCE:** 1. Education Code Section 45301

**9.3.2 COMPLETION OF INITIAL PROBATION:** Each probationary classified employee shall be evaluated during the probationary period as required by the District.

**9.3.2.1** A probationary classified employee who is to be dismissed shall be given written notice of termination from probationary status prior to the date on which the probationary period ends.

**9.3.2.2** A probationary employee may be suspended and dismissed at any time.

**9.3.2.3** A probationary employee who is dismissed or suspended will not have the right of appeal.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45261, 45269, 45270, 45272, 45281, 45301, 45302 and 45305

**9.3.3 SUBSEQUENT PROBATION FOR PERMANENT EMPLOYEES:** A permanent classified employee who has been promoted, reclassified to a higher class, laterally transferred to a related class, or assigned to a lower unrelated class shall serve a new probationary period in the class before attaining permanency in that class.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45261, 45269, 45270, 45272, 45281, 45301, 45302 and 45305

### 9.4 PERMANENCY

**9.4.1 PERMANENT STATUS:** Upon successful completion of the prescribed initial probationary period outlined in Chapter 9.3.1, a classified employee shall be deemed to be a part of the permanent Classified Service.

**REFERENCE:** 1. Education Code Section 45301

## CHAPTER 10

### HOURS OF EMPLOYMENT AND OVERTIME

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#### 10.1 WORK SCHEDULES

**10.1.1 WORKWEEK:** The workweek for a full-time classified employee shall consist of five (5) consecutive days of eight (8) hours per day. These Rules shall not be construed to restrict the extension of a regular workday or workweek on an overtime basis when such is necessary to carry on the business of the District.

**10.1.1.1** The District may establish a workday of less than eight (8) hours per day and a workweek of less than forty (40) hours for some or all of its classified positions.

**10.1.1.2** When the District determines that a classified employee is to be assigned a work week which includes Saturday or Sunday, the District shall notify the employee in writing. Classified employees shall not be required to work Saturday or Sunday, if they certify in writing that the assignment conflicts with religious beliefs or practices.

**REFERENCE:** 1. Education Code Sections 45127 and 45132

**10.1.2 WORKDAY:** The length of the workday shall be designated by the District for each classified assignment in accordance with the provisions set forth in these Rules. Each classified employee shall be assigned a fixed, regular, and ascertainable minimum number of assigned hours per day (with fixed, regular starting and ending times), days per week, and months per year.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**10.1.3 ADJUSTMENT OF ASSIGNED TIME:** Any classified employee who works an average of thirty (30) minutes or more per day in excess of the employee's regular part-time assignment (defined for this Rule as less than eight hours per day) for a period of twenty (20) consecutive working days or more shall have his/her regular assignment adjusted upward to reflect the longer hours, effective with the next pay period. This rule does not apply to limited term, or provisional appointment of regular classified employees.

**REFERENCE:** 1. Education Code Sections 45137, 45260 and 45261

**10.1.4 DECREASES IN ASSIGNED TIME:** A District initiated decrease in the assigned hours per day, hours per week, days per year, or months per year of an existing regular position shall be considered a layoff for lack of work or lack of funds. All District initiated decreases in assigned time shall be performed in accordance with the layoff procedures in these Rules.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45308

**10.1.5 BENEFITS FOR POSITIONS LESS THAN 8 HOURS/12 MONTHS:** All employees assigned less than eight (8) hours per day and/or less than twelve (12) months per year shall be entitled to sick leave and all other benefits conferred by law on classified employees. These employees shall be entitled to all leaves and benefits granted by these rules, the law, or the Board of Trustees. These benefits shall be provided on a prorated basis.

**REFERENCE:** 1. Education Code Sections 45132, 45260 and 45261

**10.1.6 MEAL PERIODS:** All employees who are scheduled to work over five (5) consecutive hours per day shall be assigned an unpaid, uninterrupted meal period of at least thirty (30) minutes. The meal period shall be assigned at or about the midpoint of each work shift.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**10.1.7 REST PERIODS:** Each employee shall be allowed a fifteen (15) minute rest period during any four (4) hour working period, which is not interrupted by a meal period or similar break. Such rest period must be taken at the assigned work site, unless prior approval has been obtained from the immediate supervisor.

**10.1.7.1** Employees shall be granted rest periods which, insofar as practicable, shall be in the middle of each work period, but scheduled no later than prior to the last hour of the employee's work day.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**10.1.8 SPLIT SHIFT ASSIGNMENTS:** The District shall have the right to assign classified employees to a split shift as part of a regular assignment. The periods between split shifts shall be unpaid so long as the period of unpaid time exceeds one (1) hour or more. Split shifts of one (1) hour or less shall be paid at the appropriate regular or overtime rate of pay. Bonafide scheduled meal periods of at least thirty (30) minutes but no more than one (1) hour as required under these rules shall not be considered a split shift and shall be considered as unpaid time.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

## **10.2 OVERTIME AND RELATED MATTERS**

**10.2.1 OVERTIME:** All overtime hours as defined in this rule shall be compensated at the rate of pay equal to time and one-half (1-1/2) the regular rate of pay of the employee for all hours worked in an overtime status. Overtime is defined to include any time worked in excess of eight (8) hours in any one day or on any one shift, or in excess of forty (40) hours in any calendar week, whether such hours are worked prior to the commencement of a regularly assigned starting time or subsequent to the assigned quitting time.

**10.2.1.1** For employees who are assigned to work an average of four (4) hours per day during the regular work week, all hours worked beyond the workweek of five (5) consecutive days shall be compensated at the overtime rate commencing on the sixth and seventh day of work. For employees who are assigned to work an average of less than four (4) hours per day during the regular work week, all hours worked beyond eight (8) hours on the sixth day shall be compensated at the overtime rate, and all hours worked on the seventh day shall be compensated at the overtime rate.

**10.2.1.2** All hours worked by an employee on any holiday designated by these rules, the law, or the Board of Trustees shall be compensated at the overtime rate of pay in addition to regular pay received for that day.

**10.2.1.3** For purposes of defining the regular rate of pay in order to determine the proper overtime rate, the District shall take the employee's hourly rate of pay, and add any differential rates, premium rates, or longevity increments received by the employee in order to arrive at the employee's regular rate of pay for calculating overtime.

**10.2.1.4** For purposes of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence shall be considered as time worked by the employee.

**REFERENCE:** 1. Education Code Sections 45128, 45121, 45260 and 45261

**10.2.2 ASSIGNMENT OF OVERTIME:** Overtime work shall be equitably assigned among all qualified classified employees who are in the same class, the same organizational unit, and the same work location. In assigning overtime the supervisor may consider:

**10.2.2.1** Special skills and/or training required for an employee to perform the specific work and

**10.2.2.2** The availability of regular part-time classified employees to perform the required work.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**10.2.3 CALL BACK TIME:** Whenever an employee is called back to duty by his/her supervisor or designee after the conclusion of the normal work shift, the employee shall receive a minimum of two (2) hours pay or pay for the hours worked at the appropriate salary rate, whichever is greater.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**10.2.4 CALL IN TIME:** Whenever an employee is called to work by his/her supervisor or designee on a day which is not a regularly scheduled work day, the employee shall receive a minimum of two hours pay or pay for the hours worked at the appropriate salary rate, whichever is greater.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**10.2.5 EXEMPTION FROM OVERTIME:** Positions or classes of positions designated administrative or executive by the Personnel Commission may be exempted from the overtime provisions of these Rules. To be exempted from overtime, positions or classes of positions must clearly and reasonably be management positions. The classes of established positions listed below are clearly and reasonably management positions. The duties, flexibility of hours, salary, benefit structure, and authority of these classes are of such a nature that they should be set apart from positions subject to overtime and will not be unreasonably discriminated against as a result of this exemption. Notwithstanding this rule, if an exempt employee is required to work on any District paid holiday, the employee shall be paid, in addition to the regular pay received for the holiday, at the rate of one and one-half (1-1/2) times the employee's regular rate of pay.

**10.2.6 EXEMPT POSITIONS ARE:**

**10.2.6.1** \*Assistant Superintendent, Business Services

**10.2.6.2** Director, Purchasing

**10.2.6.3** Director, Fiscal Services

**10.2.6.4** Director, Information System

**10.2.6.5** Director, Facilities Planning

- 10.2.6.6** Facilities Planner
- 10.2.6.7** Director, Child Nutrition Services
- 10.2.6.8** Director, Transportation
- 10.2.6.9** Maintenance Manager
- 10.2.6.10** Director, Classified Human Resources

\* Indicates Senior Management

**REFERENCE:** 1. Education Code Section 45130, 45260 and 45261

**CHAPTER 11**  
**TRANSFER OF EMPLOYEES**

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**11.1. TRANSFER**

**11.1.1 DEFINITION OF VACANCY:** For purposes of this rule, a vacancy shall occur when a new position is created or an incumbent of a position terminates employment with the District.

**DEFINITION OF TRANSFER:**

**11.1.1.1** The reassignment of an employee without examination from one position to another position within the same class, or to a position in a similar or related class (as determined by the Personnel Commission) having the same salary range in another school or department.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.2 VOLUNTARY TRANSFER:** Transfer requests may be granted at any time, subject to the availability of positions and the qualifications of the applicant. Employees who have requested a transfer shall be given first consideration for a transfer based upon, but not limited to seniority, job performance, qualifications, and the needs of the District.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.2.1 DENIAL OF A TRANSFER:** The District shall give the employee official notification of the disposition of the application to transfer and upon written request of the unit member, the appropriate District manager will meet and provide feedback to the employee.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.3 ADMINISTRATIVE ASSIGNMENT (INVOLUNTARY TRANSFER):** The Superintendent or designee retains the right in accordance with these Rules to transfer staff at any time such assignment is in the best interest of the District. Provided the employee is given a forty-eight (48) hour notice prior to the transfer. The employee shall be provided an official copy of the transfer notice within five (5) working days.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.3.1 CONFERENCE TO DISCUSS INVOLUNTARY TRANSFER:** An employee who has been involuntarily transferred may, within five (5) working days after receiving written notification, request and shall be granted a conference with the appropriate administrator to discuss the administrative reassignment. An employee may also request a written rationale for the administrative assignment. A copy of the written rationale shall become part of the employee's personnel file.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.4 LATERAL TRANSFER:** An employee may request voluntary transfer or be administratively assigned from his/her position to another position in a related class. The determination of whether classes are sufficiently related to permit transfer between them shall be made by the Director, Classified Human Resources. The following factors shall

be considered in determining whether classes are sufficiently related: 1) duties, 2) minimum qualifications and 3) examination content. The extent to which two classes are comparable may depend on additional factors deemed appropriate by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.5 PERIOD FOR LATERAL TRANSFERS:** A permanent employee who transfers to a position from a class in which the employee has not previously completed a probationary period shall be considered probationary in the new class for the standard probationary period outlined in Chapter 9.3.1 of these Rules. At any time during this probationary period, the employee may be returned (transferred) to his/her former class without the right of appeal.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.6 NO ADVERSE EFFECT FROM TRANSFERS:** A transfer shall not change the employee's range and step placement on the salary schedule, salary increment date, accumulated leave and vacation credit, or otherwise adversely affect the employee's rights as provided in these Rules.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.7 SENIORITY CREDIT:** Transfers shall have no adverse impact upon the employee's seniority.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.8 SUBMISSION FOR REQUEST FOR TRANSFER:** An employee may request a transfer to a vacant position by submitting a request for transfer on the approved District form to the Classified Human Resources Department Office.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.9 CERTIFICATION OF NAMES TO INTERVIEW:** The Director, Classified Human Resources shall maintain a transfer and reinstatement list. Whenever the appointing authority requests an eligibility list to fill an existing vacancy in a classification, the Director, Classified Human Resources shall also submit the appropriate transfer and reinstatement list (if any). The appointing authority may fill a vacant position by either a selection from the transfer and reinstatement list or eligibility list.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**11.1.10 EMPLOYEE RIGHT TO FILE A COMPLAINT:** An employee may file a complaint pursuant to Chapter 18 if the employee believes that the District failed to comply with the procedures set forth in these Rules. The complaint procedure shall not be available to challenge the District's right to transfer or deny a transfer in accordance with these Rules.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

## **11.2 DEMOTIONS**

**11.2.1 VOLUNTARY DEMOTION:** A permanent employee may request a voluntary demotion to a vacant position in a class with a lower salary rate, provided that the employee has previously achieved permanent status in that class or, the request for demotion is to a related class in the same job series as defined by the Personnel Commission. Demotion

requests shall be in accordance with Chapter 11.1.9. Salary placement shall be in accordance with Chapter 17.2.8.

*Revised 01/10/2017*

**REFERENCE:** 1. Education Code Section 45272

### **11.3 RESTORATIONS**

**11.3.1 RESTORATION OF FORMER EMPLOYEE:** A former permanent employee who resigns in good standing may be reinstated to a vacant position in his/her former class and status within thirty-nine (39) months of the last date of his/her paid service. In addition, the former employee may be reemployed to a vacant position in a lower related class if qualified, as determined and approved by the Personnel Commission, or in a limited term status in the same or lower class. Such employment actions are discretionary with the appointing authority.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45309

**11.3.2 RESTORATION OF CURRENT EMPLOYEE TO FORMER CLASS:** An employee who has taken a voluntary demotion may be restored to a vacant position in his/her former class or to a vacant position in a related lower class as determined and approved by the Personnel Commission within thirty-nine (39) months after demotion. Except for demotions(s) taken in lieu of layoff which are covered by the layoff provisions of these Rules, restoration is discretionary with the appointing authority.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45309

**11.3.3 EFFECTS OF REINSTATEMENT:** Reinstatement or reemployment of a current or former employee as a permanent employee shall have the following effects:

**11.3.3.1** A former employee would be restored to the former step in the salary range for the class, or if reemployed in a lower-related class, to the rate closest to that of the step to which he/she would be assigned if the former employee were reinstated to his/her former class.

**11.3.3.2** A current employee being reinstated to a former higher class would be placed at the salary range of the higher class and then to the step required in these Rules if the employee was receiving a promotion.

**11.3.3.3** The former employee would receive restoration of accumulated sick leave and seniority as of the date of separation.

**11.3.3.4** The former employee would receive restoration of his/her former anniversary date, deducting time away from the District and without step-advancement credit for the off-duty period.

**11.3.3.5** The former employee would receive restoration of any prior longevity steps granted prior to resigning, without longevity step advancement credit for the off-duty period.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45309

**CHAPTER 12**  
**EMPLOYEE PERSONNEL FILES**

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**12.1 PERSONNEL FILES**

**12.1.1 MAINTENANCE OF FILE:** Personnel files will be kept in the Classified Human Resources Department Office.

**12.1.2 INSPECTION OF PERSONNEL FILES BY EMPLOYEE:** All personnel information concerning an employee is confidential. An employee shall have the right to inspect his/her personnel file upon request provided that the request is made at a time when the employee is not actually required to render services to the District. An employee shall have access to all material in his/her personnel file, except that such materials subject to inspection shall not include confidential ratings, reports or records which were:

**12.1.2.1** Obtained prior to the person's employment.

**12.1.2.2** Prepared by identifiable examination committee members.

**12.1.2.3** Obtained in connection with a promotional examination.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 44031  
2. Labor Code Section 1198.5  
3. Government Code Section 6250

**12.1.3 INSPECTION BY OTHERS:** Only those persons with a "need to know" or "right to know" may access an employee's personnel file. An employee may authorize in writing, a representative to review his/her file.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**12.1.4 SIGNATURE/DATE REQUIRED:** Written material placed in an employee's personnel file shall be signed and dated by the person originating the document. (See Chapter 13.1.9)

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**12.1.5 DEROGATORY INFORMATION:** Information of a derogatory nature, except material referred to in **Chapters** 12.1.2.1 - 12.1.2.3, shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. Such review shall take place during normal business hours and without loss of pay to the employee. The affected employee shall be furnished with a copy of the proposed material ten (10) work days prior to it being placed in that employee's official personnel file. An employee shall have the right to enter, and have attached to any such derogatory statement, his/her own comments thereon.

**REFERENCE:** 1. Education Code Sections 44032, 45260 and 45261

## CHAPTER 13

### PERFORMANCE EVALUATIONS

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#### 13.1 GENERAL POLICY

**13.1.1 POLICY STATEMENT:** The immediate supervisors have the responsibility for evaluating each employee assigned to their department. The evaluation shall cover the major areas of the employee's responsibilities and duties. Unsatisfactory evaluations require an explanation of unsatisfactory performance and specific suggestions for improvement.

**REFERENCE:** 1. Education Code Sections 44031, 45260 and 45261

**13.1.2 ADMINISTRATION OF PERFORMANCE APPRAISAL SYSTEM:** The District shall administer a performance appraisal system for all members of the Classified Service.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**13.1.3 WHEN EVALUATIONS ARE TO BE MADE:** All regular classified employees shall be evaluated by their immediate supervisors in accordance with these rules and the following schedule:

**13.1.3.1 PROBATIONARY EMPLOYEES:** At the end of the third and fifth months of service. In classified management job classes, during the fourth, eighth and twelfth months of service.

**13.1.3.2 PERMANENT EMPLOYEES:** Permanent employees shall be evaluated every other year.

**13.1.3.3 SPECIAL EVALUATIONS:** An employee may be given a special evaluation at any time during employment if deemed necessary by the supervisor. (See Chapter 13.1.9)

**REFERENCE:** 1. Education Code Section 45260 and 45261

**13.1.4 EVALUATION RATER:** Each employee is to be evaluated by his/her immediate supervisor. In cases where the employee is assigned to more than one department, site, and/or classification, the employee shall receive separate evaluations for each assignment.

**13.1.4.1** Designated supervisory employees shall rate and sign the formal evaluation form. Supervisors may receive input from employees having a lead function over the employee to be evaluated.

**REFERENCE:** 1. Education Code sections 45260 and 45261

**13.1.5 EVALUATION FORMS:** Performance evaluations shall be made on forms prescribed by the District.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**13.1.6 EVALUATION MEETING:** In completing the performance evaluation form, the supervisor shall have a conference with the employee. The meeting shall be scheduled by the supervisor to allow time for a discussion with the employee.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**13.1.7 SPECIFIC RECOMMENDATIONS FOR IMPROVEMENT:** Any below standard evaluations shall include recommendations for improvement and provisions for assisting the employee in implementing any recommendations made.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**13.1.8 DISTRIBUTION OF EVALUATION:** The completed evaluation form shall be distributed as follows:

**13.1.8.1** One copy to the employee being evaluated.

**13.1.8.2** One copy to the supervisor performing the evaluation.

**13.1.8.3** One copy for inclusion in the employee's personnel file.

**REFERENCE:** 1. Education Code Section 45260 and 45261

**13.1.9 DEROGATORY INFORMATION:** Employees shall be provided with copies of derogatory written material ten (10) workdays before it is placed in the employee's personnel file. The employee shall be given an opportunity during normal working hours and without loss of pay to initial and date the material and to prepare a written response to such material. The written response shall be attached to the material and placed in the personnel file.

**REFERENCE:** 1. Education Code Sections 44031, 45260 and 45261

CHAPTER 14

VACATIONS

14.1 VACATIONS

**14.1.1 RATIO FOR EARNING VACATION[/]REGULAR EMPLOYEES:** Regular classified employees shall earn vacation as approved by the Board of Trustees. For computational purposes, 10.5 month employees will be treated as 11 month employees. The Board of Trustees provides that an employee earns vacation on a monthly basis at the rate of:

<u>Fiscal Year of Employment</u>	<u>Days per Month</u>
1st year through 5th year	1
6th year through 8th year	1.50
9th year or more	1.75

**14.1.2 RATIO FOR EARNING VACATION FOR EMPLOYEES WHO WORK LESS THAN ONE HUNDRED EIGHTY ONE (181) DAYS:** Employees who have a work schedule of less than one hundred eighty one (181) days in a school year, will earn vacation at a rate of:

<u>Fiscal Year of Employment</u>	<u>Days per every 18 days</u>
1st year through 5th year	1
6th year through 8th year	1.50
9th year or more	1.75

**14.1.3 RATIO FOR EARNING VACATION/MANAGEMENT, SUPERVISORY AND CONFIDENTIAL EMPLOYEES:** Classified management, supervisory and confidential employees shall earn vacation as approved by the Board of Trustees. The Board of Trustees provides that management employees earn vacation on a monthly basis at the rate of twenty-four (24) days per year.

**14.1.4 VACATION RATE OF PAY:** All vacation shall be paid at the employee's regular rate of pay earned in his/her permanent classification including any longevity.

**14.1.5 PART-TIME EMPLOYEES:** Regular employees working less than a full eight (8) hour day shall earn vacation benefits in direct proportion to full-time employees.

**14.1.6 VACATION CREDIT FOR PARTIAL MONTH:** A regular twelve (12) month employee in a paid status for fifty percent (50%) or more of the month shall receive vacation credit for that month.

**14.1.7 PROBATIONARY EMPLOYEES VACATION RIGHTS:** Probationary employees shall not have a right to use earned vacation until the completion of six (6) months of employment.

**14.1.8 VACATION SCHEDULING FOR LESS THAN TWELVE (12) MONTH EMPLOYEE:** Regular employees who work less than twelve (12) months shall take their earned vacation during the winter and/or spring recesses. Should an employee be entitled to less days than are available at Winter and/or Spring recesses, the difference due the District will be made by deduction on the individual's pay warrant.

**14.1.9 VACATION SCHEDULING FOR TWELVE (12) MONTH AND YRE EMPLOYEES:** An employee assigned twelve (12) months per year shall take vacation at a time convenient to both the employee and the supervisor. Twelve (12) month employees working at a school site may be required to take their earned vacation during the Winter and/or Spring

recesses. Otherwise, the employee shall be allowed to take all earned vacation in one unbroken period if it is the employee's wish to do so.

**14.1.9.1** In determining the vacation schedule for individual departments, the supervisor shall give employees the choice of times available on the basis of seniority.

**14.1.10 UNEARNED VACATION UPON TERMINATION:** When a classified employee terminates and had been granted vacation which was not yet earned at the time of termination of the employee's services, the District shall deduct from the employee's final check the full amount of salary which was paid for such unearned days of vacation taken.

**14.1.11 EARNED VACATION UPON TERMINATION:**

**PERMANENT STATUS EMPLOYEE:** When a classified employee terminates for any reason (including lay-off and leave of absence) the employee shall be entitled to lump sum compensation for all earned and unused vacation, at their regular rate of pay, paid the month end following termination.

**PROBATIONARY STATUS EMPLOYEE:** Employees who have not completed their probationary period of employment in regular status shall not be entitled to any vacation compensation upon termination.

**14.1.12 VACATION CARRY-OVER:** Employees who have worked in the District for at least five (5) continuous years may request to carry over to the next fiscal year an additional five (5) days of earned and unused vacation (for a total of ten (10) carry over), one (1) time every five (5) years.

**14.1.13 VACATION POSTPONEMENT:** Vacation may, with the approval of the District, be taken any time during the school year. If the employee is not permitted to take his/her annual vacation, the amount not taken shall accumulate for use in the next year.

**REFERENCE:** 1. Education Code Sections 45190, 45197, 45260 and 45261

**CHAPTER 15**  
**LEAVES OF ABSENCE**

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**15.1 GENERAL PROVISIONS**

**15.1.1 DEFINITION OF LEAVE OF ABSENCE:** A leave of absence is an authorization for a regular employee to be absent from duty for a specific period of time for an approved purpose.

**15.1.2 RIGHT TO POSITION UPON RETURN:** An employee granted a paid or unpaid leave of absence for thirty (30) days or less has the right to return to the position held at the time the leave was granted without loss of privileges or benefits. Upon return of an unpaid leave over thirty (30) days, the unit member will be placed either in the former position, a position in the same classification or in a related position with the same salary range.

**15.1.3 AUTHORIZED LEAVE IS NOT A BREAK IN SERVICE:** Industrial accident/illness leave, other paid leave, military leave, and unpaid illness leaves shall not constitute a break in service.

**15.1.4 CANCELLATION OF VOLUNTARY LEAVES:** The Board of Trustees may cancel any voluntary leave of absence to the extent consistent with federal and state laws for good cause by giving the absent employee due notice. Due notification shall allow sufficient time for the employee to return to work.

**15.1.5 FAILURE TO REPORT FOR DUTY AFTER LEAVE EXPIRES:** Failure to report for duty within three (3) working days after a leave expires or has been canceled shall be considered abandonment of position and the employee will be terminated to the extent permitted under federal and state laws. Such termination shall be considered as termination for cause and treated in the same manner as any other disciplinary action.

**15.1.6 ORDER OF AVAILABLE LEAVES FOR ILLNESS OR INJURY:** An employee who is absent for any reason related to illness or injury shall utilize available leaves in the following order:

**15.1.6.1** Industrial Accident and Illness Leave (if applicable).

**15.1.6.2** Accrued and advanced sick leave.

**15.1.6.3** Accrued or credited vacation days by request of employee.

**15.1.6.4** Extended illness leave at fifty percent (50%) of regular pay. Sick leave donations are paid concurrently with extended illness leave. Accrued or credited vacation days can be used in conjunction with extended illness leave.

**15.1.7 LEAVES NOT GRANTED AS A MATTER OF RIGHT:** An employee shall not be entitled to a leave of absence as a matter of right. Upon request for a leave of absence signed by the employee and stating the reason for the leave, the appointing authority may approve or disapprove the request.

**15.1.8 VERIFICATION OF LEAVES:** The District shall have the right to require verification of all leaves requested and taken by an employee.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

## 15.2 SICK LEAVE

**15.2.1 DEFINITION OF SICK LEAVE:** Sick leave is the authorized absence of a regular employee when the absence is due to:

**15.2.1.1** Physical or mental inability to perform the usual and customary duties of the position due to illness, injury, or for legally established quarantine.

**15.2.1.2** A visit to a licensed physician, dentist, medical practitioner, psychologist or other therapist for examination, treatment, consultation, or therapy.

**15.2.1.3** Attend to an illness of a child, parent, registered domestic partner or spouse of the employee.

**15.2.2 NUMBER OF SICK LEAVE DAYS PER YEAR:** Every regular classified employee shall earn one (1) day of sick leave per full month of paid status to a maximum of twelve (12) days per year.

**15.2.2.1** To qualify for a full month of paid status, the employee must be in a paid status for fifty percent (50%) or more of the work days during the month.

**15.2.2.2** Part-time employees, or those paid by the hour, will earn and be charged sick leave for each full month worked (this will include September and June for those working five (5) or more school months), the assigned number of hours worked per day will accrue as sick leave hours.

**15.2.2.3** Employees who work one-hundred eighty (180) days or less in a school year will earn one (1) equivalent day for every eighteen days in paid status.

**15.2.3 PAY RATE FOR SICK DAYS:** Employees shall earn sick days based on the formula outlined in Chapter 15.2.2. When an employee takes a day of sick leave, pay for that day of sick leave shall be the same pay the employee would have received had the employee worked that day.

**15.2.4 CARRY-OVER OF SICK LEAVE:** Sick leave accrued, but not used, shall carry over from one fiscal year to another with no limit on accumulation.

**15.2.5 PROBATIONARY EMPLOYEES' USE OF SICK LEAVE:** New probationary employees may not use more than six (6) days of paid sick leave during their initial probationary period. This rule shall not apply to those regular classified employees who have previously completed a probationary period in the District.

**15.2.6 SICK LEAVE GIVEN IN ADVANCE AT START OF FISCAL YEAR:** At the beginning of each fiscal year, the sick leave account of the employee shall be increased by the number of days of paid sick leave which would normally be earned in the ensuing fiscal year.

**15.2.6.1** An employee's sick leave advance allotment shall be adjusted should a change in the employee's assignment alter the amount of sick leave which the employee can earn.

**15.2.7 NOTIFICATION OF ABSENCE:** In order to receive compensation for sick leave, the employee must notify the department/site designee and/or his/her immediate supervisor prior to the start of the employee's working day if possible, but not later than the first working hour of the first day of absence; unless conditions and/or lack of practicality make such notification impossible in which case, notification must be made as

soon as practicable. The burden of proof regarding the impossible conditions shall be upon the employee. If the employee is going to be absent more than one day, the employee must notify the supervisor or designee of the number of days of expected absence.

**15.2.8 NOTIFICATION OF RETURN TO WORK:** An employee on leave shall notify the department/site designee and/or his/her immediate supervisor of his/her impending return as soon as possible, but not later than 3:00 p.m. of the work day preceding the day on which the employee is to return to work. If an employee fails to notify the department/site designee and/or his/her supervisor, and a substitute has been assigned to work for the day when the employee returns to work, the employee may be sent home for the day without being paid for that day.

**15.2.9 DOCTOR'S NOTE MAY BE REQUIRED:** The Assistant Superintendent, Human Resources or the District designee may require the employee to submit a statement from a state-licensed physician verifying the nature and/or duration of the illness. In addition, the District may send an employee to a District appointed physician for examination at the District's expense. If a Doctor's statement is required, the employee shall submit the Doctor's statement to the Classified Human Resources Department Office.

**15.2.10 DOCTOR'S RELEASE REQUIRED AFTER HOSPITALIZATION:** The Assistant Superintendent, Human Resources or the District designee may require an employee returning from surgery or illness requiring hospitalization regardless of the duration of the absence to provide medical verification of fitness to fully perform all the duties of his/her assigned position. If a medical verification of fitness is required, the employee shall submit the medical verification to the Classified Human Resources Department Office.

**15.2.11 GENERAL DISTRICT RIGHT TO REQUIRE MEDICAL EXAM:** The District shall have the right to have an employee examined by a state-licensed physician, at district expense, whenever there is a question as to the employee's physical, mental, or emotional ability to perform the duties and/or responsibilities of his/her position; regardless of whether or not the employee has claimed or received paid benefits under the provisions of these rules and regulations.

**15.2.12 NO SICK LEAVE PAYOFF WHEN EMPLOYEE LEAVES:** If an employee leaves the employment of the District, accumulated unused sick leave will not be credited to the employee's final payment. Upon retirement, the unused accumulated illness leave of an employee who is a member of PERS will be credited by PERS at the rate 0.004 year of service for each unused day of earned sick leave.

**REFERENCE:** 1. Education Code Sections 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45196.5, 45200, 45203, 45260 and 45261

### **15.3 EXTENDED SICK LEAVE**

**15.3.1 EXTENDED SICK LEAVE:** All regular classified employees who have exhausted all accrued and advanced sick leave shall receive extended sick leave benefits subject to the following conditions:

**15.3.1.1** At the beginning of each fiscal year, employees will be credited with one hundred (100) days (workdays) of extended sick leave. Extended sick leave shall be paid at fifty percent (50%) of the employee's regular rate. The one hundred (100) day period shall commence with the first day of extended absence. During this period, full pay shall be given for accumulated sick leave, vacation and holidays.

**15.3.1.2** Extended benefits shall be limited to one hundred (100) days in each fiscal year. At the beginning of a fiscal year, one hundred (100) days shall be credited to the employee's account, whether or not the employee is currently drawing benefits subject to this Rule.

**15.3.1.3** These one hundred (100) days shall be exclusive and in addition to all other paid and compensable leaves such as vacation, industrial accident/illness leaves and holidays.

**15.3.2 USE AFTER EXHAUSTION OF ALL OTHER PAID LEAVES:** After entitlement to all regular sick leave, vacation, and other paid time available has been exhausted, an employee who is still absent from his/her employment shall begin to draw on the employee's one hundred (100) days of leave pursuant to Chapter 15.3.1.

**15.3.3 USE EXTENDS INTO NEXT FISCAL YEAR:** In the event that the entitlement to extended sick leave is not exhausted at the end of the present fiscal year, and the employee continues to be sick or disabled, the employee shall be entitled to receive the new regular and extended sick leave benefits available for that fiscal year. Extended sick leave is not cumulative.

**15.3.4 VERIFICATION OF ILLNESS:** All rules governing verification of illness absences outlined in Chapter 15.2 shall also apply to any absences taken under this Rule.

**15.3.5 ABSENCE NOTIFICATION:** All rules governing absence notification outlined in Chapter 15.2 shall also apply to any absences taken under this Rule.

**REFERENCE:** 1. Education Code Sections 45136, 45137, 45190, 45191, 45193, 45195, 45196, 45196.5, 45200, 45203, 45260 and 45261

#### **15.4 INDUSTRIAL ACCIDENT/ILLNESS LEAVE**

**15.4.1 SIXTY (60) DAYS OF FULL PAID LEAVE:** All regular and permanent classified employees or regular management classified employees who have completed six (6) months of paid service shall be entitled to this leave. An eligible classified employee who is absent from duty from causes which are District related industrial accident, injury, or illness shall be entitled to not more than sixty (60) working days in any one (1) fiscal year for each industrial injury, accident, or illness. If the full sixty (60) working days will overlap into the next fiscal year, the employee shall be entitled only to the amount remaining at the end of the fiscal year in which the accident, injury, or illness occurred. Such leave is not cumulative and may be taken only during those periods when the employee would normally have been in a paid status.

**15.4.2 REPORTING OF INJURY:** In the case of an industrial accident or injury, the employee must report the incident to his/her supervisor the same day, whenever possible. All injuries not reported the same day require justification for the delay.

**15.4.2.1** The supervisor shall complete the District's Supervisor's Report of Accident Report and send it as soon as possible to the District department charged with processing workers' compensation claims.

**15.4.3 LEAVE COMMENCES ON FIRST DAY:** An industrial accident or illness leave shall commence on the first day of absence and shall be reduced by one day for each day of authorized absence.

**15.4.4 USE OF SICK LEAVE AFTER EXHAUSTION OF SIXTY (60) DAYS:** Upon exhaustion of the industrial accident/illness leave, the employee shall be entitled to use sick leave provided in Chapter 15.2. This leave shall commence on the date of termination of the

industrial leave of absence. Provided the employee continues to receive temporary disability indemnity, the employee may elect to take as much of accumulated sick leave which when added to his/her temporary disability indemnity (Workers' Compensation check), will result in a payment to the employee of not more than his/her full salary. (Example: An employee has a temporary disability indemnity equal to one-third (1/3rd) normal salary. The District pays the employee full salary and deducts two-thirds (2/3rds) of a day of sick leave from the employee's accumulated sick leave account.)

**15.4.5 USE OF OTHER LEAVES AFTER EXHAUSTION OF SICK LEAVE:** After all accumulated sick leave has been exhausted an employee will then use accrued vacation credit. If no vacation credit is available or has been exhausted, the employee may then begin to use the extended illness leave provided in Chapter 15.3. The use of leaves outlined in this section shall be governed by the coordinated use of temporary disability benefits outlined in Chapter 15.4.4.

**15.4.6 EMPLOYEE MUST REMAIN IN STATE OF CALIFORNIA:** An employee receiving benefits under the provisions of this Rule shall, during the period of the leave, remain within the State of California unless out-of-state travel is authorized by the Board of Trustees.

**15.4.7 TWELVE (12) MONTH UNPAID LEAVE DUE TO INDUSTRIAL INJURY:** A permanent classified employee, who has exhausted all paid leaves and who continues to be absent due to industrial injury shall be granted a twelve (12) month unpaid leave of absence upon recommendation of the Superintendent, and approval of the Board of Trustees. This leave may be extended for one (1) additional twelve (12) month period.

**15.4.8 PLACEMENT ON REEMPLOYMENT LIST AT EXHAUSTION OF LEAVES:** When all available paid or unpaid leaves of absence have been exhausted, and if the employee is still not medically able to assume the duties of his/her position, he/she shall, if not voluntarily placed in another position, be separated from the district. However, their name will be placed on a reemployment list for a period of thirty-nine (39) months. When the employee is medically able to return to work during this thirty-nine (39) month period, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other candidates, except for a reemployment list established because of a layoff for lack of work or lack of funds, in which case he/she shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a reemployment list, as provided herein, and who has been medically released for return to duty, and who fails to accept an appropriate assignment shall be dismissed. An appropriate assignment for purposes of this Rule shall be defined as a position in the previous class having the same or greater number of assigned hours per day, days per week, and months per year, and on the same approximate shift.

**15.4.8.1 ACTION UPON EXHAUSTION OF LEAVES OF ABSENCE FOR EMPLOYEES ELIGIBLE FOR DISABILITY RETIREMENT:** When all available paid or unpaid leaves of absence have been exhausted, and if the employee is still not medically able to assume the duties of his/her position, the District shall apply for disability retirement on behalf of the employee in accordance with California Government Code Section 21153. The employee shall remain employed while the Public Employees Retirement System (PERS) determines whether the employee qualifies for disability retirement. If PERS retires the employee, his/her employment is ended at the time of retirement. At that time, the District, pursuant to the Education Code, will place the employee on a 39-month reemployment list. If during the 39-month period following the effective date of the disability retirement, the employee is medically able to return to work during this 39-month period, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other candidates,

except for a reemployment list established because of a layoff for lack of work or lack of funds, in which case he/she shall be listed in accordance with appropriate seniority regulations. However, to be reemployed, the employee would have to seek reinstatement from retirement from PERS. If such reinstatement is granted, the employee can exercise his/her rights to return to work in a vacant position in his/her class. An employee who has been placed on a reemployment list, as provided herein, and who has been medically released for return to duty, and who fails to accept an appropriate assignment, shall be dismissed. An appropriate assignment for purposes of this Rule shall be defined as a position in the previous class having the same or greater number of assigned hours per day, days per week, and months per year, and on the same approximate shift.

**15.4.9 ABOLISHMENT OF PREVIOUS CLASSIFICATION:** If the employee's class has been abolished during his/her absence, and the employee has been released to return, the employee shall be placed in a vacant position in a comparable class for which the employee is qualified as determined by the Director, Classified Human Resources and approved by the Personnel Commission.

**15.4.10 RETURN TO SERVICE AFTER INDUSTRIAL LEAVE:** An employee shall be permitted to return to service after an industrial accident or illness leave only upon presentation of a release from the district appointed physician. This release must certify that the employee is able to return to his/her position without restrictions or limitations. If the medical release limits the work activities of the employee, the District shall determine if a reasonable accommodation can be made. An employee who is medically released to return to work and who fails to accept an appropriate assignment shall be dismissed.

**REFERENCE:** 1. Education Code Section 45192  
2. Government Code Section 21153

**15.4.11 ABSENCES NOT CONSIDERED A BREAK IN SERVICE:** Any leave under this Rule, either paid or unpaid, shall not be considered a break in service and the employee, while on such leaves, shall continue to accrue seniority credit.

**REFERENCE:** 1. Education Code Sections 45190, 45192, 45260 and 45261

## **15.5 TRANSFER OF SICK LEAVE**

**15.5.1 TRANSFER OF SICK LEAVE FROM ANOTHER DISTRICT:** Any classified employee of another school district, county superintendent's office, community college, or other public school agency deemed a school district by California law, who was not terminated from that agency for cause, who accepts employment with the District within one (1) calendar year from the date of the termination of employment with the other agency shall be allowed to transfer his/her accumulated sick leave from that agency to this District. In order to effectuate the transfer of the accumulated sick leave, the newly hired employee shall request the Classified Human Resources Department Office to secure the necessary information from the former school agency.

**REFERENCE:** 1. Education Code Sections 45202, 45260 and 45261.

## **15.6 UNPAID ILLNESS LEAVE**

**15.6.1 SIX (6) MONTH UNPAID LEAVE:** A permanent classified employee, who has exhausted all paid leaves and who continues to be absent due to illness may be granted a six (6) month unpaid leave of absence upon recommendation of the Superintendent, and

approval of the Board of Trustees. This leave may be extended for one (1) additional six (6) month period.

**15.6.2 FACTORS TO BE CONSIDERED:** The following factors may be considered:

- 15.6.2.1** The likelihood that the employee will be able to return to regular duties at the conclusion of the leave.
- 15.6.2.2** The length of service and work record of the employee.
- 15.6.2.3** The employee's previous leave history and attendance record.
- 15.6.2.4** The number of positions in the employee's class.
- 15.6.2.5** The uniqueness of the duties performed, and the availability of a substitute.
- 15.6.2.6** Other reasons as may be deemed appropriate by the Board of Trustees.

**15.6.3 RIGHT TO RETURN TO CLASS:** The granting of an unpaid leave of absence under this Rule shall guarantee the employee the right to return to his/her former classification, and to a position with the same basic assigned number of hours and months of employment, with the same approximate assigned shift.

**REFERENCE:** 1. Education Code Sections 45195, 45260 and 45261

## **15.7 BEREAVEMENT LEAVE**

**15.7.1 FIVE (5) TO SEVEN (7) DAYS OF PAID LEAVE:** In the event of the death of a member of the immediate family, an employee shall be granted necessary leave of absence, not to exceed five (5) days, and an additional two (2) days for necessary travel beyond two hundred (200) miles of the District (as measured by the shortest land route). Additional days of absence beyond those described herein may be provided under the terms of Personnel Necessity Leave provisions contained in Chapter 15.8. Employees granted bereavement leave under this Rule shall suffer no deduction from their salary, nor shall such leave be deducted from leave granted by other sections of these Rules or the Education Code.

**15.7.2 DEFINITION OF IMMEDIATE FAMILY:** Members of the immediate family as used in this section, means the mother, father, grandmother, grandfather or a grandchild of the employee or of the spouse of the employee, and the spouse, registered domestic partner, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, or any relative living in the immediate household of the employee.

**REFERENCE:** 1. Education Code Sections 45194, 45260 and 45261

## **15.8 PERSONAL NECESSITY LEAVE**

**15.8.1 USE UP TO SEVEN (7) DAYS:** An employee may use, at his/her election, accumulated sick leave benefits in the following cases of personal necessity:

- 15.8.1.1** Death of a member of the immediate family as defined in Chapter 15.7.2 when rights to bereavement leave outlined in Chapter 15.7 have been exhausted.
- 15.8.1.2** Accident involving his/her person or property, or property of a member of the employee's immediate family as defined in Chapter 15.7.2 of such a

nature that the immediate presence of the employee is required during his/her working day.

**15.8.1.3** Illness involving a member of the employee's immediate family as defined in Chapter 15.7.2 of such a nature that the presence of the employee is required during his/her working day.

**15.8.1.4** Appearance in any court or before any administrative tribunal as a litigant, party or witness under subpoena or any order made with jurisdiction.

**15.8.2 NOTIFICATION OF LEAVE USAGE:** Classified employees desiring to use such leave shall submit their request at least three (3) working days in advance of the anticipated absence, except in emergencies or unexpected events. In such cases, the general reason for the personal necessity shall be clearly stated on the Personal Leave Request Form.

**15.8.3 PERSONAL NECESSITY NOT CUMULATIVE:** Personal necessity leave is not cumulative. Employees are limited in each fiscal year to the amount of usage outlined in Chapter 15.8.1.

**REFERENCE:** 1. Education Code Section 45207, 45260 and 45261

## **15.9 PERSONAL EMERGENCY LEAVE**

**15.9.1 USE UP TO SIX (6) DAYS:** An employee may with prior approval use at his/her election not more than six (6) days accumulated sick leave benefits in any school year in cases of personal emergency. Personal emergency leave shall be limited to:

**15.9.1.1** Circumstances that are serious in nature and that the employee cannot reasonably be expected to disregard, and that necessitate immediate attention, and cannot be taken care of after work hours or on weekends. Personal emergency leave shall not be used for such matters as vacation, recreational activities, or any matter pertaining to an employee's personal business involving an auxiliary income.

**15.9.2 NOTIFICATION OF LEAVE USAGE:** Classified employee desiring to use such leave in the absence of an immediate necessity shall submit a completed Personal Leave Request Form at least three (3) working days in advance of the anticipated absence. In case of emergencies or other unexpected events the completed Personal Leave Request Form must be filed within three (3) working days after return from the personal necessity leave. The principal or immediate supervisor must verify the request for emergency leave before forwarding it to the District Office.

**15.9.3 PERSONAL EMERGENCY NOT CUMULATIVE:** Personal emergency leave is not cumulative. Employees are limited in each fiscal year to the amount of usage outlined in Chapter 15.9.1.

**REFERENCE:** 1. Education Code Section 45260 and 45261

## **15.10 PREGNANCY DISABILITY/MATERNITY LEAVE**

**15.10.1 ENTITLED TO ALL SICK LEAVE BENEFITS:** Regular female classified employees who must be absent from their duties because of pregnancy or convalescence following childbirth shall be entitled to utilize all regular and extended sick leave benefits to which they may be entitled under these Rules. Absence due to maternity that is not medically required can be granted pursuant to Chapter 15.16 and federal and state law.

**15.10.2 SICK LEAVE DURING MEDICALLY CERTIFIED ABSENCE:** Paid leave, including regular sick leave and extended sick leave may be used for the period of absence medically certified by the employee's attending physician.

**15.10.3 CERTIFICATION OF LAST DAY ABLE TO WORK:** Prior to the eighth (8th) month of pregnancy, the employee shall furnish the District a medical certificate stating the last date on which she will be able to work, accompanied by a verification of her disability.

**15.10.4 RELEASE TO RETURN TO WORK:** Prior to returning to work, the employee must present to the District a release to return to work without limitations from the treating physician. In addition, the District may require that the employee be examined by a District appointed physician to confirm the employee's ability to return to work.

**REFERENCE:** 1. Education Code Sections 45193, 45260 and 45261

## **15.11 UNPAID CHILD REARING LEAVE**

**15.11.1 GRANTING OF UNPAID CHILD REARING LEAVE:** An unpaid child rearing leave may be granted to an employee within the timelines outlined in this rule. Periods of absence related to maternity which are medically required and/or disabling are covered by Chapter 15.10.

**15.11.2 ELIGIBILITY AND TIMELINES FOR LEAVE:** A regular classified employee who is the natural or adoptive parent of a child shall be entitled to an unpaid child rearing leave, when medical disability is not a factor, for a maximum period of one hundred ninety-five (195) work days beyond the birth of the child or the completion of the appropriate adoption procedures.

**15.11.3 ESTABLISHMENT OF BEGINNING/END DATES:** The employee is expected to establish a beginning and ending date for the child rearing leave with his/her supervisor as far in advance of the start of the child rearing leave as possible, however no less than sixty (60) calendar days prior to the start of the semester or year involved, in order to plan for a temporary replacement.

**15.11.4 EMPLOYEE MAY RETURN EARLIER:** An employee who has been granted an unpaid child rearing leave may return early from that leave with at least ten (10) working days notice to the Personnel Commission Office.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

## **15.12 JUDICIAL LEAVE**

**15.12.1 LEAVE OF ABSENCE FOR JURY DUTY:** Regular classified employees who are called to serve on a jury shall be entitled to be absent from duty without loss of pay. Any compensation, excluding reimbursements for meals, mileage, and parking allowances, received by an employee as a member of a jury shall be remitted to the District.

**15.12.2 RETURN FROM JURY DUTY:** An employee shall return to work from jury duty if the employee can do so and complete at least three (3) hours work during the employee's regular assigned hours, allowing for travel and a thirty (30) minute meal period if the normal meal period was not provided by the court. In no event shall an employee be expected to put in more time, when combining jury duty hours (including travel time) and regular work hours, than his/her regular number of assigned hours. The exception to the rule would be if the District required the employee to work additional hours beyond the employee's regular number of assigned hours per day and compensated the employee for the additional hours at his/her regular or overtime rate as appropriately determined by these Rules and Regulations.

**15.12.3 WITNESS LEAVE OF ABSENCE:** A leave of absence up to ten (10) working days to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee may be granted to all regular classified employees without loss of pay. Any compensation, excluding reimbursements for meals, mileage, and parking allowances, received by an employee as a result of being a witness shall be remitted to the District.

**15.12.4 RETURN FROM WITNESS LEAVE:** An employee shall return to work from witness leave if the employee can do so and complete at least three (3) hours work during his/her regular assigned hours, allowing for travel and a thirty (30) minute meal period if the normal meal period was not provided by the court or other governmental agency. In no event shall an employee be expected to put in more time, when combining witness duty hours including travel time and regular work hours, than his/her regular number of assigned hours. The exception to the rule would be if the District required the employee to work additional hours beyond his/her regular number of assigned hours per day and compensated the employee for the additional hours at his/her regular or overtime rate as appropriately determined by these rules and Regulations.

**15.12.5 NOTIFICATION OF WITNESS LEAVE:** Any request for witness leave shall be submitted in writing to the department/site administrator with a copy of the official subpoena attached. The department/site administrator shall forward the request and official subpoena to the Payroll Department with the absence report.

**REFERENCE:** 1. Education Code Sections 44036, 44037, 45260 and 45261

## **15.13 MILITARY LEAVE**

**15.13.1 ALL REGULAR EMPLOYEES GRANTED MILITARY LEAVE:** Regular classified employees under official orders, who are called to active duty or enlist in the Armed Services of the United States of America, shall be granted military leave of absence pursuant to federal and state laws.

**15.13.2 RESERVE SERVICE:** Regular classified employees who are members of a reserve corps, and who must be temporarily absent due to active duty training or exercises, shall be granted temporary military leave of absence.

**15.13.3 THIRTY (30) DAYS LEAVE WITH PAY:** Regular classified employees who have been employed by the District (or has prior active military service) for at least one (1) full year shall be granted full pay for the first thirty (30) calendar days of military leave provided in the above section; however, such paid leave time shall be limited to a maximum of thirty (3) days in any fiscal year in accordance with CA Military and Veterans Code. Regular classified employees with less than a year of service with the District or active military service who are called to active military service or active reserve duty shall be granted military leave without pay. No fringe benefits, such as sick leave, vacation, or health insurance shall accrue or be paid for any unpaid portions of leave provided in accordance with the above section. Classified employees who are in an "inactive duty" status who participate in weekend, day or evening military activities are not covered by the provisions of this rule and, therefore, not entitled to any components provided by this rule.

**15.13.4 OFFICIAL ORDERS MUST BE SUBMITTED:** In order for a paid leave of absence to be granted the employee must submit official orders to active duty or reserve duty, to Classified Human Resources. The orders must contain the date that the employee is required to report for active service or active reserve duty, and the projected duration of such service.

**15.13.5 RETURN FROM MILITARY LEAVE:** Upon return from military leave the employee shall be reinstated to his/her same regular position or an equal position in the same class.

**REFERENCE:** 1. Education Code Sections 45190, 45260 and 45261.  
2. California Military and Veterans Code Sections 389, 395, 395.01-395.05 and 395.1-395.4

#### **15.14 LEAVE TO SERVE IN EXEMPT/TEMP/LIMITED TERM JOB**

**15.14.1 LEAVE TO SERVE IN EXEMPT/TEMP/LIMITED TERM POSITION:** Any permanent classified employee who accepts an assignment within the District to an exempt, temporary, or limited term position shall, during such assignment, be considered as serving in his/her regular position, and such assignment shall not be considered to be a separation from service.

**15.14.2 VOLUNTARY RETURN TO REGULAR POSITION:** Such employee may, with the approval of the appointing authority, voluntarily return to his/her regular position or to a position in the class of his/her permanent status prior to the completion of service in the exempt, temporary, or limited term assignment. Failure to complete the required service in the exempt, temporary, or limited term, unless approved as specified herein, could constitute abandonment of position and may be grounds for disciplinary action.

**REFERENCE:** 1. Education Code Sections 45260 and 45261.

#### **15.15 RELEASE TIME FOR DISTRICT PERSONNEL RELATED ACTIVITIES**

**15.15.1 RELEASE TIME TO TAKE DISTRICT EXAMINATIONS:** A regular classified employee shall be permitted to take any District examination administered by the Personnel Commission during the employee's regular working hours without deduction of pay or other penalty. Such paid release time shall be valid only with written authorization to take the examination signed by the Director, Classified Human Resources or his/her designee. The employee shall provide his/her supervisor or manager with notice of the need for release time at least two (2) days prior to the date of the District examination.

**15.15.2 RELEASE TIME FOR DISTRICT INTERVIEWS:** A regular classified employee shall be provided with release time to participate in interviews for District promotions or transfers during his/her regular working hours without deduction of pay or other penalty. The employee shall provide his/her supervisor with notice of the need for release time as soon as possible after notification by the Personnel Commission Office of the interview time.

**15.15.3 ATTENDANCE AT DISTRICT BOARD/COMMISSION MEETINGS:** A classified employee of the District shall be provided with release time without deduction of pay or other penalty in order to attend any Board of Education or Personnel Commission meeting at which a recommendation or action is being considered which would affect the employee's status, classification of salary. The employee shall provide his/her supervisor with notice of the need for release time at least twenty-four (24) hours prior to the scheduled meeting. The employee shall be notified at least two hours prior to the scheduling meeting.

**REFERENCE:** 1. Education Code Section 45260, 45261 and 45272

#### **15.16 LEAVES OF ABSENCE WITHOUT PAY**

**15.6.1 WHEN GRANTED:** Leaves of absence without pay may be granted to a permanent classified employee upon written request of the employee, and the approval of the District, subject to the restrictions and conditions outlined in this Rule and pursuant to Chapters 15.1.7 and 15.1.8.

**15.16.2 LENGTH OF LEAVE:** Leave of absence without pay may be granted for any period not exceeding twelve (12) months.

**15.16.3 REASONS:** A leave of absence may be granted an employee provided the employee meets all other requirements set forth in this rule:

**15.16.3.1** An employee who enters into qualified university student teaching program.

**15.16.3.2** For reasons already enumerated in Chapter 15 of these Rules.

**15.16.3.3** For reasons deemed satisfactory to the District and the Personnel Commission.

**15.16.4 RIGHT TO RETURN:** The granting of a leave of absence without pay for six (6) months or less, gives the employee the right to return to his/her position at the expiration of the leave of absence, or before as outlined in Chapter 15.1.2 with the concurrence of the appointing authority and/or in conformance with procedures contained in Chapter 15 of these Rules and Regulations, if such a position still exists. A leave of absence over six (6) months but less than twelve (12) months gives the employee the right to return to his/her same position or an equal position in the same classification.

**15.16.5 FILLING VACANCY:** When a leave of absence without pay for six (6) months or less is granted it shall be understood that the vacancy thus caused may be filled for the duration of the leave only, and that the position is being held open for the employee who is on leave.

**15.16.6 REPORT OF REINSTATEMENT:** Report of the employee's return to work at or before the expiration of a leave of absence without pay shall be made to the District prior to the employee returning. At the same time, notice to the employee who has been filling the position temporarily shall be made.

**15.16.7 FAILURE TO RETURN:** Failure to report for duty within three (3) working days after the deadline for returning from a leave shall be considered abandonment of position and subject the employee to disciplinary action up to and including termination from employment, pursuant to Chapter 15.1.5.

**15.16.8 COUNTING TIME FOR SENIORITY OR SALARY ADJUSTMENT:** Time spent on leave of absence without pay of over five (5) working days shall not count towards seniority except in the areas of military leave, illness leave, and industrial accident/illness leave. Time spent on leave of absence without pay shall not count towards step increases. Before an employee receives a salary adjustment the employee must serve the required service time.

**REFERENCE:** 1. Education Code Sections 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45196.5, 45198, 45199, 45260 and 45261

## **15.17 FAMILY CARE AND MEDICAL LEAVE (FMLA)**

**15.17.1 LEAVE OF ABSENCE FOR FAMILY CARE OR MEDICAL LEAVE:** A regular classified employee who must be absent due to (a) the birth of a child of the employee, the placement of a child with an employee in connection with the foster care or adoption of the child by the employee, within one (1) year of such birth or placement, or (b) leave to care for the employee's spouse, registered domestic partner, child or parent with a serious health condition, or (c) leave because of a serious health condition of the employee that makes the employee unable to perform the functions of his or her position shall be eligible for leave under this section.

**15.17.2** FMLA leave will be available for qualifying employees to care for a family member who is an injured service member and is undergoing medical treatment, recuperation, or therapy, is an outpatient of a military medical facility or care unit, for a serious injury or illness incurred in the line of duty during active duty. The qualifying employee may be the spouse, son, daughter, parent or next of kin of the service member of the Armed Forces, National Guard or Reserves. This leave is for as much as 26 weeks during a 12-month period.

**15.17.3** FMLA leave will be available for qualifying employees who are family members of active-duty National Guard and Reserves members for any qualifying exigency arising out of the fact that the family member is on active duty or called to active duty status in support of a contingency operation. This 12-week leave in a 12-month period may be taken for qualifying exigencies which include: Short-notice deployment; military events and related activities; childcare and school activities; financial and legal arrangements; counseling; rest and recuperation; post-deployment activities; and additional activities not encompassed in other categories but agree to by both the employer and employee.

**15.17.4 LENGTH OF LEAVE:** Full time classified employees with more than twelve (12) months of continuous service with the District shall be granted an unpaid family care and medical leave for up to a total of twelve (12) work weeks in a school year (July 1 - June 30). Part-time classified employees who have been employed a minimum of twelve hundred fifty (1250) hours of service in the twelve (12) months preceding the leave shall qualify for the same benefit.

**15.17.5 DEFINITION OF CHILD OR PARENT:** For purposes of this provision the following definitions apply:

**15.17.5.1** Child – The biological, adopted or foster child, a stepchild, a legal ward, or a child of an employee in loco parentis who is either (a) under eighteen (18) years of age or (b) over eighteen (18) years of age and incapable of self-care because of a mental or physical disability.

**15.17.5.2** Parent – The biological, foster, or adoptive parent, a step parent, or a legal guardian or other person who stood in loco parentis to the employee when the employee was a child.

**15.17.6 SERIOUS HEALTH CONDITION:** A serious health condition means an illness, injury, impairment, or physical or mental condition which involves either of the following:

**15.17.6.1 Inpatient** care in a hospital, hospice or residential health care facility.

**15.17.6.2 Outpatient** Continuing treatment or continuing supervision by a health care provider.

**15.17.7 HEALTH CARE PROVIDER:** An individual who has been determined by the United States Secretary of Labor to be capable of providing health care services under the Family and Medical Leave Act of 1993.

**15.17.8 TIMELINES FOR REQUESTING LEAVE:** Timeline for leaves of absence under the section shall be as follows:

**15.17.8.1** If the employee learns of facts necessitating a family care and medical leave more than thirty (30) calendar days prior to the time the leave is needed, the employee shall provide written notice to the District immediately. A minimum of thirty (30) calendar days written notice is required.

**15.17.8.2** If the employee learns of facts necessitating the family and medical care leave less than thirty (30) calendar days prior to the time the leave is needed, the employee shall provide written notice to the District as soon as possible. The employee is required to provide the District with written notice within five (5) working days of learning of the need for the leave.

**15.17.8.3** If the employee's need for the leave is foreseeable due to a planned medical treatment or planned supervision of the employee, child, parent, spouse, or registered domestic partner with a serious health condition, the employee shall consult with the District regarding the scheduling of the treatment or supervision so as to prevent undue disruption to the operations of the District. Any scheduling of treatment or supervision shall be subject to the approval of the health care provider of the individual with the serious health condition. In any event, thirty (30) calendar days written notice is required.

**15.17.9 DOCTOR'S CERTIFICATION REQUIRED:** A request by an employee for Family Care Medical Leave must be supported by a written certification from a state licensed health care provider as defined under the Family Care Medical Leave Law.

**15.17.9.1** If the employee is requesting the leave for his or her own serious medical condition the certification must include the date on which the health condition commenced, the duration, and a statement that due to the serious health condition, the employee is unable to perform the functions of his or her position.

**15.17.9.2** If the leave is to come for a child, parent, spouse or registered domestic partner with a serious health condition, the certification must include the date on which the health condition commenced, the duration, an estimate of the time that the health provider believes the employee needs to care for the individual and a statement that the serious health condition warrants the need of the employee to provide care for the child, parent, spouse or registered domestic partner.

**15.17.9.3** Additional leave beyond the period stated in the certification requires the employee to obtain recertification in accordance with Chapters 15.16.5.1 and 15.16.7.2.

**15.17.10 DISTRICT MAY REQUEST VERIFICATION:** If the District has reason to doubt the validity of the certification provided for the employee's own serious health condition it may send an employee to a District approved physician for examination at the District expense. Should the District appointing physician opinion differ from the original certification the District may require that the employee obtain the opinion of a third state licensed physician agreed to mutually by the District and the employee. The findings of the mutually selected physician shall be final and binding on all parties.

**15.17.11 DOCTOR'S RELEASE REQUIRED UPON RETURN:** An employee returning from a leave taken because of the employees own serious health condition, regardless of the

duration of the leave, shall be required to provide medical verification of fitness to fully perform the essential duties of his/her assigned position.

**15.17.12 OTHER PAID LEAVES TO RUN CONCURRENT;** An employee eligible under this section shall be required to substitute any accrued paid leave including sick leave, vacation and differential for any part of the twelve (12) work week period.

**15.17.13 INTERMITTENT OR REDUCED SCHEDULE LEAVE:** Leaves taken under the section may be taken on an intermittent or reduced schedule basis. However, it must be taken in complete days at a time unless agreed otherwise between the District and employee. Intermittent or reduced schedule leave shall not result in a reduction of the total amount of family care and medical leave to which the employee is entitled pursuant to state and federal law. Leave taken because of the birth of a child or placement of a child with the employee, shall not be taken intermittently or on a reduced schedule leave unless expressly agreed to by the District and the employee.

**15.17.14 ALTERNATIVE POSITION:** If an employee requests intermittent leave, or a reduced schedule leave, the District may require the employee to transfer temporarily to an available alternative position. The alternative position must be one which the employee is qualified for, which has equivalent pay and benefits, and better accommodates the recurring periods of leave than the employee's regular position.

**15.17.15 HEALTH BENEFITS:** During the period of family care and medical leave the District shall maintain and pay for coverage for current health and welfare benefits for a maximum of twelve (12) work weeks. The District may recover the premium that is paid as required by the provision for maintaining coverage for the employee under the group health plan if both of the following conditions occur:

**15.17.15.1** The employee fails to return from leave after the period of leave to which the employee is entitled has expired.

**15.17.15.2** The employee failure to return from leave is for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to family care and medical leave or other circumstances beyond the control of the employee.

**15.17.16 TOTAL LEAVE IF BOTH PARENTS ARE EMPLOYEES;** If both parents are employed by the District, the district shall not be required to grant leave in connection with the birth, adoption, or foster care of a child that would allow the parents family care and medical leave totaling more than twelve (12) work weeks within a school year (July 1 through June 30)

**15.17.17 LEAVE DOES NOT RUN CONCURRENT WITH PREGNANCY DISABILITY:** An eligible employee may take a pregnancy disability leave of up to four (4) months and a family care and medical leave of up to twelve (12) work weeks, for a combination of four (4) months plus twelve (12) weeks (approximately seven (7) months).

**15.17.18 INDUSTRIAL ACCIDENT OR ILLNESS DISABILITY TO RUN CONCURRENT:** Leave taken under the industrial accident or illness disability runs concurrently with family care and medical leave. An eligible employee may take a combined industrial accident or illness disability and family care and medical leave for a maximum total of twelve (12) work weeks in a school year (July 1 through June 30).

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45127, 45136, 45137 and 45190

2. Government Code Section 12945.2

**15.18 ABSENCE DUE TO EPIDEMICS OR EMERGENCIES:**

**15.18.1 ABSENCE DUE TO EPIDEMICS OR EMERGENCIES:** An employee shall be paid his/her regular salary for any period during which the employee's place of employment is closed because of quarantine, epidemics, or other conditions involving the health or safety of employees provided that the employee is ready, able and willing to perform his/her customary or other reasonable and suitable duties. During this period, the District shall endeavor to assign the employee to work elsewhere.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

## **15.19 DONATION OF SICK LEAVE**

**15.19.1 DONATION OF SICK LEAVE:** A permanent Classified employee is eligible to receive donated sick leave when any illness, surgery or injury incapacitates him/her or their immediate family.

**15.19.2 ELIGIBILITY REQUIREMENTS TO RECEIVE DONATED SICK LEAVE:** In order to be eligible to receive donated sick leave, the employee must meet the following requirements:

**15.19.2.1** The employee's fully paid sick and vacation leave must be exhausted.

**15.19.2.2** The employee must complete an application for solicitation of sick leave and submitted to the Classified Human Resources Department.

**15.19.2.3** The employee must provide a physician's statement to Classified Human Resources, that includes the nature of the illness, surgery or injury of the employee or family member and the probable length of absence from work.

**15.19.3 EMPLOYEE DONATIONS:** No employee shall be allowed to donate sick leave to the extent that his/her accrued sick leave is reduced to less than twenty (20) days multiplied by his/her number of hours worked per day.

**15.19.4 ORDER OF DONATIONS:** Donations will be credited to the recipient in the order received. Donated sick leave not used by the recipient will be returned to the individual donors.

**15.19.5 RATE OF PAY:** Donated sick leave will be paid at the recipient's hourly rate regardless of the donor's hourly rate of pay.

## CHAPTER 16

### HOLIDAYS

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#### 16.1 HOLIDAYS

**16.1.1 HOLIDAYS FOR CLASSIFIED EMPLOYEES:** All regular classified employees shall be entitled to the following paid holidays which occur during their assigned work year, subject to eligibility provisions of this Rule:

**New Year's Day**

**Martin Luther King, Jr.'s Day**

**Lincoln's Day**

**President's (Washington) Day**

**Admissions Day (granted the 1st work day following Christmas Day)**

**Friday of Spring Recess (granted the 2<sup>nd</sup> work day following Christmas Day)**

**Memorial Day**

**July Fourth**

**Labor Day**

**Veteran's Day**

**Thanksgiving Day**

**Friday after Thanksgiving**

**Christmas Eve Day**

**Christmas Day**

**New Year's Eve Day**

When Christmas and New Year's Day fall on a Tuesday, Wednesday, Thursday, Friday or Saturday, December 24 and December 31 will be declared local holidays.

**REFERENCE:** 1. Education Code sections 45203, 45260 and 45261

**16.1.2 HOLIDAY PAY:** A regular employee shall receive full pay for those holidays listed in Section 45203 of the Education Code or for those days designated as holidays in lieu of the regular holidays in accordance with Section 45205 or Section 45206.5 of the Education Code and for days declared to be holidays by the Board of Trustees under the following conditions:

**16.1.2.1** The employee must be in a paid status during any portion of the last working day of his/her assignment preceding the regular holiday, or the designated in lieu holiday, or during any portion of the first working day of his/her assignment following the regular holiday, or the designated in lieu

holiday. He/she will receive full pay for the regular holiday or the designated in lieu holiday, if the first day of his/her assignment is a regular holiday or a designated in lieu holiday, and he/she has been in paid status during any portion of the next following working day, or if the last day of his/her assignment is a regular holiday or a designated in lieu holiday, and he/she has been in paid status during any portion of the last working day preceding the holiday. A person shall not be entitled to holiday pay if his/her assignment terminates on a day immediately preceding a regular holiday or a designated in lieu holiday, or if he/she is initially employed on a day immediately succeeding a regular holiday or a designated in lieu holiday. However, if an employee meets the paid status requirement for a regular holiday, but would not meet the paid status requirement for a designated in lieu holiday, he/she shall be entitled to the regular holiday.

**16.1.2.2** A legal holiday that occurs during the winter recess shall be paid as a holiday if the employee was in paid status on the last day that school was in session or on the first day of the school session after the recess.

**REFERENCE:** 1. Education Code Sections 37220, 45203, 45205, 45260 and 45261

**16.1.3 HOLIDAYS OCCURRING DURING VACATION:** When a holiday occurs during an employee's vacation or a paid leave of absence, except military leave, the holiday shall be paid as a holiday and not charged against vacation or leave benefits.

**REFERENCE:** 1. Education Code Sections 37220, 45203, 45205, 45260 and 45261

**16.1.4 MULTIPLE ASSIGNMENTS:** A regular classified employee serving on multiple assignments shall receive pay for holidays in each assignment independently, according to his status in each particular assignment.

**REFERENCE:** 1. Education Code Sections 37220, 45203, 45205, 45260 and 45261

**16.1.5 WEEKEND HOLIDAYS:** When a holiday falls on a Saturday, the holiday shall be observed on the preceding workday not a holiday. When a holiday falls on a Sunday, the holiday shall be observed on the succeeding workday not a holiday.

**REFERENCE:** 1. Education Code Sections 45203, 45205, 45260 and 45261

**16.1.6 HOLIDAYS FOR EMPLOYEES WITH NON-TRADITIONAL WORK WEEKS:** A regular classified employee assigned to a work week other than Monday through Friday (i.e. Tuesday through Saturday, etc) shall be provided a substitute holiday when the regular holiday falls on a day on which the employee is not normally assigned to work.

**REFERENCE:** 1. Education Code Sections 45205, 45206, 45260 and 45261

**16.1.7 HOLIDAY FOR CUSTOMIZED/POSITON:** For employees who are not twelve (12) month employees and have a work year assigned via a customized schedule, holidays will be assigned on a prorated basis. The prorated share of holidays granted to an employee will be equal to the percent of the work ear listed on the employee's customized schedule based upon a two hundred forty-seven (247) day work-year. For purpose of determining partial allocation of holidays, discrepancies will be rounded up in the favor of the employee. The customized schedule will reflect this prorated allocation.

**16.1.8 TEACHER IN-SERVICE DAY:** Notwithstanding the adoption of separate work schedules for the Certificated and Classified Services, on any day during the regular school term when pupils would otherwise be in attendance but are not and for which certificated

personnel receive regular pay, classified employees shall also receive regular pay whether or not they are required to report for duty that day.

**REFERENCE:** 1. Education Code Sections 45203, 45260 and 45261

## CHAPTER 17

### COMPENSATION AND PAY PRACTICES

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#### 17.1 DETERMINATION OF SALARY SCHEDULES/PAY RATES

For bargaining unit members, salaries are the subject of collective bargaining contract provisions. When the collective bargaining contract is silent, these Rules prevail.

For classified management, confidential and non-represented employees, the following applies.

**17.1.1 FIXING ANNUAL SALARY SCHEDULES:** The Education Code authorizes the Board of Trustees to fix the annual salary schedules for all classified employees and other employees not requiring certification qualifications employed by the District unless otherwise prescribed.

**17.1.1.1** The Education Code requires the Board of Trustees, not later than the date prescribed for approval of the publication budget of every year, to fix the salary schedule for the ensuing school year for all classified employees. Any action taken by the Board of Trustees must be in compliance with the Personnel Commission's Rules and Regulations.

**REFERENCE:** 1. Education Code Sections 45160, 45260, 45261, 45262 and 45267

**17.1.2 BOARD MAY INCREASE SALARY SCHEDULE:** The Board of Trustees may increase the salary schedule for classified employees at any time during the fiscal year and will consider increases and/or decreases resulting from the classification or reclassification of positions as approved by the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45162, 45260 and 45261

**17.1.3 BOARD MUST EMPLOY/PAY IN ACCORDANCE WITH MERIT SYSTEM:** The Board of Trustees is authorized to employ, pay and otherwise control the services of classified employees only in accordance with the provisions of Title 2, Division 3, Chapter 5, Article 6 (Merit System) of the State of California Education Code and these Rules.

**REFERENCE:** 1. Education Code Sections 45241, 45260 and 45261

**17.1.4 COMMISSION SHALL RECOMMEND SALARY SCHEDULES TO BOARD:** The Director, Classified Human Resources shall prepare recommendations for classified salary schedules for approval by the Personnel Commission. The salary schedule(s) approved by the Personnel Commission shall be presented to the Board of Trustees. The Personnel Commission's recommended salary schedule may take into account the following factors:

**17.1.4.1** Wages, salaries and benefits paid by school districts and other governmental agencies which may be in competition with the District in the labor market.

**17.1.4.2** Wages, salaries and benefits paid for similar work in private industry and business in the recruitment area.

**17.1.4.3** The principle of like pay for like work within the Classified Service.

- 17.1.4.4 Appropriate differentials between related classes to reflect differences in duties and responsibilities, as established in the classification plan.
- 17.1.4.5 Such other information as the Personnel Commission may require.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45261 and 45268

**17.1.5 BOARD'S ACTION ON SALARY SCHEDULE RECOMMENDATIONS:** The Board of Trustees may approve, amend, or reject the salary schedule recommendations of the Personnel Commission, but may not alter the relationships, salary range placements, of the classes as established by the Personnel Commission until the Personnel Commission is first given the right to comment on the changes.

**REFERENCE:** 1. Education Code Sections 45256, 45260, 45261 and 45268

**17.1.6 PERSONNEL COMMISSION SHALL DETERMINE SALARY RANGE PLACEMENT:** The Personnel Commission shall set reasonable relationships between the various classifications. The Personnel Commission may make modifications to the relationships as part of its statutory obligations after the District Administration and any exclusive bargaining agent that represents impacted employees have had an opportunity to comment on the modifications.

**REFERENCE:** 1. Education Code Section 45162, 45256, 45260 and 45261

## 17.2 APPLICATION OF SALARY SCHEDULES

**17.2.1 INITIAL SALARY PLACEMENT:** All new regular classified employees shall be paid in accordance with the salary range established for the class to which assigned. The hiring rate will normally be at the first (1st) step of the salary range. However, a new employee may be provided with advanced step placement in accordance with the contract by the Personnel Commission based upon such factors as:

- 17.2.1.1 Additional qualifying experience beyond that required for entry into the class.
- 17.2.1.2 Additional education at the college level (limited to no more than one (1) step for each two (2) years of education related to the position), but beyond the educational requirements established for entry into the class.
- 17.2.1.3 Difficulty experienced in the recruitment of candidates to meet the vacancy needs in the class.
- 17.2.1.4 The additional skills or qualifications of the candidate that make him/her especially qualified for the position.
- 17.2.1.5 Management, Supervisory and Confidential employees may be provided with advanced step placement as determined by the Personnel Commission and Administration based on the following:
  - 17.2.1.5.1 Difficulty experienced in the recruitment of candidates to meet the vacancy needs in the class.
  - 17.2.1.5.2 The additional skills or qualifications of the candidate that make him/her especially qualified for the position.
  - 17.2.1.5.3 Additional qualifying experience beyond that required for entry into the class.

**17.2.1.6** Any candidate requesting advanced step placement must submit a completed request form to the Director, Classified Human Resources within thirty (30) calendar days of initial employment. The request form will be provided to all new hires at the pre-employment orientation session.

*Revised 02/14/2017*

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**17.2.2 EVALUATION OF STEP PLACEMENT:** The Director, Classified Human Resources shall evaluate the qualifications of all candidates recommended for employment into the Classified Service in accordance with the provisions of Chapter 17.2.1. When a candidate requests advanced step placement in accordance with Chapter 17.2.1.6, the Director, Classified Human Resources shall evaluate information provided by the candidate and supervisor, and make a recommendation to the Personnel Commission regarding appropriate step placement. The Personnel Commission may accept, amend, or reject the Director, Classified Human Resources' recommendations. The decision of the Personnel Commission shall be final.

*Revised 02/14/2017*

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**17.2.3 SALARY PLACEMENT OF TEMPORARY EMPLOYEES:** Salary placement of temporary, substitute, emergency, provisional and limited-term employees shall be at Step One (1) (or its hourly rate equivalent) of the appropriate range except that former District employees may be placed on the step attained prior to separation. Classified retirees of the District shall be compensated pursuant to Rule 7.5.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**17.2.4 STEP ADVANCEMENT:** When a probationary or permanent employee accepts a regular position on the first step of the salary range, a merit salary adjustment shall be granted to Step two (2) upon successfully completion of the first (1st) year of employment. If the completion of this period of satisfactory service is completed after the sixteenth (16th) working day of the month, the salary adjustment shall be the first (1st) of the following month. The date of the first (1st) salary adjustment after employment is known as the Anniversary Date. After reaching the Anniversary Date, merit salary adjustments shall be made on an annual basis.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**17.2.5 "Y" RATING INCUMBENTS:** By special resolution of the Personnel Commission, the effects of downward range adjustments may be mitigated by a policy of "Y" rating the impacted incumbent's current hourly salary until the new lower salary range or hourly range catches up to the incumbent's salary. The impact of this policy would mean that an incumbent so "Y" rated would receive no general cost of living or normally entitled salary step increase until his/her old higher hourly rate was matched and/or exceeded by the new lower hourly rate.

**17.2.5.1** Whenever the Personnel Commission gives authorization to "Y" rate an incumbent, the rate will be discontinued when the employee receiving the rate is promoted or separates from the service. It will also be discontinued whenever the salary range for the class is increased so that it encompasses the employee's present rate, in which event the employee's salary rate will be adjusted to the nearest highest amount in the new range.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**17.2.6 PROMOTIONAL SALARY RATE:** In determining the salary for an employee who is promoted, the following procedure shall be used:

- 17.2.6.1** Find the present hourly/monthly salary on the salary range and advance one (1) step.
- 17.2.6.2** If the present hourly/monthly salary is between salary steps on the new range, placement shall be at the step above the next higher step.
- 17.2.6.3** If the new salary is not indicated on the new salary range, placement is on Step one (1) so long as a minimum five percent (5%) increase is provided the promoted employee. If a Step one (1) placement would provide less than a five percent (5%) increase, Step two (2) shall be assigned.
- 17.2.6.4** When computing salary for promotional step placement, employees who had been receiving shift differential pursuant to these Rules and will no longer due to the promotion shall have their "present monthly salary" for purposes of calculating the new promotional salary step placement include any shift differential they had been receiving in the lower class.
- 17.2.6.5** When computing salary for promotional step placement, staff shall also consider the minimum qualifications for the new classification. If the employee, as a new applicant, would have been considered for advanced step placement then employee will not be penalized for being a current employee. The step placement will be made at either the step that is at least 5% increase or at the step they would have been awarded if they were a new applicant whichever is higher.

*Revised 11/12/2013*

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**17.2.7 PLACEMENT AFTER UNPAID LEAVE OF ABSENCE:** Upon return from an unpaid leave of absence, an employee shall be placed on the same step of the range for the class which he/she had achieved prior to taking the leave, including any change(s) in rate or range applicable to the employee's class; except that step advancement within the range shall be granted under the following conditions:

- 17.2.7.1** When the employee's paid status credit since returning when combined with any previous service time earned prior to the unpaid leave but after the last anniversary date increase, add up to the equivalent of one (1) years' service credit for purposes of step advancement.
- 17.2.7.2** Credit for step advancement shall accrue during leaves of absence for military service, to serve in limited term positions within the District, and any paid leaves of absence (e.g. illness, vacation, industrial accident/illness, etc).

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 456309

**17.2.8 SALARY PLACEMENT UPON DEMOTION:** A classified employee who selects voluntary demotion in lieu of layoff or is involuntarily demoted shall be placed on the step of the range of the lower class which is closest to the rate the employee earned in the higher class; provided that the employee shall not receive a salary increase. The demoted employee shall retain the anniversary date established in the higher class.

**17.2.8.1** Employees who request a voluntary demotion or opt to accept a lower level position filled from an eligibility list or request a transfer to a related lower class shall be placed the step of the range of the lower class to which the employee would have progressed if the employee's services had been continuous in the lower class.

*Revised 01/10/2017*

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45309

**17.2.9 SALARY PLACEMENT UPON FAILING PROBATIONARY PERIOD:** An employee who is demoted to their former class during the probationary period shall be placed on the step of the former range and retain the former anniversary date they held prior to promotion.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45309

**17.2.10 PLACEMENT WHEN REEMPLOYED OR REINSTATED:** When an employee is reemployed or reinstated following a resignation, layoff, or other separation from employment, the employee shall be placed on the same step of the range for the class which he/she had achieved prior to the separation, including any change(s) in rate or range applicable to the employee's class; except that step advancement within the range shall be granted under the following conditions:

**17.2.10.1** When the employee's paid status credit is combined with any previous service time earned prior to the employment separation, but after the last anniversary date increase, adds up to the equivalent of one (1) years' service credit, the employee is eligible for step advancement in accordance with Chapter 17.2.3.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45309

**17.2.11 SUMMER/RECESS PERIOD SALARY PLACEMENT:** A classified employee shall for services performed during summer or any other recess period, receive on a prorata basis not less than the compensation and benefits which are applicable to the classification during the regular academic year for the position filled.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45309

**17.2.12 PLACEMENT WHEN ASSIGNED SUBSTITUTE/TEMP POSITION:** Regular probationary or permanent employees of the District who substitute in a higher classification shall be compensated for working out of classification as required by Chapter 3.2.8.

**REFERENCE:** 1. Education Code Sections 45110, 45256, 45260, 45261, 45268, 45285 and 45285.5

### **17.3 DIFFERENTIAL/LONGEVITY PAY PRACTICES**

**17.3.1 DIFFERENTIAL COMPENSATION:** The Personnel Commission shall, insofar as it is possible to do so, determine the practices relating to morning and night shift salary differentials in surrounding public schools in which it must compete for employees for its classified staff, and shall consider the advisability of recommending comparable salary differentials for its classified staff, and make recommendations to the Board of Trustees regarding differential pay. Shift differential is paid in accordance with the classified bargaining agreement.

**REFERENCE:** 1. Education Code Sections 45181, 45182, 45184, 45260 and 45261

**17.3.2 TEMPORARY ASSIGNMENT:** An employee receiving differential compensation pursuant to these Rules shall not lose such compensation if the employee is temporarily, assigned to a position not entitled to such compensation. (Five (5) working days or less)

**REFERENCE:** 1. Education Code Sections 45185, 45260 and 45261

**17.3.3 LONGEVITY COMPENSATION:** Regular, full-time, classified employees who have completed ten (10), fifteen (15), twenty (20), twenty-five (25) and thirty (30) years of accredited service in a paid status shall receive a monthly anniversary increment as stipulated on the salary schedule. The employee must have been in a paid status for seventy-five (75%) percent of his/her period of annual employment to earn a year of accredited service. The employee will start earning the anniversary increment on the first working day of the month beginning the 10<sup>th</sup>, 15<sup>th</sup>, 20<sup>th</sup>, 25<sup>th</sup>, and 30<sup>th</sup> years of accredited service. Regular, part-time, classified employees shall receive anniversary increments prorated at the same ratio as the regular work hours per day or days per week to eight (8) hours per day, forty (40) hours per week. Any break in service of an employee reinstated may not exceed thirty-nine (39) months to establish accredited service for anniversary increments.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**17.3.4 COMPUTATION OF REGULAR PAY:** When computing the regular pay for a classified employee the calculation shall be in the following order:

**17.3.4.1** The employee's appropriate salary range and step shall be considered the employee's base salary.

**17.3.4.2** Added to the base salary shall be any longevity the employee may be entitled, pursuant to Chapter 17.3.3.

**17.3.4.3** Added to the calculation arrived at in Chapter 17.3.4.2, shall be any confidential differential the employee may be entitled to.

**17.3.4.4** Added to the calculation arrived at in Chapter 17.3.4.3, shall be any shift differential the employee may be entitled to, pursuant to Chapter 17.3.1.

**REFERENCE:** 1. Education Code Sections 45180-45186, 45260 and 45261

**CHAPTER 18**  
**COMPLAINT PROCEDURE**

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**18.1 PROCEDURE FOR THE ADJUSTMENT OF COMPLAINTS**

**18.1.1 PURPOSE OF COMPLAINT PROCEDURE:** The purpose of this chapter is to establish an orderly process for the timely consideration of employee complaints. It is also the intent of this chapter to emphasize the need for employee complaints to be submitted through established channels and for resolution of complaints at the lowest possible level. Employees may utilize this chapter to seek adjustment of complaints arising in the following areas:

**18.1.1.1** Established Personnel Commission Rules and Regulations.

**18.1.1.2** Established provisions of the Education Code.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**18.1.2 CERTAIN MATTERS EXCLUDED FROM PROCEDURE:** There are certain subjects and matters that are not covered by this complaint procedure:

**18.1.2.1** An alleged violation of any provision of a collective bargaining agreement shall be adjudicated in accordance with the grievance procedures set forth in the collective bargaining agreement.

**18.1.2.2** An alleged disciplinary action shall be governed by the disciplinary procedures set forth in Chapter 19 herein.

**18.1.2.2** Complaints related to the subject matter of a Rule, regulation or administrative procedure of the Personnel Commission. Any employee with such a complaint should submit his/her suggestions for change to the Director, Classified Human Resources for consideration by the Personnel Commission.

**18.1.2.3** Accusatory charges relating to the moral or professional fitness of an employee (classified or certificated of the District shall be adjudicated in accordance with the procedures set forth in Board of Trustees Policy 1312.1.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Government Code Section 3540 et seq.

**18.1.3 CLASSIFIED HUMAN RESOURCES DEPARTMENT ASSISTANCE:** The Personnel Commission Complaint Form shall be available in the Classified Human Resources Department Office, which shall be utilized for all written complaints governed by this chapter. The Classified Human Resources Department staff will be available to provide assistance in completing the complaint form, in obtaining available information and in the settlement of the issues.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**18.1.4 APPROVAL BY DIRECTOR, CLASSIFIED HUMAN RESOURCES:** If any settlement at Levels 1 or 2 of any complaint covered by these procedures is reached without the involvement of the Director, Classified Human Resources or the Personnel Commission, the

Director, Classified Human Resources shall be informed of all proceedings, receive copies of all communications submitted in the case, and be notified of the proposed settlement and have an opportunity to comment on it prior to finalization- when the complaint involves any of the following:

- 18.1.4.1** Personnel Commission Rule(s) or Regulation(s).
- 18.1.4.2** Personnel Commission administrative procedure(s).
- 18.1.4.3** Personnel Commission employee(s).
- 18.1.4.4** Alleged violations of the Education Code.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**18.1.5 COMPLAINT TIME LIMITS SHALL BE CONSIDERED MAXIMUMS:** It is important that complaints be resolved as quickly as possible, therefore the times indicated at each level shall be considered as maximums. Time limits may be extended by mutual agreement.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**18.1.6 COMPLAINT MUST BE FILED WITHIN TWENTY-FIVE (25) WORKING DAYS:** A complaint must be filed at Level One (1) of this procedure within twenty-five (25) working days of the occurrence of the violation or infraction, or within twenty-five (25) working days of when the complaining party could reasonably have known of the occurrence of the act or omission giving rise to the complaint.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**18.1.7 DEFINITION OF COMPLAINANT:** A complainant is defined as an applicant, candidate, employee, employees, or employee organization filing a complaint involving one of the subjects set forth in Chapter 18.1.1.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Government Code Section 3540 et seq.

**18.1.8 EMPLOYEE REPRESENTATION:** Any employee may have an employee organization represent his/her interests at any level of this complaint procedure.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Government Code Section 3540 et seq.

**18.1.9 NO REPRISALS FOR FILING OF COMPLAINT:** No reprisals shall be taken by the District against the Complainant or any representative of the Complainant by reason of his/her bringing a complaint or participating in a complaint.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Government Code Section 3540 et seq.

**18.1.10 REASONABLE RELEASE TIME:** The Complainant and/or his/her representative shall be provided reasonable release time, without loss of compensation, to attend conferences or hearings described in this Chapter.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Government Code Section 3540 et seq.

**18.1.11 MAINTENANCE OF COMPLAINT FILES:** Records pertaining to complaints filed under this Chapter shall be maintained in the Classified Human Resources Department. All complaint records shall be maintained separately from the complainant and/or his/her representative's personnel files.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**18.1.12 LEVEL ONE (1) - INFORMAL:** The Complainant shall meet with the immediate supervisor to discuss the potential complaint in an attempt to resolve it informally. The immediate supervisor shall attempt to hold a conference within two (2) working days of the verbal request by the employee for an informal conference. The immediate supervisor shall consider the facts and submit a written decision with supporting reasons within five (5) working days after the informal conference.

**18.1.13 LEVEL TWO (2) FORMAL WRITTEN COMPLAINT-DEPARTMENT/SITE ADMINISTRATOR:** If the complaint is not satisfactorily resolved by the immediate supervisor, a written Level Two (2) complaint using the Personnel Commission Complaint Form may then be submitted to the appropriate highest level administrator in the department/site chain of authority within ten (10) working days of receipt of the Level One (1) decision, or if the immediate supervisor has failed to respond, within ten (10) working days after the Level One (1) response deadline. The written Level Two (2) complaint shall ~~be~~ contain a clear, concise statement of the complaint, including the Rule, Regulation or Education Code Section allegedly violated, attachment of all relevant evidence and documentation including previous Level One (1) complaint correspondence, the reasons why the response from the Level One (1) supervisor was unsatisfactory, and a statement of the specific remedy sought. The administrator shall hold a conference with all interested parties regarding the complaint within five (5) working days of receipt of the complaint. The administrator shall submit a written decision to the Complainant within ten (10) working days following the conference.

**18.1.14 LEVEL THREE (3)-DIRECTOR, CLASSIFIED HUMAN RESOURCES:** If the complaint is not satisfactorily resolved by the Level Two (2) department/site administrator, a written Level Three (3) complaint may then be submitted to Director, Classified Human Resources within ten (10) working days of receipt of the Level Two (2) decision, or if the department/site administrator has failed to respond, within ten (10) working days after the Level Two (2) response deadline. The written Level Three (3) complaint shall ~~be~~ contain a clear, concise statement of the complaint, including the Rule, Regulation or Education Code Section allegedly violated, attachment of all relevant evidence and documentation including previous Level One (1) and Level Two (2) complaint correspondence, the reasons why the response from the Level Two (2) department/site administrator was unsatisfactory, and a statement of the specific remedy sought. The Director, Classified Human Resources shall hold a conference with all interested parties regarding the complaint within ten (10) working days of receipt of the complaint. The Director, Classified Human Resources shall submit a written decision to the complainant within ten (10) working days following the conference.

**18.1.15 LEVEL FOUR (4) - PERSONNEL COMMISSION:** If the complaint is not satisfactorily resolved by the Level Three (3) Director, Classified Human Resources, a written Level Four (4) complaint may be submitted in writing to the Personnel Commission within ten (10) working days of receipt of Level Three (3) decision, or if the Level Three (3) Director, Classified Human Resources has failed to respond, within ten (10) working days after the Level Three (3) deadline. The written Level Four (4) complaint shall contain a clear, concise statement of the complaint, including the Rule, Regulation, or Education Code Section allegedly violated, attachment of all relevant evidence and documentation including previous Level One (1), Level Two (2) and Level Three (3) complaint correspondence, the reasons why the response from the Level Three (3) Director, Classified Human Resources was unsatisfactory, and a statement of the specific remedy sought. If a timely complaint is filed, the Personnel Commission shall hold a complaint investigation/inquiry to hear witnesses,

take evidence, and permit the submission of oral and written arguments in the case. This investigation/inquiry shall be held in open session unless provisions of the Brown Act permit and/or require a closed session of the Personnel Commission. The deliberations of the Personnel Commission that are necessary to make the final decision and ruling shall be held in closed session. Within a reasonable time after receiving the record, the Personnel Commission shall render a decision on the matter. The Director, Classified Human Resources shall notify the complainant of the decision of the Personnel Commission within five (5) working days following receipt of the decision of the Personnel Commission. The decision of the Personnel Commission shall be final and binding on all parties.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

## CHAPTER 19

### PROCEDURES FOR DISCIPLINARY ACTION AND APPEAL

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#### 19.1 GENERAL PROVISIONS ON DISCIPLINARY ACTION

**19.1.1 DISCIPLINARY ACTION ONLY PURSUANT TO THIS RULE:** A regular classified employee shall be subject to disciplinary action only for cause as prescribed by these Rules and Regulations, and only pursuant to the procedure outlined herein.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45302, 46303, 45304, 45305, 45306 and 45407

**19.1.2 TIME LIMITS ON DISCIPLINARY ACTION:** No disciplinary action shall be taken against an employee for any cause which arose prior to the employee's becoming permanent, nor for any cause which arose more than two (2) years prior to the date of the Notice of Proposed Disciplinary Action unless such cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.1.3 DEFINITION OF DISCIPLINE:** Disciplinary action includes any action whereby a regular classified employee is deprived of any classification or any incident of any classification, including dismissal, suspension, demotion or any reassignment, that causes a reduction in pay without the employee's voluntary written consent, except a layoff for lack of work or lack of funds.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.1.4 CAUSES FOR DISCIPLINARY ACTION:** The following causes shall be grounds for disciplinary action:

**19.1.4.1** Incompetency – A pattern of below standard work performance.

**19.1.4.2** Inefficiency – The continuing inability or unwillingness to perform the assigned duties and responsibilities of the position.

**19.1.4.3** Insubordination – Knowingly refusing to perform lawful and reasonably assigned duties or refusing to perform those duties in accordance with established or prescribed procedures; challenging, resisting, defying or demonstrating contempt toward a designated supervisor or other school district official having authority to issue directions and instructions to the employee by the nature of his or her position.

**19.1.4.4** Inattention to or Dereliction of Duty – A pattern of continued neglect or dereliction in the performance of assigned duties and responsibilities.

**19.1.4.5** Willful and persistent violation of the Education Code, Rules and Regulations, or Procedures adopted by the District or a department.

**19.1.4.6** Knowingly falsifying or withholding any material information supplied to the District, including but not limited to, information required on application forms and employment records.

- 19.1.4.7** Possession of opened alcoholic beverage containers on District property, drinking alcoholic beverages on District property, or being intoxicated while on duty.
- 19.1.4.8** For designated safety sensitive positions engaging in conduct prohibited by federal and/or state law, including, drinking alcohol within four (4) hours of performing safety sensitive duty, being in possession of alcohol (open or closed) while on duty, having a breath alcohol concentration or .04 or greater, on more than one (1) occasion of having a breath alcohol concentration of .02 to 0.0399 as determined by an evidential breath test, or refusal to take an evidential breath test
- 19.1.4.9** The use or possession while on duty of illegal or restricted dangerous drugs, other than that prescribed by a licensed physician.
- 19.1.4.10** For designated safety sensitive positions failure to submit to a required drug tests or a positive drug test result obtained pursuant to federal and/or state law.
- 19.1.4.11** Arrested, being formally charged, and convicted of a sex offense as defined in Education Code Section 44010. Conviction of such offense shall result in dismissal.
- 19.1.4.12** Arrested, being formally charged, and convicted of a narcotics offense as defined in Education Code Section 44011. Conviction of such offense shall result in dismissal.
- 19.1.4.13** Engaging in political activities during assigned hours of duty. “Engaging in political activities” shall be defined to include door-to-door campaigning; placing campaign literature in/on vehicles on District facilities, parking lots, or adjacent streets, telephone solicitation or contacts; use of District time or materials for reproduction of campaign literature or materials; and, engaging fellow employees, students, or others in a discussion or debate regarding any candidate for public office or ballot measure. “During assigned working hours” shall be defined to include any and all time an employee is scheduled to be at his/her work site and/or engaged in District business and for which the employee is compensated by the District; including paid rest break.
- 19.1.4.14** Conviction by a court of competent jurisdiction of a felony or a crime involving moral turpitude.
- 19.1.4.15** Discourteous, abusive, or threatening treatment of the public, employees, or students, including sexual harassment; any violation of Government Code Section 12940, Paragraph (1); or malicious engagement in reprisals by managers or supervisors against employees, applicants, candidates, or eligibles who file a written complaint pursuant to Government Code Section 53297 regarding gross mismanagement or a significant waste of funds, an abuse of authority; or a substantial and specific danger to public health or safety.
- 19.1.4.16** Repeated unexcused absence or tardiness, abuse of leave privileges or absence without notification.
- 19.1.4.17** Abandonment of Position – Absence of three (3) consecutive working days without notification or permission (and failure to notify the District of a valid or acceptable reason for absence).

- 19.1.4.18** Failure to return to work or notify the District within three (3) working days following an authorized leave of absence except in the case of dire emergency.
- 19.1.4.19** Leaving the job to which assigned during working hours without proper permission from the appropriate supervisor.
- 19.1.4.20** The uninsurability of an employee to drive a District vehicle when such is a requirement of the employee's position.
  - 19.1.4.20.1** The district may attempt to reassign the employee within the same class or to a vacant position in a related class with the approval of the Personnel Commission not requiring operation of a motor vehicle.
  - 19.1.4.20.2** If reassignment is not possible, then the employee may be demoted, pursuant to these Rules and Regulations.
  - 19.1.4.20.3** If a position does not exist for a demotion to be accomplished then the employee may be dismissed, pursuant to these Rules and Regulations.
- 19.1.4.21** Violation of local, State or Federal law which results in cancellation or suspension of a license required for the performance of assigned duties.
- 19.1.4.22** Dishonesty, theft, willful misuse for personal gain, willful destruction or mishandling of District property, unauthorized use of District or student body property.
- 19.1.4.23** Ethnic, racist, religious, or sexual harassment of another (Sexual harassment is denied as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone within the work setting).
- 19.1.4.24** Failure to obey a subpoena issued by the Personnel Commission and duly served, or any refusal to furnish testimony or documents, other than self-incriminating, at a hearing or investigation before the Personnel Commission or Board of Trustees.
- 19.1.4.25** Advocacy of the overthrow of the Federal, State, or local government by force, violence, or other unlawful means.
- 19.1.4.26** Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee to any member of the public.
- 19.1.4.27** Conviction of a felony or misdemeanor or a record of one (1) or more misdemeanors which conviction indicates that the person is a poor employment risk for the particular job which the employee holds in the District. A plea, verdict, or finding of guilty, or a conviction following a plea of nolo contendere is to be deemed a conviction within the meaning of these Rules.
- 19.1.4.28** Frequent accidents causing injury to self, others, or property of the District.
- 19.1.4.29** Any other cause deemed appropriate by the Personnel Commission.

- REFERENCE:** 1. Education Code Sections 212.5, 230, 44010, 44011, 45260, 45261, 45302, 45303 and 45304  
2. Government Code Section 1028  
3. Penal Code Section 261  
4. Health and Safety Code Section 11054, 11056, 11357-11361, 11363-11364 and 11377-11382

**19.1.5 PROGRESSIVE DISCIPLINE – WRITTEN WARNING/REPRIMAND:** Except in situations where an immediate suspension is justified under provisions of these Rules, an employee whose work performance or conduct is of such character as to incur discipline shall first be specifically warned in writing by the immediate supervisor. Such written warning shall state the Rule violated, the acts or omissions in violation, a recommended performance improvement plan developed in conjunction with the employee, and a reasonable time period during which the employee's performance will be reviewed for improvement or attainment of goals. The supervisor shall allow a reasonable period of time to permit the employee the opportunity to correct the deficiency without incurring further disciplinary action. For any of the causes for disciplinary action listed in Chapter 19.1.4, Causes for Disciplinary Action, any employee may be suspended for not more than thirty (30) days or may be demoted or dismissed.

- REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.1.6 PROGRESSIVE DISCIPLINE-SUSPENSION:** After written warning, if the employee continues to violate a cause treated in Chapter 19.1.4 above, then the employee may be dismissed or suspended for up to thirty (30) days without pay. The proposed length of suspension shall reasonably relate to the seriousness of the alleged offense.

- REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.1.7 PROGRESSIVE DISCIPLINE – FINAL STEP:** If the behavior warranting action under Chapters 19.1.5 and 19.1.6 continues, for the same cause or substantially related cause, the employee may be subjected to other forms of disciplinary action, including demotion or dismissal.

**19.1.8 COMPULSORY LEAVE OF ABSENCE:** An employee may be immediately placed on a compulsory leave of absence without pay if charged with the commission of any sex offense or narcotics offense referred to in Education Code Sections 44010, 44011, and 45304, and the compulsory leave of absence shall continue for not more than ten (10) days after the date of the entry of the court judgment. The compulsory leave of absence may extend beyond such ten (10) working day period if the governing board gives notice within such ten (10) working day period that it will dismiss the employee thirty (30) working days after the service of the notice, unless the employee demands a hearing. Any employee on a compulsory leave of absence shall continue to be paid his/her regular salary during the period of absence if the employee furnishes the District a suitable bond, or other security acceptable to the Board of Trustees, as a guarantee that the employee will repay the District the amount of salary as paid to him/her during the period of compulsory leave of absence. In case the employee is convicted of such charges, or the employee does not return to service after such period of absence. The employee shall repay the District the full amount of salary paid to him or her during such period of compulsory leave of absence. If the judgment determines that the employee is not guilty of such charges, or if the complaint, information, or indictment is dismissed, the District shall reimburse the employee for the cost of the bond; or, if the employee has not elected to furnish such bond, the District shall pay to the employee his/her full compensation during the period of the compulsory leave of absence, provided the employee returns to service after such period of absence.

- REFERENCE:** 1. Education Code Sections 44010, 44011, 45260, 45261, 45302, 45303 and 45304  
2. Penal Code Section 261  
3. Health and Safety Code Section 11054, 11056, 11056-11361, 11363-11364 and 11377-11382

**19.1.9 IMMEDIATE SUSPENSION WITH PAY:** Except as provided in Chapter 19.1.8, an employee<sub>1</sub> may be immediately suspended without loss of compensation pending the initiation and completion of disciplinary action procedures to the Board of Trustees level, if there is a clear and present danger to the health, safety, and well being of the employee, students, fellow employees, or District property. The District may end the suspension without loss of compensation or take action to suspend without pay in accordance with these Rules as warranted.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.1.10 DISMISSAL OF SUBSTITUTE/LIMITED TERM/PROVISIONAL/PROBATIONARY**

**EMPLOYEES:** A substitute, limited term, provisional/probationary or other temporary employee may be terminated at any time during his/her assignment and shall not be entitled to any rights set forth in this Chapter.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45305

**19.1.11 BURDEN OF PROOF:** The District shall have the burden of proof in disciplinary hearings and proceedings and any Rule, Regulation, Policy, Practice, or procedure to the contrary shall be void.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.2 NOTICE OF PROPOSED DISCIPLINARY ACTION**

**19.2.1 NO DISCIPLINE WITHOUT NOTICE:** Disciplinary action shall not be imposed upon a permanent regular classified employee until a "Notice of Proposed Disciplinary Action" has been delivered to the employee and the employee has had an opportunity to respond to the charges either orally or in writing except action taken pursuant to Chapters 19.1.8, 19.1.9 or 19.1.10.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.2.2 CONTENTS OF NOTICE OF PROPOSED DISCIPLINE:** The Notice of Proposed Disciplinary Action is the notification to the classified employee that disciplinary action will be recommended to the Board of Trustees and shall contain the following:

**19.2.2.1** The specific disciplinary action proposed (suspension for a specified period, demotion, dismissal, etc).

**19.2.2.2** The specific causes and sections of these Rules that the employee is alleged to have violated.

**19.2.2.3** The specific charges, including times, dates, location, and a description of the chargeable actions or omissions in ordinary and concise language.

**19.2.2.4** The proposed effective date(s) of the disciplinary action.

**19.2.2.5** The employee's right to review and obtain copies and/or a description of all evidence, all documents, and a list of all witnesses that support the District's case against the employee.

- 19.2.2.6** The employee's right to representation.
- 19.2.2.7** The employee's right to request a Due Process (Skelly) Hearing before the Superintendent/designee to respond either orally or in writing to the charges set forth in the Notice of Proposed Disciplinary Action prior to any action being taken thereon within five (5) working days of service/receipt of the Notice of Proposed Disciplinary Action and to have the hearing within the timelines specified in these Rules.
- 19.2.2.8** The employee's right to respond to the charges either orally or in writing.

**REFERENCE:** 1. Education Code Section 45260, 45261 and 45305

**19.2.3 DUE PROCESS HEARING REQUEST FORM:** A Due Process Hearing Request Form must accompany the Notice of Proposed Disciplinary Action. The Due Process Hearing Request Form shall explain the procedure for the Due Process Hearing; that the signing and filing of the Form shall constitute a demand for the Due Process Hearing; that the employee has the right to make a statement either orally or in writing at the Due Process Hearing; that the employee may present any other documentary evidence deemed relevant; and that the Form must be filed with the Assistant Superintendent, Human Resources in the Certificated Human Resources Department by the date or deadline specified in the Notice of Proposed Disciplinary Action.

**REFERENCE:** 1. Education Code Section 45260 and 45261

**19.2.4 DELIVERY OF NOTICE OF PROPOSED DISCIPLINARY ACTION:** The Certificated Human Resources Department Office shall have the responsibility of delivering the Notice of Proposed Disciplinary Action. The Notice of Proposed Disciplinary Action shall be served in person or by Certified Mail on the employee. This requirement will be deemed to have been met if the Notice of Proposed Disciplinary Action is sent Certified Mail to the last known home address on file in the Classified Human Resources Department Office. Failure of the employee to retrieve delivered mail, or respond to notification by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timeline outlined in these Rules. The responsibility for keeping the District informed of a home address is the requirement of the employee. For purpose of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt. A copy of the Notice of Proposed Disciplinary Action shall be delivered to the Classified Human Resources Department Office.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

### **19.3 DUE PROCESS HEARING**

**19.3.1 ACTION IF DUE PROCESS HEARING REQUEST FORM NOT FILED:** If the employee does not respond and request a Due Process Hearing within the five (5) working day period set forth in the Notice of Proposed Disciplinary Action, the Superintendent shall recommend to the Board of Trustees that the Proposed disciplinary action be approved. The Board of Trustees shall have the power to accept, reduce, or reject the recommendation of the Superintendent. The Board of Trustees shall not impose a penalty or disciplinary action more severe than that recommended by the Superintendent.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.3.2 RIGHT TO DUE PROCESS HEARING BEFORE SUPERINTENDENT/DESIGNEE:** If the employee filed a Due Process Hearing Request Form with the Assistant Superintendent, Human Resources in the Certificated Human Resources Department within five (5) working days after receipt of the Notice of Proposed Disciplinary Action, the

Superintendent/Designee shall conduct the due process hearing within ten (10) working days of receipt of the Due Process Hearing Request Form. The due process hearing shall be completed prior to the Superintendent's recommendation of disciplinary action to the Board of Trustees.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.3.3 NOTIFICATION OF DUE PROCESS HEARING:** The Certificated Human Resources Department Office shall coordinate the scheduling of the Due Process Hearing. The Certificated Human Resources Department Office shall notify the employee in writing of the time, date, and place of the Due Process Hearing before the Superintendent/Designee. Notification shall be delivered in person or by Certified Mail. This requirement will be deemed to have been met if the notification of the Due Process Hearing is sent Certified Mail to the last known home address on file in the Classified Human Resources Department Office. Failure of the employee to retrieve delivered mail, or respond to notification by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purpose of the Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.3.4 DESIGNEE FOR SUPERINTENDENT:** The designee must be an administrator who has the authority and authorization to accept, modify, or rescind the proposed disciplinary action. The administrator may not be a party to the proposed action, either as the supervisor initiating proposed disciplinary action, or as a witness.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.3.5 EMPLOYEE SHALL HAVE OPPORTUNITY TO REBUT CHARGES:** The employee shall have the opportunity to rebut all charges and to fully present his/her case at the Due Process Hearing.

**REFERENCE:** 1. Education Code Section 45260 and 45261

**19.3.6 RIGHT TO REPRESENTATION:** The employee may, at his/her option, be represented by legal counsel, union representation, or any other person designated by the employee. If the employee files a Due Process Hearing Request Form, the employee shall be required to attend the Due Process Hearing before the Superintendent/Designee, even if the employee's designated representative appears on his/her behalf. If the employee fails to appear, the employee will be deemed to have forfeited his/her rights to further appeal and the Superintendent/Designee may recommend action to the Board of Trustees.

**19.3.7 DUE PROCESS HEARING DECISION:** The Superintendent/Designee shall deliver a written decision within five (5) working days after the conclusion of the Due Process Hearing to the Certificated Human Resources Department Office. The Superintendent/Designee may continue, modify, or rescind and terminate the proposed disciplinary action. The Superintendent/Designee may not increase the severity of the disciplinary action recommended in the Notice Proposed Disciplinary Action. The Certificated Human Resources Department Office shall notify the employee in writing of the decision of the Superintendent/Designee within five (5) working days after receipt of the Superintendent/Designee decision. In addition, a copy of the decision of the Superintendent/Designee shall be filed with the Classified Human Resources Department Office.

**19.3.7.1** If the employee and Superintendent/Designee reach an agreement concerning the disciplinary action at the Due Process Hearing, the

agreement shall be in writing. If the terms of the agreement require action by the Board of Trustees, the Superintendent/Designee shall recommend to the Board of Trustees that the agreement be approved. The Board of Trustees decision to accept or reject the agreement shall be final.

**19.3.8 PERMANENT EMPLOYEE IN PROBATIONARY PROMOTIONAL POSITION:** A permanent classified employee who has not served the full probationary period for the class to which promoted and who is demoted to his/her former class, may file a complaint in accordance with Chapter 18. A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is subjected to disciplinary action that would result in the separation of the employee from the permanent Classified Service shall have full appeal rights as if the employee had completed permanency in his/her present class.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45305

#### **19.4 APPEAL OF DISCIPLINARY ACTION TO PERSONNEL COMMISSION**

**19.4.1 APPEAL TO PERSONNEL COMMISSION:** If the Board of Trustees imposes disciplinary action, the employee may appeal the disciplinary action to the Personnel Commission pursuant to these Rules.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45305

**19.4.2 NOTIFICATION BY CERTIFICATED HUMAN RESOURCES DEPARTMENT OFFICE:** Upon receipt of the Board of Trustees decision on the proposed disciplinary action, the Certificated Human Resources Department Office shall notify the employee in writing of the Board of Trustees decision within five (5) working days]. If the decision of the Board of Trustees was to approve disciplinary action, the Certificated Human Resources Department Office shall prepare and deliver to the employee and the Director, Classified Human Resources a Notice of Disciplinary Action within five (5) working days after notification of the Board of Trustees decision.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45305

**19.4.3 CONTENTS OF NOTICE OF DISCIPLINARY ACTION:** The Notice of Disciplinary Action is the notification that disciplinary action has been approved by the Board of Trustees and shall contain the following:

**19.4.3.1** The specific disciplinary action taken (suspension for a specified period, demotion, dismissal, etc).

**19.4.3.2** The specific causes and sections of these Rules that the employee allegedly violated and upon which the disciplinary action is based.

**19.4.3.3** The specific charges, including times, dates, location, and a description of the chargeable actions or omissions shall be in ordinary and concise language.

**19.4.3.4** The effective date(s) of the disciplinary action.

**19.4.3.5** Documentation to support the District's case against the employee.

**19.4.3.6** The employee's right to representation.

**19.4.3.7** A true copy of the action taken by the Board of Trustees.

- 19.4.3.8** The employee's right to appeal the disciplinary action to the Personnel Commission within ten (10) working days of service of the Notice of Disciplinary Action, and the right to have the hearing within the timelines specified in these Rules.
- 19.4.3.9** A statement that the Personnel Commission may sustain, reject, or modify the disciplinary action taken against the employee; and that the Personnel Commission may not provide for discipline more stringent than that imposed by the Board of Trustees.
- 19.4.3.10** The employee's right to request the Personnel Commission to subpoena witnesses or other material evidence.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.4.4 APPEAL FORM MUST ACCOMPANY NOTICE OF DISCIPLINARY ACTION:** An Appeal of Disciplinary Action/Demand for Hearing shall accompany the Notice of Disciplinary Action. The employee must complete, sign and file the Appeal of Disciplinary Action/Demand For Hearing at [the Classified Human Resources Department Office by the deadline specified in the Notice of Disciplinary Action. The employee must include in the Appeal of Disciplinary Action/Demand for Hearing his/her current mailing and residency address at which the employee may be contacted in the event that additional correspondence or notices need to be sent to the employee and the name, address and telephone number of his/her legal counsel or representative. The employee shall indicate on the Appeal of Disciplinary Action/Demand For Hearing the grounds for the appeal. Appeals are limited to the following grounds.

- 19.4.4.1** That the procedure set forth in these Rules and Regulations have not been followed.
- 19.4.4.2** That the disciplinary action was taken because of the employees affiliation, race, color, national origin, age, marital status, sex, handicap condition, ancestry, employee organization membership or non-membership and legal activities related thereto, medical condition (as defined in Government Code Section 12926), or religious or political beliefs or acts.
- 19.4.4.3** That there has been an abuse of discretion on the part of the District.
- 19.4.4.4** That the action taken was not in accord with the facts.
- 19.4.4.5** That the penalty invoked by the District was excessive.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.4.5 SERVICE OF NOTICE OF DISCIPLINARY ACTION ON EMPLOYEE:** The Notice of Disciplinary Action shall be served in person or by Certified Mail on the employee. This requirement will be deemed to have been met if the Notice of Disciplinary Action is sent Certified Mail to the last known home address on file in the Classified Human Resources Department Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.4.6 ACTION IF APPEAL OF DISCIPLINARY ACTION/DEMAND FOR HEARING IS NOT FILED:** If the employee does not file the Appeal of Disciplinary Action/Demand For Hearing with the Classified Human Resources Department Office within the ten (10) working day period specified in the Notice of Disciplinary Action, the action of the Board of Trustees shall be final and conclusive, and all appeal rights shall be terminated.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45305

**19.4.7 APPEAL HEARING BEFORE PERSONNEL COMMISSION:** If the employee files the Appeal of Disciplinary Action/Demand for Hearing with the Classified Human Resources Department Office within ten (10) working days after receipt of the Notice of Disciplinary Action, the employee shall have a right to have an Appeal Hearing before the Personnel Commission. The Appeal Hearing shall be held within reasonable number of days after receipt of the employee's Appeal of Disciplinary Action/Demand for Hearing.

**REFERENCE:** 1. Education Code Section 45260 and 45261

**19.4.8 NOTICE OF HEARING:** The Director, Classified Human Resources shall notify the District and the Personnel Commission upon receipt or lack of receipt of the Appeal of Disciplinary Action/Demand for Hearing and shall coordinate the scheduling of the Appeal Hearing.

**19.4.8.1** The Director, Classified Human Resources shall notify the employee and all parties concerned of the time, date and location of hearing not less than ten (10) days prior to the hearing. The ten (10) day notice of hearing may be waived by agreement of the parties.

**19.4.8.2** The Notice of the Appeal Hearing shall be either in person or sent by Certified Mail. This requirement will be deemed to have been met if the notice of the Appeal Hearing is sent Certified Mail to the last known home address on file in the Classified Human Resources Department Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timeline outlined in these Rules. For purpose of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.4.9 GENERAL CONDUCT OF PERSONNEL COMMISSION APPEAL HEARING:** At this full evidentiary hearing, the employee shall have the right to present all relevant evidence and testimony on his/her behalf, to examine all evidence submitted by the District, hear testimony of the supervisor(s) who initiated the action, and examine and cross-examine all witnesses giving testimony. All hearings before the Personnel Commission shall be in closed session, unless the appealing employee requested an open hearing in the Appeal of Disciplinary Action/Demand for Hearing. The Personnel Commission hearing shall be conducted pursuant to Chapter 19.5.

**19.4.10 RIGHT TO REPRESENTATION:** The employee may, at his/her option, be represented by legal counsel, union representation, or any other person designated by the employee. The employee shall be required to attend the Appeal Hearing, even if the employee's designated representative appears on his/her behalf. If the employee fails to appear at the Appeal Hearing, the employee will be deemed to have forfeited his/her rights to further appeal and the Personnel Commission shall terminate the Appeal Hearing and shall sustain the Board of Trustees disciplinary action.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

## **19.5 PERSONNEL COMMISSION APPEAL HEARING PROCEDURES**

**19.5.1 AUTHORITY OF PERSONNEL COMMISSION HEARING AND DECISION:** The Personnel Commission shall conduct hearing of appeals to disciplinary actions. The Commission shall have the right to sustain or reject any or all of the charges filed against the employee, or take action to sustain or modify or reject the disciplinary action invoked against the employee.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45305, 45306 and 45307

**19.5.2 APPOINTMENT OF HEARING OFFICER:** The Personnel Commission may appoint a hearing officer to conduct any hearing or investigation for which the Personnel Commission itself is authorized by the Education Code and/or these Rules to conduct, including disciplinary action. Any such hearing officer conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the deposition of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state. The Personnel Commission may instruct such hearing officer to present findings or recommendations and/or may order a hearing officer to conduct a supplemental hearing or investigation. The Personnel Commission may accept, reject or amend any of the findings or recommendations of the hearing officer submitted after the initial hearing or investigation and/or supplemental hearing or investigation ordered by the Personnel Commission.

**19.5.2.1** The Personnel Commission may employ by contract or as professional experts or otherwise any such hearing officer, and may adopt and amend such Rules and Procedures as may be necessary to effectuate this section of the Rules.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45312

**19.5.3 PERSONNEL COMMISSION SHALL DETERMINE TIME AND PLACE OF HEARING:** Upon receipt of the appeal notice, the Personnel Commission shall determine the date, time, and place of the hearing on appeal. The appeal hearing shall be held within the Boundaries of the District.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.4 HEARING SHALL BE RECORDED:** All hearings under the authority of this chapter shall be electronically recorded in such a manner that a verbatim written transcript can be produced if necessary.

**19.5.4.1** Either party may request that the hearing be recorded by a court reporter, in which case the party making the request shall bear the cost. If both parties make such a request, the cost shall be shared equally.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.5 ORAL EVIDENCE BY OATH ONLY:** Oral evidence shall be taken only by oath or affirmation.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.6 ABILITY TO EXAMINE EVIDENCE:** Each party shall have the following rights as it relates to examination of witnesses and evidence.

**19.5.6.1** To call and examine witnesses.

- 19.5.6.2** To introduce exhibits.
- 19.5.6.3** To cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination(s).
- 19.5.6.4** To attempt to impeach any witness regardless of which party first called the witness to testify.
- 19.5.6.5** To rebut all evidence presented by the opposing party.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.7 APPELLANT MAY BE CALLED TO TESTIFY:** If the appellant does not elect to testify on his/her own behalf, the appellant may still be called to testify and be cross-examined just as if he/she had testified on his/her own behalf.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. California Evidence Code Section 772

**19.5.8 ADMISSION OF EVIDENCE:** The hearing need not be conducted according to the technical rules relating to evidence and the examination of witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious business; regardless of the existence of any common law or statutory rule which might cause the evidence to be objected to or ruled out if presented in a criminal or civil procedure before a court of law.

**19.5.8.1** Hearsay evidence may be used for the purpose of explaining or providing supplemental evidence, but shall not be sufficient in and of itself to support a finding by the Personnel Commission or its hearing officer unless it would be admissible over objection in a civil action in a court of law. Employee evaluations which are not based on facts and are based on undocumented charges may not be introduced as evidence.

**19.5.8.2** The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence may be excluded.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.9 RIGHT TO BE REPRESENTED:** The Board of Trustees and the appellant shall be allowed to be represented by legal counsel or other designated representatives.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45306

**19.5.10 GRANTING OF CONTINUANCE:** The Personnel Commission or its hearing officer may, prior to or during the hearing grant a continuance for reason(s) believed to be sufficient or important to reaching a fair and proper conclusion.

**REFERENCE:** 1. Education Code Sections 45260 and 44261

**19.5.11 RULING ON OBJECTIONS:** The Personnel Commission or its hearing officer shall rule on all objections raised by either party.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.12 FINDINGS BASED ON PREPONDERANCE OF EVIDENCE:** The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented. The findings of the Personnel Commission or hearing officer shall be based upon the preponderance of evidence.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.13 ORDER OF PRESENTATION OF EVIDENCE:** Each side will be permitted an opening statement, Board of Trustee's representative first, and closing arguments, appellant or his/her representative last. The Board of Trustees shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or his/her representative will present his/her witnesses and evidence in defense.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.14 EXAMINATION OF WITNESSES:** Each side will be allowed to examine and cross-examine witnesses.

**19.5.14.1** The **Personnel** Commission or its hearing officer may at its discretion, exclude witnesses not under examination except for the appellant, District representative, the Director, Classified Human Resources, and their respective counsels or designated representatives.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.15 SUBPOENA OF WITNESSES/EVIDENCE:** The Personnel Commission or its hearing officer may, and shall if requested by either party, subpoena witnesses and/or require the production of records, documents, or other material evidence. The Director, Classified Human Resources shall issue the subpoenas on behalf of the Commission or its hearing officer. Subpoenas shall be delivered to the requesting party for service.

**19.5.15.1** Requests for subpoenas must be filed with the Classified Human Resources Department Office at least seventy-two (72) hours prior to the date of the hearing.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.16 LIST OF WITNESSES:** A list of witnesses to be called by each party shall be submitted to the Classified Human Resources Department Office at least seventy-two (72) hours prior to the date of the hearing. This will allow the Personnel Commission time to secure the release of witnesses prior to the hearing.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.17 SWORN AFFIDAVITS:** The policy of the Personnel Commission shall be that where possible, all witnesses shall give testimony orally at the hearing. However, if in the option of the Personnel Commission or its hearing officer, a witness has good and sufficient reason for being unable to be present, written testimony will be accepted under the following conditions:

**19.5.17.1** Such evidence must be submitted by sworn affidavit of the witness. The affidavit shall be continued to a statement of facts bearing on the case and within the knowledge of the witness, and shall not contain any conclusions of the witness, except that a witness who qualifies as an expert may express his/her opinion based upon the facts which he/she recited.

- 19.5.17.2** Copies of all such affidavits must be filed with the Classified Human Resources Department Office or the hearing officer at least three (3) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.
- 19.5.17.3** Neither party has objections to the submission of the affidavit(s) into evidence. Either party, upon request, may require the attendance of the witness who has given the sworn affidavit for purposes of cross examination. A continuance may be necessary in order to secure the attendance of the witness.
- 19.5.17.4** The Personnel Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.18 DELIBERATION AND FINDINGS OF HEARING OFFICER:** Whether the hearing is held in open or closed session, the hearing officer if one is appointed by the Personnel Commission shall deliberate on the evidence presented and a determination of his/her recommendations to the Personnel Commission in closed session.

- 19.5.18.1** The hearing officer shall submit his/her written recommendations and findings of fact to the Director, Classified Human Resources within a reasonable period of time and a copy will be provided to the employee and the District.
- 19.5.18.2** Upon receipt of the hearing officer's written recommendations and findings of fact, the Director, Classified Human Resources shall contact the Chairperson of the Personnel Commission to schedule a meeting of the Personnel Commission to consider the findings and recommendation of the hearing officer.
- 19.5.18.3** The hearing officer shall prepare a proposed decision to be adopted by the Personnel Commission as its decision in the case. The Classified Human Resources Office will notify the appellant, his/her representative and the District's representative of the date of the meeting when the Personnel Commission will consider its decision on the appeal. Copies of the proposed decision shall be made available upon request to the appellant and representative after the Personnel Commission has received it at a regular Personnel Commission meeting. If either representative believes that the Personnel Commission should give further consideration to the decision, he/she must submit a written request to the Personnel Commission with a copy to the opposing representative detailing reasons for further consideration and the remedy sought. The hearing officer may be present during the consideration of the case by the Personnel Commission and, at its request, may advise the Personnel Commission. The Personnel Commission may accept, reject, or amend any of the findings or recommendations in the proposed decision. If further investigation or hearing is ordered, the Personnel Commission may decide the case itself or may refer the case to the same or another hearing officer for the purpose of taking additional evidence. If the case is referred to a hearing officer, the hearing officer shall file another proposed decision.

**REFERENCE:** 1. Education Code Sections 452620 and 45261

**19.5.19 DELIBERATION OF PERSONNEL COMMISSION:** Whether the hearing before the Personnel Commission is held in open or closed session, the Personnel Commission, after it concludes the hearing, may deliberate its decision(s) in closed session. No persons other than members of the Personnel Commission, its legal counsel, the hearing officer and the Director, Classified Human Resources, shall be permitted to participate in the deliberations. If the Director, Classified Human Resources was the administrator initiating the disciplinary action, or if the Director, Classified Human Resources acted on behalf of the Board of Trustees in the presentation of the case at any level of the appeal process, or if the Director, Classified Human Resources served as a witness in the proceedings, the Director, Classified Human Resources shall also be excluded from the Personnel Commission's deliberations.

**REFERENCE:** 1. Education Code Sections 45260, 45261, 45266 and 45305

**19.5.20 DECISION OF PERSONNEL COMMISSION:** The Personnel Commission shall render the judgment as soon as possible after the conclusion of the hearing. The decision(s) of the Personnel Commission shall be in writing and shall set forth which charges, if any, are sustained and the reasons therefore.

**19.5.20.1** The Personnel Commission's written decision(s) shall contain findings of fact, a determination of the issues presented, and the penalty imposed (if any). The findings may be stated in the language of the pleadings or included by reference thereto.

**19.5.20.2** If the disciplinary action is not sustained, the Personnel Commission's order shall set forth the effective date that the employee is to be restored or reinstated to his/her former position and/or status, such date to be set forth at any time on or after the date that the disciplinary action was invoked.

**19.5.20.3** Copies of the Personnel Commission's decision(s) shall be delivered to the parties personally or transmitted to them by Certified Mail. The requirements for notification of the employee will be deemed to have been met if the decision is sent Certified Mail, to the last known home address on file in the Classified Human Resources Department Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification. For purpose of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.21 BOARD OF TRUSTEES SHALL COMPLY WITH PERSONNEL COMMISSION DECISION:** Upon receipt of the Personnel Commission's written decision the Board of Trustees shall forthwith comply with the provision's thereof. When the Board of Trustees has fully complied with the Personnel Commission's decision, it shall so notify the Personnel Commission in writing.

**19.5.21.1** If the Board of Trustees fails and/or refuses to fully comply with the Commission's written decision(s) and order(s) as required by these Rules and Regulations and legal statutes, the Commission shall seek judicial action to ensure compliance.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45307

**19.5.22 PERSONNEL COMMISSION ACTION:** The Personnel Commission may sustain or reject any or all of the charges filed against the employee. The Personnel Commission may sustain, modify, or reject the disciplinary action invoked against the employee. However, the Personnel Commission may not increase the severity of the disciplinary action imposed by the Board of Trustees.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45307

**19.5.23 DECISION MUST INCLUDE CONSIDERATION OF JUST SETTLEMENT:** Following its determination of the facts and findings relative to the disciplinary action invoked against the employee, the Personnel Commission shall consider such other matters as it deems necessary and proper to effect a just settlement of the appeal, including, but not limited to:

**19.5.23.1** The granting of seniority credit for any or all of the off-duty time pending restoration or reinstatement.

**19.5.23.2** Expunge from the employee's personnel file and record any causes or charges that are not sustained by the Commission.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45307

**19.5.24 OBTAINING COPIES OF THE HEARING TRANSCRIPT:** The employee or his/her designated representative and the Board of Trustees or its designated representative may obtain a copy of the transcript under the following conditions.

**19.5.24.1** The cost of the transcript and copies, if requested, shall be borne by the party making the request.

**19.5.24.2** The request shall be in writing and a cash deposit made in an amount determined by the Director, Classified Human Resources prior to preparation, which shall not be less than the estimated cost of transcribing the hearing record.

**19.5.24.3** The final cost of the transcript shall be the actual cost of preparation plus the cost of making copies as determined by the Director, Classified Human Resources.

**19.5.24.4** The transcript shall only be released upon payment in full. When the deposit is greater than the actual costs of the document (including the making of copies), the remainder shall be refunded to the party.

**REFERENCE:** 1. Education Code Section 45260 and 45261

**19.5.25 DISQUALIFICATION OF HEARING OFFICER OR PERSONNEL COMMISSIONER:** A hearing officer or Personnel Commission member shall voluntarily disqualify himself/herself and withdraw from any appeal in which he/she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or Personnel Commission member by filing an affidavit, prior to the taking of evidence at a hearing, starting with particularity the grounds which it is claimed that a fair and impartial hearing cannot be accorded.

**19.5.25.1** If the Personnel Commission determines that there are sufficient grounds for disqualification, it may elect to disqualify the hearing officer or Personnel Commission member.

**19.5.25.2** If the disqualification request concerns a Personnel Commission member, the issue shall be determined by the remaining members of the Personnel

Commission. However, no Personnel Commission member shall withdraw voluntarily or be subject to disqualification if his/her disqualification would prevent the existence of a quorum qualified to act in that particular matter.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**19.5.26 COUNSEL FOR THE PERSONNEL COMMISSION:** The Personnel Commission may seek and appoint legal counsel as part of its appeal and investigatory hearing duties. To avoid any conflict of interest, the legal counsel shall not be the same counsel representing the Board of Trustees, nor shall the Board of Trustees and the Personnel Commission be represented by members of the same legal firm in a hearing held pursuant to these Rules and Regulations. All reasonable costs associated with the use of such legal counsel by the Personnel Commission in a hearing shall constitute a legal charge against the Board of Trustees' general funds, whether or not the money or costs for legal services appear in the Personnel Commission budget.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45313

Adopted – July 11, 1995  
Amended – September 21, 2010

## CHAPTER 20

### LAYOFF AND REEMPLOYMENT PROCEDURES

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#### 20.1 LAYOFF PROCEDURES

For bargaining unit members layoffs are conducted according to contract provisions. When the collective bargaining contract is silent, these rules prevail.

For classified management, confidential and non-represented employees, the following applies.

**20.1.1 REASON FOR LAYOFF:** The layoff of classified employees shall only occur for a lack of work or lack of funds, and only in accordance with the rules and Regulations of the Personnel Commission. Any effects of layoff that may be negotiated by the between the District and any recognized exclusive representative shall be in addition to these Rules and Regulations. Any agreement between the District and a recognized exclusive representative may not provide for less than the mandated employee protections and procedures outlined in this chapter.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45308

**20.1.2 LAYOFF DEFINITION:** As used in this rule, the following term has the following meaning: "Reemployment list" means a list of names of persons arranged in order of their right to reemployment, who have been laid off from permanent positions by reason of lack of work, lack of funds, abolishment or reclassification of position, or who take a voluntary demotion or voluntary reduction in assigned time in lieu of layoff or other reasons specified in these rules, and who are eligible for reemployment without examination in their former class. "Layoff" means layoff from employment or reduction in assigned time per day, week, month or year.

**REFERENCE:** 1. Education Code Sections 45298 and 45308

**20.1.3 LAYOFF RESOLUTION BY BOARD OF TRUSTEES:** Before any layoff notice can be issued, the Board of Trustees shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by classification and assigned time.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**20.1.4 ORDER OF LAYOFF:** Length of service (seniority as prescribed herein) shall be the only criterion used to effect layoffs. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus equal and higher classes (as determined by the Personnel Commission), shall be laid off first. Reemployment shall be in the reverse order of layoff. "Length of service" shall be defined to include the hire date of that employee as a regular probationary or permanent employee in the class, plus any service in equal or higher classes.

**20.1.4.1** The Personnel Commission shall grant length of service credit for time spent on unpaid leaves in the following areas; military leave, illness leave, maternity leave, and industrial accident/illness leave.

**20.1.4.2** Except as noted in Rule 20.1.4.1 above, all unpaid leaves of more than five (5) working days shall not count towards earning "length of service" seniority credit. Employees taking leaves over five (5) working days shall

have their classification hire date adjusted on a day for day basis for the duration of the unpaid leave.

**20.1.4.3** If two (2) or more employees subject to layoff have equal class hire date seniority, then the decision shall be made by lot.

**REFERENCE:** 1. Education Code Sections 45101, 45260, 45261 and 45308

**20.1.5 BUMPING RIGHTS:** An employee in the Classified Service who is laid off from a class, and who has previous service in an equal or lower class, shall have the right to bump a less senior employee in that equal or lower class. Seniority for purposes of bumping shall include the total of the previous service in the equal or lower class, plus service in the class from which layoff occurs and in higher classes. In the event of a layoff the following bumping priority will apply:

**20.1.5.1** An employee whose position is eliminated or reduced shall first be placed in a vacant position with an equal assignment in the same class when compared with the employee's current position.

**20.1.5.2** If the previous option is unavailable, the employee shall be placed in a vacant position that has additional assigned time in the same class when compared with the employee's current position.

**20.1.5.3** If the previous option is unavailable, the employee will be allowed to bump into a position providing an equal assignment in the same class when compared with the employee's current position, and which is held by the least senior employee of those less senior employees holding positions with more assigned time.

**20.1.5.4** If the previous option is unavailable, the employee will be allowed to bump into a position providing additional assigned time in the same class when compared with the employee's current position, and which is held by the least senior employee of those less senior employees holding positions with more assigned time.

**20.1.5.5** If the previous option is unavailable, the employee will be allowed to bump into a position with less assigned time in the class that is closest to the employee's current assigned time, and which is held by a less senior employee in the class. As an alternative, the employee shall also have the option of bumping into an equal (1st option) or lower class (2nd option) previously held as a regular classified employee that will provide at least the same assigned time as the employee's current position.

**20.1.5.6** If the employee is the least senior employee in the class, the employee shall have the option of bumping into an equal (1st option) or lower class (2nd option) previously held as a regular classified employee. The employee will repeat the sequence of options outlined in this Rule for the equal class position first. If no alternative is available in the equal class, the employee will repeat the sequence options outlined in the Rule of the lower class.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45308

**20.1.6 SITE SENIORITY:** If a position in a classification is eliminated or reduced at a site or department which has multiple positions at the site with similar assigned times, the least senior employee in that classification with those assigned hours will be bumped from the site before more senior employees in that classification and assigned hours are impacted. Example: A site has four 4 Instructional Assistants that are each three (3) hours per day. If

one three (3) hour position is eliminated at the site, the least senior of the four (4) Instructional Assistants at that site will be bumped. The impact of the displacement could include placement in a vacant position of equal or greater assigned time, or possibly layoff pursuant to these Rules and Regulations.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45308

**20.1.7 VOLUNTARY DEMOTION OR TRANSFER:** A permanent classified employee who will suffer a layoff for lack of work or funds despite his/her bumping rights may accept a voluntary demotion to a vacant position in a lower class or transfer to an equal class, providing that the employee is deemed to be qualified to perform the duties thereof by the Personnel Commission, and provided further that the Board of Trustees approves the voluntary demotion or transfer.

**REFERENCE:** 1. Education Code Sections 45260 and 45281

**20.1.8 LAYOFF VERSUS TEMPORARY POSITIONS:** No regular classified employee shall be laid off from any position while employees are serving in a probationary, limited term, provisional, or temporary positions in the same or lower classification unless the regular employee declines said position.

**20.1.9 ACCEPTANCE OF SUBSTITUTE OR TEMPORARY POSITIONS:** An employee who has been laid off for lack of funds or lack of work and who is on a reemployment list may be employed as a substitute or temporary employee in his/her original class or any other class for which qualified (as determined by the Personnel Commission), for such employment.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**20.1.10 REFUSAL OF TEMPORARY EMPLOYMENT:** Refusal of an offer of limited-term employment shall not affect the standing of any employee on a reemployment list.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**20.1.11 SALARY PLACEMENT AFTER DEMOTION OR TRANSFER:** A classified employee who accepts a demotion in lieu of layoff shall be placed at the salary range of the lower class, and then to that step of the lower range that comes closest to the employee's hourly salary rate in the higher classification without being more than the previous hourly salary rate.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**20.1.12 NOTICE OF LAYOFF:** The District shall notify the affected classified employees in writing a minimum of forty-five (45) calendar days prior to the date of any layoff for lack of work or funds. The notice to the affected employee shall specify the reason for the layoff and be given by personal delivery or by Certified Mail to the last known home address of the employee on file in the Classified Human Resources Department Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Services of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purposes of this Rule, if notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

**REFERENCE:** 1. Education Code Sections 45117, 45260 and 45261

**20.1.13 ADVANCE NOTIFICATION TO EXCLUSIVE REPRESENTATIVE:** If any of the impacted positions are represented by a collective bargaining exclusive representative, the District Administration and the exclusive representative shall meet in advance of layoff notices,

being sent out to review the proposed layoff. A copy of each layoff notice will be sent to the exclusive representative.

- REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Government Code Sections 3540-359.3

**20.1.14 CONTENTS OF LAYOFF NOTICE:** Any notice of layoff shall include the following:

- 20.1.14.1** The reason for the layoff.
- 20.1.14.2** The employee's displacement rights, if any.
- 20.1.14.3** The employee's reemployment rights.
- 20.1.14.4** The name and classification of the employee designated for layoff.
- 20.1.14.5** A statement that the employee may have a right to unemployment insurance.

- REFERENCE:** 1. Education Code Sections 45117, 45260 and 45261

## **20.2 REEMPLOYMENT PROCEDURES**

**20.2.1 LAID OFF EMPLOYEES PLACED ON REEMPLOYMENT LIST:** The names of regular classified employees laid off pursuant to Rule 20.1 shall be placed upon the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in order of seniority as defined by these Rules.

- 20.2.1.1** Laid off employees do not accumulate seniority credit while on the reemployment list.

- REFERENCE:** 1. Education Code Sections 45260, 45261 and 45298

**20.2.2 EMPLOYEES WITH EQUAL SENIORITY:** If two (2) or more employees subject to rehire have equal class hire date seniority, then the rehire offer shall be made to the employee with the earliest regular hire date in the District. If regular hire date is equal, the decision shall be made by lot.

- REFERENCE:** 1. Education Code Sections 45101, 45260, 45261 and 45308

**20.2.3 LAID OFF EMPLOYEES ELIGIBILITY FOR REEMPLOYMENT:** Laid off employees are eligible for reemployment for a thirty-nine (39) month period from the actual date of layoff and shall be employed in the reverse order of layoff. Their reemployment shall take precedence over any other type of employment defined or undefined, in these Rules. In addition, they shall have the right to apply for promotional and transfer positions and use their seniority therein for a period of thirty-nine (39) months following layoff. An employee on a reemployment list may file a written request with the Classified Human Resources Department Office to be notified of promotional and/or transfer opportunities.

- REFERENCE:** 1. Education Code Sections 45260, 45261 and 45298

**20.2.4 VOLUNTARY DEMOTION/REDUCTION EMPLOYEES ELIGIBILITY FOR REEMPLOYMENT:** Regular employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be, at the employee's option, returned to a position in their former class or to positions in accordance with their seniority on any valid reemployment list with increased assigned time as vacancies become available within a sixty-three (63) month period following the actual date of layoff.

**REFERENCE:** 1. Education Code Sections 45260, 45261 and 45298

**20.2.5 P.E.R.S. RETIREMENT IN LIEU OF LAYOFF AND REEMPLOYMENT:** Regular employees who have at least five (5) years of service credit under the Public Employees Retirement System and are fifty (50) years of age or older, may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reduction in assigned time. Such employees shall, complete and submit a form to the Public Employees Retirement System. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with the Rules within this chapter. If the District makes an offer of reemployment, and the Classified Human Resources Department Office receives a written acceptance of the offer within two (2) working days of the written offer of reemployment, the retired person shall be allowed sufficient time to terminate his status with the Public Employees Retirement System.

**REFERENCE:** 1. Education Code Sections 45115, 45260 and 45261

**20.2.6 ESTABLISHMENT AND MAINTENANCE OF SENIORITY LISTS:** The Classified Human Resources Department shall establish and maintain a seniority list indicating an employee's hire date.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**20.2.7 OFFER OF REEMPLOYMENT AND ACCEPTANCE:** An employee who is laid off and is subsequently determined by the Personnel Commission to be eligible for reemployment based upon his/her seniority shall be notified by the Classified Human Resources Department by telephone of an opening. If the employee cannot be reached, the employee will be notified in writing by the Classified Human Resources Department. Such notice shall be sent by Certified Mail to the last known home address of the employee on file in the Classified Human Resources Department Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification or the staying of the timelines outlined in these Rules. For purpose of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

**20.2.7.1** A regular employee shall notify the Classified Human Resources Department Office of his/her intent to accept or refuse reemployment within five (5) working days following the mailing of the reemployment notice. If the employee accepts reemployment, the employee must report to work within ten (10) working days following the mailing of the reemployment notice. An employee given notice of reemployment need not accept the reemployment to maintain the employee's eligibility on the reemployment list, provided the employee notified the Classified Human Resources Department Office in writing within five (5) working days from receipt of the reemployment notice.

**REFERENCE:** 1. Education Code Section 4520, 45261 and 45298

**20.2.8 REEMPLOYMENT IN HIGHEST RATED CLASS AVAILABLE:** Employee shall be reemployed in the highest rated job classification available in accordance with their length of service in the class from which they were laid off, equal classes, and/or higher classes. Employees who accept a position lower than their former class, or accept a position with less assigned time than their former position, shall retain their original thirty-nine (39) months rights to the higher paid position and an additional twenty-four (24) months as provided in the Education Code and Rule 20.2.3.

**REFERENCE:** 1. Education Code Section 45260, 45261 and 45298

**CHAPTER 21**  
**RESIGNATIONS**

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**21.1 RESIGNATION PROCEDURES**

**21.1.1 RESIGNATION DURING PROBATIONARY PERIOD:** A person who resigns while in good standing during his/her probationary term may be returned to his/her original place on the eligibility list at the discretion of the Personnel Commission.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**21.1.2 RESIGNATION AND EFFECT ON ELIGIBILITY LISTS:** A resignation relates only to the specific position from which the employee resigns and does not impair his/her rights on other eligibility lists, except that if his/her name is on any promotional eligibility list, it shall be removed from any such list.

**REFERENCE:** 1. Education Code Section 45260

**21.1.3 PROCEDURE FOR RESIGNATION OF EMPLOYEE:** Whenever an employee desires to resign from the District, he/she shall present his/her resignation in writing to their immediate supervisor or the Classified Human Resources Department Office. The resignation letter shall indicate the last day in paid status of the resigning employee and the reasons for the resignation. The Classified Human Resources Department Office or the Director, Classified Human Resources may conduct an exit interview with the employee.

**REFERENCE:** 1. Education Code Sections 45260 and 45261

**21.1.4 TWO (2) WEEK NOTICE OF RESIGNATION:** Classified employees are requested to provide the District with at least two (2) weeks notice. Management classified employees are requested to provide at least four (4) weeks notice to the District.

**21.1.4.1** An employee who resigns without the proper notice as described above, except with the written consent of the supervisor or manager, shall not be considered to have resigned in good standing. Such employee may be declared ineligible for re-employment or reinstatement privileges.

**REFERENCE:** 1. Education Code Section 45260 and 45261

**21.1.5 ACCEPTANCE OF RESIGNATION:** No resignation of a classified employee shall be considered final until approved by the Board of Trustees. The date of acceptance of the resignation shall be the date it is received by the Superintendent, unless otherwise stipulated. The Superintendent shall submit all resignations to the Board of Trustees for the ratification at its next regular meeting date.

**REFERENCE:** 1. Education Code Sections 45201, 45260 and 45261

**21.1.6 RESIGNATIONS SHALL BE SUBMITTED IN THE YEAR EFFECTIVE:** A resignation shall take effect no later than the close of the fiscal year during which the resignation is received and acted upon by the Board of Trustees.

**REFERENCE:** 1. Education Code Sections 45201, 45260 and 45261

**21.1.7 RETIREMENT UNDER PERS:** Classified employees working over 1000 hours per year (approximately four (4) hours per day) will be covered by the Public Employees' Retirement

System and Social Security. Employees wishing to retire under PERS are required to submit appropriate retirement applications to the Public Employee's Retirement System. Forms may be obtained on the PERS website, <http://www.calpers.ca.gov>, or by telephone at 1-800-CALPERS (or 1-800-225-7377).

**REFERENCE:** 1. Education Code Sections 45260 and 45261

## **21.2 HEALTH BENEFIT CONTINUATION UPON RESIGNATION**

**21.2.1 C.O.B.R.A. HEALTH CONTINUATION REQUIREMENTS:** Under federal law employees and their families are provided a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where coverage under the health plan would otherwise end.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.2 EMPLOYEE CONTINUATION UPON REDUCTION, LAYOFF OR VOLUNTARY TERMINATION:** A classified employee who is covered by the District health plans has the right to continuation coverage as outlined in these Rules if the employee loses his/her group health coverage because of a reduction in hours of employment, or the termination of his/her employment for reasons other than disciplinary causes as outlined in Chapter 19 of these Rules and Regulations.

**REFERENCE:** 1. Education Code Sections 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.3 SPOUSE COVERAGE:** The spouse of an employee covered by the District's health plans has the right to choose continuation coverage if the employee loses group health coverage for any of the following reasons:

**21.2.3.1** The death of the employee.

**21.2.3.2** A termination of the employee's employment for reasons other than disciplinary cause as outlined in chapter 19 of these Rules and Regulations, or a reduction in the covered employee's hours of employment with the District that results in a loss of health benefits.

**21.2.3.3** Divorce or legal separation from the employee.

**21.2.3.4** The employee becomes eligible for Medicare.

**REFERENCE:** 1. Education Code Section 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.4 DEPENDENT CHILD COVERAGE:** The dependent child of an employee covered by the District's health plans has the right to choose continuation coverage if the employee loses group health coverage for any of the following reasons:

**21.2.4.1** The death of a parent covered by the plans.

**21.2.4.2** The termination of a parent's employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations with the District, or reduction in a parent's hours of employment with the District which results in a loss of health benefits.

**21.2.4.3** A parent's divorce or legal separation.

**21.2.4.4** A parent becomes eligible for Medicare.

**21.2.4.5** The dependent ceases to be a "dependent child".

**REFERENCE:** 1. Education Code Section 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.5 RESPONSIBILITY TO NOTIFY DISTRICT IN STATUS CHANGE:** The classified employee or eligible party has the responsibility to inform the District of a divorce, legal separation, or a child losing dependent status under the District's health plans. Such notice must be provided within 60 days after the date of such event.

**REFERENCE:** 1. Education Code Section 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.6 DISTRICT SHALL SEND NOTIFICATION OF RIGHTS:** When the District is notified about one of the circumstances outlined in Chapter 21.2.2 -21.2.4, the District shall notify the party (employee, spouse, dependents) in writing of the right to choose continuation coverage. The eligible party shall have sixty (60) days from the date of losing coverage because of the events outlined in Chapters 21.2.2 – 21.2.4 to inform the District in writing that continuation coverage is desired.

**REFERENCE:** 1. Education Code Section 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.7 FAILURE TO ACCEPT CONTINUATION:** If an employee or eligible party eligible under these Rules for health benefits continuation coverage either opts not to accept coverage or fails to indicate that coverage is desired within the stated timelines in these Rules, the right to continue to participate under C.O.B.R.A. will be terminated.

**REFERENCE:** 1. Education Code Section 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.8 REQUIREMENT TO PROVIDE SIMILAR COVERAGE:** If an employee or eligible party chooses continuation coverage, the District is required to give health benefit continuation coverage which, as of the time coverage is provided, is identical to the coverage previously provided.

**REFERENCE:** 1. Education Code Section 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.9 LENGTH OF CONTINUATION COVERAGE PROVIDED:** The eligible employee is afforded the opportunity to maintain continuation coverage for eighteen (18) months except as noted below. The employee's spouse and dependents are afforded the opportunity to maintain continuation coverage for three (3) years except as noted below. If the employee

or eligible party lost group health coverage because of a termination of employment or reduction in hours of the classified employee, the required continuation coverage may be cut short for any of the following reasons:

- 21.2.9.1** The District no longer provided group health coverage to any of the employees.
- 21.2.9.2** The premium for the continuation coverage is not paid by the employee or the eligible party.
- 21.2.9.3** The employee or eligible party becomes an employee covered under another group health plan.
- 21.2.9.4** The employee or eligible party becomes eligible for Medicare.
- 21.2.9.5** The divorced spouse of a covered employee subsequently remarries and is covered under the new spouse's group health plan.

**REFERENCE:** 1. Education Code Section 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.10 NO EVIDENCE OF INSURABILITY NECESSARY:** An employee or eligible party is not required to prove insurability to choose continuation coverage.

**REFERENCE:** 1. Education Code Section 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act

**21.2.11 PAYMENT OF PREMIUM:** The employee or eligible party must pay in full premium for the health benefit continuation coverage, plus an additional charge of two percent (2%) for administrative expense.

**REFERENCE:** 1. Education Code Section 45260 and 45261  
2. Federal Public Law 99-272, Title X – Consolidated Omnibus Budget Reconciliation Act