



*PERSONNEL  
COMMISSION  
RULES  
&  
REGULATIONS*

*April 2019*

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# CHAPTER 1

## DEFINITIONS

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**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.

**ADDENDUM:** A document added to these rules as an appendix or supplement, which modifies, deletes, or adds to the provisions contained in the rules.

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

**ANNIVERSARY DATE:** The date on which an employee is granted salary step advancement earned by completion of a required period of service.\*

**APPEAL:** A protest by an employee relative to an administrative action actually or potentially detrimental to the employee provided elsewhere in these rules.

**APPLICANT:** A person who has filed an application to participate or compete in the District’s selection process.

**APPOINTING AUTHORITY OR POWER:** The Board of Education or its designees, and the Personnel Commission when referring to 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 and hours per day 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.

**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 of Classified Personnel, 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:** (Also 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 SERVICE:** All persons and positions in the District to which "The Act" applies.

**CLASS SPECIFICATION:** (Sometimes referred to as a "Class Description" or "Classification Specification.") A formal statement of 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:** A three (3) member committee established pursuant to the requirements of "The Act", to establish rules and regulations to govern the classified service of the school district, to oversee the personnel management function related to the classified service, and to regulate the actions of the Board of Education and/or Administration in carrying out the requirements of "The Act" and the rules and regulations of the Commission.

**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 base salary rate.

**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.

**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 Education.

**DISTRICT:** The Pajaro Valley Unified School District.

**DUAL CERTIFICATION:** A procedure, which provides for simultaneous certification of open and promotional candidates in accordance with the examination scores attained by the candidates.

**DUTIES STATEMENT:** A listing of the duties assigned to an individual position or class of positions.

**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:** (As an adjective) Legally qualified to be appointed to a position. (As a noun) A person whose name appears on an appropriate eligibility list.

**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 an 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 appointment indicating the degree of permanency with the District.

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

**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 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 an eight (8) hour per day, twelve (12) month per year assignment in the classified service of the District.

**GOVERNING BOARD:** The Board of Education in the Pajaro Valley Unified School District (“Appointing Authority or Power”).

**GRIEVANCE:** An employee complaint concerning conditions of employment. This term does not apply to appeals from disciplinary actions, requests for classification study or salary review.

**GROUP:** A number of classes related in duties and responsibilities as set forth in the list of classes promulgated by the Personnel Commission. Also known as “series” or “families” of classes.

**HEARING:** A formal review of evidence, in the presence of the parties involved, in connection with an action affecting an employee; concerning which the employee has filed an appeal.

**HIRE DATE:** Date of original or most recent employment with the District.

**ILLNESS:** Any pronounced deviation from a normal healthy state, which makes it disadvantageous to the District and/or detrimental to the employee for the employee 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 particular position within a class.

**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.

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

**JOB AUDIT:** A personnel job evaluation technique using 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 the lack of work, or lack of funds, or because the position has been abolished or reclassified, or because an employee has exhausted all leave rights and privileges and is still unable to work following an illness or injury. A layoff shall also include any reduction in hours of employment or 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 period of time of six (6) months or less, and who has been placed in the limited term position from an appropriate eligibility list.

**LOYALTY OATH:** A statement required for each new employee concerning his support of the United States and California Constitutions; as required by state law.

**MERGING:** The act of combining two (2) or more eligibility lists for the same class, which were established not 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 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.

**MINIMUM QUALIFICATIONS:** The qualifications mandated for the class and which must be possessed by an applicant before certification for employment to a specific class. Minimum qualifications shall be approved by the Personnel Commission.

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

**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 one 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 by a person employed in the District's classified service.



**PERMANENT EMPLOYEE:** In reference to District 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 the Commission 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 NECESSITY LEAVE:** A leave of absence with pay for a limited duration, which may be taken for reasons of personal need; as specified in the Education Code and the Rules and Regulations of the Personnel Commission. Such leave is charged against the employee's earned cumulative sick leave bank, and is limited to a maximum of seven (7) days per school year.

**PERSONNEL COMMISSION:** (also referred to as "Commission") A three (3) member committee established pursuant to the requirements of "The Act" to administer the "Merit System" in the Pajaro Valley Unified School District.

**PERSONNEL DIRECTOR:** (also referred to as "Director of Classified Personnel.") As used in these rules, the term refers to the person appointed by the Personnel Commission 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.

**PERSONNEL STAFF:** As used in these rules, the term applies to those persons employed by the Personnel Commission to carry out the day-to-day operations 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 Education, 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 (which may or may not be granted); in contrast to a right (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 base salary rate.

**PROMOTIONAL LIST:** An eligibility list resulting from a promotional examination limited to qualified permanent 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 appropriate eligibility list for a period of time not to exceed ninety (90) working days except in specified circumstances.

**PROVISIONAL EMPLOYEE:** A person temporarily employed in the absence of an appropriate eligibility list while the selection (testing) process is being conducted to fill the position.

**REALLOCATION:** Movement of an entire class (of positions) from one salary schedule (range) or hourly rate to another salary schedule or hourly rate.

**RECLASSIFICATION:** The removal of a position or positions from one 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.

**REEMPLOYMENT LIST:** A list of names (in rank order of seniority) of persons who have been laid off from permanent positions by reason of a 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 date of layoff).

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

**REGULAR EMPLOYEE:** A person (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 resignation, without examination, to a position in one of the person's former classes, or in a related class. Such reappointment requires the District to restore all rights and benefits earned by the person prior to the resignation, and are made at the discretion of the District.

**RESIGNATION:** Voluntary termination by an employee of his/her 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.

**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. More specifically, it refers to selection from the first three (3) ranks of eligibles who are ready, willing, and able to accept appointment to a specific position.

**SALARY ANNIVERSARY DATE:** The date on which an employee is granted an earned salary step advancement.\*

**SALARY RANGE:** A series of consecutive salary steps that comprise the rates of pay for a classification. A salary range usually consists of five (5) 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. Often referred to as the salary matrix.

**SALARY STEP:** A specific rate in a salary range, exclusive of any differentials. One of the consecutive rates that comprise a salary range, and paid on an hourly, or monthly basis. Also referred to as the "base" salary step.

**SALARY SURVEY:** The collection of current wage and salary data for the purpose of determining the prevailing wage for certain types of work. The term also includes the written report containing the data collected.

**SENIORITY:** Status secured by length of service (in a classification) to which certain rights attach; including, but not limited to, determining the order of layoff when positions within a classification are eliminated.

**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 into an occupational hierarchy and arranged in a list in order to indicate levels in a group. The occupational hierarchies or series established by the Personnel Commission are also related horizontally to each other.

**SEXUAL HARASSMENT:** An unwelcome sexual advance, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature, made by someone from or in the work setting.

**STATUS:** The employee's present standing in the classified service, e.g. temporary, limited-term, probationary, permanent, etc.

**STEP ADVANCEMENT:** Movement to a higher step on the salary range for the class as a result of having served the required number of months in that class during the preceding twelve months and satisfactory performance; until the maximum step has been achieved.

**SUBSTITUTE EMPLOYEE:** A person who is temporarily occupying a regular position during the absence of the incumbent (also 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.

**TEMPORARY:** Employment on the basis of other than permanent or probationary status, e.g. limited-term or provisional status.

**TRANSFER:** The reassignment of an employee without examination from one position to another position within the class (regular transfer), or to a position in a similar or related class (having the same salary range (lateral transfer).

**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 them adequately; or the performance of actions detrimental to the good of the District while not on duty.

**VETERAN:** Any person who has served at least thirty (30) days or more in the United States armed forces 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. "Disabled veteran" is any veteran who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the armed forces.

**VETERANS' CREDIT:** Points for military or related service rendered during time of war or national emergency, and which are to be added to the final passing score in an entry level examination on an open eligibility list.

**WAIVER:** The voluntary relinquishing (by an eligible) of a right to be considered for appointment from an employment list to one or more positions.

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

CHAPTER 1 - APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION MAY 15, 1997

# CHAPTER 2

## AUTHORITY AND APPLICATION OF RULES

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### 2.0 AUTHORITY AND APPLICATION OF RULES

- A. **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 to govern the District's classified employees.

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 that have been made applicable to classified school employees.

Since the implementation of new rules or amendments to existing rules can impact the Board, the Administration, and the classified employees, the 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:** Education Code Sections 45241 and 45260  
Government Code Section 3543.2

- B. **INTERPRETATION AND APPLICATION OF RULES:** The Commission recognizes that no set of rules can contemplate all possible combination 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 or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Director of Classified Personnel Services, subject to appeal to the Personnel Commission. The 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:** Education Code Section 45260

- C. **GENERIC TERMINOLOGY:** As used in these rules, singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

**REFERENCE:** Education Code Sections 73 - 74, 45260

- D. **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:** Education Code Section 6, 45260

- E. **PRINTING AND DISTRIBUTION OF RULES AND REGULATIONS:** The Rules and Regulations of the Personnel Commission shall be printed and distributed to every personnel commissioner, and board member of the District. In addition, copies shall be made available in the offices of the Superintendent, each Assistant Superintendent, and each worksite and school. Every certificated and classified administrator/manager shall receive a copy of the rules. The exclusive representative(s) of the classified employees shall also receive a copy of the rules.

**REFERENCE:** Education Code Section 45260

- F. **SUBJECTS OF RULES:** The rules and regulations shall provide for the procedures to be followed by the Board of Education as they pertain to the classified service regarding such matters as applications, examinations, eligibility, appointments, promotions, transfers, dismissals, 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 Commission to insure the efficiency of the classified service and the selection and retention of employees upon a basis of merit and fitness.

**REFERENCE:** Education Code Sections 45260 – 45261

- G. **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:** Education Code Section 45317

H. **OTHER UNLAWFUL ACTS:** In addition to the prohibition on unlawful acts outlined in Rule #2.0 G, it is also unlawful for any person:

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.

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 or the person examined.

Willfully to furnish to any person any special or confidential 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:** Education Code Section 45317

CHAPTER 2 - APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION MAY 15, 1997

# CHAPTER 3

## THE PERSONNEL COMMISSION

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### 3.0 ORGANIZATION OF THE COMMISSION

- A. **TERM(S) OF OFFICE AND COMMISSION OVERVIEW:** The Personnel Commission is composed of three individuals who must be registered voters, reside within the boundaries of the Pajaro Valley Unified School District, and be “known adherents to the principle of the merit system.” One (1) member of the Commission is appointed by the Board of Education, one member is appointed by the Board of Education upon the recommendation of the classified employee organization which represents the largest number of the District’s classified employees, and the third member is appointed by the other two (2) members of the Commission.

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 Commission. During a commissioner’s term of office, a member of the Personnel Commission shall not be an employee of the Pajaro Valley Unified School District.

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 commissioner who has clearly demonstrated through meeting attendance and actions that he/she does, in fact, support the merit system and its operation.

By law, the term of office for each of the commissioners is for a three (3) year period and expires at Noon on December 1st of the third year. The terms of office have been scheduled so that the term of office of not more than one (1) commissioner expires each December 1st.

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



- B. **OFFICERS:** At its first regularly scheduled meeting in December, the Commission shall elect one of its members to serve as Chairperson and another of its members to serve as Vice Chairperson to serve a term of one (1) year.

The Secretary to the Personnel Commission shall be the Director of Classified Personnel.

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

- C. **QUORUM AND MAJORITY VOTE:** Two (2) members of the 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 Commission is required to carry any motion or action.

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

- D. **COMPENSATION OF COMMISSION MEMBERS:** Upon the request of the Personnel Commission and upon the approval of the Board of Education, the members of the Personnel Commission may receive compensation at the rate of up to fifty dollars (\$50) per meeting, not to exceed two hundred-fifty dollars (\$250) per month. Upon approval of the Board of Education, the members of the Commission shall also be entitled to the same health insurance plans of the District as regular classified employees.

**REFERENCE:** Education Code Sections 45250 and 45260

## **3.1 SELECTION PROCEDURES**

- A. **NOTIFICATION PROCEDURES:** On or about September 1st of each year, the Director of Classified Personnel shall notify the Board of Education and the recognized classified employee organizations(s) of the name and home address of the commissioner whose term will be expiring, and whether or not that commissioner will accept reappointment for another three (3) year term. The notification will also provide the name of the appointing authority, and the procedures to be followed in filling the upcoming vacancy.
- B. **THE BOARD OF EDUCATION'S APPOINTMENTS:** By September 30th, the Board of Education 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 publicly announced its candidate, the Board 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 Education for appointment. The Board at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

- C. **THE CLASSIFIED EMPLOYEES' APPOINTMENT:** By September 30th, the classified employee organization having authority to nominate the classified employees' appointee to the Commission, shall publicly submit the name of the person it wishes to appoint to the 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, the Board shall hold a public hearing to provide the public, employees, Board, 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 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 shall then appoint the new nominee.

If the Board and the classified employees are unable to agree upon a nominee (because the Board 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.

In the event that the classified employees of the District are represented by one (1) 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 Education for action as required by law and these rules and regulations.

In the event that the classified employees have no exclusive representative, the Director of Classified Personnel 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 Education for appointment to fill the vacancy.

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 Education, upon the recommendation of the Director of Classified Personnel, may make an emergency appointment until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

**D. THE COMMISSIONERS' APPOINTMENT:\***

By September 30th, the appointee of the Board of Education and the appointee of the classified employees 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 Commission publicly announced its candidate, the Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board of Education the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

In the event that a vacancy would otherwise exist on the Personnel Commission as of December 1st because of the failure of the Commission to take action on a new appointment, the commissioners' prior appointee may continue to discharge the duties of the office until a successor is appointed, but for no more than 90 calendar days. If the reason for the lack of appointment is an inability to agree upon a joint appointee by September 30, the Superintendent of Public Instruction shall make the appointment within 30 days.

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

**A. 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 of Classified Personnel to inform the Commission of the expected absence. A member of the Personnel Commission shall be deemed to have vacated the seat of the Commission on the happening of any of the following events before the expiration of the prescribed term:

1. The death of the commissioner.
2. An adjudication pursuant to a quo warranto proceeding declaring that the commissioner is physically or mentally incapacitated due to disease, illness or accident, and that there is reasonable cause to believe that the commissioner will not be able to perform the duties of the office for the remainder of the term.
3. The commissioner's resignation.
4. The commissioner's removal from office by a court of competent jurisdiction.
5. The commissioner ceasing to meet all the legal requirements to continue to be a commissioner as outlined in Rule #3.0 A.
6. The commissioner's ceasing to discharge the duties of the office for a period of three consecutive months, except when prevented by sickness.
7. The commissioner's absence exceeding four (4) total regular meetings in a fiscal year, except when prevented by sickness.
8. The commissioner's conviction of a felony or of any offense involving a violation of the official duties of a commissioner as required by these rules and/or the law. A commissioner shall be deemed to have been convicted under this rule when trial court judgment is entered.
9. The decision of a competent tribunal declaring void the commissioner's appointment.
10. The 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:** Government Code Section 1060 et seq., 1750, 1770, 3000, 3001, 3100, and 3753

Penal code Sections 1026, 1368 et seq.

Welfare and Institutions Code Sections 5008, 6300 et seq.

Education Code Sections 45244 and 45245

- B. **EMERGENCY APPOINTMENT OF COMMISSIONERS:** Notwithstanding these rules, the Board of Education at the request of the Director of Classified Personnel shall declare that an emergency exists and shall make an interim appointment to fill a vacancy or vacancies to insure the continuance of the functions of the Personnel Commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

An interim appointee must meet the requirements of Section 45244 of the Education Code and Rule #3.0 A, and be free of the restrictions contained therein.

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

**REFERENCE:** Education Code Sections 45244, 45248, 45260 and 45261

- C. **NOTIFICATION PROCEDURES:** In the event that a vacancy occurs during the term of office of any of the commissioners (pursuant to the definition as outlined in Rule #3.2 A), 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 of Classified Personnel shall immediately notify the other commissioners, the Board of Education, and the recognized classified employee organization(s) of the name of the 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.
- D. **THE BOARD OF EDUCATION'S APPOINTMENT:** Within fifteen (15) days of notification of the vacancy, the Board of Education shall publicly announce the name of the person it intends to appoint to fill the un-expired term. At a board meeting to be held after thirty (30) and within forty-five (45) days of the date the Board publicly announced its candidate, the Board 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 Education for appointment. The Board at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

- E. **THE CLASSIFIED EMPLOYEES' APPOINTMENT:** Within fifteen (15) days of notification of the vacancy, the classified employee organization having authority to nominate the classified employees' appointee to the Commission, shall publicly submit the name of the person it wishes to appoint to the 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, the Board shall hold a public hearing to provide the public, employees, Board, 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 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 shall then appoint the new nominee.

If the Board and the classified employees are unable to agree upon a nominee (because the Board 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.

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 Education for action as required by law and these rules and regulations.

In the event that the classified employees have no exclusive representative, the Director of Classified Personnel 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 Education for appointment to fill the vacancy.

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

- F. **THE COMMISSIONERS' APPOINTMENT:** Within fifteen (15) days of notification of the vacancy, the appointee of the Board of Education and the appointee of the classified employees 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 Commission publicly announced its candidate, the Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board of Education the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

If the commissioners are unable to agree upon a joint appointment within forty-five (45) days after the notification of the vacancy, the appointment to fill the un-expired term shall be made by the Superintendent of Public Instruction.

**REFERENCE:** Education Code Sections 45244 - 45248, and 45260  
Government Code Section 1302

- G. **REMOVAL OF COMMISSIONER FOR CAUSE BY COMMISSION:** Unless one of the causes for vacating a commissioner's position is ordered by a court of competent jurisdiction, the Commission shall be required to declare the position vacant pursuant to this rule. The Commission may declare a position vacant pursuant to Rule #3.2 A only by majority vote of the Commission. Such action must be taken at a regular or special meeting of the 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 commissioner being subjected to possible removal (except in cases of a decedent). The Commission shall solicit input from the Board of Education and the employee organization(s), if any, prior to the final vote. If the majority of the commissioners votes to declare a seat vacant, the Commission shall direct the Director of Classified Personnel to so inform the removed commissioner in writing. The Director of Classified Personnel shall initiate the necessary legal steps to fill the vacancy as mandated by the Education Code and these Rules and Regulations.

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

- A. **REGULAR MEETINGS:** Subject to cancellation or proper change, the Personnel Commission shall meet monthly on the third Thursday of each month at 6:00 p.m. in the Pajaro Valley Unified School District Board Room, 294 Green Valley Road, Watsonville, California. Whenever the regularly scheduled meeting date happens to fall on a holiday, the Commission shall (at a prior regular meeting) take an action to designate another date for its meeting.

The 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 Commission meetings.

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

**REFERENCE:** Education Code Section 45260  
Government Code Section 54952 - 54952.3  
Government Code Section 54956.5

- C. **SPECIAL MEETINGS:** Special meetings may be called at any time by the 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 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 Commission meetings: each local newspaper of general distribution, radio or television stations, as well as representatives of any recognized employee organization or group. 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 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:** Education Code Section 45260  
Government Code Section 54956



- D. **PUBLIC MEETINGS:** All regular and special meetings of the Commission shall be open to the public, and all persons shall be permitted to attend any of the Commission's meetings except as provided for in Personnel Commission Rule #3.3 E. 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 Commission.

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



- E. **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 holding a closed session, the Commission shall state the reasons (s) for the closed session and may cite the statutory or other legal authority under which the session is being held. In the closed session, the 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 reason or reasons for holding a closed session, the 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.

The Commission shall publicly report, in the public portion of the meeting in which the closed session is being held, any action taken by the 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.

The following are legally authorized exceptions to the open meeting requirement: Appointment, employment, dismissal, evaluation of employees, consideration of complaints brought against employees, consideration of matters affecting national security, and consideration of legal matters coming within the purview of the attorney/client relationship.

The Commission may hold closed sessions during any regular or special meeting to consider the appointment, employment, performance evaluation, dismissal or the hearing of complaints or charges brought against employees by another person or employee unless such employee requests a public hearing. 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 hearing rather than a closed session; which 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 Commission meeting. If notice is not given as prescribed, any adverse action taken relative to the employee shall be null and void. During the examination of a witness, the Commission may exclude other witnesses even though the hearing is held as part of a public meeting. If a hearing is held in closed session, the 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 Commission may deliberate on the matter and reach its decision in a closed session.

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 violation of the confidentiality of a closed session by a commissioner may be considered grounds for removal from office.

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

## 3.4 MEETINGS OF THE COMMISSION

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

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

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 #3.3 E (Closed Sessions), and/or given a reasonable opportunity to present their views orally during the Commission meeting. In reaching its decisions, the Commission makes it a policy to consider all comments and recommendations made to it in this manner.

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

**REFERENCE:** Education Code Section 45260

- B. **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."

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

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 Rule #3.4 A). However, those who also want to speak to the item(s) at the Commission meeting will be given that opportunity as provided in Rule #3.4 A (Agenda and Supporting Data).

**REFERENCE:** Education Code Section 45260

- C. **MINUTES:** The Director of Classified Personnel, 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 commissioners present, all official acts of the Commission, and the votes of the commissioners. When requested by a Commissioner, the Director of Classified Personnel shall record that Commissioner's approval or dissent and any expressed reasons therefore.

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

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

Copies of the Commission's Minutes shall be distributed to the designated representatives of all employee organizations representing the District's classified employees, the Commission members, the Board of Education, the Superintendent of Schools, and others (who have indicated their interest in such matters).

The meeting of the Personnel Commission, both regular and special meetings, shall be electronically recorded and retained for future reference for a period of three years. The recordings shall be maintained in a secure place under the control of the Personnel Director. The tapes may be reviewed upon request by employees, representatives of the employee organizations and the public during regular working hours, but shall not be removed from the Personnel Office.

**REFERENCE:** Education Code Section 45260

- D. **PARLIAMENTARY PROCEDURES FOR CONDUCT OF MEETINGS:** The rules of order to be followed by the Commission in the conduct of meetings shall be in accordance with Sturgis Standard Code of Parliamentary Procedure or as the majority of the Commission shall prescribe.

The Commission prefers a flexible form of meeting, and therefore does not conduct its meetings with formal rules of order. If a Commissioner believes order is not being maintained or procedures are not adequate, he or she should raise a point of order to the chairperson. If the ruling of the presiding officer is not satisfactory, it may be appealed to the entire Commission. A majority of the Commission will govern and determine the point of order.

- A. **STATUS OF COMMISSION EMPLOYEES:** The Director of Classified Personnel and other persons required to carry out the day-to-day responsibilities of the Personnel Commission shall be selected by the Commission, and shall be employees of the Personnel Commission. The Commission shall decide on how those employees will be utilized and determine the assigned time of each employee reporting to the Commission, as well as the compensation to be paid the employees. 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 Commission may specifically direct.

**REFERENCE:** Education Code Sections 45260 and 45264

- B. **GENERAL DUTIES OF THE DIRECTOR OF CLASSIFIED PERSONNEL:** The Director of Classified Personnel 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 of Classified Personnel shall act as Secretary to the Personnel Commission, and shall issue and receive all notifications on its behalf. The Director of Classified Personnel shall direct and supervise the employees of the Commission, and conduct administrative transactions consistent with the law as well as the proper functioning of the office and staff of the Personnel Commission.

In cases where two 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 of Classified Personnel, subject to appeal to the Personnel Commission.

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

## 3.6 COMMUNICATIONS

Communications and requests shall, when practicable (in the opinion of the Commission), be in writing. Communications and requests shall be acknowledged and replied to, noting official Commission action whenever it is appropriate to do so.

Individuals or groups who wish to present proposals for action by the Commission shall present their requests to the Director of Classified Personnel for placement on the 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 Commission to take up or consider any proposals except at open (public) meetings.

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 commissioners regarding matters which may later be placed before the Personnel Commission for consideration shall be referred to the Commission Office. Such individuals or groups will be asked to put the matter(s) in writing so that they may properly be placed on a Commission agenda.

**REFERENCE:** Education Code Section 45260

## 3.7 PERSONNEL COMMISSION BUDGET

- A. **BUDGET:** The Personnel Director shall, prior to the first Commission meeting in April of each year, prepare and submit to the members of the Commission a proposed operating budget for the next ensuing fiscal year.

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

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

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

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

**C. ADOPTED BUDGET FORWARD TO COUNTY SUPERINTENDENT:**

Following its adoption of a budget for the ensuing year, the Commission shall then forward its adopted budget to the Santa Cruz County Superintendent of Schools for action, not later than May 31, of each year.

If the Board of Education of the District does not feel that its views as expressed during the Commission's public hearing on the budget have been fully considered by the Personnel Commission in the adoption of the budget, the Board may then forward its concerns to the Pajaro Valley County Superintendent of Schools. The Pajaro Valley County Superintendent, upon receipt of the Board's objections or concerns, will schedule a public hearing on the budget concerns. The public hearing shall be held within the boundaries of the District.

The County Superintendent may reject the Personnel Commission's adopted budget, but may not amend the budget without the approval of the 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 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 Commission.

If the Commission's adopted budget is rejected by the County Superintendent of Schools, and the Personnel Commission by majority vote feels that the resulting budget does not provide sufficient funds to adequately carry out the functions of The Act, the Personnel Commission reserves the right to seek judicial review and relief.

**REFERENCE:** The Education Code Sections 45253 and 45260

**3.8 PERSONNEL COMMISSION ANNUAL REPORT**

The Director of Classified Personnel shall prepare an annual report of the Commission's activities. When approved by the Commission, the annual report shall be submitted to the Board of Education at a regular Board meeting for its review.

The report shall be prepared for Commission approval not later than the Commission's first regularly scheduled meeting in November. The report shall cover the Personnel Commission's activities for the preceding fiscal year.

**REFERENCE:** Education Code Section 45266

**3.9****LEGAL COUNSEL FOR THE PERSONNEL COMMISSION**

The legal counsel for the Board of Education shall also aid and represent the Personnel Commission in all legal matters. If such counsel refuses, or if the Commission or legal counsel determines that a conflict of interest may exist, the Commission may employ its own legal counsel and the reasonable cost therefore shall constitute a legal charge against the District Board of Education general funds, whether or not the money-costs for such legal services appear in the Commission's budget.

**REFERENCE:** Education Code Section 45313

CHAPTER 3 - APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION MAY 15, 1997



# CHAPTER 4

## POSITION CLASSIFICATION PLAN

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### 4.0 THE CLASSIFIED SERVICE

**POSITIONS INCLUDED:** All positions established by the Board of Education, 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. No person whose contribution to the District consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exemptions established by law shall be employed outside of the classified service.

**REFERENCE:** Education Code Sections 44065, 44066, 44068, 44069, 45103, 45104, 45105, 45105.1, 45106, 45108, 45256, 45256.5, and 45259

### 4.1 EXEMPTED POSITIONS

- A. **EXEMPTION OVERVIEW:\*** 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, community representatives (as provided by law), and professional experts employed on a temporary basis for a specific project by the Board of Education or by the Personnel Commission provided that the Commission has agreed to designate such persons as professional experts, shall be exempt from the classified service.

**REFERENCE:** Education Code Sections 44065, 44066, 44068, 44069, 45103, 45204, 45205, 45205.1, 45106, 45108, 45256, 45256.5, 45257, 45258, 45259, 51760, 51760.3, and 51764.

- B. **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 Education, or these rules and regulations.

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

- C. **PART-TIME DEFINED:** A part-time position for the purpose of exemption under Rule #4.1 A is a temporary position for which the assigned time, when computed on a monthly basis is less than eighty-seven and one 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:** Education Code Sections 45256 and 45260

- D. **PROFESSIONAL EXPERTS DEFINED:** Whenever the use of a professional expert assignment is being contemplated, the administration shall submit to the Director of Classified Personnel 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 filed 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.

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 of Classified Personnel. 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 Commission, based upon the request of the Board of Education. However, authorization for service as a professional expert shall not exceed six (6) months. Unless the Commission approves an extension of the assignment, the total period of the original assignment and extension shall not exceed twelve (12) months.

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

- E. **COLLEGE WORK-STUDY DEFINED:** 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:** Education Code Sections 45256, 45260, 45261, and 51760 - 51770

F. **TRANSITIONAL EMPLOYMENT DEFINED:** Funds derived from laws enacted to provide transitional employment in public service positions for unemployed or under employed persons shall not be expended for work that:

1. Would otherwise have been performed at federal, state, or local expense;
2. Would result in a decrease in the employment, which would otherwise be available;
3. Would result in the displacement of members of the classified service, including partial displacement, such as reduction in the hours of non-overtime work or wages or employment benefits or;
4. Would impair the existing rights of probationary and permanent members of the classified service.

**REFERENCE:** Education Code Sections 45105, 45105.1, 45108, 45259, 45260, and 45261

## **4.2 RESTRICTED POSITIONS**

- A. **RESTRICTED DEFINED:** If specially-funded programs of the District are required, as a part of such program, to employ persons based on criteria that limits the privilege of all citizens to compete for employment in such positions, those positions shall 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.
- B. **EFFECT OF RESTRICTION:** Persons employed in “restricted” positions shall be classified employees for all purposes except:
1. They shall not attain permanent status.
  2. They shall not be accorded seniority rights in the event of layoff.
  3. They shall not be eligible for promotions within the classified service until they have complied with the provisions of Rule #4.2 B3.

- C. **PROCESS TO OBTAIN ALL RIGHTS:** Employees serving in “restricted” positions may, after completion of six (6) months of satisfactory service, be given the opportunity to take an appropriate competitive examination being given for the class in which they are serving. Should such persons successfully complete the examination process for placement on the eligibility list, as a result thereof, and regardless of the employee’s numerical standing on the eligibility list, the employee shall become a member of the regular classified service of the District, even though such person may continue to serve in the “restricted” position. Employees who have attained regular permanent status with the District under the provisions of this rule shall be accorded the full rights, benefits, and burdens of a regular permanent classified employee including, but not limited to, seniority rights (from the date of the employee’s original employment with the District in a “restricted” position).

### **4.3 SENIOR MANAGEMENT EXEMPTIONS**

- A. **DEFINITION OF SENIOR MANAGEMENT:** Positions designated senior management must conform to either of the following two definitions in order to be legally declared senior management of the classified service:

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

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

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

- B. **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:** Education Code Sections 45256.5, 45260, and 45261

- C. **BOARD MAY DESIGNATE POSITIONS AS SENIOR MANAGEMENT:** The Board of Education 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 Education shall not be deemed a matter subject to negotiation with any exclusive certified employee organization. The decision of the Board to make a position senior management shall be subject to review by the Public Employment Relations Board.

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.

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

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

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

If the District has 10,000 to 25,000 units of average daily attendance (ADA), inclusive, three (3) positions.

If the District has 25,001 to 50,000 units of average daily attendance (ADA), inclusive, four (4) positions.

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

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

- E. **WAIVER REQUEST FOR ADDITIONAL POSITIONS:** The Board of Education 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 Education's request for additional senior management positions, the Commission shall have the right to file a waiver protest with the State Board of Education.

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

- F. **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:

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 Commission. The examination shall include test segments that will allow the candidates to demonstrate managerial ability.

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

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:** Education Code Sections 45256.5, 45260, and 45261

- G. **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. The incumbent's eventual successor in the position shall not be entitled to permanency rights in the senior management position.

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

- H. **ABOLITION OF SENIOR MANAGEMENT POSITION:** The Board of Education 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 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.

If the employee in the senior management of the classified service had been a member of the regular classified service, he or 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:** Education Code Sections 45104.5, 45260, and 45261

- I. **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:

The senior management employee may be given a contract of employment stating a specific term of employment, which shall not exceed four (4) years duration from the effective date of the contract.

The Board of Education, with the consent of the employee concerned, may at any time terminate, effective on the next succeeding first 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 Education 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.

In the event the Board of Education 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 Education at least forty-five (45) calendar days in advance of the expiration of the employee's term.

In the event the Board of Education fails to reelect or reemploy an employee as a member of the senior management of the classified service and the written notice required in Rule #4.3 I paragraph 4 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).

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 Personnel Commission 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 working day following the postmark date of the notice shall be considered to be the official date of receipt.

If the senior management employee is placed on a management salary schedule in lieu of being given a contract, the rules of the Personnel Commission relating to salary movement shall apply, except that the senior management employee shall receive the first step advancement normally granted after the completion of a probationary period at the same interval as if he/she had completed that period.

In the event of non-reelection of a senior management employee who is not on a contract, but who is placed on a salary schedule, the rules of the Personnel Commission dealing with notice for disciplinary action shall apply.

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

- A. **DEFINITION OF EXECUTIVE SECRETARY:** Positions designated as executive secretary by the Personnel Commission and thus exempt under provisions of Rule #4.4 shall be limited to executive secretarial positions reporting directly to members of the Board of Education, the District Superintendent, or not more than four (4) principal deputies of the District Superintendent, or all of these positions.

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

- B. **EXECUTIVE SECRETARIES PART OF THE CLASSIFIED SERVICE:** Any person employed in an exempt executive secretarial position shall continue to be afforded all of the rights, benefits, and burdens of any other classified employee serving in the regular classified service of the District, except that the employee shall not attain permanent status in the executive secretarial position.

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

- C. **BOARD MAY REQUEST EXEMPTIONS FOR EXECUTIVE SECRETARIES:** Upon the request of a majority of the members of the Board of Education, the Board may request that the Personnel Commission consider exempting certain executive secretary positions from specific provisions of the Education Code and these Rules and Regulations. The Personnel Commission shall have the power to grant or not grant such a request. The granting of waivers by the Personnel Commission shall be considered only if the Commission determines that it is in the best interests of the District, and not detrimental to the philosophy, intent, and purpose of the merit system. If a waiver is granted, it shall only be done pursuant to these rules and regulations.

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

- D. **FILLING EXECUTIVE SECRETARY POSITIONS:** Positions declared by the Personnel Commission as executive secretary for purposes of this rule shall be filled using the Rules and Regulations of the Personnel Commission except as noted below:

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 Commission.

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

The Personnel Commission shall determine the minimum qualifications for the position designated executive secretary, taking particular note of the qualifications necessary to perform successfully at this level, and that the final eligibility list shall be unranked rather than ranked.

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



- E. **IMPACT OF EXECUTIVE SECRETARY DESIGNATION ON INCUMBENTS:** Any classified employee already serving in a position, which is subsequently designated executive secretary by the Personnel Commission shall retain all rights, burdens and benefits of employment in the classified service, including the right to obtain or retain permanency. The incumbent's eventual successor in the position shall not be entitled to permanency rights in the executive secretary position.

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

- F. **DISCONTINUANCE OF EXECUTIVE SECRETARY SERVICES:** Any person whose services in an executive secretarial position are discontinued for a cause other than a cause for disciplinary action specified in the Education Code or in these Rules and Regulations, shall have the right to return to a position in a classification the employee previously occupied or, if that classification no longer exists, in a similar classification, as determined by the Personnel Commission.

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

- G. **NOTIFICATION OF DISCONTINUANCE OF SERVICE:** Notice of discontinuance of service in an exempt executive secretarial position shall be provided in accordance with the following provisions:

In the event the Board of Education determines that an employee serving in an exempt executive secretarial position is not to continue in that position (except for disciplinary causes as outlined in the Education Code or these Rules and Regulations), the impacted employee shall be given written notice thereof by the Board of Education at least forty-five (45) calendar days in advance of the last day in paid status in the exempt position.

The notice not to continue to employ a person who is serving in an exempt executive secretary position 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 To Discontinue Executive Secretary Service is sent certified mail to the last known home address on file in the Personnel Commission 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 working day following the postmark date of the notice shall be considered to be the official date of the receipt.

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

A. **THE GENERAL CLASSIFICATION PLAN:** The Commission shall classify all employees and positions within the jurisdiction of the Board or the Commission, except those positions, which the Commission determines, are exempt from the Classified Service pursuant to Rule #4.5 B. The Commission shall maintain a classification plan for all positions in the Classified Service, organized by class series and occupational hierarchy. The 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 Commission. For purposes of this rule, classification shall include, but not be limited to:

1. Allocation of all positions to appropriate classes.
2. Arrangement of classes into occupational hierarchies (job families).
3. Determination of reasonable percentage relationships between classes within the occupational hierarchies.
4. Determination of reasonable percentage relationships between occupational hierarchies.
5. Preparing written class specifications.

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

B. **ASSIGNMENT OF DUTIES:** The Board shall prescribe the duties and responsibilities of all positions in the classified service except those on the Commission 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 of Classified Personnel shall report the facts to the responsible administrator in order that appropriate action is taken.

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

C. **CREATION OF NEW POSITIONS:** When the Board of Education creates a new position it shall submit the duties officially assigned to the position, in writing, to the Director of Classified Personnel. The Board may recommend minimum requirements for the position. The Director of Classified Personnel shall present recommendations to the Commission for action. The Commission shall:

1. Determine if the new position shall be a part of the Classified Service or exempt under Rule #4.1 A.
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. If a new class is recommended, the Director of Classified Personnel shall set forth a proposed class specification setting out the title, duties, qualifications, and other requirements of a class specification. The qualifications approved by the Commission must reasonably relate to the duties assigned to the position by the Board of Education.
4. The Commission shall designate the proper salary placement on the appropriate classified salary schedule.
5. The Commission shall direct the Director of Classified Personnel to notify the Board of the Commission's action.

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



D. **JOB DESCRIPTION SPECIFICATIONS:** All class specifications shall be considered by reference as a part of these rules. For each class, the Personnel Commission shall establish and maintain a class specification, which shall include:

1. The class title.
2. A definition of the class, indicating the type of duties and responsibilities and placement within the organizational scheme.
3. If appropriate, a statement of distinguishing characteristics, which differentiates the class from other classes in the job series.
4. A statement of the representative duties performed by persons holding positions allocated to the class. The Commission shall develop this statement from the list of duties presented to it by the Board of Education.
5. A statement of the minimum qualifications for service in the particular class. The minimum qualifications shall be based upon knowledge, skills, abilities, personal and physical traits and characteristics.
6. A statement about any license, certificates, or other special requirements for employment or service in the particular class.
7. A statement about any physical requirements required of positions in the class.
8. 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.
9. 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.
10. The title of the class shall be used as the title of all positions in the class on payrolls submitted to the Commission for auditing and in the records and correspondence of the Commission and the Board of Education.

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

- E. **INTERPRETATION OF JOB DESCRIPTION SPECIFICATIONS:** The class specifications and their various parts have the following force and effect:

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 qualification requirements and do not prescribe what these details shall be in respect to any position.

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 Commission.

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.

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.

The following personal qualification requirements apply to all classes even though not necessarily specifically mentioned in the specification: good health and freedom from work related disabling defects and communicable diseases; good physical condition and agility and strength commensurate with the duties of the class; integrity; sobriety; industriousness; initiative; resourcefulness; dependability; good judgment; good moral character and reputation; loyalty; ability to work cooperatively with others; and willingness and ability to assume the responsibilities and to conform to the conditions of work characteristics of the particular position.

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

- F. **ALLOCATION OF POSITIONS TO EXISTING CLASSES:** All positions, which substantially consist of comparable duties, responsibilities, and qualifications, shall be allocated to the same class.

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

G. **CHANGES IN DUTIES OF POSITIONS:** Any substantial change in the duties of existing positions shall be promptly reported in writing to the Director of Classified Personnel, 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 of Classified Personnel shall submit recommendations to the Personnel Commission for action.

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



H. **WORKING OUT OF CLASSIFICATION:** Each classified employee shall be required to perform the duties approved by the Board and classified by the 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 by the Board of Education for any period of time which exceeds five (5) working days within a fifteen (15) calendar day period, except as provided by this rule. An employee may be worked beyond the scope of the duties normally assigned to that employee's position provided that the employee's salary is adjusted as follows:

When a regular employee in the classified service works in a higher classification for a period of time which exceeds five (5) working days within a fifteen (15) calendar day period, the salary of the employee shall be adjusted upward for the entire period of working out of classification.

Whenever an employee is allowed to assume or is required to perform all or the majority of the functions and duties of a higher classification, the salary shall be adjusted upward to the salary range of the higher classification, and then to the step of that range that will provide the employee at least a five percent (5%) salary increase. An employee may receive less than a five percent (5%) increase if the top step of the higher classification's salary range is less than five percent (5%) above the employee's regular salary. In that instance the employee shall be placed at said top step and the employee shall not be entitled to further compensation.

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

Requests for differential pay for working out of class shall be submitted to the Director of Classified Personnel as soon as possible after the assignment has been made.

Working out of class assignments are designed for temporary situations and shall not be used to place an employee in a permanent assignment in a higher or different classification.

The Director of Classified Personnel 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 Commission for approval.

If the Director of Classified Personnel's review determines that the assigned duties are not at a higher level, the Director shall notify the employee and the appropriate supervisor and present the findings to the Commission at the next regular meeting of the Commission.

These rules shall not be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.

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

- I. **REVIEW OF POSITIONS:** The Director of Classified Personnel shall review the duties and responsibilities of positions as necessary to determine their proper classification and shall cause all positions to be reviewed at least once every five (5) years. If the Director finds that a position or positions should be reclassified, he/she shall advise the Administration of his/her findings. If the Administration verifies the duties of the position, or if the duties are not revised to fit within the current classification, the Director shall report his/her findings to the Personnel Commission for appropriate action. The Director of Classified Personnel shall also report the findings in cases where the review indicates that a change of classification is unwarranted.

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

- J. **POSITIONS REQUIRING SPECIAL LANGUAGE OR SKILLS:** The Board of Education 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 Board of Education 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 the special requirement.

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, but only as to those specific positions.

When a vacancy occurs in a position, which has approved special skill requirements, the position shall maintain the requirement for the special skill unless the Board of Education certifies that the special skill is no longer required for the position.

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.

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



## 4.6

## RECLASSIFICATION

- A. **RECLASSIFICATION PROCEDURE:** The Commission shall maintain a system whereby classification review will be continuous. The Commission will conduct studies, as it deems necessary to review classifications and maintain internal alignment in the Classified Service.

The only basis for reclassification of a position shall be a significant change in job duties through a gradual accretion of duties. Recommendations for reclassification will be made by the Director of Classified Personnel including a determination as to whether the change is the result of a gradual accretion of duties or reorganization. The Commission shall be the final approving authority.

Requests for a reclassification study of an existing position shall be presented in writing to the Director of Classified Personnel between January 1 and March 1. Reclassification request will only be considered during this time period. The request shall be presented with a statement setting forth the reasons for the request. Requests for the reclassification study of a position may be initiated by an employee, the District Administration, or a recognized employee organization. Requests initiated by an employee, District Administrator, or an employee organization shall include a listing of duties and a statement indicating the reasons the employee feels a reclassification is justified and shall include a statement by the employee's supervisor verifying the authorized duties of the position.\*

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

- B. **DEFINITION OF GRADUAL ACCRETION:** For purposes of these guidelines, two (2) or more years of regular service shall be interpreted to mean assignment for at least two (2) 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 Personnel Commission staff, regarding the following guideline factors:\*\*

1. The nature and scope of each identified change in duties and responsibilities.
2. The exact or approximate date the incumbent began the performance of the newly acquired duties and responsibilities.
3. The conditions, which led to the association of the added duties and responsibilities with the subject position(s).
4. Evidence of the employee's performance of the added duties and responsibilities.

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

- C. **EFFECTIVE DATE OF RECLASSIFICATION:** Reclassification of a position or positions shall become effective on July 1, following the approval 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 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 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:** Education Code Sections 45256, 45260, 45268, 45285, and 45285.5

- D. **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, by inclusion as an agenda item at a regular or special meeting of the Personnel Commission.

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

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

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

- F. **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.

- G. **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 three (3) or more years may be reclassified by the Commission with their positions.

When one 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 three (3) or more years in one or more of the positions being reclassified may be reclassified by the Personnel Commission with the position.

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 a reorganization or the assignment of completely new duties and responsibilities. The Personnel Commission will make determination as to the gradual accretion of duties.

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 three (3) years from the date of the prior reclassification action.

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

- H. **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:

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

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.

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

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 Rule #4.6 I paragraph 2.

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

- I. **REEMPLOYMENT LISTS FOR DISPLACED INCUMBENTS:** Any displacement of a regular employee resulting from a reclassification of a position, positions, or a class of positions, shall be considered as a layoff for lack of work, and an appropriate reemployment list will be established in accordance with these rules. These rules shall be followed in all instances of reclassification; whether or not it results in an upgrading, downgrading, lateral class movement, bumping, or a complete displacement of incumbents.

Persons laid off or who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff because of a reclassification are eligible for reemployment for a period of thirty-nine (39) months, and shall be re-employed in preference to new applicants. In addition, such laid-off persons have the right to participate in promotional examinations within the District during that thirty-nine month period.

**REFERENCE:** Education Code Sections 45260, 45285, 45298, and 45308

APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION MAY 15, 1997

# CHAPTER 5

## APPLICATION FOR EMPLOYMENT

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### 5.0 APPLICATION PROCEDURES

- A. **FILING OF APPLICATIONS:** All applications for employment shall be made on the official forms furnished by the Commission. Every item shall be answered in full and the application filed in the Personnel Commission Office by the time and date specified in the official vacancy notice.

Applicants taking more than one examination must file a separate and complete application for each examination, unless otherwise directed.

Applications and examination papers are confidential and become the property of the Personnel Commission, and shall not be returned to the applicant. The names of applicants or unsuccessful candidates in any of the District's selection processes shall not be made public.

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

- B. **EEO SURVEY:** 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. This form shall be kept separate from any application materials.

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

- C. **SUBMITTING PROOF OF VETERAN'S CREDIT:** Any applicant who claims veteran's credit must submit Form #DD214 at the time the employment application is submitted. Failure to submit Form #DD214 at the time of application shall result in no veteran's credits being considered or added to any passing score.

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

- D. **AUTHORIZATION TO WORK:** 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.

## 5.1

## APPLICANT NON-DISCRIMINATION POLICY

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, sexual orientation, or age.

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.

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

Persons with disabilities shall be given equal employment opportunity and reasonable accommodation for employment shall be made where practicable.

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



- A. **REASONS TO DISQUALIFY:** An applicant may be refused initial admittance to an examination and a candidate may be disqualified from further competition for any of the following reasons:
1. Failure to meet the general qualifications of Rule #5.0 D Paragraph 1.
  2. Advocacy of the overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
  3. Conviction, either by a plea of guilty or nolo contendere, a court decision, or a jury verdict to a charge of a sex or narcotics offense as defined in Education Code Sections 44010 or 44011.
  4. A history of drug addiction without acceptable evidence of rehabilitation.
  5. Conviction, either by a plea of guilty or nolo contendere, a court decision, or a jury verdict of a felony or serious crime or a record of one or more convictions which would indicate that the person is a poor employment risk. 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.
  6. Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form.
  7. Practicing any deception or fraud in connection with an examination or to secure employment.
  8. Obtaining or attempting to obtain either directly or indirectly, privileged information regarding test questions or examination content.
  9. Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District under these rules.
  10. Previous dismissal from the District.
  11. A record of unsatisfactory service within the District, supported by documentation in the employee's permanent file, as evidenced by a disciplinary action, a need to improve, unsatisfactory job performance notice or a resignation in lieu of dismissal.
  12. Dishonorable discharge from the Armed Forces of the United States.
  13. Refusal to furnish testimony, other than self-incriminating, at a hearing or investigation before the Personnel Commission or the Board of Education.
  14. Unsatisfactory health conditions, which clearly indicate that the applicant or candidate would be unable to perform the duties of the job or would endanger his/her health and safety and/or the health and safety of others.

15. Attempting to or making contact with any member of the Board of Education or the Personnel Commission with the intent of attempting to favorably influence the recruitment, examination, and/or selection process in any way. Exempted from this restriction would be any formal appeal of the recruitment/examination/selection process to the Personnel Commission as a whole by any candidate through the established appeal process.
16. Failure, after due notice, to report for review any of the above causes for disqualification.
17. Failure to report for duty after an assignment has been offered and accepted.
18. Other reasons deemed sufficient by the Personnel Commission.

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



B. **APPLICANTS' APPEAL PROCEDURES:** Any applicant, candidate, and/or eligible disqualified based on Rule #5.2 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 appeal the decision to the Director of Classified Personnel.

Anyone who has appealed a disqualification shall conditionally be permitted to take the examination pending final decision.

Upon receipt of an appeal, the Director of Classified Personnel shall conduct an investigation. If the decision is in favor of the applicant, he/she shall be notified and given rights as though the disqualification had not occurred. If the decision is to deny the appeal, the applicant may appeal to the Commission within five (5) working days after being notified.

Upon receipt of an appeal, the Commission shall conduct a hearing and shall receive evidence and render a decision within fourteen (14) calendar days. If the Commission's decision is in favor of the applicant, he/she shall be given rights as though the rejection had not occurred. The decision of the Personnel Commission is final and binding on all parties.

Appointments may be made from available eligibles pending final decision on the appeal (unless ordered otherwise by the Personnel Commission), and shall not be changed even though the outcome is in the appellant's favor, unless such appointments were fraudulently made.

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

APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION MAY 15, 1997

# CHAPTER 6

## RECRUITMENT AND EXAMINATIONS

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### 6.0 RECRUITMENT PROCEDURES

- A. **OPENING ANNOUNCEMENT PROCEDURES:** The Personnel Commission shall direct and administer the holding of examinations for the purpose of filling vacancies or creating lists for the Classified Service.

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

Whenever it is necessary to fill existing or anticipated vacancies and an appropriate eligibility list does not exist (as determined by the Commission), the Personnel Commission shall announce each examination on the appropriate vacancy announcement form, which shall be distributed to all employee work sites and community locations for at least ten (10) working days. It shall be the responsibility of each site administrator or department head to insure that all vacancy announcements are posted in an area where all employees shall have access to them. The Director of Classified Personnel shall determine the appropriateness and may place advertisements in newspapers, trade and business journals, or other media. The Director of Classified Personnel shall insure that community agencies and organizations dealing with women, minorities, and the physically challenged are notified of each examination.

When a vacancy occurs in an established position, a Personnel Requisition shall be completed.

- B. **OPENING ANNOUNCEMENT CONTENTS:** The vacancy announcement shall contain the following: the title of the class; information concerning the purpose of the examination; a description of the scope of duties and responsibilities of the class; the qualifications and requirements of the class; the salary, benefits, and other compensation; the closing date for filing applications; and such other information as will assist interested persons in fully understanding the nature of the employment and procedures necessary to participate in the examination.

C. **NOTIFICATION OF REQUIRED/DESIRED SKILLS:** When a position is posted for recruitment and special skills are either desired or required that information shall be noted on the recruitment announcement.

1. **REQUIRED SPECIAL SKILLS:** When a position requires special shorthand or transcription skills, demonstration of the possession of said skill shall be a minimum qualification for the successful completion of the testing process. Having been successful in the testing process, the candidate shall have noted on the resulting eligibility list that he/she possesses the skill and shall be certified for available positions, which require the skill above other eligibles with higher scores who have not indicated through the testing process that they possess the skill, pursuant to Rule #7.1 E paragraph 2.

2. **DESIRABLE SKILLS:** When a position is identified as desiring a special skill, such as the ability to speak, read, and write a second language or to utilize shorthand or transcription skills, demonstration of the possession of said skill shall not be a minimum qualification for the successful completion of the testing process. Candidates, who have been successful in the testing process, shall have noted on the resulting eligibility list that he/she possesses the skill but shall not be certified for available positions, which list the skill as desirable above other eligibles with higher scores who have not indicated through the testing process that they possess the skill. In the situation of a desirable skill Rule #7.1 E paragraph 2 will not apply.

**REFERENCE:** Education Code Sections 45109, 45260, 45261, 45272, and 45278



## 6.1 EXAMINATION PROCEDURES

- A. **RECRUITMENT TYPES:** The Director of Classified Personnel shall determine the standards of proficiency to be required for each examination and determine whether the examination shall be:
1. **OPEN COMPETITIVE EXAMINATIONS:** Entry-level classifications with the Classified Service of the District shall always have an open competitive examination and veterans' preference points shall be allowed as specified in Rule #6.2 D. These examinations shall be open to all qualified applicants.
  2. **PROMOTIONAL EXAMINATIONS:** Where it has been determined by the Director of Classified Personnel that an adequate field of competition exists within the District and examinations can reasonably be expected to result in at least three (3) qualified ranks of eligibles, the field of competition may be limited to promotional applicants. As a guideline, six (6) qualified applicants will be considered an adequate field of competition.

Promotional examinations shall be restricted to probationary and permanent employees of the District and former employees on a valid reemployment list who meet the qualifications of the class. Probationary employees will not be eligible for certification until permanent status is attained.

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

Applicants for promotional examination must meet the established minimum qualifications for the class and the grade on their last performance evaluation report shall have been satisfactory or higher. Any probationary, limited term or provisional appointee who immediately preceding his current appointment held permanent status in an eligible class shall be deemed to meet the requirement of permanent status for eligibility to compete in a promotional examination.

**REFERENCE:** Education Code Sections 45103, 45260, 45261, and 45272

3. **PROMOTIONAL AND OPEN COMPETITIVE EXAMINATIONS:** Where it has been determined by the Director of Classified Personnel that an adequate field of promotional applicants does not exist or there is doubt as to its adequacy, the Director may advertise the examination among employees and the general public.

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

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 fewer than three (3) eligible and available ranks), certification of additional ranks shall then be made from the open list.

**REFERENCE:** Education Code Sections 45103, 45260, 45261, and 45272

4. **DUAL CERTIFICATION:** An examination may be held under merged promotional and open competitive procedures. The resulting eligibility list shall consist of promotional and open competitive candidates merged on one eligibility list. Scores on this type of list shall include all applicable veterans' preference points for open candidates and seniority credit points for promotional candidates (See Rule #6.2 C).

**REFERENCE:** Education Code Sections 45282 and 45284

5. **CONTINUOUS EXAMINATIONS:** The 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. If a qualifications appraisal interview is required, the interview panel may consist of two persons who may be employees of the District or the Commission, as designated by the Director of Classified Personnel.

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

- B. **TYPES OF EXAMINATIONS:** Examinations shall be conducted by the Commission's staff and shall be administered objectively and shall consist of test parts that relate to job performance. The parts may be any of the following: written examination; practical demonstration of skill; evaluation of applicants' training and experience submitted on application materials; evaluation of training, education, and experience by a qualifications appraisal interview panel; or other tests of fitness determined by the Commission.

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

- C. **WRITTEN EXAMINATION PROCEDURES:** Competitors in any written test must take the test on the prescribed date unless prior approval of the Director of Classified Personnel has been obtained. Alternate test dates/times shall only be approved in cases of emergency or severe hardship, as determined by the Director of Classified Personnel.

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

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 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 examination score cannot be falsely altered.

A competitor in any examination who places an identifying mark upon his/her test paper (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.

A candidate who is unsuccessful in an examination may retake the examination for the same classification after a period of ninety (90) calendar days and Basic Skills Testing after a period of sixty (60) days. In certain circumstances, a candidate may be allowed to retake an exam after 30 calendar days, at the discretion of the Director of Classified Personnel. Each request shall be reviewed on a case by case basis.\*

Admission to an examination shall be by a valid examination pass for those examinations where application materials are submitted at the time of the exam, or by inclusion in a listing of qualified applicants for those examinations where applications have been submitted and evaluated prior to the examination. No candidate may be admitted to any examination without this authorization. In addition, each candidate must provide personal identification (with picture I.D.) at time of examination admittance in order to take the test.

**REFERENCE:** Education Code Section 45260, 45261, and 45273

D. **ORAL PANEL EXAMINATIONS:** If an examination requires the use of a Qualifications Appraisal Interview Panel, the Director of Classified Personnel shall assure that the following rules are followed:

1. The panel shall consist of at least two (2) persons who shall be technically qualified in the specified occupational areas under examination.
2. An employee of the District or of the Commission may serve on an interview panel if that 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.
3. The interview panel shall evaluate general fitness for employment in the class and the candidates' technical knowledge and skills.
4. Members of the Board of Education or Personnel Commission shall not serve on interview panels.
5. Interviews shall be electronically recorded and filed in the Commission Office.
6. Scores achieved by the candidate on other parts of the examination shall not be made available to the interview panel.
7. In no case will an oral or performance examination board be provided with confidential references on candidates who are competing in examinations.
8. In interview panel examinations, ratings accorded competitors shall be expressed in percentages with seventy percent (70%) being the minimum qualifying rating. Ratings shall be made independently by each interviewer either before or after discussion with other interviewers. Ratings shall be made on forms prescribed by the Director of Classified Personnel, which shall be signed by the interviewer and be delivered to the Director of Classified Personnel or his/her representative. 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.
9. The ratings 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:** Education Code Sections 45260 and 45273

- E. **EVALUATION OF TRAINING AND EXPERIENCE:** If a part of the examination is an evaluation of the applicants' 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 of Classified Personnel shall determine and weight the passing scores of the training and experience evaluation.

**REFERENCE:** Education Code Section 45260

## **6.2 EXAMINATION SCORING PROCEDURES**

- A. **ESTABLISHMENT OF MINIMUM SCORES:** Candidates will 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:** Education Code Section 45260, 45261, and 45273

- B. **WEIGHTED SCORES:** All examination parts shall be prepared under the direction of the Director of Classified Personnel who shall determine passing scores and assign relative percentage weights to each part. The procedure for setting percentage weights shall be impartial.

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

- C. **SENIORITY CREDIT:** In Dual Certification examinations, 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-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. Seniority credit shall be at the rate of one quarter (.25) point for each full year of service, up to a maximum of five (5.0) points.

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



**D. VETERAN'S PREFERENCE POINTS:\***

Veterans shall have an additional five (5) points added to their final passing score in an entry-level examination on an open eligibility list.

Disabled veterans shall have an additional ten (10) points added to their final passing score in an entry-level examination on an open eligibility list.

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

**E. NOTICE OF FINAL SCORE:**

Each candidate who qualifies, shall be notified by the Personnel Commission's staff within fifteen (15) working days after completion of the examination of his/her standing on the eligibility list. Candidates who do not qualify shall be notified within fifteen (15) working days after completion of the examination.

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

## 6.3 EXAMINATION RECORDS

- A. **RECORDS RETENTION:** 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 Personnel Commission for a period of three (3) years.
- B. **CONFIDENTIALITY OF RECORDS:** All papers submitted by candidates in the course of an examination process are the property of the Personnel Commission and shall be confidential. Records, such as identifiable ratings of oral panel members and confidential references of previous employers shall not be available for review.
- C. **REVIEW PROCEDURES:** 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. Except under conditions of a formal protest, examinations shall not be available for review. No candidate or representative may remove or copy information from the examination materials.

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



- A. **EXAMINATION PROTEST:** Protest forms shall be available at all examination processes. These forms shall be for the purpose of protesting the inclusion or content of any examination question and/or section. Failure to file a protest as described in Rule #6.4 A Paragraph 2 shall constitute a waiver of the right to appeal that part of the selection process.

Protest forms must be filed within twenty-four (24) hours of the ending of the examination. The Director of Classified Personnel shall review and act upon all protests. If the protest results in any change, the test papers of all applicants shall be reviewed and re-rated.

- B. **APPEAL TO COMMISSION:** The Director of Classified Personnel shall inform the candidate who has submitted the protest of his/her decision. That decision shall be in writing and served in person or by certified mail (Return Receipt Requested) to the applicant. This requirement will be deemed to have been met if the Director of Classified Personnel's decision is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the applicant 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 timeliness outlined in these rules. The responsibility for keeping the District informed of a home address is the requirement of the applicant. 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 of Classified Personnel rule against the protest, that decision may be appealed to the Personnel Commission. However, the filing of such an appeal shall not stop or otherwise delay the selection (examination) process unless so ordered by the Personnel Commission.

Appeals to the Personnel Commission shall be submitted in writing to the Personnel Commission Office within three (3) working days of receipt of the decision of the Director of Classified Personnel.

The Personnel Commission shall hold a hearing to hear the appeal of the applicant. The decision of the Personnel Commission shall be in writing and served on the applicant using the procedures outlines in Rule #6.4 B Paragraph 1. The decision of the Personnel Commission shall be final and binding on all parties.

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

**VIOLATION OF THESE EXAMINATION RULES/LAW:** Whenever the Personnel Commission, after a public hearing, 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 procedures, the 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 of the Personnel Commission as they apply to examination procedures shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

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

APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION MAY 15, 1997

# CHAPTER 7

## ELIGIBILITY FOR EMPLOYMENT

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### 7.0 ELIGIBILITY LISTS

- A. **ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS:** After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable. The completed list constitutes an eligibility list for that class.

All appointments to positions in the Classified Service shall be made from eligibles whose names appear on eligibility lists. The Director of Classified Personnel shall be responsible for establishing eligibility lists as a result of examinations authorized by these rules.

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

- B. **CONTENTS OF ELIGIBILITY LIST:** An eligibility list shall contain: the type of eligibility list - open, promotional, open and promotional, or merged open and promotional (dual certification); the names of all eligibles in final rank order of total examination scores; the total score; and the date the list was established.

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



C. **TYPES OF ELIGIBILITY LISTS:** Appointments to positions shall be made from and in order of the following preference:

1. **Reemployment List:** A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, or exhaustion of benefits when the employee has been certified as medically able to return to work. These eligibles shall take precedence over all other persons eligible for appointment.

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.

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.

The life 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.

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.

2. **Promotional List:** A list of eligibles resulting from an examination limited to qualified probationary and permanent employees only. Probationary are not eligible for certification until permanent status is attained.
3. **Promotional and Open Competitive List:** Separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.
4. **Merged Open and Promotional List (Dual Certification):** One list of eligibles resulting from a single examination including seniority credit and/or veteran's credit points.
5. **Open Competitive List:** A list of eligibles resulting from an examination open to all qualified applicants.

6. Other Lists: Other methods of filing positions include:
- a. Transfer: Employees who have requested appointment to a vacant position in the same or related classification.
  - b. Reinstatement: Former employees who have requested reinstatement to a vacant position in a class in which they held permanent status.
  - c. Demotion: Employees who have requested assignment to a vacant position in a lower classification.

The above lists will accompany the appropriate eligibility list when certified to the appointing authority, unless requested prior to the establishment of an eligibility list by the appointing authority.

Exceptions to this rule include involuntary transfers, medical transfers, and new positions created in year round education (see CSEA contract Articles VIII and Articles XXVIII).

**REFERENCE:** Education Code Sections 45260 and 45261  
Education Code Section 45298  
Military and Veterans Code 395.1 and 395.3

- D. **COMBINING 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.

When lists are merged under this rule, the earlier list shall be terminated one year after its establishment and those eligibles' names shall be removed from the consolidated list.

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. (Sixty (60) days for Basic Skills Proficiency Test.) Notification is not required when an eligibility list expires or is merged.

**REFERENCE:** Education Code Sections 45160 and 45291

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

The 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.

When fewer than three (3) ranks of available eligibles remain on an eligibility list and the appointing authority has requested certification of additional eligibles, the list may be terminated by the Director of Classified Personnel.

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

- F. **TERMINATION OF ELIGIBILITY LISTS:** An eligibility list is automatically terminated one (1) year from the date of its approval unless extended by the Commission, except that lists established under Rule #7.0 E paragraph 2 shall terminate six (6) months from the date of approval.

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

An eligibility list may be terminated by the Director of Classified Personnel 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) eligible ranks 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 names remaining on the list, but an open eligibility list exists. In this case the Director of Classified Personnel will continue to certify three 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 of Classified Personnel will then certify the top three ranks of willing and able eligibles from the newly combined Promotional/Open List to the appointing authority for selection.

**REFERENCE:** Education Code Section 45300

- G. **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 limited-term assignments shall continue to be eligible for regular employment.

**REFERENCE:** Education Codes Sections 45260, 45261, 45278, 45286, and 45300



- H. **WAIVERS OF CERTIFICATION:** An eligible may make himself 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 Personnel Commission Office.

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

An available eligible may waive certification twice without penalty. At the time a third waiver is made by an eligible, the eligible will be informed that, upon filing the third waiver, his/her name will be removed from the eligibility list. Candidates may pre-select specific sites and programs. Sites and programs not selected are not considered waivers.

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

- I. **REMOVAL OF NAMES FROM ELIGIBILITY LISTS:** The name of an eligible may be removed from an eligibility list by the Director of Classified Personnel for any of the following reasons:

1. Failure to respond within five (5) business days following the mailing of an inquiry regarding availability for employment.
2. Any of the causes listed in Rule #5.3
3. Failure to respond for a scheduled interview after certification.
4. Termination of employment (Promotional Eligibility List only).
5. Three (3) waivers of certification during the life of the eligibility list, except that waivers relating to pre-selection of sites and programs by the candidate or limited-term appointments should not be counted for the purpose of this rule.
6. Refusing an employment offer after having been properly certified as eligible and available for the appointment.
7. A request by the eligible for removal.

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

- J. **NOTIFICATION TO ELIGIBLE OF REMOVAL FROM LIST:** The Director of Classified Personnel shall notify the eligible of the action and the reasons therefore and shall provide the person with the opportunity to appeal the decision within five (5) working days of notification. The decision of the Commission shall be final.

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

- A. **APPOINTING AUTHORITY:** The appointing authority shall be the Board of Education and its designated managers, except that the Personnel Commission shall be the appointing authority in the case of employees assigned to the Personnel Commission.
- B. **ORDER OF PRECEDENCE IN FILLING VACANCIES:** Certification for filling vacancies in the Classified Service shall be made in the following order:

Persons previously laid off because of lack of work, lack of funds or exhaustion of medical leave privileges shall be assigned to vacant positions in order of seniority. Should an active reemployment list not exist the following applicants are eligible for employment: All qualified, permanent employees who request transfer, or voluntary demotion, or qualified former employees who request reinstatement shall be certified in addition to the top three (3) ranks of eligibles from appropriate eligibility lists.

**REFERENCE:** Education Code Section 45272

- C. **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 who are ready and willing to accept the positions to be filled.

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

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

- D. **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 open competitive list to allow a choice among three (3) ranks of eligibles.

When fewer than three (3) ranks of eligibles are available for certification, the available eligibles may be certified. However, the appointing authority may request a complete list of three (3) ranks - in which case a new eligibility list must be established.

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

- E. **CERTIFICATION & APPOINTMENT FROM ELIGIBILITY LISTS:** When a new position is to be filled, the appointing authority shall notify the Director of Classified Personnel 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 of Classified Personnel.

If a position within a classification requires a special skill, license, or language requirement, the Director of Classified Personnel 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.

The Director of Classified Personnel 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 Rule #7.1 B and #7.1 C.

The Administrator concerned shall, within five (5) working days of the interview, make a selection from the persons presented and shall notify the Director of Classified Personnel who shall see that the necessary employment procedures are carried out.

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 additional eligibles in accordance with Rule #7.1 F.

In the event that there is more than one authorized position in the class to be filled, the Director of Classified Personnel may certify an additional rank of eligibles for each additional vacancy.

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

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

Certify additional eligibles as required.

Remove the names of eligibles that failed to report for interviews or who refused appointment from the eligibility list.

Investigate the matter at his/her discretion to determine that any appointment refusal is in fact voluntary.

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

G. **WITHHOLDING NAMES FROM CERTIFICATION:** The name of an eligible may be withheld from certification by the Director of Classified Personnel when the eligible:

1. Expresses unwillingness or inability to accept appointment.
2. Fails to respond within five (5) working days following the mailing of written inquiry regarding availability.
3. Cannot be reached in time for appointment when immediate temporary employment is required.
4. Fails to present the license, registration, certificate or any other credential required.
5. Any reason listed in Rule #5.2.

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

H. **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 of Classified Personnel, the Director of Classified Personnel shall investigate and if appropriate 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 or a new eligibility list is established.

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

I. **RESTORATION TO ELIGIBILITY LIST:** When the Director of Classified Personnel has withheld a candidate or eligible from placement on, or certification from the eligibility list, the Director may subsequently approve placement on or restoration to the list, under the following circumstances:

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 Director that the applicant is now willing and able to accept an appointment.

When the withholding or removal was for a reason listed in Rule #5.2 and the defect or reason for ineligibility has since been corrected.

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

- J. **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 of Classified Personnel finds, subject to approval by the 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:** Education Code Sections 45260, 45261, and 45272

- K. **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.

Eligibles are required to keep the Personnel Commission Office informed as to current home address and telephone numbers where they can be reached to schedule employment interviews. Failure to keep the Personnel Commission Office informed could result in the eligible being bypassed on the eligibility list as unreachable. In that event, the Director of Classified Personnel 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.

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 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.

The date of the offer of appointment shall be the date on which the eligible is notified of selection. Notification may be made by telephone, telegram, registered or certified mail. The appointing authority may allow a period longer than two (2) weeks (or one (1) full month in the case of management classes) at its discretion.

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

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

- L. **CONFIDENTIALITY OF LISTS:** Eligibility lists shall be considered confidential information and release of information on lists shall be limited to: 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. Such other persons as specifically ordered by the Personnel Commission.

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

- M. **NEPOTISM POLICY:** The name of an eligible may be withheld from certification by the Director of Classified Personnel when:

1. The eligible is a member of the Board of Education, or a member of the Personnel Commission.
2. The eligible is a spouse of a member of the Board of Trustees or a spouse of a member of the Personnel Commission, or a spouse of a member of the District's administrative staff.
3. The eligible is a member of the immediate family of a supervisor or administrator in a direct line of supervision to the vacant position.

For purposes of this rule, immediate family shall include the father, mother, grandparent, grandchild of the supervisor or his/her spouse; also included is the spouse, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, or any person residing in the household of the supervisor.

**REFERENCE:** Education Code Sections 45260, and 45261  
Government Code Section 1091.5

APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION APRIL 17, 1997

# CHAPTER 8

## APPOINTMENT TO CLASSIFIED POSITIONS

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### 8.0 PROCEDURES FOR APPOINTMENT

- A. **PROCEDURES FOR SELECTION:** The appointing authority shall interview eligibles certified from appropriate employment or eligibility lists. A selection shall be required when sufficient eligibles are certified for a given vacancy to total three (3) ranks of eligibles.

**REFERENCE:** Education Code Sections 45160 and 45272

- B. **APPOINTMENT:** Upon selection, each prospective employee shall be given an offer of employment by the appointing authority. The offer shall include the time and date to report for duty and the salary at time of hire. New employees will not be permitted to report to work until the State Department of Justice fingerprint clearance is received. Appointment to the position shall be subject to ratification by the Personnel Commission (approving that the employee was hired pursuant to the Rules and the Education Code) and the Board of Education (action to employ as the employer except for Commission positions).

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. Should the prospective employee be unable or unwilling to report for duty within the required period, the appointing authority may request that additional eligibles be certified.

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

- C. **DISCRIMINATION PROHIBITED:** No applicant or eligible certified for appointment shall be discriminated against because of his/her 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, sexual orientation, or age. No questions shall be asked relating to these matters during the selection and interview stages of employment.

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

- D. **NEPOTISM:** No person shall be employed in any position, which is in a direct line of supervision under a supervisor, or administrator who is a member of that person's immediate family.

No employee shall be transferred, assigned to or remain at a work location in any position which is in direct line of supervision under a supervisor or administrator who is a member of the employee's immediate family.

For purposes of this rule, immediate family shall include the father, mother, grandparent, grandchild of the supervisor or his/her spouse; also included is the spouse, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, or any person residing in the household of the supervisor.

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

## **8.1 PROVISIONAL APPOINTMENT**

- A. **REASONS FOR PROVISIONAL APPOINTMENT:** The appointing authority may make a provisional appointment when the Director of Classified Personnel certifies that: no eligibility list exists for the class or; 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:** Education Code Sections 45260, 45261, 45287, 45288, and 45289

- B. **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 one hundred twenty-six (126) working days in any fiscal year.

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



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

1. An examination for the class was completed during the initial ninety (90) working days of an employee's provisional assignment.
2. Satisfactory evidence is presented indicating:
  - a. Adequate recruitment effort has been and is being made.
  - b. Extension of this provisional assignment is necessary to carry on vital functions of the District or; the position cannot be satisfactorily filled by use of other employment lists or procedures.

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

D. **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:

1. Continuous examination procedures have been authorized by the Commission.
2. The position is less than twenty (20) hours per week.
3. Such appointment shall continue only until certification from an appropriate list can be made.

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

E. **QUALIFICATIONS OF PROVISIONAL APPOINTEES:** Insofar as possible provisional appointees shall meet the qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be made by the Director of Classified Personnel prior to appointment.

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

- F. **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 within the top three (3) ranks.

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

- G. **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:** Education Code Sections 45260, 45261, 45287, 45288, and 45289

## 8.2 SPECIAL APPOINTMENTS

- A. **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 of Classified Personnel to make emergency appointments without reference to eligibility lists, for a period not to exceed fifteen (15) working days. The Director of Classified Personnel shall comply with the request if appropriate.

When such emergency appointments are made by the Director of Classified Personnel, it shall be the duty of the Board of Education to provide the Director 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 so that an appropriate decision may be made under this rule.

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

- B. **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 Commission. Salary shall be determined by the Director of Classified Personnel subject to ratification by the Personnel Commission.

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

**8.3****LIMITED TERM AND SUBSTITUTE APPOINTMENTS**

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

Positions established to replace temporarily absent employees shall be designated limited term/substitute positions.

**REFERENCE:** Education Code Sections 45260, 45261, and 45286 - 45290

- B. **PROCEDURE FOR ESTABLISHMENT OF LIMITED TERM AND LIMITED TERM/SUBSTITUTE POSITIONS:** When a limited term project position is established, the appointing authority shall notify the Personnel Commission Office 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 of Classified Personnel, and ratified by the Board of Education.

A limited term project appointment may not exceed six (6) months. A limited term/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, if the Director of Classified Personnel determines that the appropriate classification of the duties to be assigned is of a lower class.

**REFERENCE:** Education Code Sections 45260, 45261, and 45286 - 45290

- C. **ELIGIBILITY FOR APPOINTMENT:** Limited term project and limited term/substitute appointments shall be made from eligibility lists and employment lists whenever possible.

If an eligible is appointed from an eligibility list to a limited term project or limited term/substitute 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.

When less than three (3) ranks of eligibles are not available to accept a limited term or limited term/substitute position, the Director of Classified Personnel is authorized to certify applicants or candidates for appointment.

**REFERENCE:** Education Code Sections 45260, 45261, and 45286 - 45290

**D. COMPENSATION FOR LIMITED TERM/SUBSTITUTE ASSIGNMENTS:**

When a regular employee is given a limited term appointment in a higher class in addition to or in lieu of all or part of his/her regular appointment, the rate of pay in the higher class shall be the rate for working out of classification.

All other limited term project and limited term/substitute employees shall be paid on the first step of the salary range applicable to the class in which they are working. Unless appointment is authorized above step 1, see Rule# 11.1 A.

**REFERENCE:** Education Code Sections 45260, 45261, 45286 - 45290, and 45309

**E. 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.

No time served in a limited term appointment may count toward acquiring permanent status in any position.\*

**REFERENCE:** Education Code Sections 45260, 45261, 45286 - 45290, and 45309, Govt. Code sec. 19083 and 2 Cal. Code of Regulations section 281.

**F. TERMINATION OF LIMITED TERM APPOINTMENT:** A limited term or limited term/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 Personnel Commission Office when a limited term assignment is being terminated.

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

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

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

**A. 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 calendar year. The retired person must be informed that employment is restricted to nine hundred sixty (960) hours in any calendar year and continuance in employment is at the discretion of the District.

**REFERENCE:** Education Code Section 45135  
Government Code Section 21150 et seq

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

The rate of pay for retired employees appointed to positions in their last permanent classification shall be that assigned to the same step of the salary range they were on at the time of retirement (excludes differential pay). Retired personnel appointed to positions in any other class shall be placed on the step of the range on the salary schedule to which the classification in which the retiree is working is allocated and which is closest to the salary rate assigned to the range and step the retiree was on at the time of retirement (exclusive of any differential pay).

“Last rate of pay” for purposes of this rule shall exclude longevity, night shift, professional growth, language, or other differentials.

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

- C. **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.

The appointing authority shall certify to the Director of Classified Personnel that a retired employee employed under this rule meets the provisions of this rule and the combined calendar year employment will not exceed nine hundred sixty (960) hours.

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

- D. **EMPLOYMENT OF VOLUNTEERS:** Volunteers may be assigned noninstructional work, which serves to assist certificated personnel. They shall be under the immediate supervision of certificated personnel. No classified positions may be abolished to use volunteer aides in lieu thereof.

**REFERENCE:** Education Code Sections 35021, 35212, and 45349

APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION DECEMBER 11, 1997

# CHAPTER 9

## EMPLOYMENT REQUIREMENTS

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### 9.0 PHYSICAL EXAMINATIONS

- A. **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, 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, which, if positive, shall be followed by 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 schools) 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 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 Classified Personnel Office. For new employees, evidence of compliance with the requirements of this section must be on file in the Classified Personnel Office within thirty (30) days of the first day in paid status.

Subsequent to employment, employees who are skin test negative shall be required to undergo the foregoing examination at least once each four (4) years, or more often if directed by the Board of Education, upon the recommendation of the local health officer, for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required, and a referral shall be made within thirty (30) days of completion of the examination to the local health officer to determine the need for follow-up care.

The Director of Classified Personnel may exempt, for a period not to exceed sixty (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.

**REFERENCE:** Education Code Sections 45122, 45160, and 49406  
Health and Safety Code Section 3450  
Administrative Code, Title 5, Section 5505

- B. **MEDICAL EXAMINATIONS:** Individuals appointed to a position in the Classified Service, or as a substitute, limited-term, temporary, provisional, or exempt employee may be required to pass a job related physical examination prior to initial appointment. Promotional eligibles who have been offered employment in a classification possessing different physical requirements may also be required to undergo a medical examination. 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. Costs associated with this physical shall be borne by the District.

The District's physician shall determine the ability of the applicant, candidate, or eligible to perform the prescribed duties of the class in which he/she shall be employed, and shall notify the Director of Classified Personnel of the medical findings.

If the District's physician proposes to disqualify the individual, the doctor shall provide the Director of Classified Personnel with a statement describing the specific condition and the limitations that have resulted in the individual's disqualification.

In consultation with the District's physician, the Administration and Director of Classified Personnel shall make a determination if reasonable accommodation can be made for the individual. If the determination is that reasonable accommodation can be made, the appointment shall be made. If the determination is that reasonable accommodation is not possible, the individual will be so notified by the Director of Classified Personnel.

**REFERENCE:** Education Code Sections 45122 and 45160

- C. **RETURN TO WORK AND UNSCHEDULED EXAMS:** An employee may be required to undergo a physical examination at any time there is deemed to be reasonable cause by the District Administration.

Every employee returning from illness/injury leave of absence will be required to submit to a medical evidence to verify sufficient recovery to return to the employee's regularly assigned duties.

**REFERENCE:** Education Code Sections 45122 and 45160

- D. **SCHOOL BUS DRIVER MEDICAL EXAMINATIONS:** In addition to any other examination that may be required by these rules, Bus Drivers must have a valid medical card as required by state law. The District shall arrange for and reimburse the costs of the Bus Drivers' examination for District employees.

**REFERENCE:** Education Code Sections 45122 and 45160

## 9.1 CRIMINAL RECORDS

- A. **FINGERPRINTING:** Every prospective employee (including limited term) shall submit to a criminal records fingerprint check in accordance with prescribed procedures or shall forfeit eligibility for employment. No employee will begin work prior to a fingerprint clearance being received by the State Department of Justice.

**REFERENCE:** Education Code Section 45125

- B. **REVIEW OF CRIMINAL RECORDS:** All criminal record reports are to be treated as confidential. Any employee charged with receiving and/or reviewing them who divulges information contained therein to an unauthorized person is subject to disciplinary action.

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, which was undisclosed and not reviewed prior to employment, the Director of Classified Personnel may order the dismissal of the employee.

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.

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

## 9.2 OTHER EMPLOYMENT REQUIREMENTS

- A. **INCOME TAX WITHHOLDING FORM:** New employees shall submit the W-4 form for both State and Federal taxes to the Classified Personnel Office at the time of employment.

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

- B. **RETIREMENT APPLICATION:** New employees shall submit a completed retirement application form for the Public Employees Retirement System (PERS) to the Classified Personnel Office at the time of employment. This rule shall apply only to those employees entitled to retirement benefits.

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

- C. **SOCIAL SECURITY NUMBER:** New employees shall submit their social security number to the Classified Personnel Office at time of employment.

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



- D. **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. The Personnel Commission directs its Director of Classified Personnel to insure that all employees hired after the above date are legally entitled under Federal law to work for the District.

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

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

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.

- E. **REQUIREMENT TO NOTIFY DISTRICT OF ANY STATUS CHANGE:** Employees shall notify the Classified Personnel Office whenever their status changes, such as new address, new telephone number, or a name change.

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

- F. **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 Classified Personnel Office. As these licenses and/or certificates are renewed, copies of them must also be filed in the Classified Personnel Office within ten (10) working days of receipt by the employee.

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

APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION DECEMBER 11, 1997

# CHAPTER 10

## EMPLOYMENT STATUS

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### 10.0 CERTIFICATION OF PAYROLLS

- A. **CERTIFICATION OF PAYROLLS:** No person shall be appointed to a position in the Classified Service unless the assignment order is certified by the Director of Classified Personnel. The Director of Classified Personnel shall certify that the assignment has been made in accordance with these rules and the provisions of the Education Code.

The Director of Classified Personnel shall audit all changes of status for classified employees. The Director shall certify that all changes are in accordance with existing laws and these rules.

The Director of Classified Personnel shall make periodic audits of all payrolls and, if the Director finds assignments that are not in accordance with existing law(s) or the Rules and Regulations of the Personnel Commission, he/she shall immediately notify the Superintendent of any irregularities and attempt to resolve these problems.

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

- B. **ASSIGNMENT DATA:** Upon initial employment and upon each change in classification thereafter, each classified employee shall be furnished: the employee's class specification; and notice of salary data, including pay period and the hourly, daily, monthly, annual, and overtime and differential rate of pay, whichever are applicable; and work location, hours, and work year; and the terms and conditions of the probationary period, including performance evaluation procedures.

The employee shall sign an acknowledgment of the receipt of the assignment data. The original shall be placed in the employee's personnel file, one copy given to the employee, and one copy sent to the employee's immediate supervisor.

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

## 10.1

## PROBATIONARY STATUS

- A. **INITIAL PROBATIONARY PERIOD:** Each new employee appointed from an eligibility list shall serve an initial probationary period of 130 days of paid regular service in one classification in the Classified Service (excluding days absent for illness or injury). For positions designated by the Personnel Commission in Rule #11.1 F 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).

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:** Education Code Section 45301

- B. **COMPLETION OF INITIAL PROBATION:\*** Each probationary classified employee shall be evaluated during the probationary period as required in these Rules.

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. A probationary employee may be dismissed at any time without cause and without a right of appeal.

A probationary employee who resigns in good standing during the initial probationary period shall, upon request, be restored in proper rank to the eligibility list. Such action shall not extend the life of the list or the period of eligibility of the person.

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

- C. **SUBSEQUENT PROBATION FOR PERMANENT EMPLOYEES:** A permanent classified employee who has been promoted or laterally transferred to a related class shall serve a new probationary period in the class before attaining permanency in that class.

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

## **10.2 PERMANENT STATUS**

- A. **PERMANENT STATUS DEFINED:** Upon successful completion of the prescribed initial probationary period outlined in Rule #10.1 A, a classified employee shall be deemed to be a part of the permanent classified service.

**REFERENCE:** Education Code Section 45301

- B. **RIGHTS/BENEFITS/BURDENS OF PERMANENT EMPLOYEE:** Every permanent classified employee shall be entitled to all the rights, benefits, and burdens conferred by law, the Personnel Commission's Rules and Regulations, or by action of the Board for classified employees of like classification including a vested right to his/her position. A permanent classified employee may be removed only for cause or due to layoff.

**REFERENCE:** Education Code Sections 45260, 45261, and 45301

APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION DECEMBER 11, 1997

# CHAPTER 11

## COMPENSATION AND PAY PRACTICES

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### 11.0 DETERMINATION OF SALARY SCHEDULES

- A. **FIXING SALARY SCHEDULES:** The Board of Education shall fix the salaries for all classified employees and other employees not requiring certification qualifications employed by the District unless otherwise prescribed by law. The fixing of salaries shall mean that the Board shall adopt a salary schedule of matrix with specific dollar amounts for each range and step. The adoption of any classified salary schedule shall be done in such a way so as not to alter the compensation relationships (salary range placements and percentage relationships) between and amongst classes as established by the Personnel Commission.

**REFERENCE:** Education Code Sections 45241, 45260, and 45261

- B. **COMMISSION SHALL RECOMMEND SALARY SCHEDULES TO BOARD:** The Director of Classified Personnel 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 Education. The Commission's recommended salary schedule may take into account the following factors: the wages and salaries paid for similar work in private industry in the recruitment area; the wages and salaries paid by other governmental agencies in the recruitment area; the principle of like pay for like work within the classified services; and such other information as the Commission may require.

**REFERENCE:** Education Code Sections 45256, 45260, 45261, and 45268

- C. **BOARD'S ACTION ON SALARY SCHEDULE RECOMMENDATIONS:** The Board of Education may approve, amend, or reject the salary schedule recommendations of the Personnel Commission, but may not alter the relationships (salary range placements and percentage relationships) between and amongst classes as established by the Personnel Commission.

**REFERENCE:** Education Code Sections 45256, 45260, 45261, and 45268

- D. **COMMISSION SHALL DETERMINE SALARY RANGE PLACEMENT:** The Personnel Commission shall determine the salary range placement of every position and classification within the Classified Service of the District pursuant to its obligation to set reasonable relationships between and amongst the various classifications. The Commission may make modifications to the range placement as part of its statutory obligations only after consultations with the District Administration and any exclusive bargaining agent that might represent impacted employees. The Personnel Commission adopted schedule of range placements for all classifications is contained in Appendix A, which by reference is incorporated as a part of these rules and regulations.

**REFERENCE:** Education Code Sections 45162, 45256, 45260, and 45261

## **11.1 APPLICATION OF SALARY SCHEDULES**

- A. **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 the first step of the salary range. However, a new employee may be provided with advanced step placement by the Personnel Commission based upon such factors as:

1. Additional qualifying experience beyond that required for entry into the class.
2. Additional education at the college level (limited to no more than one step for each two years of education related to the position), but beyond the educational requirements established for entry into the class.
3. Exceptional recruitment difficulties for the classification.
4. The additional skills or qualifications of the candidate that make him/her especially qualified for the positions.

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

- B. **SALARY PLACEMENT OF TEMPORARY EMPLOYEES:** Salary placement of temporary, substitute, and limited-term employees who are not regular classified employees of the District will be at the first step of the salary range for the classification. Classified retirees of the District shall be compensated pursuant to Rule# 8.4.

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

**C. ANNUAL STEP INCREMENT DATE:\***

1. Any probationary or permanent employee who accepts a regular position before March 1 of any fiscal year will receive the annual step increment July 1 immediately following their hire. Any probationary or permanent employee who accepts a regular position between March 1 - Jun 30 will receive the annual step increment on July 1 of the following fiscal year. Annual step increments shall be made on an annual basis as outlined in these rules, until the maximum is reached in that class.
  - a. Example: Any probationary or permanent employee who accepts a regular position between July 1, 2017 - February 28, 2018 will receive the annual step increment on July 1, 2018.
  - b. Example: Any probationary or permanent employee who accepts a regular position between March 1, 2018 - June 30, 2018 will receive the annual step increment on July 1, 2019.
2. The annual step increment date may change during the course of an employee's employment with the District due to such things as unpaid leaves of absence, breaks in service or other factors as determined by law or these rules.

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

**D. SALARY RANGE CHANGES:\*\***

Unless otherwise provided by special resolution of the Personnel Commission, whenever the salary range for a class is changed upward, the salary of each incumbent in the class on the date the change was effective shall be adjusted to the higher range and then to that step of the higher range that will provide an increase in the base hourly rate of pay. Whenever the salary range for a class is changed downward, the salary of each incumbent in the class on the date the change was effective shall be adjusted to the lower range and then to that step of the lower range that provides a base hourly rate as close to the former higher salary without exceeding the former higher salary. The anniversary date will remain on July 1.

1. When salary range changes become effective on July 1 for merit salary adjustment, he/she shall first receive any increment adjustment to which he/she is entitled and then receive his/her corresponding step adjustment.
2. When salary range changes become effective on the same date as an employee's promotion, the salary adjustments shall be made in such order that an employee shall gain the maximum benefit from the adjustments.

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

- E. **“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 incumbents’ current hourly salary until the new lower salary range hourly rate catches up to the incumbents’. 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.

Whenever the Personnel Commission gives authorization to “Y” rate an incumbent, the rate will be discontinued when the employee receiving the rate is promoted, separates from the service, or refuses appointment to a higher class. 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:** Education Code Section 45260 and 45261

- F. **PROMOTIONAL SALARY RATE:** Whenever possible, an employee who is promoted shall be placed at the salary step on the new range which provides a minimum increase of one step or five percent (5%) of the employee’s current salary. In no instance shall that placement be higher than Step 6 of the range for the new classification.

In determining the salary for an employee who is promoted, the following procedure shall be used:

1. Find the present monthly salary on the new salary range and advance one step.
2. If the present monthly salary is between salary steps on the new range, placement shall be at the step above the next higher step.
3. If the present monthly salary is not indicated on the new salary range, placement is on step one so long as a minimum five percent (5%) increase is provided the promoted employee. If a step one placement would provide less than a five percent (5%) increase, step two shall be assigned.
4. When computing salary for promotional step placement, employees who had been receiving shift differential pursuant to these rules and will no longer be receiving shift differential 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.
5. For purposes of this article “present monthly salary” shall be the base rate on the salary schedule (i.e., Steps 1 through 6 of the range), exclusive of longevity increments, stipends or differential. Longevity increments shall be applied to the new base salary.



**G. IMPACT OF PROMOTIONS ON PREVIOUS ANNIVERSARY DATES:**

Employees, who receive a promotion and who would have been entitled to a step increase in their old classification within six (6) months of the date of promotion, shall, have their promotional step placement calculated using the higher step placement they would have received had they remained in their former lower classification.

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

**H. 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 salary step advancement within the range shall be granted under the following conditions:

Employees must have worked at least 75% of the school year in order to receive salary step advancement on the upcoming July 1, as outlined in Rule #11.1 C. If the employee did not work at least 75% of the school year, and returns from an unpaid leave of absence, the salary step advancement will be the following July.

The law and/or these rules provided that credit for advancement shall accrue during such leave(s) of absence.

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:** Education Code Sections 45260, 45261, and 45309

**I. SALARY PLACEMENT UPON DEMOTION:\*** An employee who selects voluntary demotion or is involuntary 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 thereby. The demoted employee shall retain the same anniversary date.

**REFERENCE:** Education Code Sections 45260, 45261, and 45309

- J. **PLACEMENT WHEN REEMPLOYED OR REINSTATED:\*** When an employee is reemployed following layoff, or reinstated according to these rules following voluntary 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. The employee's earned salary step advancement shall be determined based on date of reemployment or reinstatement in accordance with Rule #11.1 C.

**REFERENCE:** Education Code Sections 45260, 45261, and 45309

- K. **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 Rule #3.2 H.

When an employee accepts an additional substitute or limited-term assignment in his/her regular classification, he/she shall receive the same rate of pay as in the regular assignment except that any special stipends which may apply only to the regular assignment and not to the substitute or limited-term assignment shall not be paid.

When an employee accepts a substitute or limited-term assignment in a lower classification, he/she shall be paid at the step on the lower salary range which is closest to, but not greater than, their regular salary rate.

**REFERENCE:** Education Code Sections 45110, 45256, 45260, 45261, 45268, 45285, and 45285.5

- L. **SUMMER/RECESS PERIOD SALARY PLACEMENT:** A classified employee shall, for services performed during summer or any other recess period, receive, on a pro-rata basis, not less than the compensation and benefits which are applicable to the classification during the regular academic year.

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

- A. **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 the private employment fields and surrounding public agencies in which it must compete for employees for its classified staff, and shall consider the advisability of providing comparable salary differentials for its classified staff.

The District may provide differential compensation to those classified employees who perform duties of a distasteful, dangerous, or unique nature, when, in the opinion of the Board of Education, such compensation is reasonably justified. Any differential compensation provided by the Board of Education shall be based upon findings and recommendations of the Personnel Commission, and shall not be applied in a manner contrary to the principle of like pay for like service.

No employee assigned to work in a position entitled to differential compensation shall be demoted in class or grade as a result of such an assignment.

**REFERENCE:** Education Code Sections 45181, 45182, 45184, 45260, and 45261

- B. **SPLIT SHIFT DIFFERENTIAL - COMPENSATION:** Any employee who works a regular scheduled split shift shall be paid a differential of five (5) percent of the regular rate of pay. If the break in time between an employee's work periods exceeds two (2) hours, the work hours shall be compensated on a split shift basis. This provision shall not apply to bus drivers.

Any employee in the bargaining unit whose assigned work shift commences at 2:00 p.m., or later, shall be paid a shift differential premium of five (5) percent above the regular rate of pay for all hours worked.

- C. **TEMPORARY ASSIGNMENT:** An employee receiving differential compensation pursuant to these rules shall not lose such compensation if the employee is temporarily, for twenty (20) working days or less, assigned to a position not entitled to such compensation.

**REFERENCE:** Education Code Sections 45185, 45260, and 45261

APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION FEBRUARY 19, 1998

# CHAPTER 12

## TRANSFER OF EMPLOYEES

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### 12.0 TRANSFER

- A. **DEFINITION OF TRANSFER:** For purposes of this rule, a vacancy shall occur when a new position is created or an existing position becomes vacant. There are two different types of transfers impacting classified employees:

A position transfer shall mean the relocation of an employee between job sites or between departments at the same job site, within the same classification.

A lateral transfer is the transfer of an employee to a position in a similar or related class with the same salary range.

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

- B. **VOLUNTARY POSITION TRANSFER:** An employee may request a transfer if the employee has permanent status and is performing satisfactorily. An employee whose evaluation was unsatisfactory or needs to improve is not eligible for transfer, except with the approval of the Director of Classified Personnel.

Employees shall be notified in writing, within ten (10) working days of any transfer with a copy of the notification sent to employee's immediate supervisor, personnel file, and a copy to CSEA.

- C. **INVOLUNTARY POSITION TRANSFER:** An Involuntary transfer is a transfer within the same class to a different work location at the request of the District. Administration initiated position transfers may be made at any time for the good of the Classified Service.

Written notice shall be given to the employee and CSEA of an involuntary transfer fifteen (15) working days prior to being transferred. An appeal may be made to the appropriate supervisor or the Associate Superintendent/Business or Assistant Superintendent of Personnel.

Employees shall not be transferred for punitive, preferential, or disciplinary reasons except as allowed under the disciplinary action provision of these rules and regulations and/or unit contract.

Employees may appeal involuntary transfers through the Commission's grievance procedure.

- D. **LATERAL TRANSFER:** Transfer from a position in one class to a position in another related class shall first be approved by the Director of Classified Personnel. Determination of whether classes are sufficiently related to permit transfer between them shall be based on the similarity of 1) duties; 2) minimum qualifications; and 3) examination content. The extent to which the two classes must be comparable may depend on additional factors. In general more latitude is allowed as an employee's length of service with the District increases; when the request for lateral transfer is based on layoff or reclassification. The employee must meet the minimum qualifications for the class.

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

- E. **NO ADVERSE AFFECT 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 the law and these rules, unless such transfer is for disciplinary reasons. Language stipends and shift differential are accepted for voluntary transfers.

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

- F. **SENIORITY CREDIT:** Position shall have no adverse impact upon the employee's seniority. Under Personnel Commission rules, a transferred employee retains full seniority where both positions are within the same class. Where the transfer is to a position in a lateral class, the employee will begin earning seniority in the lateral class upon the effective date of the transfer but shall maintain seniority in his/her previous class.

- G. **TRANSFER SHALL NOT ALTER EFFECTS OF LAYOFFS:** A transfer shall not be used as a device for altering the effects of impending layoffs, except as provided for elsewhere in these rules and regulations.

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

- H. **POSTING OF TRANSFER NOTICES:** Transfer notices shall be distributed whenever a vacancy occurs. The vacancy notice will be posted pursuant to the procedures outlined in Rule# 6.0.

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

- I. **SUBMISSION OF REQUEST FOR TRANSFER:** An employee may request a transfer to a vacant position by submitting a Request to Transfer to the Personnel Commission Office no later than the closing date for those vacancies advertised in the Transfer Notice. Consideration shall be given to all requests for transfer, which are properly submitted.

A classified employee may submit at any time a written request for transfer to the Personnel Commission Office to be held on file for transfer consideration. This transfer request shall remain in force for the remainder of the current school or fiscal year unless withdrawn by the employee. The Director of Classified Personnel shall have the right to periodically purge the transfer lists of those employees who are no longer interested in transfer, have terminated with the District, or have had their transfer requests honored. Such requests on file prior to the close of any transfer posting period shall be considered as if they had been received during the posting period.

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

- J. **CERTIFICATION OF NAMES TO INTERVIEW:** The Director of Classified Personnel shall certify and submit to the appropriate administrator or supervisor the names on the transfer list and the first three ranks from the appropriate eligibility list. The supervisor/administrator shall choose from the individuals certified to fill the vacancy. The supervisor/administrator may choose to have only transfer requests certified.

- K. **NOTIFICATION OF TRANSFER SELECTION:** The department supervisor shall notify the Director of Classified Personnel of his/her recommendation for selection. The selected transfer candidate shall be released by his/her other site/department within ten (10) working days of the date of selection, unless otherwise agreed to by all parties. The effective date of transfer shall be communicated in writing to all parties by the Director of Classified Personnel.

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

## 12.1

## DEMOTIONS

- A. **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. All other demotion requests would require the employee to file an application and go through the selection process as if the position were a promotion. All demotion requests shall require the approval of the Director of Classified Personnel.

A permanent employee may accept a temporary demotion on a voluntary basis to fill a limited term position or a summer assignment.

A voluntary demotion is available to a probationary employee, who does not hold permanent status in the District, only in cases when the employee would otherwise be laid off.

An employee who demotes to a class in which the employee does not hold permanency shall complete the appropriate probationary period in the new class.

Salary placement for employees who demote to a class with a lower maximum salary rate shall be in accord with these rules.

**REFERENCE:** Education Code Section 45272

- B. **INVOLUNTARY DEMOTION:** Involuntary demotion is a disciplinary action for cause and is subject to the disciplinary procedures in these Rules.

A permanent employee who has been promoted or reclassified to a higher class, or transferred to a new class may be involuntarily returned to his/her former class, during the probationary period, due to unsatisfactory work performance, pursuant to the disciplinary procedures in these rules.

Salary placement upon involuntary demotion shall be in accord with these rules.

**REFERENCE:** Education Code Sections 45302 and 45304

- A. **RESTORATION OF FORMER EMPLOYEE:** A former permanent employee who resigned 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 (as determined and approved by the Personnel Commission), 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:** Education Code Sections 45260, 45261, and 45309

- B. **EFFECTS OF REINSTATEMENT:** Reinstatement or reemployment of a current or former employee shall have the following effects:

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.
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.
3. The former employee would receive restoration of accumulated sick leave and seniority as of the date of separation.
4. The former employee would receive an anniversary date consistent with Rule #11.1 C, without step-advancement credit for the off-duty period.\*
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:** Education Code Sections 45260, 45261, and 45309

APPROVED BY PAJARO VALLEY PERSONNEL COMMISSION FEBRUARY 19, 1998



# CHAPTER 13

## PERFORMANCE REVIEWS

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### 13.0 PERFORMANCE REVIEW PROCEDURES

A. **TIMELINES:\***

1. Permanent Employees: There shall be filed with the Personnel Commission a periodic service report on each employee in the permanent classified service evaluating his performance on the job for the period covered in the report. The report shall be completed each year in March for each regular classified employee who is not serving in an initial probationary period.
2. Probationary Employees: Probationary employees shall be evaluated at the end of the second, fourth, and fifth month by their immediate supervisor. The evaluation at the end of the fifth month is a statement as to whether the employee shall be granted permanent status in the District.
3. Temporary or Substitute Employees: A rating form will be submitted by the supervisor for each substitute or limited term employee who works two (2) weeks or more. Substitute or limited term employees working an extended period of time shall have rating forms submitted from the time of employment.

B. **AUTHORIZED EVALUATORS:** Each employee is to be rated by his immediate supervisor who is defined as the person of higher classification who assigns, checks, and supervises more of the work of the employee than any other person in the section, crew, or office. Whenever possible each employee shall also be rated by the officer or person who is next higher in rank to the immediate supervisor and who has personal knowledge of the work of the employee. The ratings shall be made in a joint conference between the employee and his supervisor in accordance with procedures prescribed by the Commission.

C. **CONFERENCE PROCEDURES:** In preparing the rating sheets, the first step should be a conference with the employee at which time they will discuss ways and means of improving the conditions under which the employee is working to provide greater efficiency and productivity. They will discuss the minimum requirements for the position. Together they will analyze the employee's strong points and the areas in which improvement may be made. The rating sheet will be a product of their joint cooperation. A copy of the rating sheet will be given to the employee. The employee will indicate his knowledge of the rating by signing the copy that will be forwarded to the Personnel Office.

## **13.1 PROCEDURES TO APPEAL**

- A. An employee who is not satisfied with his/her evaluation shall, in order to preserve his/her right to an appeal hearing, within thirty (30) days after receipt of the evaluation, write a rebuttal, which shall become a part of the personnel file. The evaluation shall include a statement of this right.
- B. After Step 1 above, an evaluated employee shall request a meeting with his/her Assistant Superintendent and Supervisor for the purpose of resolving disagreements regarding the evaluation. Both the employee and supervisor shall have the right to bring a representative to the meeting. The request for this meeting must arrive in the office of the appropriate Assistant Superintendent within thirty (30) calendar days after the employee/supervisor evaluation discussion. The Assistant Superintendent must schedule the meeting within fifteen (15) workdays after receipt of the employee's request.
- C. Following the meeting with the Assistant Superintendent, any employee who is still dissatisfied with the performance rating (s)he has received may request, in writing a review of the rating by the Personnel Commission. This request shall be forwarded to the Personnel Commission to arrive not later than fifteen (15) calendar days after the performance rating conference with the Assistant Superintendent. The request shall be made on a petition available in the Personnel Commission office.
- D. Within fifteen (15) calendar days following receipt of the request for review, the District may file with the Secretary to the Commission, a response to the employee's request, limited only to procedural objections to the hearing. Such response shall be forwarded to the Commission and the employee.
- E. The Commission shall grant or deny the employee's request for a hearing within thirty (30) days of receipt of the employee's request for a hearing, or the District's response, if any. If the hearing is granted, the Commission shall schedule the hearing to coincide with the next regularly scheduled Commission meeting with forty-five (45) days of granting the hearing
- F. No later than five (5) calendar days before the hearing, the employee and supervisor must exchange all documents, materials and list of witnesses they plan to present at the hearing. Copies of these documents and materials must be filed with the Office of the Personnel Commission on the same date they are exchanged. Any documents, materials, or names of witnesses not exchanged will be waived by either side and will not be allowed at the hearing. Either party may object to the number of witnesses, and/or the admission of particular documents prior to or at the hearing.
- G. After the Commission renders its written decision, a copy will be placed in the employee's file.

# CHAPTER 14

## IN-SERVICE TRAINING

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The Personnel Commission, through the Personnel Director, shall cooperate with appointing powers, supervisors, and employees of the District in devising and fostering programs of training for and in the classified service of the District so that the quality of service rendered by the classified employees may be continually improved.



# CHAPTER 15

## ACCIDENT REPORTING

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It will be the responsibility of the injured employee to report an accident to his supervisor on the day of the accident. In the event the accident is so serious that the employee is removed from duty, it will be the responsibility of the supervisor of the employee to report the accident to the proper authorities.



# CHAPTER 16

## LAYOFF

### 16.0 DEFINITIONS

- A. **EMPLOYEE:** An employee for the purpose of this article is a person who has gained permanency in the classified service.
- B. **LAYOFF:** A layoff is a separation from the classified service for lack of work and/or lack of funds.
- C. **SENIORITY:** Seniority for employees hired after July 1, 1971, shall be all hours in paid status while working in their present classification plus higher classifications, excluding overtime. Seniority for employees hired on or after July 1, 1994, shall be based upon date of hire. Seniority for pre-July 1994 continuing employees shall be established based upon hours in paid status including 1994 summer school hours.
- D. **VOLUNTARY LAYOFF:** Voluntary layoff is employee consent to a reduction of hours or to an assignment to a lower classification in lieu of layoff.

### 16.1 LAYOFF PROCEDURES

- A. **LAYOFF PROCEDURES:** Whenever because of lack of work or lack of funds it becomes necessary to layoff permanent or probationary employees, such layoffs shall be conducted in accordance with the procedures set forth as follows in accordance with E.C. 45117, 45298, and 45308.
  - 1. Classified employees shall be subject to layoff for lack of work and/or lack of funds as determined by the Governing Board.
  - 2. An employee may voluntarily consent to a reduction in hours of employment in order to avoid layoff.
  - 3. The employee with the least seniority in the affected classification plus seniority accrued from serving in a higher classification shall be laid off first.

## B. NOTICE

1. A written notice of layoff shall be given to affected employees no later than sixty (60) days prior to the effective date of the layoff.
2. Employees employed in specially funded programs terminating at the end of the school year shall be given written notice on or before April 29, of their termination effective June 30. Employees employed in specially funded programs terminating at a date other than June 30th shall be given written notice of termination no less than sixty (60) days prior to the effective date of their layoff.
3. The notice shall contain: the employee's displacement rights, if any; the employee's reemployment rights; and the employee's right to discuss the layoff with the Director of Personnel.

REFERENCE: Education Code Section 45117

## **16.2 DISPLACEMENT PROCEDURES**

Employees laid off in one classification may bump into the following categories; however, such bumping is permissible provided their seniority is greater than those employees presently serving in the classification, which is being bumped:

1. An equal class.
2. A different class having substantially similar duties, responsibilities, qualifications, and the same salary range.
3. Or lower class for which they are competent and qualified to serve.

An employee displaced from his/her classification as a result of being bumped shall have the same bumping rights as set forth in this section.

## **16.3 REEMPLOYMENT RIGHTS**

The names of employees laid off shall be placed on reemployment lists in seniority order. Involuntary layoff shall continue for thirty-nine (39) months from the date of layoff. The names of employees who took voluntary reassignments in lieu of layoff shall be placed on reemployment lists for an additional twenty-four (24) months.

Reemployment shall be in seniority order.

Offers of reemployment shall be made on the basis of reemployment lists based on the highest seniority.

An employee who is laid off and elects retirement from the Public Employee's Retirement System (PERS) shall be placed on a reemployment list. The District shall notify PERS that retirement was due to layoff. Should the employee subsequently accept, in writing, reemployment, the District shall maintain the vacancy until PERS has properly processed the request for reinstatement from retirement.

An employee who personally receives notice of reemployment shall have ten (10) working days to respond. Failure to do so will indicate rejection of the offer. Employees notified by certified mail shall have eight (8) working days after the notice has been sent, by the the District, to their last address of record by certified mail to respond to a notice of reemployment. Failure to do so will indicate rejection of the offer.

An employee on a reemployment list may decline three (3) offers of reemployment in his/her former classification. After the third refusal no additional offers need be made and his/her name shall be removed from the reemployment list.

Refusal of an offer of limited term employment shall not affect the standing of any employee on a reemployment list.

Employees on reemployment lists shall be eligible to compete in promotional examinations for which they qualify.

**REFERENCE:** Education Code Sections 45308, 45114, 45117, 45298, and 45115

**CHAPTER 16 - APPROVED BY THE PERSONNEL COMMISSION 06/13/2019**

# CHAPTER 17

## RESIGNATIONS

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### **17.0 SUBMISSION IN WRITING**

When a classified employee desires to resign his position, he shall present his resignation containing his reason therefore in writing to the appointing power and a copy of such resignation shall immediately be filed by the appointing power with the Personnel Director together with a statement from the appointing power of the action to be taken thereon.

### **17.1 RIGHTS ON ELIGIBILITY LISTS**

A resignation relates only to the specific position from which the employee resigns and does not impair his rights on other eligibility lists, except that if his name is on any promotional eligibility list, it shall be removed from any such list.

### **17.2 ABSENT WITHOUT LEAVE**

An employee who fails to report for duty for three consecutive working days without permission from his supervisor or the appointing power shall be deemed to be absent without leave. An employee who fails to return from a leave of absence within three working days after the expiration of an authorized leave shall be deemed to be absent without leave. Such absence shall be deemed an automatic resignation.



# CHAPTER 18

## PROCEDURES FOR DISCIPLINARY ACTION AND APPEAL

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<b>18.0</b>	<b>GENERAL PROVISIONS ON DISCIPLINARY ACTIONS</b>
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- A. **DISCIPLINARY ACTION ONLY PURSUANT TO THIS RULE:** Permanent employees shall be subject to disciplinary action only as prescribed by these Rules and Regulations, pursuant to the procedures outlined herein.

Disciplinary action is any action whereby a permanent classified employee is dismissed, suspended, or demoted, except for a layoff for lack of work or lack of funds.

Permanent employees who are serving in a new position may be released from the new position during their probationary period without compliance with this article.

This section shall not be construed to prevent layoffs for lack of work or lack of funds as permitted by the Education Code and Chapter 17 of the Personnel Commission Rules, or the Collective Bargaining Agreement.

**REFERENCE:** Education Code sections 45260, 45261, and 45305

- B. **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, or for any cause which arose more than two (2) years prior to the date of the Statement of Charges unless such cause was concealed or not disclosed by the employee when it could be reasonable assumed that the employee should have disclosed the facts to the District.

**REFERENCE:** Education Code sections 45260 and 45261

- C. **PROHIBITED ACTS RELATED TO DISCIPLINE:** No employee shall be suspended, demoted, dismissed, subjected to any form of disciplinary action, sexually harassed, or in any way discriminated against because of the employee's affiliations, race color, national origin, ancestry, age, marital status, sex, condition of disability, employee organization membership or non-membership and legal activities related thereto, medical condition (as defined in Government Code section 12926), except as provided in Rule #16.0 D.

**REFERENCE:** Education Code sections 45260 and 45261  
Government Code section 12920 and 12926

D. **CAUSE FOR DISCIPLINARY ACTION:** The following causes shall be grounds for disciplinary action:

1. Incompetence or inefficiency in the performance of the duties of his/her position.
2. Inability to perform assigned duties due to failure to meet or retain job qualifications (including but not limited to failure to possess required licenses, failure to pass required tests).
3. Insubordination (including but not limited to refusal to do assigned work).
4. Carelessness or negligence in the performance of duty or in the care or use of District property.
5. Discourteous, offensive, or abusive conduct or language toward other employees, pupils, or the public.
6. Dishonesty.
7. Drinking or possession of alcoholic beverages on the job, or reporting for work while intoxicated.
8. Use or possession of narcotics or controlled substances while on the job or reporting to work while under the influence of a narcotic or controlled substance as defined in Education Code section 44011.
9. Engaging in political activity during assigned hours of employment.
10. Conviction of any crime involving moral turpitude.
11. Conviction of or charge of any sex or drug offenses as defined in Education Code section 44010, and as provided for in Education Code section 45304.
12. Absence without leave or repeated tardiness.
13. Abuse of leave privileges as provided by the contract.
14. Abandonment of position, or excessive absenteeism, which adversely affects the efficient operation of the District.
15. Falsifying any information supplied to the District, including but not limited to, information supplied on application forms, employment records, or any other District records.
16. Violation or refusal to obey Rules and Regulations or laws made applicable to public schools by the Governing Board or by an appropriate federal, state, or local governmental agency.

17. Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or accepting anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
18. Physical or mental incapacity to perform assigned duties.
19. Conviction of any offense, which is directly related to job performance.

**REFERENCE:** Education Code sections 212.5, 230, 44010, 44011, 45260 and 45261, 45279, 45303, and 45304  
Government Code section 1028  
Penal Code section 261  
Health and Safety Code sections 11054, 11056, 11357-11361, 11363-11364, and 11377-11382

E. **PLACEMENT ON ADMINISTRATIVE LEAVE:**

The Superintendent, or his or her authorized representative, shall have the authority to place an employee on administrative leave, with or without pay, pending an investigation that such employee has violated Rule #18.0 D (1), (3), (4), (5), (6), (7), (8), (10), (11), (14), (15), (16), (17), (18), or (19), or any other cause the violation of which could endanger the health, safety or, well-being of District staff, students, the employee, or the public.

The Superintendent shall be authorized, in addition to the above, to place an employee on administrative leave with or without pay pending an investigation that such employee has been charged with an offense set forth under Rule #18.1 D (19).

If an employee is found not guilty of an offense for which he or she was placed on unpaid administrative leave then he or she shall be entitled to reinstatement and back pay.

F. **HEALTH INSURANCE MAINTAINED UNTIL APPEAL EXHAUSTED:**

Any classified employee who receives district health insurance and is subjected to disciplinary action that would result in the employee losing said health insurance shall continue to receive such health insurance benefits, until the time-lines outlined in these rules for appealing the disciplinary action have passed without action by the employee, or if the employee has filed a timely appeal, until the exhaustion of all appeal rights outlined in these Rules and Regulations.

**REFERENCE:** Education Code sections 445260 and 454261

## 18.1

## PROGRESSIVE DISCIPLINE

- A. **PROGRESSIVE DISCIPLINE DEFINED:** In handling disciplinary matters, it is intended that progressive steps be utilized unless the incident giving rise to the discipline is of such a nature that immediate or more severe action is appropriate, or where progressive steps are unlikely to correct the conduct involved. Employees who are members of the bargaining unit are entitled to have a union representative at any meeting at which such disciplinary action is discussed.
- B. **PROGRESSIVE STEPS MAY BE AS FOLLOWS:**
1. **VERBAL REPRIMAND.**
  2. **WRITTEN WARNING, WITH A COPY TO THE EMPLOYEE'S PERSONNEL FILE:** Such statement shall include the reasons for the warning and any intention the supervisor may have to recommend disciplinary action and the employee's right to respond in writing. The supervisor shall give a reasonable period of advance warning to permit the employee time to correct the deficiency without incurring disciplinary action.
  3. **SUSPENSION:** If the employee continues such behavior then the employee may be suspended for up to thirty (30) days without pay.
  4. **FINAL STEP:** If the employee continues behavior warranting action under Rule #18.1 B 1-3, or engages in similar or related conduct, the employee may be subjected to other forms of disciplinary action, including demotion or termination.

5. **IMMEDIATE SUSPENSION WITHOUT PAY:** An employee may be immediately suspended without pay if charged with the commission of any sex offense or narcotics offense referred to in Education Code sections 44010, 44011, 45304, 44940, and 44940.5. The suspension shall continue for not more than ten (10) days after the date of the entry of the court judgment. Any employee so suspended shall continue to be paid his or her regular salary during the period of suspension if the employee furnished to 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 so paid to him or her during the period of suspension in case the employee is convicted of such charges, or the employee does not return to service after such period of suspension. If the employee is acquitted of the offense, or if the charges are 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 full compensation during the period of the suspension, provided the employee returns to service after such period of suspension.

**REFERENCE:** Education Code sections 44010, 44011, 45260, 45261, 45302, 4530, and 45304  
Penal Code section 261  
Health and Safety Code sections 11054, 11056, 11357 - 11361, 11363, 11364, and 11377 - 11383

6. **IMMEDIATE SUSPENSION WITH PAY:** An employee, other than stated in Rule #18.1 B5 above, may be immediately suspended without loss of compensation pending the initiation and completion of disciplinary action procedures to the Board level, if there is a clear and present danger to the health, safety, or well-being of the employee, students, public, 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:** Education Code sections 454260 and 45261

7. **DISMISSAL OF PROBATIONARY, LIMITED-TERM/SUBSTITUTE LIMITED-TERM PROJECT, OR PROVISIONAL EMPLOYEE:** A probationary, limited term-substitute, limited term project, provisional, or other non-permanent employee may be terminated at any time during his or her assignment without regard to the procedures set forth in this Chapter.

**REFERENCE:** Education Code sections 45260 and 45261

- A. **NO DISCIPLINE WITHOUT NOTICE:** No permanent classified employee may be subjected to dismissal, demotion, or suspension until the employee has been served with a Statement of Charges. No action may be taken in closed session by the Board relating to specific complaints or charges brought against an employee by another person or employee, until the employee has been given written notice of his or her right to have the charges heard in an open session rather than a closed session. The notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time for holding the session. The exception to this rule is in the case of action taken in accordance with Rules 18.1 B5 and 18.1 B6 above.

**REFERENCE:** Education Code sections 45260, 45261, 54957 and 54957.1

- B. **CONTENTS OF THE STATEMENT OF CHARGES:** The statement of charges shall contain statements in ordinary and concise language of:
1. The nature of the proposed action (suspension, demotion, or dismissal);
  2. The specific cause and sections of these rules that the employee is charged with violating;
  3. The specific charges, including times, dates, location, and a description of the alleged actions or omissions in ordinary and concise language;
  4. The proposed effective date(s) of the disciplinary action;
  5. The employee's right to see and obtain copies of all evidence and documentation to support the District's case against the employee;
  6. The employee's right to representation;
  7. The employee's right to respond to the charges either orally or in writing; and
  8. The employee's right to request a Board hearing to dispute the charges and the proposed suspension, demotion, or dismissal within five (5) working days of service of the Statement of Charges, and the right to have such a hearing within the time-lines specified in these rules.

**REFERENCE:** Education Code sections 45116, 45260, 45261, and 45305

## 18.3

## BOARD OF TRUSTEES HEARING PROCESS

- A. **EMPLOYEE REQUEST FOR HEARING:** If the employee submits a request for a Board hearing to the District within five (5) working days after the service of the Statement of Charges, the employee shall have a right to have a hearing before the Board of Trustees.

**REFERENCE:** Education Code sections 45260 and 45261

- B. **EMPLOYEE NOTIFICATION OF HEARING:** Notification of the time and place of the Board hearing shall be served personally or by certified mail (Return Receipt Requested). This requirement will be deemed to have been met if the statement of Charges is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notification by the United States Postal Service of attempting delivery shall not stay the time-lines outlined in these rules.

**REFERENCE:** Education Code sections 45260 and 45261

- C. **CONDUCT OF BOARD HEARING:** The employee shall have the right to appeal the proposed disciplinary action to the Board of Trustees and be heard in his or her defense. This hearing shall conform to Administrative Procedure 1201. All hearings before the Board shall be in closed session unless the employee requests an open hearing in the request for Board hearing.

**REFERENCE:** Education Code sections 45260 and 45261

- D. **RIGHT TO REPRESENTATION:** The employee may, at his or her option, be represented by legal counsel, union representative, or any other person designated by the employee. If the employee files a request for hearing, the employee shall be required to attend the Board Hearing, even if the employee's designated representative appears on his behalf. If the employee fails to appear, the employee will be deemed to have forfeited rights to further appeal and the Board of Trustees shall act on the recommendation of the Superintendent.

**REFERENCE:** Education Code sections 45260 and 45261

**18.4****BOARD OF TRUSTEES DECISION PROCESS**

At the close of the hearing, the governing board shall adjourn to closed session to deliberate regarding its decision. Such deliberations may be extended beyond the date(s) set for the hearing in conformity with the Brown Act. After its deliberations, the Board shall render its decision, which shall be final unless it is appealed to the Personnel Commission pursuant to Rule #18.5. If the Board finds that sufficient cause exists, it may impose the disciplinary action proposed by the Superintendent or his or her designee, or it may impose a greater or lesser disciplinary action.

**REFERENCE:** Education Code sections 45260 and 45261  
Government Code section 54950

If the Governing Board sustains an employee in a disciplinary matter, it may order paid all or part of the employee's compensation from the time of the employee's disciplinary action and shall order the employee's reinstatement upon such terms and conditions as it may determine appropriate.

Any notice shall be deemed sufficient when delivered in person to whom it is directed or when it is deposited in the United States certified mail, Postage prepaid and addressed to the last known address of the employee. Failure of the employee to retrieve mail or respond to notifications of the United State Postal Service of attempted delivery shall not stay the time-lines outlined in these rules. If the notice is served by certified mail, an employee shall have an additional three (3) days to respond.

The term "Superintendent" shall refer to the District's Superintendent or other administrator authorized to act on behalf of the Superintendent.

CHAPTER 18 (18.0 to 18.4) - APPROVED BY THE PERSONNEL COMMISSION 6/24/93



## 18.5

## PERSONNEL COMMISSION APPEAL PROCESS

- A. **EMPLOYEE APPEAL RIGHTS:** If the decision of the Board of Trustees at the Board Appeal Hearing is to implement the disciplinary action, the employee may appeal the proposed action to the Personnel Commission, pursuant to these rules.
- B.  **GROUNDS FOR APPEAL:** The reasons for the appeal must be attached to the Appeal Form. Appeals can be made only on the following grounds:
1. The procedures set forth in these rules and regulations have not been followed.
  2. The disciplinary action was taken because of the employee's affiliations, race, color, national origin, age, marital status, sex, disabling 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, except as legally provided in Rule 18.0 D.
  3. There has been an abuse of discretion on the part of the District.
  4. The action taken was not in accord with the facts.
- C.  **NOTIFICATION BY PERSONNEL DIRECTOR:** Upon receipt of notification by the Board of Trustees of its decision to implement disciplinary action, the Personnel Director shall notify the employee in writing within ten (10) working days of his right to appeal the Board's decision to the Personnel Commission.

**REFERENCE:** Education Code Sections 45260, 45261, and 45305



**D. CONTENTS OF NOTICE OF APPEAL TO PERSONNEL COMMISSION:**

The notice of appeal to the disciplinary action that has been approved by the Board of Trustees, shall contain the following:

1. A copy of the statement of the Board decision, a request for hearing form, and a copy of Chapter 18 of the Rules and Regulations of the Personnel Commission.
2. The effective date(s) of the disciplinary action.
3. The employee's right to representation.
4. A true copy of the Board Hearing Decision made by the Board of Trustees.
5. The employee's right to appeal the disciplinary action to the Personnel Commission within ten (10) working days of service of the Notice of the Board decision, and the right to have such a hearing within the timelines specified in these rules.
6. A statement that the Commission may sustain, reject, or modify the disciplinary action taken against the employee; and that the Commission may not provide for discipline more stringent than that invoked by the Board of Trustees.
7. The employee's right to respond to charges either orally or in writing.
8. The employee's right to request the Personnel Commission to subpoena witnesses or other material evidence.
9. Appeal form must accompany disciplinary notice: A Request for Hearing Form must accompany the Notice of Appeal, which shall explain the procedure for the hearing. The signing and filing of the request shall constitute a demand for hearing and denial of all charges. The appeal form must be submitted to the Personnel Commission Office by the deadline noted in the Notice of Appeal. The employee must include in the appeal his current mailing and residence address at which the employee may be contacted, in the event that additional correspondence or notices need to be sent to the employee. The appeal notice filed by the employee must also contain the name of his legal counsel or representative, if any, (if known at the time of the appeal) and the address and telephone number of such counsel or representative.

**REFERENCE:** Education code Sections 45260 and 45261

- E. **NOTICE MUST BE IN WRITING AND SERVED ON EMPLOYEE:** The Notice of Appeal 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 of Appeal is sent certified mail to the last known home address on file in the Personnel Commission 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. 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:** Education Code Sections 45260 and 45261

- F. **AMENDMENT OF STATEMENT OF CHARGES OR ANSWER:** At any time after the appeal is submitted to the Commission or its authorized representative for consideration, the person filing the statement of charges, with the consent of the Board of Trustees, may serve and file with the Commission and the opposing party, an amended or supplemental statement of charges. The party filing an answer to the statement of charges may, in the same manner, amend or supplement the answer, except that, in such case, the discretion of the hearing officer, or of the Commission when the Commission acts as the hearing body shall be substituted for consent of the Board. If new causes or allegations are presented, they shall be deemed denied by the opposing party in the absence of a rebuttal. That party shall be allowed a reasonable opportunity to prepare a rebuttal, and only those causes or allegations which are, in fact, contested by the rebuttal shall be at issue in the hearing.

- G. **ACTION IF APPEAL IS NOT FILED:** If the employee does not respond and request a Personnel Commission Appeal Hearing within the ten (10) working day period outlined in the Notice of Disciplinary Action, the action of the Board of Trustees shall be final and conclusive, and no further appeal rights shall be allowed.

**REFERENCE:** Education Code Sections 45260, 45261, and 45305

**18.6****HEARING PROCEDURES FOR PERSONNEL COMMISSION**

- A. **NOTIFICATION PROCEDURES AND TIMELINES:** If the employee submits an appeal notice to the Personnel Commission Office within ten (10) working days after receipt of the Notice of Appeal, the employee shall have a right to have an Appeal Hearing before the Personnel Commission. The Commission Appeal Hearing shall be scheduled within thirty (30) calendar days of receipt of the employee's appeal notice by the Personnel Commission Office unless modified by mutual consent of the parties.

The Personnel Director shall notify the District and the Personnel Commission upon receipt or lack of receipt of an appeal notice, and shall coordinate the scheduling of the Commission Appeal Hearing if a timely appeal is filed.

1. The Personnel Director shall notify the employee in writing within ten (10) working days of the timely filing of an appeal notice, of the time, date, and place of the commission Appeal Hearing before the Personnel Commission.
2. The employee must be given at least ten (10) working days from the date of personal service, delivery, or attempted delivery by the U.S. Postal Service to prepare the hearing.
3. Notification shall be served personally or by certified mail (Return Receipt Requested). This requirement will be deemed to have been met if the notification of the Commission Appeal Hearing is sent certified mail to the last known home address on file in the Personnel Commission 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:** Education Code Sections 45260 and 45261

- B. **GENERAL CONDUCT OF COMMISSION APPEAL HEARING:** The employee shall have the right to appeal the disciplinary action to the Personnel Commission and be heard in his own defense. At this full evidentiary hearing, the employee shall have the right to present all evidence and testimony on his 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 requests an open hearing in his appeal notice.

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

- C. **RIGHT TO REPRESENTATION:** The employee may, at his option, be represented by legal counsel, a union representative, or any other person designated by the employee. If the employee files an appeal, the employee shall be required to attend the Commission Appeal Hearing, even if the employee's designated representative appears on his behalf. If the employee fails to appear, the employee will be deemed to have forfeited his rights to further appeal and the Personnel Commission shall allow the Board of Trustees' disciplinary action to stand.
- D. **AUTHORITY OF COMMISSION HEARING AND DECISION:** The Personnel Commission of the District shall conduct hearings 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, take action to sustain or modify or reject the disciplinary action invoked against the employee, or it may direct such other action as it may find necessary to affect a just settlement of the appeal, pursuant to these rules and regulations. However, the Commission may not invoke more stringent discipline against the employee than that invoked by the Board of Trustees (should it sustain any or all of the Board's charges).

**REFERENCE:** Education Code Sections 45260, 45261, 45305, 45306, and 45307

- E. **APPOINTMENT OF HEARING OFFICER:** The Personnel Commission may appoint a hearing officer to conduct any hearing or investigation which the Commission itself is authorized by the Education Code and/or these rules to conduct, including disciplinary action. The 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 dispositions in civil cases in the superior court of this state. The Commission may instruct such hearing officer to present findings or recommendations. The Commission may accept, reject, or amend any of the findings or recommendations of the hearing officer. Any rejection, amendment, findings, or recommendations shall be based either on a review of the transcript of the hearing or investigation, or upon the results of such supplementary hearings or investigations as the Commission may order.

The Commission may employ professional experts, hearing officers, or other persons by contract, and may adopt and amend such rules and procedures as may be necessary to effectuate this section of the rules.

Should the Board of Trustees appoint a hearing officer to conduct its hearing or investigation prior to the Personnel Commission Hearing, the Personnel Commission may at its discretion instruct the Board of Trustees' hearing officer to present his/her findings or recommendations. The Personnel Commission may accept, reject or amend any of the findings or recommendations of the hearing officer appointed by the Board of Trustees.\*

**REFERENCE:** Education Code Sections 45260, 45261, and 45312

- F. **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 Appeal Hearing. The appeal hearing shall be held within the boundaries of the District, and in a place, which is conducive to the proper conduct of the hearing.

**REFERENCE:** Education Code Sections 45260, 45261

- G. **ALL HEARINGS 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.

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 equally shared by the parties.

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

- H. **HEARINGS CONDUCTED TO DETERMINE TRUTH:** Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Personnel Commission nor its appointed hearing officer shall be bound by technical rules of evidence. Decisions made by the Personnel Commission shall not be invalidated by any informality in any of the proceedings.

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

- I. **ORAL EVIDENCE BY OATH ONLY:** Oral evidence shall be taken only on oath or affirmation.

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

- J. **ABILITY TO EXAMINE EVIDENCE:** Each party shall have the following rights as it relates to examination of witnesses and evidence:

1. To call and examine witnesses.
2. To introduce exhibits.
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).
4. To attempt to impeach any witness regardless of which party first called the witness to testify.
5. To rebut all evidence presented by the opposing party.

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

- K. **APPELLANT MAY BE CALLED TO TESTIFY:** If the appellant does not elect to testify on his own behalf, the appellant may still be called to testify and be cross-examined just as if he had testified on his own behalf.

**REFERENCE:** Education Code Sections 45260 and 45261  
California Evidence Code Section 772

- L. **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.

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.

2. The rule 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 shall be excluded.

- M. **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:** Education Code Sections 45260, 45261, and 45306

- N. **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:** Education Code Sections 45260, 45261

- O. **RULING ON OBJECTIONS:** The Personnel Commission or its hearing officer shall rule on all objections raised by either party.

**REFERENCE:** Education Code Sections 45260, 45261

- P. **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 Commission or hearing officer shall be based upon the preponderance of evidence.

- Q. **ORDER OF PRESENTATION OF EVIDENCE:** Each side will be permitted an opening statement (Board’s representative first) and closing arguments (appellant or his representative last). The Board shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or his representative will present his witnesses and evidence in defense.

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

- R. **EXAMINATION OF WITNESSES:** Each side will be allowed to examine and cross-examine, witnesses.

The Commission or its hearing officer may, at its discretion, exclude witnesses not under examination except for the appellant, District representative, the Personnel Director, and their respective counsels or designated representatives.

- S. **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 Personnel Director shall issue the subpoenas on behalf of the Commission or its hearing officer. Subpoenas shall be delivered to the requesting party for service. Requests for subpoenas must be filed with the Personnel Commission Office at least seventy-two (72) hours prior to the date of the hearing.

- T. **LIST OF WITNESSES:** A list of witnesses to be called by each party shall be submitted to the Personnel Commission Office at least twenty-four (24) hours prior to the date of the hearing. This will allow the Personnel Commission to secure the release time of employee witnesses prior to the hearing.

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





U. **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 opinion of the 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:

1. Such evidence must be submitted by sworn affidavit of the witness. The affidavit shall be confined 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 opinion based upon the facts, which he has recited.
2. Copies of all such affidavits must be filed with the Personnel Commission 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.
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.
4. The Personnel Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

V. **DISQUALIFICATION OF HEARING OFFICER OR COMMISSIONER:** A hearing officer or Personnel Commission member shall voluntarily disqualify himself and withdraw from any appeal in which he 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, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.

If the Personnel Commission determines that there are sufficient grounds for disqualification, it may elect to disqualify the hearing officer or Personnel Commission member.

Where the disqualification request concerns a Personnel Commission member, the issue shall be determined by the other members of the Commission. However, no Commission member shall withdraw voluntarily or be subject to disqualification if his disqualification would prevent the existence of a quorum qualified to act in that particular appeal.

- W. **COUNSEL FOR THE PERSONNEL COMMISSION:** The Personnel Commission may, if it so desires, 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 and the 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 hearings 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 Commission's budget.

**REFERENCE:** Education Code Sections 45260, 45261, and 45313

## **18.7 PERSONNEL COMMISSION DECISION PROCESS**

- A. **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.

The hearing officer shall submit his written recommendations and findings of fact to the Personnel Director within twenty (20) working days following the conclusion of the hearing.

Upon receipt of the hearing officer's written recommendations and findings of fact, the Personnel Director shall contact the Chairperson of the Personnel Commission to schedule a meeting of the Commission to consider the findings and recommendations of the hearing officer.

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

- B. **DELIBERATION OF PERSONNEL COMMISSION:** Whether the hearing before the Personnel Commission is held in open or closed session, the Commission, after it concludes the hearing, shall deliberate its decision(s) in closed session. No persons other than members of the Personnel Commission, its legal counsel, and the Personnel Director, shall be permitted to participate in the deliberations. If the Personnel Director was the administrator initiating the disciplinary action, or if the Director served as a witness in the proceedings, the Personnel Director shall also be excluded from the Commissions' deliberations.

**REFERENCE:** Education Code Sections 45260, 45261, 45266, and 45305

C. **DECISION OF PERSONNEL COMMISSION:** The personnel Commission shall render its judgment as soon after the conclusion of the hearing as possible, but no later than twenty (20) working days following the conclusion of the hearing. The decision(s) of the Commission shall be in writing and shall set forth the following:

1. The 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.
2. If the disciplinary action is not sustained, the Commission's order shall set forth the effective date that the employee is to be restored or reinstated to his 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.
3. Copies of the Commission's decision(s) shall be delivered to the parties personally or transmitted to them by certified mail (Return Receipt Requested). The requirement 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 Personnel Commission 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 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.

D. **BOARD SHALL COMPLY WITH COMMISSION DECISION:** Upon receipt of the Commission's written decision the Board of Trustees shall forthwith comply with the provisions thereof. When the Board of Trustees has fully complied with the Commission's decision, it shall so notify the Commission in writing.

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 insure compliance.

**REFERENCE:** Education Code Sections 45260, 45261, and 45307

E. **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 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:

1. Compensation of the employee for all or part of the legitimate expenses incurred in pursuit of the appeal. If such a finding is made, the expenses ordered paid by the Commission shall be a legitimate and legal draw upon the general funds of the District and the Board of Trustees.
2. The granting of seniority credit for any or all of the off-duty time pending restoration or reinstatement.
3. Transfer or other change of the employee's work location.
4. Expunction from the employee's personnel file and record of any and all causes, charges that are not sustained by the Commission, and/or disciplinary actions.

**REFERENCE:** Education Code Sections 45260, 45261, and 45307

F. **OBTAINING COPIES OF THE HEARING TRANSCRIPT:** The employee or his designated representative and the Board of Trustees or its designated representative may obtain a copy of the transcript under the following conditions:

1. The cost of the transcript and copies shall be born by the party making the request.
2. Requests for copies shall be in writing and a cash deposit made in an amount determined by the Personnel Director prior to preparation, which shall not be less than the estimated cost of transcribing the hearing record.
3. The final cost of the transcript shall be the actual cost of preparation plus the cost of making copies as determined by the Personnel Director.
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:** Education Code Sections 45260 and 45261

CHAPTER 18 (18.5 TO 18.7) - APPROVED BY THE PERSONNEL COMMISSION 10/14/93

CHAPTER 18 (18.2 TO 18.4) - APPROVED BY THE PERSONNEL COMMISSION 09/29/94