



**CONEJO VALLEY UNIFIED  
SCHOOL DISTRICT**

**PERSONNEL COMMISSION**

**MERIT SYSTEM RULES**

**FOR THE**

**CLASSIFIED SERVICE**

*Adopted 7/10/84*

**MERIT SYSTEM RULES**  
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## ARTICLE I PREAMBLE

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In 1974, the Board of Education of the Conejo Valley Unified School District, adopted the Merit System as set forth in California Education Code, Chapter 5, Part 25, Division 3, commencing with section 45260, to govern classified personnel employment. The adoption of the Merit System necessitates the establishment of the Personnel Commission, as the mainstay of the Merit System, to adopt and enforce the rules and regulations that shall govern classified service employment in adherence with the Education Code provisions set forth in the Merit System Article. The rules and regulations adopted by the Personnel Commission shall be binding upon the classified service and the Governing Board.

The Personnel Commission Rules and Regulations established herein, provide regulatory guidance on matters falling within the jurisdiction of a Personnel Commission as indicated within the California Education Code. Information contained within this document was compiled and prepared to assist in the governance of classified personnel within the District in the effort to provide the best possible educational program for students and the best possible working environment for classified support staff in fulfillment of this effort.

The following are key jurisdictional areas of the Personnel Commission relative to administration of classified employee management:

- Administration of recruitment and selection processes and procedures for filling positions in classified service;
- Administration of a comprehensive classification and compensation plan, including establishing of job classes within classified services, allocation of positions to job classes (classification of new and reclassification of existing positions), and recommendation for salary allocation on salary schedules;
- Administration of disciplinary appeal hearings, examinations appeal, or any evidentiary hearings pertinent to administration of Personnel Commission rules and procedures;
- Administration of general rules and procedures pertinent to classified service transactions, including transfers, leaves and discipline;
- Administration of Personnel Commission budget; and
- Selection, appointment, and supervision of Personnel Commission Director, and staff.

The Commission shall strive to uphold the following tenets of the Merit System through its rules and regulations:

- Hiring and promoting employees on the basis of ability, with open competition in initial employment.
- Assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex or religious creed and with proper regard for their privacy and Constitutional rights as citizens.
- Providing equal pay for equal work and reward excellent performance.
- Maintaining high standards of integrity, conduct, and concern for the public interest.
- Managing employees efficiently and effectively.
- Retaining or separating employees on the basis of their performance.
- Educating and training employees if it will result in better organizational or individual performance.
- Protecting employees from improper political influence.
- Protecting employees against reprisal for the lawful disclosure of information in "whistleblower" situations.

*Article I Amended 1/13/16*

**ARTICLE II**  
**RULE MAKING AUTHORITY AND DEFINITIONS**

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**2.1 STATUTORY AUTHORITY OF RULES**

The Rules and Regulations contained herein are established pursuant to the authority of the Personnel Commission as granted under the California Education Code, Chapter 5, Part 25, Division 3, commencing with section 45260

2.1.1 The Rules and Regulations shall not apply to bargaining unit members if the subject matter is within the scope of representation between the Board of Education and the exclusive bargaining representative as defined by California Government Code Section 3543.2, and is included in a written negotiated collective bargaining agreement between the Board and the unit.

2.1.2 The Rules shall be binding upon the Board of Education, but shall not restrict the authority of the Board herein and pursuant to other sections of the Education Code.

2.2.3 The Commission may initiate investigations, require production of records pertinent to the scope of investigation, hold hearings, and issue subpoenas in an effort to determine and enforce compliance with the provisions of the rules provided herein.

REFERENCE: Education Code Sections 45241 and 45260  
Government Code Section 3543.2

**2.2 SUBJECT OF RULES**

The Rules shall provide for the procedures to be followed as they pertain to classified service regarding such matters as applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without compensation, 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 Section 45260

**2.3 INTERPRETATION AND APPLICATION OF RULES**

The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These Rules are to be interpreted and 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 Personnel Director, subject to appeal to the Personnel Commission. The Commission shall consider responsible comment to amend rules which prove to be in need of clarification. However, unless otherwise provided in accordance with the law, no rule amendment or new rule shall have retroactive application.

REFERENCE: Education Code Section 45260

**2.4 ESTABLISHMENT, AMENDMENT, AND ABOLISHMENT OF RULES**

All proposals, from any source to establish, amend, or abolish these rules in whole or in part, shall be placed on the Order of Business for action by the Personnel Commission.



2.4.1 No rule or amendment shall be adopted by the Commission without the exclusive bargaining representative and the Board or its designee having been given at least fourteen (14) calendar days to review and comment on the impact of the proposed change. The scheduling of the 1<sup>st</sup> reading shall constitute as notice, so long as the 2<sup>nd</sup> reading and adoption shall not occur earlier than fourteen calendar days apart.

2.4.2 Insofar as possible, interested parties shall submit their reactions to proposals in writing to the director on or before the stipulated agenda deadline date for transmittal to the commission. Such parties shall also have the right to make presentations orally before the commission at the appropriate commission meeting.

2.4.3 No rule amendment or new rule shall have a retroactive date of effect and application.

REFERENCE: Education Code Section 45260

## **2.5 GENERIC TERMINOLOGY**

As used in these rules, the masculine gender includes the feminine gender. Singular terms shall be construed to include the plural, and the plural terms, shall be construed to include the singular.

REFERENCE: Education Code Sections 73-74, 45260

## **2.6 SEVERABILITY OF RULES (JUDICIAL REVIEW)**

If a judicial review or a change in law causes any portion of these rules or application thereof to become invalid or unenforceable, such finding or amendment shall not affect the validity or the enforceability of the other rules and regulations.

REFERENCE: Education Code Section 45260

## **2.7 DISTRIBUTION OF RULES AND REGULATIONS**

A copy of the Rules shall be accessible electronically to the Personnel Commissioners, the Board of Education members, the District's certificated and classified administrators and supervisors, exclusive representative(s) of the classified employees and classified employees.

2.7.1 If one of the parties listed in 1.7 is unable to electronically retrieve a copy of the Rules, the said party will make a request to the Director for a printed copy to be provided upon request.

2.7.2 A copy of Article 6 of Chapter 5 of Part 25 of the California Education Code (commencing with Section 45240) shall also be available for distribution as noted in Section 1.7 and 1.7.2 above.

REFERENCE: Education Code Section 45260

## **2.8 VIOLATIONS OF PERSONNEL COMMISSION RULES AND REGULATIONS**

Any person who willfully or through culpable negligence violates any of the provisions of the Education Code Article 6 is guilty of a misdemeanor. Such acts include the following:

2.8.1 Willfully, independently, or in cooperation with another person, defeat, deceive, or obstruct any person with respect to his/her right of examination, application, or employment under this article or Commission rule.

2.8.2 Willfully and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under this article or Commission rule, or to aid in so doing, or make any false representation concerning the same or the person examined.

2.8.3 Willfully furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under this article or Commission rule.

REFERENCE: Education Code Section 45317

## 2.9 DEFINITIONS OF TERMS

Unless otherwise required by context and/or prevailing law, words used in these rules and regulations are understood to have the following meanings:

**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.

**ADMINISTRATIVE CLASS:** A job class whereby the incumbents assigned to it are exempt from overtime provisions based on State and federal law.

**ADMINISTRATIVE LEAVE:** An enforced absence of an employee with pay pending the outcome of an investigation of charges that have been filed against the employee.

**ADVANCE STEP PLACEMENT:** An authorized rate of pay upon job entry that is higher than the initial step of the schedule for the job class.

**ALLOCATE OR ALLOCATION:** The official placing of a position in a given job class assigned to a particular range on the salary schedule.

**ANNIVERSARY DATE:** The day on which an employee completes the prescribed amount of service with the District, based on initial hire date into a regular classified or certificated services, adjusted for breaks in service, for purposes of earning longevity pay increments, or advancement on the salary schedule for management, supervisory and confidential employees; synonymous with "Hire Date" when an employee has not had a break in service in the course of his/her employment.

**APPEAL:** A protest by an employee relative to an actual or potentially detrimental administrative action.

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

**APPOINTING AUTHORITY OR POWER:** The Board of Education or its designees, or the Personnel Commission or its designee, 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, subject to official approval by the Governing Board.

**ARMED FORCES:** For the purpose of military leave of absence, the United States Air Force, Army, Navy, Marine Corps, Coast Guard, Revenue Marine Service, Army Nurse Corps, and Navy Nurse Corps. For the purpose of veteran's credit in an open examination, the United States Air Force, Army, Navy, Marine Corps, and Coast Guard.

**ASSIGNMENT:** Placement of an appointee in a funded position.

**ASSIGNMENT BASIS:** The number of working days in a year and work hours per day for which employment is authorized for a specific position.

**BEREAVEMENT LEAVE:** A paid leave of absence granted to an employee upon the death of a member of his/her immediate family member or any relative residing in his/her household.

**BOARD OF EDUCATION or BOARD:** The governing body of the Conejo Valley Unified School District, comprised of five (5) elected representatives.

**BREAK IN SERVICE:** Interruption of an individual's employment relationship with the District.

**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 competitive selection process.

**CAUSE:** The grounds for discipline identified within these Rules as being subject to disciplinary action or offenses enumerated in the law.

**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 Personnel Director, of candidates from an appropriate eligibility list, approved or ratified 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.

**CHANGE IN LOCATION:** The reassignment of an employee from one position to another position in the same class, but in a different administrative unit.

**CHANGE OF SERVICE ASSIGNMENT:** An employee's change from the certificated to the classified service of the District, or vice versa.

**CLASS or JOB CLASS:** A group of positions with similar duties and responsibilities, to which the same title, entrance qualifications, and tests of fitness apply.

**CLASS SPECIFICATION (Sometimes referred to as a "Class or Job Description"):** A written statement of duties and responsibilities of the position(s) in the class; illustrated by examples of typical tasks, job competencies, skills and abilities, and qualification requirements for employment in the class, as adopted by the Personnel Commission.

**CLASS TITLE:** A descriptive title prescribed to a class, which best captures the duties assigned to the class.

**CLASSIFICATION:** An act by the Personnel Commission to classify the duties of position(s) to a certain new or existing class within classified services.

**CLASSIFIED SERVICE:** All employees and positions within the jurisdiction of the Board of Education or of the Personnel Commission, except those exempt from classified service pursuant to California Education Code Section 45256(b).

**COMMISSION:** Synonymous with Personnel Commission.

**CONFIDENTIAL EMPLOYEE OR POSITION:** A designation assigned to a position and the employee that occupies it, who, in the course of his/her duties, has access to, or possesses

information relating to the employer's collective bargaining matters which, if divulged, could adversely affect the interest of the district. Employees designated as "confidential" are precluded from participating in or belonging to any organization which represents classified employees per the Government Code.

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

**DAY:** The period of time between any midnight and the midnight following.

**DEMOTION:** A change in assignment of an employee from a position in one class to a position in another class which is allocated to a lower maximum salary rate. A demotion may be voluntary, or for reasonable cause designated by rule of the Personnel Commission as detrimental to the efficiency of the service, or for any other good and sufficient cause.

**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 Conejo Valley Unified School District.

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

**DUTIES STATEMENT:** A listing of the specific duties assigned to an individual position. It is sometimes referred to as a "position description," which is based on the class specification, but individualized to the specific position(s) in class.

**ELIGIBILITY LIST:** A rank ordered 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.

**EMPLOYMENT LIST (sometimes known as "Certification 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 reemployed 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.

**EXCLUSIVE REPRESENTATIVE:** The labor organization certified or recognized by Public Employee Relations Board, as the sole representative of the approved unit of employees.

**EXECUTIVE SECRETARY:** A position approved by the Personnel Commission and exempt from specific provisions of these Rules in accordance with Education Code Section 45272.

**EXEMPT CLASSIFIED SERVICE:** Refers to those positions and employees exempt from the regular classified service as provided in Education Code Sections 45256b, 45257 and 45258.

**FIELD OF COMPETITION:** Those categories of persons (either from within or outside of the District) that have been authorized by the Personnel Commission or its designated representative 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 the normally assigned time of the majority of employees in the classified service of the District.

**GOVERNING BOARD:** The Board of Education of the Conejo Valley Unified School District (see "Board of Education" and/or "Appointing Authority or Power").

**GRIEVANCE:** An employee complaint alleging violation of a written rule or policy agreed to between the District and the employee's exclusive bargaining representative, not including appeals of disciplinary actions or 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.

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

**HEARING OFFICER:** A person employed by the Personnel Commission to hear and make recommendations on appeal within matters of commission authority.

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

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

**ILLNESS LEAVE:** Paid or unpaid leave given to an employee because of personal illness or injury.

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

**INDUSTRIAL ACCIDENT OR INDUSTRIAL ILLNESS LEAVE:** Absence because of injury or illness which arose out of and in the course of employment with the District.

**INTERVIEW:** Part of the selection process, usually the final portion of an examination, for the purpose of evaluating the education, experience, and personal qualifications of the candidate(s); also known as an "oral interview." This term also applies to a meeting between an eligible and the

appointing power, or its designated representative, to discuss appointment to a specific position vacancy within the District.

**INVESTIGATION:** A fact-finding procedure related to an appeal or complaint.

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

**JOB AUDIT OR JOB ANALYSIS:** A personnel job evaluation technique by which a designee of the Personnel Commission uses various combinations of job evaluation questionnaires, personal interviews or direct observations of work, to collect data on the duties, tasks and responsibilities of a position.

**JOB FAMILY:** A series of progressively higher, or related job classes distinguished by levels of knowledge, skills, and abilities (competencies) and other factors.

**LATERAL TRANSFER:** The transfer of an employee to a position in a similar or related class with the same salary range.

**LAYOFF:** Separation from, or a reduction in assignment of, a permanent position because of lack of work or lack of funds, or because the position has been abolished or reclassified, or because an employee has exhausted all leave privileges after illness or injury.

**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 for the authorized absence of a permanent employee.

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

**LONGEVITY PAY:** An additional compensation amount paid to permanent classified employees on the basis of length of service with the district.

**LOYALTY OATH:** A statement required of each new employee vowing or affirming support of the United States and California Constitutions, required by State law and Board rule.

**MERGED LIST (of the eligibility lists):** The act of combining two 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 system in which in which initial regular employment and promotion are based upon competition in examinations.

**MULTIPLE ASSIGNMENT:** Service of one incumbent in both a limited-term classified or exempt assignment, in addition to a regular classified assignment.

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

**OPEN EXAMINATION:** An examination which is not restricted to persons who are current permanent employees of the district.

**OVERTIME:** Authorized time worked by an employee in excess of 8 hours in a day or 40 hours a calendar week.

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

**PERFORMANCE EVALUATION:** An official form adopted by the District for the purpose of formally evaluating the work product and conduct of an employee, including any supplemental documents or materials.

**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 as executive, administrative, or supervisory; a person who is legally an incumbent of a position, or one who is on an authorized leave of absence.

**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 to be used by probationary or permanent employees for a limited duration which may be taken in cases of personal necessity, as specified in California Education Code Section 45207, and in accordance with Education Code Section 45191, 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 eight (8) days per school year or as otherwise negotiated and stated in the collective bargaining agreement.

**PERSONNEL COMMISSION:** (Also referred to as "Commission"): A three member committee established pursuant to the requirements of "The Act," to establish rules and regulations to govern the classified service of the school district, and to oversee the actions of the school board and/or administration in carrying out the requirements of "The Act" and the Rules and Regulations of the Commission.

**PERSONNEL DIRECTOR:** (Also referred to as "Director, Classified Personnel".) A position established pursuant to the provisions of Education Code Sections 45240 and 45264, as a representative appointed by the Personnel Commission to administer the Merit System and the Rules and Regulations established by the Personnel Commission.

**PERSONNEL COMMISSION STAFF:** Those persons appointed 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.

**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 and thirty (130) days, or two hundred sixty (260) days for executive, administrative, and supervisory employees, of paid service (excluding days absent while on leave) following appointment from an appropriate eligibility list.

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

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

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

**PROVISIONAL APPOINTMENT:** A temporary appointment of a person to a permanent or limited-term position which is made in the absence of an appropriate eligibility list for a period of time not to exceed ninety (90) consecutive days or 126 working days in any one fiscal year except when no one is available on an appropriate eligibility list for a part-time position.

**PROVISIONAL EMPLOYEE:** A person employed under a provisional appointment.

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

**RECLASSIFY OR RECLASSIFICATION:** The reassignment of a position, whether filled or vacant from one class to another, whether new or existing, because of significant change in class title, minimum qualifications, duties or responsibilities.

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

**REEMPLOYMENT LIST:** A list of names, in rank order of seniority, of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, abolishment or reclassification of positions, exhaustion of illness or accident leave privileges, or other reasons specified in the Rules and Regulations of the Personnel Commission, and who are eligible for reemployment without examination in their former class or classes within a period of thirty-nine (39) months following the 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:** An employee who holds either probationary or permanent employment status in a regular classified position with 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 39 months after his/her last day of paid service and without further competitive examination, to a position in the person's former classification as a permanent or limited-term employee, or as a permanent or



limited-term employee in a related lower class or a lower class in which the employee formerly had permanent status. Reappointment of a person as a permanent employee requires the District to restore all rights, benefits and burdens of a permanent employee in the class to which he/she is reappointed. Also, refers to a return to work after appeal from disciplinary action when so ordered by the Personnel Commission.

**RESIGNATION:** Submission of a voluntary statement in writing or on an official employment separation form requesting to end employment with the District.

**RESPONSIBILITY DIFFERENTIAL:** A wage or salary differential paid to incumbents of some positions in a class based upon variations in responsibility measurable by a quantitative criterion.

**RESTORATION:** The reinstatement or reemployment of an employee with all of the rights, benefits, and burdens held prior to the break in service.

**RIGHT:** A benefit which is bestowed 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 in making a selection from an eligibility list. 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 RANGE:** A series of consecutive salary steps that compromise the rates of pay for a class. A salary range usually consists of five (5) steps.

**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 established by the Commission for the classified service.

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

**SALARY 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 until the maximum step has been achieved.

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

**SELECTIVE CERTIFICATION:** The submission of names in the top three ranks that are eligible for hire provided they possess one or more of the following requirements determined to be necessary for successful performance of a position; the ability to speak, read, or write a non-English language; a specific gender that is a bona fide occupational qualification; a valid driver's license; or other specialized licenses, certifications, knowledge, or ability that cannot reasonably be acquired during the probationary period.

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

**SENIORITY:** Status secured by length of service in a classification for determining the order of layoff when positions within a classification are eliminated.

**SEPARATION:** The ending of all status as an employee with the District including resignation, dismissal, layoff, or retirement.

**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.

**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.

**TASK:** The smallest unit of work assigned to an employee.

**TEMPORARY EMPLOYEE:** See also Limited-Term Employee. An employee hired into a position assignment that does not lead to acquiring permanent status in a regular position.

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

**UNCLASSIFIED SERVICE:** All positions which (by law) are not a part of either the classified service or the certificated service of the District.

**UNSATISFACTORY SERVICE:** The performance of assigned duties and responsibilities in inadequate manner or in a manner that is considered detrimental to the good of the service, or conduct off duty with a nexus of being detrimental to the good of the service to the District.

**VETERAN:** Any person who has served 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, proof of which shall be submitted to the Commission at the time of the examination.

**VETERANS' CREDIT:** Five or ten additional points added to the final passing score of an open examination of persons designated as United States veterans for service in the armed forces during time of war or a national emergency as declared by the President of the United States and discharged or released under conditions other than dishonorable; official military service documentation must be submitted

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

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

**Y-RATE:** A frozen salary rate above the established range for a class.

*Article II Amended 1/13/16*

**ARTICLE III:  
PERSONNEL COMMISSION**

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**3.1 ORGANIZATION OF THE COMMISSION**

3.1.1 **COMPOSITION OF THE PERSONNEL COMMISSION:** The Personnel Commission shall be comprised of a body of three (3) persons, as follows:

- A. One member appointed by the governing board of the district.
- B. One member appointed by the classified employees of the district; as used in this section, "classified employees" shall mean an organization of classified employees which represents the greatest number of classified employees of the district as determined by the board exercising its authority under Section 7110 of the Education Code. If there is no such organization existing within the district the board shall, by written rule, prescribe the method by which the recommendation is to be made by its classified employees.
- C. One member appointed by the appointees of the governing board and the classified employees.

3.1.2 **QUALIFICATIONS FOR MEMBERSHIP:** Members of the Commission shall be registered voters, territorial boundaries of the Conejo Valley Unified School District, and shall be "known adherents of the principle of the merit system." For purposes of this Rule the following definitions shall apply:

- A. "Known adherents to the principle of the merit system," with respect to a candidate for new appointment, shall mean a person who by 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.
- B. With respect to a candidate for reappointment, "known adherent of the merit system" 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.
- C. No member of the governing board of any school district or county board of education shall be eligible for appointment, reappointment, or continuance as a member of the Commission nor shall a Commissioner be an employee of the District during his or her terms of service.

3.1.3 **APPOINTMENT 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-year term. The notification will also provide the name of the appointing authority, and the procedures to be followed in filling the upcoming vacancy.

3.1.3.1 **Board of Education appointee:** The governing board shall publicly announce the name of the person it intends to appoint or reappoint, if the vacancy is its appointee, by September 30, if a vacancy should exist on December 1.

- A. At a board meeting to be held after 30 days and within 45 days of the date the Board publicly announced its candidate, the Board shall hold a public

hearing provide the public and employees and employee organizations the opportunity to express their views on the qualifications of those person recommended by the Board for appointment.

- B. Following the public hearing, the Board may appoint its initial nominee or may make a substitute appointment or recommendation without further notification or public hearing.

3.1.3.2 CLASSIFIED EMPLOYEES' APPOINTEE: By September 20th, 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.

- A. The name of the classified employees' intended appointment must be submitted to the Board of Education for approval at a Board meeting held on or before the 30th of September (of the year in which the classified employees' appointment is to be made), or 30 days before the date on which the vacancy shall occur, whichever is greater notice.
- B. The Board of Education shall appoint the classified employees' nominee unless the classified employees voluntarily withdraw their original nominee and submit the name of a new nominee. In the latter case, the Board of Education shall approve the appointment of the new nominee.
- C. In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization representing the largest number of the District's classified staff on September 1st of the year in which the classified employee's appointment is to be made, shall be authorized to submit the recommended appointment to the Board of Education for action as required by law and these rules and regulations.
- D. In the event that a vacancy is created on the Personnel Commission because of the classified employees' failure to submit a recommendation, the Board of Education, upon the recommendation of the Personnel Director, may make an emergency appointment to insure the continuance of the functions of the Personnel Commission. The interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee and in no event shall be valid for more than sixty (60) days.

3.1.3.3 COMMISSIONERS' JOINT APPOINTEE: By September 30th, the appointee of the Board of Education and the appointee of the classified employees (or the appointee of the Executive Officer of the State Personnel Board if that is the situation) shall publicly announce the name of the person they intend to appoint or reappoint. At a Personnel Commission meeting to be held after 30 and within 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.

- 3.1.4 TERM(S) OF OFFICE: The term of each Commissioner is three years and expires at noon, December 1, upon completion of the third year. Appointments shall be made in such a way as to assure that the term of one Commissioner expires each year.
- 3.1.5 ELECTION OF OFFICERS
- A. The officers of the Personnel Commission shall be designated as Chair and Vice Chair.
  - B. At its first meeting in December of each year, the Personnel Commission shall elect one of its members to serve as Chair for a period of one year. A Chair may serve more than one term.
  - C. At the same time and in the same manner, the Personnel Commission shall elect one of its members to serve as Vice-Chair.
  - D. The Chair shall be the presiding officer at all regular and special meetings of the Commission. In the event of the absence of the Chair, the Vice-Chair shall preside.
- 3.1.6 EMERGENCY APPOINTMENT OF COMMISSIONERS: In the event of a vacancy on the commission, the board at the request of the director shall declare that an emergency exists and shall make an interim appointment to fill a vacancy to insure the continuance of the functions of the commission.
- A. Appointment to vacancies occurring subsequent to the initial appointment shall be made by the original appointing authority, either for a new full term or to fill an unexpired term.
  - B. If there is no personnel director, the board may, nevertheless, make an emergency interim appointment.
  - C. An interim appointee must meet the requirements of Education Code Section 45244 and be free of the restrictions contained therein and the appointment shall be valid for not more than 60 days.
  - D. An interim appointment shall terminate immediately on the date the notification of permanent appointment is received by the appointee. Notification shall be made upon selection of the appointing authority of a new appointee.

REFERENCES: Education Code Sections 45244, 45248, 45260 and 45261

- 3.1.7 EVENTS CAUSING VACANCY OR INVOLUNTARY REMOVAL 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 Personnel Director 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 before the expiration of the prescribed term in case of any of the following events:
- A. The death of the Commissioner
  - B. 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.

- C. The Commissioner's resignation.
- D. The Commissioner's removal from office by a court of competent jurisdiction.
- E. The Commissioner's ceasing to meet all the legal requirements to continue to be a Commissioner as outlined in Rule 2.1.2.
- F. The Commissioner's ceasing to discharge the duties of the office for a period of three consecutive months, except when prevented by sickness.
- G. The Commissioner's unexcused absence exceeding four (4) total regular meetings in a fiscal year.
- H. 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. For the purposes of this section, "trial court judgment" means a judgment by the trial court either sentencing the commissioner or otherwise upholding and implementing the plea, including nolo contendere, verdict or finding.
- I. The decision of a competent tribunal declaring void the Commissioner's appointment.
- J. The Commissioner's commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, or inebriate. In this event, the office shall not be deemed vacant until the order of commitment has become final.

REFERENCES: Government Code Sections 1060 et seq., 1750, 1770, 2000, 2001, 2100, 2752  
 Penal Code Sections 1026, 1268 et seq.

3.1.8 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 may only declare a position vacant pursuant to rule 3.1.7 and only by majority vote of the Commission.

- A. 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.
- B. 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.
- C. The Commission shall solicit input from the Superintendent and the employee organization(s), if any, prior to the final vote. Only a majority vote by the Commission will effect a valid vacancy.
- D. If the majority of the Commissioners vote to declare a seat vacant, the Commission shall direct the Director, Classified Personnel to so inform the removed Commissioner in writing. The Personnel Director shall initiate the necessary legal steps to fill the vacancy as mandated by the Education Code and by these rules and regulations.

REFERENCES: Government Code Sections 1060 et seq., 1750, 1770, 2000, 2001, 2100, 2752  
 Penal Code Sections 1026, 1268 et seq.  
 Welfare and Institutions Code Sections 5008, 6200 et seq.  
 Education Code Sections 45244, 45245, 45246, and 45247

3.1.9 COMMISSIONERS' CODE OF PROFESSIONAL CONDUCT: All personnel commissioners shall be provided an opportunity to affirm and accept the Commissioners' Code of Professional Conduct.

- A. In the Order of Business of the meeting in which a new commissioner is sworn-in (usually the December meeting), the personnel director shall place on the agenda a recommendation that the Commission accept the Resolution of the Personnel Commissioners Code of Professional Conduct (Resolution). The Commission Chair will ask for a motion that the Resolution be accepted. If seconded, the new commission member will be given the opportunity to sign a copy of the Resolution.
- B. The signed Resolution shall be made a part of the personnel commissioner's individual service file maintained by the Commission Recording Secretary. If the Resolution is not signed by a dissenting commissioner, the unsigned Resolution shall be made part of the commissioner's service file and annotated as "unsigned." The dissenting commissioner may attach written comments.
- C. Resolution of the Personnel Commissioners' Code of Professional Conduct

Whereas, the Personnel Commission shall base all actions and decisions on merit, fairness and efficiency regardless of outside influence, and

Whereas, Commissioners shall publicly champion and vocally encourage others to embrace the principles of merit in all decisions and actions related to Classified Employment, and

Whereas, Commissioners shall act and vote independently and objectively regardless of their source of appointment, and

Whereas, the Commission is to provide counsel and direction to their Director at the policy level rather than become involved in the day-to-day operations of the staff, and

Whereas, Commissioners understand and recognize that the power and decision-making authority over the Personnel Commission and its staff or over actions that impact the Classified Service lies only with the full Commission and not with an individual opinion or one Commissioner, and

Whereas, Commission members are expected to attend and participate in all Commission meetings and become fully informed of the issues being considered at those meetings, and

Whereas, Commission members who receive expressions of concern regarding issues that impact the Classified Service should share that information with the entire Commission, and

Whereas, Commissioners welcome individuals to privately contact them about specific Commission issues, they will also encourage them to address the Director, and the full Commission, and

Whereas, Commission members should avail themselves of opportunities to inform and educate themselves about current Human Resources practices and

employment law by individual study and/or through participation in programs providing related information, and

Whereas, the Commission shall encourage regular and impartial performance evaluations of all Classified employees, and

Whereas, the Commission shall encourage training programs for all Classified employees, and

Whereas, the Commission shall ensure a continuous review of positions in the Classified Service and recognize that classification designations are based on assigned duties not attributes of individual incumbents, and

Whereas, Commissioners shall not publicly engage in personal attacks on Commission staff or attempt to discipline any employee other than the Director of their staff, and

Whereas, Commission members shall recognize that the Chair of the Commission is the official voice of the Personnel Commission and that members have the responsibility when meeting privately with others to differentiate their views from those of the Commission as a whole, and

Whereas, Commissioners shall respect the confidentiality of all privileged information, including that discussed in closed session, and

Whereas, Commissioners shall comply with the accepted Rules of Order and the Brown Act in the conduct of their meetings, and shall enforce the accepted Rules of Order for attendees at their meetings, and

Whereas, Commissioners shall support and ensure that all candidates for classified employment are provided with equal employment opportunity and that selection procedures are based on merit and fitness, and

Whereas, the Commission shall recognize the value of diversity in the workplace and encourage recruitment outreach to members of underrepresented groups, and

Whereas, the Commission shall adjudicate disciplinary and examination appeals on the basis of relevant substantial evidence and not on personal, prejudicial, or extraneous information, feelings, or beliefs, and

Whereas, the Commission shall abide by related provisions of the California State Education Code and federal, state and local legislation and regulations;

Therefore, be it resolved that Personnel Commissioners, agree to and support this Code of Conduct.

## **3.2 COMMISSION EMPLOYEES**

3.2.1 STATUS OF COMMISSION EMPLOYEES: The Commission shall select, appoint and supervise the persons hired into positions allocated in its annual budget and performing the day-to-day responsibilities and functions of the Personnel Commission. The persons so employed shall be appointed from eligibility lists established pursuant to Commission rules pertaining to filling vacancies in regular classified service, be a part of the District's classified service and subject to all of the rules, procedures, rights, benefits and burdens



pertinent to the classified service, including representation by the appropriate exclusive representative, if any, except as the Commission may specifically direct.

### 3.2.2 GENERAL DUTIES OF THE COMMISSION'S DIRECTOR

- A. The Director, Classified Personnel shall perform all of the functions imposed upon this position by law and these rules and regulations, and as further prescribed by the Personnel Commission. He/she shall act as Secretary to the Personnel Commission, and shall issue and receive all notifications on its behalf. He/she 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.
- B. By mutual interest and agreement between the Board and its Superintendent and the Commission, the Director, Classified Personnel shall also perform all Board related functions of administering the classified personnel management program, and shall serve as the advisor to the Superintendent and the Board of Education on classified personnel matters.
- C. The Director will abstain from advising the Personnel Commission in its deliberation of disciplinary hearing appeals, or any related Commission investigation, if the Director is a party to investigation or disciplinary charges brought against an employee of the District.
- D. The Director will administer these Rules and Regulations, and resolve application of rules, where two or more of these rules or regulations appear to be in conflict with each other or contrary to enacted State or federal law, or when there is no specific rule to guide resolution of an employment matter. The decision of the Director shall be subject to appeal to the Personnel Commission.

REFERENCES: Education Code Sections 45260 - 45261, 45266, and 45212

### 3.3 ANNUAL BUDGET OF THE COMMISSION

3.3.1 COMMISSION BUDGET - The Commission's Director (Director, Classified Personnel) shall prepare and submit to the Commission a proposed annual operating budget for the next ensuing fiscal year in accord with established timelines and statutory provisions of the Education Code.

- A. The budget shall be prepared for a public hearing by the Commission to be held not later than May 30th of each year.
- B. Prior to the public hearing on its budget, the Personnel Commission, or its staff on its behalf, 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 of the ensuing fiscal year. The Commission shall fully consider the views of the Board prior to adoption of its proposed budget.
- C. Following its adoption of a budget for the ensuing year, the Commission shall then forward its adopted budget to the Ventura County Superintendent of Schools for action.
- D. In the event that the Personnel Commission adopts a budget not in accord with financial parameters stipulated by the Board or its Superintendent, it is incumbent upon both parties to address their positions and objections to the Ventura County Superintendent of Schools.

- E. The Commission's budget final approval is subject to review and approval by the Ventura County Superintendent of Schools. Budget adoption may be subject to a Public Hearing held by the County.

### **3.4 MISCELLANEOUS PROVISIONS**

- 3.4.1 **COMPENSATION OF COMMISSION MEMBERS:** The members of the Personnel Commission shall receive compensation at a rate of fifty dollars (\$50) per meeting; not to exceed two-hundred fifty dollars (\$250) per month. The members of the Commission have also been approved (by the Board of Education) to participate in the district-paid health, life, dental and eye-care programs.
- 3.4.2 **ANNUAL REPORT:** The Commission's Director 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. The report shall be prepared for Commission approval as soon as possible after the close of each fiscal year, but no later than the Commission's regular scheduled meeting in November. The report shall cover the Personnel Commission's activities for the preceding fiscal year.
- 3.4.3 **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 counsel does not respond to a written request by the Commission for aid or representation within fifteen (15) working days of receipt of a written request, the counsel is deemed to have refused to assist or represent the Commission in that matter. If legal counsel knows, or has reason to know, that at the time the request is made, a conflict of interest may exist between the interests of the Commission and the interest of the Board, legal counsel may not represent the Commission. In such circumstances, the Commission may employ its own legal counsel and the reasonable cost therefore shall constitute a legal charge against the District's general funds (whether or not the money-costs for such legal services appear in the Commission's budget).

REFERENCES: Education Code Sections 45252, 45260, 45266, 45212

*Article III Amended 2/17/16*

**ARTICLE IV**  
**MEETINGS OF THE COMMISSION**

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**4.1 MEETINGS OF THE COMMISSION**

4.1.1 **RULES OF ORDER:** The Commission meetings shall be conducted in accord with the provisions of the Ralph M. Brown Act, pursuant to California Government Code Sections 54950, and discussion and decision making process shall abide by parliamentary procedures as defined in Robert's Rules of Order.

4.1.2 **MEETINGS OPEN TO THE PUBLIC:** All regular and special meetings of the Commission shall be open to the public, and all persons shall be permitted to attend the procession of the meeting with the exception of times when the Commission adjourns into closed session per Rule 3.2.5. This rule shall not be construed as authorizing employees to be absent from duty for attendance at Personnel Commission meetings, unless they have specific business before the Commission.

4.1.2.1 **REGULAR MEETINGS:** Subject to cancellation or proper change, the Commission shall set its annual calendar for each fiscal year, establishing time and location of the meetings. Whenever the regularly scheduled meeting date happens to fall on a holiday, the Commission shall take action (at a prior regular meeting) to designate some other day for its meeting.

4.1.2.2 **ADJOURNED REGULAR MEETINGS:** The Commission may adjourn any regular, or previously adjourned meeting to a time and place specified in the order of adjournment. A notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned, the reconvened meeting is a regular meeting for all intents and purposes. When an order of adjournment of any 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.

4.1.2.3 **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 electronically 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.

4.1.2.4 **EMERGENCY MEETINGS:** When a majority of the Commission determines at its discretion, that an emergency situation exists, the Commission may hold an emergency meeting. At least one hour prior to the meeting, telephonic notice shall be provided to all media outlets, which have requested notice of any special meetings called pursuant to California Government Code Section 54956. In the event telephone services are not functioning, the Commission shall notify the

media outlets of the fact of the holding of the emergency meeting, the purpose of the meeting and any action taken at the meeting as soon after the meeting as possible. The Commission shall not meet in closed session during an emergency meeting. For purposes of this section, "emergency situation" means a crippling disaster, work stoppage or other activity, which severely impairs public health, safety or both.

REFERENCES: Government Code Sections 2549.1, 54955.1, 54952.2, 54954, 54955, 54956.5

- 4.1.3 **ORDER OF BUSINESS / AGENDA:** The Personnel Commission's Order of Business, by means of an "Agenda" shall be posted at least 72 hours before a regular meeting in a prominent place in the District Office and on the Personnel Commission's Web site. The Order of Business shall contain a brief general description of each item of business to be transacted or discussed at the meeting. A Notice shall be posted at least 24 hours in advance of special or emergency meetings in a prominent place in the District Office.
- A. When practicable, supporting data for agenda items will be furnished prior to the meeting date.
  - B. The Commission's Director may submit addenda to the agenda in writing prior to a regular meeting. The Commission may act upon the addenda.
  - C. 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 Human Resources not less than seven (7) calendar days prior to the scheduled Commission meeting at which the item is to be considered.
- 4.1.4 **QUORUM AND MAJORITY:** Commissioners are expected to vote on all matters presented for action. Meeting minutes shall reflect each commissioner's vote ("yes" or "no") on an action. In the case of an abstention or recusal, the general reason shall be recorded in the meeting minutes.
- A. Quorum: 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.
  - B. An abstention vote shall not be counted for or against the motion, or a commissioner may abstain from voting.
  - C. A "tie" vote shall have the same effect as a failed motion.
  - D. Commissioner may recuse him/herself from a vote in the case of conflict of interest, personal involvement in the issue (e.g., issues involving a friend or relative), or absence from a prior meeting for the approval of its minutes. For a recusal, the commissioner shall be present (to differentiate from absence and to approve the subsequent minutes), but shall not participate in the discussion or voting on the action. In the event of two commissioners having recused themselves, a motion may carry or fail with the single vote of the remaining commissioner without the motion being seconded. In the event of an absent commissioner and a recusal, the motion shall be carried over to a future meeting.
- 4.1.5 **ADJOURNMENT TO CLOSED SESSION AND CLOSED SESSION PROCEEDINGS:** The Commission may conduct business in closed session without access to the public during a

regular or special meeting with proper notification on the meeting agenda, subject to limitations of law as to the nature of business to be conducted in closed session.

4.1.5.1 **CLOSED SESSION MATTERS:** The following are legally authorized exceptions to the open meeting requirement:

- A. Appointment, employment, dismissal, or evaluation of employees.
- B. Consideration of complaints or charges brought against employees.
- C. Consideration of matters affecting public security.
- D. Consideration of legal matters pertaining to litigation, coming within the purview of the attorney/client relationship.
- E. Providing testimony in private before a grand jury, either as individuals or as a body.
- F. Discussions relative to negotiations, conciliation, mediation, or other matters affecting classified employee labor relations as provided for in the Government Code. A meeting on this item may be held only if the Commission has a representative involved in the negotiating process. If the Commission has no representative and is not conducting negotiations itself, it cannot hold a closed session relative to discussing matters within the scope of negotiations.

4.1.5.2 **IDENTIFY BASIS FOR CLOSED SESSION:** The Commission agenda shall reflect the general reason(s) for the closed session and may cite the statutory or other legal authority under which the session is/was being held. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the Commission may consider only those matters covered in its statement of reasons. In the case of a special, adjourned, or continued meeting, the statement of reasons shall be made as part of the written meeting notice for such special, adjourned, or continued meeting. In giving the general reason or reasons for holding a closed session, the Commission is neither required nor authorized to give names or any 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.

4.1.5.3 **TWENTY-FOUR HOUR NOTICE REQUIREMENT:** As a condition of holding a closed session on specific complaints or charges, brought against an employee by another person or employee, the affected employee shall be given a written notice regarding the matter and his/her 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 disciplinary or other action taken relative to the employee shall be null and void. During the examination of a witness, the Commission may exclude from the public or closed meeting other witnesses in the matter being investigated. Following the public hearing or closed session, the Commission may deliberate on the matter and reach its decision in a closed session.

4.1.5.4 REPORT FROM CLOSED SESSION: The Commission shall publicly report, in the public portion of the meeting in which the closed session is being held, or at its next public meeting, any action taken by the Commission in the closed session; and the vote or abstention of every member present thereon, with respect to the following:

- A. Approval given to legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation, as a result of a consultation under Government Code Section 54956.9.
- B. Approval given to its legal counsel of a settlement of pending litigation as defined in Government Code Section 54956.9 at any stage prior to or during a judicial or quasi-judicial proceeding after settlement is final.
- C. Pursuant to Government Code Section 54956.95, disposition reached as to claims for payment of tort liability losses, public liability losses or workers' compensation liability as soon as reached.
- D. Consideration of action taken to appoint, employ, evaluate performance of, dismiss, accept the dismissal of, or otherwise affect the employment status of a public employee, pursuant to Government Code Section 54957.

4.1.5.5 VIOLATION OF CLOSED SESSION CONFIDENTIALITY: 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 Section 1222 and 1770 (h). Repeated violation of the confidentiality of a closed session by a commissioner may be considered grounds for removal from office.

4.1.6 MEETING 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.

- A. 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
- B. The minutes of each Commission meeting or a true copy thereof shall be open and available for public inspection.
- C. The minutes shall be made available via electronic transmission on the District website; paper copies shall be furnished to 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) upon request or in cases where electronic transmission is unavailable.

REFERENCES: Education Code Section 45260

#### 4.1.7 GENERAL MEETING PROVISIONS

4.1.7.1 MEETINGS SHALL BE RECORDED: The meeting procession with the exception of closed session as specified in Rule 4.2.5, shall be digitally recorded.

4.1.7.2 PRESENTATIONS TO THE COMMISSION

- A. Any person in attendance wishing to address the Commission on items within its jurisdiction, shall complete a speaker card and present it to Commission Chairperson or Commission staff at the start of the meeting.
- B. Any person addressing the Commission shall be recognized by the Commission Chairperson, and identify themselves by giving their name, and the topic or topics of their concern.
- C. A speaker will be permitted up to five (5) minutes to address each item on the agenda and non-agenda items at the proper time of the Commission's Order of Business. Non-agenda items may include any matter of interest to the public which is within the subject matter jurisdiction of the Personnel Commission. The time limit may be extended or reduced at the discretion of the Commission Chairperson (in the event that it appears important or necessary to do so).
- D. The Commission Chairperson may permit questions from the public relative to subject matter of agenda items, but as a general rule of order, no member of the audience may speak while the meeting is in order without recognition of the Commission Chairperson.
- E. The Personnel Commission may briefly respond to statements made or questions posed by non-agenda speakers, refer the matter to staff for information, and/or ask that the matter be returned at a future meeting.
- F. Remarks or discussion in public meetings on subjects scheduled for consideration in closed session are out of order.
- G. While the right to speak includes the right to criticize the policies, procedures, programs, services, and acts/omissions of the Personnel Commission, it should not be used to disrupt public meetings by excessively loud address and boisterous conduct or to defame or slander anyone.
- H. Defamatory allegations against any officer or employee of the Personnel Commission or District and public disclosures of private facts in violation of the right of privacy of any employee, regardless of whether or not the person is identified in the presentation by name or by any other reference which tends to identify the person, are out of order. Charges, complaints, or allegations against an officer or employee of the Personnel Commission shall be processed under the provisions of Personnel Commission Article 33.

4.1.7.3 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.

- A. Individuals or groups who wish to present proposals for action by the Commission shall present their requests to the Director, Classified Personnel (Commission's Director) 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 shall be the policy of the Commission to take up or consider proposals at open (public) meetings.
- B. 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.

4.1.7.4 STANDARDS OF DECORUM: Persons engaging in any of the following conduct shall be ruled out of order.

- A. Profanity, obscenity, abusive or other offensive language.
- B. Physical violence and/or threats of physical violence directed towards any person or property.
- C. Remarks that reflect adversely upon the political, religious, ethnic, or economic views, character, or motives of any person.

4.1.7.5 WITHDRAWAL OF RIGHT TO ADDRESS THE PERSONNEL COMMISSION: Any person who engages in conduct which he/she knows or should know is in violation of any provision of this Rule may be denied the opportunity to speak to the Personnel Commission pursuant to the following procedures:

- A. Notice of this rule must be communicated to the person;
- B. Following such notice, any person whose conduct continues to violate any provisions of this Rule may be directed by the Chair to cease such conduct;
- C. Following such direction, any person whose conduct continues to violate any provision of this Rule may be denied the opportunity to address the Personnel Commission for the remainder of the meeting.
- D. Before suspending a person's right to address the Personnel Commission, the Commission shall make a finding that the person is in violation of Personnel Commission Rule 4.2.7, which the person knew or should have known, and that the conduct was intentional. Such a finding shall be made by a vote of the Personnel Commission.

REFERENCE: Education Code Sections 25146, 49072, 54957, 54957.1, 54957.2, 54957.6, and 54957.7  
 Government Code Sections 1222, 1770, 2542, 2542.2, and 2549.1

*Article IV Amended 1/13/16*



**ARTICLE V**  
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*Article V Removed 1/13/16*

**ARTICLE VI**  
**CLASSIFICATION OF EMPLOYEES AND POSITIONS**

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**6.1 ESTABLISHMENT OF CLASSIFIED SERVICE, POSITIONS EXCLUDED**

The Commission shall classify all employees and positions within the jurisdiction of the Governing Board of the Commission and shall be responsible for the recruitment and examination of applicants for employment on the basis of merit and fitness for the position applied for, except those which are exempt from the classified service. To classify shall include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies and preparing written class specifications. The employees and positions shall be known as the classified service. Exempt from the classified service shall be:

- A. Positions which require certification qualifications.
- B. Part-time playground positions.
- C. Full-time students employed part-time.
- D. 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 Article 7 of Chapter 5 of Part 28 and which is financed by state or federal funds.

REFERENCE: Education Code 51760

- E. Apprentice positions.
- F. Positions established for the employment of professional experts on a temporary basis for a specific project by the Governing Board or by the Commission when so designated by the Commission.

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.

However, nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary reduction in time and retaining his or her regular status under the provision of this law.

No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service.

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87.5% percent of the normally assigned time of the majority of employees in the classified service.

REFERENCE: Education Code Section 45256

**6.2 ESTABLISHMENT OF SENIOR MANAGEMENT POSITIONS**

The Governing Board of the school district may adopt a resolution designating certain positions as senior management of the classified service. A senior management employee means either of the following:

REFERENCE: Education Code Section 45256.5

- A. An employee in the highest position in a principal district program area as determined by the Governing Board, which does not require certification qualifications, and which has district-wide responsibility for formulating policies or administering the program area.
- B. An employee who acts as the fiscal advisor to the District Superintendent.
- C. The maximum number of positions, which may be designated as senior management positions, shall be as follows:
  - 1. For districts with less than 10,000 units of average daily attendance: two positions.
  - 2. For districts with 10,000-25,000 units of average daily attendance, inclusive: three positions.
  - 3. For districts with 25,000-52,000 units of average daily attendance, inclusive: four positions.
  - 4. For districts with more than 50, 000 units of average daily attendance: five positions.

REFERENCE: Education Code Section 45108.5

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.

Positions in the senior management of the classified service shall be filled from an unranked list of eligible persons who have demonstrated managerial ability, who have been found qualified for the positions or specified by the District Superintendent and determined by the Personnel Commission.

Notice of reassignment or dismissal from a position in the senior management of the classified service shall be provided in accordance with the provisions of Section 35031 of the California Education Code.

The positions designated by the Board of Education as senior management are: Assistant Superintendent, Business Services; Director, Planning and Facilities; Director, Child Nutrition.

REFERENCE: Education Code Section 45256.5

The Governing Board of a school district 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 upholds rights outside of the senior management of the classified service.

REFERENCE: Education Code Section 45104.5

### **6.3 VOLUNTEERS**

The Board may permit persons to perform duties without compensation, such as noon duty supervisor or work under the immediate supervisor and direction of a certificated person. Such persons shall not be employees of the District.

However, the District may not abolish any of its classified positions and substitute volunteer aides, nor may the District refuse to employ a person in a vacant classified position and use volunteer aides in lieu of a classified employee.

The purpose of this section is to permit the District to use volunteer aides to enhance its educational program but not to permit displacement of classified employees.

REFERENCE: Education Code Section 35021

#### **6.4 POSITIONS NOT REQUIRING CERTIFICATION QUALIFICATIONS**

Every position not defined by the Education Code as a position requiring certification qualifications and not specifically exempted from the classified service according to the provisions of Education Code Sections 45104 or 45441 shall be classified as required by those sections and shall be a part of the classified service. Such positions may not be designated certificated nor shall the assignment of a title to any such a position remove the position from the classified service, nor shall possession of a certification document be made a requirement for employment in any such position.

Nothing in this rule shall be construed to prohibit the employment of any individual in a position described by this rule as part of the classified service who is in possession of certification qualifications, nor shall the possession of certification qualifications be grounds for the elimination of an individual for consideration for employment in such a position.

#### **6.5 CLASSIFIED POSITION UNDER VARIOUS ACTS: RESTRICTED CLASSIFICATION**

A. Positions not requiring certification qualifications created by the Board under the Manpower Development and Training Act of 1962, the Economic Opportunity Act of 1964, the Elementary and Secondary Act of 1965, or Section 11300 or Section 13650 of the Welfare and Institutions Code, any future federal or state legislative enactment, or any other special funding, and which are not a part of the regular school program shall, nevertheless, be a part of the classified service as established by Section 45272 or Section 45273 of the Education Code.

Persons employed in such positions shall be classified employees and shall enjoy all of the rights, burdens and benefits accorded other classified employees. Their selection and retention shall be made on the same basis as that of persons selected for positions that are part of the regular school programs.

B. Notwithstanding the provisions of A above, if specially funded positions are restricted to employment of persons in low income groups, from designated impoverished areas and other criteria which restrict the privileges of all citizens to compete for employment in such positions, all such positions shall, in addition to the regular class title, be classified as "restricted". Persons employed in positions properly classified as "restricted" shall be classified employees for all purposes except:

1. They shall not be accorded employment permanency under Section 45113 or Section 45301 of the Education Code, whichever is applicable.
2. They shall not acquire seniority credits for the purposes of Sections 45298 and 45308 of the Education Code.

3. The provisions of Sections 45287 and 45289 shall not apply to "restricted" employees.
  4. They shall not be eligible for promotion into the regular classified service until they have complied with the provisions of paragraph C, below.
- C. Any time after completion of six months of satisfactory service, a person serving in a "restricted" position shall be given the opportunity to take such qualifying examinations as are required for all other persons serving in the same class in the regular classified service. If such person satisfactorily completes the qualifying examination, regardless of final numerical listing on an eligibility list, he/she shall be accorded full rights, benefits and burdens of any other classified employee serving in the regular classified service. His/her service in the regular classified service shall be counted from the original date of employment in the restricted position and shall continue even though he/she continues to serve in a "restricted" position.
- D. It is the intent of the Legislature that positions normally a part of the classified service are included therein regardless of the source of income to sustain such positions and to effectively implement specially funded programs intended to provide job opportunities for untrained and impoverished persons but to do so in a manner that will not be disruptive or detrimental to the normal employment procedures relating to classified school service.

#### **6.6 QUALIFICATIONS FOR PROFESSIONAL EXPERT SERVICES**

In order to be exempt from the classified service as a professional expert, an individual must be recognized as such by reputable members of his/her own profession, as evidenced by the following:

- A. Approval of a committee of members of his/her own profession.
- B. Certification or license to practice that profession by a government agency if such license is established.
- C. Listing in such publications as the Biographical Directory of American Men of Science, or Leaders in Education, where individuals are chosen for listing by members of their own profession.
- D. By membership in professional honor societies limited to that profession.
- E. By advanced degrees in a recognized university with a major in the field of that profession.
- F. By equivalent criteria acceptable to the Commission. Evidence of these requirements must be presented to the Commission before appointment is made.

#### **6.7 ALLOCATION OF POSITIONS TO CLASSES**

All positions substantially similar in duties and responsibilities and qualification requirements shall be allocated to the same class.

#### **6.8 CHANGES IN DUTIES OF POSITIONS**

Any substantial changes in the duties of existing positions shall be promptly reported in writing by the appointing authority to the personnel director, who shall cause them to be reviewed toward determining whether the positions would be allocated to different classes.

## 6.9 CLASS DESCRIPTION

For each class of positions, as initially established or subsequently approved by the Commission, there shall be established and maintained, a class description which may include:

- A. The official class title;
- B. A definition of the class, indicating the type of duties and responsibilities and placement within the organizational scheme;
- C. A statement of typical tasks to be performed by persons holding positions allocated to the class;
- D. A statement of the minimum qualifications for service in the class. The minimum qualifications may include education, experience, knowledge, skills, abilities, and personal and physical traits and characteristics;
- E. A statement of distinguishing characteristics which differentiates the class from other related or similar classes;
- F. License or other special requirements for employment or service in the class;
- G. Any additional qualifications considered to be desirable that any person considered for employment who possesses them may be given additional credit in the evaluation of his/her qualifications, even though such additional qualifications are not a prerequisite to consideration for employment.

For management and supervisory classifications there shall be established and maintained a class description which may include:

- A. The official class title;
- B. A position purpose of the class indicating the type of duties and responsibilities, including nature and scope and placement within the organizational scheme;
- C. A statement of typical tasks to be performed by persons holding positions allocated to the classification including specific examples of duties and principal accountabilities;
- D. A statement of minimum qualifications for service in the class. The minimum qualifications may include education, experience, knowledge, skills, abilities, and personal and physical traits and characteristics;
- E. A statement of distinguishing characteristics which differentiates the class from other related or similar classes;
- F. License or other special requirements for employment or service in the class;
- G. Any additional qualifications considered so desirable that any person considered for employment who possesses them may be given additional credit in the evaluation of his/her qualifications, even though such additional qualifications are not a prerequisite to consideration for employment.

## **6.10 AMENDMENT OF CLASS DESCRIPTION**

The Commission reserves the right to amend the description established for each class. It is the intent of the Commission that the class description shall present a true picture of the positions of classes described.

## **6.11 INTERPRETATION OF CLASS DESCRIPTION**

The class specifications and their various parts are declared to have the following force and effect:

- A. The definition and typical tasks are descriptive and explanatory only and not restrictive. They indicate 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.
- B. In determining the class to which any position shall be allocated, the description for each class is considered as a whole rather than as a collection of isolated clauses, phrases, or words, apart from their context.
- C. Each class description shall be construed in its proper relationship to other class descriptions, particularly those of classes in the same series and group of classes, in such manner as to maintain a proper graduation in the series in which the class is located and proper differentiation within the group of classes.
- D. Qualifications commonly required of the incumbents of all or many offices or positions, such as appropriate physical condition, honesty, sobriety, and industry, even though not specifically mentioned in the specifications, are implied in the qualification requirements; however, this section does not restrict the Board from employing the handicapped to meet affirmative action goals.
- E. 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 candidates seeking appointment to positions allocated to the class, but does not require a particular form or content of test or testing procedure.

## **6.12 INCUMBENTS OF RECLASSIFIED POSITIONS**

When a position is reclassified by the Commission to a different class and the incumbent is deemed ineligible to continue in such position, he/she may be transferred, promoted, or demoted by appropriate action in accordance with such provisions of these rules as the Commission may deem to be applicable. In any case in which the incumbent is ineligible to continue in the position and he/she is not transferred, promoted, or demoted, the provisions of these rules governing termination of service shall apply.

## **6.13 CLASSIFICATION OR RECLASSIFICATION STUDIES**

The Commission or the Director will receive requests for classification or reclassification studies which are submitted by the administration, by employees, or by employee representatives, and may direct appropriate staff study of the requests. In addition, the Commission may initiate classification or reclassification studies. The results of studies will, upon their conclusion, be reported to the Commission.

Classification studies are to be based on analyses of duties and responsibilities, and studies of existing positions should be initiated whenever there is an indication of a substantial change in duties and responsibilities.

The Director is delegated the responsibility for the reclassification of positions in accordance with criteria that has been approved by the Commission. The reclassification actions under this procedure shall be processed on the appropriate Commission form and are subject to ratification by the Commission at its next regular meeting.

Request for reclassification studies may be initiated at any time.

*Amended 1/23/96*

It shall be the policy of the Commission to provide at least one opportunity for a regular incumbent of a position which is approved for upward classification to attain eligibility for the higher classification by taking and passing a qualifying examination for the class. In order to comply with this policy, the effective date of reclassification actions will be deferred sufficiently in order that the qualifying examination may be completed. If the incumbent has recently passed a qualifying examination for a higher level position within the same job family and appears on the current eligibility list for the position, the incumbent may be reclassified with the position.

REFERENCE: Education Code Section 45256

*Amended 1/23/96*

No position classification or reclassification plan which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the Commission until the exclusive bargaining representative and the public school employer of the classified employees who would be affected had been given reasonable notice of the proposed classification or reclassification.

REFERENCE: Education Code Section 45285.5

#### **6.14 RECLASSIFICATION TO A HIGHER CLASS**

When a portion of the positions within a class are reclassified to a higher class an incumbent who has a continuous employment record of two or more years in one or more of the positions being reclassified may be reclassified with his/her position as provided by Commission rule. "Two or more years" of regular service, shall be interpreted to mean assignment for at least two complete years within the assignment basis of the class or position.

The basis for the reclassification of an incumbent with his/her position must be a gradual accretion of duties and not a sudden change occasioned by reorganization or the assignment of completely new duties and responsibilities. Determination as to gradual accretion of duties will be based on an analysis of data to be supplied by the administrator and the Commission staff regarding the following guideline factors:

- A. The nature and scope of each identified change in duties and responsibilities.
- B. The exact or approximate date the incumbent began the performance of the newly acquired duties and responsibilities.
- C. The conditions which led to the association of the added duties and responsibilities with the Subject position.
- D. Evidence of the employee's performance of the added duties and responsibilities.



An employee who has been reclassified with his/her position shall be ineligible for subsequent upward reclassification with his/her position for a period of at least two years from the previous reclassification.

In all cases of upward reclassification of incumbents who have not been in their class for two or more years, the incumbent may fill the reclassified position only after passing a qualifying examination prescribed by the Commission for the higher class. If the incumbent has recently passed a qualifying examination for a higher level position within the same job family and appears on the current eligibility list for the position, the incumbent may be reclassified with the position.

REFERENCE: Education Code Section 45285

*Amended 1/23/96*  
*Amended 12/02/03*

#### **6.15 WORK OUT OF CLASSIFICATION**

Classified employees shall not be required to perform duties which are not fixed and prescribed for the position by the Board for any period of time which exceeds five working days within a 15-calendar-day period except as authorized herein, unless the duties reasonable relate to those fixed for the position by the Board.

An employee may be required to perform duties inconsistent with those assigned to the position by the Board for a period of more than five working days provided that his/her salary is adjusted upward for the entire period he/she is required to work out of classification and in such amounts as will reasonably reflect the duties required to be performed outside his/her normal assigned duties and provided the assignment was duly authorized by a school administrator.

The purpose of this rule is to set forth the procedures to be followed when an employee is required to perform work out of classification. Assignment to such work shall be interpreted for the purposes of this rule as a requirement to perform duties assigned by a duly authorized person.

- A. When an employee is assigned work out of classification more than five days within a 90-calendar-day period, and that work assignment is to an existing vacant position, a limited-term assignment shall be processed in accordance with the provisions relating to limited-term assignments.
- B. When an employee is assigned work out of classification and that work assignment is not to an existing vacant position, the employee may request additional compensation for such work out of classification in accordance with the provisions of this rule.
  - 1. A claim shall be prepared in duplicate and submitted at the end of each 15-calendar-day period in which the provisions of this rule apply.
  - 2. The employee shall complete Section A of the claim describing in detail those duties assigned and performed which are inconsistent with his/her position and do not reasonably relate to his/her classification.
  - 3. The claim shall be completed by the employee no later than 30-calendar-days after the first day of work out of classification covered by the claim.
  - 4. The employee shall forward the claim to his/her immediate supervisor and/or authorized administrator who required him/her to perform the work out of classification. The duplicate copy shall be submitted to the Personnel Director. Such immediate supervisor and/or authorized administrator shall either state the reasons for the assignment and

certify the performance of the work specified by the employee, or if willing to do so, he/she shall state the reasons in an attachment to the claim.

5. The claim shall subsequently be forwarded, within 30 days, by the supervisor to the Director who shall review the claim of work out of classification and make a determination as to whether the duties described therein reasonably relate to those of the employee's classification and the applicability of the provisions of limited-term assignments. The Director will conduct an investigation of any refusal to certify the claim and, based upon his/her finding, prepare a recommendation for action by the Commission.
  6. Any claim of work out of classification which does not indicate sufficient information for a staff evaluation or which indicates that limited-term assignments should be invoked shall be returned to the employee and his/her supervisor without further processing for required information.
  7. If the duties reported and certified are found to be at a higher level than the employee's classification and not within an existing class in the classified service, an appropriate salary differential shall be determined by the Commission staff which reasonably reflects the level of responsibilities of the assignment and the kind and level of duties performed.
  8. If the duties and responsibilities performed are determined to be within an existing higher class, the employee shall be paid the appropriate step of the schedule for the higher class.
  9. In no instance shall an employee receive a greater benefit than that to which he/she would be entitled if he/she had been promoted from his/her regular position to the higher class.
  10. Commission staff determination as to work out of classification and appropriate salary differentials shall be submitted to the Commission for approval and, if approved, to the Board of Education for authorization of payment.
  11. Payment for work out of classification shall be for the first five working days within a 15-calendar-period as well as each day in addition thereto in which the employee was required to perform work out of classification.
  12. Nothing in this rule shall be construed as permission to circumvent the provisions and procedures of the Merit System. Furthermore, nothing in this rule shall be construed as permitting an employee to refuse to perform duties assigned by a duly authorized person.
- C. The Commission shall be informed by the Director of all work out of classification greater than five days within a 90-calendar-day period. It shall be incumbent upon the employee's supervisor to advise the Director of such situations.

REFERENCE: Education Code Section 45110

#### **6.16 PERSONS DEEMED UNDER PROBATIONARY CLASSIFICATION**

All persons who have been continuously employed by the school district for less than six months, or 130 days of paid service, shall be deemed to hold their positions under probationary classification.

No person shall obtain permanent status in a classification until he/she has completed a probationary period.

- A. A new employee appointed from an eligibility list shall serve a probationary period of six months or 130 days of paid service before attaining permanency in the classified service. An employee who has been promoted shall serve a probationary period of six months or 130 days of paid service in the higher class before attaining permanency in that class. Credit toward completion of probation shall be granted only for service in regular positions after appointment from the appropriate eligibility list.
- B. The normal probationary period shall be six complete calendar months except under the following conditions:
  - 1. When an employee is hired or promoted on other than the first day of the pay period.
  - 2. When the employee normally works less than five days per week.
  - 3. When the employee does not work during school recess periods.

Under those conditions cited above, the probationary period shall be 130 days of paid service.

- C. The Personnel Commission may designate certain administrative classes, those placed on Range 100 and above, as having a probationary period of one calendar year.
- D. The probationary period shall not include time served under limited term, substitute, provisional, or emergency appointment; no time while the employee is absent from work for ten or more consecutive working days.
- E. No time served in a limited term appointment may count toward acquiring permanent status in any position in the classified service.
- F. A new employee who resigns in good standing during his/her initial probationary period may, at the discretion of the appointing authority, have his/her name restored in proper rank to the eligibility list. Such action shall not extend the life of the eligibility list or the period of eligibility of the employee.
- G. A new employee who is suspended or dismissed during his/her initial probationary period shall be notified in writing of the action taken and the reasons therefore. He/she shall not have the right of appeal.
- H. A permanent employee who has been promoted to a higher class and who does not successfully complete the probationary period in the higher class shall be reinstated to a position in his/her former class. A permanent employee who has been laterally transferred to a different class in which the employee does not have permanency and who does not successfully complete the probationary period in the class shall be reinstated to a position in his/her former class.

*Amended 5/10/94*

- I. A permanent employee who has been promoted to a higher class and is suspended, dismissed, or demoted for cause during his/her probationary period in the higher class retains full rights of appeal.
- J. No probationary employee shall be dismissed or otherwise discriminated against because of age, political or religious opinions or affiliations, race, color, national origin or ancestry, sex, or marital status.



## **6.17 RIGHTS OF EMPLOYEES UPON CHANGE IN SCHOOL DISTRICTS**

Any division, uniting, unionization, annexation, merger, or change of school district boundaries shall not affect the rights of persons employed in positions not requiring certification qualifications to continue in employment for not less than two years and to retain the salary, leaves and other benefits which they would have had, had the reorganization not occurred, and in the manner provided in this article:

- A. All employees of every school district, which is included in any other district, or all districts included in a new district, shall become employees of the new district.
- B. When a portion of the territory of any district becomes part of another district employees regularly assigned to perform their duties in the territory affected shall become employees of the acquiring district. Employees whose assignment pertained to the affected territory, but whose employment location was not in such territory, may elect to remain with the original district or become employees of the acquiring district.
- C. When the territory of any district is divided between or among two or more districts and the original district ceases to exist, employees of the original district regularly assigned to perform their duties in any specific territory become employees of the district and encompasses the territory in which they work.
- D. Employees regularly assigned by the original district to any school in said district shall be an employee of the district in which said school is located. Except as herein provided, nothing herein shall deprive the Governing Board of the acquiring district from making reasonable reassignments of duties.

REFERENCE: Education Code Section 45240

## **6.18 FIXING OF DUTIES BY GOVERNING BOARD**

The Board shall fix and prescribe the duties to be performed by all persons in the classified service and other positions not requiring certification qualifications of the District, except those persons employed as part of the Commission staff.

REFERENCE: Education Code Section 45109

## **6.19 MANAGEMENT CLASSIFICATIONS**

The following positions are designated as management positions:

- Deputy Superintendent, Business Services
- Director, Planning & Facilities
- Director, Classified Personnel
- Director, Technology Services
- Director, Maintenance and Operations
- Director, Child Nutrition
- Director, Purchasing
- Director, Fiscal Services
- Project Manager
- Risk Manager
- Executive Director, Neighborhood for Learning
- Assistant Director, Neighborhood for Learning

*Amended 12/09/08*

## **6.20 ESTABLISHMENT OF EXECUTIVE SECRETARY POSITIONS**

Upon the request of the majority of the members of the Governing Board, the Personnel Commission may exempt one or more executive secretarial positions from the Merit System Rules pertaining to selection and permanency. Authorized exemptions shall be limited to executive secretarial positions reporting directly to members of the Governing Board, the District Superintendent or not more than four (4) principal deputies of the District Superintendent or all of these positions.

Any person employed in an exempt executive secretarial position shall continue to be offered all rights, benefits and burdens of any classified employee serving in the regular classified service of the District, except he or she shall not attain permanent status in an executive secretarial position. Positions of executive secretary shall be filled from an unranked list of eligible employees who have been found to be qualified for the position as specified by the District Superintendent and determined by the Personnel Commission. Any person whose services in an executive secretarial position are discontinued from a cause other than a cause for disciplinary action as specified in the California Education Code or in rules of the Commission, shall have the right to return to a position in a classification he or she previously occupied or if that classification no longer exists, in a similar classification, as determined by the Commission.

Nothing contained in this section shall authorize the selection of eligible candidates in circumvention of the affirmative action program of the District.

The positions designated by the Board of Education as Executive Secretary are:

Executive Administrative Assistant for Superintendent

Administrative Assistant for Superintendent

Administrative Assistant for Assistant Superintendent, Business Services

Administrative Assistant for Assistant Superintendent, Instructional Services

Administrative Assistant(s) for Assistant, Superintendent, Personnel Services

*Amended 2/6/96*

## ARTICLE VII APPLICATIONS

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### 7.1 FILING OF APPLICATION

All applications for employment shall be made upon official forms furnished by the Commission, filled out as therein directed, and filed on or before the date specified and in the office specified in the examination announcement.

Applicants taking more than one examination shall file a separate and complete application for each examination whenever required by the Director. All applications shall be signed and the truth of all statements obtained therein certified by such signature.

### 7.2 GENERAL QUALIFICATIONS OF APPLICANTS

Applicants shall possess all qualifications that may be specified in the minimum requirements established for the class. Every applicant must be in all respects mentally and physically competent to perform the duties of the position for which he/she applies.

### 7.3 APPLICATIONS NOT TO BE RETURNED

All applications are confidential records of the Commission and under no circumstances are they to be returned to the applicants.

### 7.4 ELIMINATION OF UNFIT APPLICANTS, CANDIDATES AND ELIGIBLES

An applicant or candidate may be refused examination, and an eligible may be refused certification or appointment, for any of the following reasons:

- A. Failure to meet the general qualifications specified above.
- B. Knowingly becoming or knowingly remaining a member of the Communist Party on or before November 12, 1952.
- C. Advocacy of overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
- D. Conviction or pleading guilty in court to a charge of moral turpitude, any sex offense as defined in E.C.44010, narcotics offense as defined in Section 44011, or mistreatment of children. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him/her are dismissed, this section shall not prohibit his/her employment thereafter.

REFERENCE: Education Code Section 45123

- E. Determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state. If however, such determination is reversed and the person is determined not to be a sexual psychopath in a new proceeding, or the proceeding to determine whether he/she is a sexual psychopath is dismissed, this section shall not prohibit his/her employment thereafter.

REFERENCE: Education Code Section 45124

- F. Making a false statement or omitting a statement of material fact on the application form.
- G. Practicing any deception or fraud in connection with an examination or to secure employment.

- H. Drug addiction and/or habitual use of intoxicating beverages to excess.
- I. Dismissal from a previous employment for cause if the cause would have subjected the applicant to dismissal by the District.
- J. Previous dismissal from this District unless the Board waives this subsection.
- K. Less than satisfactory service with this District even though separation has not occurred.
- L. Health conditions precluding satisfactory performance of duties.
- M. Discharge other than honorable from the Armed Forces of the United States.
- N. Failure to report for duty after an assignment has been offered and accepted.
- O. Refusal to furnish testimony at a hearing or investigation before the Personnel Commission when pertaining to the applicant, candidate, or eligible.
- P. Used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment.
- Q. Refusal to take or sign the Oath of Allegiance.
- R. Failure to reveal all convictions in the application process.
- S. Serious or numerous traffic violations when driving is part of the duties of the class.
- T. Resignation to avoid dismissal for causes which indicate poor performance in the type of work sought.
- U. Failure, after due notice, to report promptly for review of any of the above bases for rejection.
- V. Failure to present required documents showing identity and authorization to work in the United States under the Immigration Report and Control Act of 1986 (refer to Article 14.IC)  
*Adopted 7/21/87*
- W. A positive result from a drug test and/or alcohol level of .089 or above may result in the applicant not being appointed to a position where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties or responsibilities (refer to Article 14.IC).  
*Adopted 8/18/87 / Amended 9/11/90*
- X. Conviction of a serious felony (defined in Penal Code Section 1192.7) or a violent felony (defined in Penal Code Section 667.5), the applicant shall not be employed. The only exceptions to this prohibition of employment are (1) a certificate of rehabilitation and pardon obtained pursuant to the Penal Code, or (2) proof to the sentencing court that at least one year's rehabilitation for school employment purposes has taken place after a conviction of a serious felony, which is not also a violent felony.  
*Adopted 11/18/97*

## **7.5 EMPLOYMENT OF REHABILITATED PERSONS**

A person convicted of a narcotics offense may be employed provided the Board determines, from the evidence presented, that the person has been rehabilitated for at least five years. The Board shall determine the type and manner of presentation of the evidence. Its determination shall be final.

REFERENCE: Education Code Section 45123



## **7.6 REJECTION AND APPEAL FROM REJECTION**

- A. Applicants, candidates, and eligibles who are rejected for any of the reasons enumerated in the preceding section(s) shall be notified in writing by the Director. The notification shall state:
1. The reason(s) for rejection.
  2. The length of time the individual shall be ineligible to be considered for examination or appointment to a position in the District.
  3. That, within seven calendar days, the individual may appeal to the Personnel Director for administrative review, and that failure to appeal for administrative review makes the rejection final and conclusive.
- B. If there has been an administrative review, as provided above, and the objection is sustained, the individual shall be:
1. Given a written notice outlining the reason(s) for sustaining the rejection, and
  2. Informed of his/her right to make a written appeal of the rejection and/or the period of disqualification, within the next seven calendar days, to the Commission. The appeal may be based on any of the following reasons:
    - a. Discrimination because of political or religious affiliations or opinions, race, color, sex, age or marital status.
    - b. Abuse of discretion.
    - c. Inconsistency between the reasons given for the rejection and the facts.
- C. Upon hearing of an appeal, the Commission shall set a date for hearing, hear all of the evidence, and render a decision.
- D. The applicant, candidate, or eligible shall be afforded an opportunity to present relevant evidence at the investigation and/or hearing. If the Commission schedules a hearing, the rejected applicant, candidate, or eligible shall be permitted to exercise his/her right to a private or public hearing before the Commission.
- E. A rejected applicant or candidate who has appealed his/her rejection shall conditionally be permitted to take any part of the examination that is being held pending decision by the Commission.
- F. At the conclusion of the investigation and/or hearing, the applicant, candidate, or eligible shall be notified in writing of the Commission's decision. This decision shall be final.

## **7.7 ACTION WHEN REJECTION IS NOT SUSTAINED**

If a rejection is not sustained by the Director or the Commission, the applicant or candidate will be permitted to take or continue the examination and the eligible's name will be restored to all appropriate lists.

## **7.8 APPLICANTS' NAMES NOT MADE PUBLIC**

The names of the applicants or unsuccessful candidates in any examination shall not be made public.

## **7.9 VETERANS' CREDIT**

In the case of all entrance examinations, veterans with thirty days or more of service who become eligible for appointment by attaining the passing mark established for the examination, shall be allowed an additional credit of five points; and disabled veterans shall be allowed an additional credit of ten points, which shall be added to the percentages attained in the examinations by the veterans. Veterans shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentages attained by them in examinations after the credit of five points, or ten points in the case of disabled veterans, is added.

REFERENCE: Education Code Section 45296

To qualify for Veterans credit, thirty days or more of service must have been between the dates listed below:

### MEXICAN BORDER PERIOD

May 9, 1916 to April 5, 1917, for veterans serving in Mexico, on the borders thereof, or in the waters adjacent thereto.

### WORLD WAR I

April 6, 1917 to November 11, 1918, generally; and April 6, 1917 to April 1, 1920, for veterans serving in Russia.

### WORLD WAR II

December 7, 1941 to December 31, 1946.

### KOREAN CONFLICT

June 27, 1950 to January 31, 1955.

### VIETNAM ERA

August 5, 1964 to May 7, 1975. (United States Code/Title 38)

### GULF WAR

August 2, 1990 to January 2, 1992.

"Veteran" means any person who has served 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, proof of which shall be submitted to the Commission at the time of the examination.

REFERENCE: Education Code Section 45294

"Armed Forces" means the United States Air Force, Army, Navy, Marine Corps or Coast Guard.

REFERENCE: Education Code Section 45294

"Disabled veteran" means any veteran, as defined in E.C.45294, who is currently declared by the United States Veterans Administration to be 10% or more disabled as a result of service in the Armed Forces. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

REFERENCE: Education Code Section 45295

*Amended 12/2/85*

## **7.10 AGE LIMITS**

Notwithstanding any other provisions of law, no minimum or maximum age limits shall be established for the employment or continuance in employment of persons as part of the classified service.

Any person possessing all of the minimum qualifications for any employment shall be eligible for appointment to that employment, and no rule or policy, either written or unwritten, heretofore or hereafter adopted, shall prohibit the employment or continued employment, solely because of the age of any such person in any school employment who is otherwise qualified therefore.

This section does not authorize the employment of any person in particular school employment who has reached the retirement age for that particular employment prescribed by any retirement system applicable thereto, whether or not the person is a member of the retirement system, or entitled to a retirement salary thereunder, nor shall any person be employed in such employment while he/she is receiving a retirement allowance under any retirement system by reason of prior school employment.

REFERENCE: Education Code Section 45134

## ARTICLE VIII EXAMINATIONS

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### 8.1 ADMINISTRATION OF EXAMINATION

The purpose of an examination is to provide equal opportunity for all qualified candidates to demonstrate their relative fitness in relationship to the skills, knowledges, abilities and traits required for the class. When an eligibility list is required for a given class, the commission staff will:

- A. Prepare the examination announcement.
- B. Prescribe the scope and weighting of each part of the examination. Every examination shall consist of a test that relates to job performance. Test parts shall be selected from among the following types of objective testing procedures including, but not limited to: written, performance, oral, group oral, and training experience evaluation.
- C. Arrange for the oral examination board(s). Each board shall include at least two members, including at least one person who has specialized training, knowledge or experience in the occupational area being examined.
  1. Unless designated as a technical oral examination board, the members shall confine themselves to evaluating the candidate's general fitness for employment in the class. However, at least two members of any board designated as a technical oral board shall have specialized training, knowledge or experience in the occupational area being examined.
    - a. To assist board members, an interview worksheet providing a statement of the knowledges and abilities to be evaluated will be provided along with suggested questions or issues. The same questions or issues shall be presented to each candidate.
    - b. The board shall be briefed regarding the duties of the class; skills, knowledges, abilities and traits; examination process; knowledges and abilities to be covered in the board and use of the interview sheet; interviewing techniques and scoring methods. A supervisor may be invited to participate in a briefing to provide the board with job-related information and organizational structure under the supervision of the examiner in charge.
    - c. All questions must be job-related. No questions shall be asked relating to political or religious opinions, union affiliations, race, color, national origin, ancestry, sex or marital status.
    - d. The candidate shall be asked at the end of the interview if he/she has anything to add.
    - e. When the interview is completed, each rater shall independently assign a score which will be shared with other raters.
    - f. If there is a substantial spread of points between the raters, it is recommended they discuss the basis of their evaluation to consider data which may have been overlooked.
    - g. If a rater decides to change his/her score, he/she should line out the old score, initial the line out and write in a new score.

- h. If a rater gives a failing score, he/she must state specific reasons for failing identifying candidate actions or statements which led to such decisions.
- 2. Members of the Board or Commission shall not serve on an oral examination board.
- 3. A district employee may not serve on an oral board if, at the time, he/she is a first or second-level supervisor over a vacant position in the class being examined.
- 4. All oral examinations shall be electronically recorded.
- 5. In no cases will an oral examination board be provided with confidential references on employees of the district who are competing in promotional examinations.
- 6. Scores achieved by the candidate on other parts of the examination shall not be made available to the oral examination board.

D. REQUIRED WRITTEN EXAMINATION PROCEDURES:

- 1. Competitors in any written test shall take the test at the prescribed time unless religious affiliation, jury duty, military service, serious illness or bereavement in the immediate family requires other arrangements and advance written notice is provided to the director. In such cases, an alternate test time may be arranged at the discretion of the personnel director. A neutral witness shall observe each make-up examination.
- 2. Copies of the questions in a test shall not be made by competitors or other unauthorized persons.
- 3. 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 shall have been marked and rated.
- 4. Any competitor in any examination who places any identifying mark upon his/her test papers (other than the identifying mark prescribed at the time of examination) or makes any attempt to disclose to others the identity of his/her papers prior to the completion of the examination shall be disqualified.
- 5. Applicants successfully completing the examination shall be placed upon a list in the order of their merit and fitness for service as determined by the examination. Such a list shall constitute the eligibility list.

REFERENCE: Education Code Sections 45273 and 45274

- 6. No candidate may be admitted once the test instructions have begun.
- 7. All necessary explanations shall be made to all candidates and no question shall be explained to a candidate individually.
- 8. All tests shall be administered under proper, continuous supervision.
- 9. Proctors shall be required to inventory supplies, tests, check candidate identification, record candidate questions or unusual occurrences, note beginning and ending times and document the number of candidates.

10. Proctors are forbidden to explain the meaning of or make remarks relating to any questions that may assist in its solution.
11. The time limit, if any, presented for each test shall be announced at the beginning of the test and the ending time shall be posted.
12. Communication, assistance, etc., between candidates during a test is strictly prohibited.
13. During a test, no candidate shall be permitted to leave the room except in case of necessity and only with the proctor's permission.
14. No more than one person may be allowed to leave the room at any one time and no one may temporarily leave the room once a candidate who has completed the test has left.
15. Any scratch paper or throw away material must be so clearly marked.
16. All test materials, scratch paper, answer sheets, etc., shall be collected before a candidate is allowed to leave.

#### F. RETESTING

1. Competitors may retake an examination for a position six (6) months after the initial examination date.
2. When an alternate examination is available for a position, a competitor must wait a minimum of 30 days prior to taking the alternate test during a scheduled testing session.
3. The score achieved from the most recent test taken by a competitor will be used in ranking the competitor on the employment list for the position.

## 8.2 WHO MAY COMPETE

Competitive examinations for positions in the classified service shall be open to all applicants who meet the minimum qualifications and who are not rejected as provided in Section 7.4, provided that examinations may be restricted to promotional candidates at the discretion of the commission. Employees shall be given time off to participate in district tests/interviews provided the supervisor is given reasonable notice.

### 8.2.1 Testing Handicapped Applicants

- A. Handicapped persons shall be given equal employment opportunity when competing in examinations.
- B. Candidates with physical impairments, where practical, shall be afforded opportunity to demonstrate their skills, knowledges, abilities and traits by testing methods adapted to their special needs.
- C. After successful completion of all examinations and prior to certification, eligibles identified as handicapped will be scheduled for special medical examination to determine the feasibility of making reasonable accommodation. Such medical examination shall include a review of the specific duties of the individual job and an assessment of whether the eligible may utilize an adaptive aide to meet minimum job performance standards.

- D. All physically handicapped eligibles shall be referred for interview unless:
1. The physical capacity of an eligible is such so that he/she cannot perform the duties of the positions in the class.
  2. The physical handicap creates a work hazard to others.
  3. The work is likely to aggravate the disability.
  4. The work is likely to result in a new injury and thus create a compensable liability.

### **8.3 ADMISSION TO EXAMINATION**

Each applicant whose application has been approved shall be notified within a reasonable time in advance of the time, date and place of the examination, and such notice shall be the applicant's authorization to take the examination. No candidate may be admitted to any examination without such authorization or other satisfactory evidence of having filed an acceptable application.

### **8.4 RATING REQUIRED**

Competitors may be required to attain a designated minimum rating in each part or in combined parts of the examination to qualify for participating in the next succeeding part.

### **8.5 EXAMINATION PAPERS**

All examination papers and records are the property of the commission and are confidential records. Candidate's examination records including answer and rating sheets shall be retained for not less than ninety (90) days. Examination records such as tests, affirmative action data and eligibility lists shall be retained for a minimum of three years.

REFERENCE: Education Code Section 45274

### **8.6 PROMOTIONAL EXAMINATIONS**

Upon the approval of the commission, the director may announce and hold promotional examinations as the needs of the service may require.

All applicants for promotional examination shall meet the established minimum requirements of six (6) months continuous merit service from the date of original hire and the education, training and experience requirements determined by the commission to be appropriate for the class for which they have applied. No applicant shall be eligible to compete in a promotional examination unless his/her last evaluation report was satisfactory.

Persons laid off because of lack of work or lack of funds shall have the right to participate in promotional examinations during the 39 months after layoff.

REFERENCE: Education Code Section 45272

### **8.7 SENIORITY CREDIT**

Seniority credit shall be added to the final passing scores of candidates in the amount of 1/4 of one point for each year of service, not to exceed a total of five points. Credit shall be granted for time spent in regular status (see definition) in the classified service and on leave from the classified service while otherwise employed in this district. A full year's credit shall be granted to employees whose regular position is assigned on less than a calendar-year and fractions of years shall not normally be counted. Limited-term service prior to an initial regular appointment shall not be counted toward seniority.

### **8.8 NOTIFICATION OF EXAMINATION RESULTS**

Notification of examination results shall be sent promptly to all candidates on or before the establishment of an eligibility list.

**8.9 NOTICE OF CHANGE OF ADDRESS**

- A. All applicants, candidates, eligibles and employees must maintain an up-to-date home address and telephone number with the Classified Personnel Office and must report any changes within 10 working days in writing to the Classified Personnel Office.
- B. Failure to maintain an up-to-date home address and telephone number may result in his/her disqualification or removal from the eligibility list.



**ARTICLE IX**  
**APPEALS OF EXAMINATION RESULTS**

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**9.1 AVAILABILITY OF EXAMINATION RECORDS**

Examination records shall not be available to the public or to any person for any purpose not directly connected with the examination and shall be considered confidential but shall, within reasonable time limits, be made available to a candidate or his/her representative except as indicated in Rule 9.2.C.

REFERENCE: Education Code Section 45274

**9.2 REVIEW BY CANDIDATE**

- A. Candidates may review and protest any part of the examination within five working days after date of such notification of examination results.
- B. A candidate's examination papers and records may be examined only by the candidate or his representative upon written authorization by the candidate.
- C. Examination papers on a form test, a commercial standardized aptitude or achievement test, or test material which has been rented or leased or obtained under a contract approved by the commission, and where the terms of such rental or leasing of contract prohibit such review or inspection, shall not be subject to inspection by a candidate.

**9.3 PROTEST BY CANDIDATE**

- A. If a candidate wishes to protest any part of an examination, he/she must submit his/her protest in writing to the director during the five-day review period. Such protest shall state specifically the parts of the examination or items protested, or wherein errors are alleged to have occurred, citing authorities or references to support such protest, and stating the remedy to which the candidate believes he/she is entitled.
- B. The director shall review and answer all protests of any examination part and shall make any necessary corrections. Such corrections shall be applied uniformly to all candidates. Candidates who have protested shall be notified in writing of the disposition of their protest.

**9.4 APPEAL OF PROTEST**

- A. Any candidate who remains dissatisfied may appeal to the commission within five working days after notice of the decision of the director was mailed or given to the candidate. Such appeal to the commission shall be in writing and must state the specific examination parts or items protested, the basis for the protest, and the remedy sought by the candidate.
- B. Upon his/her written appeal to the commission, a candidate may request to review his/her qualifications appraisal interview documents and the recording of his/her interview. Such request shall be granted as soon as practicable and the review shall be conducted in the presence of the director or a staff member.
- C. Upon review of the appeal, the decision of the commission shall be final.

**9.5 USE OF ELIGIBILITY LIST**

No regular appointment from an eligibility list shall be effective until the end of the examination review period.

**9.6 CORRECTION OF ERRORS**

Errors shall be corrected when discovered, during the life of an eligibility list. Changes in eligibility lists resulting from corrections of errors shall be reported in the same manner as the original list. Such changes shall not nullify the promulgation date of the eligibility list, nor certifications and appointments made from such list.

**9.7 COPYING OF EXAMINATION PROHIBITED**

No one shall copy questions or answers nor in any way alter or mutilate an examination paper or records made available for inspection. Violations may result in cancellation of eligibility and disqualification for future examinations.

REFERENCE: Education Code Section 45279

**ARTICLE X  
EMPLOYMENT LISTS**

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**10.1 ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS**

- A. An eligibility list of successful competitors shall be established for each class upon completion of the examination procedures.
- B. Eligibility lists shall be established for a period of not less than one year except that when a list is exhausted for appointments to current vacancies, through use and eligibles being unavailable, the commission may, upon the recommendation of the officer charged with certifying eligibles and after due notice to eligibles who may have made themselves unavailable for appointment, terminate it before a year has expired.
- C. Eligibility lists may be established for a period of six months upon the approval of the personnel commission so long as the six months duration of such a list is noted in the recruitment bulletin announcing the examination. If a list is exhausted for appointments to current vacancies, through use and eligibles being unavailable, the commission may, upon the recommendation of the officer charged with certifying eligibles, and after due notice to eligibles who may have made themselves unavailable for appointment, terminate it before the expiration date.
- D. A list may be extended for an additional period of one (1) year or less at the discretion of the commission.

REFERENCE: Education Code Section 45300

**10.2 TERMINATION OF ELIGIBILITY LISTS**

- A. An eligibility list is automatically terminated one year from the date of its promulgation unless previously extended or terminated by the commission.
- B. An eligibility list is automatically terminated when no eligibles remain on the list.
- C. An eligibility list may be terminated by the commission when no eligible is available for appointment to a specific permanent position in a class or when there are less than three ranks on the list.

**10.3 CONSOLIDATION OF SUCCESSIVE ELIGIBILITY LISTS**

- A. Combinations of successive eligibility lists may be made during their first year. Eligibles on lists established within the first year of the life of another list will be placed in the order of their relative excellence in the examination on the like list, lists so merged have been promulgated under conditions and techniques which are sufficiently similar to preserve their competitive character.

REFERENCE: Education Code Section 45291

- B. When lists are consolidated 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.

**10.4 ELIGIBILITY AFTER APPOINTMENT**

An eligibility list shall be used for full-time, part-time, regular, and limited-term assignments in the class. An eligible who accepts part-time employment shall continue to be eligible for full-time employment, and an eligible who accepts limited-term employment shall continue to be eligible for regular appointment.

**10.5 REEMPLOYMENT LISTS**

There shall be established for each class a reemployment list which shall take precedence over all other employment lists in appointment. This list shall contain the names of all permanent classified service employees who have been laid off from any position because of lack of work or lack of funds within a period of 39 months. In addition, such persons laid off have the right to participate in promotional examinations within the district during the period of 39 months.

Employees who were subject to being, or were in fact, laid off for lack of work or lack of funds and who elected service retirement from the Public Employees' Retirement System shall be placed on an appropriate reemployment list.

The names of such employees shall be provided to the Board of Administration of the Public Employees' Retirement System indicating that retirement was due to layoff for lack of work or of funds. Furthermore, if such employees accept, in writing, an appropriate vacant position, the district shall maintain the vacancy until the Board of Administration of the Public Employees' Retirement System has properly processed the employee's request for reinstatement from retirement.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present positions rather than be reclassified or reassigned shall be granted the same rights as persons laid off and shall retain eligibility to be considered for reemployment for an additional period of up to 24 months provided that the same tests of fitness under which they qualified for appointment to the class shall still apply. The commission shall make the determination of the specific period of eligibility for reemployment on a class-by-class basis. Furthermore, such employees shall, at the option of the employee, be returned to a position in their former class or to positions with increased assigned time as vacancies become available, and without limitation of time. However, if there is a valid reemployment list they shall be ranked on that list in accordance with their proper seniority.

REFERENCE: Education Code Section 45298

#### **10.6 REINSTATEMENT LIST**

- A. A permanent employee who resigned in good standing may be reinstated in a vacant position in a former classification within 39 months of the last date of paid service.
- B. Reinstatement may also be made to a vacant position in a lower related classification.
- C. All reinstatements are discretionary with the appointing authority.

REFERENCE: Education Code Section 45309

#### **10.7 REMOVAL OF NAMES FROM EMPLOYMENT LIST**

The name of an eligible may be removed from an employment list by action of the commission for any of the following reasons:

- A. A written request by the eligible for removal,
- B. Evidence that the eligible cannot be located by return address request of the postal authorities through a "return receipt requested",
- C. Waiver of appointment after certification permit as described in 12.2, or
- D. Any of the causes listed in Article VII, Section 7.4 (Elimination of Unfit Applicants, Candidates and Eligibles).

## ARTICLE XI CERTIFICATION

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### 11.1 CERTIFICATION OF NAMES

A. Applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations, except applicants for senior management and executive secretary positions which will be listed, unranked in alphabetical order. The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank.

REFERENCE: Education Code Sections 45272 and 45256.5

B. Names shall be certified for appointment from employment lists in the following sequence:

1. Reemployment List

When certification is made from the reemployment list containing 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, one name shall be certified and appointed.

2. Promotional Eligibility List (Three Ranks)

Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

3. Open Eligibility List (Three Ranks)

Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

4. All names shall be certified for appointment from unranked eligibility lists for senior management and executive secretary positions.

C. All eligibles on the highest three ranks on the list who are ready and willing to accept the position shall be certified to the appointing authority.

### 11.2 DUAL CERTIFICATION

When the same examination is held on an open competitive and promotional basis to provide a list of eligibles for any class having fewer than three permanent positions or for which the most recent promotional eligibility list failed to provide sufficient available eligibles to fill all the vacancies occurring in permanent positions during the first year of life of the eligibility list, the commission may, prior to the examination, authorize dual certification from the resultant eligibility lists. The three ranks certified shall be those of open and promotional eligibles who have the highest examination scores, including seniority credit for promotional eligibles.

*Amended 9/16/86*

### 11.3 OTHER SOURCES OF ELIGIBILITY

In the absence of a reemployment list for a class, a vacancy may be filled by transfer, demotion, reinstatement or reemployment (after resignation), restoration to former class after voluntary demotion, or other means provided in the rules without regard for existence of eligibility lists.

### 11.4 CERTIFICATION FROM LIST FOR ANOTHER CLASS

If there are no employment lists for the class in which a vacancy occurs, certification may be made from a list for another class at the same or higher level if the duties and qualifications of the related class are substantially similar to the position to be filled and provided that the personnel commission finds that the use of the list will be in the best interest of the district.

## **11.5 CERTIFICATION TIME LIMITS**

- A. Certifications made from current eligibility lists shall be valid for no longer than 30 days for selection by the appointing authority to fill existing vacancies. Any temporary employee shall be released if selection cannot be made within the 30-day limit.
- B. Certification made from current eligibility lists shall be valid for no longer than 30 days for selection by the appointing authority on single vacancies and 90 days on multiple vacancies. Any temporary employee shall be released if selections cannot be made within these time limits.
- C. Subsequent certifications may be made if the certification process has commenced prior to the expiration date of an eligibility list in order that the appointing authority would have three ranks from which to make a selection.

## **11.6 QUESTIONS TO BE AVOIDED**

Questions relating to political, or religious opinions or affiliations, age, race, color, national origin or ancestry, sex, marital status, or labor union affiliations, shall not be asked of any applicant, or any candidate certified for appointment, nor shall any discrimination be exercised therefore.

## **11.7 SELECTIVE CERTIFICATION**

Certification may be made from other than the first three ranks on the eligibility list when the ability to speak, read, or write a language in addition to English or possession of a valid driver's license is a requirement of the position to be filled.

The recruitment bulletin announcing the examination shall indicate the special requirements which may be necessary for filling one or more of the positions in the class.

Where such a position is to be filled, the appointment shall be made from the highest three ranks who meet the special requirements who are ready and willing to accept the position.

REFERENCE: Education Code Section 45277

**ARTICLE XII**  
**DUTIES OF ELIGIBLES AFTER CERTIFICATION**

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**12.1 TIME ALLOWED FOR REPLY TO NOTICE OF CERTIFICATION**

Eligibles affected shall be notified in writing when certification is made to a regular position. It shall be the responsibility of every eligible certified to a regular position to respond within four working days from the date of notification. Failure to respond is an automatic waiver and the director may, at the request of the appointing authority certify an additional rank.

**12.2 WAIVER OF APPOINTMENT**

An eligible may for a reason satisfactory to the director waive appointment after certification, but after two such waivers of permanent appointments to positions in any given class, his/her name shall be removed from the employment lists for that class as being unavailable unless a written notice is made to the director indicating the eligible's willingness and readiness to work.

**12.3 NAME MAY BE WITHDRAWN FROM ACTIVE LIST**

An eligible may at any time have his/her name temporarily withdrawn from the eligibility list or may make himself/herself unavailable, without penalty, for certification to specific locations or shifts, on giving notice in writing to the director. His/her name will be restored to the eligibility list upon written application to the director during the period for which the eligible list containing his/her name is effective.

**ARTICLE XIII**  
**APPOINTMENTS OF CANDIDATES**

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**13.1 VACANCIES IN CLASSIFIED SERVICE**

Subsequent to applicants being placed on eligibility lists in order of their relative merit as determined by competitive examinations, appointments shall be made from the first three ranks on the eligibility list who are ready and willing to accept the position.

REFERENCE: Education Code Section 45272

**13.2 OFFICIAL NOTICE**

All assignments or reassignments shall officially become effective through the classified personnel office. All personnel actions shall be approved by the director.

**13.3 REQUIRED INFORMATION TO APPOINTEES**

Upon initial employment, each regularly appointed employee shall be furnished a copy of his/her class specification, the Performance Evaluation Form, Employee Orientation Handbook, Negotiated Agreement, (if position covered by unit) and a Status Notice indicating work location, salary data, position, hours, work year, probationary period and notice that appointment is subject to approval by the Board of Education. Thereafter, upon each change in classification, each classified employee shall be furnished a class specification and a Status Notice reflecting work location, employment status, salary data, position, hours and work year.

REFERENCE: Education Code Section 45169



**ARTICLE XIV**  
**APPLICANT AND EMPLOYEE CLEARANCES**

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**14.1 INITIAL EMPLOYMENT**

A. Every person being employed by the district shall be required to complete and pass the following examinations as a condition of employment:

1. Test for tuberculosis which determines that a person is free of active tuberculosis within the past 60 days unless:
  - a. The applicant provides a certificate from a school district showing that he/she was examined within the past four years and was found to be free of communicable tuberculosis; or
  - b. The school district, that previously employed the applicant, verifies in writing that it has such a certificate on file.

REFERENCE: Education Code Section 45122

2. Physical health examination determined by the district to be appropriate for the class.

REFERENCE: Education Code Section 45122

3. Pre-placement Drug/Alcohol Testing

- a. If a drug test is positive at the pre-placement physical, the applicant must provide within 24 hours of request a bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.
- b. A pre-placement drug/alcohol test will be administered to job applicants conditionally placed on an eligibility list for employment with the District in classifications where the job duties could have immediate and direct impact on health and safety. The concern of the District is that prospective employees are in a condition to perform their duties safely and efficiently, in the interests of fellow workers and the public as well as themselves.
- c. Once conditionally placed on an employment eligibility list, prospective employees in the following classifications will be administered a pre-placement drug/alcohol test as part of the District's pre-placement physical examination.

Audiovisual Electronics Technician  
Auto Shop Teacher  
Construction Supervisor  
Copy Center Supervisor  
Custodian  
Driver's Training Teacher  
Facilities Supervisor/Buildings  
Facilities Supervisor/Grounds  
Child Nutrition Delivery Worker  
Child Nutrition Delivery worker II  
Grounds Equipment Operator

Groundskeeper  
Heating and Ventilating mechanic  
Lead Custodian  
Lead Groundskeeper  
Locker Room Attendant  
Locksmith  
Maintenance Carpenter  
Maintenance Electrician  
Maintenance Leadworker  
Maintenance Painter  
Maintenance Plumber  
Maintenance Worker II  
Mechanic  
Metalshop Teacher  
Offset Duplicating Operator  
Pest/Rodent Control Leadworker  
Plant Supervisor  
Pool Operator  
Pressroom Assistant  
Security Guard  
Shipping and Receiving Clerk  
Sprinkler Repair Worker  
Senior Grounds Equipment Operator  
Stock Clerk Delivery Driver  
Storekeeper  
Warehouse Leadworker  
Woodshop Teacher

*Amended 5/10/94*  
*Amended 7/28/94*  
*Amended 10/21/97*

- c. A positive result from a drug test and/or an alcohol level of .08% or above may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties, or responsibilities. *Amended 9/11/90*
- d. If a drug test is positive at the pre-placement physical, the applicant must provide within 24 hours of request a bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

Applicants, who fail to pass the pre-placement drug/alcohol test, may not reapply for District employment for one year from the date the sample was obtained from the applicant.

An applicant denied employment with the District may appeal such decision to the Personnel Commission pursuant to Merit System Rule 14.7.

- e. The drug/alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to the following:

Amobarbital	Morphine
Amphetamine	opiates (as a group)
Benzodiazepines	Pentobarbital (Nembutal)
Butabarbital	Phencyclidine (PCP)
Butalbital	Phenobarbital
Cocaine Metabolites	Secobarbital (Seconal)
Codeine	Alcohol ,Quantitative,Urine (level .o8%)
Methamphetamine (Desoxyn)	

Urinary Cannabinoids, Qualitative (level: 50 nanograms)

The collection of urine samples and the chain of custody of the urine samples will follow the National Institute on Drug Abuse protocol.

- f. The applicant will be required to sign a consent form giving permission to perform the drug/alcohol testing and to release the results of the drug/alcohol test to the District.

If the applicant refuses to sign the above-mentioned consent form, the applicant will be advised that the pre-placement physical examination will not be conducted and the applicant will be disqualified by the District on the basis of an incomplete medical examination. The applicant will be further advised that a second medical appointment will not be permitted at a later date and that the disqualification will remain in effect for the entire period of the applicant's eligibility on the eligibility list.

- g. All positive test results will be confirmed by using an alternative testing method.
- h. If the initial test result is positive and the confirmatory test result is negative, the overall test will be considered negative.
- i. All test results will be forwarded to the District.
- j. Positive confirmed test samples will be retained for a minimum period of sixty (60) days by the testing laboratory. All documentary physical examination information provided to the District will be maintained in a confidential applicant file that will be securely kept under the control of the Classified Personnel Director.

*Adopted 8/18/87  
Amended 3/7/89*

- 4. Criminal record check within ten (10) working days of the date of employment.

REFERENCE: Education Code Section 45125

- B. No person shall be employed by the district who has been convicted of or determined to be the following, unless such conviction of or determination has been reversed in a new proceeding or trial and the charges dismissed:

- 1. Conviction of any sex offense as defined in section 44010 of the Education Code.

REFERENCE: Education Code Section 45123

- 2. Conviction of any narcotics offense as defined in section 44011 of the Education Code. The governing board may employ a person convicted of a narcotics offense if the governing board determines from the evidence presented that the person has been rehabilitated for at least five years. The governing board shall determine the type and

manner of presentation of the evidence and the determination of the governing board as to whether or not the person has been rehabilitated is fact.

3. Determined to be a sexual psychopath pursuant to Article I (commencing with section 6300), Chapter 2, Part 2, Division 6 of the California Welfare and Institutions Code or under similar provisions of law of any other state.

REFERENCE: Education Code Section 45124

- C. Every person offered employment by the District shall be required to submit documentation in order to establish both their identity and their employment authorization to work in the United States under the Immigration Reform and Control Act of 1986. Every person must complete Section I of the Employment Eligibility Verification Form (Form I-9) verifying that they are citizens or nationals of the United States, aliens lawfully admitted for permanent residence or aliens who are authorized by the Immigration and Naturalization Service to work in the United States.

The required documents which establish both identity and employment eligibility are (persons may submit any document from List A; or alternatively, one document from List B and List C):

1. Documents establishing both employment authorization and identities:
  - a. United States passport
  - b. Certificate of United States Citizenship
  - c. Certificate of United States Naturalization
  - d. Unexpired foreign passport, with employment authorization
  - e. Alien Registration Receipt Card with photograph
  - f. Temporary Resident Card
  - g. Employment Authorization Card
2. Documents evidencing employment authorization:
  - a. Social Security card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).
  - b. Birth certificate issued by state, county or municipal authority bearing a seal or other certification.
  - c. Unexpired INS employment authorization.
  - d. Unexpired re-entry permit.
  - e. Unexpired refugee travel document.
  - f. Certification of birth issued by the Department of State.
  - g. Certification of birth abroad issued by the Department of State.
  - h. U.S. citizen ID card.
  - i. Native American tribal card.
  - j. Identification card for use of resident citizen in the United States.
3. Documents establishing identity of individual:
  - a. Driver's license or state ID card if it contains a photograph and other personal identification information.
  - b. U.S. Military card or draft record.
  - c. School ID card with a photograph.
  - d. Voter's registration card.
  - e. Identification card issued by federal, state or local government agency.
  - f. Military dependent's ID card.
  - g. Native American tribal documents.
  - h. U.S. Coast Guard Merchant Mariner Card.
  - i. Driver's license issued by a Canadian government authority.

For individuals under age 16 who are unable to produce one of the documents listed:

1. School record or report card
2. Clinic, doctor or hospital record
3. Day care or nursery school record

*Adopted 7/21/87*

#### **14.2 DURING TERM OF EMPLOYMENT**

- A. Every employee shall undergo a tuberculosis test to determine that he/she is free from active tuberculosis at least every four years after initial employment; or upon administrative discretion. If at any time there is cause to believe that an employee is afflicted with active tuberculosis, he/she may be excluded from service until the board is satisfied that he/she is not so afflicted.

REFERENCE: Education Code Section 49406

- B. In the best interest of the employee and the classified service, an employee may be required to undergo a physical health examination at the administrative discretion of his/her supervisor or building principal if there is probable cause an employee's health is jeopardizing the performance of his/her duties.

#### **14.3 TUBERCULOSIS TEST**

- A. The examination shall consist of an x-ray of the lungs, or an approved intradermal tuberculin test, which, if positive, shall be followed by an x-ray of the lungs.
- B. The x-ray film may be taken by a competent and qualified x-ray technician; however, all tests shall be interpreted by a physician and surgeon licensed under chapter 5 (commencing @ section 2000) of Division 2 of the Business and Professions Code.
- C. After the examination, each person shall cause to be filed with the district a certificate from the examining physician and surgeon showing the person was examined and found free of active tuberculosis.

#### **14.4 CRIMINAL RECORDS CHECK**

- A. The criminal records check shall consist of having two 2"x2" fingerprint cards bearing the legible, rolled and flat impressions of such person's fingerprints together with a personal description of the person prepared by the Classified Personnel Office and the Classified Personnel Office shall transmit such cards, together with the fee, to the State Department of Justice.
- B. At the discretion of the State Department of Justice, it may forward copies of the fingerprint card to other bureaus of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the person.
- C. All criminal record reports shall be treated as confidential. If the check discloses a criminal record, the board shall decide whether or not the person should be employed or retained in employment and shall notify the commission of the decision.

*Amended 11/18/97*

#### **14.5 COSTS FOR EXAMINATIONS**

All expenses incurred for the examinations listed herein shall be paid by the district.

REFERENCE: Education Code Sections 49406 and 45122

#### **14.6 APPLICATION OF RULE**

With the exception of the physical health examination, this rule shall also apply to the following persons exempted from the classified service:

- A. Any substitute or temporary employee paid for less than a school year.
- B. Full-time students employed part-time by the district.
- C. Any apprentice.
- D. Any professional expert employed temporarily for a specific project.
- E. Any part-time playground position.

#### **14.7 MEDICAL REVIEW BOARD**

- A. Any rejection for medical reasons of an eligible or of an employee who has been on leave of absence may be appealed to the commission.
- B. The commission may employ outside medical experts to give a medical advisory opinion. The commission, based on evidence submitted and the advice of a medical review board, shall determine whether or not the denial of appointment or return from leave shall be sustained. The decision of the commission shall be final.

**ARTICLE XV**  
**SHORT TERM ASSIGNMENTS**

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**15.1 PROVISIONAL ASSIGNMENTS**

A. Provisional Appointments - When no eligibility list exists for a position in the classified service, an employee may receive provisional appointments which may accumulate to a total of 90 working days. A 90-day calendar-day interval shall then elapse during which the person will be ineligible to serve in any full time provisional capacity. No person shall be employed in provisional capacities by the board for a total of more than 126 working days in any one fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position. Successive 90-working-day provisional appointments may be made to the part-time position for a total of no more than 126 working days in any one fiscal year.

REFERENCE: Education Code Section 45287

B. Extension of Provisional Assignments - The commission may authorize the extension of a provisional employee's assignment for a period not to exceed 36 working days provided the following requirements are met:

1. An examination for the class was completed during the first 90 working days of his provisional assignment.
2. Evidence satisfactory to the commission is presented indicating:
  - a. That an adequate recruitment effort has been and is being made.
  - b. That extension of the provisional assignment is necessary to carry on vital functions of the district.
  - c. That the position cannot be satisfactorily filled by use of other employment lists or procedures.

C. Successive Provisional Assignments - Successive provisional appointments of 90 working days or less each may be made in any class in the absence of an appropriate eligibility list; provided that continuous examination procedures for the class have been authorized by the commission. Such successive provisional appointments may be made and persons employed in temporary capacities under the board for a total of no more than six months in any one-year. Such appointments may continue for the length of time for which they were made, but may not be extended if a certification can be made from an appropriate eligibility list.

REFERENCE: Education Code Section 45289

D. Terminating Provisional Appointments - The services of a provisional appointee shall be terminated within 15 working days after the date on which an eligibility list has been established; provided that this 15-day period does not extend beyond the 90-working-day provisional assignment or the additional 36 working days if authorized by rule 15.1, B.

A provisional appointment may be terminated at any time, at the discretion of the appointing power.

## 15.2 LIMITED-TERM ASSIGNMENT

A limited-term assignment is an appointment of a person to a position, the duration of which is not to exceed six months; or in the case of an appointment in lieu of an absent person, is not to exceed the authorized absence of said employee.

REFERENCE: Education Code Section 45286

A limited-term assignment to any class shall meet the entrance qualifications specified in the appropriate class description.

Eligibles shall be certified in accordance with their position on an eligibility list, if available, and their willingness to accept such limited-term appointments.

Limited-term assignments shall include the following:

- A. Substitute Appointment - A temporary employee assigned to the same or lower related classification than that of the absent employee.
- B. Relief Appointment - An assignment to a relief position which augments the number of regular positions in a given organizational unit.
- C. Emergency Appointments - If it should become necessary in time of emergency to fill positions in the classified service to prevent the stoppage of public business and persons on eligibility lists are not immediately available, the board, through the director, may make emergency appointments for a period not to exceed 15 working days.

REFERENCE: Education Code Section 45290

- D. Summer School/Extended Program Appointments - Temporary employee services during the summer session.

## 15.3 SUMMER SCHOOL/EXTENDED PROGRAM ASSIGNMENT

- A. General Criteria - Summer School/Extended Program employment for classified positions shall give preference to qualified employees of the district desiring such limited-term employment. Only in the event of insufficient applications will persons not employed by the district be offered to compete for the positions.

Furthermore, in such instances, qualifications for examination, in accordance with standard classified personnel selection procedures shall be applicable.

The criteria established for employment is based upon the particular requirements of the Summer School/Extended Program.

- B. Criteria for Selection of District Employees - The applicant shall be qualified for the position demonstrated by:
  - 1. Current employment in the classification; or
  - 2. Having previously occupied the classification permanently.
- C. Quality of Prior Service in the District



1. The applicant shall demonstrate capability for meeting and working with the public in a cordial manner.
2. It is highly desirable that an applicant for a clerical position shall have experience or a good working knowledge of attendance record keeping and standard office procedures. Furthermore, proficiency in clerical tasks is important.
3. In the event of identical ratings, longevity with the district shall be the deciding factor.

#### **15.4 CONCURRENT ASSIGNMENT**

Concurrent regular assignment of one additional employee, of not more than five working days, may be permitted in connection with changes of personnel other than those brought about through retirement. In retirement cases, the concurrent assignment in addition may equal in duration any vacation granted to the retiring employee.

#### **15.5 EMPLOYMENT OF RETIRED EMPLOYEES**

- A. Any employee who retired as a member of the Public Employees Retirement System may be employed for up to 120 working days or 960 hours in a calendar year whenever other eligibles are not available and the employee's skills or knowledge are needed, or during an actual emergency to prevent the stoppage of public business, provided:
1. The retired employee has been approved by a medical authority designated by the Commission.
  2. The assignment of the retired employee is approved and certified as to need by the requesting office.
  3. The retired employee certifies in writing that he/she understands that his/her employment is limited to a maximum of 120 working days or 960 hours in a calendar year with the District and any other employer subject to the provisions of the Government Code Sections 21153 and 21158.
  4. Retired employees assigned for limited periods shall not be granted leaves other than a paid industrial accident leave as provided in Article XXIII.

REFERENCE: Education Code Section 45135  
Government Code Sections 21153 and 21158

*Amended 4/3/90*

**ARTICLE XVI  
CHANGES IN ASSIGNMENTS**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**16.1 TRANSFER OF EMPLOYEES**

16.1.1 DEFINITIONS

- A. **Position transfer** shall mean reassignment of an employee between job sites or between departments at the same job site, within the same classification on the basis of a voluntary or involuntary transfer.
- B. **Lateral transfer** shall mean reassignment of an employee to a position in a related class with the same salary range on the salary schedule on the basis of a voluntary or involuntary transfer. Such transfer shall require the approval of the Director, Classified Personnel as set forth below.
- C. **Voluntary Transfer** shall mean reassignment at the request of the employee.
- D. **Involuntary Transfer (“administrative transfer”)** shall mean reassignment by the Assistant Superintendent, Human Resources and/or the Director, Classified Personnel, for the good of the District, provided that such actions shall not be taken for arbitrary, capricious or illegal reasons.

16.1.2 GENERAL TRANSFER PROVISIONS

- A. **TRANSFER ANNOUNCEMENT:** Whenever a position vacancy is created or a position’s assigned time is permanently increased, the Classified Personnel Department will post the position on a transfer bulletin with a copy send out to all District work locations, and post it on the transfer listings page of the Classified Personnel webpage. The transfer listing shall specify the transfer filing period, not less than five (5) working days.
- B. **REQUEST FOR TRANSFER:**
  - 1. An employee may file a request for transfer with the Classified Personnel department at any given time, which shall be active for a period of one (1) year from the time of filing.
  - 2. An employee must have on file a transfer request before the closing deadline for the requested position transfer.
- C. The Classified Personnel staff shall maintain a listing of all active employee transfer requests, and purge the lists as necessary after transfer requests have been fulfilled, withdrawn or expired.

16.1.3 ELIGIBILITY FOR TRANSFER

- A. An employee shall not be deemed eligible for voluntary transfer without prior approval of the Director, Classified Personnel for any one of the following reasons:
  - 1. An employee has not attained permanent status in his/hers current job classification.

2. The most recent performance evaluation reflects a performance rating of below “meets standards”.
  3. A record of at least two (2) formal written reprimands addressing performance deficiencies within six months preceding the transfer vacancy announcement.
  4. A record of formal disciplinary action (ie. suspension) either recent or pending Board of Education action or appeal to the Personnel Commission.
  5. The above criteria may be waived on an agreement between the union and the Director, Classified Personnel.
- B. Lateral transfer eligibility shall be established by the Director, Classified Personnel by determining whether the job classes are sufficiently “related” by applying the following criteria:
1. Similarities of duties as specified on the job description for each job class
  2. Similarity of minimum entrance qualifications for each job class
  3. Similarity of occupational fields
  4. Similarity of examination content
  5. Additional factors:
    - i. The length of service of the employee with the District
    - ii. The basis for transfer is a result of layoff (displacement or a reduction in hours or work year), reclassification of the employee’s position to a higher job class, reclassification of the employee’s position due to a sudden reorganization of duties, or disability accommodation. At such time, if the employee is assigned to a generic job class with multiple positions, the position assigned duties will be closely examined to determine relatedness to the requested job class.
    - iii. The employee meets the minimum qualification requirements for the job class that transfer is requested to.
- C. An employee, who has been deemed ineligible for voluntary transfer per 16.1.3, upon request, shall receive in writing, the rationale for such denial. A designated union representative shall be copied on the response to the employee.

16.1.4 CERTIFICATION OF TRANSFER CANDIDATES FOR INTERVIEW

- A. The transfer request must be “active” in order for the employee to be certified to the hiring authority as an eligible transfer candidate during a position vacancy filling process; the employee will be notified by the Classified Personnel department that their name is being certified as eligible for transfer.
- B. The Classified Personnel staff will provide a hiring authority with a certified list of eligible transfer candidates in accordance with their seniority ranking.

- C. When filling a single vacancy from a list of voluntary transfer candidates, the hiring authority shall interview at least the two (2) most senior applicants on the certified transfer eligibility list.
- D. When filling multiple vacancies within a department, the hiring authority shall interview at least the three (3) most senior applicants, depending on the number of vacancies available.
- E. The selected transfer candidate shall be released from his/her current assignment location within ten (10) working days of the date of transfer offer, unless otherwise agreed to by all parties.

#### 16.1.5 INVOLUNTARY (“ADMINISTRATIVE”) TRANSFER PROCEDURES

- A. District administration initiated transfers shall provide the impacted employee with at least five (5) days’ notice in writing, unless compelling circumstances exist for why such notice cannot be afforded. If the District is not able to meet the advance notice guidelines, the employee’s union association representative and the employee shall be provided with the rationale for such action.
- B. Involuntary transfers from positions paying a salary differential rate that would result in a loss of compensation shall only be done for disciplinary reasons in accord with the rules and regulations guiding the disciplinary proceedings.
- C. An employee who has been involuntarily transferred may, within five (5) working days after receiving written notification, request and shall be granted a conference with the appropriate administrator to discuss the administrative reassignment.

#### 16.1.6 EFFECTS OF TRANSFER

- A. Position transfers shall have no adverse effects on the employee’s status, including seniority standing, salary step, accrued sick and vacation leave, unless such transfer is a result of formal disciplinary action taken by the Board of Education.
- B. Lateral transfers: A permanent employee who transfers to a position in a class in which the employee has not previously completed a probationary period shall be considered probationary in that class for (3) months or ninety (90) work days, whichever is longer. At any time during this probationary period, the employee may be returned (transferred) to a former class without right of appeal. Any seniority earned by a probationary employee who is returned or transferred to a former class shall be credited to that former class.

REFERENCE: Education Code Sections 45260 and 45261

#### 16.1.7 APPEAL RIGHTS

- A. An employee may file an appeal to the Director, Classified Personnel if he/she feels that the rules and procedures guiding the transfer process have not been followed in accord with the set provisions of this article.
- B. If a District Administrator or an employee requesting a lateral transfer has their request denied by the Director, Classified Personnel, he/she may file an appeal to the Personnel Commission for a final determination, by submitting their appeal and related rationale in writing to the Personnel Commission Chairperson.

- C. Prior to filing an appeal with the Personnel Commission, an employee must exhaust all available appeal rights provided for in the collective bargaining agreement between the CSEA and the District.

*Article 16.1 Amended 09/14/10*

## **16.2 DEMOTIONS**

- A. A permanent employee may request a voluntary demotion without competitive examination procedures to a vacancy in a class with a lower maximum salary rate of which he/she had formerly been classified as a permanent employee. Such requests require the approval of his/her administrator and that of the office to which he/she is to be assigned.
- B. A permanent employee may request a voluntary demotion to any class which is not higher than a class in which he/she had acquired probationary or permanent status, provided that the requested assignment indicates:
  - 1. Similarity of duties.
  - 2. Similarity of entrance qualifications.
  - 3. Similarity of fields of promotional opportunities.
  - 4. Similarity of examination content.
- C. Voluntary demotion is a privilege available to a probationary employee only in cases when he/she would otherwise be laid off for lack of work or lack of funds.
- D. Involuntary demotion is a disciplinary action for cause and is subject to the pertinent rules and procedures contained herein. No permanent employee shall be demoted or removed except for reasonable cause designated by rule of the commission as detrimental to the efficiency of the service.

REFERENCE: Education Code Section 45302

- E. A permanent employee demoted because of incompetency or inefficiency during his/her probationary period in a higher class has rights which shall be exercised in the following priority:
  - 1. Rights to be assigned to an existing vacancy in the class from which he/she was most recently promoted.
  - 2. Rights to displace in the class from which he/she was most recently promoted, providing he/she has more seniority than the employee with the least seniority.
  - 3. Rights to be assigned to an existing vacancy in any lower class in which permanency was attained.
  - 4. Rights to displace in any lower class in which permanency was attained, providing he/she has more seniority than the employee with the least seniority.

## **16.3 REINSTATEMENTS**

- A. Any permanent employee who voluntarily resigns from his/her position may be reinstated or reemployed by the board within 39 months after his/her last day of paid service and without further competitive examination, to a vacant position in his/her former classification as a

permanent or limited-term employee, or as a permanent or limited-term employee in a related lower class in which the employee formerly had permanent status.

**B. Reinstatement of an employee shall have the following effects:**

1. Reinstatement to the former step in the current salary range for the class, or, if reinstated in a lower class, to the rate closest to that of the step to which he/she would be assigned if he/she were reinstated in his/her former class.
2. Reinstatement of accumulated sick leave and seniority as of the date of separation.
3. Reinstatement of former anniversary date, but without step-advancement credit for the off-duty period.
4. Reinstatement of all rights, benefits and burdens of a permanent employee in the class to which reemployed.

REFERENCE: Education Code Section 45309

## **16.4 RESTORATION**

An employee who accepted demotion in lieu of layoff for lack of work, lack of funds, or abolishment or reclassification of his/her position, has the right to be restored in accordance with his/her seniority to any newly created position from which he/she voluntarily demoted within 39 months after demotion. Intervening reassignments to other classes shall not abrogate that right.

## **16.5 LAYOFF PROCEDURES**

### **16.5.1 LAYOFF DEFINITION**

“Layoff” constitutes layoff from employment or any reduction in assigned time per day, week, month, or year; or assignment to a class or grade lower than that in which the employee has permanence, voluntarily consented to by the employee, to avoid interruption of employment by layoff.

REFERENCE: Education Code Section 45101

### **16.5.2 REASON FOR LAYOFF**

- A. The layoff of classified employees shall only occur for a lack of work or a lack of funds, and only in accordance with the rules and regulations of the Personnel Commission and the Education Code. Any effects of layoff that may be negotiated by and between the District and any recognized exclusive representative shall be in addition to these rules and regulations. Any agreement between the District and a recognized exclusive representative may not provide for less than the mandated employee protections and procedures outlined in this rule.
- B. No regular employee shall be laid off from any position while employees serving under limited-term or provisional appointment are retained in positions of the same class unless the regular employee declines the limited term or provisional assignment.

REFERENCE: Education Code Sections 45117, 45261, 45298, and 45308

### **16.5.3 LAYOFF RESOLUTION BY THE BOARD OF EDUCATION**

Before layoff notice can be issued, the Board of Education shall adopt a resolution outlining the number of positions within each classification to be eliminated or reduced in assigned time.

REFERENCE: Education Code Sections 45260, 45261

#### 16.5.4 ADVANCE NOTIFICATION TO EXCLUSIVE REPRESENTATIVE

If any of the impacted positions are represented by a collective bargaining exclusive representative, the District and the exclusive bargaining representative shall meet to review the proposed layoff action. A copy of each layoff notice will be sent to the exclusive representative.

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

#### 16.5.5 NOTICE OF LAYOFF

- A. When, as a result of a bona fide reduction or elimination of the service being performed by any department, classified employees shall be subject to layoff for lack of work/lack of funds, affected employees shall be given notice of layoff, not less than 45 days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights. The notice to the affected employee shall specify the reason for the layoff and be given by personal delivery or by certified mail to the last known home address of the employee on file in the Classified Personnel 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 third working day following the postmark date of the notice shall be considered to be the official date of receipt.
- B. When, as a result of the expiration of a specially funded program, classified positions must be eliminated at the end of any school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of such school year shall be given written notice on or before April 29 informing them of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, the notice shall be given not less than 45 days prior to the effective date of the layoff.
- C. Nothing provided herein, shall preclude a layoff for lack of funds in the event of an actual and existing financial inability to pay salaries and/or benefits of classified employees, nor layoff for lack of work resulting from causes not foreseeable or preventable by the Board of Education, without the notice required in subsections (A) or (B) hereof.
- D. A notice of layoff shall contain the following items:
  1. The reason for the layoff
  2. The employee's displacement rights, if any
  3. The employee's reemployment rights
  4. The right to an exit interview with the Director-Classified Personnel during working hours, with a representative of the exclusive representative (if applicable to the position) present
  5. The name and classification of the employee designated for layoff
  6. A statement that the employee may have a right to unemployment insurance

7. A statement that the employee has a right to continue insurance at their own expense

REFERENCE: Education Code Sections 45117, 45260, 45261

#### 16.5.6 ORDER OF LAYOFF

- A. Length of service (seniority as prescribed herein) shall be the only criterion used to effect layoffs. When classified employees are laid off for lack of work or lack of funds, layoff shall be made in inverse order of seniority in the class in which the layoff occurs. The employee who has been employed the shortest time in the class, plus higher classes, shall be considered to have the least seniority, and, therefore, shall be laid off first. Reemployment shall be in the reverse order of layoff.
- B. For service commencing or continuing after July 1, 1971, "length of service" means all hours in paid regular status, whether during the school year, a holiday, recess, or during any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis.
- C. Time spent on leave without pay shall not be included when computing seniority, but all time spent on approved leaves with pay or military leave, illness, maternity, family care, or industrial accident leave shall count toward seniority accrual. In the event an employee returns to work following any other unpaid leave or absence, no further seniority shall be accrued for the time not worked.
- D. Seniority continues to be accrued in lower classes held after employee promotes to higher classifications.

REFERENCE: Education Code Sections 45260, 45261, 45308

#### 16.5.7 SITE SENIORITY

If a position in a classification is eliminated or reduced at a site or department which has multiple positions at that site or department with similar times, the least senior employee in that classification with those assigned hours will be bumped from the site before more senior employees in that classification and assigned hours are impacted. EXAMPLE: A site has four Instructional Assistants that are each three (3) hours per day. If one three (3) hour position is eliminated at that site, the least senior of the four Instructional Assistants at that site will be bumped.

#### 16.5.8 BUMPING AND DISPLACEMENT RIGHTS

- A. An employee in the classified service who is laid off shall have the right to bump the least senior employee in the same class. If there is no option for bumping within the same class and the employee has achieved permanent status in an equal or lower class, the employee shall have the right to bump the least senior employee in that equal or lower class.
- B. Bumping order shall follow the following procedure:
  1. When a permanent position is to be reduced in assignment time per day, week, month or year, the incumbent shall have the right to transfer to any vacant position in the same class which is not greater in assigned time than his/her former position.
  2. If the previous option is unavailable, the employee will be allowed to bump into a position providing an equal assignment in the same class when compared with



the employee's current position, and which is occupied by a less senior employee.

3. If the previous option is unavailable, the employee shall also have the option of bumping into an equal or lower class previously held as a regular classified employee, that will provide at least the same or lower assigned time as the employee's current position.

REFERENCE: Education Code Sections 45260, 45261, 45308

#### 16.5.9 VOLUNTARY DEMOTION OR TRANSFER IN LIEU OF LAYOFF

- A. A permanent classified employee who will suffer a layoff for lack of work or lack of funds despite bumping rights, may be offered a transfer to a vacant position in an equal class or a voluntary demotion to a vacant position in a lower class, providing the employee is deemed qualified to perform the duties thereof as determined by the Director, Classified Personnel.
- B. A classified employee who accepts a demotion in lieu of a layoff shall be placed on the salary range of the lower class, at the step closest to the employee's hourly salary rate in the higher classification, without being more than the previous hourly salary rate.
- C. A classified employee who accepts placement in an equal classification shall be placed on the same salary range and step as in the previous position.
- D. A permanent employee who transfers to a position in a class in which the employee has not previously completed a probationary period shall be considered probationary in that class for the standard probationary period outlined in these rules. At any time during this probationary period, the employee may be returned (transferred) to a former class without right of appeal. Any seniority earned by a probationary employee who is returned or transferred to a former class shall be credited to that former class.

REFERENCE: Education Code Sections 45260, 45261

#### 16.5.10 P.E.R.S. RETIREMENT IN LIEU OF LAYOFF

Regular employees who have at least five (5) years of service credit under the Public Employees Retirement System and are fifty (50) years of age or older, may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reductions in assigned time. Such employees shall, prior to the effective date of the proposed layoff, complete and submit a form to the Public Employees Retirement System provided by the Classified Personnel Office for this purpose. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with this regulation. If the District makes an offer of reemployment, and the Classified Personnel Office receives a written acceptance of the offer within five (5) working days, the District shall maintain the vacancy until the Public Employees Retirement System has properly processed the request for reinstatement from retirement.

REFERENCE: Education Code Sections 45115, 45260, 45261

#### 16.5.11 REEMPLOYMENT PROCEDURES

- A. PLACEMENT ON REEMPLOYMENT LIST: The names of regular classified employees laid off pursuant to these rules shall be placed upon the reemployment

list for the class from which they were laid off. Names on the reemployment list shall be in order of seniority as defined by these rules.

- B. REEMPLOYMENT ELIGIBILITY: Laid off employees are eligible for reemployment in the class from which laid off for a thirty-nine (39) month period from the date of the actual layoff and shall be employed in the reverse order of layoff. In addition, they shall have the right to apply for promotional and transfer positions and use their seniority therein for a period of thirty-nine (39) months following layoff. Upon written request to the Classified Personnel Department, an employee on a reemployment list shall be notified of promotional and/or transfer opportunities. A reemployment list shall be used before any other means of filling a vacancy in the class or category for which the list was established.
- C. EXTENDED REEMPLOYMENT ELIGIBILITY: Regular employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be, at the employee's option, returned to a position in their former class or to positions with increased time as vacancies become available, and without limitation of time, but if there is a valid reemployment list they shall be ranked on that list in accordance with their proper seniority.
- D. DISTRICT SEPARATION: When an employee who took a voluntary demotion or voluntary reduction in assigned time in lieu of layoff separates from the District in good standing prior to being reemployed in the class from which laid off, the status of that employee reverts to placement on the reemployment list, with eligibility for reemployment for thirty-nine (39) months from the date of layoff.
- E. REMOVAL OF NAMES FROM THE REEMPLOYMENT LIST: A name may be removed from a reemployment list only for the following causes:
  - 1. Conviction of a crime or crimes which would be sufficient to support dismissal of a permanent employee.
  - 2. Conduct which would cause dismissal under the provisions of Section 45303 of the Education Code.
  - 3. Making false statements or omitting a statement as to any material fact on an application form or health advisory form.
  - 4. Dismissal for cause from employment subsequent to layoff.
  - 5. Employee removed from list shall be accorded a statement of reasons and the right to a hearing before the Personnel Commission. Written notice of removal and the reason therefore shall be provided to the employee, who shall be afforded and notified of appeal rights as those provided in Article VII.

REFERENCE: Education Code Sections 45260, 45261

*Article 16.5 Amended 08/18/08*

## **16.6 REASSIGNMENTS BECAUSE OF ILLNESS OR INJURY**

A regular employee who is determined by the board to be incapable of performing the duties of his/her class because of illness or injury may, at the discretion of the board, be assigned duties which he/she is capable of performing as recommended by the commission.

## **ARTICLE XVII RESIGNATION**

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### **17.1 RESIGNATION PROCEDURE**

When an employee desires to resign from his/her position, he/she shall present the resignation in writing to their supervisor, and a copy of such resignation shall immediately be filed by the supervisor with the director. An employee shall have one week (seven calendar days) in which to rescind his/her resignation in writing to the director.

A resignation relates only to the specific position from which the employee resigns and does not impair his/her rights to other positions which he/she may hold on eligibility lists except that an employee who resigns shall have his/her name removed from promotional eligibility lists.

REFERENCE: Education Code Section 45261

### **17.2 ACCEPTANCE OF RESIGNATION**

The board may accept the resignation of any employee and may fix the time of effect which shall not be later than the close of the school year during which the resignation is received by the board. The commission will be informed of all such resignations prior to action of the board, whenever possible.

REFERENCE: Education Code Section 45201

## **ARTICLE XVIII COMPENSATION PLAN**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

### **18.1 ESTABLISHMENT OF PLAN**

The commission shall recommend to the board a comprehensive compensation plan for all classes of positions in the classified service. The plan shall include salary schedules for the various classes with the salary of each consistent with the responsibility and difficulty of work as outlined in the class descriptions, and shall be based on the principle that like salaries shall be paid for comparable duties and responsibilities. Such compensation plan shall include, for each class of position, a minimum and maximum rate, and intermediate rates to provide for steps in salary advancement without change of duty, in recognition of longevity. In preparing the compensation plan, prevailing rates of pay in other public employment and in private business, and the current cost of living shall be considered.

REFERENCE: Education Code Section 45268

### **18.2 ADOPTION OF PLAN**

The proposed compensation plan or any changes therein shall be submitted to the board for its consideration, approval, amendment or rejection. Salary ranges for classes of positions shall be amended or abolished in the same manner as they are adopted.

No amendment to the classification plan shall be adopted by the board until the commission has first been given a reasonable opportunity to make a written statement of the effect such amendments will have upon the principle of like pay for like service. No changes shall operate to disturb the relationship which compensation schedules bear to one another, as the relationship has been established in the classification made by the commission.

REFERENCE: Education Code Section 45268

### **18.3 SALARY SCHEDULES**

When compensation schedules become effective through adoption, they shall constitute the official schedule of salaries for the classifications of positions listed.

### **18.4 ALLOCATION TO APPROPRIATE SALARY STEP**

Subject to the provisions of compensation for employees in limited-term assignments, appointments to classes with more than one step shall be as follows:

- A. All appointments, promotions, and salary increases shall be recommended by the appointing authority, certified by the Director of Classified Personnel and approved by the Board of Education.
- B. Except as otherwise provided in these rules, new employees shall be appointed to the first step of the range for the classification.
- C. New employees may be appointed by the appointing authority at the (B) or (C) step on the salary range for the classification if the employee has additional, comparable experience as acknowledged by the appointing authority.

- D. Under recruitment difficulties or when considering an applicant with qualifications significantly exceeding the minimum for the classification, the appointing authority, with the approval of the Personnel Commission, may make the appointment to any step within the range for the class.
- E. Employees appointed to the (A) or (B) step of the range may be recommended for a step advancement after completion of probation based on previous comparable experience.
- F. Employees who are promoted to a classification allocated to a higher salary range shall be placed on the step of the higher salary range that will provide a salary increase of not less than five percent except when the maximum step of the range for the new class will be attained.
- G. When a classified employee accepts a voluntary demotion to a classification with a lower salary range, the employee shall be placed on the lower range at the same step as their previous classification.
- H. Regular, part-time employees' monthly salaries shall be in the same proportion as the hours worked to the total hours worked by regular, full time employees.

#### **18.5 SALARY STEP ADVANCEMENT WITHIN CLASS FOR REGULAR EMPLOYEES**

Subject to the following limitations, every classified employee, other than one with limited-term status only, shall be advanced to the next higher step, if any, in his regular class within the salary intervals as follows:

- A. All salary advancements within each class shall not be automatic but shall be based upon satisfactory performance, merit and fitness. Any and all advancements shall be contingent on the availability of funds as determined by the Board of Education.
- B. Permanent management and supervisory employees may be advanced to the next higher step in the salary range on the first day of the month following one year of service from the date of appointment or from a previous step increase, whichever is more recent, until the maximum step has been reached.
- C. Permanent management and supervisory employees promoted to higher classifications shall be eligible for step advancement on the first day of the month following one year of service in the higher classification until the maximum step has been achieved.
- D. Step advancement for permanent, confidential employees will be as directed by the Board and the same as provided unit members under the Negotiated Agreement.
- E. Employees returning from a leave of absence or reinstated shall resume the same step placement and advancement on the range as attained at the time the employee left the classified service. The time not in paid service shall not be counted for step advancement purposes.

#### **18.6 COMPENSATION FOR EMPLOYEES IN LIMITED-TERM ASSIGNMENTS**

- A. Employees without regular status shall be compensated at a step within the range for the class.
- B. A regular employee who is on leave from the class to which he/she is regularly assigned in order to serve a limited-term assignment in another class, or an employee who has taken a voluntary reduction in status shall be compensated as follows:.

1. If the limited-term assignment is in an equivalent or a lower class, the employee shall receive the rate of the current step on the schedule, but in no event shall he/she receive more than the maximum step for the class in which the limited-term assignment is made, unless a differential is applicable in the limited-term assignment.
  2. If the limited-term assignment is in a higher class:
    - a. For the number of hours during the pay period which corresponds to five days, the employee shall receive the current rate.
    - b. For the number of hours during the pay period which corresponds to five days or more, or for five consecutive days or more, the employee shall receive for the number of hours in paid status in the higher class:
      - (1) The rate of the higher class which is next above the rate of his/her current step on the schedule or the minimum of the class, whichever is greater, if both the class in which the limited-term assignment is made and the employee's regular class are on schedules. No salary advantage shall accrue by reason of this paragraph to an employee who has been demoted to or reemployed in a lower class without a reduction in salary unless the class of the limited-term assignment is higher than the class from which he/she resigned, was demoted, or was laid off.
      - (2) The hourly rate of the class in which the limited-term assignment is made, if it is on a flat hourly rate.
      - (3) The rate of the salary schedule of the class in which the limited-term assignment is made that is greater than the pay period equivalent of the employee's hourly rate, if the former class is on a schedule and the employee's regular class is on a flat hourly rate.
- C. Regular employees (whose regular assignments are on other than a 12-month assignment basis code) who are given substitute, relief, or provisional assignments during the summer shall be paid in accordance with the provisions of Paragraph 18.6 (B) except that the five days' service requirement shall not be applied.
1. The following definitions shall apply unless the context indicates otherwise:
    - a. "Differential compensation" means either a reduction in the number of hours required to be actually worked or an increase in salary.
    - b. "Shift" means the number of hours worked and shall include a duty-free meal period of not less than one-half hour which, in the case of a seven or eight hour shift, shall occur approximately at the midpoint of the shift. This subdivision shall not apply to employees working six hours or less, or assigned to a split shift.

REFERENCE: Education Code Section 45180

2. The board or the 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 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.

REFERENCE: Education Code Section 45181

3. The board 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, such compensation is reasonably justified. Such differentials shall be based upon findings and recommendations of the commission and shall not be applied in a manner contrary to the principle of like pay for like service.

REFERENCE: Education Code Section 45182

4. Assignment to duties for which differential compensation is designated, other than a temporary assignment of less than 20 working days, shall be made on the basis of seniority among those employees within the appropriate class who request such an assignment.

REFERENCE: Education Code Section 45183

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

REFERENCE: Education Code Section 45184

6. An employee receiving differential compensation on the basis of his/her shift shall not lose such compensation if he/she is temporarily, for 20 working days or less, assigned to a shift not entitled to such compensation. The regular rate of pay for all purposes of an employee assigned to a shift which provides differential compensation shall be the differential rate.

REFERENCE: Education Code Section 45185

## **18.7 PAYMENT OF COMPENSATION OPTIONS**

The governing board of any school district not paying the annual or monthly salaries of persons employed by the district in 12 equal monthly payments may withhold, upon election of all employees in the same classification, from each payment made to such employees an amount as follows:

- A. For employees employed 11 months of a year, an amount equal to 8 1/3% thereof and the total amount deducted to be paid not later than the tenth day of September next succeeding.
- B. For employees employed 10 months of a year, an amount equal to 16 2/3% thereof and the total amount deducted to be paid in two equal monthly installments no later than the tenth day of August and the tenth day of September next succeeding.
- C. For employees employed nine months a year, an amount equal to 25% thereof and the total amount deducted to be paid in three equal monthly installments not later than the tenth day of July, the tenth day of August and the tenth day of September next succeeding.

Once such employees have elected to be brought under the provision of this section such election shall not be revocable until the commencement of the next ensuing fiscal year. However, in the event any such employee leaves the service of the district by death or otherwise before receiving such monies as may be due him/her the amount due shall be paid within 30 days of the last working day to him/her or any other person entitled thereto by law.

REFERENCE: Education Code Section 45165

## **18.8 UNIFORM AND MEAL ALLOWANCES**

In addition to the compensation authorized by the board, employees required to wear a uniform shall receive two sets, not to exceed \$15 per set, after completion of probation and each year thereafter an annual replacement allowance of \$20.

### **18.9 UNLAWFUL EMPLOYMENT**

If the director finds that any person has been employed in violation of any provision of the act or the rules and regulations, notice of such violation shall be made to the board and the county office that the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the county for the payment of salary or compensation to such person is unlawful.

REFERENCE: Education Code Section 45310

### **18.10 TIME OF PAYMENT COMPENSATION**

Orders for the payment of wages shall be drawn at least once during each calendar month. Such payment shall be made on the last working day of the month in which the employee was in paid status.

REFERENCE: Education Code Section 45166

### **18.11 FIXING OF SALARIES**

A. The board shall, not later than the date prescribed by law for approval of the publication budget of every year, fix the annual salaries for the ensuing school year for all classified employees. The board may, at the time, include an increase in such annual salaries, all or part of which increase is conditional upon the actual receipt by the district of anticipated revenue from all sources. If the revenue actually received is less than that anticipated, the board may, at any time during the school year, reduce such annual salaries by an amount not to exceed the amount which was granted subject to the receipt of such revenues. Exception to this rule is provided in E.C.

REFERENCE: Education Code Section 45162

B. The board may, at any time during the school year, increase the salaries of persons employed for the remainder of the school year.

C. The board may, at any time, increase the wages or salaries of classified employees, if the commission approves a classification change in a position, or a class of positions.

REFERENCE: Education Code Section 45162

### **18.12 UNEMPLOYMENT INSURANCE COVERAGE**

Every regularly employed classified employee shall be covered for unemployment insurance pursuant to U.L.C. 135.3, and 605.2 and 802.

REFERENCE: Education Code Section 45208



**ARTICLE XIX**  
**WORKDAY, WORK WEEK, OVERTIME**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**19.1 WORKDAY AND WORK WEEK**

The work week of a classified employee shall be 40 hours. The workday shall be eight hours. These provisions, however, do not restrict the extension of a regular workday or work week on an overtime basis when such is necessary. Nothing in this section shall be deemed to bar the district from establishing a workday of less than eight hours or a work week of less than 40 hours for all or any of its classified positions.

- A. Notwithstanding the provisions of this section and Education Code Section 45128, the board may, with the approval of the commission where applicable: Exempt specific classes of positions from compensation for overtime in excess of eight hours in one day, provided that hours worked in excess of 40 in a calendar week shall be compensated on an overtime basis. Such exemptions shall be applied only to those classes which the board and the commission, where applicable specifically find to be subject to fluctuations in daily working hours and not susceptible to administrative control, such as security patrol and recreation classes, but shall not include food service and transportation classes.

REFERENCE: Education Code Section 45127

- B. The board may establish a 10-hour day, four-consecutive-day work week for specific classes of employees on a yearly or seasonal basis, provided that such a work schedule is approved by a majority of the regular employees in the affected classification. Nothing in this section shall be construed to exempt persons employed in a short work week from receiving holiday, overtime in excess of 40 hours per week, and other benefit entitlement provided for classified employees of the district. In addition, where the board has previously established the work week of less than 35 hours, it may require the established work week to be performed in four consecutive days, with the concurrence of the concerned employees, when by reason of the work location and duties actually performed by such employees their services are not required for a work week of five consecutive days.

**19.2 OVERTIME DEFINED**

Overtime is defined as authorized working time in excess of:

- A. 8 hours in any one day and 40 hours in any calendar week.
- B. 35 hours in any calendar week where the governing board has established a work week of less than 40 hours but 35 hours or more.
- C. For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensatory time off, or other paid leave of absence shall be considered as time worked by the employee.

**19.3 COMPENSATION FOR OVERTIME**

- A. An employee who works authorized overtime shall be paid at a rate equal to one and one-half times his/her regular rate of pay for the overtime worked. Shift and special assignment differentials regularly received by the employee shall be included in determining his/her regular rate of pay.

B. Overtime compensation shall be paid as follows:

1. For work on the sixth or seventh consecutive day where the normal work week consists of not more than five consecutive days and an employee has an average workday of four hours or more during the work week.
2. For work on the seventh day following the commencement of an employee's work week where the average workday is less than four hours during a work week.
3. For work on the fifth, sixth, and seventh consecutive days where a four-day work week is established.

REFERENCE: Education Code Section 45128

C. When compensatory time off is authorized in lieu of cash compensation, such compensatory time off shall be granted within 12 calendar months following the overtime worked. Compensatory time off shall be taken at 1 1/2 times the number of overtime hours worked.

Compensatory time off shall be approved by administration prior to being taken.

REFERENCE: Education Code Section 45129

#### **19.4 EXEMPTION FROM OVERTIME**

For the purpose of this rule, management positions designated in Article VI Section 6.18 are exempted from overtime.

**ARTICLE XX**  
**HOLIDAY LEAVES OF ABSENCE**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**20.1 PAID HOLIDAY LEAVES**

- A. An employee shall receive full pay for those holidays listed in Section 45203 of the Education Code or for those days designated as holidays in lieu of the regular holidays in accordance with Section 45203 of the Education Code and for days declared to be holidays by the board under the following conditions:

Holidays shall mean regular holidays or designated substitute holidays. An employee must be in paid status during any portion of the last working day of the assignment preceding the holiday or during any portion of the first working day of the assignment following the holiday. He/she will receive full pay for the holiday if the first day of the assignment is a holiday and he/she has been in paid status during any portion of the next following working day, or if the last day of the assignment is a holiday and he/she has been in paid status during any portion of the last working day preceding the holiday. A person shall not be entitled to holiday pay if his/her assignment terminates on a day immediately preceding a holiday, or he/she is initially employed on a day immediately succeeding a holiday.

- B. When a holiday occurs while an employee is on vacation or a paid leave of absence, the holiday shall be paid as a holiday and not charged against any leave benefits.
- C. Employees who are required to work on days declared to be holidays (excluding school holidays and those on Saturday and Sunday) shall, in addition, to the pay to which they may be entitled under this rule, be compensated as follows:
1. Time and one-half for work on regular holidays, except that if a holiday is designated in lieu of the regular holiday, work on the in lieu holiday shall be so compensated at straight time.
  2. For those employees who would be entitled to the regular holiday, but would not be entitled to the in lieu holiday, time and one-half for work on a regular holiday for which an in lieu holiday has been designated.
- D. Management and supervisory classes are excluded from holiday payment at the rate of time and one-half.

REFERENCE: Education Code Section 45130

- E. Should any holiday fall on a Saturday, work on the preceding Friday shall be compensated in accordance with Paragraph (C). Should any of these holidays fall on a Sunday, the following Monday shall be compensated in accordance with Paragraph (C). When the work week is reduced by any holiday, time worked in excess of the reduced work week shall be considered overtime.

REFERENCE: Education Code Section 45203

**20.2 SUBSTITUTE HOLIDAY**

Any person who works a work week other than Monday through Friday and as a result thereof loses a holiday to which he/she would otherwise be entitled, shall receive a substitute holiday or

compensation equal in amount to which the person would have been entitled had the holiday fallen within his/her normal work schedule.

REFERENCE: Education Code Section 45206

### **20.3 DISTRICT AUTHORIZED HOLIDAYS**

The following days have been declared holidays by the board in which classified employees shall receive full pay in accordance with Section 20.1:

- A. Day after Thanksgiving.
- B. December 24 or the last working day before December 25.
- C. December 31 or the last working day before January 1.

**ARTICLE XXI**  
**VACATION LEAVES OF ABSENCE**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**21.1 VACATION CREDITS**

- A. Regular (twelve month) classified employees shall earn vacation credit in accordance with the following schedule:

First 3 years	12 days/year	accum.@	1 day / month
4th - 10th year	15days/year	accum.@	1.25 days / month
11th year	16days/year	accum.@	1.33 days / month
12th year	17days/year	accum.@	1.42 days / month
13th year	18days/year	accum.@	1.50 days / month
14th year	19days/year	accum.@	1.58 days / month
15th year	20days/year	accum.@	1.67 days / month
20 <sup>th</sup> year	21 days/year	accum @	1.75 days / month
25 <sup>th</sup> year	22 days/year	accum @	1.83 days / month

Classified Managers 22 days/year - effective each July 1

- B. In order to be credited with a year of service for the purpose of this rule, an employee must have been in regular status during the appropriate year for at least six months in paid status or on leave of absence prior to layoff or for industrial accident, industrial illness, military service, or service in the Peace Corps, Red Cross, or Merchant Marine.
- C. Regular classified employees assigned to additional limited-term temporary work beyond their regular work year shall earn vacation credit in accordance with the schedule in 21.1 and this article for the temporary work assigned.
- D. A day of paid vacation leave for an employee assigned to a position for less than 8 hours a day or 40 hours a week shall consist of the number of hours in his/her basic daily assignment.

**21.2 VACATION LEAVE ELIGIBILITY**

A regular employee shall not be eligible to take vacation until completion of six months or 130 days of paid service. Subsequently thereafter, at the option of the district, an employee may be granted vacation time even though not earned.

**21.3 VACATION LEAVES**

- A. No vacation or part thereof shall be taken at a lesser rate than one hour at a time.
- B. Vacation may be taken at any time, provided that it is scheduled in advance, and, as determined by the supervisor, that it would not interfere with the operation of the unit or be contrary to established vacation policies or procedures of the unit.
- C. In the case of ten month employees, the vacation is to be taken during recess periods when school is not in session.

**21.4 ACCUMULATION OF VACATION**

If employees are not permitted to take their full annual vacation, the amount not taken shall accumulate for use in the next year as provided in the negotiated agreement and district policy or may, at the option of the board, be paid as a lump sum payment.

**21.5 EARNED VACATION PAY UPON SEPARATION FROM SERVICE**

On layoff or separation from the service the money value of vacation balances shall be paid as a lump sum. In cases where separation is not at the end of a pay period, vacation credit shall be computed through the last day in paid status. No payment for vacation accumulation shall be made to employees who terminate prior to completion of probation.

**ARTICLE XXII**  
**ILLNESS LEAVE OF ABSENCE**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the District and any exclusive representative recognized by the District to represent an appropriate unit of employees.

**22.1 DEFINITION**

Illness is defined as any pronounced deviation from a normal health state which makes it disadvantageous to the district and/or detrimental to the employee to be at work. This definition shall include emergency medical, dental, optical, and prosthetic work.

**22.2 ENTITLEMENT**

A new employee must render service before being entitled to illness leave.

**22.3 EARNED ILLNESS LEAVE**

A. Any person in the classified service, except a person with relief, substitute, or provisional status only, who is absent from duty on account of illness, injury, or quarantine shall be allowed illness leave pay under the following conditions.

1. Employees will be credited with 1 day of full-pay illness leave for each full month served from the date of the initial regular appointment until the following July 1.
2. An employee serving initial probation shall not be eligible to take more than 6 days illness leave or (for part-time employees) his/her proportionate amount entitled until completion of probation.

REFERENCE: Education Code Section 45191

*Amended 4/3/01*

3. Thereafter, as long as he/she remains a regular employee, he/she will be credited annually with 12 working days of full-pay illness leave as of the first date of the pay period in which July 1 falls or that proportion of 12 days as the number of months he/she is employed relates to 12.
  4. There shall be no limit to the year-to-year accumulation of unused full-pay illness leave privileges.
  5. A regular employee assigned to a limited-term position in addition to their regular yearly work assignment shall accrue illness leave credit for the temporary work.
- B. A classified employee who is employed by the district within one year of the termination of his/her employment in another school district, shall be credited in this district with the number of days of unused illness or injury leave of absence which he/she had accrued in the former district pursuant to Education Code Section 45202. Such employment in another school district shall be at least one year.
1. Such employee shall certify that he/she had terminated his/her employment with the other school district for the sole purpose of accepting a position with the district and shall secure from the other school district written verification of the amount of unused illness leave which such employee is entitled to bring to the district.

2. Such employees shall be credited as of the date of his/her appointment with any full-pay illness balance which he/she may have brought from the other district, and 12 working days of the full-pay illness leave.
3. During his/her initial probationary period in the district he/she may use any credited paid days of illness leave brought from the other district and not more than six days of the fullpay illness leave granted by this district.

REFERENCE: Education Code Section 45202

- C. No half-pay illness leave shall be allowed until after the exhaustion of full-pay privileges.
- D. Except as provided in Article XXIII, each employee shall each July 1 be credited with a total of 100 days of half-pay illness leave excluding the sick leave provided under 22.3A.3 of this Article and providing that such accrual of 100 days shall not occur more than once for any single illness.

REFERENCE: Education Code Section 45196

- E. A day of paid illness leave for an employee assigned to a position for less than 8 hours a day or 40 hours a week shall consist of the number of hours in his/her basic daily assignment.
- F. Neither layoff nor paid leave of absence shall be considered as an interruption of continuous service and no paid illness leave shall be allowed during layoff or unpaid leave of absence.
- G. When a regular employee whose regular assignment is one other than a 12-month assignment is employed during the summer, the employee shall be allowed to take illness leave with pay during such summer assignments in accordance with the limitations set forth in the previous paragraphs of this rule.

Nothing in this paragraph shall be interpreted to permit such employees to receive illness leave in excess of the limit established in the preceding paragraphs of this rule.

## **22.4 PROCEDURE**

- A. An employee who is absent on account of illness or injury shall sign, on the prescribed form, a statement that such absence was due to illness or injury. Compensation for illness leave shall be paid only when the employee's supervisor certifies on the prescribed form that such absence was on account of illness or injury.
- B. The Director, Classified Personnel, may require an employee to submit a certification from a licensed physician or other recognized practitioner certifying such absence to have been on account of illness or injury and that the employee is no longer temporarily disabled and he/she may return to work without any limitations.
- C. In order to receive compensation while absent on illness leave, the employee must notify his/her immediate supervisor of his absence within the first working hour of the first day absent. If conditions make such notification impossible, notification shall be made as soon as possible.
- D. Employees shall remain in weekly contact with their immediate supervisor in order to be authorized for continued illness leave. When communications are not maintained by the employee, the absence will be considered as unexcused.



- E. If an employee has been absent on illness leave, he/she shall notify his/her supervisor at least one day in advance of his/her expected return in order that any substitute service may be terminated. In case of failure to comply with this provision, and both the regular employee and the substitute report for duty, the latter is entitled to the assignment for the day and the employee returning to duty shall not receive pay for that day.

## **22.5 UNWARRANTED ILLNESS LEAVE**

- A. An employee whose record of illness appears to follow a pattern or recurrence for a series of relatively minor indispositions may be made the subject of a special investigation by the administration. Action may be taken under the provisions of Article XXXIII if the findings of the investigation warrant such action.
- B. An employee shall not be allowed to undertake any gainful employment while absent because of illness or injury. The employee shall certify that he/she was not gainfully employed during the period covered by the certification of illness or injury.
- C. Employees may be required to submit a certification of temporary disability from a licensed physician or other recognized practitioner from the first day of claimed temporary illness if required by the immediate supervisor to authorize paid illness leave.

## **22.6 FRACTION OF HOURS**

Illness leave shall be recorded in no less than quarter hour increments.

## **22.7 PREGNANCY**

Provisions of this rule apply to absence due to illness or injury resulting from pregnancy. The provisions do not apply to the period during which an employee is on an unpaid maternity leave of absence.

REFERENCE: Education Code Section 45193

## **22.8 EXHAUSTION OF ILLNESS CREDIT**

- A. When a permanent employee has exhausted his/her full-pay illness credit, he/she may, at his/her written request, be allowed vacation pay in lieu of illness pay. The beginning date shall not be earlier than the date on which the request is made, and the number of days to be paid as vacation shall not exceed the employee's vacation balance. Upon completion of payment for the designated vacation period, the employee may again be paid for any accrued illness leave and half-pay illness leave credits.
- B. A permanent employee who has exhausted all paid illness leave privileges, vacation, and other available paid leaves may, upon the recommendation of the director, be granted unpaid illness leave for a period not to exceed six months. The leave may be renewed for two additional six-month periods. The total of all unpaid leave allowed starting with the initial six-month leave period shall not exceed eighteen months.
- C. Upon return to service from such leave, an employee shall be restored to a position in his/her former class. If no vacancy exists in his/her former class, he/she shall have the right to return to a regular position in the class provided that he/she does not have the least seniority in that class. If an employee's former class has ceased to exist, the employee may be reassigned or shall be placed on the reemployment lists for the classes in which he/she had attained regular status.
- D. When all paid or unpaid leaves of absence have been exhausted, an employee who is unable to assume the duties of his/her position shall be placed on a reemployment list for a period of

39 months immediately thereafter as if he/she were being laid off. That position will then be declared vacant. An employee on a reemployment list shall have the same rights and benefits as an employee laid off for lack of work or lack of funds.

REFERENCE: Education Code Section 45195

## **22.9 SERIOUS FAMILY ILLNESS**

In the event of serious illness or injury to a member of the employee's immediate family (mother, father, husband, wife, son, daughter, brother, sister, and the spouse's mother or father), the employee may be granted leave as per the schedule that follows. Minor illnesses or ailments are not normally considered serious. Routine dental and medical appointments are not allowed under this policy.

- A. The first day of absence for serious family illness shall be without deduction.
- B. Additional absence for serious family illness may be charged to the employee's sick leave (up to seven days) under personal necessity leave of absence as provided in Merit System Rules Article 24.

*Adopted 1/19/99*

**ARTICLE XXIII**  
**INDUSTRIAL ACCIDENT AND INDUSTRIAL ILLNESS LEAVE OF ABSENCE**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the District and any exclusive representative recognized by the District to represent an appropriate unit of employees.

**23.1 GENERAL PROVISIONS**

- A. Leaves resulting from an industrial accident or industrial illness shall be granted in accordance with the provision of Education Code Section 45192 and this rule.
- B. The board may, by rule or regulation, provide for such additional leave of absence, paid or unpaid, as it deems appropriate and during such leave the employee may return to his/her position without suffering any loss of status or benefits.
- C. Periods of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.

**23.2 PAID INDUSTRIAL LEAVE**

- A. An employee in the classification service who is absent from duty because of an illness or injury defined as an industrial accident or industrial illness under provisions of the Workers' Compensation Insurance Law shall be granted paid industrial accident leave for such accident or illness while receiving temporary disability benefits from workers' compensation provided that:
  - 1. Employee has probationary or permanent status; or
  - 2. The Superintendent or his designated representative has determined that the illness or injury was directly related to the performance of his/her duties or caused by assault and battery.
- B. Paid industrial accident leave shall be granted for not more than 60 working days in any one fiscal year for the same accident commencing from the first day of absence to and including the last day of absence resulting from such industrial illness or industrial injury. The combination of workers' compensation payment and district compensation shall equal the employee's normal monthly salary.
- C. Paid industrial accident leave shall be reduced by one day for each day of authorized absence regardless of the temporary disability allowance made under workers' compensation.
- D. Allowable leave shall not be accumulative from year to year.
- E. When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.
- F. When entitlement to industrial accident or illness leave has been exhausted, entitlement to other sick leave will then be used. Upon exhaustion of all illness pay leave, an employee may choose to receive pay from accrued vacation, or other earned leave. However, if an employee is receiving workers' compensation he/she shall be entitled to use only so much of his/her accumulated or available sick leave, accumulated vacation or other available leave which, when added to the workers' compensation award, provide for a full day's wage or salary. During such periods of temporary disability the employee's temporary disability

checks shall be endorsed payable to the District. The District shall then cause the employee to receive his/her normal wage or salary less appropriate deductions including but not limited to employee retirement contributions. Final allowance for permanent industrial disability settlements shall not be subject to remittance to the district under this rule.

### **23.3 INDUSTRIAL ACCIDENT LEAVE WITHOUT PAY**

After the expiration of all paid leave privileges the appointing authority may place the employee on an industrial accident leave without pay. The total time of all leave benefits provided under this rule, including unpaid industrial accident leave, shall not exceed 36 months for any one industrial accident or industrial illness.

### **23.4 PLACEMENT ON REEMPLOYMENT LIST**

When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of his/her position, he/she shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other available candidates except for a reemployment list established because of lack of work or lack of funds, in which case he/she shall be listed in accordance with appropriate seniority regulations.

### **23.5 RETURN TO SERVICE**

#### **A. From Paid and/or Unpaid Leave:**

1. Upon return to service from any paid or unpaid leave resulting from an industrial accident or industrial illness, an employee shall be assigned to a position in his/her former class ahead of any employee with less seniority. If no vacancy exists in his/her former class, he/she may displace the most recently appointed employee in the class with less seniority. If an employee's former class has ceased to exist, the employee may be reassigned or placed on a suitable reemployment list.
2. An employee returning from such paid or unpaid leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and commission rules. An employee shall continue to receive seniority credit for all purposes while on such a paid or unpaid leave of absence.

#### **B. From a Reemployment List:**

1. An employee on a reemployment list shall have the same rights and benefits as an employee laid off because of lack of work or lack of funds.
2. An employee who has been placed on a reemployment list, as provided herein, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.

REFERENCE: Education Code Section 45192

**ARTICLE XXIV**  
**PERSONAL NECESSITY LEAVE OF ABSENCE**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the District and any exclusive representative recognized by the District to represent an appropriate unit of employees.

**24.1 MAXIMUM PER YEAR**

An employee may, at his/her election, and with advance permission whenever possible from his/her immediate supervisor, use not more than eight days of illness leave for personal necessity in a school year, earned in accordance within Article XXII. *Amended 6/20/06*

**24.2 DEFINITION**

The leave benefits provided by this rule may be used only for the following personal necessities:

- A. The death of a member of the employee's immediate family when necessary leave beyond that provided under Bereavement Leaves is required. The immediate family is defined as spouse, parent, sibling, child, grandparent, grandparent-in-law, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, foster or step child/parent/sibling, legal guardian, or any relative of either spouse living in the immediate household of the employee. *Amended 1/22/98*
- B. An accident involving the employee's person not otherwise chargeable to illness leave or industrial accident and industrial illness leave.
- C. An accident involving the employee's property or the person or property of a member of the employee's immediate family or an illness of a member of the employee's immediate family, as defined above. Such accident or illness must be:
  - 1. Serious in nature.
  - 2. Involve circumstances the employee cannot reasonably be expected to disregard.
  - 3. Require the attention of the employee during his/her assigned hours of service.
- D. An appearance of the employee in court or before any administrative tribunal as a litigant, party, or witness under an official governmental order, provided the employee:
  - 1. Presents a certification from the clerk of the court or other authorized officer indicating each date of necessary attendance.
  - 2. Remits any witness fee collected to the business services office.
  - 3. Makes himself /herself available to the district for work during his/her regular working hours when his/her appearance in court or before an administrative tribunal is not necessary.
- E. The birth of a child making it necessary for an employee who is the father of the child to be absent from his position during his assigned hours of service.
- F. Imminent danger to the home of an employee, occasioned by flood or fire, which under the circumstances the employee cannot reasonably be expected to disregard, and which requires the attention of the employee during his/her assigned hours of service.

- G. Any other significant event, personal to the employee, for which paid leave of absence is not authorized, which under the circumstances the employee cannot reasonably be expected to disregard, and which requires the immediate attention of the employee during his/her assigned hours of service.

### **24.3 PROCEDURE**

The employee shall be required to sign, on a prescribed form, a statement that such absence was due to a personal necessity, as defined above.

REFERENCE: Education Code Section 45207

**ARTICLE XXV**  
**MILITARY LEAVE OF ABSENCE**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**25.1 DEFINITION**

An appropriate military leave shall be granted to any classified employee in accordance with the provisions of the Military and Veterans Code, and subject to the provisions of this rule. As used in this rule, "military leave" means either a temporary military leave or a military leave other than temporary or both.

- A. Temporary Military Leave: An employee who is a member of the reserve corps of the armed forces of the United States or of the National Guard or of the Naval Militia shall be granted a "Temporary Military Leave" while engaged in military duty ordered for purposes of military training, drills, encampment, naval cruises, special exercises or like activity as such member providing that the period of ordered duty does not exceed 180 calendar days including time involved in going to and returning from such duty.
- B. Military Leave Other Than Temporary: A military leave other than temporary shall be granted to any employee who is ordered into active military duty as a member of a reserve component of the armed forces of the United States is ordered into active federal military duty as a member of the National Guard or Naval Militia; or is inducted, enlists, enters, or is otherwise ordered or called into active duty as a member of the armed forces of the United States.

**25.2 VACATION AND ILLNESS PRIVILEGES**

- A. Vacation Privileges: Except as herein provided, no vacation privileges shall accrue during military leave. However, vacation privileges already earned but not taken may be granted either prior to or after return from military leave in accordance with the vacation policy in effect at the time the vacation leave is taken. Vacation privileges as defined in the rules of the Commission shall accrue to an employee while on temporary military leave.
- B. Illness Privileges: Illness privileges shall accrue to an employee while on military leave but no illness leave shall be allowed during military leave.

**25.3 RETURN FROM LEAVE**

An employee absent from the service of the district because of a military leave shall continue to accrue seniority credit during such absence. An employee returning from military leave shall, upon application made within one year after the cessation of war emergency or within six months or prior completion of active military duty service, be returned to a position in his/her classification, if such a position exists, in accordance with pertinent provisions of the Military and Veterans Code. The right to return to his/her position is granted provided that he/she returns within 12 months after the first date upon which he/she could terminate or could cause to have terminated his/her active service. He/she shall be entitled to a position in his/her former class ahead of any employee with a less amount of seniority with the understanding that vacancies caused by the granting of such leave may be filled by regular appointment. If such a position in his/her former class has ceased to exist during his/her absence, he/she shall be returned to a vacant position in a comparable class for which qualified.

In the absence of such a vacant position in a comparable class for which qualified, the employee's name shall be placed on such reemployment list for a period not to exceed 39 months from the date of his/her application.

## **25.4 ELIGIBILITY TO TAKE EXAMINATIONS**

An employee shall be eligible to take examinations for which otherwise qualified during the time of military service. An employee on a military leave whose name appears on an eligibility list shall be certified for assignment to a position in the class during the life of any such list when and if his/her name is reached. In the event the employee accepts the appointment, he/she shall be granted the same type of military leave from the new position.

## **25.5 PLACEMENT ON AN ELIGIBILITY LIST**

An employee returning from a military leave, in accordance with paragraph 25.4 above, shall be eligible to take a supplementary examination for any class for which there is an eligible list in effect, the examination for which he/she was unable to take by reason of his/her military service, provided such veteran met the requirements for such examination at the date it was originally conducted. Such supplementary examinations shall be prepared and conducted under conditions and techniques which are sufficiently similar to the respective original examinations to preserve their competitive character. The name of a candidate who is successful in the supplemental examination shall be added to the list for the class for which he/she was examined immediately ahead of the person who received the next lower grade among those taking either the original examination or any examination supplemental thereto.

## **25.6 COMPENSATION FOR FIRST CALENDAR MONTH OF MILITARY LEAVE**

Upon presentation of adequate evidence of military service for which pay is requested, an employee shall be paid his/her salary or compensation as an employee of the district for the first calendar month of his/her military service while on a military leave exclusive of time not covered by his/her assignment basis code, providing the following conditions are met:

- A. The employee is on military leave as a member of the National Guard or Naval Militia, or a member of a reserve component of the armed forces of the United States; or the employee is on military leave as a result of being inducted, enlisted, or otherwise having entered or been called into active duty as a member of the armed forces of the United States.
- B. An employee on temporary military leave or on military leave other than temporary must have been in the service of the district for a period of not less than one year immediately prior to the date the absence begins. An employee on temporary military leave may count all previous recognized military service of the district. The one year in the service of the district is not required in the case of an employee who is ordered into active military service as a member of the National Guard under a situation included within section 146 of the Military and Veterans Code.
- C. A regular employee with provisional, relief, or substitute status in another class shall receive a military leave from his/her regular position and shall receive compensation in accordance with his/her current assignment during the time he/she is entitled to compensation under the Military and Veterans Code.
- D. An employee with provisional, relief, or substitute status only who meets other provisions of this rule shall be compensated only in accordance with his/her assignment at the time of entry into military service and shall not be compensated in excess of one month's salary for the same number of days for which compensation was received during the calendar month immediately prior to the beginning of the military leave. In no case shall a provisional, relief, or substitute employee receive salary or compensation for more days than the number of working days during the first calendar month of his/her military service while on military leave, exclusive of time not covered by his/her assignment basis code.



- E. No more than the pay for a period of one calendar month shall be allowed for any military leave or military leaves involving continuous military service or during any one fiscal year. The salary to be paid is equivalent to that salary rate which the employee would have received during the first calendar month of military leave. Fractions of less than one month shall be paid on the same basis as if the employee had been in active service as an employee. Retroactive salary payments shall be made to employees or former employees who are entitled to such payments.

REFERENCE: Military and Veterans Code Sections 389, 395-395.3

**ARTICLE XXVI**  
**BEREAVEMENT LEAVE OF ABSENCE**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the District and any exclusive representative recognized by the District to represent an appropriate unit of employees.

**26.1 BEREAVEMENT LEAVE**

- A. Paid bereavement leave shall be granted to any employee in the classified service not to exceed five working days. The immediate family is defined as spouse, parent, sibling, child, grandparent, grandparent-in-law, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, foster or step child/parent/sibling, legal guardian, or any relative of either spouse living in the immediate household of the employee.

*Amended 1/22/98*

Additional bereavement shall be paid as provided under personal necessity leave, Article XXIV, Rule 24.2A.

Bereavement leave taken from the sixth to the tenth working day when personal necessity leave has been exhausted shall be compensated at 1/2 the regular rate of pay.

- B. Bereavement leave not exceeding three working days may be granted in case of death of:
1. Persons other than those named in paragraph A who are closely related by blood or marriage.
  2. A close friend for whose funeral arrangements an employee has responsibility.
  3. A fiancé, lifelong friend, roommate, and friend living in the same domicile.

One working day, however, shall be granted at full pay. An additional two days may be granted with the approval of the immediate supervisor or Director, Classified Personnel, who shall determine the amount of leave of absence with pay to be granted. Prior notifications shall be required in order to receive compensation for the two additional days.

- C. Bereavement leave must commence and end within ten calendar days after the demise or after the date the employee is notified of the date of the funeral.
- D. The employee shall, to the extent practicable, give his/her immediate supervisor prior notice of his/her intent to take bereavement leave.
- E. The employee shall, upon request, furnish evidence acceptable to his/her immediate supervisor that leave taken in accordance with the provisions of this rule was in connection with bereavement. The supervisor may take steps necessary to verify the validity of the evidence.

REFERENCE: Education Code Section 45194

**ARTICLE XXVII**  
**JURY DUTY AND WITNESS LEAVE**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**27.1 JURY SERVICE**

Leave of absence for jury service shall be granted to any classified employee who has been officially summoned to jury duty in a local, state, or federal court and shall be granted for the period of the jury service. Request for jury service leave should be made by presenting the official court summons of jury service to the supervisor.

**27.2 WITNESS SERVICE**

Leave of absence to serve as witness in a court case shall be granted an employee when he/she has been served a subpoena to appear as a witness other than as the litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the convenience or misconduct of the employee. The length of the leave granted shall be for the number of days in attendance in court as certified by the clerk or other authorized officer of the court. Request for leave of absence to serve as a witness should be made by presenting the official court summons to the supervisor.

**27.3 COMPENSATION**

- A. The employee shall receive full pay while on leave provided that the jury service or witness fees for such leave are assigned to and the subpoenas or court certifications are filed with the district.
  
- B. The jury service and witness fees shall not include reimbursement for transportation expenses.

**27.4 REPORTING TO WORK**

An employee who has received leave of absence under this rule shall make himself/herself available for work during hours when his/her presence is not required in court.

REFERENCE: Education Code Section 44037

**ARTICLE XXVIII**  
**RETRAINING AND STUDY LEAVE OF ABSENCE**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**28.1 QUALIFICATIONS**

With the approval of his/her supervisor, the superintendent and board, a permanent classified employee may be granted a paid leave of absence not to exceed one year for the purpose of study or retraining provided that:

- A. The employee has rendered paid service to the district for not less than 75 percent of his/her regular assigned time in each of the seven consecutive years prior to the granting of study leave. For purpose of this rule, study leave is defined as leave granted employees for the purpose of maintaining and improving skills used in service of the district.
- B. The employee has rendered paid service to the district for not less than 75 percent of his/her regular assigned time in each of the three consecutive years prior to the granting of retraining leave. For purposes of this rule, retraining leave is defined as leave granted employees for the purpose of acquiring new skills required as a result of changes in the district organization and methods.
- C. The employee's physical condition has been evaluated prior to the granting of leave so as to permit completion of at least two years of service following completion of study or retraining leave.
- D. The employee's age is such as to permit completion of at least two years of service following completion of study or retraining leave.
- F. The employee's program for study or training while on leave is job related.

REFERENCE: Education Code Section 45380

**28.2 COMPENSATION**

Compensation provided an employee on study or retraining leave shall be not less than one-half of his/her regular rate of pay. Compensation in excess of one-half of the employee's regular rate shall be subject to the approval of the board. The compensation may be paid in two equal annual installments as provided in Education Code Section 45384, or in the same manner as if the employee were working for the district, provided that the employee:

- A. Furnishes the district with a suitable bond against loss in the event the employee fails to render at least two years of service following return from leave of absence, or
- B. Furnishes the district with such other assurance against loss as the board may elect to permit.

REFERENCE: Education Code Section 45383

**28.3 RIGHT OF DISTRICT TO TERMINATION**

The board may terminate the leave of any employee on evidence of his/her failure to pursue or accomplish the purpose of such leave.

#### **28.4 NO BREAK IN SERVICE**

Any study or retraining leave of absence granted under this rule shall not be deemed a break in service for any purpose, except that such leave shall not be included as service in computing time for the granting of subsequent study leaves.

#### **28.5 COMPLETION OF TRAINING OR STUDY**

Upon completion of leave of absence, the employee will be assigned to the same work location and position to which assigned at the time the leave was granted, provided that no conditions have developed during the period of leave or at the time of return which would have changed the employee's location or duties had he/she remained in active service.

#### **28.6 INCOMPLETE STUDY OR TRAINING**

Employees who do not complete the approved leave objectives shall reimburse the district for compensation paid for the period following discontinuance of the leave-study program, or failure to maintain adequate study standards.

#### **28.7 EMPLOYMENT DURING LEAVE**

Employees may, while on leave of absence provided that there is no conflict in hours, continue existing multiple assignments or previously held outside employment. Acceptance of new additional employment while on leave of absence which would interfere with the achievement of the objective for which leave was granted will constitute a basis for termination of the employee's leave of absence.

A. Furnishes the district with a suitable bond against loss in the event the employee fails to render at least two years of service following return from leave of absence, or

B. Furnishes the district with such other assurance against loss as the board may elect to permit.

REFERENCE: Education Code Section 45383

#### **28.3 RIGHT OF DISTRICT TO TERMINATION**

The board may terminate the leave of any employee on evidence of his/her failure to pursue or accomplish the purpose of such leave.

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Upon completion of leave of absence, the employee will be assigned to the same work location and position to which assigned at the time the leave was granted, provided that no conditions have developed during the period of leave or at the time of return which would have changed the employee's location or duties had he/she remained in active service.

#### **28.6 INCOMPLETE STUDY OR TRAINING**

Employees who do not complete the approved leave objectives shall reimburse the district for compensation paid for the period following discontinuance of the leave-study program, or failure to maintain adequate study standards.

## **28.7 EMPLOYMENT DURING LEAVE**

Employees may, while on leave of absence provided that there is no conflict in hours, continue existing multiple assignments or previously held outside employment. Acceptance of new additional employment while on leave of absence which would interfere with the achievement of the objective for which leave was granted will constitute a basis for termination of the employee's leave of absence.

**ARTICLE XXIX**  
**WORK-RELATED ABSENCES**

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**29.1 ATTENDANCE AT HEARINGS**

When an injured employee of the district appeals the decision of the District Compensation Insurance Fund in rejecting liability in his/her case, and when, in the interests of justice and of protecting all legal rights of the injured employee it is necessary or desirable for other district employees to attend the hearing of the appeal, they may attend without loss of salary; provided that arrangements for their attendance shall be made with the immediate supervisor and appropriate administrator.

**29.2 EXAMINATIONS AND OTHER EMPLOYMENT PROCEDURES**

Any employee, upon giving his/her immediate supervisor not less than two days' notice, shall be permitted to take any examination and to participate in other employment procedures of the district during working hours, without loss of pay or other penalty.

**29.3 EPIDEMICS AND EMERGENCIES**

An employee with regular status shall be paid his/her regular salary for any period during which he/she is unable to work at his/her regular place of employment because it is closed due to quarantine, epidemic, or other conditions involving the health or safety of students or employees. To be eligible for such pay the employee must be ready, able, and willing to perform his/her customary or other reasonable and suitable duties at another location.

**29.4 LIMITED-TERM ASSIGNMENTS**

Permanent classified employees who accept assignments within the district to exempt, limited-term temporary, relief, provisional or substitute positions, shall, during such assignment, be considered for status purposes as serving in their regular position and such assignment shall not be considered separation from the classified service.

**ARTICLE XXX**  
**LEAVES OF ABSENCE WITHOUT PAY**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**30.1 LEAVE OF ABSENCE WITHOUT PAY**

A leave of absence is an approved absence from duty to a permanent employee for a prescribed period of time from a class of positions but not necessarily from a specific position within the class. On return to service, requests will be entertained for return to the former position or other specific assignment. If the employee's former position has been filled on a regular basis, the employee returning from leave shall have the right to return to a regular position in the class, provided that he/she is physically capable of performing the duties. Any classified employee may be granted a leave of absence under the conditions stated below:

- A. After a continuous period of not less than seven calendar months of service, a leave may be granted for a continuous period of up to one year, except that leave of absence for military service shall be granted as provided by the Education Code and the Military and Veterans Code, and leave of absence for service in the Peace Corps, shall not exceed one year without a return to active duty.
- B. Any leave of absence shall be subject to the approval of the immediate supervisor and the superintendent, but no leave of absence shall be permitted for a purpose which is contrary to the good of the service. Any leave of absence greater than 10 working days shall require the additional approval of the board.
- C. Application for leave of absence for a period of more than 10 consecutive working days shall be made in writing and shall indicate the beginning and ending dates of the requested leave and the reasons for the request.
- D. Employees returning from leave of absence may be required to report for a health examination prior to reporting for work to determine that he/she is physically capable of performing the duties assigned.
- E. An employee on a leave of absence may make a written request to the board to return to work prior to the expiration date of the leave. The board may approve or reject the request.
- F. Leaves of absence shall be accepted only with the understanding that the district shall be free from any liability for the payment of any compensation or damages now or hereafter provided by the law for the death or injury of any employee of the district when the death or injury occurs while the employee is on leave of absence.
- G. Leave of absence may be revoked by the board when the good of the service may require it or when evidence shows that the absent employee is engaged in activities for which leave would not have been granted in the original instance. The employee may appeal the cancellation to the commission which shall investigate and hear the appeal. The appeal by the employee will stay the cancellation directive of the board until action by the commission, which shall be final and binding.
- H. Failure to report for duty within five working days after a leave has been cancelled or expires shall be considered abandonment of the position and the employee may be terminated by the



board. The termination may be appealed to the commission in the same manner as any other dismissal for cause.

- I. If the employee's position has been filled on a permanent basis or abolished during the employee's absence, he/she shall be laid off for lack of work and placed on the reemployment list for the class effective the date of termination of leave. The employee, in lieu of layoff, may be assigned to a vacant position in the same classification or he/she may elect to be assigned to a lower, related, vacant position for which he/she is qualified.

REFERENCE: Education Code Section 45190

**ARTICLE XXXI**  
**PERSONNEL FILES**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**31.1 PERSONNEL FILES**

Materials in personnel files of employees which may serve as a basis for affecting the status of their employment shall be made available to the employees.

Such materials, however, shall not include ratings, reports, or records which:

- (a) were obtained prior to employment
- (b) were prepared by identifiable examination committee members
- (c) were obtained in connection with a promotional examination.

Information of a derogatory nature shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. An employee shall have the right to enter, and have attached to any such derogatory statement, his/her own comments thereon. Such review shall take place during normal business hours, and the employee shall be released from duty without salary reduction.

REFERENCE: Education Code Section 44031

**ARTICLE XXXII**  
**PERFORMANCE EVALUATION FOR PROBATIONARY AND PERMANENT CLASSIFIED**  
**EMPLOYEES**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**32.1 ADMINISTRATION OF PERFORMANCE EVALUATIONS**

The Classified Personnel Director shall administer the performance evaluation system for probationary and permanent classified employees in accordance with negotiated agreements and provisions of this rule.

**32.2 PERFORMANCE EVALUATION FORMS**

Performance evaluation reports shall be made on forms prescribed by the personnel commission.

**32.3 PURPOSE OF EMPLOYEE PERFORMANCE EVALUATIONS**

Performance evaluations embodying significant factors and factor degrees shall have reference to the quality and quantity of work accomplished and other characteristics which shall be considered in evaluating and reporting the ability, performance and efficiency of classified employees and the value of the employee to the district. Evaluation reports shall provide a means whereby employees may regularly review their performance with their supervisors, and for ascertaining and encouraging the improvement in service by the employees and to provide effective supervision of employees.

The following rules define the performance evaluation procedures which shall be used in connection with the eligibility for advancement, promotion, demotion, and dismissal from the classified service and in other decisions relating to employees.

**32.4 WHEN EVALUATIONS ARE TO BE MADE**

All regular classified employees shall be evaluated by their immediate supervisor in accordance with the following schedule.

- A. Probationary Employees: at the beginning of the third month and fifth month of service.
- B. Administrative Classes: at the end of the fourth, eighth, and tenth months of service.
- C. Permanent Employees: at least once each year and at least 20 days prior to any scheduled merit salary step advancement.

**32.5 SPECIAL UNSCHEDULED EVALUATIONS**

At any time, a supervisor may issue to an employee an unscheduled performance evaluation which may be a notice of commendation or notice of unsatisfactory service.

**32.6 PERFORMANCE EVALUATION RATERS**

Each immediate supervisor, under whom the employee serves for 60 working days or more during any rating period, shall provide a performance evaluation before the employee leaves his/her supervision.

**32.7 EVALUATION PROCEDURES**

- A. The immediate supervisor shall present the performance evaluation to the employee and shall discuss it with him/her. The evaluation shall be signed by the employee to indicate receipt, and he/she shall be given a signed copy. Evaluations where less than satisfactory service is

indicated shall indicate the deficiencies and recommendations for improvement as well as provisions for assisting the employee in implementing the recommendations made.

- B. Performance evaluations may be reviewed by the next higher supervisor.
- C. Performance evaluations and all attachments shall be sent to the classified personnel office and filed in the employee's personnel records and shall be available for review in connection with promotions, transfers, and disciplinary actions.
- D. Employees who believe that the evaluation does not accurately report his/her work performance may request a review of the evaluation by the head of his/her department within 14 days of receipt of the evaluation.
- E. Employees shall have 90 days after receipt of the performance evaluation to attach any statement or documents that relate to the evaluation placed in the permanent personnel record.

### **32.8 EVALUATION FILING RESPONSIBILITY**

Each supervisor is required by these rules to prepare and discuss with each assigned classified employee an evaluation of the employee's work performance for the preceding evaluation period.

Evaluations shall be filed within the time period stated in rule 32.4.

In the event the employee's performance evaluation is not filed by the deadline, the supervisor responsible may be subject to disciplinary action.

An employee may notify the personnel office, prior to the deadline, if his/her supervisor has made no effort to fulfill the requirements of this rule.

### **32.9 APPEAL OF EVALUATION**

An employee may, within 14 days of receipt of his/her performance evaluation, file with the personnel commission an appeal only on the grounds that the evaluation procedures prescribed by the commission have not been followed in the preparation of the evaluation.

**ARTICLE XXXIII**  
**DISCIPLINE AND APPEAL PROCEEDING**

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- 33.1 DISCIPLINARY ACTION ONLY PURSUANT TO THIS RULE:** A permanent classified employee shall be subject to disciplinary action for cause as prescribed by these rules, and pursuant to the procedures outlined herein.
- 33.1.1 Dismissal of Classified Service Exempt Employees: A substitute, limited-term, provisional, or other temporary employee may be released at any time, without cause during his/her assignment without regard to procedures set forth in this Article.
- 33.1.2 Dismissal of Employees on Probation: A classified employee who is serving a probationary period in class, but who has not attained permanent status in any other classification within classified service, may be released from service or disciplined without cause and shall have no right to the disciplinary appeal procedures outlined in these Rules and Regulations. The employee may request an administrative review of the proposed dismissal action by the Director, Classified Personnel.
- 33.2 DEFINITION OF DISCIPLINE:** Discipline is defined as a suspension, involuntary demotion for cause as a disciplinary measure, and dismissal for cause, except in the case of layoff for lack of work or lack of funds, or failing to pass a probationary period in a job class where the employee has not previously attained permanency.
- 33.3 TIME LIMITS ON DISCIPLINARY ACTION:** In the disciplinary process the following general guidelines regarding timelines shall be applicable:
- 33.3.1 Disciplinary action shall not be taken against an employee for any charges which occurred prior to the employee becoming permanent, nor for any acts or omissions which occurred more than two (2) years prior to the date of the filing of the Notice of Proposed Disciplinary Action, unless the District did not know, or could not have reasonably known, of the act or omission. Evidence of events or circumstances beyond two years may be presented for the purpose of supporting the degree of disciplinary action, to show that the District engaged the employee in progressive discipline, and to impeach a witness.
- 33.3.2 In the case of disciplinary action based on a criminal prosecution, the two year limitation on acts for which disciplinary action can be imposed commences on the date of final judgment, regardless of when the acts resulting in final judgment occurred.
- 33.3.3 In the case of acts that are subject to criminal investigation, regardless of whether or not there is a prosecution, the two year limit on the imposition of disciplinary action is tolled if the District halts its investigation into disciplinary action during the time that a criminal investigation is pending.
- 33.3.4 The District has the burden of establishing the tolling of the time limit.
- 33.4 CAUSES FOR DISCIPLINARY ACTION:** The following causes shall be grounds for disciplinary action:
- 33.4.1 Incompetency and/or inefficiency. The continuing inability or unwillingness to perform the regularly assigned duties and responsibilities of the position as reflected by three (3) or more performance evaluations with an overall rating of below meets standards.

- 33.4.2 Inattention to or dereliction of duty. Dereliction in the performance of assigned duties and responsibilities, including acts of negligence.
- 33.4.3 Insubordination. Knowingly refusing to perform lawful and reasonably assigned duties or refusing to perform those duties in accordance with established or prescribed procedures; challenging, resisting, defying or demonstrating contempt toward a designated supervisor or other school district official having authority to issue directions and instructions to the employee by the nature of his or her position.
- 33.4.4 Abuse of leave privilege. Excessive absenteeism, unexcused absence(s), or tardiness; illness leaves when frequently taken for trivial indispositions, or patterns of illness use that indicate abuse.
- 33.4.5 Inappropriate treatment of others. Willful or persistent discourteous, offensive, abusive, or verbally or physically threatening conduct toward other employees, students, or the public.
- 33.4.6 Violation of rules. Willful or persistent violation of California law, including the Education Code, Personnel Commission Rules and Regulations, Board Policy or the procedures adopted by the District, department or school site, and/or provisions of the relevant collective bargaining agreement, when such procedures are made known to the employee in writing.
- 33.4.7 Health and safety violations. Willful or persistent violation of, or failure to adhere to and enforce regulations or procedures pertaining to health and safety, or any other action or behavior on the part of the employee which presents a danger to the health or safety of the employee, students, fellow employees, the public, or District property.
- 33.4.8 Retaliation, harassment, and/or discrimination in violation of State or federal law.
- 33.4.9 Dishonesty.
- 33.4.10 Theft or willful misuse, destruction, mishandling, or misappropriation of District or student body property, or acting as accomplice in any of the practices listed herein.
- 33.4.11 Offering anything of value, such as monetary compensation, reward, gift, service of some other form of compensation in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public, or for performing regular and official duties.
- 33.4.12 Any willful act of conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the District, the employee's department or division.
- 33.4.13 Conduct tending to injure the public service.
- 33.4.14 Abandonment of Position.
  - A. Absence of five (5) consecutive working days without notification or permission without a valid reason for the absence.

- B. Failure to return to work or notify the District within three (3) consecutive working days following an authorized leave of absence without notification or permission without a valid reason for the absence.
- 33.4.15 Failure to report for a health examination required and/or ordered by the District.
- 33.4.16 Failure to report upon reasonable notice for review of criminal records.
- 33.4.17 Knowingly falsifying or withholding by omission any material information supplied to the District, including but not limited to, information pertaining to ones' ability to perform essential job functions with or without reasonable accommodation, information relative to employment records specified on employment application, criminal record disclosure, or other official documents of the District.
- 33.4.18 Possession or use of alcoholic beverage(s) while on duty or intoxication or use/impairment by controlled substances while on duty or in such close time proximity thereto as to potentially have a detrimental effect upon the employee or others while on duty.
- 33.4.19 The use of or unlawful possession, sale or furnishing to others any controlled substance listed in Article 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code while on duty or on school property.
- 33.4.20 Carrying out a physical attack or any form of assault upon a student, a member of the public, another District employee, or a District official.
- 33.4.21 Violation of local, state, or federal law which results in cancellation or suspension of a license, permit or certification required for the performance of assigned duties.
- 33.4.22 Unwillingness or inability to comply with minimum qualification requirements as set forth on the official job specification for the job class occupied by the employee.
- 33.4.23 The un-insurability of an employee to drive a District vehicle when such is a requirement of the employee's position.
- 33.4.24 Defrauding the District, including collecting sick leave or industrial accident/illness leave pay while working elsewhere for pay during his/her normal scheduled work assignment with the District.
- 33.4.25 Disclosure of confidential information.
- 33.4.26 Refusal to subscribe to any oath or affirmation which is required by law in connection with District employment.
- 33.4.27 Refusal to testify under oath before any court, grand jury, or administrative officer having jurisdiction over any then pending matter in which the District is involved.
- 33.4.28 Failure to obey a subpoena issued by the Personnel Commission and duly served, or any refusal to furnish relevant testimony or documents at a hearing or investigation before the Commission or Board of Education.
- 33.4.29 Engaging in political campaigning or other activities related to one's political agenda during assigned work shift.

- 33.4.30 Advocacy of the overthrow of the federal, state, or local government by force, violence, or other unlawful means.
- 33.4.31 Conviction for a felony and/or misdemeanor with a nexus to the employment in the District, including:
  - A. A conviction of a sex offense as defined by Education Code Section 44010.
  - B. A conviction of an offense defined by Education Code Section 44011.
  - C. A conviction of an offense arising directly out of the employee's work-related activities.
  - D. A conviction of an offense involving moral turpitude.
  - E. A record of one (1) or more criminal convictions that indicate that the person is an employment risk for the particular job which the employee holds in the District.

### **33.5 PROCEDURES FOR DISCIPLINARY ACTION**

- 33.5.1 Each employee shall receive fair, impartial, and consistent treatment during any disciplinary action, regardless of the employee's position, assignment, or protected status.
- 33.5.2 **BURDEN OF PROOF:** The Conejo Valley Unified School District shall bear the burden of proof to prove disciplinary charges raised against an employee.
- 33.5.3 **PROGRESSIVE DISCIPLINE DEFINED AND RELATED STEPS:** Progressive discipline is defined as the application of corrective measures by increasing and progressive degrees, with actions that fit the nature of the problem, designed to motivate an employee to change performance or conduct. In most circumstances, the District shall engage employees in progressive discipline when determining the appropriate level of discipline to impose on an employee. The progressive discipline steps set forth herein may be followed at the sole discretion of the District depending on the nature and severity of the misconduct. Progressive steps may be repeated as deemed appropriate by the District. The common steps in progressive discipline shall be as follows:
  - A. **Counseling** – A supervisor shall initiate an informal discussion with an employee designed to assist them in gaining a full understanding of performance standards, while fostering two-way communication to identify solutions that best meet established expectations. A supervisor may follow up with a memorandum or letter to summarize what transpired during a counseling meeting, noting areas of performance deficiency that must be improved, including notice of improvement objectives, if appropriate. Counseling may be skipped if conditions warrant a more severe action.
  - B. **Verbal Reprimand** – A verbal reprimand is intended to provide notice to the employee that his or her performance or behavior must be improved. The warning defines the areas in which improvement is required, establishes goals leading to the improvement objective, and informs the employee that failure to improve may result in further, more serious disciplinary action. A supervisor will either note the date, time and content of the warning in a personal log or documentation notebook for later reference, as necessary, or issue a memorandum to summarize the incident that led to the verbal warning and improvement expectations. Verbal Reprimand may be skipped if conditions warrant a more severe action.



- C. Written Reprimand – The written reprimand is intended to provide notice to the employee of his or her misconduct and/or performance deficiencies. A written reprimand shall summarize the employee's misconduct or performance deficiencies and provide directives to the employee to assist him/her in improving his/her conduct and/or performance. A copy of the written reprimand shall be forwarded to the Classified Personnel Department for inclusion in the employees' personnel file, with a copy retained for site records. The employee shall have the right to provide a written response to the written reprimand and any response will be placed in the employee's personnel file with the written reprimand. The written reprimand may occur simultaneous to a suspension, demotion, or termination if conditions warrant a more severe action.
- D. Suspension – the temporary removal of an employee from his/her position for cause without pay. The length of the suspension shall not exceed 30 calendar days. The proposed length of suspension shall be reasonably related to the seriousness of the offense. Suspension may be skipped if conditions warrant a more severe action.
- E. Demotion – An involuntary reassignment of an employee to a position in a lower job classification or a position with a lesser assignment term (hours per day or months per year). Failure to meet the requirements of promotional probation does not constitute a demotion. Demotion may be skipped if conditions warrant a more severe action.
- F. Termination - The for-cause release or discharge of an employee from employment with the District.

33.5.4 IMMEDIATE SUSPENSION WITHOUT PAY: If an employees alleged conduct involves matters related to the health, safety and well-being of the employee, students, fellow employees, or District property, the Superintendent or his designee may suspend the employee immediately without' pay pending the completion of disciplinary action procedures.

33.5.5 MANDATORY LEAVE OF ABSENCE – WITHOUT PAY: The Governing Board shall immediately suspend, without pay, a regular classified employee when the employee has been charged, by complaint, information, or indictment, with a criminal act defined by Education Code Section 44940(a). The suspension may exceed thirty (30) days, but shall not continue for more than ten (10) days after the date of the entry of the court judgment, unless the District pursues further disciplinary action against the employee under these Rules and Regulations. The employee may receive compensation as provided for in the Education Code. An employee suspended pursuant to this section has no right to appeal the suspension to the Personnel Commission and has no right to a *Skelly* meeting.

- A. If the employee is determined to be not guilty of the criminal charges, or if the complaint, information, or indictment is dismissed, the District shall determine whether disciplinary charges are warranted. If the District pursue disciplinary action against the employee for the underlying criminal charges, the District shall undertake such action in accordance with these Rules and Regulations.
- B. If criminal charges are sustained against the employee, the District shall have the option of pursuing disciplinary charges against the employee on the basis of the criminal conviction and/or the underlying allegations in accordance with these Rules and Regulations.

33.5.6 **OPTIONAL LEAVE OF ABSENCE – WITHOUT PAY:** The Governing Board may immediately suspend, without pay, a regular classified employee when the employee has been charged, by complaint, information, or indictment, with a criminal act defined by Education Code Section 44940(b). The suspension may exceed thirty (30) days, but shall not continue for more than ten (10) days after the date of entry of the court judgment, unless the District pursues further disciplinary action against the employee under these Rules and Regulations. The employee may receive compensation as provided for in the Education Code. An employee suspended pursuant to this section has no right to appeal the suspension to the Personnel Commission and has no right to a *Skelly* meeting.

A. If the employee is determined to be not guilty of the criminal charges, or if the complaint, information, or indictment is dismissed, the District shall determine whether disciplinary charges are warranted. If the District pursues disciplinary action against the employee for the underlying criminal charges, the District shall undertake such action in accordance with these Rules and Regulations.

B. If criminal charges are sustained against the employee, the District shall have the option of pursuing disciplinary charges against the employee on the basis of the criminal conviction and/or the underlying allegations in accordance with these Rules and Regulations.

33.5.7 The conditions of suspensions under Section 13.5.5 and 13.5.6 shall be reviewed by the Personnel Commission at least once during each ninety (90) calendar day period.

### **33.6 NOTICE OF PROPOSED DISCIPLINARY ACTION**

33.6.1 **NO DISCIPLINE WITHOUT NOTICE:** No permanent regular classified employee may be subjected to disciplinary action, except when charged with a mandatory or optional leave of absence offense as identified in 13.5.5 and 13.5.6, until the employee has received a "Notice of Proposed Disciplinary Action," and the employee has had an opportunity to respond to the charges.

33.6.2 **CONTENT OF NOTICE OF DISCIPLINARY ACTION:** A "Notice of Proposed Disciplinary Action" is the notification that disciplinary action will be recommended to the Board of Education. The notice shall contain statements in ordinary and concise language of:

A. The nature of the disciplinary action taken (suspension, demotion, dismissal).

B. The specific causes and sections of these Rules and Procedures that the employee is accused of violating and upon which the disciplinary action is based.

C. A description of the chargeable action(s) or omissions.

D. Notice of the effective date(s) of the proposed disciplinary action.

E. Documentation to support the charges against the employee.

F. Notice of the employee's right to a pre-disciplinary meeting ("*Skelly* meeting") not sooner than five (5) working days after issuance of the Notice of Proposed Disciplinary Action and prior to the Governing Board's action on the proposed discipline.

G. Notice that the employee may forfeit his/her right to a *Skelly* meeting if he/she fails to respond within the time limits specified, and information on how to exercise his right to the *Skelly* meeting.

H. Notice of the date that the disciplinary action will be acted on by the District's Governing Board.

I. Notice of the employee's right to representation.

33.6.3 SERVICE OF NOTICE: Notice of Proposed Disciplinary Action shall be served in person or by Certified Mail "Return Receipt Requested" to the employee.

A. This requirement will be deemed to have been met if the Notice of Disciplinary Action is sent Certified Mail to the last known home address on file in the Personnel Services 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.

B. If the notice is personally served on the employee in lieu of service by mail, the employee shall sign a written acknowledgement that he/she received the notice in person. If the employee refuses to sign such an acknowledgement, two witnesses to the service may verify the service and the acknowledgement shall indicate the space provided for the employee's acknowledgement shall contain the notation "refused to sign."

C. All other notifications to the employee pursuant to this Article shall conform to this Rule.

### **33.7 SKELLY MEETING PROCEDURES**

33.7.1 ACTION IF *SKELLY* MEETING NOT REQUESTED: If the employee does not respond and request a *Skelly* meeting within the five (5) working day period outlined in the notice of proposed disciplinary action, the Superintendent shall recommend to the Board that the proposed disciplinary action be approved. The Board shall have the power to accept, lessen, enhance, or reject the recommendation of the Superintendent.

33.7.2 *SKELLY* MEETING BEFORE THE SUPERINTENDENT OR DESIGNEE: If the employee submits a request to respond to the charges within five (5) working days after receipt of the Notice of Proposed Disciplinary Action, the employee shall have a right to meet with the Superintendent or designee, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the *Skelly* meeting.

A. The Superintendent may assign a designee to serve as the *Skelly* officer. That designee shall be an administrator who has the authority and authorization to accept, modify, or rescind the proposed disciplinary action.

B. The employee shall have the opportunity to respond to all charges, provide reasons in mitigation of the penalty, or offer justification for his actions.

C. The *Skelly* meeting is not an evidentiary hearing. The employee is not entitled to call or examine witnesses.

D. The employee may be represented in a *Skelly* meeting by a union representative, or any other person designated by the employee.

- 33.7.3 NOTICE OF OUTCOME OF *SKELLY* MEETING: The Superintendent or designee shall provide written notification to the employee of the outcome of the *Skelly* meeting. If disciplinary action is recommended, the notice shall inform the employee of the date on which the Governing Board will consider the recommended disciplinary action.
- 33.7.4 ACTION BY THE GOVERNING BOARD: Discipline involving loss of pay cannot take effect until the Governing Board takes action.
- 33.7.5 NOTICE OF ACTION BY GOVERNING BOARD: The Superintendent or designee shall notify the Director of Classified Personnel in writing of the final action by the Governing Board within ten (10) days after the final decision by the Governing Board. This notice is required whether or not the employee exercised his *Skelly* rights and whether or not the employee was present when the Governing Board took final action. The written notice shall state the final action taken by the Governing Board.

Upon receipt of this notice, the Director of Classified Personnel shall serve upon the employee a written "Notice of Disciplinary Action and Statement of Charges." The Notice of Disciplinary Action and Statement of Charges shall inform the employee of their right to appeal the disciplinary action taken against him/her to the Personnel Commission in accordance with Section 13.8. The Notice of Disciplinary Action and Statement of Charges shall be personally served or served by certified mail to the employee as outlined in Section 13.6.3.

### **33.8 DISCIPLINARY APPEAL RIGHTS AND PROCEDURES**

- 33.8.1 NOTICE OF RIGHT TO APPEAL TO THE PERSONNEL COMMISSION: A permanent classified employee who has been suspended, demoted, or dismissed, may appeal such action to the Conejo Valley Unified School District Personnel Commission within fourteen (14) calendar days of receipt of a Notice of Disciplinary Action and Statement of Charges. The appeal must be received and time stamped by the Director of Classified Personnel or postmarked within the fourteen (14) day appeal period to be considered a valid appeal.
- 33.8.2 PERMANENT EMPLOYEE SERVING PROBATION: A classified employee, who is deemed to be a permanent employee of the District by previously having attained permanency in one or more job classes within classified service, but who is serving a probationary period in a new job classification, may request an investigation by the Commission within 14 days after the receipt of the copy of written disciplinary charges. The request for investigation shall be based only on one or more of the four grounds specified in Rule 33.8.3.

The commission shall thereupon conduct an investigation confined to the grounds set forth in the charges and in the request for the investigation but shall not be required to follow the procedures for appeals and hearing set forth elsewhere in these rules. The commission shall notify the administration and the employee in writing of its' findings. If the commission's investigation and findings, however, indicate any arbitrary or discriminatory action for any of these grounds, the commission will hold a formal hearing. The decision of the commission shall not be subject to review by the board. (EC45305, 45306)

- 33.8.3 GROUNDS FOR DISCIPLINARY APPEAL: In filing an appeal to the Personnel Commission, the employee must state the grounds for appeal. The following are grounds for appeal:

- A. That the procedures set forth in these Rule and Regulations have not been followed.
  - B. That the disciplinary action was taken because of unlawful discrimination against the employee based on but not limited to the employee's affiliations, religion, race, color, national origin, age, marital status, sex, sexual orientation, handicapping condition, ancestry, employee organization membership or non-membership and legal activities related thereto, or medical condition as defined in Government Code Section 12926.
  - C. That there has been an abuse of discretion on the part of the District.
  - D. That the action taken was not in accord with the facts.
- 33.8.4 EMPLOYEE FORFEITURE OF APPEAL RIGHTS: If the employee does not request a Personnel Commission appeal within the fourteen (14) calendar day period outlined in Section 13.8.1, the action of the Governing Board shall be final, and no further appeal rights shall be allowed.
- 33.8.5 TIMELY REQUEST FOR APPEAL: If the employee's request for a disciplinary appeal is timely received by the Director of Classified Personnel, the employee shall have a right to have an appeal before the Personnel Commission. The Personnel Commission shall, at its next regularly scheduled meeting, determine whether to hear the appeal itself or to assign the appeal to a hearing officer. If hearing the appeal itself, the Personnel Commission shall determine the date and time of the appeal hearing which shall, whenever practicable, be held within thirty (30) calendar days of the Personnel Commission meeting. If the appeal is to be assigned to a hearing officer, the Personnel Commission shall delegate the establishment of the time and date of the hearing to the Director of Classified Personnel, working with the schedule of the hearing officer selected. A different timeline may be agreed to by the parties involved.
- 33.8.6 NOTIFICATION OF HEARING TO EMPLOYEE: The Director of Classified Personnel shall provide formal, written notice of the appeal hearing to the District and employee at least ten (10) working days in advance of the appeal hearing. Notice shall be made pursuant to section 13.6.3.

### **33.9 APPEAL HEARING PROCEDURES**

- 33.9.1 APPOINTMENT OF HEARING OFFICER: The Personnel Commission may appoint a hearing officer to conduct any hearing or investigation which the Personnel Commission itself is authorized by the Education Code and/or these rules to conduct, including disciplinary action. The Personnel Commission may seek input from the Superintendent and appellant relative to available hearing officer prior to making their selection.
- 33.9.2 DISQUALIFICATION OF HEARING OFFICER OR COMMISSIONER: A Personnel Commission member or a hearing officer shall voluntarily disqualify himself and withdraw from any appeal proceedings in which he/she cannot provide a fair and impartial hearing or consideration, or for which a conflict of interest may exist.
- A. Any party may request the disqualification of any hearing officer, or Personnel Commission member, by filing an affidavit with the Director of Classified Personnel, 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 provided.

- B. If the Personnel Commission determines that there is sufficient grounds for disqualification, it may elect to disqualify the hearing officer or Personnel Commission member.
  - C. Where the disqualification request concerns a Personnel Commission member, the issue shall be determined by the other members of the Personnel Commission. However, no Personnel Commission member shall withdraw voluntarily or be subject to disqualification if his/her disqualification would prevent the existence of a quorum qualified to act in that particular appeal.
- 33.9.3 HEARING LOCATION: The appeal hearing shall be held within the boundaries of the Conejo Valley Unified School District, and in a place designated by the Personnel Commission which is conducive to the proper conduct of the hearing.
- 33.9.4 GRANTING OF CONTINUANCE: The Personnel Commission or its hearing officer may, prior to or during the hearing, grant a continuance for good cause.
- 33.9.5 RIGHT TO REPRESENTATION: The employee may be represented by legal counsel or union representation, or any other person designated by the employee. If the employee files an appeal, the employee shall be required to attend the Personnel Commission appeal hearing, even if the employee's designated representative appears on his/her behalf. If the employee fails to appear at the appeal hearing, the employee will be deemed to have forfeited his/her rights to further appeal and the Personnel Commission shall allow the Board of Education's disciplinary action to stand.
- 33.9.6 CLOSED HEARING: Disciplinary appeal hearing shall be closed to the public unless the appellant submits a request that the hearing be conducted in open session at least five (5) working days prior to the date of the hearing.
- 33.9.7 ALL HEARINGS SHALL BE RECORDED: All hearings under the authority of this Article shall be electronically recorded in such a manner that a verbatim written transcript can be produced if necessary.
- A. 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.
  - B. If a court reporter is used to record the hearing, the requesting party shall provide a copy of the transcript of the hearing to the Personnel Commission at no cost to the Personnel Commission.
  - C. Upon request of any party, or as otherwise provided by law, a copy of the electronic recording will be provided upon payment of a reasonable fee to cover the costs.
  - D. The Personnel Commission is not obligated to provide a transcribed copy of the electronic recording, but may order that the tape be transcribed.
- 33.9.8 SUBPOENA OF WITNESSES: The Personnel Commission or its hearing officer may, and shall if requested by either party, issue subpoenas for witnesses and/or the production of records, documents, or other material evidence subject to a motion to quash by a party opponent or recipient. The Director of Classified Personnel shall issue the subpoenas on behalf of the Personnel Commission or its hearing officer. Subpoenas shall be delivered to the requesting party for service. Requests for subpoenas shall be

- filed with the Personnel Commission Office at least fifteen (15) calendar days prior to the date of the hearing.
- 33.9.9 During a disciplinary appeal hearing, each party shall have the right to:
- A. Call and examine witnesses.
  - B. Introduce exhibits.
  - C. Cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination(s).
  - D. Attempt to impeach any witness regardless of which party first called the witness to testify.
  - E. Rebut all evidence presented by the opposing party.
- 33.9.10 ORAL EVIDENCE BY OATH ONLY: Oral evidence shall be taken only on oath or affirmation.
- 33.9.11 APPELLANT MAY BE CALLED TO TESTIFY: If the appellant does not elect to testify on his/her own behalf, the appellant may still be called to testify and be cross-examined just as if he/she had testified on his/her own behalf.
- 33.9.12 ADMISSION OF EVIDENCE: The hearing need not be conducted according to the technical rules relating to the admission of 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.
- A. 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 or is supported by direct evidence.
  - B. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing.
  - C. Unduly repetitious evidence may be excluded by the Personnel Commission or the hearing officer.
- 33.9.13 RULING ON OBJECTIONS: The Personnel Commission or its hearing officer shall rule on all objections raised by either party.
- 33.9.14 EXAMINATION OF WITNESSES: The Personnel Commission or its hearing officer may, at its discretion, exclude witnesses not under examination except for the appellant, a District representative, the Director of Classified Personnel, and their respective counsel or designated representatives.
- 33.9.15 SWORN AFFIDAVITS: Where possible, all witnesses shall give testimony orally at the hearing. However, if, in the opinion of the Personnel Commission, or its hearing officer, a witness has good and sufficient reason for being unable to be present at the hearing, written testimony will be accepted under the following conditions:

- A. Such evidence shall be submitted by sworn affidavit (signed declaration under penalty of perjury) of the witness. The affidavit shall be confined to a statement of facts bearing on the case and within the personal knowledge of the witness, and shall not contain any conclusions of the witness, except that a witness who qualifies as an expert may express his/her opinion based upon the facts, which he/she has recited.
- B. Copies of all such affidavits shall be filed with the Classified Personnel office, and served on the opposing party, at least five (5) working days prior to the date of the hearing.
- C. 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 granted to secure the attendance of the witness.
- D. The Personnel Commission, or hearing officer, may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

33.9.16 SUBMISSION OF BRIEFS AT THE CLOSE OF THE HEARING: At the close of the hearing, the Personnel Commission, or the appointed hearing officer, has the sole discretion to allow or require briefs to be submitted by each side for consideration.

### **33.10 PREPARATION AND REVIEW OF PROPOSED DECISION BY HEARING OFFICER**

33.10.1 FINDINGS BASED ON PREPONDERANCE OF EVIDENCE: The findings of the Commission or hearing officer acting on its behalf shall be based upon the preponderance of evidence. The Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented.

33.10.2 FINDINGS OF HEARING OFFICER: The hearing officer shall submit his/her written proposed decision, containing findings of fact, conclusions of law, and recommended disciplinary action or remedy, to the Director of Classified Personnel within thirty (30) calendar days following the conclusion of the hearing unless an extension is agreed to by the Personnel Commission, or its designee.

- A. The proposed decision shall be prepared in a form that can be adopted by the Personnel Commission as its decision in the case.
- B. Personnel Commission staff will notify the appellant, his/her representative, and the District's representative of the date of the meeting when the Personnel Commission will consider its decision on the appeal. Personnel Commission staff shall provide the appellant, his/her representative, and the District's representative with a copy of the proposed decision.
- C. If either the employee or the District believes that the Personnel Commission should give further consideration to the decision, he/she shall submit a written request to the Personnel Commission, with a copy to the opposing representative, detailing reasons for further consideration and the remedy sought.
- D. The Personnel Commission may request that the hearing officer be present to review the proposed decision.
- E. In all cases in which the Personnel Commission is deliberating on the proposed decision of the hearing officer, the Personnel Commission shall meet in closed session.



### **33.11 DECISION OF PERSONNEL COMMISSION**

The Personnel Commission shall render its decision on the matter of appeal as soon after the conclusion of the hearing as possible. The decision of the Personnel Commission shall be in writing and shall set forth which charges, if any, are sustained and the reasons therefor.

- A. The Personnel Commission may accept, reject, or amend any of the findings or recommendations in the proposed decision. Any rejections or amendment shall be based either on a review of the transcript of the hearing or investigation, or upon the results of such supplemental hearing or investigation as the Personnel Commission may order. If a further investigation or hearing is ordered, the Personnel Commission may decide the case itself or may refer the case to the same or another hearing officer for the purpose of taking additional evidence. If the case is referred to a hearing officer, she/he shall prepare and file another proposed decision.
- B. The Personnel Commission may not invoke more stringent discipline against the employee than that invoked by the Governing Board should it sustain any or all of the charges.
- C. The Personnel Commission's written decision shall contain findings of fact, a determination of the issues presented, and identify the penalty imposed, if any.
- D. 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/her former position and/or status; such date to be set forth at any time on or after the date that the disciplinary action was invoked.
- E. Following its determination of the facts and findings relative to the disciplinary action invoked against the employee, the Personnel Commission shall consider such other matters as it deems necessary and proper to effect a just settlement of the appeal, including, but not limited to:
  - i. Compensation to the employee for all or part of the legitimate expenses incurred in pursuit of the appeal.
  - ii. The granting of seniority credit for off-duty time pending reinstatement.
  - iii. Transfer or other change of the employee's work location.
  - iv. Expungement from the employee's personnel file of those causes, charges, and/or disciplinary actions that are not sustained by the Personnel Commission.
- F. Copies of the Personnel Commission's decision shall be delivered to the parties personally or by mail as outlined in section 13.6.3.

**33.12 BOARD SHALL COMPLY WITH COMMISSION DECISION**

Upon receipt of the Commission's written decision the Board of Education shall forthwith comply with the provisions thereof. When the Board of Education has fully complied with the Commission's decision, it shall so notify the Commission in writing.

**33.13 COUNSEL FOR THE PERSONNEL COMMISSION**

The Personnel Commission may seek appointment of legal counsel as part of its appeal and investigatory hearing responsibilities pursuant to Education Code Section 45313.

*Article 33 Amended 7/08/15*

**ARTICLE XXXIV**  
**PROCEDURE FOR THE ADJUSTMENT OF GRIEVANCES OF CLASSIFIED PERSONNEL**

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This rule is applicable to all classified employees so long as there is no conflict with any lawful negotiated agreements between the district and any exclusive representative recognized by the district to represent an appropriate unit of employees.

**34.1 PURPOSE OF THE ADJUSTMENT PROCEDURE**

- A. The adjustment procedure is the medium through which permanent employees may seek adjustment of complaints arising out of alleged violations of established board or commission rules or policies or administrative procedures, working conditions, or job relations, including the complaint of one employee against another employee.
- B. Matters excluded from the adjustment procedure shall be:
  - 1. Accusatory charges relating to the moral or professional fitness of an employee. Such charges shall be processed pursuant to Article XXXIII governing disciplinary action and appeal.
  - 2. Matters specifically reserved for action or review by the commission under commission rules in effect at the time the events leading to the grievance occurred. Such matters shall be processed through normal channels by the commission. In cases where the commission rule regulates less than the total procedure, the commission may waive that rule and thereby provide that the dispute be settled through the adjustment procedure.
  - 3. Complaints about the subject matter of a board or commission rule or policy or administrative procedure rather than the administration of the board or commission rule or policy or procedure. An employee with such a complaint should direct his/her suggestions for change through administrative channels to the board or to the administrator who established it.
  - 4. Performance evaluation content is excluded from the adjustment procedure. Employees may grieve only that merit system rules have not been followed.

**34.2 SUBMISSION OF GRIEVANCES**

- A. Any individual permanent employee or group of permanent employees shall have the right to present a grievance.
- B. If two or more permanent employees have essentially the same grievance, they may, and if requested by the district, must present and pursue their grievance as a unit.

**34.3 EMPLOYEE REPRESENTATION**

- A. An employee may be represented by a designee of a recognized employee organization or by counsel at any step of the grievance procedure.
- B. Authorized grievance representatives shall be designated by the grievant and authorized to represent him for purposes of the grievance.
- C. An employee shall have the right to represent himself/herself.

#### **34.4 TIME LIMITS AND WAIVERS**

- A. Because grievances should be adjusted as promptly as possible, various time limits have been established to minimize delays in the various steps that have been provided.
- B. There is an obligation on the part of an aggrieved employee to make known the existence of his/her grievance and the facts pertaining to the grievance within 20 working days of any specific or documented incident or at the earliest possible date after the recognition of a nonspecific occurrence so that efforts can be made through the adjustment procedure to resolve differences and to promote harmonious relationships.
- C. Any step in the adjustment procedure may be omitted with the mutual agreement of the parties to the grievance and the supervisor at the level of such step.
- D. A decision rendered at any step in the adjustment procedure becomes final unless appealed within the time limits specified, or unless mutual agreement, confirmed in writing, has been reached for a time extension. If the decision is not given within the time limits specified and no mutual agreement is reached for a time extension, an appeal may be made by the appellant to the next step.
- E. If a supervisor or administrator with the authority and responsibility to adjust a grievance is absent from his/her position during the specified time for meeting his/her responsibility, and no mutual agreement has been reached for a time extension, that supervisor's or administrator's designated representative shall assume his/her responsibility. If an employee or his/her supervisor is absent from his/her position on an approved leave of absence of three months or less or because his/her assignment period is other than a twelve month basis, the proceedings will automatically cease until he/she returns to work and will then resume as though there had been no interruption. If the employee wishes to continue the proceedings when not actually working on the job, mutual agreement between the appellant and respondent must be reached to continue the proceedings.

#### **34.5 STEPS IN THE ADJUSTMENT PROCEDURE**

- A. Step 1: Informal Discussion  
If an employee has a grievance he/she shall request a meeting with his/her immediate supervisor within the time limits prescribed under Section 34.4 (B) To File a Grievance. The immediate supervisor shall verbally present his/her decision to the employee within 3 working days from the time of the informal discussion.
- B. Step 2: First Level Review  
If the grievance is not settled through informal discussion, the employee may formally submit the grievance in writing to his/her immediate supervisor within 5 working days following the decision. Such submission shall include a clear, concise statement of the grievance, the act or condition on which it is based, the remedy desired, the persons involved and the course of action that has been followed including the grievance rendered in the informal discussion. Within 3 working days after the receipt of the written decision, the immediate supervisor shall meet with the employee. Within 5 working days thereafter, a written decision shall be given to the grievant.
- C. Step 3: Second Level Review  
If the grievance is not settled under Step 2, the employee may formally submit the grievance to the next level of supervision within 5 working days after receipt of the decision in Step 2. Within 3 working days after receiving the written grievance, the

administrator of line authority shall meet with the employee. Within 5 working days thereafter, a written decision with supportive reasons shall be given to the grievant.

D. Step 4: Third Level Review

If the grievance is not settled under Step 3, the employee may formally submit the grievance to the next level of supervision within 5 working days after receipt of the decision in Step 3. Within 3 working days after receiving the written grievance, the administrator of line authority shall meet with the employee. Within 5 working days thereafter, a written decision shall be given to the grievant.

E. Step 5: Superintendent's Review

If the grievance is not settled under Step 4, the employee may send to the superintendent, within 5 working days after receipt of the decision a written statement requesting further review. The superintendent or his/her designee shall meet with the employee within 5 working days after receiving the written request. Within 5 working days thereafter, the superintendent shall decide the grievance or shall order that a hearing officer be employed by the district to offer written findings, conclusions, and recommendations to the superintendent for the resolution of the grievance. The superintendent shall, within 10 days of the meeting with the employee or the hearing officer's written report, give the grievant his/her decision.

F. Step 6: Board of Education Review

If the grievance is not settled under Step 5, the employee may send to the Board of Education within 5 working days of the superintendent's decision, a request for further review. The Board of Education may review the records of the steps taken or may request further review or hearings before making a decision on the grievance. When the Board of Education has reached a decision, the clerk of the Board shall notify the superintendent and individuals involved as soon as possible after the completion of the review. The superintendent shall implement the decision of the Board of Education. The decision of the Board of Education shall be final and conclusive.