

CHAPTER 1 – THE PERSONNEL COMMISSION

1.1 RULE MAKING AUTHORITY

1.1.1 STATUTORY AUTHORITY FOR THESE RULES

(a) Personnel Commission (Merit System) Statutory Authority

These Personnel Commission Rules (the “Rules”) are established pursuant to the authority granted under Article 3 (commencing with Section 88060) (Merit System) of Chapter 4 of Part 51 of Division 7 of the California Education Code, and other provisions of the Education Code applicable to community college districts that have adopted the merit system.

(b) Establishment of Rules

(1) The Rules contained herein are adopted by the Personnel Commission pursuant to its authority under Education Code Section 88080; as well as other provisions of law made applicable to the classified service of Districts that have adopted the merit system.

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

REFERENCE: Government Code section 3543.2: Education Code sections 88060, et seq.

1.1.2 INTERPRETATION AND APPLICATION OF THESE RULES

(a) The Commission recognizes that no set rules can contemplate all possible circumstances. These Rules are to be applied with consideration of their intent, as determined by the Personnel Commission.

(b) Specific and applicable provisions of the Rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases.

(c) In instances where two or more rules appear to be in conflict, where no rule provides a clear-cut answer to a problem, or where the rule may be in conflict with provisions of another District rule or provision, including but not limited to an applicable collective bargaining agreement (“CBA”). the District Director of the Personnel Commission and Classified Employment shall have authority to determine appropriate application, subject to appeal to the Personnel Commission.

(d) To the extent that the rules expressly conflict with a collective bargaining agreement or other negotiated agreement applicable to a particular employee, these Rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in Government Code section 3543.2, and is included in a negotiated agreement between the District and that bargaining unit.

(e) Rule Amendments and new rules are not applied retroactively, unless the amendment or new rule expressly states that it is to be applied retroactively.

1.1.3 GENERAL TERMINOLOGY

As used in these Rules, singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

1.1.4 SEVERABILITY

If during the life of these Rules, any law or any order issued by a court or other tribunal of competent Jurisdiction other than the District, shall render invalid or restrain compliance with or enforcement of any provision of these Rules, such provisions shall be inoperative so long as such law or order shall remain in effect, but all other provisions of this Agreement shall not be affected thereby and shall continue in full force and effect. The Commission shall periodically review these Rules to ensure compliance with applicable laws and orders. If a judicial review or a change in law causes any portion of these Rules to become invalid or unenforceable, such finding or amendment shall not affect the validity or the enforceability of the other Rules.

1.1.5 PRINTING AND DISTRIBUTION OF RULES

The Rules of the Personnel Commission shall be made available on the District website and distributed electronically to every personnel commissioner, board member of the District and any exclusive representative of the classified employees. A reasonable number of printed copies may be provided upon request.

Copies of Article 3 (commencing with Section 88060 of Chapter 4 of Part 51 of Division 7 of the California Education Code (commencing with Section 88060) shall also be provided to the same individuals outlined in the preceding paragraph.

REFERENCE: Education Code Section 88082

1.1.6 SUBJECTS OF RULES

The rules shall provide for the procedures to be followed as they pertain to the classified service as may be necessary to ensure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness, including but not limited to applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses, classification specifications, performance evaluations, public advertisement of examinations, and rejection of unfit applicants without competition. The rules shall be binding upon the District's Board of Trustees, but shall not restrict the authority of the Board of Trustees pursuant to other sections of the Education Code.

REFERENCE: Education Code Sections 88080, 88081.

1.1.7 EFFECTIVE DATE

The Rules shall be effective the date approved by the Personnel Commission and shall apply prospectively.

1.2 VIOLATION OF MERIT SYSTEM LAWS

1.2.1 VIOLATION SHALL BE CRIMINAL

Any person who willfully or through culpable negligence violates any of the provisions of Article 3, commencing with Section 88060 of the Education Code is guilty of a misdemeanor.

REFERENCE: Education Code Section 88136.

1.2.2 OTHER UNLAWFUL ACTS

In addition to the prohibition on unlawful acts outlined in Rule 1.2.1, it is also unlawful for any person to do any of the following:

- (a) Willfully, by themselves or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to their right of examination, application, or employment under Article 3, commencing with Section 88060 of the Education Code or the Rules established by the Personnel Commission.
- (b) Willfully and falsely, to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under Article 3, commencing with Section 88060 of the Education Code or the Rules established by the Personnel Commission, or to aid in so doing, or to make any false representation concerning the same or the person examined.
- (c) Willfully, to furnish to any person any special or confidential information regarding contents of any examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under Article 3, commencing with Section 88060 of the Education Code or the Rules established by the Personnel Commission.

REFERENCE: Education Code Section 88136

1.3 ORGANIZATION OF THE PERSONNEL COMMISSION

1.3.1 TERM OF OFFICE AND GENERAL SELECTION PROCEDURES

(a) Personnel Commissioner Composition

The District's Personnel Commission shall be composed of three members. One member of the Commission shall be appointed by the Board of Trustees: one member shall be nominated by the classified employees of the district, upon recommendation of the exclusive representative of the unit which represents the largest number of the District's classified employees, and appointed by the Board of Trustees. These two (2) members shall, in turn, appoint the third member.

(b) Appointee Requirements

(1) In order to be eligible for appointment or reappointment to the Personnel Commission, an individual must be a registered voter and reside within the State Center Community College District territorial jurisdiction and be a "known adherent to the principle of the merit system". As used in this chapter, "known adherent to the principle of the merit system," with respect to a new appointee, shall mean "a person who by the nature of their prior public or private service has given evidence that the person supports the concept of employment, continuance in employment, in-service promotional opportunities, and other related matters on the basis of merit and fitness." As used in this chapter, "known adherent to the principle of the merit system," with respect to candidate for reappointment, shall mean "a commissioner who has clearly demonstrated through meeting attendance and actions that they do, in fact, support the merit system and its operation."

(2) No member of the Board of Trustees of any community college district or a county board of education shall be eligible for appointment, reappointment, or continuance as a member of the Commission. During a commissioner's term of office, a member of the Personnel Commission shall not be an employee of the State Center Community College District.

(3) At the time of appointment, or reappointment, an appointee must not have relationships or business or financial interest that would create a conflict of interest, call into question the appointee's ability to adhere to merit system principles, or create the appearance that the appointee may not be able to adhere to merit system principles.

(c) Term of Appointment

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

(d) Attendance Requirements at Personnel Commission Meetings

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 District Director of the Personnel Commission and Classified Employment to inform the Commission of the expected absence.

REFERENCE: Education Code Sections 88064 - 88067

1.3.2 SPECIFIC APPOINTMENT PROCEDURES

(a) Expiring Term of Office

No later than September 1 of each year, the District Director of the Personnel Commission and Classified Employment shall notify the Board of Trustees, the Chancellor or their designee, and all recognized classified employee organizations of the name and home address of the commissioner whose term will be expiring and whether or not that commissioner will accept reappointment for another three (3) year term. The notification will also provide the name of the appointing authority, as outlined in Section 1.3.1 (a) and the procedures to be followed in filling the upcoming vacancy.

(b) The Board of Trustees Appointment

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

(c) The Classified Employees' Appointment

At least thirty (30) calendar days prior to the date on which the vacancy will occur, the classified employee organization having authority to nominate the classified employees' appointee to the Commission shall submit to the Board the name of the person the classified employees wishes to nominate to the Commission. The Board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In

the latter case, the Board shall then appoint the new nominee, to be effective on the date on which the vacancy would occur.

- (1) In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on August 15th of the year in which the classified employees' appointment is to be made shall be the one authorized to submit the recommended appointment to the Board of Trustees for action as required by law and these Rules.
- (2) In the event that a vacancy is created on the Personnel Commission because of the classified employees' failure to agree upon a nominee, the Board of Trustees, upon the recommendation of the District Director of the Personnel Commission and Classified Employment, may make an emergency appointment for hiring purposes only until such time as a permanent appointment can be made, but not to exceed sixty (60) calendar days.

(d) The Commissioners' Appointment

- (1) By September 30, the appointee of the Board of Trustees and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint or reappoint to fill the vacancy. At the next regularly scheduled Personnel Commission meeting to be held after 30 calendar days of the date the Commissioners publicly announced their candidate, the Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board of Trustees the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The candidate shall be invited to this meeting. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.
- (2) In the event that a vacancy would otherwise exist on the Personnel Commission as of December 1 because of the failure of the Commission to take action on a new appointment, the commissioners' prior appointee shall continue in office and to function as a member of the District's Personnel Commission until such time as the commissioners take the necessary action to appoint a qualified successor and that person is prepared to assume the duties and responsibilities of the position.
- (3) If the appointee of the Board of Trustees and the appointee of the classified employees are unable to agree upon a nomination by September 30th, the Chancellor of the California Community Colleges shall make the appointment within thirty (30) calendar days.

(e) Discharge of Duties until Successor Appointed

A commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed, but for no more than ninety (90) calendar days.

REFERENCE: Education Code Sections 88065, 88066, 88068

1.3.3 FILLING VACANCIES DURING TERM OF OFFICE

(a) Events Causing Commissioner Vacancy

A member of the Personnel Commission shall be deemed to have vacated the seat of the Commission due to any of the following events happening before the expiration of the prescribed term:

- (1) The death of the commissioner;
- (2) An adjudication pursuant to a quo warranto proceeding declaring that the commissioner is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the commissioner will not be able to perform the duties of the office for the remainder of the term;
- (3) The commissioner's resignation;
- (4) The commissioner's removal from office by a court of competent jurisdiction;
- (5) The commissioner ceasing to meet all the legal requirements to continue to be a commissioner as outlined in section 1.3.1 of these Rules;
- (6) The commissioner's absence exceeding four (4) total regular meetings in a fiscal year, except when prevented by illness, or other excused absence as determined by the Commission.
- (7) 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 or the law. A commissioner shall be deemed to have been convicted under this Rule when trial court judgment is entered;
- (8) The decision of a competent tribunal declaring void the commissioner's appointment; or the commissioner's commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict. In this event, the office shall not be deemed vacant until the order of commitment has become final.
- (9) Their refusal or neglect to file their required oath or bond within the time prescribed.

(b) Notification of Commissioner Vacancy During Term of Office

In the event that a vacancy occurs during the term of office of any of the commissioners, a new appointee shall be selected by the original appointing authority to complete the unexpired term in accordance with the procedures noted below. The District Director of the Personnel Commission and Classified Employment shall immediately notify the other commissioners, the Board of Trustees, the Chancellor or their designee, all the recognized classified employee organization(s) of the name of the commissioner, the effective date of the vacancy, the duration of the unexpired term, the name of the appointing authority, and the procedures to be followed in filling the vacancy.

Upon a Personnel Commission position becoming vacant, the Commission shall be required to declare the position vacant pursuant to this Rule. The District Director of the Personnel Commission and Classified Employment, or their designee, shall prepare for the Commission a proposed declaration of vacancy. The proposed declaration of vacancy must be listed as an action item on an official published Commission meeting agenda. A copy of the agenda must be delivered in the usual and prescribed manner required by these Rules to the Commissioner holding the vacated seat. In the event that the commissioner vacates their seat involuntarily, the Commission shall solicit input from the Board of Trustees and

the employee organizations, if any, prior to the final decision to declare the seat vacant. The District Director of the Personnel Commission and Classified Employment shall initiate the necessary legal steps to fill the vacancy as mandated by the Education Code and these Rules.

(c) The Board of Trustees' Appointment

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

(d) The Classified Employees' Appointment

At least thirty (30) calendar days prior to the date on which the vacancy will occur, and within fifteen (15) calendar days of notification of the vacancy, the classified employee organization having authority to nominate the classified employees' appointee to the Commission, shall submit the name of the person it wishes to appoint to the Commission to fill the unexpired term. The Board shall appoint the nominee unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee.

(1) In the event the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on August 15 of the year in which classified employees' appointment will be made, shall be the one authorized to submit the recommended appointment to the Board of Trustees for action as required by law and these Rules.

(2) In the event that the vacancy goes unfilled because of the classified employees' failure to agree upon a nominee, the Board of Trustees, upon the recommendation of the District Director of the Personnel Commission and Classified Employment, may make an emergency appointment for hiring purposes only until such time as a permanent appointment can be made, but not to exceed sixty (60) calendar days.

(e) The Commissioners' Appointment

At the next regularly scheduled Personnel Commission meeting after notification of the vacancy, or within twenty-one (21) days after notification of the vacancy, whichever is later, the appointee of the Board of Trustees and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint to fill the vacancy.

- (1) At the next regularly scheduled Personnel Commission meeting to be held after thirty (30) calendar days of the date the commissioners publicly announced their candidate, the Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board of Trustees the opportunity to express their views on the qualifications of the person recommended by the Commissioners for appointment. The candidate shall be invited to this meeting.
- (2) If the commissioners are unable to agree upon a joint appointment at the next Personnel Commission meeting after notification of the vacancy, or within twenty-one (21) days after notification of the vacancy, whichever is later, the appointment to fill the unexpired term shall be made by the Chancellor of the California Community Colleges within thirty (30) calendar days.

*REFERENCE: Education Code Sections 88064-68, , 88080;
Government Code Sections 1060 et seq., 1750, 1770*

1.3.4 EMERGENCY APPOINTMENT OF COMMISSIONERS

(a) Emergency Request

Notwithstanding these Rules, the Board of Trustees, at the request of the District Director of the Personnel Commission and Classified Employment, 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 Personnel Commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

(b) Interim Appointee Requirements

- (1) An interim appointee must meet the requirements of Section 88064 of the Education Code and , Section 1.3.1 of these Rules,
- (2) An interim appointment in no event shall be valid for more than sixty (60) calendar days.

*REFERENCE: Education Code Sections 88064, 88065, 88066, 88068,
88080*

1.3.5 SELECTION OF OFFICERS

At its first regularly scheduled meeting in December of each year, the Commission shall elect one (1) of its members to serve as Chair and another of its members to serve as Vice-Chair for a period of one (1) year or until such time as their successors are duly elected. The Commission at this same meeting shall elect the District Director of the Personnel Commission and Classified Employment as Secretary to the Personnel Commission.

REFERENCE: Education Code Sections 88080, 88081

1.3.6 QUORUM AND MAJORITY VOTE

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

REFERENCE: Education Code Sections 88080

1.3.7 COMMISSIONER COMPENSATION

The Board of Trustees may authorize payment to the members of the Personnel Commission at the rate of fifty dollars (\$50) per meeting, not to exceed two hundred-fifty dollars (\$250) per month.

REFERENCE: Education Code Section 88070

1.4 PERSONNEL COMMISSION MEETINGS

1.4.1 REGULAR MEETINGS

(a) Regular Meeting Days and Times

Subject to cancellation or proper change, the Personnel Commission shall meet on the 3rd Tuesday of each month at 5:30 p.m. in the State Center Community College District Board or Conference Room or designated area at one of the campuses. Whenever the regularly scheduled meeting date happens to fall on a holiday, the Commission shall meet on the next succeeding Tuesday unless the Commission at a prior regular meeting designates another day for its meeting.

(b) Posting of a Regular Meeting Agenda

The Commission shall post agendas in accordance with Section 1.4.6 below.

(c) Unusual Circumstances

In unusual circumstances, the Commission may meet at some other time or place, provided that at least seventy-two (72) hours' notice is given to representatives of the employee organizations and the District's administration as well as being posted physically adjacent to the place of the meeting and on the website as outlined in this subsection.

REFERENCE: Government Code Section 54952.2; Education Code Section 88080

1.4.2 ADJOURNED REGULAR MEETINGS

The Commission may adjourn any regular or adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. A copy of the order or 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 pursuant to this rule, the resulting adjourned meeting is a regular meeting for all purposes. When an order of adjournment of any regular meeting or of a previously adjourned meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular Commission meetings.

REFERENCE: Government Code Section 54955; Education Code Section 88080

1.4.3 SPECIAL MEETINGS

A special meeting may be called at any time by the Commission Chair or by a majority of the commissioners. Written notice for any such meeting shall be provided to each commissioner. Written notice will also be delivered to each local newspaper of general circulation and radio or television station requesting notice in writing. Written notice of special meetings will also be provided to the representatives of any recognized employee organization or group, and the Board of Trustees through the

Chancellor, or their designee. Such notice must be delivered personally or by any other means and must be received at least twenty-four (24) 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, freely accessible to members of the public, and the Commission's website.

The meeting notice shall specify the time and place of the special meeting as well as the business to be transacted or discussed. No other business shall be considered by the Commission at special the meeting.

REFERENCE: Government Code Section 54952, 54956; Education Code Section 88080

1.4.4 PUBLIC MEETINGS

(a) Public Attendance

All regular and special meetings of the Commission shall be open to the public, and all persons shall be permitted to attend any of the meetings, except as otherwise provided by Section 1.4.5, or by any state or local law, order or regulation.

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.

(b) Votes and Abstentions

All votes or abstentions to any actions of the Commission during a meeting of the Commission shall be recorded in the minutes of the meeting. Action by secret ballot, whether preliminary or final, is prohibited. Action taken in an authorized closed session, and the vote or abstention of that action of each member present, shall be reported out during open session as required pursuant to Section 54957.1 of the Government Code.

(c) Public Comments

Members of the public may directly address to the Personnel Commission either on agenda items or on other matters of interest to the public that are within the subject matter jurisdiction of the Personnel Commission. However, no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2 of the Government Code. Those wishing to speak to the Personnel Commission are subject to the following:

- (1) Each speaker coming before the Personnel Commission is limited to one presentation per specific agenda item before the Personnel Commission and to one presentation per meeting on non-agenda matters.
- (2) Each speaker will be allowed a maximum of three (3) minutes per topic. Thirty (30) minutes shall be the maximum time allowed for all public speakers on any one subject regardless of the number of speakers at any one Personnel Commission meeting. These time limits may be extended at the discretion of a majority of the Personnel Commission. The Commission shall provide twice the allotted time to a member of the public who utilizes a translator in order to ensure that non-English speakers receive the same opportunity to directly address the Commission.
- (3) Persons wishing to speak about matters not on the agenda shall do so at the time designated at the meeting for public comment.

- (4) Oral presentations relating to a matter on the agenda, including those on the consent agenda, shall be heard before a vote is called on the item.
- (5) No member of the public may speak without being recognized by the Chair of the Personnel Commission.
- (6) The Chair of the Personnel Commission may rule members of the public out of order if their remarks do not pertain to matters that are within the subject matter jurisdiction of the Personnel Commission or if their remarks are unduly repetitive.
- (7) Public speakers are requested to complete a form to address the Personnel Commission at the beginning of the meeting at which they wish to speak. The request should include the person's name and name of the organization or group represented, if any, and a statement noting the agenda item or topic to be addressed. Individuals who do not wish to provide their name and affiliation may provide a "call name" for the purpose of logistically organizing the speaker list.
- (8) Non-scheduled substitutes may not speak in place of scheduled speakers unless alternates have been submitted with the original request.
- (9) In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of those individuals who are willfully interrupting the meeting, the Personnel Commission may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session after the room is cleared. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. The Personnel Commission may then establish a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

REFERENCE: Government Code Sections 54950, 54952.6, 54953, 54957.1, 54957.9;. Education Code Section 88080

1.4.5 CLOSED SESSIONS

(a) Closed Session Notification

A closed session may be conducted only during a regular or special meeting of the Personnel Commission that has been called with proper notification as outlined in this section. Prior to the holding of a closed session, the Commission shall state a brief description of the items to be discussed during closed session and may cite the statutory or other legal authority under which the session is being held, pursuant to Section 54954.5 of the Government Code, or other legal authority interpreting these code sections.

(b) Items for Consideration During Closed Session

The Commission may hold closed sessions during any regular or special meeting as authorized pursuant to Government Code Sections 54956, 54956.6-.95, 54957 ad 54957.6, or other legal authority, to consider the appointment, employment, performance evaluation, dismissal, or the hearing of complaints or charges brought against employees by another person or employee unless such employee requests a public hearing. As a condition of holding a closed session on the complaint, formal charges, or a disciplinary matter, the affected employee shall be given a written notice regarding the matter and the right to have a public

hearing rather than a closed session; which notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time scheduled to hold the regular or special Commission meeting. If notice is not given as prescribed, any punitive action taken relative to the employee shall be null and void.

During the examination of a witness, the Commission may exclude other witnesses even though the hearing is held as part of a public meeting. If a hearing is held in closed session, the Commission may exclude other witnesses as well as the general public while the matter is being investigated. Following the public hearing or closed session, the Commission may deliberate on the matter and reach its decision in a closed session.

In the closed session, the Commission may consider only those matters described in the agenda for the closed session.

(c) Closed Session Report

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

(d) Considerations of Specific Complaints or Charges Brought Against Employees or the Appointment, Employment Dismissal, or Evaluation of an Employee

The Commission may hold a closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee who is the subject of the charge or complaint requests a public session.

- (1) 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 of the right to have the complaint or charge heard in an open session rather than a closed session. Such notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time scheduled to hold the regular or special Commission meeting. If notice is not given as prescribed, any punitive action taken relative to the employee shall be null and void.
- (2) If witnesses are examined during a public or closed meeting in regard to a specific charge or complaint, the Commission may exclude other witnesses in the matter being investigated by the legislative body. Following a public hearing, the Commission may deliberate on the matter and reach its decision in a closed session.
- (3) These closed sessions shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.
- (4) For purposes of this subsection, "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors.

(5) The District's budget, funding priorities, and available funds are not proper subjects and shall not be matters of a closed session discussion.

(e) Violation of 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 Sections 1222 and 1770 subdivision (h). Repeated violation of the confidentiality of a closed session by a commissioner is grounds for removal from office.

REFERENCE: Government Code Sections 1222, 1770, 54954.2, 54954.5, 54956.7, 54957.2, 54957.6, 54957.10

1.4.6 AGENDA AND SUPPORTING DATA

(a) Agenda Posting and Distribution

At least seventy-two (72) hours before a regular meeting, the Commission or its designee shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.

The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the Commission's website. The agenda shall be provided to the designated representatives of all employee organizations representing classified employees, the Commission members, and the Chancellor.

The agenda shall be posted on the homepage of the Commission's website through a prominent, direct link to the agenda to the extent required by subdivision (a)(2) of Section 54954.2 of the Government Code.

If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), the federal rules adopted in implementation thereof, and applicable California law. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(b) Agenda Items

- (1) When practicable, supporting data for agenda items will be furnished prior to the meeting date to the appropriate parties.
- (2) Individual employees, employee organizations, and other interested parties may submit their written views on any item on the agenda, or be given a reasonable opportunity to present their views orally during the Commission meeting, as prescribed in Rule 1.4.4. In reaching its decisions, the Commission will strive to consider all such comments and recommendations.
- (3) District personnel, representatives of recognized employee organizations, representatives of the Board of Trustees, District administrators, or other interested parties may request that items to be placed on a Commission agenda by submitting the items to the District Director of the Personnel Commission and Classified Employment not less than seven (7) calendar days prior to the scheduled Commission meeting at which the item may be considered.

(c) Communications and Requests

Communications and requests made by and to the Commission shall, when practicable in the opinion of the Commission, be in writing. Communications and requests made to the Commission shall be acknowledged and replied to, noting official Commission action when appropriate.

- (1) 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 in writing so that they may properly be placed on a Commission agenda.

REFERENCE: Government Code Section 54954; Education Code 88080

1.4.7 MINUTES

(a) Recording of Minutes

The District Director of the Personnel Commission and Classified Employment, in the capacity of Secretary to the Personnel Commission, or designee, 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 or abstentions of the Commissioners. When requested by a Commissioner, the District Director of the Personnel Commission and Classified Employment shall record the Commissioner's approval or dissent and any expressed reasons therefore.

(b) Format and Distribution

- (1) The minutes of each meeting shall be reduced to written form and presented to the Commission for correction, if any, and approval at the next regularly scheduled meeting of the Commission.
- (2) The minutes of each Commission meeting or a true copy thereof shall be open and available for public inspection.
- (3) Copies of the Commission's minutes shall be made available on the District website and distributed electronically to every personnel commissioner, board member of the District, the Chancellor or their designee, and any exclusive representative of the classified employees, and others who have indicated their interest in such matters. Printed copies may be requested as needed.

REFERENCE: Education Code Section 88080

1.4.8 AMENDMENTS, DELETIONS OR ADDITIONS TO RULES

(a) Proposals for Rule Changes

All proposals, from any source, to amend, delete, or add to these Rules will be considered for a "first reading" at the meeting in which they are first presented to the Personnel Commission. They will not, unless an emergency exists, be acted upon when presented for a "first reading."

(b) Procedure for Rule Changes

- (1) On a first reading, the Personnel Commission will set a date for Commission action on the proposed changes to the Rules. This date shall normally be the next regularly scheduled Commission meeting. The District Director of the Personnel Commission and Classified Employment will refer the proposed Rule changes to the designated representatives of recognized employee organizations representing the District's classified employees, the Chancellor

or their designee, and others who have indicated their interest in such matters in order to provide them with an opportunity to submit their comments or recommendations.

- (2) Insofar as possible, the interested parties shall submit their reactions and recommendations to proposed Rule changes in writing on or before the stipulated agenda deadline date, as outlined in Rule 1.4.6. However, those who also want to speak to the item at the Commission meeting will be given that opportunity as provided in Rule 1.4.4

REFERENCE: Education Code Section 88080

1.5 PERSONNEL COMMISSION STAFF

1.5.1 STATUS OF PERSONNEL COMMISSION STAFF

The District Director of the Personnel Commission and Classified Employment and other persons required to carry out the day-to-day responsibilities of the Personnel Commission shall be selected by the Commission.

The Commission shall appoint the Director in the manner prescribed in Education Code Section 88084. The Commission shall appoint all employees paid from funds budgeted for the support of the Commission and shall supervise the activities of those employees that are performed as a part of the functions of the Commission. These employees shall be appointed from eligibility lists established pursuant to the provisions of Article 3 (commencing with Section 88060) of Chapter 4 or Part 51 of Division 7 of the California Education Code, be classified employees of the community college district and shall be accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the district, including representation by the appropriate exclusive representative, if any.

The Commission will decide how the employees assigned to the Commission will be utilized and will determine the assigned time of each employee reporting to the Commission. However, the employees assigned to the Commission will be classified employees and subject to all of the rules, procedures, benefits, and burdens applicable to the classified service.

REFERENCE: Education Code Sections 88080, 88084

1.5.2 GENERAL DUTIES OF THE DISTRICT DIRECTOR OF THE PERSONNEL COMMISSION AND CLASSIFIED EMPLOYMENT

(a) General Responsibilities

The District Director of the Personnel Commission and Classified Employment shall be responsible to the Personnel Commission for administering the classified service in conformity with Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of Division 7 of the California Education Code, other applicable laws, the Rules of the Commission, and the District's collective bargaining agreements to the extent applicable to the Commission. The District Director of the Personnel Commission and Classified Employment shall be free of prejudgment or bias in order to ensure the impartiality of the Commission. The District Director of the Personnel Commission and Classified Employment shall act as Secretary to the Personnel Commission and shall issue and receive all notifications on its behalf. The District Director of the Personnel Commission and Classified Employment shall direct and supervise the employees of the Personnel Commission and

conduct administrative transactions consistent with the law as well as the proper functioning of the office and staff of the Personnel Commission.

(b) Annual Report

The District Director of the Personnel Commission and Classified Employment shall prepare, or caused to be prepared, an annual report of the Commission's staff activities. When approved by the Commission, the annual report shall be submitted to the Board of Trustees at a regular Board meeting for its review.

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 first regularly scheduled meeting in November. The report shall cover the Commission's staff activities for the preceding fiscal year.

REFERENCE: Education Code Sections 88080, 88081, 88084, 88086, 88131

1.6 PERSONNEL COMMISSION BUDGET

(a) Budget Proposal

The Personnel Commission staff shall, prior to the first Commission meeting in April of each year, and after consultation with the District Director of Finance, prepare and submit to the members of the Commission a proposed operating budget for the next ensuing fiscal year.

(b) Public Hearing

After preparation and study, the Commission shall provide for a public hearing on its proposed budget. Such hearing should be held no later than May 30th of each year.

(c) Input Sought

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

(d) Adopted Budget Forwarded to County Superintendent

Following its adoption of a proposed budget for the ensuing fiscal year, the Commission shall then forward its proposed budget to the Fresno County Superintendent of Schools for action.

(e) County May Hold Public Hearing

The Board of Trustees may request that the Fresno County Superintendent of Schools, upon receipt of the Board's objections or concerns, schedule a public hearing on the budget concerns to be held within the boundaries of the District.

(f) Adoption of Budget by County Office of Education

The Fresno County Superintendent of Schools may reject the Personnel Commission's adopted budget. If the County Superintendent of Schools rejects the proposed budget, it shall, within 30 days after the Commission's submission of the budget, hold a public hearing on the proposed rejection, and shall inform the Commission and the Board of Trustees of the date, time and place of the

hearing. The hearing shall be held within the geographic boundaries of the District. After the hearing, the County Superintendent of Schools may reject, or, with the concurrence of the Commission, amend the proposed budget. In the absence of an agreement between the County Superintendent of Schools and the Commission, the budget of the preceding fiscal year shall determine the amount of the new Personnel Commission budget. However, the items of expenditure within that new budget shall be determined by the Commission.

(g) Judicial Review and Relief

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

REFERENCE: Education Code Sections 88073, 88080

1.7 LEGAL COUNSEL FOR THE PERSONNEL COMMISSION

(a) Representation

The legal counsel for the Board of Trustees shall aid and represent the Personnel Commission in all legal matters. If the legal counsel does not respond to a written or email request by the Commission for aid or representation within 15 working days of receipt of the written request, the counsel is deemed to have refused to aid or represent the Commission in that matter.

(b) Conflicts of Interest

The legal counsel shall refuse to represent the Commission in circumstances in which the counsel knows, or has reason to know, that a conflict exists between the interests of the Commission and the interests of the Board of Trustees or the community college district. Notwithstanding any other provision of this article, a member of the commission may also declare that a conflict exists between the interests of the commission and the interests of the governing board or the community college district. A conflict shall not be found pursuant to this paragraph unless approved by a majority vote of the members of the commission.

(c) Legal Charges to General Fund Upon Refusal to Represent Commission

If the legal counsel refuses to aid or represent the Commission in any legal matter, the Commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the community college district.

REFERENCE: Education Code Section 88132

Approved as Chapter 1 and 2: November 20, 2017

Revised to Section 1: March 20, 2018

Revised: 10/18/24