

# CLASSIFIED SERVICE RULES & REGULATIONS

## State Center Community College District

Rules and Regulations as Adopted by the Personnel Commission  
Effective: November 20, 2007  
Revisions: See Individual Sections

PERSONNEL COMMISSION  
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# **Classified Service Rules & Regulations**

State Center Community College District

## **THE MERIT SYSTEM**

The Merit System was adopted by the District in 1966 by an election of the classified employees. The Merit System grants the Personnel Commission of the State Center Community College District the responsibility of establishing Rules and Regulations that provide for the selection, retention, and promotion of classified employees on the basis of individual merit and fitness. This is demonstrated by competitive examinations and performance. In addition, the Personnel Commission is responsible for the classification and reclassification of positions and serves as an appeal body for disciplined classified employees.

This handbook contains the Rules and Regulations adopted by the State Center Community College District's Personnel Commission as of the date of revision. The Rules and Regulations pertain to the classified service regarding recruitment, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, re-employment, vacations, leaves of absence, compensation within classification, job analyses and classification specifications, longevity points advertisement of examinations, selection of applicants, and other policies and procedures necessary to carry out the provisions and purposes of the Merit System. (Ed. Code, § 88081.) Any employee of the District desiring to refer to the relevant sections of the Education Code will find a copy available on the Personnel Commission website or in any of the following offices: Chancellor, Vice Chancellor, Presidents, and Personnel Commission.

## **CHANCELLOR**

The Chancellor is the chief executive officer of the District and, as such, has the final responsibility for the administration of all policies and procedures of the Governing Board and the Personnel Commission as they pertain to academic and classified employees.

## **The District**

State Center Community College District includes three colleges and multiple centers which serve approximately 1.7 million people and 22 unified and high school districts in urban and rural territories.

The three main campuses of the District include Fresno City College, Reedley College, and Clovis Community College. In addition, the District includes the Madera and Oakhurst Community College Centers.

State Center Community College District was established in 1964 after Fresno City College and Reedley College joined together. The District has grown to become a leader among community colleges with over 3,100 faculty & staff and nearly 60,000 students.

## **Board of Trustees**

The District is governed by a board of seven trustees. Trustees represent seven geographic areas.

The Board derives its authority from the Constitution and statutes of the State of California. Its principle duties are to formulate the basic policies for the operation of the District and to appoint the staff necessary to achieve the objectives of the District and to implement its policies and programs.

## **DIRECTOR OF CLASSIFIED PERSONNEL**

The Director of Classified Personnel is appointed by, and responsible to, the Personnel Commission. (Ed. Code, §§ 88084-88086.) Members of the Commission staff are a part of the classified service of the District, and the policies, procedures, benefits, and burdens applicable to the classified service apply to the employees paid from funds budgeted for the support of the Commission.

The Director of Classified Personnel is responsible to the Commission for administering and carrying out the adopted Rules and Regulations for the classified service. The Director is secretary to the Commission and issues and receives all requests and notifications on its behalf, supervises the Commission staff, conducts administrative transactions consistent with the law and the Personnel Commission Rules and Regulations, conducts classification, salary, and policy studies, and carries out all procedures and policies necessary to assure the efficiency and effectiveness of the classified service.

## **RESPONSIBILITIES OF CLASSIFIED EMPLOYEES**

All classified employees of the District are expected to maintain standards of performance and behavior suited to their positions and classification. Such standards include friendly, courteous, cooperative, and impartial treatment of the public, instructors, students, and other employees, prompt and efficient performance of assigned duties, recognition of lines of authority, and behavior both on and off the job of a type which will reflect favorably upon the District as well as upon themselves.

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## DEFINITION OF TERMS

The following definitions apply throughout these Rules, unless the context clearly requires another meaning:

**ABANDONMENT OF POSITION:** When an employee is absent without notice for (3) three consecutive workdays.

**ABSENCE:** Time away from work during assigned working hours.

**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 3, Chapter 4, Part 51 in Division 7 of the Education Code of the State of California (commencing with section 88060).

**ADMINISTRATIVE LEAVE (PAID):** An enforced absence of an employee with pay pending the outcome of an investigation.

**ALLOCATION:** The official placing of a position in a given classification by the Personnel Commission.

**ANNIVERSARY DATE (LONGEVITY INCREASE AND VACATION ACCRUAL RATE):** The first of the month following the employee's first date of hire in a permanent classification (unless the date of hire is the first of the month in which case it will be the same date),, and the date measured to determine when an employee will receive a longevity increase and the rate an employee accrues vacation.

**ANNIVERSARY DATE (STEP INCREASE):** The first of the month following an employee's completion of the required period of twelve (12) months of paid service in a permanent classification (unless the date of hire is the first of the month in which case it will be the same date),, and the date measured to determine when an employee will receive a step increase.

**APPEAL:** A request by a permanent employee to review an administrative decision of suspension, demotion, or dismissal OR a request by an applicant to contest the examination process.

**APPLICANT:** A person who has submitted a District application to participate or compete in the District's selection process.

**APPOINTING AUTHORITY OR POWER:** The Board of Trustees or its designees, or the Personnel Commission when referring to Commission employees and positions.

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

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

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

**BEREAVEMENT LEAVE:** A paid leave of limited duration granted to an employee upon the death of a member of the employee's immediate family or any relative living in the immediate household.

**BOARD OF TRUSTEES:** The Board of Trustees of State Center Community College District.

**BOARD OF EDUCATION:** The State Board of Education.

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

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

**CAUSE:** The grounds for discipline identified within these Rules as being subject to disciplinary action or offenses enumerated in the law. No disciplinary action may be maintained for any "cause" other than as defined herein.

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

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

**CLASS SERIES:** A number of closely related classes listed in occupational hierarchy according to levels.

**CLASSIFICATION:** Or to Classify, is referred to the action of the Personnel Commission in placing a position into a "Class." Classification means that each position in the classification shall have a designated title, minimum qualifications, and placement on the appropriate salary schedule.

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

**CLASSIFICATION SPECIFICATION:** A formal statement of duties and responsibilities of the position(s) in the class, illustrated by examples of typical tasks, as well as the minimum qualifications requirements for employment in the position(s) in the class.

**CLASSIFICATION TITLE:** a definite descriptive title or name applied to a classification and to all positions of the classification. The title assigned to a classification by the Personnel Commission. The District may suggest titles for new positions.

**COMMISSION:** See Personnel Commission

**COMPETENCY EXAMINATION or ASSESSMENT:** Valid and reliable tests that measure knowledge and skills required for a job which are developed for determining qualifications in the classification.

**COMPLAINT:** An employee complaint concerning violations or alleged violations of these Rules.

**CONFIDENTIAL EMPLOYEE:** A non-bargaining employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

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

**DAY:** Means a day in which the District Offices are open, except where these Rules specify "calendar day".

**DEMOTION (INVOLUNTARY):** A change in assignment of an employee from a position in one classification to a position in another classification which is allocated to a lower maximum salary rate or status without the employee's written voluntary consent.

**DEMOTION (VOLUNTARY):** A demotion requested or agreed to by an employee in order to retain employment when layoff from the employee's position is imminent, or for other reasons where the action is entirely voluntary on the part of the employee.

**DIFFERENTIAL or DIFFERENTIAL PAY:** A salary allowance in addition to the base 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 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.

**DISCIPLINARY ACTION:** Includes any action whereby an employee is deprived of any classification in which the employee has permanence, including dismissal, suspension, demotion, or any reassignment, without the employee's voluntary consent, except a layoff for lack of work or lack of funds.

**DISTRICT:** The State Center Community College District.

**DUTIES STATEMENT:** A listing of the specific duties assigned to an individual position.

**EDUCATIONAL EMPLOYMENT RELATIONS ACT (EERA):** The EERA governs labor-management relations in California's Community College Districts.

**ELIGIBILITY LIST:** A rank order list of the names of persons who have qualified for possible employment through the Personnel Commission's competitive examination processes. Some eligibility lists are exempt from the top 3 ranks or are continuous recruitments.

**ELIGIBLE:** A person whose name appears on an appropriate eligibility list.

**EMERGENCY:** An act of God, a natural disaster, or other dire interruption of the District's programs.

**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 as provided by Education Code 88109.

**EMPLOYEE:** A person who is employed by the District.

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

**EMPLOYEE ORGANIZATION:** An organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer, as defined in the Government Code in Sections 3540 et seq.

**EMPLOYMENT STATUS:** An employee's present appointment indicating whether employee is probationary, permanent, emergency, or temporary (includes limited term and provisional).

**ENTRY LEVEL:** The classification which is the beginning level of a job family (series).

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

**EXEMPT CLASSIFIED:** Refers to those positions and employees exempt from the regular classified service as provided in Education Code sections 88076, 88077, 88078.

**EXEMPT POSITION:** Designated positions which meet the requirements of Fair Labor Standards Act (FLSA) and the Education Code for exclusion from overtime pay provisions.

**EXHAUSTED LIST:** A list of eligibles from which it is impossible to fill a regular full-time or part-time vacancy. A list may be considered exhausted when only two ranks remain who are ready and willing to accept employment.

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

**FISCAL YEAR:** July 1 of one year through June 30 of the following year.

**FITNESS:** A term which refers to the suitability of a candidate for a vacancy in the classified service.

**FLEXIBLE HOURS:** A position designated as having variable hours.

**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:** See definition for The Board of Trustees.

**HEALTH CARE PROVIDER:** an individual licensed, certified, or otherwise authorized or permitted by the law of this state to provide health care in the ordinary course of business or practice of a profession. For purposes of these Rules, a chiropractor is a health care provider as related to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist.

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

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

**INCUMBENT:** An employee assigned to a particular position within a classification.

**INSUBORDINATION:** Willful failure or refusal of an employee to comply with a lawful directive from the employee's supervisor, or any act which indicates clearly and beyond doubt the employee's unwillingness to accept the authority of a supervisor.

**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" or "oral board." This term also applies to a meeting between an eligible and the appointing power, or its designated representative, to discuss appointment to a specific position vacancy within the District.

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

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

**JOB DESCRIPTION:** See Classification Specification.

**JOB TITLE:** See Classification Title.

**LAYOFF:** Separation from a permanent position because of the lack of work, or lack of funds. A layoff shall also include any reduction in hours of employment or assignment to a classification or grade lower than that in which the employee has probationary or permanent status, voluntarily consented to by the employee, in order to avoid interruption of employment by layoff.

**LEAD RESPONSIBILITIES:** Include assigning, monitoring, and reviewing the work of others. Lead employees are bargaining unit members or confidential employees who assign, monitor and review the work of other regular, probationary, provisional, or limited term employees within a classification family.

**LEAVE OF ABSENCE:** An approved absence from duty, with or without pay, for a prescribed period of time.

**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.

**LOYALTY OATH OR AFFIRMATION:** A statement legally required as mandated for each new employee concerning his support of the United States and California Constitutions.

**MERGING:** The act of combining two or more eligibility lists, which were established not more than a year apart, in the rank order of the scores of the eligibles.

**MERIT SYSTEM:** A personnel system in which merit and fitness determines an individual's selection and progress through the classified service.

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

**PERFORMANCE EVALUATION:** A formal assessment of the quantity and quality of the work performed by a person employed in the District's classified service.

**PERMANENT EMPLOYEE:** An employee who has completed an initial probationary period.

**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 130 working days or one year for Police Officer, Police Sergeant, or classified management positions.

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

**PERSONNEL COMMISSION:** A three-member committee established pursuant to the requirements of "The Act" to administer the Merit System in the State Center Community College District.

**DIRECTOR OF CLASSIFIED PERSONNEL:** As used in these Rules, the term refers to the person appointed by the Personnel Commission to act as its designated representative in administering the Merit System under the provisions of law and the Rules and Regulations established by the Personnel Commission.

**PERSONNEL COMMISSION STAFF:** Those persons appointed by the Personnel Commission to carry out the day-to-day operations of the Personnel Commission.

**PERSONNEL COMMISSION RULES or RULES:** These Rules set forth herein, formally known as the Classified Service Rules & Regulations [of the State Center Community College District] enacted under authority of Education Code Section 88080.

**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:** See Classification.

**PROBATIONARY PERIOD:** A trial period of 130 working days of paid service (excluding days absent) following appointment from an appropriate eligibility list, or one year for executive or administrative managers, police sergeants and police officers.

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

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

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

**PROVISIONAL APPOINTMENT:** 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-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 under a given governing 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, as defined in Section 88076, successive 90 working day provisional appointments may be made to the part-time position for a total of more than 126 working days in any one fiscal year.

**RANK:** An eligible's position on an eligibility list. A rank is determined by rounding the final examination score to the nearest whole percent.

**REALLOCATION:** Movement of an entire classification from one salary schedule or hourly rate to another salary schedule or hourly rate.

**RECLASSIFICATION:** The removal of a position or positions from one classification and placement into another as a result of a gradual accretion of duties.

**REEMPLOYMENT:** Return to employment of a former regular employee who has been laid off or resigned. 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 a lack of work, lack of funds, abolishment or reclassification of positions, exhaustion of illness or accident leave privileges, or other reasons specified in the Rules and Regulations of the Personnel Commission, and who are eligible for reemployment without examination in their former class or classes within a period of thirty-nine (39) months following the date of layoff.

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

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

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

**REINSTATEMENT:** A reappointment of a former permanent employee, within a period of 39-months following the date of resignation, without examination, to a position in one of the person's former classes or in a related former class.

**REINSTATEMENT LIST:** A list of names of persons who have resigned and who are eligible for reinstatement without examination in their former class or classes within a period of thirty-nine (39) months following the date of resignation.

**RESIGNATION:** A voluntary statement in writing from an employee informing the employer of intent to separate from the district.

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

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

**SALARY RANGE:** A series of consecutive salary steps that comprise the rates of pay for a classification. Additional steps can be negotiated.

**SALARY RANGE PLACEMENT:** The act of placing a specific classification onto a specified range of the salary schedule.

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

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

**SALARY STEP:** A specific rate in a salary of the consecutive rates that comprise a salary range.

**SALARY STEP PLACEMENT:** The act of placing a newly hired, promoted or demoted person on a specific step on the appropriate salary range.

**SALARY SURVEY:** The collection and reporting of current wage and salary data for the purpose of determining the average wage for certain types of work.

**SENIOR MANAGEMENT:** Positions designated by the Governing Board, which meet the requirements of Section 88009, 88091(c) of the Education Code.

**SENIORITY:** Status secured by length of service in a classification or lower classifications for determining the order of layoff when positions within a classification are eliminated. Years of service with the district; may be used in calculating extra points for the employees taking promotional exams.

**SEPARATION:** The ending of all status as an employee with the District.

**SICK LEAVE (ILLNESS OR INJURY):** Paid or unpaid leave given to an employee because of personal illness or injury.

**STATUS:** The employee's present standing in the classified service.

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

**SUPERINTENDENT OF SCHOOLS:** The Fresno County Superintendent of Schools.

**SUSPENSION:** An enforced absence of an employee without pay for disciplinary purposes.

**TRANSFER:** A transfer is a relocation of an employee, without examination, to a different department or job site to a position in the same classification or to a related classification with the same salary range.

**TRANSFER (LATERAL):** Appointment to a vacant position in the same or related classification in the same salary range.

**UNEXCUSED ABSENCE:** Absence without notification or authorization.

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

**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 the employee's specific assignment.

**WORK-WEEK:** The Board agrees to establish the work week for unit members as being five (5) consecutive days, Monday through Friday, of eight (8) hours per day and forty (40) hours per week. The District may assign unit members to work days other than Monday through Friday when the needs of the District so dictate. Temporary flex week hours may be granted at the unit member's request with approval of the supervisor and must be scheduled within a five (5) day work week.

**WRITTEN NOTICES:** Electronic mail (email) constitutes written notice under these Rules.

**Y-RATE:** A frozen salary rate above the normal salary for a step within a range.

REFERENCE: Education Code Sections 88026, 88194, 88076, 88080, 88081, 88082, 88088, 88089, 88104, 88105, 88106, 88109, 88111, 88113, 88115, 88117, 88120, 88121, 88124, 88126, 88128

Definition Terms Last Revised:  
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## 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

**SECTION 2 – BLANK SECTION**

(PREVIOUS CHAPTER 1 & 2 MERGED INTO SECTION 1)

## CHAPTER 3 - POSITION CLASSIFICATION PLAN

### SECTION 3. THE CLASSIFIED SERVICE

- 3-1 POSITIONS INCLUDED: All positions established by the Governing Board of-Trustees', which are not exempt from the classified service by law shall be a part of the classified service of the District. All employees serving in the District's classified positions shall be classified employees. The employees and positions shall be known as the Classified Service.

REFERENCE: Education Code Section 88076, 88005, 88006, 88008, 88079

- 3-2 EXEMPTION FROM THE CLASSIFIED SERVICE: Positions required by law to be academic, part-time playground positions, full-time students employed part-time, 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 which is financed by state or federal funds, apprentice positions, and positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or the by commission when so designated by the commission.

REFERENCE: Education Code Sections 88076, 88078

- 3-3 "PART-TIME" DEFINED: A part-time position for the purpose of exemption under Personnel Commission Rule 3-2 is a temporary 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%) time of the normally assigned time for the majority of employees in the classified service.

REFERENCE: Education Code Sections 88076, 88080

- 3-4 EFFECT OF EXEMPTION: Any position or employee totally exempted from the classified service by law shall be excluded from the benefits and burdens imposed by these Rules and Regulations, except as otherwise provided by law, the Board of Trustees, or these Rules and Regulations.

REFERENCE: Education Code Section 88006, 88076, 88078, 88080

- 3-5 GENERAL DEFINITION: An Independent Contractor is an individual, company or corporation engaged in an independent business of its own; a separate enterprise or business that performs services on a fee or contractual basis. Individual Independent Contractors must be recognized as professionals requiring advanced degrees and membership in a professional society or professional organization, or persons that have special skills such as artists, musicians, entertainers, persons with professional recognition such as Staff Development Presenter, etc. A person with an employer-employee relationship with the District shall not be an Independent Contractor.

REFERENCE: Education Code Section 88076

- 3-6 EMPLOYMENT OF COLLEGE STUDENTS UNDER CERTAIN PROGRAMS: Full-time students employed part-time and part-time students employed part-time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Education Code Sections 51760 – 51770, and which is financed by state or federal funds, shall not be part of the classified service. The District may employ such students pursuant to the Education Code. Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

REFERENCE: Education Code Sections 88076, 88080, 88081, 51760, 51770

### 3-7 GENERAL CLASSIFICATION RULES

- 3-8 ASSIGNMENT OF DUTIES: The Board shall fix and prescribe the duties and responsibilities of all positions in the classified service except those in the Commission staff. When the duties being performed by an employee are found to be inconsistent with the duties officially assigned to a specific position, the Director of Classified Personnel shall report the facts to the responsible administrator in order that appropriate action may be taken.

REFERENCE: Education Code Sections 88009, 88061, 88084, 88095

- 3-9 GENERAL CLASSIFICATION PLAN: The Commission shall classify all employees and positions within the jurisdiction of the Board or the Commission, except those positions which the Commission determines is exempt from the Classified Service pursuant to Rule 3-2. The Commission shall maintain a classification plan for all positions. The employees and positions shall be known as the Classified Service. To classify shall include, but not be limited to:

- (a) Allocation of all positions to appropriate classes.
- (b) Arrangement of classes into occupational hierarchies (job families).
- (c) Determination of reasonable percentage relationships between classes within the occupational hierarchies.
- (d) Determination of reasonable percentage relationships between occupational hierarchies.
- (e) Preparation of written class specifications.

REFERENCE: Education Code Sections 88076, 88005, 88009, 88076

- 3-9.5 ALTERNATE SERIES CLASSIFICATIONS: Employees appointed to the classifications of Accounting Clerk I/II, Bookstore Sales Clerk I/II, Food Service Worker I/II, Library/Learning Resource Assistant I/II, Maintenance Worker I/II, Office Assistant I/II, and Phone/Communication Operator I/II positions (excluding Seasonal positions) will begin work with the District in the lower level I classification and may be promoted, without competitive examination, to a level II classification in the same series upon successful completion of one year of service and the written recommendation of their supervisor.

The employee's anniversary date within the class to which he/she is promoted shall be the first day of the month following the date of promotion into the higher class. When the first date of promotion is the first working day of the month, the first day of the initial month shall be the anniversary date.

REFERENCE: Education Code Sections 88080, 88081

- 3-10 CLASS SPECIFICATIONS: All class specifications shall be incorporated by reference as a part of these Rules as if fully set forth and are included in Appendix A of these Rules. For each class, the Personnel Commission shall establish and maintain a class specification, which shall include:

- (a) The class title.
- (b) A definition of the class, indicating the type of duties and responsibilities, as assigned by the District, and placement within the organizational scheme.

(c) A statement of distinguishing characteristics which differentiates the class from other related or similar classes.

(d) A statement of the examples of duties to be performed by persons holding positions allocated to the class. The Commission shall develop this statement from the list of duties presented to it by the Board of Trustees.

(e) A statement of the minimum qualifications for service in the particular class. The minimum qualifications may include education, experience, knowledge, skills, abilities, personal and physical traits and characteristics.

(f) A statement about any license, certificates, or other special requirements for employment or service in the particular class.

(g) A statement about any physical requirements required of positions in the class, including the essential functions of each classification.

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

(i) Minimum qualifications shall not require a teaching, administrative, or other credential, nor may they require work experience, which would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials. (j) The title of the class shall be used as the title of all positions in the class on payrolls submitted to the Commission for auditing and in the records and correspondence of the Commission and the Board of Trustees.

(k) The Commission will recommend a salary range for each new classification. For bargaining unit positions the salary will be determined through the collective bargaining process. For management and confidential positions, the District, after considering the Commission's recommendation, will determine the salary range. Each classification specification will state the salary range for the position.

REFERENCE: Education Code Sections 88080, 88095, 88096, 88104, 88104.5

3-11 INTERPRETATION OF CLASS SPECIFICATIONS: The class specifications and their various parts have the following force and effect:

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

(b) 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.

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

(d) Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series in such manner as to



maintain a proper relationship in the series in which the class is located and proper differentiation within the group of classes.

(e) The following personal qualification requirements apply to all classes even though not necessarily specifically mentioned in the specification: freedom from communicable diseases; freedom from physical or mental impairment to perform the duties of the class with or without reasonable accommodation and without presenting a direct and imminent threat to the health and safety of others; dependability; good judgment; good moral character and reputation; loyalty; ability to work cooperatively with others; and willingness and ability to assume the responsibilities and to conform to the conditions or work characteristics of the particular position.

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

REFERENCE: Education Code Sections 88076, 88080, 88095

3-12 CREATION OF NEW POSITIONS: When the Board of Trustees creates a new position or approves a reorganization that modifies the duties and/or responsibilities of a classification or position, it shall submit the duties officially assigned to the classification/position, in writing, to the Director of Classified Personnel. The Board may recommend minimum educational and work experience requirements for the classification/position. The Director of Classified Personnel shall present recommendations to the Commission for action. The Commission shall:

(a) Determine if the new position shall be a part of the Classified Service or exempt under Rule 3-2.

(b) Classify the position and determine whether the position should be allocated to an existing class or whether a new class should be established.

(c) If a new class is recommended, the Director of Classified Personnel shall set forth a proposed class specification setting out the title, duties as established by the Board of Trustees, qualifications, and other requirements of a class specification. The qualifications approved by the Commission must reasonably relate to the duties assigned to the position by the Board of Trustees.

(d) The Commission shall recommend the proper salary placement on the appropriate classified salary schedule.

(f) The Director of Classified Personnel shall notify the Board of Trustees of the Commission's action.

REFERENCE: Education Code Sections 88009, 88076, 88087

3-13 ALLOCATION OF POSITIONS TO EXISTING CLASSES: All positions which substantially consist of comparable duties, responsibilities, and qualifications shall be allocated to the same class.

REFERENCE: Education Code Section 88076

3-14 CHANGES IN DUTIES OF POSITIONS: Any substantial change in the duties of existing positions shall be promptly reported in writing to the Director of Classified Personnel, who shall conduct a review to determine whether the position should be allocated to a new or different class. Should a change in classification be warranted or necessary, the Director of Classified Personnel shall submit recommendations to

the Personnel Commission for action.

REFERENCE: Education Code Sections 88076, 88104

3-15 WORKING OUT OF CLASSIFICATION: Each classified employee should be required to perform the duties approved by the Board of Trustees and classified by the Commission for the class to which the employee is assigned. Classified employees shall not be required to perform duties and responsibilities which are not fixed and prescribed for their positions unless reasonably related to the fixed duties for any period of time which exceeds five (5) working days within a fifteen (15) calendar day period, except as provided by this Rule. An employee may be assigned to work beyond the scope of the duties normally assigned to the employee's position or reasonably related thereto provided that the employee's salary is adjusted as follows:

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

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

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

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

(e) A claim for a pay differential for working out of class may be submitted by the employee or the supervisor. The Director of Classified Personnel will notify the supervisor upon receipt of a claim submitted by an employee.

(f) A claim for pay differential for working out of class must contain a list of the assigned duties.

(g) Employees shall be paid for each day in an out of class assignment, pursuant to Rule 3-15(a), commencing the first day of out-of-class work by being placed in the step of the higher salary classification which is greater than but nearest to a five percent (5%) increase in rate.

(h) If the Director's review determines that the assigned duties are not at a higher level, the employee will not receive out of class pay. The Director shall notify the employee and the appropriate supervisor and report to the Commission if there is an appeal.

(i) These Rules shall not be construed as permitting an employee to refuse to perform duties legally assigned by authority.

REFERENCE: Education Code Section 88010

3-16 POSITIONS REQUIRING SPECIAL LANGUAGE OR SKILLS: The Board of Trustees may request that the Personnel Commission designate certain positions within a class or classes to require the holder of the position to possess a special skill, license, or

language. The District must clearly set forth valid reasons for requesting such special requirements. The duties of the position must be the same as those for all other positions within the classification, except for this one special requirement. There can be only one special requirement for a position. Examples of special skills could include a position in the instructional assistant classification, which has a need for the incumbent to read, speak, and write a foreign language; an administrative secretary class where one position requires the use of shorthand skills; and a gardener classification where one position requires a pesticide certificate.

(a) The Commission shall recommend a differential salary rate to compensate incumbents in such special positions for their special skills. Such differential rates shall correspond to the salary schedule percentages between ranges (i.e. 2.5%, 5.0%, 7.5%, etc.).

(b) An announcement calling for an examination for a class with position(s) containing special requirements will contain appropriate information and will indicate that successful candidates possessing the special skill will be given preference over other successful candidates, as authorized in Personnel Commission Rule 3-16, but only as to those specific positions.

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

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

(e) Layoffs in classifications with positions established pursuant to this rule shall be conducted pursuant to Chapter 20.

REFERENCE: Education Code Section 88096

3-17 CONFIDENTIAL DIFFERENTIAL: The Board of Trustees pursuant to Government Code Section 3540.1 may designate certain positions confidential. Employees filling positions designated confidential must, in the course of their regular duties, have regular access to, or possess information relating to, the District's confidential employer-employee relations. The Board of Trustees' determination to make a position "confidential" is subject to review by the Personnel Commission. The Personnel Commission does not have the right to overturn the Board's designation of a position as confidential, but has the right to inform the Board of its position regarding classification and relationships.

(a) The Commission shall recommend a differential salary rate to compensate incumbents in such confidential positions for the uniqueness of the position.

REFERENCE: 1. Education Code Sections 88061, 88076 2. Government Code Sections 3540.1 and 3543.4

### 3-18 RECLASSIFICATION

### 3-19 REQUESTS FOR RECLASSIFICATION

Requests for reclassification will be accepted by the Director of Classified Personnel between October 1st and by close of business December 1<sup>st</sup>, or the last workday prior. Requests may

be initiated by the administration with the approval of the Chancellor, or by employees or the employee organization. Blank applications are provided upon request to the Director of Classified Personnel. The incumbent of the position to be studied shall provide complete job related information on the form provided. Once the employee completes the questionnaire and signs it, it will be sent back to the Personnel Commission. Personnel Commission staff will obtain the signatures from the appropriate supervisor and the other members of the position's "hierarchy." A list of the questionnaires received will be provided to the Associate Vice Chancellor, Human Resources or his/her designee and CSEA.

The incumbent's immediate manager shall then review, agree/disagree with its content, add additional information, sign and submit the request to the Dean, Vice President and College President or Vice Chancellor, as appropriate, for their input. This review will be completed and submitted as soon as practical, but it no event later than fifteen (15) working days following receipt from the Director of Classified Personnel.

By the February Commission meeting the Director will recommend to the Personnel Commission a timeline and process to complete the studies.

The basis for reclassification of a position will be a gradual accretion of duties and not a sudden change occasioned by a re-organization or the assignment of completely new duties and responsibilities.

(a) Determinations as to gradual accretion will be on the basis of a study and analysis of work performed.

(b) An employee who has been reclassified with his/her position shall be ineligible for subsequent reclassification with the position for a period of at least two years from the initial action. (EC 88104)

### 3-20 BASIS OF RECLASSIFICATION

The following criteria shall serve as the requirement for reclassification of a position(s):

(a) Reclassification shall be based on a gradual accretion of duties in an existing position. The accretion of duties which justify a reclassification action imply that the knowledge and skills required for the performance of the "accrued duties" have increased in number or require a more difficult level normally associated with the higher classification. Also, the performance of those "accrued duties" is normally considered to require greater problem solving or accountability to justify such a reclassification action.

(b) A sudden change resulting from an administrative reorganization or a duty change approved by the governing board shall not be considered a reclassification but rather a classification action of the personnel commission. The personnel commission shall determine at the time of a reclassification whether or not the reclassification met this rule (AR 4218 (h))

### 3-21 EFFECTS OF RECLASSIFICATION

### 3-22 EFFECTIVE DATE OF RECLASSIFICATION

Reclassification of a position shall become effective on the date prescribed by the personnel commission and shall not have retroactive effect. Effective dates may be set sufficiently in the future to allow time for examinations to be completed, but not for more than three months (BP 4218 (b))

### 3-23 EFFECTS OF RECLASSIFICATION

(a) Reclassification of a position shall become effective on the date prescribed by the commission with sufficient time being allowed for the completion of examinations. The effective date may not exceed three months from the commission's determination of the required classification. The effective date set by the Commission shall not have a retroactive effect.

(b) In the event all positions within a classification are classified to a higher salary range, incumbents with two or more years of service in the class shall be reclassified without successful completion of the qualifying examination process.

(c) In the event a portion of the positions within a classification are reclassified to higher salary range, incumbents of the positions being reclassified who have two or more years of service shall be reclassified without successful completion of the qualifying examination process.

(d) In the event a portion of the positions in a classification are reclassified to a class with a lower salary range, incumbents shall have the right:

(1) To bump an employee in the same class, provided that the incumbent has greater seniority in the class than the individual being bumped.

(2) To bump the employee with the least seniority in an equal (sufficiently similar) or lower class in which the incumbent has served, provided that the incumbent has greater seniority in that class than the individual being bumped.

(3) To choose to be demoted or transferred (after successful completion of the qualifying examination) to the class to which the position is reclassified. The employee's choice shall in no way effect the employee's rights with regard to placement on a reemployment list.

(e) Any displacement of a regular employee resulting from a reclassification of a position(s) or class of positions shall be considered layoff for lack of work and an appropriate reemployment list will be established in accordance with these rules and regulations. These rules and regulations shall be followed in all instances of reclassification whether it results in upgrading, downgrading, lateral class movement, bumping, or complete displacement of incumbents (AR 4218 (i))

### 3-24 NOTIFICATION TO THE GOVERNING BOARD

The personnel commission shall notify the governing board of all approved reclassifications (BP 4218 (b))

### 3-25 MULTIPLE LANGUAGE POSITIONS

The governing board may, with the approval of the personnel commission, designate positions within a class which require the holder of the position to speak, read, and write a language in addition to English (BP 4218 (b))

### 3-26 OCCUPATIONAL HIERARCHIES

(a) The Personnel Commission hereby establishes the following:

(1) That the Classified Service is hereby divided into occupational hierarchies.

(2) That hierarchies are, in turn, subdivided into class series. Class series are developed by vertically separating closely related classes into multiple levels. For example, Food Services Supervisor, Cook, Food Services Satellite Operator, and Food Services Assistant might comprise a food services series. The number of

levels in a series is dependent upon class definitions. The number of levels within a class series should reflect substantive differences between jobs, which can be specifically defined.

(3) Changes in salary schedules should not be made in such a manner that the salary for a subordinate position could exceed the amount paid that position's supervisor or so compact the salary schedule as to make promotions undesirable. Classification decisions, including salary placement, must be made with consideration given to the Classified Service as a whole; not just the impact on one classification or one occupational series.

### Chapter 3

Approved: November 20, 2007

Rule 3-19: Revised October 28, 2008

3-23(c), 3-23(d), 3-23(f), 3-23(g), 3-23(h) and 3-23(i); Revised October 17, 2011

## CHAPTER 4 - APPLICATION FOR EMPLOYMENT

### SECTION 4. APPLICATION

4-1 FILING OF APPLICATIONS: All applications for employment shall be made on the official forms furnished by the Commission, both traditional and electronic. Every item shall be answered in full and the application shall be signed by the applicant and filed in the Personnel Commission Office on or before the time and date specified in the official vacancy notice. Electronic Applications may be signed at the exam.

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

(c) For equal employment opportunity and federal/state reporting purposes, questions regarding ethnicity, sex, age, and disability shall be answered on a separate form. Answers to such questions shall be voluntary, and no other information shall be requested relative to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age prior to employment. Questions regarding an applicant's ability to do the job may be asked.

(d) The application form shall require that each applicant indicate whether or not he/she has been convicted of a crime. If an applicant states that he/she has been convicted of a crime, then such applicant shall be required to provide the Commission with detailed information pertaining to all convictions on a separate sheet of paper. An applicant may be disqualified based on a conviction as set forth in Rule 4-6.

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

REFERENCE: Education Code Sections 88080, 88091

4-2 GENERAL QUALIFICATIONS OF APPLICANTS: All applicants must possess all requirements that are specified in the qualifications established for the class.

(a) Every qualified applicant shall have an opportunity to seek, obtain, and hold permanent employment without discrimination because of actual or perceived race, religious creed, color, national origin, ancestry, mental or physical disability, medical condition (as defined in Government Code Section 12926), veterans status, pregnancy, employee organization membership or nonmembership and legal activities related thereto, marital status, sex, age (over 40), sexual orientation, or gender identity.

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

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

(d) Disabled persons shall be given equal employment opportunity and reasonable accommodation for job performance in accordance with the provisions of the Americans with Disabilities Act (ADA).

REFERENCE: 1. Education Code Sections 88011, 88033, 88080, 88091 2. Government Code Sections 12921, 12926 and 12940

4-3 EDUCATION SUBSTITUTION AND ACCEPTANCE: Where college training is required, credit will be given only for work completed in recognized colleges and universities listed in the

"Directory of Postsecondary Institutions, Volume 1" published by the U. S. Department of Education, as accredited institutions.

(a) Credits from an institution not listed in the Directory shall be accepted if such credits are accepted by an accredited institution so listed.

(b) Where graduation from a four (4) year college or university is required, a degree from a school which this Directory lists as less than a four-year school will not be accepted.

(c) Credit will be given for work done with an accredited correspondence school, where such work is comparable to that offered by a four-year college or university. Completion of such a correspondence source of study will be considered equivalent to a degree from a regular four-year college or university, and partial completion of such a course of study will be prorated on the basis of percent completed.

(d) Education beyond high school will be prorated thirty (30) semester units or forty-five (45) quarter units considered equal to one (1) year of experience or one (1) year of school. Credits in excess of the equivalent of two (2) years, in order to be credited, must be in upper division work.

(e) College training shall substitute for experience in those circumstances in which it is possible to establish a direct relationship between such training and duties of the class.

(f) Specific course work and units within a class will not be eligible for substitution.

4-4 EXPERIENCE SUBSTITUTION AND ACCEPTANCE: Appropriate experience will substitute for formal college training in examinations in which it is possible to establish a direct relationship between such experience and the duties of the class.

(a) Where journey level status is required, completion of apprenticeships, possession of a journey license, or salaries at a journey level will be acceptable evidence of such status if the applicant's work record indicates an appropriate number of years experience in the field.

(b) In evaluating applications for examination, total qualifying experience will be rounded to the nearest full month.

(c) In interpreting qualification of promotional candidates, time spent in military service (active) shall be evaluated either as experience in the class from which the candidate left to go into military service or as experience in the service classification-whichever shall be to the candidate's advantage.

(d) Credit will not be given for experience obtained while working overtime, out-of-class (in a noncompensation status), in relief of a supervisor or while working on a part-time job in addition to a regular full-time job, which also provides qualifying experience.

(e) When qualifying experience is only part of an applicant's total responsibility on a job, credit will be given only for such portion of time actually involved in the qualifying work.

(f) Experience requirement shall normally be stated in terms of full-time work.

(g) Unpaid volunteer experience may be accepted provided it is equivalent to the required experience and, upon request by the Commission staff, the applicant provides verification from the volunteer agency specifying the period of service, amount of time worked during this period and the duties and responsibilities performed by the volunteer.

(h) Part-time volunteer or paid experience will be credited only in proportion to the hours worked as they equate to a normal full-time week.



4-5 DISQUALIFICATION OF APPLICANTS AND CANDIDATES

4-6 CAUSES FOR DISQUALIFICATION: An applicant may be refused initial admittance to an examination and a candidate may be disqualified from further competition for any of the following reasons:

(a) Failure to meet the general qualifications of Rule 4-2.

(b) Advocacy of the overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.

(c) Conviction, either by a plea or verdict of guilty or nolo contendere, a court decision of a sex or narcotics offense as defined in Education Code Sections 87010, 87011

(d) Any conviction, other than a sex or narcotics conviction as defined in Education Code Sections 87010, 87011, may disqualify an applicant if the criminal conviction(s) is sufficiently serious to require disqualification from employment. The following factors shall be considered in determining whether an applicant's criminal conviction(s) shall disqualify the applicant:

(1) Nature, seriousness, and circumstances of the offense(s)

(2) Recency of the conviction

(3) Number of convictions

(4) Relationship of the offense(s) to the position for which applicant has applied

(5) Age of applicant when convicted

(e) A determination that the applicant is a sexual psychopath.

(f) Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form.

(g) Practicing any deception or fraud in connection with an examination or to secure employment.

(h) Obtaining or attempting to obtain either directly or indirectly, privileged information regarding test questions or examination content.

(i) Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District under these Rules.

(j) Previous dismissal from the District.

(k) A record of unsatisfactory service within the District as evidenced by a disciplinary action, a work improvement notice, unsatisfactory job performance notice, or a resignation in lieu of dismissal.

(l) Dishonorable or bad conduct discharge from the Armed Forces of the United States. There must be a direct relationship between the offense committed and the job duties.

(m) Refusal to furnish testimony, other than self-incriminating, at a hearing or investigation before the Personnel Commission or the Board of Trustees.

(n) Unsatisfactory health conditions which clearly indicate that the applicant or candidate would be unable to perform the essential functions of the job with or without reasonable accommodation or would endanger his/her health and safety or the health and safety of others.

(o) Attempting to or making contact with any member of the Board of Trustees or the Personnel Commission with the intent of attempting to favorably influence the recruitment, examination, and/or selection process in any way. Exempted from this restriction would be any formal appeal of the recruitment/examination/selection process to the Personnel Commission as a whole by any candidate through the established appeal process.

(p) Failure, after due notice, to report for review of any of the above causes for disqualification.

(q) Failure to report for duty after an assignment has been offered and accepted.

(r) Refusal to take or sign the prescribed oath or affirmation of allegiance to the Constitution of the United States and the Constitution of the State of California.

REFERENCE: Education Code Sections 88022, 88023, 88080, 88081, 88122

4-7 APPEAL FROM DISQUALIFICATION: Any applicant, candidate, and/or eligible disqualified based on Rule 4-5 shall be notified in writing, indicating the reasons for disqualification and advising the individual that he/she has five (5) working days from receipt of notification to appeal the decision to the Director of Classified Personnel.

(a) The appeal may be based on either of the following:

(1) An allegation that the disqualification was based on the employee's actual or perceived race, color, national origin/ancestry, sex, religion, age (over 40), mental or physical disability, veterans status, medical condition, marital status, sexual orientation and pregnancy.

(2) Inconsistency of the reasons given for rejection with the facts.

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

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

(d) Upon receipt of an appeal, the Commission shall conduct a hearing and shall receive evidence and render a decision within 21 calendar days. If the Commission's decision is in favor of the applicant, the applicant shall be given rights as though the rejection had not occurred. The decision of the Personnel Commission is final and binding on all parties.

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

REFERENCE: Education Code Sections 88080, 88081

4-8 EXAMINATION AFTER REJECTION OR DEMOTION: An employee with permanent status in a class who has not successfully completed probation, in accordance with Rules and Regulations 7-12 or who has been demoted after attaining status in a higher class, in accordance with Rules and Regulations 19-4 (Causes for Disciplinary Action) shall not be admitted to an examination for the class from which demotion occurred for one year after the effective date of the demotion.

REFERENCE: Education Code Sections 88080, 88081

4-9 SUBMITTING PROOF OF VETERAN'S CREDIT: Any applicant who claims veteran's credit must submit Form DD 214 at the time the employment application is submitted. Failure to submit Form DD 214 at the time of application shall result in no veteran's credits being considered or added to any passing score.

REFERENCE: Education Code Sections 88080, 88081, 88113, 88114, 88115

4-10 APPLICANT'S NAMES NOT TO BE MADE PUBLIC: The names of applicants or unsuccessful candidates in any of the District's selection processes shall not be made public.

REFERENCE: Education Code Sections 88080, 88081

#### 4-11 EQUAL EMPLOYMENT OPPORTUNITY

4-12 GENERAL STATEMENT: The Personnel Commission recognizes that the District should make employment decisions that provide equal employment opportunities for all and that the District and the Commission adhere to employment procedures that comply with the State Center Community College District Board Policy on Equal Employment Opportunity, Section 12940 et seq. of the California Government Code; all California state statutes relating to Equal Employment Opportunity; Department of Fair Employment and Housing Regulations; the Americans with Disabilities Act of 1990; Title VII of the Civil Rights Act and its subsequent amendments; and guidelines approved by the Equal Employment Opportunity Commission.

4-13 EQUAL EMPLOYMENT OPPORTUNITY/MERIT SYSTEM: The Personnel Commission will: ensure that all classified personnel actions are conducted without regard to race, color, age, religious creed, sex, national origin, Vietnam Era or disabled veteran status, marital status, ancestry, medical condition, physical or mental disability; ensure employment and promotion decisions are made in a manner to further the principles of equal employment opportunity and Merit System principles.

The Personnel Commission is committed to the support and implementation of the adopted District Equal Employment Opportunity plan. Attention will be specifically directed toward those activities that are within the scope of Commission responsibilities.

4-14 POSITION QUALIFICATIONS: The Personnel Commission will: establish essential position qualifications that can be validated as job oriented and as such do not exclude qualified candidates; encourage recruitment procedures that are directed toward the fulfillment of equal opportunity, ensure that examinations are valid, do not have an adverse impact; and ensure that all state and federal laws and administrative regulations are followed regarding personnel functions.

4-15 DISTRICT'S EQUAL EMPLOYMENT OPPORTUNITY PLAN: The Personnel Commission encourages the District to: communicate the District's Equal Employment Opportunity plan to employees and the community; require employees to demonstrate a respect for physical, sexual and cultural differences; and provide employees with opportunities to develop and acquire skills, knowledge, and abilities that will enhance performance and opportunities for advancement.

REFERENCE: 1. Government Code 12940, 2. Americans with Disabilities Act of 1990, 3. Equal Employment Opportunity Commission Guidelines, 4. Title VII of the Civil Rights Act of 1964

Chapter 4

Approved: November 20, 2007

## CHAPTER 5 - RECRUITMENT AND EXAMINATIONS

### SECTION 5. RECRUITMENT

5-1 ANNOUNCEMENT OF EXAMINATION: The Personnel Commission shall direct and administer the holding of examinations for the purpose of creating lists for the Classified Service.

(a) No examination announcement may be made and no part of any examination may be held for a new position until the Board has authorized the position duties and the Commission has completed the position classification including the establishment of minimum qualifications.

(b) Whenever it is necessary to fill existing or anticipated vacancies and an appropriate eligibility list does not exist (as determined by the Commission) the Personnel Commission shall announce each examination on a Position Announcement, which shall be distributed to all employee work locations for at least fifteen (15) working days. The Director of Classified Personnel may place advertisements in newspapers, trade and business journals or other media. The Director of Classified Personnel shall make every effort to notify community agencies and to ensure that recruitment is as broad-based as possible.

(c) The Position Announcement shall contain the title of the class and shall include the following:

- (1) Information concerning the location of employment and other conditions of employment,
- (2) A description of the scope of duties and responsibilities of the class.
- (3) The qualifications and requirements of the class.
- (4) The salary, benefits, and other compensation.
- (5) The closing date for filing applications.
- (6) The types and weights of examinations to be given.
- (7) Such other information as will assist interested persons in fully understanding the nature of the employment and procedures necessary to participate in the examination.

REFERENCE: Education Code Sections 88009, 88080, 88081, 88097

### 5-2 EXAMINATIONS

5-3 DETERMINATION OF EXAMINATIONS: The Personnel Commission shall determine the standards of proficiency to be required for such examination and the examination shall be:

(a) Open Competitive and all internal and external applicants

REFERENCE: Education Code Sections 88091, 88103

5-4 OPEN COMPETITIVE EXAMINATIONS: The entry level classification (class lowest on the salary schedule) with the Classified Service of the District shall always have an open competitive examination and veterans' preference points shall be allowed as specified in Chapter 5.2.15. These examinations shall be open to all qualified applicants.

5-5 CONTINUOUS EXAMINATIONS: The Commission may designate examinations for specified classes as continuous examinations. Applications shall be accepted every working day and examinations shall be given as the need arises.

(a) If an Oral Board interview is required, the interview panel may consist of two persons who may be employees of the District or the Commission, as designated by the Director of Classified Personnel.

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

(c) The resulting eligibility list may be merged with previous lists for the class in relative order of scores of the eligibles.

REFERENCE: Education Code Sections 88092, 88110, 88111

5-6 TYPES OF EXAMINATIONS: Examinations shall be conducted by the Commission's staff and shall be administered objectively and shall consist of test parts that relate to job performance. The parts may be any or a combination of any of the following:

(a) Written examination

(b) Practical demonstration of skill

(c) Evaluation of training, education, and experience by an Oral Board interview panel

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

(e) Other tests of fitness determined by the Commission

REFERENCE: Education Code Sections 88080, 88092

5-7 SCORING AND WEIGHING OF EXAMINATIONS: All examinations parts shall be prepared under the direction of the Director of Classified Personnel who shall determine passing scores and assign relative percentage weights to each part. The procedure for setting percentage weights shall be impartial and shall bear a reasonable relationship to the duties performed.

REFERENCE: Education Code Sections 88080, 88081

5-8 ORAL BOARD EXAMINATION: If an examination requires the use of an Oral Board interview panel, the Director of Classified Personnel shall assure that the following rules are followed:

(a) The oral board panel shall consist of two or more members. The majority of the oral board panel should be from outside the District for a lead position or above.

(b) An employee of the District or of the Commission may serve on an oral board panel if that employee is not at the first or second level of supervision over a vacant position in the class for which the examination is being held.

(c) Unless specifically directed to evaluate candidates' technical knowledge and skills, the oral board panel shall confine itself to evaluating general fitness for employment in the class.

(d) When the oral board panel is directed to evaluate technical knowledge and skills, at least two members of the oral board panel shall be technically qualified in the specified occupational areas under examination.

(e) Members of the Board of Trustees or Personnel Commission shall not serve on an oral

board panel.

(f) Oral board proceedings shall be electronically recorded and retained in the Commission Office.

(g) Scores achieved by the candidate on other parts of the examination shall not be made available to the oral board panel.

(h) In no case will an oral or performance examination board be provided with confidential references on employees of the District who are competing in examinations.

(i) In oral board panel examinations, ratings accorded competitors shall be expressed in percentages with 75% being the minimum qualifying rating. Ratings shall be made independently by each oral board member either before or after discussion with other oral board members. Ratings shall be made independently on forms prescribed by the Director of Classified Personnel, which shall be signed by the oral board member and be delivered to the Director of Classified Personnel or his/her representative. All final markings shall be made in pen. When a competitor is disqualified by a member of the Oral Board Panel, the interviewer shall make a record of the reason(s) on the rating sheet.

(j) The ratings of the members of the Oral Board shall be averaged to determine each candidate's final rating. An average score of 75% or higher is required to pass the oral board.

REFERENCE: Education Code Sections 88080, 88092

5-8 **ADMISSION TO EXAMINATION:** Each applicant whose application has been approved shall be notified a reasonable time in advance of the time, date, and place of the examination, and such notice shall be the applicant's authority to take the examination. Each candidate must provide personal identification (with picture I.D.) at time of examination admittance in order to take the test.

REFERENCE: Education Code Sections 88080, 88081

5-9 **EXAMINATION PROCEDURES:** Competitors in any written test must take the test on the prescribed date unless approved by the Director of Classified Personnel. The Director of Classified Personnel may only allow an applicant to take a test on a day other than that established for all applicants if the reason is required by law, e.g. religious observance.

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

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

(c) A competitor in any examination who places an identifying mark upon test papers other than the identifying mark prescribed at the time of examination, or makes an attempt to disclose to others the identity of the competitor's papers prior to the completion of the examination may be disqualified. REFERENCE: Education Code Section 88080, 88081, 88092

5-10 **RATING REQUIRED:** Candidates may be required to attain a designated minimum rating in each part or in combined parts of the selection process to qualify for participation in the next

succeeding part.

REFERENCE: Education Code Section 88080, 88081, 88092

5-11 SENIORITY CREDIT: Seniority credit shall be added to the final passing scores of candidates who have permanency with the District or who are on a valid reemployment list. Seniority credit shall be calculated in the amount of one-half point for each full year of service not to exceed a total of five (5) points. Credits shall not be calculated for less than each full year of service. A full year's credit shall be granted to employees whose regular work year exists on less than a twelve-month basis, but in no event shall credit be granted to employees working less than full time nor less than ten (10) months per year. (CSEA contract Article 22, Section 5, Seniority Credit) Seniority credit shall be considered as having been lost when the employee has been separated from employment for a period of 39 months or more.

REFERENCE: Education Code Sections 88080, 88081, 88091

5-12 VETERAN'S PREFERENCE: Veterans not previously employed by the District, with 30 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 (5) points and disabled veterans shall be allowed an additional credit of ten (10) points, which shall be added to the percentages attained in the examinations by the veterans.

(a) "Veteran" as used in this rule 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. "Armed forces" means the United States Air Force, Army, Navy, Marine Corps, or Coast Guard.

(b) "Disabled Veteran" as used in this rule means any veteran, as defined in rule 5-12(a), who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the armed forces. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

c) Veteran's preference shall be granted for initial employment only with submission of DD214 form showing discharge status by the filing deadline.

REFERENCE: Education Code Sections 88080, 88081, 88113, 88114, 88115

5-16 NOTICE OF FINAL SCORE: Candidates who qualify, shall be notified by the Personnel Commission's staff within fifteen (15) working days after completion of the examination of their standing on the eligibility list. Candidates who do not qualify shall be notified within fifteen (15) working days after completion of the examination.

REFERENCE: Education Code Sections 88080, 88081

5-17 VIOLATION OF THESE EXAMINATION RULES/LAW: Whenever the Personnel Commission, after a public hearing, finds that any appointment has been made in violation of the Education Code provisions of the merit system, or these Rules as they apply to examination procedures, the Commission may order that no salary warrant shall thereafter be drawn to the employee so appointed after the date of the order, and such violation shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

REFERENCE: Education Code Sections 88129, 88130

5-18 REVIEW AND PROTEST OF EXAMINATION:

5-19 RETENTION OF ALL EXAMINATION RECORDS: Examination records, including test answer sheets, tape recordings of oral board proceedings and the rating sheets of each member of an



oral interview panel shall be retained by the Personnel Commission for a period of two (2) years.

REFERENCE: Education Code Section 88093

5-20 EXAMINATION RECORDS SHALL BE CONFIDENTIAL: Examination records shall be confidential. Records, such as identifiable ratings of oral panel members and confidential references of previous employers shall not be available for review except in response to a lawfully issued subpoena or as required by law.

REFERENCE: Education Code Section 88093

5-21 AVAILABILITY FOR REVIEW: Remaining examination records (excluding test questions) such as written test answers, tapes and scores of the candidate or eligible shall be available for review only by the candidate or representative. The candidate or representative may not review the records of another person. Review of test segments shall be made during the five (5) working days following notification. At the time of review the candidate may protest in writing, any part of the examination, outlining the basis for the protest and stating the remedy sought. No candidate may remove or copy information from the examination materials. Failure to request a review or file a protest with the Director of Classified Personnel within five (5) working days forfeits the candidate's right to appeal that portion of the selection process.

REFERENCE: Education Code Section 88093

5-22 FAILURE TO FILE PROTEST: Failure to review or file a protest with the Director of Classified Personnel within the review period shall constitute a waiver of the right to appeal that part of the selection process.

REFERENCE: Education Code Section 88080, 88081

5-23 DIRECTOR OF CLASSIFIED PERSONNEL SHALL REVIEW ALL PROTESTS: The Director of Classified Personnel shall review and act upon all protests. The Director may allow more than one (1) answer to a question or may disqualify a question if the protest is valid. If a protest results in any change, the test papers of all candidates will be reviewed and rescored accordingly.

5-24 APPEAL TO COMMISSION: The Director of Classified Personnel shall inform the candidate who has submitted the protest of his/her decision within ten working days and at the same time shall notify the Personnel Commission. That decision shall be in writing and served in person or by certified mail (Return Receipt Requested) to the applicant. This requirement will be deemed to have been met if the Director's decision is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the applicant to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. The employee is responsible for keeping the District informed of a home address. For purposes of this rule, if a notice is properly mailed, it shall be deemed effective on the second working day following the postmark date of the notice. Should the Director of Classified Personnel rule against the protest, that decision may be appealed to the Personnel Commission. However, the filing of such an appeal shall not stop or otherwise delay the selection (examination) process unless so ordered by the Personnel Commission. All correspondence mailed to applicants under this rule shall also be mailed to the Personnel Commissioners.

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

(b) The Personnel Commission shall hold a hearing to hear the appeal of the applicant. The decision of the Personnel Commission shall be in writing and served on the applicant as

outlined in Rule 5-24. The decision of the Personnel Commission shall be final and binding on all parties.

Chapter 5

Approved: November 20, 2007

## CHAPTER 6 - ELIGIBILITY FOR EMPLOYMENT

### SECTION 6. ELIGIBILITY LISTS

6-1 ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS: After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable. The completed list constitutes an eligibility list for that class upon signature by the Director of Classified Personnel. All eligibility lists will be ratified by the Personnel Commission.

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

REFERENCE: Education Code Sections 88080, 88081, 88091

6-2 CONTENTS OF ELIGIBILITY LIST: An eligibility list shall contain:

(a) The names of all eligibles in final rank order of total examination scores.

(b) The weighted total score.

(c) The expiration date of each person's eligibility for merged lists.

(d) The signature of the Director of Classified Personnel or designee attesting to the accuracy of the information on the eligibility list.

(e) The date the list was ratified or approved by the Personnel Commission.

REFERENCE: Education Code Sections 88080, 88081, 88091

6-3 CERTIFICATION BY PERSONNEL COMMISSION: All eligibility lists shall be certified by the Commission at the first reasonable opportunity.

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

(b) The rule of Three Ranks will apply for all certifications.

REFERENCE: Education Code Sections 88080, 88081

6-4 TYPES OF ELIGIBILITY: Appointments to position shall be made from:

(a) Eligibility Lists: In order of precedence:

(1) Reemployment: A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, voluntarily demoted in lieu of layoff, lost their positions because of abolishment or reclassification of positions, exhaustion of illness or accident leave, or return from military duty under conditions set forth in these rules. These eligibles shall take precedence over all other persons eligible for appointment.

REFERENCE: Education Code Sections 88192, 88195

(2) Internal and External: A list of eligibles resulting from an examination of all qualified applicants. Eligibility list candidates will be certified by rank (ties of final scores will be ranked together.)

(b) Other methods to fill positions:

(1) Former Employees: To be eligible, a former regular permanent employee who resigned in good standing shall make a written request to the District's Human Resources Office within 39 months from last day of employment to be considered for any classification in which they have achieved regular permanent status. Upon approval by the District, the request shall be forwarded to the Director of Classified Personnel. That person's name will appear on the certified requisition and will not count toward the number of ranks submitted to the hiring authority. A former employee may waive twice without penalty. The third waiver will constitute removal from the reemployment list.

REFERENCE: Education Code Section 88128

(2) Lateral Transfer: Employees who have requested transfer to a vacant position in the same or related classification (as determined by the Personnel Commission.) Lateral transfer requests will be certified in addition to the total number of ranks (three) submitted to the hiring authority.

(3) PROBATIONARY PERIOD FOR LATERAL TRANSFER: 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 88080, 88081

6-5 DURATION OF ELIGIBILITY LISTS: An eligibility list shall be in effect for a period of six months or one year, unless otherwise determined by the Director of Classified Personnel, and may be extended for up to an additional year by the Commission. The duration of the eligibility list shall be noted on the job announcement for the examination. When merging lists or continuous recruitment, names of successful competitors may be added to eligibility lists by the Director of Classified Personnel.

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

REFERENCE: Education Code Sections 88080, 88081, 88119

6-6 MERGER OF ELIGIBILITY LISTS: If a new examination for a class is given during the term of the life of an existing list, the examination shall be sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles. The new list shall then be merged with the existing list with eligibles ranked in the order of examination score, plus additional points where applicable.

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

(b) All candidates on an eligibility list which is terminated may retake the examination if a period of ninety (90) days has elapsed since the candidate last took the examination. Notification is not required when an eligibility list expires.

(c) A competitor who participates in an examination during their eligibility on an earlier eligibility list for the same classification shall utilize their new scores when the lists are merged.

REFERENCE: Education Code Sections 88080, 88081, 88110, 88119

6-7 REEMPLOYMENT LISTS: There shall be established for each class, as necessary, a reemployment list which shall take precedence over all other employment lists in filling vacant positions. This list shall contain the names of all regular classified employees who have been laid off or demoted from any position because of lack of work or lack of funds, abolishment or reclassification of position, exhaustion of illness or accident leave or return from military duty as set forth herein.

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

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

REFERENCE: 1. Education Code Sections 88117 2. Military and Veterans Codes 395.1 and 395.3

6-8 TERMINATION OF ELIGIBILITY LISTS: An eligibility list is automatically terminated at the end of the period as established on the job announcement unless extended by the Commission.

(a) An eligibility list may be terminated by the Director of Classified Personnel prior to its expiration when there are fewer than three (3) ranks of eligibles remaining on the list. Candidates on such lists shall be notified of the proposed termination.

REFERENCE: Education Code Section 88119

6-9 ELIGIBILITY AFTER APPOINTMENT: An eligibility list shall be used for full-time, part-time, regular and limited-term assignments in the class. An eligible who accepts a part-time assignment shall continue to be eligible for full-time employment, and an eligible who accepts limited-term assignments shall continue to be eligible for regular employment.

REFERENCE: Education Code Sections 88080, 88081, 88105, 88119

(a) Waivers of Certification: An eligible may become unavailable for certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by filing a waiver form in the Personnel Commission Office. Eligibles may revise or withdraw their unavailability.

(b) Eligibles may waive certification twice without penalty. The third time, they will be permanently removed from that eligibility list.

REFERENCE: Education Code Sections 88080, 88081

6-10 REMOVAL OF NAMES FROM ELIGIBILITY LISTS: The name of an eligible may be removed from an eligibility list by the Director of Classified Personnel for any of the following reasons:

(a) Failure to respond within five (5) working days from the date of certification of employment letter of an inquiry regarding availability for employment.

(b) Any of the causes listed in Section 4-5.

(c) Failure to respond for a scheduled interview after certification.

(d) Refusing an employment offer after having been properly certified as eligible and available for the appointment.

(e) A written request by the eligible for removal.

(f) Failure by the applicant to keep their address and telephone number information current with the Personnel Commission.

REFERENCE: Education Code Sections 88080, 88081

6-11 NOTIFICATION TO ELIGIBLE OF REMOVAL FROM LIST: The Commission shall notify the eligible of the action and the reasons therefore and shall provide the person with the opportunity to appeal the decision to the Commission within five (5) working days of notification. The decision of the Commission shall be final.

REFERENCE: Education Code Sections 88080, 88081

6-12 CERTIFICATION FROM EMPLOYMENT LISTS

6-13 APPOINTING AUTHORITY: The appointing authority shall be the Board of Trustees and its designated managers, except that the Personnel Commission shall be the appointing authority in the case of employees assigned to the Personnel Commission.

6-14 RULE OF THREE RANKS: Eligibles shall be placed on the eligibility list in rank order according to their score on the examination. The final scores of candidates shall be rounded to the nearest whole percent. All eligibles with the same percentage score shall be placed in the same rank. Certification from the list shall be the first three (3) ranks of eligibles who are ready and willing to accept the positions to be filled.

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

REFERENCE: Education Code Sections 88080, 88081, 88091

6-15 CERTIFICATION AND APPOINTMENT FROM ELIGIBILITY LISTS:

(a) The Director of Classified Personnel shall determine the availability of eligibles and shall certify the names of all eligibles who are ready and willing to accept appointment to a position to be filled. Certification shall be in accordance with Rule 6-14.

(b) The appointing authority or a representative of the appointee shall, within five (5) working days following the interview, make a selection from the persons presented and shall notify the Director of Classified Personnel who shall see that the necessary employment procedures are carried out. This five day period may be extended by the Director of Classified Personnel.

(c) If a candidate who was declared eligible for appointment to a position fails to keep an interview appointment or declines the appointment, the appointing authority may fill the vacancy from the remaining eligibles or may request certification of eligibles in accordance with Rule 6-17.

REFERENCE: Education Code Sections 88080, 88081, 88091, 88096

#### 6-16 PROCEDURE WHEN FEWER THAN THREE RANKS REMAIN

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

(1) If the appointing authority chooses to interview less than the top three ranks from current eligibility list then the appointing authority must select from a combination of the top 3 ranks of the current and new eligibility list.

(2) If the appointing authority does not interview from the current list with less than 3 eligibles, the current valid eligibility list and new eligibility lists are merged and the appointing authority must then select from the top 3 ranks.

REFERENCE: Education Code Sections 88080, 88081, 88091

6-17 CERTIFICATION OF ADDITIONAL ELIGIBLES: If an eligible who has been certified, refuses appointment or fails to respond for an interview, the appointing authority shall notify the Director of Classified Personnel. When a request for additional eligibles is made, the Director of Classified Personnel shall:

(a) Certify additional eligibles as required.

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

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

(d) Request authorization from the Commission to refuse further certification should the investigation determine that refusal of appointment by an eligible is in fact not voluntary.

REFERENCE: Education Code Sections 88080, 88081, 88091

6-18 FAILURE TO MAKE APPOINTMENT: If, after having the certified list for 30 calendar days, the hiring manager fails to make a selection from the top three ranks of eligibles, the Director of Classified Personnel shall direct through the Associate Vice Chancellor, Human Resources that the position be vacated immediately (if there is a provisional or limited term employee assigned to fill the vacancy), and remain vacant until such time as the eligibility list for that class expires. Exceptions to this rule may be made by the Director of Classified Personnel upon a showing of extraordinary circumstances and must be ratified by the Personnel Commission at its next regular meeting.

REFERENCE: Education Code Sections 88080, 88081, 88091

6-19 DUTIES OF ELIGIBLES: It shall be the duty of every eligible to respond promptly after receiving notice of certification. The eligible will be expected to respond within five (5) working days from the date notification is mailed. Failure to respond within the above stated time may result in removal from the eligibility list.

(a) Eligibles are required to keep the Personnel Commission Office informed as to current home address and telephone numbers where they can be reached to schedule employment interviews. Failure to keep the Personnel Commission Office informed will result in the eligible being removed from the eligibility list.

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

(1) The date of the offer of appointment shall be the date on which the eligible is notified by the Director of Classified Personnel of selection.

(2) Notification may be made by telephone, registered or certified mail.

(3) The appointing authority may allow a period longer than two weeks at its discretion.

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

REFERENCE: Education Code Sections 88080, 88081, 88091

6-20 CONFIDENTIALITY OF TEST SCORES: Test scores shall be considered confidential information and release of information shall be limited to:

(a) After approval by the Personnel Commission, eligibility lists showing the relative ranking of each candidate without showing the specific percentage scores.

(b) Only information relating to eligibles who have been certified shall be released to the appointing authority.

(c) Only information pertaining to an eligibles own scores and current position on the list shall be released to the eligible or his/her representative.

REFERENCE: Education Code Sections 88080, 88081, 88091, 88093

Chapter 5  
Approved: November 20, 2007



## CHAPTER 7 - APPOINTMENT TO CLASSIFIED POSITIONS

### SECTION 7. PROCEDURES FOR APPOINTMENT

- 7-1 PROCEDURES FOR SELECTION: The appointing authority shall interview the top three ranks certified from an appropriate employment or eligibility list. Appointments shall be made from eligibles having the first three (3) ranks of eligibles on the list who are ready and willing to accept the position(s).

Once the hiring authority has made a selection, he/she shall complete the Manager's Hiring Recommendation Form, and, following the appropriate campus signatures, the Supervisor Form will be forwarded to the Associate Vice Chancellor, Human Resources, for approval of the selection. Once approved, the Associate Vice Chancellor, Human Resources will forward the Manager's Hiring Recommendation Form to the Director of Classified Personnel for approval. Once approved, the Director of Classified Personnel or his/her designee will make the offer of employment to the selected eligible.

REFERENCE: Education Code Sections 88160, 88161, 88091

- 7-2 APPOINTMENT: Upon selection, each prospective employee shall receive the official offer of employment by Human Resources conditional upon meeting pre-employment conditions with ultimate approval action by the Board of Trustees. The offer shall include the time and date to report for duty and the salary at time of hire. Appointment to the position shall be subject to review by the Personnel Commission, approving that the employee was hired pursuant to these Rules and the Education Code and the Board of Trustees action to employ as the employer, except for Commission positions.

(a) The prospective employee shall be allowed two (2) weeks to report for duty after an offer of employment to a permanent position has been made or one (1) month in the case of management classes. Should the prospective employee be unable or unwilling to report for duty within the required period, the appointing authority may request that additional eligibles be certified.

REFERENCE: Education Code Sections 88080, 88081

- 7-3 DISCRIMINATION PROHIBITED: No applicant or eligible certified for appointment shall be discriminated against because of his/her actual or perceived political or religious beliefs or affiliations, race, color, national origin or ancestry, sex, age, marital status, employee organization membership or nonmembership and legal activities related thereto, physical or mental disability, medical condition, sexual orientation, or gender identity. No questions shall be asked relating to these matters during the selection and interview stages of employment.

REFERENCE: 1. Education Code Section 88112 2. Government Code Sections 12900, et seq.

- 7-4 NEPOTISM: The Commission's Rule governing the employment of immediate family in classified positions is intended to establish an exclusion regarding supervisor/subordinate relationships.

(a) No person shall be appointed or assigned to a position in any department in which such person's immediate relative holds a position, when such employment would result in any of the following: a. A supervisor-subordinate relationship; b. The employees have job duties which require performance of shared duties on the same or related work assignment; c. Both employees have the same immediate supervisor.

(b) For purpose of this Rule, immediate family or relative shall include the father, mother, mother-in-law, father-in-law, grandparents, or grandchild of the supervisor/administrator or his/her spouse, as well as the spouse's son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, or any person residing in the immediate household of the supervisor/administrator.

REFERENCE: Government Code Section 12940

7-5 PROVISIONAL APPOINTMENT

7-6 REASONS FOR PROVISIONAL APPOINTMENT: The appointing authority may make a provisional appointment when the Director of Classified Personnel certifies that:

(a) No eligibility list exists for the class or;

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

REFERENCE: Education Code Sections 88080, 88081, 88106, 88107, 88108

7-7 LENGTH OF PROVISIONAL APPOINTMENT: A provisional appointment may accumulate to a total of ninety (90) working days. In no case may a person be employed in full-time provisional assignments for a total of more than 126 working days in any fiscal year.

REFERENCE: Education Code Sections 88080, 88081, 88106, 88107, 88108

7-8 EXTENSION OF PROVISIONAL APPOINTMENT: The Commission may extend the ninety (90) working day provisional appointment for a period not to exceed thirty-six (36) additional working days provided:

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

(b) Satisfactory evidence is presented indicating:

(1) Adequate recruitment effort has been and is being made.

(2) Extension of this provisional assignment is necessary to carry on vital functions of the District or;

(3) The position cannot be satisfactorily filled by use of other employment lists or procedures.

REFERENCE: Education Code Sections 88080, 88081, 88106, 88107, 88108

7-9 SUCCESSIVE 90 DAY APPOINTMENTS: In the absence of an appropriate eligibility list, successive ninety (90) working day appointments may be made to a position for a period not exceeding the 126 working day limitation when:

(a) Continuous examination procedures have been authorized by the Commission or;

(b) The position is part time.

(c) Such appointment shall continue only until certification from an appropriate list can be made.

REFERENCE: Education Code Sections 88106, 88107, 88108

7-10 QUALIFICATIONS OF PROVISIONAL APPOINTEES: Provisional appointees must meet the qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be made by the Director of Classified Personnel prior to appointment.

(a) Refer to Chapter 17, Rule 17-10 for provisional assignments compensation procedures.

REFERENCE: Education Code Sections 88080, 88081

7-11 STATUS OF PROVISIONAL EMPLOYEES: To be eligible for appointment to a regular position, the provisional appointee must qualify by competitive examination for a place on the eligibility list.

(a) Time served in provisional status shall not be counted as credit toward permanency or completion of the probationary period for the class in which the provisional appointment is made or provide the person with any other vested rights in the position or class.

REFERENCE: Education Code Sections 88080, 88081, 88106, 88107, 88108

7-12 TERMINATING PROVISIONAL APPOINTMENT: The services of a provisional appointee shall be terminated within twenty (20) working days after the date on which certification for interview from an eligibility list has been made. A provisional appointment may be terminated at any time, at the discretion of the appointing authority. Provisional appointments are employed at-will and can be terminated without cause.

REFERENCE: Education Code Sections 88080, 88081

#### 7-13 SPECIAL APPOINTMENTS

7-14 PROCEDURE FOR EMERGENCY APPOINTMENT: If it should become necessary in time of an actual emergency to fill positions in the Classified Service to prevent the stoppage of public business, the Board of Trustees, through its authorized management representatives, may make emergency appointments without reference to eligibility lists, for a period not to exceed fifteen (15) working days.

(a) When such emergency appointments are made, it shall be the duty of the Board of Trustees to provide the Director with written information outlining the date of appointment and nature of duties performed, giving a statement justifying the emergency nature of such appointments, and any other additional information requested by the Director.

(b) Refer to Chapter 17 for compensation procedures.

REFERENCE: Education Code Section 88109

#### 7-15 LIMITED-TERM APPOINTMENTS

7-16 POSITIONS DEFINED: Positions established to perform duties which are not expected to exceed six (6) months or, in case of an appointment in lieu of an absent employee, is not to exceed the authorized absence of that employee (per Ed Code 88105)

REFERENCE: Education Code Section 88105

7-17 PROCEDURE FOR ESTABLISHMENT OF LIMITED –TERM POSITIONS: When a limited-term position is established, the appointing authority shall notify the Personnel Commission Office in writing of the hours per week, starting date and length of the assignment.

(a) A limited-term appointment may be in the same class as that of the absent employee or the

duties may be reduced in level and the appointment may be made to a lower class.

REFERENCE: Education Code Sections 88105-88109

7-18 ELIGIBILITY FOR APPOINTMENT: Limited-term appointments shall be made from eligibility lists and employment lists.

(a) When no eligible is available to accept a limited-term position, the Director of Classified Personnel is authorized to make a provisional appointment to the limited-term position. The Director of Classified Personnel may accept the recommendation of the appointing authority needing a limited term position.

REFERENCE: Education Code Sections 88105-88109

7-19 COMPENSATION FOR LIMITED-TERM ASSIGNMENTS: Refer to Chapter 17, Rule 17-10.

7-20 RIGHTS AND BENEFITS DURING LIMITED-TERM ASSIGNMENTS: Regular employees who are serving in limited-term assignments while retaining regular status in another class shall continue to earn and be granted all rights and benefits of a regular employee.

(a) No credit toward completion of probation shall accrue from service in a limited-term appointment.

REFERENCE: Education Code Sections 88080, 88081, 88105-88109

7-21 TERMINATION OF LIMITED-TERM APPOINTMENT: A limited-term appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority. The appointing authority shall immediately notify the Director of Classified Personnel when a limited-term assignment is being terminated.

(a) A limited-term employee is an at-will employee and may be dismissed without cause.

REFERENCE: Education Code Sections 88080, 88081

7-22 LEAVE TO SERVE IN EXEMPT, PROVISIONAL/LIMITED-TERM POSITION: Any permanent classified employee who accepts an assignment within the District to an exempt, provisional or limited-term position shall, during such assignment, be considered as serving in his/her regular position, and such assignment shall not be considered to be a separation from service.

7-23 VOLUNTARY RETURN TO REGULAR POSITION: Such employee may, with the approval of the appointing authority, voluntarily return to his/her regular position or to a position in the class of his/her permanent status prior to the completion of service in the exempt, provisional or limited-term assignment.

REFERENCE: Education Code Sections 88080, 88081

7-24 EMPLOYMENT OF PERS RETIREES AND VOLUNTEERS

7-25 GENERAL POLICY ON RETIREES: Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed up to 960 hours per calendar year. The retired person must be informed that employment is restricted to 960 hours in any calendar year with the District.

REFERENCE: Education Code Section 88034; Government Code Section 21220 et seq

7-26 COMPENSATION OF RETIREES: A retired employee under authority of this Rule shall be entitled only to the appropriate salary earned including overtime compensation.

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

7-27 ASSIGNMENT: A retired employee under this Rule is not subject to reinstatement to PERS nor does the compensation period provide for retirement allowance adjustment.

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

7-28 VOLUNTEER AIDES: Volunteer aides may be assigned noninstructional work and shall be under the immediate supervision of an academic employee. No classified positions may be abolished to use volunteer aides in lieu thereof.

REFERENCE: Education Code Sections 72401, 88249

Chapter 7

Approved: November 20, 2007

7-10, 7-14, 7-19: Revised June 20, 2017

## CHAPTER 8 - MINIMUM PREEMPLOYMENT REQUIREMENTS

### SECTION 8. HEALTH EXAMINATIONS

8-1 T.B. RISK ASSESSMENTS AND EXAMINATIONS: A new employee shall present evidence that he/she within the last sixty (60) days submitted to a tuberculosis risk assessment and, if risk factors are present, an examination to determine that he/she is free of active tuberculosis. For new employees, evidence of compliance with the requirements of this section must be on file prior to the first day in paid status.

(a) Subsequent to employment, and as a condition of continued employment with the District, employees shall be required to undergo the foregoing tuberculosis risk assessment and, if risk factors exist, examination at least once each four (4) years or more often if directed by the Board of Trustees upon the recommendation of the local health officer.

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

(c) Pre-employment risk assessments and tuberculin tests are offered at the District's Health Centers.

(d) The District reserves the right to designate a particular clinic or hospital where the assessment and test will be administered.

REFERENCE: Education Code Sections 87408.6, 88021, 88080, 88081; Health and Safety Code Sections 121530; AR 7336

8-2 MEDICAL EXAMINATIONS: Every individual appointed to a position in the Classified Service, or exempt from the classified service shall pass a job-related physical examination prior to initial appointment. Promotional eligibles that have been offered employment in a classification possessing different physical requirements may also be required to undergo a job-related medical examination as determined by the District. The examination may be administered after the initial conditional offer of employment prior to finalization of the appointment. The examination shall be administered by a physician chosen by the District. The determination of the kind and extent of the examination shall be determined by the District and may include a psychological examination. Costs associated with this examination shall be borne by the employee. The medical examination shall be related to the duties as approved in the class specifications.

(a) The physician shall determine the ability of the appointee to perform the prescribed duties of the class in which he/she shall be employed. The appointee shall notify the District of the medical findings. Reasonable accommodations may be made for persons with a diagnosed disability.

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

(c) The District shall make a determination if reasonable accommodation can be made for the individual. If the determination is that reasonable accommodation can be made, the appointment shall be made. If the determination is that reasonable accommodation cannot be made, the individual will be so notified by the District and informed of appeal rights to the Personnel Commission.

REFERENCE: Education Code Sections 88021, 88080, 88081

8-3 APPEAL TO THE COMMISSION: Any rejection for medical reasons of an eligible or of an employee who has been on leave of absence may be appealed to the Personnel Commission.

(a) The appeal process shall be conducted pursuant to Personnel Commission Rule 22-1.

(b) The District may employ outside medical experts to give a medical advisory opinion.

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

REFERENCE: Education Code Sections 88021, 88080, 88081

#### 8-4 CRIMINAL RECORDS

8-5 FINGERPRINTING: Every new employee shall submit to a criminal records check in accordance with prescribed procedures or shall forfeit eligibility for employment. The District will notify each such employee where and when to report for fingerprinting, which shall take place prior to employment. The cost of any fingerprinting shall be shared by the District and the employee.

REFERENCE: Education Code Section 88024

8-6 REVIEW OF CRIMINAL RECORDS: All criminal record reports are to be treated as confidential. Any employee charged with receiving and/or reviewing them who divulges information contained therein to an unauthorized person is subject to disciplinary action.

(a) The criminal records report from the California Bureau of Criminal Identification and investigation and/or the Federal Bureau of Investigation will be reviewed together with the persons' application form. If there is a criminal record, which was undisclosed and not reviewed prior to employment, the District shall order the dismissal of the employee.

(b) If an employee is dismissed because of information disclosed on the criminal records report, the employee shall be removed from all eligibility lists.

(c) The District shall notify the eligible or employee of the action taken and the reasons therefore and shall provide the person with an opportunity to appeal the decision in writing within five (5) working days of notification. If an appeal is filed, the Personnel Commission shall conduct an appeal hearing using the procedures outlined in Rule 4-7. The decision of the Commission shall be final and binding on all parties.

REFERENCE: Education Code Section 88024

#### 8-7 PREEMPLOYMENT REQUIREMENTS

8-8 INCOME TAX WITHHOLDING FORM: New employees shall submit the W-4 form for both State and Federal taxes to the Human Resources Office at the time of employment.

8-9 PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) APPLICATION: New employees shall submit a completed application form to the District Human Resources at the time of employment. This rule shall apply only to those employees entitled to retirement benefits.

8-10 SOCIAL SECURITY NUMBER: New employees shall submit their social security card to the District at time of employment.

8-11 LOYALTY OATH: All new employees must take and subscribe to an oath or affirmation of loyalty as required by Article XX, Section 3 of the California State Constitution and the Education Code. Refusal to sign the loyalty oath shall cause the initial employment offer to be withdrawn.

REFERENCE: Education Code Sections 7000 - 7006, 88080, 88081; California State Constitution, Article XX, section 3

8-12 VERIFICATION OF RIGHT TO WORK STATUS (I-9): All new employees are required to provide proof of their right to work in the United States and for the District. An individual's right to work is a minimum qualification for employment with the District.

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

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

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

8-13 REQUIREMENT TO NOTIFY DISTRICT OF ANY STATUS CHANGE: Employees shall notify the District whenever their status changes, such as new address, new telephone number, marital status for health and welfare benefits, increase or decrease in the number of dependents for health and welfare benefits and tax purposes, etc.

8-14 FILING OF REQUIRED LICENSES OR CERTIFICATES: Some classifications may require the employee to possess certain licenses and/or certificates. Every new employee must file copies of all licenses and/or certificates required as a condition of employment with the District. As these licenses and/or certificates are renewed, copies of them must also be filed in the District within ten (10) working days of receipt by the employee.

Chapter 8

Approved: November 20, 2007

8-1: Revised June 20, 2017



## CHAPTER 9 - EMPLOYMENT STATUS

### SECTION 9. EMPLOYEE ASSIGNMENTS

9-1 **CERTIFICATION OF ASSIGNMENTS:** The Director of Classified Personnel shall certify that all persons appointed to a position in the classified service are appointed in accordance with the Education Code and these Rules and Regulations.

(a) All changes of status for classified employees shall be in accordance with these Rules and Regulations.

9-2 **PAYROLL REVIEW:** The Director of Classified Personnel shall make a periodic review of the classified payroll roster; the roster shall include names, titles, periods for which payments are to be made, and rates of pay. If, upon review of a payroll report, it is found that any person named thereon has been employed in violation of any provision of the Merit System Act or these Rules and Regulations, notice of such violation shall be reported to the District and the Personnel Commission. Whenever the Commission, after a public hearing, finds that any appointment has been made in violation of Rules and Regulations of the Commission as they apply to examination procedures, the Commission may order that no salary warrant thereafter be drawn to the employee so appointed for services rendered after said order. Any violation of this article or the Rules and Regulations of the Commission as they apply to examination procedures shall constitute grounds for dismissal of the employee or employees guilty of such violations.

REFERENCE: Education Code Sections 88081, 88129, 88130

### 9-3 EMPLOYEE ASSIGNMENT

9-4 **ASSIGNMENT DATA:** Upon initial employment and upon each change in classification thereafter, each classified employee shall be furnished:

(a) The employee's class specification.

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

(c) Work location, duty hours, prescribed work week, and work year.

(d) The terms and conditions of the probationary period, including performance evaluation procedures.

(e) In addition, each employee will sign a copy of this notice and return it to the Personnel Commission staff.

REFERENCE: Education Code Section 88168

9-4 **CHANGE OF ASSIGNMENT:** The District shall have the right to assign and reassign daily hours of work and shifts to meet the operational needs of the District. When such a change is made, for more than five (5) working days, the employee's supervisor shall notify the employee and the Director of Classified Personnel in writing stating the effective date of the change.

REFERENCE: Education Code Sections 88168, 88080, 88081

9-5 PROBATIONARY STATUS

9-6 INITIAL PROBATIONARY PERIOD: Each new regular and confidential employee appointed from an eligibility list shall serve an initial probationary period of 6 months of paid service in one classification in the classified service excluding days absent while on leave; these new employees shall be evaluated prior to the end of the second and fifth months of service.

(a) For positions designated by the Personnel Commission as executive, administrative, or Police Officers, the probationary period shall be one year of paid service in one classification in the classified service, excluding days absent while on leave; these new employees shall be evaluated prior to the end of the third, eighth and eleventh months of service.

REFERENCE: Education Code Section 88120

9-7 COMPLETION OF INITIAL PROBATION: Each probationary classified employee shall be evaluated during the probationary period as required by the Personnel Commission.

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

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

REFERENCE: Education Code Sections 88089, 88120, 88121, 88124

9-8 SUBSEQUENT PROBATION FOR PERMANENT EMPLOYEES: A permanent classified employee who has been promoted, or laterally transferred to a related class shall serve a new probationary period in the class before attaining permanency in that class.

(a) During such new probationary period, the employee may be returned to a position in his/her former class, which is equivalent to the one held prior to the change in classification.

(b) The person to be so returned shall be notified in writing of the impending action and upon the employee's request shall be told the reasons for it.

REFERENCE: Education Code Sections 88080, 88081

9-9 PERMANENCY

9-10 PERMANENT STATUS: Upon successful completion of the prescribed initial probationary period outlined in Section 9-5, a classified employee shall be deemed to be a part of the permanent classified service.

REFERENCE: Education Code Section 88120

9-11 RIGHTS/BENEFITS/BURDENS OF PERMANENT EMPLOYEES: Every permanent classified employee shall be entitled to all rights, benefits, and burdens conferred by law, the Personnel Commission's Rules and Regulations, or by action of the Board of Trustees for classified employees in the same or like classification. A permanent classified employee may be removed for cause or as a result of layoff because of a lack of work or lack of funds.

Chapter 9

Approved: November 20, 2007

## CHAPTER 10 - HOURS OF EMPLOYMENT AND OVERTIME

### BARGAINING UNIT MEMBERS REFER TO CONTRACT

#### SECTION 10. WORK SCHEDULES

10-1 **WORKWEEK:** The workweek of classified employees shall consist of five (5) consecutive days of eight (8) hours per day or forty (40) hours per week. These Rules shall not be construed to restrict the extension of a regular workday or workweek when such is necessary to carry on the business of the District. Unless exempted by the Board and approved by the Personnel Commission, the extension of the workday shall be on an overtime basis. Extensions of the workweek shall be on an overtime basis.

(a) The District may establish a workday of less than eight (8) hours per day and a workweek of less than forty (40) hours for some or all of its classified positions.

(b) When the District determines that a classified employee is to be assigned a workweek, which includes Saturday or Sunday, the District shall notify the employee in writing. Classified employees may not be required to work Saturday or Sunday, if they certify in writing that the assignment conflicts with religious beliefs or practices.

(c) The District may establish a nine (9) hour per day, eighty (80) hour biweekly work schedule for some positions or classes of positions; based upon the needs of the District and/or the desires of its classified employees.

(d) The District may establish a ten (10) hour per day, forty (40) hour, four (4) consecutive day workweek for some positions or classes of positions; based upon the need of the District and/or the desires of its classified employees.

REFERENCE: Education Code Sections 88026, 88040

10-2 **WORKDAY:** The length of the workday shall be designated by the District for each classified assignment in accordance with the provisions set forth in these Rules. Each classified employee shall be assigned a fixed, regular, and ascertainable minimum number of assigned hours per day (with fixed, regular starting and ending times), days per week, and months per year. The exception to this is when the District and CSEA have agreed that positions within specific classifications may have flexible hours.

10-3 **ADJUSTMENT OF ASSIGNED TIME:** Any classified employee who works an average of thirty (30) minutes or more per day in excess of the employee's regular part-time assignment (defined for this Rule as less than eight hours per day) for a period of twenty (20) consecutive working days or more shall have his/her regular assignment adjusted upward to reflect the longer hours, effective with the next pay period.

(a) If an employee's average paid time for a part-time assignment (defined for this rule as less than eight hours per day), excluding overtime, exceeds the employee's minimum assigned time by 45 minutes or more per working day in any quarter (three consecutive month period), the hours paid per day for compensatory leaves of absence and holidays in the succeeding quarter shall be equivalent to the average paid per working day in the preceding quarter, excluding overtime.

REFERENCE: Education Code Section 88036

10-4 **DECREASES IN ASSIGNED TIME:** A District initiated decrease in the assigned hours per

day, hours per week, days per year, or months per year of an existing regular position shall be considered a layoff for lack of work or lack of funds. All District initiated decreases in assigned time shall be performed in accordance with the layoff procedures in these Rules.

REFERENCE: Education Code Section 88127

10-5 BENEFITS FOR POSITIONS LESS THAN 8 HOURS/12 MONTHS: All employees assigned less than eight (8) hours per day and/or less than twelve (12) months per year shall be entitled to prorated sick leave and all other benefits conferred by law on classified employees. These employees shall be entitled to all leaves and benefits granted by these rules, the law, or the Board of Trustees. These benefits shall be provided on at least a prorated basis.

REFERENCE: Education Code Section 88035

10-6 MEAL PERIODS: All employees who are scheduled to work over five (5) consecutive hours per day shall be assigned an unpaid, uninterrupted meal period of at least thirty (30) minutes to a maximum of one (1) hour. The meal period shall be assigned at or about the midpoint of each work shift.

REFERENCE: Education Code Section 88180

10-7 REST PERIODS: Each employee shall be allowed a fifteen (15) minute rest period during any four (4) hour working period, which is not interrupted by a meal period or similar break.

(a) Employees shall be granted rest periods which, insofar as practicable, shall be in the middle of each work period, but scheduled no later than prior to the last hour of the employee's work day.

REFERENCE: Education Code Sections 88080, 88081

10-8 SPLIT SHIFT ASSIGNMENTS: The District shall have the right to assign classified employees to a split shift as part of a regular assignment. The periods between split shifts shall be unpaid so long as the period of unpaid time exceeds two (2) hours or more. Split shifts of two (2) hours or less shall be paid at the appropriate regular or overtime rate of pay. Bonafide scheduled meal periods of at least 30 minutes but no more than one hour as required under these Rules shall not be considered a split shift and shall be considered as unpaid time.

#### 10-9 OVERTIME AND RELATED MATTERS

10-10 OVERTIME: All overtime hours as defined in this rule shall be compensated at the rate of pay equal to time and one-half (1-1/2) the regular rate of pay of the employee for all hours worked in an overtime status. Overtime is defined to include any time worked in excess of eight (8) hours in any one day or on any one shift, (unless exempted as set forth in 10-1) or in excess of forty (40) hours in any calendar week, whether such hours are worked prior to the commencement of a regularly assigned starting time or subsequent to the assigned quitting time.

(a) For employees who are assigned to work an average of four (4) hours per day during the regular work week, all hours worked beyond the workweek of five (5) consecutive days shall be compensated at the overtime rate commencing on the sixth and seventh day of work. For employees who are assigned to work an average of less than four (4) hours per day during the regular workweek, all hours worked on the sixth and seventh day shall be compensated at the overtime rate.

(b) All hours worked by an employee on any holiday designated by these rules, the law, or the

Board of Trustees shall be compensated at the overtime rate of pay in addition to regular pay received for that day.

(c) For purposes of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence shall be considered as time worked by the employee.

REFERENCE: Education Code Sections 88027, 88030, 88203

10-11 ASSIGNMENT OF OVERTIME: Overtime work shall be equitably assigned among all qualified classified employees who are in the same class, the same organizational unit, and the same work location. In assigning overtime the supervisor may consider:

(a) Special skills and/or training required for an employee to perform the specific work and

(b) The availability of regular part-time classified employees to perform the required work.

REFERENCE: Education Code Sections 88080, 88081

10-12 CALL BACK TIME: Whenever an employee is called back to duty or required to return to duty by his/her supervisor or designee after the conclusion of the normal work shift, and after the employee has left the work location, the employee shall receive a minimum of two (2) hours pay or pay for the hours worked at the appropriate salary rate, whichever is greater.

REFERENCE: Education Code Sections 88080, 88081

10-13 CALL IN TIME: Whenever an employee is called to work by his/her supervisor or designee on a day which is not a regularly scheduled work day, the employee shall receive a minimum of two (2) hours pay or pay for the hours worked at the appropriate salary rate, whichever is greater.

REFERENCE: Education Code Sections 88080, 88081

10-14 EXEMPTION FROM OVERTIME: Positions or classes of positions designated administrative or management by the Commission may be exempted from the overtime provisions of these Rules. To be exempted from overtime, positions or classes of positions must clearly and reasonably be management positions. All classified management positions in the district are clearly and reasonably management positions. The duties, flexibility of hours, salary, benefit structure, and authority of these classes are of such a nature that they should be set apart from positions subject to overtime and will not be unreasonably discriminated against as a result of this exemption.

## CHAPTER 11 - TRANSFER OF EMPLOYEES

### SECTION 11. TRANSFER

11-1 DEFINITION OF VACANCY: For purposes of this Rule, a vacancy shall occur when a new position is created or an incumbent of a position terminates employment with the District.

(a) DEFINITION OF TRANSFER: A transfer is a relocation of an employee to the same class in a different department or job site or to a related classification within the same salary range.

(b) MANAGEMENT AND CONFIDENTIAL EMPLOYEES:

The Board of Trustees may, when it judges it to be in the best interest of the District, transfer or reassign management or confidential positions. Such transfers or reassignments may be between campuses or at the individual's currently assigned campus.

REFERENCE: Education Code Sections 88080, 88081

11-2 LATERAL TRANSFER: Lateral transfer requests may be granted at any time, subject to the availability of positions and the qualifications of the applicant. Employees who have requested a transfer shall be given first consideration for a transfer based upon, but not limited to seniority, job performance, qualifications, and the needs of the District.

No employee shall be allowed to transfer until successful completion of the probationary period.

REFERENCE: Education Code Sections 88080, 88081

11-3 ADMINISTRATIVE ASSIGNMENT (INVOLUNTARY TRANSFER): The Chancellor or designee, subject to the approval of the Board of Trustees, retains the right in accordance with these Rules to transfer staff at any time such assignment is in the best interest of the District. The employee shall be provided an official copy of the transfer notice within five (5) working days.

REFERENCE: Education Code Sections 88080, 88081

(a) Conference To Discuss Involuntary Transfer: An employee who has been involuntarily transferred may, within five (5) working days after receiving written notification, request and shall be granted a conference with the appropriate administrator to discuss the administrative reassignment.

REFERENCE: Education Code Sections 88080, 88081

11-4 TRANSFER: An employee may be administratively assigned from his/her position to another position in a related class. The determination of whether classes are sufficiently related to permit transfer between them shall be made by the Director of Classified Personnel. The following factors shall be considered in determining whether classes are sufficiently related: 1) duties, 2) minimum qualifications, and 3) examination content. The extent to which two classes are comparable may depend on additional factors deemed appropriate by the Personnel Commission.

No employee shall be allowed to transfer until successful completion of the probationary period.

REFERENCE: Education Code Sections 88080, 88081

11-5 PERIOD FOR LATERAL TRANSFER: A permanent employee who transfers to a position from a class in which the employee has not previously completed a probationary period shall be considered probationary in the new class for the standard probationary period outlined in Chapter 9-6 of these Rules. At any time during this probationary period, the employee may be returned (transferred) to his/her former class without the right of appeal.

REFERENCE: Education Code Sections 88080, 88081

11-6 NO ADVERSE EFFECT FROM TRANSFERS: A transfer shall not change the employee's range and step placement on the salary schedule, salary increment date, accumulated leave and vacation credit, or otherwise adversely affect the employee's rights as provided in these Rules.

REFERENCE: Education Code Sections 88080, 88081

11-7 SENIORITY CREDIT: Transfers shall have no adverse impact upon the employee's seniority. When transfers are between positions in the same class, the employee shall retain his/her full seniority in that class.

REFERENCE: Education Code Sections 88080, 88081

11-8 POSTING OF VACANCY NOTICES TO THE PUBLIC: Vacancy notices shall only be required to be distributed to the public if there is no current and valid eligibility list in existence. In such instances, the vacancy notice will be posted for at least 15 working days. All vacancy notices are posted in-house to allow employees to request a lateral transfer.

REFERENCE: Education Code Sections 88080, 88081, 88097

11-9 SUBMISSION FOR REQUEST FOR TRANSFER: An employee may request a transfer to a vacant position by submitting a request for transfer letter to the Personnel Commission Office no later than the closing date on the lateral transfer announcement.

REFERENCE: Education Code Sections 88080, 88081

11-10 CERTIFICATION OF NAMES TO INTERVIEW: The Director of Classified Personnel shall maintain a reinstatement list. Whenever the appointing authority requests an eligibility list to fill an existing vacancy in a classification, the Director of Classified Personnel shall also submit the appropriate reinstatement list (if any). The appointing authority may fill a vacant position by either a selection from the reinstatement list or eligibility list as long as not more than three ranks are certified.

REFERENCE: Education Code Sections 88080, 88081

11-11 APPEAL RIGHTS: An employee may utilize the Personnel Commission complaint procedure if the employee believes that the procedure for transfer has not been followed in accordance with these Rules. The complaint procedure shall not be available to challenge the District's right to transfer or deny a transfer in accordance with these Rules.

REFERENCE: Education Code Sections 88080, 88081

#### 11-12 DEMOTIONS

11-13 VOLUNTARY DEMOTION: A permanent employee may request a voluntary demotion to a vacant position in a class with a lower salary rate, provided that the employee has previously achieved permanent status in that class or, the request for demotion is to a related class in the

same job series as defined by the Personnel Commission. Demotion requests shall be in accordance with Chapter 11-10.

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

11-14 INVOLUNTARY DEMOTION: An involuntary demotion is a disciplinary action and, as such, is subject to the disciplinary procedures in these Rules and Regulations.

(a) A permanent employee who has been promoted or transferred to a new class, may be involuntarily returned to his/her former class during the 6 month probationary period without cause and without right of appeal.

(b) Salary placement for employees who are involuntarily returned shall be to their former range and appropriate step.

REFERENCE: Education Code Sections 88080, 88081

#### 11-15 RESTORATIONS

11-16 RESTORATION OF FORMER EMPLOYEE: A former permanent employee who resigns in good standing may be reinstated to a vacant position in his/her former class and status within thirty-nine (39) months of the last date of his/her paid service. Resignation in good standing shall be determined by the Personnel Commission. In addition, the former employee may be reemployed to a vacant position in a lower-related class if qualified, as determined and approved by the Personnel Commission, or in a limited-term status in the same or lower class. Such employment actions are discretionary with the appointing authority.

REFERENCE: Education Code Sections 88080, 88081, 88128

11-17 RESTORATION OF CURRENT EMPLOYEE TO FORMER CLASS: An employee who has taken a voluntary demotion may be restored to a vacant position in his/her former class or to a vacant position in a related lower class as determined and approved by the Personnel Commission within thirty-nine (39) months after demotion. Except for demotion(s) taken in lieu of layoff which are covered by the layoff provisions of these Rules, restoration is discretionary with the appointing authority and both managers must agree.

REFERENCE: Education Code Sections 88080, 88081

11-18 EFFECTS OF REINSTATEMENT: Reinstatement or reemployment of a current or former employee as a permanent employee shall have the following effects:

(a) A former employee would be restored to the former step in the salary range for the class, or if reemployed in a lower-related class, to the rate closest to that of the step to which he/she would be assigned if the former employee were reinstated to his/her former class.

(b) A current employee being reinstated to a former higher class would be placed at the salary range of the higher class and then to the step required in these Rules if the employee was receiving a promotion.

(c) The former employee would receive restoration of accumulated sick leave and seniority as of the date of separation.

(d) The former employee would receive restoration of his/her former anniversary date deducting time away from the District and without step-advancement credit for the off-duty



period.

(e) The former employee would receive restoration of any prior longevity steps granted prior to resigning, without longevity step-advancement credit for the off-duty period.

REFERENCE: Education Code Sections 88080, 88081, 88128

Chapter 11

Approved: November 20, 2007

## CHAPTER 12 - EMPLOYEE PERSONNEL FILES

### BARGAINING UNITS REFER TO CONTRACT

#### SECTION 12. PERSONNEL FILES

12-1 MAINTENANCE OF FILE: Personnel files will be kept in the Human Resources Office.

12-2 INSPECTION OF PERSONNEL FILES BY EMPLOYEE: All personnel information concerning an employee is confidential. An employee shall have the right to inspect his/her personnel file upon request provided that the request is made at a time when the employee is not actually required to render services to the District. An employee shall have access to all material in his/her personnel file, except that such materials subject to inspection shall not include confidential ratings, reports or records which were:

- (a) Obtained prior to the person's employment.
- (b) Prepared by identifiable examination committee members.
- (c) Obtained in connection with a promotional examination.

REFERENCE: Education Code Sections 88080, 88081, 87031

12-3 INSPECTION BY OTHERS: Only those persons with a "need to know" or "right to know" may access an employee's personnel file. An employee may authorize in writing, a representative to review their file.

REFERENCE: Education Code Sections 88080, 88081

12-4 SIGNATURE/DATE REQUIRED: Written material placed in an employee's personnel file shall be signed and dated by the person originating the document. (See Section 13-9).

REFERENCE: Education Code Sections 88080, 88081

12-5 PERSONNEL FILE LOG MAINTAINED: The Human Resources Office and Personnel Commission staff shall keep a log indicating the persons who have examined a personnel file as well as the date such examinations were made. Such log and the employee's personnel file shall be available for inspection by the employee or the employee's official representative (with written authorization from the employee). District employees who need access to personnel files in the normal course of their duties shall not be required to log use of files. (Example: Human Resources clerical staff members placing correspondence or completed evaluation forms in an employee's personnel file would not be required to log use of the files).

REFERENCE: Education Code Sections 88080, 88081

12-6 DEROGATORY INFORMATION: 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. Such review shall take place during normal business hours and without loss of pay to the employee. The affected employee shall be furnished with a copy of the proposed material ten (10) working days prior to it being placed in that employee's official personnel file. An employee shall have the right to enter, and have attached to any such derogatory statement, his/her own comments thereon so long as the response is received within 10 working days of the employee's receipt of the material.

REFERENCE: Education Code Sections 87031, 88080, 88081

12-7 APPEAL OF PLACEMENT OF MATERIAL IN FILE: An employee may appeal the placement of derogatory information in the personnel file through the Personnel Commission's appeal procedure as outlined in Chapter 18. Any appeal must be brought within ten days of the date the employee was provided notice that the document was being placed in the personnel file. The only cause for appeal shall be a claim that the District has failed to follow procedures set forth in these Rules. Employees may not appeal the content of the material placed in a personnel file.

REFERENCE: Education Code Sections 88080, 88081

12-8 REMOVAL OF DEROGATORY MATERIAL: If the Commission sustains an appeal, the derogatory material shall be sealed and placed in the employee's personnel file. In no other instance shall derogatory information be removed from the personnel file. At the point that any appeal is not sustained by the Commission or the time period for filing an appeal related to derogatory information has passed without the filing of an appeal, the derogatory material shall be placed in the personnel file, and shall not be removed.

REFERENCE: Education Code Sections 88080, 88081

Chapter 12

Approved: November 20, 2007

## CHAPTER 13 - PERFORMANCE EVALUATIONS

### BARGAINING UNITS REFER TO CONTRACT

#### SECTION 13. GENERAL POLICY

13-1 POLICY STATEMENT: The immediate supervisors have the responsibility for evaluating each employee assigned to their department. The evaluation shall cover the major areas of the employee's responsibilities and duties. Unsatisfactory evaluations require an explanation of unsatisfactory performance and specific suggestions for improvement.

REFERENCE: Education Code Sections 87031, 88080, 88081

13-2 ADMINISTRATION OF PERFORMANCE APPRAISAL SYSTEM: The District shall administer a performance appraisal system for all members of the classified service.

REFERENCE: Education Code Sections 88080, 88081

13-3 WHEN EVALUATIONS ARE TO BE MADE: All regular classified employees shall be evaluated by their immediate supervisors in accordance with these rules and the following schedule:

(a) Permanent Employees: Permanent employees shall be evaluated each year.

(b) Managers: Managers shall be evaluated 3 times during their probationary year, then once a year for the next 3 years. Subsequent evaluations shall be at any time deemed appropriate but no less than every 2 years.

(c) Confidential Employees: Confidential employees shall be evaluated 3 times during their first year, then once a year for 3 years. Subsequent evaluations shall occur at any time deemed appropriate, but not less than every two years.

(d) Special Evaluations: An employee may be given a special evaluation at any time during employment if deemed necessary by the supervisor. (See Rule 13-9).

REFERENCE: Education Code Sections 88080, 88081

13-4 EVALUATION RATER: Each employee is to be evaluated by his/her immediate supervisor with review by the next higher level of administration prior to sharing the evaluation with the employee. In cases where the employee is assigned to more than one department, site, and/or classification, the employee shall receive separate evaluations for each assignment.

(a) Designated supervisory employees shall rate and sign the formal evaluation form. Supervisors may receive input from employees having a lead function over the employee to be evaluated, or any other person with whom the evaluatee has work contact.

REFERENCE: Education Code Sections 88080, 88081

13-5 EVALUATION FORMS: Performance evaluations shall be made on forms prescribed by the District.

REFERENCE: Education Code Sections 88080, 88081

13-6 EVALUATION MEETING: In completing the performance evaluation form, the supervisor shall have a conference with the employee. The meeting shall be scheduled by the supervisor to

allow time for a discussion with the employee. (See Rule 3-9 Class Specification).

REFERENCE: Education Code Sections 88080, 88081

13-7 SPECIFIC RECOMMENDATIONS FOR IMPROVEMENT: Any below standard evaluations shall include recommendations for improvement and provisions for assisting the employee in implementing any recommendations made.

REFERENCE: Education Code Sections 88080, 88081

13-8 DISTRIBUTION OF EVALUATION: The completed evaluation form shall be distributed as follows:

- (a) One copy to the employee being evaluated.
- (b) One copy to the supervisor performing the evaluation.
- (c) One copy for inclusion in the employee's personnel file.

REFERENCE: Education Code Sections 88080, 88081

13-9 DEROGATORY INFORMATION: Employees shall be provided with copies of derogatory written material ten (10) working days before it is placed in the employee's personnel file. The employee shall be given an opportunity during normal working hours and without loss of pay to review the material. The employee shall obtain approval from the immediate supervisor of such opportunity in advance. The employee may provide a response to the material. Any written response shall be attached to the material and placed in the personnel file. The written response must be received within 10 working days of the date the employee received the material.

REFERENCE: Education Code Sections 87031, 88080, 88081

13-10 APPEAL OF PROCESS: An employee may use the complaint procedure as outlined in Chapter 18 only on the grounds that these Rules and Regulations have been violated in the preparation, and completion of the performance rating form. There is no appeal of the content of any performance evaluation.

REFERENCE: Education Code Sections 88080, 88081

Chapter 13  
Approved: November 20, 2007

## CHAPTER 14 - VACATIONS

### SECTION 14. VACATIONS

- 14-1 RATIO FOR EARNING VACATION: BARGAINING UNIT EMPLOYEES: Vacation leave for members of a bargaining unit will be handled pursuant to the terms of the respective collective bargaining agreement.
- 14-2 RATIO FOR EARNING VACATION: MANAGEMENT & CONFIDENTIAL EMPLOYEES: Classified management and confidential employees shall earn vacation as approved by the Board of Trustees. The Board of Trustees has provided that management and confidential employees earn vacation on a monthly basis at the rate of two (2) days (16 hours) per month.
- 14-3 Notwithstanding the provisions of this chapter, senior classified administrative positions serving on multi-year contracts shall earn vacation in accordance with the terms of their contract.
- 14-4 PART-TIME EMPLOYEES: Regular employees working less than full time shall earn vacation benefits in direct proportion to full-time employees.
- 14-5 VACATION RATE OF PAY: All vacation shall be paid at the employee's regular rate of pay earned in his/her permanent classification including any longevity.
- 14-6 VACATION CREDIT FOR PARTIAL MONTH: An employee in paid status for fifty percent (50%) or more of the working days in the month shall receive vacation credit for that month.
- 14-7 PROBATIONARY EMPLOYEES VACATION RIGHTS: Probationary employees shall not have a right to take vacation until the completion of the initial six (6) months or 130 days of paid service, whichever is longer.
- 14-8 VACATION SCHEDULING: Employees shall take vacation at a time convenient to both the employee and the supervisor. Vacation may, with the approval of the District, be taken any time during the year. The employee shall be allowed to take all earned vacation in one unbroken period if it is the employee's wish to do so assuming it does not negatively impact the District.
- (a) If the employee is not permitted to take his/her annual vacation, the amount not taken shall accumulate for use in the next year or be paid for in cash at the option of the Board of Trustees.
- (b) In determining the vacation schedule for individual departments, the supervisor shall give employees the choice of times available on the basis of seniority.
- 14-9 VACATION FALLING ON DISTRICT HOLIDAYS: If a District-approved holiday falls within a scheduled vacation, the employee shall not be charged a vacation day for the holiday.
- 14-10 VACATION CARRY-OVER: Unused accumulated vacation hours shall be carried over for use in the next fiscal year. The maximum amount of accumulated vacation hours available for carryover shall not exceed two (2) years of an employee's earned accrual rate. Any unused vacation hours accumulated in excess of two (2) years shall be paid in a lump sum payment at the end of the fiscal year. Senior classified administrative positions serving on multi-year contracts are subject to the vacation accrual, carry-over, and caps as stated in their contracts.
- 14-11 UNEARNED VACATION UPON TERMINATION: When a classified employee terminates

and had been granted vacation which was not yet earned at the time of termination of the employee's services, the District shall deduct from the employee's final check the full amount of salary which was paid for such unearned days of vacation taken.

14-12 EARNED VACATION UPON TERMINATION: When a classified employee terminates, the employee shall be entitled to lump sum compensation for all earned and unused vacation, at their regular rate of pay, except that employees who have not completed six (6) months of employment or 130 days of paid service, whichever is longer, in regular status shall not be entitled to such compensation.

REFERENCE: Education Code Sections 88080, 88081, 88190, 88197

Chapter 14

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Approved: July 19, 2022

## CHAPTER 15 - LEAVES OF ABSENCE

### BARGAINING UNITS REFER TO CONTRACT

#### SECTION 15 GENERAL PROVISIONS

- 15-1 **DEFINITION OF LEAVE OF ABSENCE:** A leave of absence is an authorization for a regular employee to be absent from duty for a specific period of time for an approved purpose.
- 15-2 **RIGHT TO POSITION UPON RETURN:** An employee granted a paid or unpaid leave of absence for six (6) months or less has the right to return to the position held at the time the leave was granted.
- 15-3 **RIGHTS TO POSITION FOR LEAVES OVER SIX MONTHS:** An employee granted a paid or unpaid leave of absence of more than six (6) months shall have the right to return to a position of equal status in the same classification held at the time the leave was granted. However, the assignment may be in a different department and/or a different work location. In no event shall the assignment be on a different work shift from that of the previous assignment without the written agreement of the returning employee.
- 15-4 **AUTHORIZED LEAVE IS NOT A BREAK IN SERVICE:** Industrial accident/illness leave, other paid leave, military leave, and unpaid illness leaves shall not constitute a break in service.
- 15-5 **CANCELLATION OF VOLUNTARY LEAVES:** The Board may cancel any voluntary leave of absence for good cause by giving the absent employee due notice. Due notification shall allow sufficient time for the employee to return to work.
- 15-6 **FAILURE TO REPORT FOR DUTY AFTER LEAVE EXPIRES:** Failure to report for duty within three (3) working days after a leave expires or has been canceled shall be considered abandonment of position and the employee will be terminated. Such termination shall be considered as termination for cause and treated in the same manner as any other disciplinary action.
- 15-7 **ABSENT EMPLOYEES MAY NOT ACCEPT GAINFUL EMPLOYMENT:** An employee, while on a leave of absence (paid or unpaid) from the District, may not and shall not accept other gainful employment except ordered military service, without the express prior approval of the Board of Trustees.
- 15-8 **ORDER OF AVAILABLE LEAVES FOR ILLNESS OR INJURY:** An employee who is absent for any reason related to illness or injury shall utilize available leaves in the following order:
- (a) Industrial Accident and Illness Leave (if applicable).
  - (b) Accrued and advanced sick leave.
  - (c) Compensatory time off (if applicable)
  - (d) Accrued or credited vacation days (by request of employee).
  - (e) Extended illness leave at differential pay
  - (f) Unpaid leave (if approved)



- 15-9 LEAVES NOT GRANTED AS A MATTER OF RIGHT: An employee shall not be entitled to a leave of absence as a matter of right. Upon request for a leave of absence signed by the employee and stating the reason for the leave, the appointing authority may approve or disapprove the request.
- 15-10 VERIFICATION OF LEAVES: The District shall have the right to require verification of all leaves requested and taken by an employee.
- 15-11 EMPLOYEE REQUIRED TO MAINTAIN LICENSES AND CERTIFICATES: Any required license or certificate held by the employee at the time a leave (paid or unpaid) is granted must be maintained and valid at the time the employee returns to active service with the District.

If the employee does not have the license or certification, the employee may be placed on unpaid leave of absence until the license or certificate is received or the employee may be terminated.

- 15-12 HOLIDAY PAY - PAID LEAVE OF ABSENCE: Authorized paid holidays which occur during the period in which an employee is on a paid leave of absence shall be paid as holiday pay and shall not be deducted from any paid leave days to which the employee is entitled by law or the provisions of these Rules and Regulations.

REFERENCE: Education Code Sections 88080, 88081

15-13 SICK LEAVE

(a) DEFINITION OF SICK LEAVE: Sick leave is the authorized absence of a regular employee when the absence is due to:

(1) Physical or mental inability to perform the usual and customary duties of the position due to illness, injury, or for legally established quarantine.

(2) A visit to a licensed physician, dentist, medical practitioner, psychologist or other therapist for examination, treatment, consultation, or therapy.

(b) NUMBER OF SICK LEAVE DAYS PER YEAR: Every confidential and classified management employee shall earn one (1) day of sick leave per full month of paid status to a maximum of 12 days per year.

(1) An employee in paid status for fifty percent (50%) or more of the working days in the month shall receive sick leave credit for that month.

(c) PAY RATE FOR SICK DAYS: Employees shall earn sick days based on the formula outlined in Rule 15-15. When an employee takes a day of sick leave, pay for that day of sick leave shall be the same pay the employee would have received had the employee worked that day.

(d) CARRY-OVER OF SICK LEAVE: Sick leave accrued, but not used, shall carry over from one fiscal year to another with no limit on accumulation.

(e) PROBATIONARY EMPLOYEES' USE OF SICK LEAVE: New probationary employees may not use more than six (6) days of paid sick leave during their initial probationary period. This rule shall not apply to those regular classified employees who have previously completed a probationary period in the District.

(f) SICK LEAVE GIVEN IN ADVANCE AT START OF FISCAL YEAR: At the beginning of each fiscal year, the sick leave account of the employee shall be increased by the number of days of paid sick leave which would normally be earned in the ensuing fiscal year.

(1) An employee's sick leave advance allotment shall be adjusted should a change in the employee's assignment alter the amount of sick leave which the employee can earn.

(g) NOTIFICATION OF ABSENCE: In order to receive compensation for sick leave, the employee shall notify his/her immediate supervisor or designee prior to the start of the employee's working day if possible, but not later than the first working hour of the first day of absence; unless conditions make such notification impossible. The burden of proof regarding the impossible conditions shall be upon the employee. If the employee is going to be absent more than one day, the employee must notify the supervisor or designee of the number of days of expected absence.

(h) NOTIFICATION OF RETURN TO WORK: An employee on leave shall notify his/her immediate supervisor, or designee of his/her impending return as soon as possible, but not later than 3:00 p.m. of the work day preceding the day on which the employee is to return to work. If an employee fails to notify his/her supervisor and a substitute has been assigned to work for the day when the employee returns to work, the employee may be sent home for the day and charged a sick leave day or if no sick leave is available, without being paid for that day.

(i) DOCTOR'S NOTE MAY BE REQUIRED: The District may require the employee to present a statement from a health care provide verifying the nature and/or duration of the illness. In addition, the District may send an employee to a District appointed physician for examination at the District's expense.

(j) DOCTOR'S RELEASE REQUIRED AFTER HOSPITALIZATION OR EXTENDED ILLNESS: An employee returning from surgery, illness requiring hospitalization or extended illness regardless of the duration of the absence may be required to provide medical verification of fitness to fully perform all the duties of his/her assigned position. Extended illness is more than 10 working days.

(k) SUBMISSION OF DOCTORS' NOTES: Doctor's report and/or clearances to return to work shall be submitted to the manager who shall send a copy to the Human Resources Office.

(l) GENERAL DISTRICT RIGHT TO REQUIRE MEDICAL OR PSYCHOLOGICAL EXAM: The District shall have the right to have an employee examined by a health care provider, at District expense, whenever there is a question as to the employee's physical, mental, or emotional ability to perform the duties and/or responsibilities of his/her position; regardless of whether or not the employee has claimed or received paid benefits under the provisions of these Rules and Regulations.

(m) NO SICK LEAVE PAYOFF WHEN EMPLOYEE LEAVES: If an employee leaves the employment of the District, accumulated unused sick leave will not be credited to the employee's final payment. Upon retirement, the unused accumulated illness leave of an employee will be credited by PERS at the rate 0.004 year of service for each unused day of earned sick leave.

REFERENCE: Education Code Sections 88021, 88035, 88036, 88190, 88191, 88192, 88193, 88195, 88200, 88203, 88080, 88081

#### 15-14 EXTENDED SICK LEAVE

(a) EXTENDED SICK LEAVE: All regular classified employees who have exhausted all accrued and advanced sick leave shall receive extended sick leave benefits subject to the following conditions:

(1) Upon medical verification by a health care provider and after exhaustion of all paid leave, i.e., sick leave, accumulated vacation and accumulated compensatory time, a confidential or management employee of the classified service who is ill or injured will be paid one-half of his/her actual salary up to ninety (90) calendar days from the first day of absence. Beginning with the 91<sup>st</sup> day of illness or injury absence, members with one (1) or more years of service are eligible to apply for District provided Long-Term Disability Insurance. A member is eligible to request an unpaid health leave of absence while on Long-Term Disability Insurance.

After exhaustion of all paid sick leave, and ninety (90) days from the first day of absence, an employee may be placed on unpaid leave upon request and with the approval of the Board of Trustees. The unpaid leave may not exceed eighteen (18) months, which can be granted in 6 month increments.

(b) USE EXTENDS INTO NEXT FISCAL YEAR: In the event that the entitlement to extended sick leave is not exhausted at the end of the present fiscal year, and the employee continues to be sick or disabled, the employee shall be entitled to receive the new regular and extended sick leave benefits available for that fiscal year.

(c) VERIFICATION OF ILLNESS: All rules governing verification of illness absences outlined in Rule 15-13 shall also apply to any absences taken under this Rule.

(d) ABSENCE NOTIFICATION: All rules governing absence notification outlined in Rule 15-13 shall also apply to any absences taken under this Rule.

REFERENCE: Education Code Sections 88035, 88036, 88190, 88191, 88193, 88195, 88196, 88196.5, 88200, 88203, 88080, 88081

#### 15-15 INDUSTRIAL ACCIDENT/ILLNESS LEAVE

(a) 60 DAYS OF FULL PAID LEAVE: All regular and permanent classified employees shall be entitled to this leave. An eligible classified employee who is absent from duty from causes which are District related industrial accident, injury, or illness shall be entitled to not more than sixty (60) working days in any one (1) fiscal year for each industrial injury, accident, or illness. If the full sixty (60) working days will overlap into the next fiscal year, the employee shall be entitled only to that amount remaining at the end of the fiscal year in which the accident, injury, or illness occurred. Such leave is noncumulative and may be taken only during those periods when the employee would normally have been in a paid status.

(b) REPORTING OF INJURY: In the case of an industrial accident or injury, the employee shall report the incident to his/her supervisor the same day, whenever possible. All injuries not reported the same day require justification for the delay.

(1) When an employee is absent from his/her duties due to an industrial accident or illness, the employee shall notify his/her supervisor, within the first day of absence of an injury that is industrial and submit an Absence Form signed by the employee and accompanied by a statement from a licensed physician. The supervisor, after countersigning the Absence Form, shall attach it to employee's monthly time sheet and clearly indicate on this report that the absence is due to an industrial accident or illness.

(2) The supervisor shall complete the District's Industrial Accident/Illness Report and send it as soon as possible to the District department charged with processing workers' compensation claims.

(c) LEAVE COMMENCES ON FIRST DAY: An industrial accident or illness leave shall commence on the first day of absence and shall be reduced by one day for each day of authorized absence.

(d) WORKERS' COMPENSATION CHECK ENDORSED TO DISTRICT: During a leave taken under Rule 15-15, the employee shall endorse to the District the temporary disability indemnity checks (Workers' Compensation) received on account of his/her industrial accident or illness. The District, in turn, shall issue the employee appropriate salary warrants for payment of the employee's full salary and shall deduct normal retirement and other authorized contributions.

(e) USE OF SICK LEAVE AFTER EXHAUSTION OF 60 DAYS: Upon exhaustion of the industrial accident/illness leave, the employee shall be entitled to use sick leave provided in Rule 15-13. This leave shall commence on the date of termination of the industrial leave of absence. Provided the employee continues to receive temporary disability indemnity, the employee will take as much accumulated sick leave as needed which, when added to his/her temporary disability, indemnity (Workers' Compensation check), will result in a payment to the employee of not more than his/her full salary. (Example: An employee has a temporary disability indemnity equal to 1/3rd normal salary. The District pays the employee full salary and deducts 2/3rds of a day of sick leave from the employee's accumulated sick leave account).

(f) USE OF OTHER LEAVES AFTER EXHAUSTION OF SICK LEAVE: After all accumulated sick leave has been exhausted an employee will then use accrued vacation credit. If no vacation credit is available or has been exhausted, the employee may then begin to use the extended illness leave provided in Rule 15-14. The use of leaves outlined in this section shall be governed by the coordinated use of temporary disability benefits outlined in Rule 15-15 (e).

(g) EMPLOYEE MUST REMAIN IN STATE OF CALIFORNIA: An employee receiving benefits under the provisions of this Rule shall, during the period of the leave, remain within the State of California unless out-of-state travel is authorized by the Board of Trustees.

(h) PLACEMENT ON REEMPLOYMENT LIST AT EXHAUSTION OF LEAVES: When all available paid or unpaid leaves of absence have been exhausted, and if the employee is still not medically able to assume the duties of his/her position, he/she shall, if not voluntarily placed in another position, be placed on a reemployment list for a period of 39 months. When the employee is medically able to return to work during this 39 month period, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other candidates, except for a reemployment list established because of a layoff for lack of work or lack of funds, in which case he/she shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a reemployment list, as provided herein, and who has been medically released for return to duty, and who fails to accept an appropriate assignment, shall be dismissed. An appropriate assignment for purposes of this Rule shall be defined as a position in the previous class having the same or greater number of assigned hours per day, days per week, and months per year, and on the same approximate shift.

(i) ABOLISHMENT OF PREVIOUS CLASSIFICATION: If the employee's class has been abolished during his/her absence, and the employee has been released to return, the employee shall be placed in a vacant position in a comparable class for which the employee

is qualified as determined by the Director of Classified Personnel and approved by the Personnel Commission.

(j) RETURN TO SERVICE AFTER INDUSTRIAL LEAVE: An employee shall be permitted to return to service after an industrial accident or illness leave only upon presentation of a release from the employee's health care provider or the District appointed health care provider. The District may choose from which health care provider it would like to receive this statement. The release shall certify that the employee is able to return to his/her position without restrictions or limitations. If the medical release limits the work activities of the employee, the District shall determine if a reasonable accommodation can be made. An employee who is medically released to return to work and who fails to accept an appropriate assignment shall be dismissed.

(k) ABSENCES NOT CONSIDERED A BREAK IN SERVICE: Any leave under this Rule, either paid or unpaid, shall not be considered a break in service and the employee, while on such leaves, shall continue to accrue seniority credit.

REFERENCE: Education Code Sections 88190, 88192, 88080, 88081

#### 15-16 TRANSFER OF SICK LEAVE

(a) TRANSFER OF SICK LEAVE FROM ANOTHER DISTRICT: Any classified employee of another school district, county superintendent's office, community college, or other public school agency deemed a school district by California law for one year or more, who was not terminated from that agency for cause, who accepts employment with the District within one (1) calendar year from the date of the termination of employment with the other agency shall be allowed to transfer his/her accumulated sick leave from that agency to this District. In order to effectuate the transfer of the accumulated sick leave, the newly hired employee shall request the Human Resources office to secure the necessary information from the former school agency.

REFERENCE: Education Code Sections 88202, 88080, 88081

#### 15-17 UNPAID ILLNESS LEAVE

(a) SIX MONTH UNPAID LEAVE: A permanent classified employee, who has exhausted all paid leaves and who continues to be absent due to non-industrial illness or injury may be granted an additional six (6) month unpaid leave of absence upon recommendation of the Chancellor, and approval of the Board of Trustees. This leave may be extended for one additional six (6) month period.

(b) FACTORS TO BE CONSIDERED: The following factors may be considered:

- (1) The likelihood that the employee will be able to return to regular duties at the conclusion of the leave.
- (2) The length of service and work record of the employee.
- (3) The employee's previous leave history and attendance record.
- (4) The number of positions in the employee's class.
- (5) The uniqueness of the duties performed, and the availability of a substitute.
- (6) Other reasons as may be deemed appropriate by the Board.

(c) RIGHT TO RETURN TO CLASS: The granting of an unpaid leave of absence under this Rule shall guarantee the employee the right to return to his/her former classification, and to a position with the same basic assigned number of hours and months of employment, with the same approximate assigned shift.

REFERENCE: Education Code Sections 88195, 88080, 88081

#### 15-18 BEREAVEMENT LEAVE

(a) THREE TO FIVE DAYS OF PAID LEAVE: In the event of the death of a member of the immediate family, an employee shall be granted necessary leave of absence, not to exceed three (3) working days, or five (5) working days for out-of-state travel or necessary travel beyond 300 miles of the District (as measured by the shortest land route). Additional days of absence beyond those described herein may be provided under the terms of Personal Necessity Leave provisions contained in Rule 15-19. Employees granted bereavement leave under this Rule shall suffer no deduction from their salary, nor shall such leave be deducted from leave granted by other sections of these Rules or the Education Code.

REFERENCE: Education Code section 88194

(b) DEFINITION OF IMMEDIATE FAMILY: Members of the immediate family are defined as the mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee or of the spouse of the employee, or any relative who has been living in the immediate household of the employee.

REFERENCE: Education Code Sections 88194, 88080, 88081

#### 15-19 PERSONAL NECESSITY LEAVE

(a) USE UP TO SEVEN DAYS: An employee may use, at his/her election, not more than seven (7) days accumulated sick leave benefits in any school year, in the following cases of emergency:

(1) Death of a member of the immediate family as defined in Rule 15-18, when rights to bereavement leave outlined have been exhausted.

(2) Accident involving his/her person or property, or property of a member of the employee's immediate family as defined in Rule 15-18, of such a nature that the immediate presence of the employee is required during his/her working day.

(3) Illness involving a member of the employee's immediate family as defined in Rule 15-18, of such a nature that the presence of the employee is required during his/her working day.

(4) Appearance in court or before any administrative tribunal as a litigant or party.

(5) In any other situations of urgency as judged acceptable to the District.

(b) NOTIFICATION OF LEAVE USAGE: Classified employees desiring to use such leave shall submit their request at least three (3) working days in advance of the anticipated absence, except in emergencies or unexpected events. In such cases, the employee shall apply as soon as possible. The employee shall complete an Absence Form and have the supervisor approve the requested personal necessity usage. The general reason for the personal necessity shall be clearly stated on the Absence Form.

(c) PERSONAL NECESSITY NOT CUMULATIVE: Personal necessity leave is noncumulative. Employees are limited in each fiscal year to the amount of usage outlined in Rule 15-19 (a).

REFERENCE: Education Code Sections 88207, 88080, 88081

15-20 PREGNANCY/MATERNITY DISABILITY LEAVE:

(a) ENTITLED TO ALL SICK LEAVE BENEFITS: Regular female classified employees who must be absent from their duties because of pregnancy or convalescence following childbirth shall be entitled to utilize all regular and extended sick leave benefits to which they may be entitled under these Rules. Absence due to maternity that is not medically required can be granted pursuant to Rule 15-29 the Family Medical Leave Act and the California Family Rights Act.

15-21 SICK LEAVE DURING MEDICALLY CERTIFIED ABSENCE: Paid leave, including regular sick leave and extended sick leave may be used for the period of absence medically certified by the employee's health care provider.

15-22 RELEASE TO RETURN TO WORK: Prior to returning to work, the employee shall present to the District a release to return to work without limitations from the treating health care provider. In addition, the District may require that the employee be examined by a District appointed health care provider to confirm the employee's ability to return to work.

REFERENCE: Education Code Sections 88193, 88080, 88081

15-23 JURY DUTY LEAVE

When regularly called for jury duty in the manner provided by law, employees shall be granted a leave of absence without loss of pay for the time the employee is required to perform jury duty. Any hours spent on jury duty shall be deducted from the assigned work hours daily. Employees assigned to work the shift beginning after 3:00 p.m. shall not be required to report for duty at the employee's next scheduled work shift for the number of hours actually provided for jury duty service. Following such jury duty service the employee shall notify his/her immediate supervisor within one-half hour of release from jury duty service or as soon thereafter as possible with the number of verified hours served on jury duty service. The immediate supervisor shall arrange the employee's scheduled work hours in accordance with department needs.

Request for Jury Service Leave should be made by presenting as soon as possible the official court summons to jury service to the employee's immediate supervisor and to the District payroll office through regular administrative channels.

Reimbursement to the District of any monies earned as a juror, except mileage, shall be made by the employee.

An employee called for jury duty shall not be encouraged in any way to seek exemption from such duty nor shall he/she be discriminated against in any way for not seeking such exemption. However, the Vice Chancellor or his designated representative may discuss the practicality of seeking exemption or delay, as may be permitted by any applicable statute or rule, with the employee when acceptance would tend to materially disrupt District operations.

Employees are required to work for any period of their daily work schedule during which jury

duty services are less than eight hours or their regularly scheduled shift.

The District may require verification of jury duty time prior to, or subsequent to, providing jury duty compensation. (CSEA Article 19)

REFERENCE: Education Code Sections 87036, 88080, 88081

- 15-24 WITNESS LEAVE: Leave of absence shall be granted to any employee who has been served a subpoena to appear as a witness in a court case. Request for leave of absence to serve as a witness would be made by presenting the official court summons to the supervisor. 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. The employee shall receive full pay during the leave period, provided that the witness fee is filed with the District. The witness fee assigned to the District does not include the court's reimbursement to the employee for transportation expenses. (CSEA Article 19)
- 15-24 RETURN FROM WITNESS LEAVE: An employee shall return to work from witness leave if the employee can do so and complete at least two (2) hours work during his/her regular assigned hours, allowing for travel and a thirty (30) minute meal period if the normal meal period was not provided by the court or other governmental agency. In no event shall an employee be expected to put in more time, when combining witness duty hours including travel time and regular work hours, than his/her regular number of assigned hours. The exception to the rule would be if the District required the employee to work additional hours beyond his/her regular number of assigned hours per day and compensated the employee for the additional hours at his/her regular or overtime rate as appropriately determined by these Rules and Regulations.
- 15-26 NOTIFICATION OF WITNESS LEAVE: Any request for witness leave shall be made by completing an Absence Form and attaching the official subpoena to said form for forwarding to the Human Resources Office.

REFERENCE: Education Code Sections 87036, 88080, 88081

#### 15-27 MILITARY LEAVE

(a) ALL REGULAR EMPLOYEES GRANTED MILITARY LEAVE: Regular classified employees under official orders, who are called to active duty in the Armed Services of the United States of America, including the Coast Guard, shall be granted a military leave of absence for the period of service.

(b) RESERVE SERVICE: Regular classified employees who are members of the reserve components including the (Air/Army) National Guard of the United States of America and who must be temporarily absent due to "active duty" training or exercises, shall be granted temporary military leave of absence for a period of the first ninety (90) calendar days or less. For periods longer than 91 days for attendance at a service school/training to increase their military proficiency, a leave of absence shall be granted which includes stopping of fringe benefits during said leave.

(c) THIRTY DAYS LEAVE WITH PAY: Regular classified employees who have been employed by the District (or has prior active military service) for at least one (1) full year shall be granted full pay for the first thirty (30) calendar days of military leave provided in the above section; however, such paid leave time shall be limited to a maximum of thirty (30) days in any fiscal year in accordance with CA Military and Veterans Code. Regular classified employees with less than a year of service with the District or active military service who are called to active military service or active reserve duty shall be granted military leave without



pay. No fringe benefits, such as sick leave, vacation, or health insurance shall accrue or be paid for any unpaid portions of leave provided in accordance with the above section. Classified employees who are in an "inactive duty" status who participate in weekend, day or evening military activities are not covered by the provisions of this rule and, therefore, not entitled to any components provided by this rule.

(d) OFFICIAL ORDER/LETTER: In order for a paid leave to be granted as provided in the above sections, the employee shall submit his/her official orders/letter to Human Resources via his/her supervisor/manager. The orders must contain the date that the employee is required to report for active service or active reserve duty, and the projected duration of such service.

(e) RETURN FROM MILITARY LEAVE: Upon return from military leave the employee shall be reinstated to his/her same regular position or an equal position in the same class.

REFERENCE: 1. Education Code Sections 88190, 88080, 88081 2. California Military and Veterans Code Sections 389, 395, 395.01-395.05, 395.1-395.4

(f) TIMELINES FOR NOTICE OF INTENT TO RETURN TO EMPLOYMENT: The individual must provide notice to his/her supervisor of his/her intent to return to work after serving in the military. The time frame within which the notice is required depends upon the length of time of military service, as follows:

(1) Less than 31 days of service or fitness for duty exam – Must report no later than the beginning of the first full regularly scheduled work period on the first full calendar day following completion of service, plus time for safe transportation back to the person's residence, plus eight hours.

(2) More than 30 days but less than 181 days of service – Must submit an application for re-employment with the District not later than 14 days after the completion of service.

(3) More than 180 days of service – Must submit an application for re-employment with the District not later than 90 days after completion of service.

REFERENCE: 1. Education Code Sections (88190, 88080, 88081) 2. California Military and Veterans Code Sections 389, 395, 395.01-395.05, 395.1-395.4 3. Uniformed Services Employment and Re-Employment Rights Act of 1994 (USERRA) 38 U.S.C. 4301

## 15-28 EXEMPT/TEMP/LIMITED-TERM POSITION

(a) LEAVE TO SERVE IN EXEMPT/TEMP/LIMITED-TERM POSITION: Any permanent classified employee who accepts an assignment within the District to an exempt, temporary, or limited-term position shall, during such assignment, be considered as serving in his/her regular position, and such assignment shall not be considered to be a separation from service.

(b) VOLUNTARY RETURN TO REGULAR POSITION: Such employee may, with the approval of the appointing authority, voluntarily return to his/her regular position or to a position in the class of his/her permanent status prior to the completion of service in the exempt, temporary, or limited-term assignment. Failure to complete the required service in the exempt, temporary, or limited-term assignment, unless approved as specified herein, could constitute abandonment of position and may be grounds for a disciplinary action.

REFERENCE: Education Code Sections 88080, 88081

## 15-29 RELEASE TIME FOR DISTRICT PERSONNEL-RELATED ACTIVITIES

(a) **RELEASE TIME FOR DISTRICT INTERVIEWS:** A regular classified employee shall be provided with release time to participate in interviews for District promotions or transfers during his/her regular working hours without deduction of pay or other penalty. The employee shall provide his/her supervisor with notice of the need for release time as soon as possible after notification by the Personnel Commission Office of the interview time.

(b) **ATTENDANCE AT DISTRICT BOARD/COMMISSION MEETINGS:** A classified employee of the District shall be provided with release time without deduction of pay or other penalty in order to attend any Board of Trustees or Personnel Commission meeting at which a recommendation or action is being considered which would affect the employee's status, classification or salary. The employee shall provide his/her supervisor with notice of the need for release time at least twenty-four (24) hours prior to the scheduled meeting. If released time is granted, the employee shall be notified at least two hours prior to the scheduled meeting.

REFERENCE: Education Code Sections 88080, 88081

## 15-30 LEAVES OF ABSENCE WITHOUT PAY

(a) **WHEN GRANTED:** Leaves of absence without pay may be granted to a permanent classified employee upon written request of the employee, and the approval of the District, subject to the restrictions and conditions outlined in this Chapter.

(b) **LENGTH OF LEAVE:** Leave of absence without pay may be granted for any period not exceeding six (6) months, but may be extended for six (6) months with the approval of the Board of Trustees.

(c) **REASONS:** A leave of absence may be granted an employee provided the employee meets all other requirements set forth in this rule:

(1) An employee who desires to attend an educational institution or to enter training to improve the quality of his/her service to the District.

(2) For reasons deemed satisfactory to the District and the Commission.

(d) **RIGHT TO RETURN:** The granting of a leave of absence without pay gives the employee the right to return to his/her position at the expiration of the leave of absence, or before, with the concurrence of the appointing authority and/or in conformance with procedures contained in Chapter 15 of these Rules and Regulations, if such a position still exists.

(e) **FILLING VACANCY:** When a leave of absence without pay is granted it shall be understood that the vacancy thus caused may be filled for the duration of the leave only, and that the position is being held open for the employee who is on leave.

(f) **REPORT OF REINSTATEMENT:** The employee must advise the District of their intent to return to work at or before the expiration of a leave of absence without pay prior to the employee returning.

(g) **FAILURE TO RETURN:** Failure to report for duty within three (3) working days after the deadline for returning from a leave shall be considered abandonment of position and subject the employee to disciplinary action up to and including termination from employment.

(h) **COUNTING TIME FOR SENIORITY OR SALARY ADJUSTMENT:** Time spent on leave

of absence without pay of over five (5) working days shall not count toward seniority except in the areas of military leave, illness leave, and industrial accident/illness leave. Time spent on leave of absence without pay shall not count towards step increases. Before an employee receives a salary adjustment the employee must serve the required service time.

REFERENCE: Education Code Sections 88190, 88191, 88193, 88195, 88196.5, 88198, 88199, 88080, 88081

#### 15-31 ABSENCE DUE TO EPIDEMICS OR EMERGENCIES

(a) ABSENCE DUE TO EPIDEMICS OR EMERGENCIES: An employee shall be paid his/her regular salary for any period during which the employee's place of employment is closed because of quarantine, epidemics, or other conditions involving the health or safety of employees provided that the employee is ready, able and willing to perform his/her customary or other reasonable and suitable duties. During this period, the District shall endeavor to assign the employee to work elsewhere.

REFERENCE: Education Code Sections 88080, 88081

#### 15-32 VOTER LEAVE OF ABSENCE

(a) TIME OFF TO VOTE: If an employee/voter does not have sufficient time outside of his/her working hours within which to vote at any general, direct primary or presidential primary election, the employee may, without loss of pay, request and shall receive as much time off as will, when added to his/her voting time outside of working hours, enable the employee to vote. However, the amount of time allowable for such purpose shall not exceed two (2) hours.

(b) MAY NOT BE USED FOR OTHER PURPOSES: The District wants its employees to become registered voters and to exercise the right to vote, and encourages all of its employees to do so. However, the time off granted shall be used only to exercise the right to vote and for no other purpose. Therefore, the employee requesting the time off to vote shall be responsible for providing evidence that he/she is eligible to vote and can demonstrate both the need and the amount of time required to exercise his/her right to vote.

(c) ADVANCE NOTICE REQUIRED: Except in cases of emergency or unforeseen circumstances, an employee requesting compensated time off to vote shall provide his/her immediate supervisor with advance notice of the need and duration of the amount of time off needed to vote. The burden of proof as to emergency or unforeseen circumstances shall rest with the employee.

REFERENCE: Education Code Sections 88190, 88080, 88081

#### 15-33 LEAVE OF ABSENCE FOR STUDY

(a) STUDY LEAVE (S): Confidential employee who has completed five (5) consecutive years of service in regular status with the District (at the time application for such leave is made) shall be eligible to apply for a leave of absence for purposes of study. The granting of such leave shall be entirely discretionary with the District. However, once a study leave has been granted and taken, the employee taking the leave shall not again be eligible for such leave until the employee has completed an additional period of five (5) consecutive years from the date of completion of the previous study leave.

Classified managers may request two (2) months paid leave after eight (8) years of service. Classified managers are also eligible for a leave up to one full semester at full pay. Consideration may be given for a temporary replacement if granted a semester-length

professional development leave.

(b) TIME LIMITS FOR STUDY LEAVES: A study leave can be scheduled for any period of time to a total maximum of one (1) year leave of absence. With the approval of the District, the periods of time for the study leave need not be consecutive. However, the total period of the leave (to the maximum period of one year) must be completed within a period of three (3) years from the initial date of the start of the leave.

(c) A STUDY LEAVE IS NOT A BREAK IN SERVICE: Any leave granted and taken in accordance with this section shall not constitute a break in service for any purpose, but the leave time shall not count toward eligibility for a future study leave. However, if the leave period is not continuous, any services performed (time worked) for the District between the leave intervals shall be credited toward completion of the time necessary to establish future study leave eligibility.

(d) NO COMPENSATION: If a leave is granted under this Provision, the employee will be paid one-half (1/2) what his/her salary or wage would have been had he/she not been on leave. To qualify the employee shall use all accumulated vacation prior to being eligible for pay.

REFERENCE: Education Code Sections 88190, 88080, 88081, 88220, 88221, 88222, 88223, 88224, 88225, 88226, 88227

#### 15-34 LEAVE OF ABSENCE FOR RETRAINING

(a) RETRAINING LEAVE: In the event that the Board of Trustees contemplates the abolition of positions in the Classified Service and the creation of new positions because of automation, technological improvement, or for any other reason, the District may provide for retraining of displaced employees only in accordance with these Rules and Regulations (Section 15-34).

(b) ELIGIBILITY FOR RETRAINING LEAVE: To be eligible for a retraining leave, a classified employee must:

- (1) Have served at least two (2) consecutive years of employment with the District at the time application is made for such leave
- (2) Be serving in a position which the District contemplates abolishing
- (3) Show that the retraining will clearly benefit the District
- (4) Indicate a willingness to undergo the prescribed training program
- (5) Indicate a willingness to serve in the employ of the District for at least two (2) years after the successful completion of the training or retraining program

(c) DISTRICT SHALL PRESCRIBE TRAINING PROGRAM: The District shall prescribe the training/retraining program, and may provide the program internally or designate the institute or other place where the program is to be given.

(d) NO COMPENSATION: An employee on retraining leave shall not be compensated while on leave.

REFERENCE: Education Code Sections 88190, 88080, 88081, 88220, 88221, 88222, 88223, 88224, 88225, 88226, 88227

#### 15-35 FAMILY CARE LEAVE (UNPAID):

(a) GRANTING OF LEAVE: The District shall grant family care leave to eligible classified employees, without discrimination, in accordance with state and federal laws.

(b) ELIGIBILITY: A classified employee who has been regularly employed by the District for twelve or more months for a total of 1250 hours immediately preceding the requested leave shall be eligible for family care leave.

(c) REASONS FOR LEAVE: Family care leave may be requested and granted for the following reasons:

(1) Birth of the employee's child.

(2) Placement of a child with the employee in connection with adoption procedures instituted by the employee.

(3) Serious illness of the employee's child. For purposes of this Rule, "child" shall be interpreted to mean the biological, adopted, or foster child, a stepchild, or legal ward of the employee, or a child for which the employee has standing "In Loco Parentis" having the legal right to act in place of the parent; provided that the "child" has not yet attained the age of 18 years.

(4) Serious health condition of the employee's parent or spouse. "Serious Health Condition" shall be interpreted to mean: an illness, injury, impairment or physical condition or mental condition which warrants or requires the participation of the employee in providing necessary care or supervising the person receiving such care during the period of treatment, when such care is being provided in either: (1) Inpatient care in a hospital, hospice, or residential health care facility; or (2) Continuing supervision of person receiving treatment under direction of a health care provider.

#### 15-36 CONDITIONAL REQUIREMENTS

(a) If an employee's need for a family care leave is foreseeable, the employee shall give the District reasonable advance notice.

(b) If leave is needed for a planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision in such a manner as to avoid disruption of District operations; subject to the health care provider's approval.

(c) In submitting a request for a leave to care for a child, spouse, or parent who has a serious health condition, the employee should submit a certification from the health care provider regarding the condition of the person requiring the care. The District may require the employee to submit such a certification as a condition for granting the leave requested. The certification shall include the date on which the serious health condition began; the probable duration of the condition and/or need for continued care; an estimate of the amount of time the health care provider believes the employee needs to care for the person requiring such care; a clear statement that the serious health condition warrants the participation of the family member to provide care during a period of treatment, or to provide supervision of the person requiring care. In the event that additional leave time is needed when the time estimated by the health care provider expires, the employee shall provide a recertification in accordance with the provisions noted above.

(d) As a part of the approved leave, the employee may elect or be required by the District to use his/her accrued vacation time, or other available paid or unpaid leave time.

## 15-37 EMPLOYEE RIGHTS

(a) The employee shall retain his/her status during the period of the leave, and the leave shall not constitute a break in service for purposes of longevity, seniority, or any employee benefit plan.

(b) The employee shall continue to be entitled to participate in any health benefit, pension, or retirement plans, or any supplemental unemployment benefit plan, to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose.

(c) **DURATION AND TIMING OF LEAVE:** Family care leave may be taken in incremental periods as permitted by law, not to exceed a total of 12 workweeks within a twelve (12) rolling-month period. The District uses the "rolling 12-months", a 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

(d) **NO DISCRIMINATION:** The District shall not refuse to hire or promote, and shall not discharge, fire, suspend, expel, or discriminate against any employee because he/she exercises a right to family care leave or because he/she gives testimony related to his/her or another person's leave request in an inquiry into family leave rights.

(e) **REINSTATEMENT FOLLOWING LEAVE:** An employee who has been granted a family care leave of absence shall be reinstated, upon returning from such leave, in the same or a comparable position to that held prior to the start of the leave.

REFERENCE: Education Code Sections 88080, 88081; Government Code 12945, 12945.2.

Chapter 15

Approved: November 20, 2007

## CHAPTER 16 - HOLIDAYS

### BARGAINING UNITS REFER TO CONTRACT

#### BOARD APPROVED HOLIDAYS FOR CLASSIFIED EMPLOYEES:

Each year the Board of Trustees shall determine the holiday schedule. Effective with the 2018-19 fiscal year, the Board shall provide twelve (12) paid holidays for all classified employees. Employees who have satisfactorily completed probation shall receive four (4) additional holidays. The Board will determine placement of these holidays.

1. Independence Day.....July 4
2. Labor Day .....First Monday in September
3. Admission Day ..... In Lieu Determined by the Board of Trustees
4. Veterans Day..... November 11
5. Thanksgiving Day.....Thursday in November proclaimed by the President
6. Christmas Day.....December 25
7. Winter Break Holiday .....Determined by the Board of Trustees
8. New Year's Day..... January 1
9. Martin Luther King, Jr. Day .....Third Monday in January
10. Lincoln Day..... Friday before Washington Day
11. Washington Day.....Third Monday in February
12. Memorial Day .....Last Monday in May

#### SECTION 16 HOLIDAYS

16-1 HOLIDAY PAY: A regular employee shall receive full pay for those holidays listed above or for those days designated as holidays in lieu of the regular holidays in accordance with Section 88205 or Section 88205.5 of the Education Code and for days declared to be holidays by the Board of Trustees under the following conditions:

(a) The employee must be in paid status during any portion of the last working day of the employee's assignment preceding the regular holiday, or the designated in lieu holiday, or during any portion of the first working day of the employee's assignment following the regular holiday, or the designated in lieu holiday. The employee will receive full pay for the regular holiday or the designated in lieu holiday, if the first day of the employee's assignment is a regular holiday or a designated in lieu holiday, and the employee has been in paid status during any portion of the next following working day, or if the last day of the employee's assignment is a regular holiday or a designated in lieu holiday, and the employee has been in paid status during any portion of the last working day preceding the holiday. An employee shall not be entitled to holiday pay if the employee's assignment terminates on a day immediately preceding a regular holiday or a designated in lieu holiday, or if the employee is initially employed on a day immediately succeeding a regular holiday or a designated in lieu holiday. However, if an employee meets the paid status requirement for a regular holiday, but would not meet the paid status requirement for a designated in lieu holiday, the employee shall be entitled to the regular holiday.

(b) A legal holiday that occurs during the winter recess shall be paid as a holiday if the employee was in paid status on the last day that school was in session or on the first day of the school session after the recess. Assigned time shall be the basis for all holiday pay, pro-rated.

REFERENCE: Education Code Sections 88203, 88205, 88206, 88080, 88081

16-2 HOLIDAYS OCCURRING DURING VACATION: When a holiday occurs during an employee's vacation or a paid leave of absence, except military leave, the holiday shall be paid as a holiday and not charged against vacation or leave benefits.

REFERENCE: Education Code Sections 88203, 88205, 88206, 88080, 88081

16-3 MULTIPLE ASSIGNMENTS: A regular classified employee serving on multiple assignments shall receive pay for holidays in each assignment independently, according to the employee's status in each particular assignment.

REFERENCE: Education Code Sections 88203, 88205, 88206, 88080, 88081

16-4 WEEKEND HOLIDAYS: When a holiday falls on the first day of an employee's weekend, the preceding day shall be treated as the holiday. When a holiday falls on the second day of an employee's weekend, the following day shall be treated as the holiday. The two days that employees are not regularly required to work when they are assigned on a typical workweek will be considered their "weekend".

REFERENCE: Education Code Sections 88203, 88205, 88206, 88080, 88081

16-5 OVERTIME PAY FOR WORKING HOLIDAYS: Regular employees, except those in management, who are required to work on holidays (excluding those on Saturday or Sunday) shall, in addition to their regular pay to which they are entitled under this Rule, be paid or provided compensating time off, as follows:

(a) Time and one-half (1-1/2) 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 and work on the regular holiday shall be compensated at straight time.

(b) Time and one-half (1-1/2) for work on a regular holiday for which an "in lieu" holiday has been designated, only for those employees who would be entitled to the regular holiday, but would not be entitled to the "in lieu" holiday.

REFERENCE: Education Code Sections 88027 - 88030, 88203, 88205, 88080, 88081

16-6 OVERTIME: Whenever a classified employee is required to work on a designated holiday, the employee shall be paid at the rate of time and one-half (1-1/2) for all hours worked on the holiday in addition to the regular pay received for the holiday.

REFERENCE: Education Code Sections 88027 - 88030, 88203, 88205, 88080, 88081

16-7 HOLIDAYS FOR NONTRADITIONAL WORK WEEKS: A regular classified employee assigned to a work week other than Monday through Friday (i.e., Tuesday through Saturday, etc.) shall be provided a substitute holiday when the regular holiday falls on a day on which the employee is not normally assigned to work.

REFERENCE: Education Code Sections 88206, 88080, 88081

16-8 TEMPORARY EMPLOYEE: A provisional, limited term or other temporary employee shall not be entitled to paid holidays or other holiday compensation.

16-9 TEMPORARY ASSIGNMENT: A permanent or probationary employee serving in a temporary assignment (limited-term or provisional) shall be entitled to paid holidays and



other holiday compensation the same as any other regular classified employee (see Personnel Commission Rules and Regulations, Chapter 16-1 (a))

Chapter 16

Approved: November 20, 2007

Revised: February 20, 2018

## CHAPTER 17 - COMPENSATION AND PAY PRACTICES

### BARGAINING UNITS REFER TO CONTRACTS

#### SECTION 17 DETERMINATION OF SALARY SCHEDULES/PAY RATES

17-1 **FIXING ANNUAL SALARY SCHEDULES:** The Education Code authorizes the Board of Trustees to fix the annual salary schedules for all classified employees and other employees of the District unless otherwise prescribed.

(a) The Education Code requires the Board of Trustees, not later than the date prescribed for approval of the publication budget of every year, to fix the salary schedule for the ensuing school year for all classified employees. Any action taken by the Board of Trustees must be in compliance with the Personnel Commission's Rules and Regulations.

REFERENCE: Education Code Section 88081

17-2 **BOARD MAY INCREASE SALARY SCHEDULE:** The Board of Trustees may increase the salary schedule for classified employees at any time during the fiscal year and will consider increases and/or decreases resulting from the classification or reclassification of positions as approved by the Commission.

REFERENCE: Education Code Section 88081

17-3 **BOARD MUST EMPLOY/PAY IN ACCORDANCE WITH MERIT SYSTEM:** The Board of Trustees is authorized to employ, pay and otherwise control the services of classified employees only in accordance with the provisions of Title 2, Division 3, Chapter 5, Article 6 (Merit System) of the State of California Education Code and these Rules.

REFERENCE: Education Code Section 88061

17-4 **COMMISSION SHALL RECOMMEND SALARY SCHEDULES TO BOARD:** The Director of Classified Personnel shall prepare recommendations for classified salary schedules for approval by the Personnel Commission. The salary schedule(s) approved by the Personnel Commission shall be presented to the Board of Trustees. The Commission's recommended salary schedule may take into account the following factors:

(a) The wages and salaries paid by other school Districts in the recruitment area.

(b) The principle of like pay for like work within the classified services.

(c) Differential pay for those employees required to work an early morning or late evening shift.

(d) Differential pay to those employees required to perform duties of a distasteful, dangerous or unique nature.

(e) Such other information as the Commission may require.

REFERENCE: Education Code Sections 88087

17-5 **BOARD'S ACTION ON SALARY SCHEDULE RECOMMENDATIONS:** The Board of Trustees may approve, amend, or reject the salary schedule recommendations of the Personnel Commission, but may not alter the relationships, salary range placements, of the

classes as established by the Personnel Commission until the Personnel Commission is first given the right to comment on the changes.

REFERENCE: Education Code Section 88087

- 17-6 COMMISSION SHALL DETERMINE SALARY RANGE PLACEMENTS: The Personnel Commission shall set reasonable relationships between the various classifications. The Commission may make modifications to the relationships as part of its statutory obligations after the District Administration and any exclusive bargaining agent that represents impacted employees have had an opportunity to comment on the modifications. The Personnel Commission adopted schedule of relationships for all classifications is contained in Appendix A, which by reference is incorporated as a part of these Rules and Regulations.

REFERENCE: Education Code Section 88081, 88087

17-7 APPLICATION OF SALARY SCHEDULES

- 17-8 INITIAL SALARY PLACEMENT- CONFIDENTIAL EMPLOYEES: All new confidential classified employees shall be paid in accordance with the salary range established for the class to which assigned. The hiring rate will normally be the first step of the salary range. However, a new employee may be provided with advanced step placement upon a recommendation from the College President, Vice Chancellor or Associate Vice Chancellor and approval by the Chancellor and Governing Board based upon such factors as: (Language added below is from Classified employees AR 4240 (b)):

- (a) The exceptional educational and professional background of the candidate.
- (b) The work experience of the candidate in a comparable position in another school district.
- (c) The extensive work experience of the candidate in a comparable position in other agencies or industry.

REFERENCE: Education Code Sections 88080, 88081

- 17-9 INITIAL SALARY PLACEMENT MANAGEMENT EMPLOYEES: Placement of newly appointed management personnel will be made by the Governing Board on the recommendation of the Chancellor, who will base his recommendation on the following criteria:

- (a) Extent of past experience related to the position to be filled.
- (b) Degree of relatedness of past experience to the position assumed in this District.
- (c) Other considerations which, in the judgment of the Chancellor, justify a particular step placement. (BP 4316)

- 17-10 SALARY PLACEMENT OF PROVISIONAL AND LIMITED TERM EMPLOYEES: When a regular permanent employee is given a provisional or limited-term assignment in a higher class in lieu of all or part of the employee's regular appointment, the rate of pay in the second class shall be at the first step that would represent at least a five percent salary increase from the employees base rate, but not more than the highest rate applicable to that class. Exceptions to this rule may be made using the same criteria outlined in Rule 17-8 and approved pursuant to Rule 17-9. Classified retirees of the District shall be compensated pursuant to Rule 7-24.

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

(b) All other provisional and limited-term employees shall be placed on the first step of the salary range for that class. Exceptions to this rule may be made using the same criteria outlined in Rule 17-8 and approved pursuant to Rule 17-9.

REFERENCE: Education Code Sections 88105-88109

17-11 STEP ADVANCEMENT: Progression on the salary schedule is not automatic but is on a merit basis for service evaluated as satisfactory or better (AR 4240 (b)).

**ANNIVERSARY DATES FOR STEP ADVANCEMENT AND LONGEVITY INCREMENTS:**

The anniversary date of a classified management or confidential employee shall be the first of the month following the first date of employment with the District. When the first date of employment is the first working date of the initial month, the first day of the initial month shall be the anniversary date.

Anniversary dates may be adjusted because of promotions, leaves of absence, or other breaks in service.

17-12 "Y" RATING INCUMBENTS: By special resolution of the Personnel Commission, the effects of downward range adjustments may be mitigated by a policy of "Y" rating the impacted incumbent's current hourly salary until the new lower salary range hourly rate catches up to the incumbent's salary. The impact of this policy would mean that an incumbent so "Y" rated would receive no general cost of living or normally entitled salary step increase until his/her old higher hourly rate was matched and/or exceeded by the new lower hourly rate.

(a) Whenever the Personnel Commission gives authorization to "Y" rate an incumbent, the rate will be discontinued when the employee receiving the rate is promoted or separates from the service. It will also be discontinued whenever the salary range for the class is increased so that it encompasses the employee's present rate, in which event the employee's salary rate will be adjusted to the nearest highest amount in the new range.

REFERENCE: Education Code Sections 88080, 88081

17-13 PROMOTIONAL SALARY RATE: In determining the salary for an employee who is promoted, the following procedure shall be used:

(a) Management

In those instances in which personnel assume management responsibilities or their administrative responsibilities are increased due to a change in assignment, they shall be placed on Step 1 of the appropriate schedule or at the first step that would represent at least a five percent salary increase (on a net workday per diem basis), whichever is greater, but not beyond the top step of the appropriate range in any case.

(b) Confidential Personnel

A confidential employee who receives a promotion to a classification in a higher salary range shall be placed on the step of the higher classification which represents at least a five percent salary increase but not beyond the top step of the salary range in any case. The employee's

anniversary date within the class to which he/she is promoted shall be the first day of the month following the date of hire in the higher class. When the first day of promotion is the first working day of the month, the first day of the initial month shall be the anniversary date.

(c) Promotional salary placement is based upon base salary and any shift differential or longevity increment is disregarded.

REFERENCE: Education Code Sections 88080, 88081

17-14 PLACEMENT AFTER UNPAID LEAVE OF ABSENCE: Upon return from an unpaid leave of absence, an employee shall be placed on the same step of the range for the class which he/she had achieved prior to taking the leave, including any change(s) in rate or range applicable to the employee's class; except that step advancement within the range shall be granted under the following conditions:

(a) When the employee's paid status credit since returning when combined with any previous service time earned prior to the unpaid leave but after the last anniversary date increase, add up to the equivalent of one year's service credit for purposes of step advancement.

(b) Credit for step advancement shall accrue during leaves of absence for military within the District, and any paid leaves of absence (e.g. illness, vacation, industrial accident/illness, etc.).

REFERENCE: Education Code Sections 88080, 88081, 88191, 88192, 88195, 88196

17-15 SALARY PLACEMENT UPON DEMOTION: An employee who selects voluntary demotion in lieu of layoff or is involuntarily demoted shall be placed on the step of the range of the lower class which is closest to the rate the employee earned in the higher class; provided that the employee shall not receive a salary increase thereby. The demoted employee shall retain the anniversary date established in the higher class.

REFERENCE: Education Code Sections 88080, 88081

17-16 SALARY PLACEMENT UPON FAILING PROBATIONARY PERIOD: An employee who is demoted to their former class during the probationary period shall be placed on the step of the former range and retain the former anniversary date they held prior to promotion.

REFERENCE: Education Code Sections 88080, 88081

17-18 PLACEMENT WHEN REEMPLOYED OR REINSTATED: When an employee is reemployed or reinstated following a resignation, layoff, or other separation from employment, the employee shall be placed on the same step of the range for the class which he/she had achieved prior to the separation, including any change(s) in rate or range applicable to the employee's class; except that step advancement within the range shall be granted under the following conditions:

(a) When the employee's paid status credit is combined with any previous service time earned prior to the employment separation, but after the last anniversary date increase, adds up to the equivalent of one year's service credit, the employee is eligible for step advancement.

REFERENCE: Education Code Sections 88080, 88081, 88128

17-19 SUMMER/RECESS PERIOD SALARY PLACEMENT: A classified employee shall for services performed during summer or any other recess period, receive on a pro-rata basis not less than the compensation and benefits which are applicable to the classification during the regular academic year for the position filled.

REFERENCE: Education Code Sections 88080, 88081

17-20 PLACEMENT WHEN ASSIGNED TEMP POSITION: See Rule 3-9.

17-21 DIFFERENTIAL/LONGEVITY PAY PRACTICES

17-22 DIFFERENTIAL COMPENSATION: The Personnel Commission shall, insofar as it is possible to do so, determine the practices relating to shift differentials for surrounding employers with which it must compete for employees for its classified staff, and shall consider the advisability of recommending comparable salary differentials for its classified staff, and make recommendations to the Board of Trustees regarding differential pay.

REFERENCE: Education Code Section 88181

17-23 TEMPORARY ASSIGNMENT: An employee receiving differential compensation pursuant to these Rules shall not lose such compensation if the employee is temporarily assigned for 20 working days or less to a position not entitled to such compensation for 20 working days or less.

REFERENCE: Education Code Sections 88185, 88080, 88081

17-24 ANNIVERSARY INCREMENT:

(a) Step Advancement

A new classified management or confidential employee shall receive his/her first salary increment (step) one year subsequent to the employee's anniversary date. (BP 4319)

(b) Longevity Increments-Confidential Personnel

Confidential employees shall be eligible to receive longevity pay to be computed from the base salary at the rate of 2 ½ percent after completion of seven years, ten years, thirteen years, sixteen years and twenty years. (based on employee's anniversary date)

(c) Longevity Increments-Management Personnel

Classified managers shall be eligible to receive longevity pay to be computed from the base salary at the rate of 2 percent added to the base salary after completion of 10 years of service to be effective July 1, 1983; 4 percent added to the base salary after completion of 15 years of service effective July 15, 1984; 6 percent added to the base salary after completion of 20 years of service effective July 1, 1985; and 8 percent added to the base salary after completion of 25 years of service effective July 1, 1986. Years of service refer to service with the District. This section shall not apply to senior level administrators (Vice Chancellors) who are exempt under Education Code 88091

17-25 COMPUTATION OF REGULAR PAY: When computing the base pay for a classified employee the calculation shall be in the following order:

(a) The employee's appropriate salary range and step shall be considered the employee's base salary.

(b) Added to the base salary shall be any longevity the employee may be entitled.

REFERENCE: Education Code Sections 88180 – 88186, 88080, 88081

Chapter 17

Approved: November 20, 2007

17-10: Revised June 20, 2017

17-24(c): Revised March 20, 2018

## CHAPTER 18 - COMPLAINT PROCEDURE

### SECTION 18 PROCEDURE FOR THE ADJUSTMENT OF COMPLAINTS

18-1 **PURPOSE OF COMPLAINT PROCEDURE:** The purpose of this chapter is to establish an orderly process through which employees may receive timely consideration of their complaints. It is also the intent of this chapter to emphasize the need for employee complaints to be submitted through established channels and for resolution of complaints at the lowest possible level. Employees may utilize this chapter to seek adjustment of complaints arising in the following areas:

(a) Established Commission Rules and Regulations.

(b) Established provisions of the Education Code noted in Section 88081: 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 competition, and any other matters necessary to carry out the provisions and purposes of the merit system.

(c) Complaints against employees of the Personnel Commission.

REFERENCE: Education Code Sections 88080, 88081

18-2 **CERTAIN MATTERS EXCLUDED FROM PROCEDURE:** There are certain subjects and matters that are not covered by this complaint procedure:

(a) An alleged violation of any provision of a collective bargaining agreement. Such allegations shall be adjudicated through the provisions contained in the collective bargaining agreement.

(b) An alleged disciplinary action. If formal disciplinary action has been initiated, it shall be adjudicated through the disciplinary action appeal process contained in Chapter 19.

(c) Complaints about the content of a Commission Rule, Administrative Regulation, Board Policy, law, or administrative practice. Any employee with such a complaint should direct his/her concerns and suggestions for change through the administrative channels to the responsible authority.

(d) The content of employee evaluation or performance reviews.

(e) A reclassification, layoff, transfer, denial of reinstatement or denial of a step increase.

(f) Examinations of or appointment to positions.

REFERENCE: Education Code Sections 88080, 88081

18-3 **COMMISSION STAFF WILL LEND ASSISTANCE:** At any stage in the procedure, the services of the Personnel Commission's staff will be available to all parties to provide requested information and to assist in the settlement of the problems.

18-4 **APPROVAL BY DIRECTOR OF CLASSIFIED PERSONNEL:** If any settlement at Level 1, 2, or 3 of any complaint covered by these procedures is reached without the involvement of the Commission or Director of Classified Personnel, the Director of Classified Personnel, shall



be informed of all proceedings, receive copies of all communications submitted in the case, and be notified of the proposed settlement and have an opportunity to comment on it prior to finalization:

- (a) When the complaint involves any Personnel Commission Rule or Regulation.
- (b) When the complaint involves any Personnel Commission administrative procedure.
- (c) When the complaint involves any Personnel Commission employee.
- (d) When the complaint involves any alleged violation of the subjects noted in Education Code Section 88081.
- (e) Any matter touching upon the authority or responsibilities of the Personnel Commission or, the application of Merit System laws and procedures.

REFERENCE: Education Code Sections 45260 and 45261 (88080, 88081)

- 18-5 COMPLAINT TIME LIMITS SHALL BE CONSIDERED MAXIMUMS: It is important that complaints be resolved as quickly as possible, therefore the times indicated at each level shall be considered as maximums. Time limits may be extended by mutual agreement in writing.
- 18-6 COMPLAINT MUST BE FILED WITHIN 15 WORKING DAYS: A complaint must be filed at step 1 of this procedure within fifteen (15) working days of the occurrence of the violation or infraction, or within fifteen (15) working days of when the complaining party could reasonably have known of the occurrence of the act or omission giving rise to the complaint.
- 18-7 DEFINITION OF COMPLAINANT: A complainant is defined as an employee, employees, applicant, or any recognized classified employee organization filing a complaint involving one of the subjects covered by Rule 18-1.
- 18-8 EMPLOYEE REPRESENTATION: Any employee may have an employee organization represent his/her interests at any level of this complaint procedure.
- 18-9 NO REPRISALS FOR FILING OF COMPLAINT: No reprisals of any kind shall be taken by the District against the complainant or any representative of the complainant by reason of his/her bringing a complaint or participating in a complaint.
- 18-10 REASONABLE RELEASE TIME: The complainant and/or his/her representative shall be provided reasonable release time, without loss of compensation, to attend conferences or hearings described in this Chapter.
- 18-11 MAINTENANCE OF COMPLAINT FILES: Records pertaining to complaints filed under this Chapter shall be maintained in the Personnel Commission Office. All complaint records shall be maintained separately from the complainant's and/or his/her representative's personnel files.
- 18-12 LEVEL ONE - INFORMAL: The complainant shall meet with the immediate supervisor to discuss the potential complaint in an attempt to resolve it informally if District staff were responsible for the actions leading to the complaint or with the Director of Classified Personnel if Commission staff were responsible for the actions leading to the complaint. The immediate supervisor shall attempt to hold a conference within five (5) working days of the request by the employee for a conference. The immediate supervisor shall consider the facts

and provide a decision with supporting reasons within five (5) working days after the informal conference

- 18-13 **LEVEL TWO - FORMAL WRITTEN COMPLAINT:** If successful resolution was not reached at the discussion level and the employee chooses to pursue a complaint, the employee must submit the complaint in writing to the alleged rule breaker's immediate supervisor within ten (10) working days of the conclusion of the informal step at level 1. The written complaint shall be a clear, concise statement of the complaint, including the Rule, allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, and a statement of the specific remedy sought. The supervisor shall submit a written response to the complainant within ten (10) working days after the conference. If Commission staff were responsible for the conduct leading to the complaint, the written complaint will initiate at Level 4 with the Director of Classified Personnel.
- 18-14 **LEVEL THREE - DEPARTMENT/SITE ADMINISTRATOR:** If the complaint is not satisfactorily adjusted by the immediate supervisor, the complaint may be submitted in writing to the appropriate highest level administrator in the department/site chain of authority within ten (10) working days of receipt of the level 1 decision, or if the immediate supervisor has failed to respond, within ten (10) working days after the level 1 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the Level 2 supervisor was unsatisfactory, and a statement of the specific remedy sought. The administrator shall hold a conference if requested with all interested parties regarding the complaint within five (5) working days of receipt of the complaint. The administrator shall submit a written response to the complainant within ten (10) working days following the conference.
- 18-15 **LEVEL FOUR - DIRECTOR OF CLASSIFIED PERSONNEL:** Complaints shall be submitted to the Director of Classified Personnel. If successful resolution was not reached at level 3, the complaint may be submitted in writing to the Director of Classified Personnel as dictated by this Chapter, within ten (10) working days of receipt of the level 3 decision, or if the department/site administrator has failed to respond, within ten (10) working days after the level 3 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the level 3 department/site administrator was unsatisfactory, and a statement of the specific remedy sought. The Director of Classified Personnel shall hold a conference if requested with all interested parties regarding the complaint within ten (10) working days of receipt of the complaint. The Director of Classified Personnel shall submit a written response to the complainant within ten (10) working days following the conference.
- 18-16 **LEVEL FIVE - PERSONNEL COMMISSION:** Complaints shall be submitted to the Personnel Commission. If successful resolution was not reached at level 4, the complaint may be submitted in writing to the Personnel Commission as dictated by this Chapter, within ten (10) working days of receipt of the level 4 decision, or if the party has failed to respond, within ten (10) working days after the level 4 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the Director of Classified Personnel was unsatisfactory, and a statement of the specific remedy sought. If timely complaint appeal is filed, the Personnel Commission shall hold a complaint hearing to hear witnesses, take evidence, and permit the submission of oral and written arguments in the case pursuant to Rule 19-8. This hearing shall be held in closed session unless provisions of the Brown Act permit and/or require an open session of the Personnel Commission. The deliberations of the Commission that are necessary to make the final decision and ruling shall be held in closed session.

Within a reasonable time after receiving the record, the Personnel Commission shall render a decision on the matter. Either party may request in writing an extension up to thirty (30) working days for good cause. The decision of the Personnel Commission shall be final and binding on all parties.

REFERENCE: Education Code Sections 88080, 88081

Chapter 18

Approved: November 20, 2007

## **CHAPTER 19 - PROCEDURES FOR DISCIPLINARY ACTION AND APPEAL**

### **SECTION 19 GENERAL PROVISIONS ON DISCIPLINARY ACTIONS**

#### **ARTICLE 35 CSEA Contract**

#### **DISCIPLINARY ACTION**

19-1 **STATUS OF PERMANENT EMPLOYEES:** After serving a probationary period of 130 days in paid status, (police, one calendar year) an employee in the classified service shall thereupon be designated as a permanent employee. No person in the permanent classified service shall be suspended, demoted or dismissed, except for reasonable cause as detrimental to the efficiency of the classified service.

19-2 **DISCIPLINE OF PROBATIONARY EMPLOYEE:** Probationary classified employees are not accorded the rights of regular permanent classified employees. Probationary classified employees shall be given reasonable separation notice and the right to request a conference with the Director of Classified Personnel if dismissal is recommended. Probationary classified employees may be dismissed at any time.

19-3 **DEFINITIONS**

**DISMISSAL:** Permanent removal from the employment of the District.

**SUSPENSION:** Temporary removal from employment for a specified period of time without pay.

**DEMOTION:** Permanent placement in a lower classification without the employee's written voluntary consent.

**DISCIPLINARY ACTION:** Includes any action whereby a permanent employee is deprived of any classification or any benefits or rights attendant upon any classification in which the employee has permanence, including suspension, dismissal or demotion without the employee's voluntary consent, except for layoff for lack of work or lack of funds.

**CHARGES:** A basis for imposition of discipline upon an employee. The charges for which an employee may be disciplined are set forth in Paragraph IV below.

**INCIDENT:** A specific transaction, occurrence, act or omission, which constitutes the factual basis upon which a charge is based.

**SKELLY CONFERENCE:** A conference at which the charges and incidents are reviewed with the employee and the employee is allowed to respond.

**PRESIDENT:** The President at Fresno City College, the President at Reedley College, Vice Chancellor of North Centers, or the Chancellor, or their designee at the district office.

**NOTICE OF: CHARGES AND RECOMMENDED DISCIPLINARY ACTION:** Notice of Charges and Recommended Disciplinary Action sets forward the alleged charges and incidents upon which the District seeks to discipline an employee. The Notice of Charges and Recommended Disciplinary Action shall not be considered a formal disciplinary recommendation until the Skelly Conference has taken place and the President, Vice Chancellor, Chancellor or his/her designee, has a recommendation to the Board of Trustees that the employee be disciplined. Until the President, Vice Chancellor, Chancellor or his/her

designee, has approved the Notice of Charges and Recommended Disciplinary Action, it shall merely be considered a proposed disciplinary measure by the immediate supervisor.

19-4 CHARGES: A permanent classified employee may have disciplinary action taken against him or her based on any of the charges set forth below:

(a) Job Performance:

(1) Incompetence.

(2) Inefficiency in the performance of the duties of his or her position.

(3) Inattention to or dereliction of duty, including, but not limited to, carelessness or negligence in the performance of one's duties or in the care or use of District property.

(4) Insubordination, including, but not limited to, refusal to perform assigned work or to carry out directions of authorized District personnel.

(5) Excessive or unexcused absenteeism.

(6) Excessive tardiness.

(7) Absence from duty without prior authorization or failure to report after a leave has expired or after notice has been provided that a leave has been disapproved, revoked or canceled.

(8) Failure to report for work within a reasonable time after notice of recall from layoff.

(9) Inability to perform assigned duties, including, but not limited to, mental or physical incapacity.

(10) Failure to possess or maintain required licenses.

(11) Inability to be insured or bonded at the District's standard rate.

(b) Personal Conduct:

(1) Discourteous, offensive, or abusive conduct or language toward fellow employees, students, or the public.

(2) Any conduct which bears some rational relationship to the employment and is of a character that can reasonably result in the impairment of the public service of the District.

(3) Reporting for duty under the influence of or, carrying into District facilities, or possessing, consuming, or using on District premises, or inducing or causing others to use, drugs or other controlled substances; or giving, selling, or delivering such items to any other person on District premises.

(4) Drinking alcoholic beverages on the job, or reporting for work under the influence of alcohol, or carrying an alcoholic beverage into a District facility or onto District property without prior authorization.

(5) Marking, defacing, damaging, writing, or drawing on any District property not designed for that purpose.

(6) Furnishing confidential information and/or material to unauthorized personnel or removal of records from an employee's personnel file.

(7) Unauthorized review of an employee's personnel file or unauthorized removal of records from an employee's personnel file.

(8) Abuse of leave privileges.

(9) Dishonesty.

(10) Falsifying any information supplied to the District, including but not limited to, information supplied on application forms, employment records, examination materials, time sheets or cards, absence forms, or other records.

(11) Unauthorized use of a District vehicle, including, but not limited to, transporting unauthorized persons in a District vehicle; or driving a vehicle on District business when one's driver's license has expired, been suspended, revoked or is in violation of any condition specified by the Department of Motor Vehicles.

(12) Offering anything of value or any service in exchange for special treatment in connection with one's job or employment, or accepting anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.

(13) Fraud in securing employment with the District.

(c) Violation of Laws, Policies, Procedures, and Other Agreements

(1) Engaging in political activity during assigned hours of employment or otherwise in violation of applicable rules or agreements.

(2) Failure to report for a District-required medical examination after due notice.

(3) Conviction of a sex offense as defined in Education Code Section 87010 or other provisions of the law.

(4) Conviction of a narcotics offense as defined in Education Code Section 87011 or other provisions of the law.

(5) Conviction of a felony or a misdemeanor involving moral turpitude. A plea of guilty or a plea of nolo contendere to a charge of a felony or any misdemeanor involving moral turpitude is deemed to be a conviction within the meaning of this section.

(6) Advocacy of overthrow of federal, state, or local government by force, violence or other unlawful means.

(7) Inducement or attempt to induce any employee to commit an unlawful act or to act in violation of any District policy, rule, or regulation.

(8) Violation of or failure to comply with, established procedures in the work unit, provisions of the Education Code, District policies, rules or regulations, or rules and regulations made applicable to public community colleges by the Governing Board or by an appropriate federal, state, or local government.

19-5 TIME PERIOD FOR BRINGING DISCIPLINARY ACTION: No disciplinary action shall be taken for any cause which arose more than four (4) years preceding the date of the filing of

the Notice of Charges and Recommended Disciplinary Action unless such cause was concealed or not disclosed by the employee or such cause could not have reasonably been discovered by the District.

#### 19-6 (SHORT TERM) SUSPENSION AND LEAVE

(a) Short Term Suspension: A president, or his designee, may immediately suspend an employee without pay for up to and including five (5) working days. In such cases, the president shall orally notify the employee of the reason(s) for the suspension and the employee shall be allowed the opportunity to respond orally at that time.

Within a reasonable time after the suspension, written charges will be prepared and served upon the employee. The Governing Board shall make its determination to ratify, reject, or modify the suspension at the next available Board meeting after the suspension. If the Board upholds the suspension, the employee shall be notified in writing of the Board's decision.

The decision of the Board shall be final unless the employee requests a hearing in writing within fourteen (14) calendar days after notice of the Board's action has been served. If the employee requests a hearing, the Personnel Commission shall conduct a hearing within fourteen (14) calendar days.

(b) Administrative Leave: Administrative leave is a temporary separation from employment with pay. If the president or his designee determines that it is in the best interest of the District, he or she may place an employee on leave with pay pending investigation preliminary to determining if disciplinary action is appropriate. Administrative leave with pay is not disciplinary in nature.

#### 19-7 GENERAL DISCIPLINARY PROVISIONS: Informal discipline can include counseling or a written reprimand which is placed in an employee's personnel file. Informal discipline does not require written notice of recommended disciplinary action and charges and is not subject to appeal. No informal discipline is necessary prerequisite to any other disciplinary action, formal or informal.

It is the district's responsibility to present the employee to be disciplined with a "notice of recommended disciplinary action and charges" prior to the imposition of discipline unless otherwise specified in this Article.

Discipline may be recommended in accordance with this section if, in the judgment of the immediate supervisor, or other authorized administrator, disciplinary action is needed. Prior to the Skelly conference, an employee against whom disciplinary action has been recommended shall be presented with the Notice of Recommended Disciplinary Action and Charges.

(a) Notice of Recommended Disciplinary Action and Charges: The Notice of Recommended Disciplinary Action and Charges shall include the following:

(1) A statement of the charges upon which the disciplinary action is recommended; a statement in ordinary and concise language of each specific incident upon which the charges are based; the Recommended Disciplinary Action; and a statement as to provisions of Section IV, if any which has been violated.

(2) A statement that the employee will be accorded a Skelly conference with the College President or Chancellor at a time and place prescribed in the Notice of Recommended Disciplinary Action and Charges, with an opportunity at that time to respond to each charge and incident.

(3) The employee's right to have copies of the material upon which the disciplinary action is based.

(4) The employee's right to appear personally and to be represented by a person or counselor of their choice or respond in writing.

(5) The Associate Vice Chancellor, Human Resources, will cause the Notice for Recommended Disciplinary Action and Charges to be served on the employee. Service will be deemed complete upon personal delivery or upon deposit in the U.S. registered/certified mail, return receipt requested, and addressed to the last known address of the employee as contained in district personnel office records. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. The employee is responsible for keeping the District informed of a current address.

(b) Skelly Conference: The purpose of the Skelly Conference is to review the Notice of Recommended Disciplinary Action and Charges, charge by charge, incident by incident, to allow the employee to respond to each charge and incident.

The conference shall be an informal meeting and shall not be conducted by formal evidentiary rules. The conference may be tape recorded by mutual agreement. The conference shall be conducted on the date stated on the original Notice of Recommended Disciplinary Action and Charges provided to the employee, unless a change is mutually agreed to by the president or his designee and the employee. The president or his designee will serve as the administrator responsible for conducting the conference. During the conference the employee may be represented by a person of their choice.

The president or his/her designee shall, after the conclusion of the conference, make a determination of the appropriateness of the recommended disciplinary action and the charges and incidents upon which such disciplinary action is recommended. The conference will be electronically recorded. The president or his/her designee will retain the taped copy of the conference for possible reference, and a copy shall be provided to the employee upon request.

The president may accept, modify, or reject the Notice of Recommended Disciplinary Action and Charges prior to forwarding his or her recommendation to the Board of Trustees, through the Chancellor.

(c) Revision of Notice of Recommended Disciplinary Action and Charges: Following service of the Notice of Recommended Disciplinary Action and Charges upon the employee, an amended or supplemental Notice of Recommended Disciplinary Action and Charges may be served upon the employee. If the amended or supplemental recommendation presents new charges or incidents, the employee shall be afforded a reasonable opportunity to discuss the new matters with his or her immediate superior and the president.

(d) Employee Status Pending Decision by Governing Board: With the exception of an employee placed on short-term suspension or administrative leave, the recommended disciplinary action shall not take effect until the Governing Board takes action. The employee against whom disciplinary action has been recommended shall remain on active duty status and shall be responsible for fulfilling the duties of the position pending a decision by the Board unless otherwise stated in these rules.

(e) Governing Board: The Board retains the right to accept, modify, or reject any portion of the Notice of Recommended Disciplinary Action. The Board may also accept, increase, or



decrease the disciplinary penalty. The Board may ask for further evidence or information prior to mailing its decision. Finally, the Board may accept the recommendation of the district administration, take action in closed session, and report that action after all administrative appeals have been exhausted.

(f) Personnel Commission Hearing: The decision of the Board is final, unless the employee requests within fourteen (14) calendar days, in writing, a hearing. The employee's failure to request a hearing shall constitute a final waiver of the employee's right to a hearing. The director of personnel shall correspond to the employee describing his or her appeal rights.

In the event of elimination of the personnel commission, the employee shall have the right to request the appointment of an arbitrator as provided in Article 27, Section V, D.

19-8 APPEAL HEARING BEFORE PERSONNEL COMMISSION: If the employee submits an appeal notice to the Personnel Commission Office within fourteen (14) calendar days after receipt of the Notice of Disciplinary Action, the employee shall have a right to have an Appeal Hearing before the Personnel Commission. The Commission Appeal Hearing shall be held within a reasonable time period of receipt of the employee's appeal notice by the Personnel Commission Office. The Personnel Commission may agree to a thirty (30) working day extension for good cause.

REFERENCE: Education Code Sections 88080, 88081

19-9 NOTIFICATION OF HEARING TO EMPLOYEE: The Director of Classified Personnel Commission shall notify the District and the Personnel Commission upon receipt or lack of receipt of an appeal notice, and shall coordinate the scheduling of the Commission Appeal Hearing if a timely appeal is filed.

(a) The Director of Classified Personnel Commission shall notify the employee in writing within fifteen (15) working days of the timely filing of an appeal notice, of the time, date, and place of the Commission Appeal Hearing before the Personnel Commission.

(b) A notice of the time and place of hearing shall be given or mailed to each of the parties not less than ten (10) working days prior to the hearing. The ten-day notice of hearing may be waived by agreement of the parties.

(c) Notification shall be either in person or sent by Certified Mail Return Receipt Requested. This requirement will be deemed to have been met if the notification of the Commission Appeal Hearing is sent Certified Mail to the last known home address of the employee or to the employee's designated representative on file in the Human Resources Office. Failure of the employee or his/her representative to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the time lines outlined in these Rules. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: Education Code Sections 88080, 88081

19-10 GENERAL CONDUCT OF COMMISSION APPEAL HEARING: At this full evidentiary hearing, the employee shall have the right to present all evidence and testimony on his/her behalf, to examine all evidence submitted by the District, hear testimony of the supervisor(s) who initiated the action, and examine and cross-examine all witnesses giving testimony. All hearings before the Personnel Commission shall be in closed session, unless the appealing employee requests an open hearing in his/her appeal notice. The Personnel Commission Hearing shall be specifically conducted pursuant to Rule 19-8.

(a) BURDEN OF PROOF: The burden of proof in disciplinary hearings is the District's. The standard of proof is by the preponderance of the evidence.

19-11 RIGHT TO REPRESENTATION: The employee may, at his/her option, be represented by legal counsel, union representation, or any other person designated by the employee. If the employee files an appeal, the employee shall be required to personally attend the Commission Appeal Hearing, even if the employee's designated representative appears on his/her behalf. If the employee fails to appear, the employee will be deemed to have forfeited his/her rights to further appeal and the Personnel Commission shall allow the Board of Trustees disciplinary action to stand.

19-12 APPEAL TO PERSONNEL COMMISSION: Prior to the Personnel Commission's formal hearing, the Director of Classified Personnel Commission or counsel for the commission may hold a pre-hearing conference with the Board's representative and the appellant's representative or the appellant if the appellant is representing himself or herself. Such pre-hearing conference shall include but not be limited to submission of witness lists, documents required for submission into evidence, and determination as to length of time necessary for the hearing.

(a) SUBPOENA OF WITNESSES/EVIDENCE: The Personnel Commission or its hearing officer may, and shall if requested by either party, subpoena witnesses and/or require the production of records, documents, or other material evidence. The Director of Classified Personnel Commission shall issue the subpoenas on behalf of the Commission or its hearing officer. Subpoenas shall be delivered to the requesting party for service.

(1) Requests for subpoenas shall be filed with the Personnel Commission Office at least five (5) working days prior to the date of the hearing.

(b) LIST OF WITNESSES: A list of witnesses to be called by each party and a list of persons authorized to attend the hearing shall be submitted to the Personnel Commission Office or counsel for the commission at least five (5) working days prior to the date of the hearing. This will allow the Personnel Commission to secure the release time of District employee witnesses prior to the hearing.

(c) LIST OF EXHIBITS: A list of exhibits and a copy of each exhibit each party plans to introduce shall be submitted to the Personnel Commission Office or counsel for the commission at least five (5) working days prior to the date of the hearing.

REFERENCE: Education Code Sections 88080, 88081, 88124, 88125, 88126

19-13 APPOINTMENT OF HEARING OFFICER: The Personnel Commission may authorize a hearing officer to conduct any hearing or investigation for which the Commission itself is authorized by the Education Code and/or these Rules to conduct, including disciplinary action. Any such hearing officer conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers. The Commission may instruct such hearing officer to present findings and recommendations. The Commission may accept, reject, or amend any of the findings or recommendations of the hearing officer. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation, or upon the results of such supplementary hearings or investigations as the Commission may order.

(a) The Commission may employ by contract or as professional experts or otherwise any such hearing officer, and may adopt and amend such Rules and procedures as may be necessary to effectuate this section of the Rules.

(b) Hearing officers selected by the Commission will be qualified arbitrators/mediators/fact finders with at least five (5) years of experience in these types of hearings and administrative procedures. Appropriate education and experience levels will be screened and determined by the Director of Classified Personnel and legal counsel for the Commission.

REFERENCE: Education Code Sections 88080, 88081, 88131

19-14 COMMISSION SHALL DETERMINE TIME AND PLACE OF HEARING: Upon receipt of the appeal notice, the Personnel Commission shall determine the date, time, and place of the hearing on appeal. The appeal hearing shall be held within the boundaries of the District.

REFERENCE: Education Code Sections 88080, 88081

19-15 ALL HEARINGS SHALL BE RECORDED: All hearings under the authority of this Chapter shall be electronically recorded in such a manner that a verbatim written transcript can be produced if necessary.

(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.

REFERENCE: Education Code Sections 88080, 88081

19-16 ORAL EVIDENCE BY OATH ONLY: Oral evidence shall be taken only on oath or affirmation.

19-17 ABILITY TO EXAMINE EVIDENCE: Each party shall have the following rights as it relates to examination of witnesses and evidence:

(a) To call and examine witnesses.

(b) To introduce exhibits.

(c) To cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examinations(s).

(d) To attempt to impeach any witness regardless of which party first called the witness to testify.

(e) To rebut all evidence presented by the opposing party.

REFERENCE: Education Code Sections 88080, 88081

19-18 APPELLANT MAY BE CALLED TO TESTIFY: The appellant may be called to testify by the District during its case in chief and be cross-examined just as if he/she had testified on his/her own behalf.

19-20 INFORMAL HEARING: The hearing shall be conducted in the manner most conducive to a determination of the truth. The technical rules of evidence shall not apply at any such hearing and informality at such hearing shall not invalidate any finding, order, or decision made or adopted by the commission or its hearing officer. In addition, the procedure entitled "Administrative Adjudication", contained in section 11500 et. seq. of the Government Code shall not be applicable to any such hearing before the commission or its hearing officer. All the questions relating to definitions, procedural manners, and commission requirements contained in this regulation shall be resolved by the commission or its hearing officer. 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. Employee evaluations, which are not based on facts and are based on undocumented charges, may not be introduced as 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. Irrelevant and unduly repetitious evidence may be excluded.

(c) The Commission or its Hearing Officer shall determine the relevance, weight and credibility of testimony and evidence.

REFERENCE: Education Code Sections 88080, 88081

19-21 **RIGHT TO BE REPRESENTED:** The Board of Trustees and the appellant shall be allowed to be represented by legal counsel or other designated representatives.

19-22 **GRANTING OF CONTINUANCE:** The Personnel Commission or its hearing officer may, prior to or during the hearing, grant a continuance for reason(s) believed to be sufficient or important to reaching a fair and proper conclusion.

19-23 **RULING ON OBJECTIONS:** The Personnel Commission or its hearing officer shall rule on all objections raised by either party.

19-24 **FINDINGS BASED ON PREPONDERANCE OF EVIDENCE:** The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented. The findings of the Commission or hearing officer shall be based upon the preponderance of evidence.

19-25 **ORDER OF PRESENTATION OF EVIDENCE:** Each side will be permitted an opening statement, District's representative first, and for closing arguments, appellant or his/her representative last. The District shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or his/her representative will present his/her witnesses and evidence in defense. Both sides may present rebuttal of surrebuttal evidence.

19-26 **EXAMINATION OF WITNESSES:** Each side will be allowed to examine and cross-examine witnesses.

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

19-27 **SWORN AFFIDAVITS:** The policy of the Personnel Commission shall be that where possible, all witnesses shall give testimony orally at the hearing. However, if in the opinion of the Commission or its hearing officer, a witness has good and sufficient reason for being unable to be present, written testimony will be accepted under the following conditions:

(a) Such evidence shall be submitted by sworn affidavit of the witness. The affidavit shall be confined to a statement of facts bearing on the case and within the knowledge of the witness,

and shall not contain any conclusions of the witness, except that a witness who qualifies as an expert may express his/her opinion based upon the facts, which he/she has recited.

(b) Copies of all such affidavits shall be filed with the Personnel Commission Office or the hearing officer at least five (5) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.

(c) Neither party has objections to the submission of the affidavit(s) into evidence. Either party, upon request, may require the attendance of the witness who has given the sworn affidavit for purposes of cross-examination. A continuance may be necessary in order to secure the attendance of the witness.

(d) The Personnel Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

REFERENCE: Education Code Sections 88080, 88081

19-28 DELIBERATION AND FINDINGS OF HEARING OFFICER: Whether the hearing is held in open or closed session, the hearing officer if one is appointed by the Personnel Commission shall deliberate on the evidence presented and a determination of his/her recommendations to the Personnel Commission in closed session.

(a) The hearing officer shall submit his/her written recommendations and findings of fact to the Director of Classified Personnel within 60 calendar days of the completion of the hearing.

(b) Upon receipt of the hearing officer's written recommendations and findings of fact, the Director of Classified Personnel shall contact the Chairperson of the Personnel Commission to determine the need to schedule a special meeting of the Commission to consider the findings and recommendations of the hearing officer. If no special meeting is scheduled the matter shall be placed on the next regularly scheduled Personnel Commission meeting.

(c) In all cases assigned to a hearing officer, a proposed decision shall be prepared in a form to be adopted by the Commission as its decision in the case. Commission staff or counsel for the commission will notify the appellant, his/her representative and the District's representative of the date of the meeting when the Commission will consider its decision on the appeal. Copies of the proposed decision shall be made available upon request to the appellant and representatives after the Commission has received it at a regular Commission meeting. If either representative believes that the 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. The hearing officer may be present during the consideration of the case by the Commission and, at its request, may advise the Commission. The 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 Commission may order. If a further investigation or hearing is ordered, the 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 for additional evidence, he/she shall file another proposed decision.

REFERENCE: Education Code Sections 88080, 88081

19-29 DELIBERATION OF PERSONNEL COMMISSION: Whether the hearing before the Personnel Commission is held in open or closed session, the Commission, after it concludes the hearing, may deliberate its decision(s) in closed session. No persons other than members of the Personnel Commission, its legal counsel, and the Director of Classified

Personnel, shall be permitted to attend the deliberations. If the Director of Classified Personnel was the administrator initiating the disciplinary action, or if the Director acted on behalf of the Board of Trustees in the presentation of the case at any level of the appeal process, or if the Director served as a witness in the proceedings, the Director of Classified Personnel shall also be excluded from the Commission's deliberations.

REFERENCE: Education Code Sections 88080, 88081, 88086, 88124

19-30 **DECISION OF PERSONNEL COMMISSION:** The Personnel Commission shall render its judgment as soon after the conclusion of the hearing as possible. The decision(s) of the Commission shall be in writing and shall set forth which charges, if any, are sustained and the reasons therefore.

(a) The Commission's written decision(s) shall contain findings of fact, a determination of the issues presented, and the penalty imposed (if any). The findings may be stated in the language of the pleading or included by reference thereto.

(b) 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.

(c) Copies of the Commission's decision(s) shall be delivered to the parties personally or transmitted to them by Certified Mail, Return Receipt Requested. The requirement for notification of the employee will be deemed to have been met if the decision is sent, Certified Mail, to the last known home address on file in the Human Resources Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

(d) If the Commission either sustains a suspension or modifies a dismissal, or other disciplinary action, to a suspension, such days of suspension shall be served on working days in which the employee is normally assigned.

REFERENCE: Education Code Sections 88080, 88081

19-31 **BOARD SHALL COMPLY WITH COMMISSION DECISION:** Upon receipt of the Commission's written decision the Board of Trustees shall forthwith comply with the provisions thereof. When the Board of Trustees has fully complied with the Commission's decision, it shall so notify the Commission in writing.

(a) If the Board of Trustees fails and/or refuses to fully comply with the Commission's written decision(s) and order(s) as required by these Rules and Regulations and legal statutes, the Commission shall seek judicial action to ensure compliance.

REFERENCE: Education Code Sections 88080, 88081, 88126

19-32 **COMMISSION ACTION:** The Personnel Commission may sustain or reject any or all of the charges filed against the employee. The Commission may sustain, modify, or reject the disciplinary action invoked against the employee. However, the Commission may not invoke more stringent discipline against the employee than that invoked by the Board of Trustees.

REFERENCE: Education Code Sections 88080, 88081, 88126

19-33 DECISION SHALL INCLUDE CONSIDERATION OF APPROPRIATE SETTLEMENT: Following its determination of the facts and findings relative to the disciplinary action invoked against the employee, the Commission shall consider such other matters as it deems necessary and proper to effect an appropriate settlement of the appeal, including, but not limited to:

(a) The granting of seniority credit for any or all of the off-duty time pending restoration or reinstatement.

(b) Sealing in from the employee's personnel file and record any causes or charges that are not sustained by the Commission.

REFERENCE: Education Code Sections 88080, 88081, 88126

19-34 OBTAINING COPIES OF THE HEARING TRANSCRIPT: The employee or his/her designated representative and the Board of Trustees or its designated representative may obtain a copy of the transcript under the following conditions:

(a) The cost of the transcript and copies, if requested, shall be born by the party making the request.

(b) The request shall be in writing and a cash deposit made in an amount determined by the Director of Classified Personnel Commission prior to preparation, which shall not be less than the estimated cost of transcribing the hearing record.

(c) The final cost of the transcript shall be the actual cost of preparation plus the cost of making copies as determined by the Director of Classified Personnel Commission.

(d) The transcript shall only be released upon payment in full. When the deposit is greater than the actual costs of the document (including the making of copies), the remainder shall be refunded to the party.

REFERENCE: Education Code Sections 88080, 88081

19-35 DISQUALIFICATION OF HEARING OFFICER OR COMMISSIONER: A hearing officer or Personnel Commission member shall voluntarily disqualify himself/herself and withdraw from any appeal in which he/she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or Personnel Commission member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.

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

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

REFERENCE: Education Code Sections 88080, 88081

19-36 COUNSEL FOR THE PERSONNEL COMMISSION: The Personnel Commission may seek and appoint legal counsel as part of its appeal and investigatory hearing duties. To avoid

any conflict of interest, the legal counsel shall not be the same counsel representing the Board of Trustees, nor shall the Board and the Commission be represented by members of the same legal firm in a hearing held pursuant to these Rules and Regulations. All reasonable costs associated with the use of such legal counsel by the Personnel Commission in hearings shall constitute a legal charge against the District's general funds, whether or not the money or costs for legal services appear in the Commission's budget. Counsel for the Commission shall assist the parties in the selection process of a Hearing Officer if one is authorized by the Commission. Counsel shall also advise the Hearing Officer of the format and the requirements for the Hearing Officer's report to the Commission.

19-37 JUDICIAL REVIEW: No petition for writ of mandate, administrative mandamus, or other form of review before a court of competent jurisdiction may be filed later than ninety (90) calendar days after the service of the Commission's decision upon the employee. All actions not filed within said ninety (90) calendar day time period shall be barred.

REFERENCE: Education Code Sections 88080, 88081, Code of Civil Procedure 1094.5 et. seq.

Chapter 19

Approved: November 20, 2007



## CHAPTER 20 - LAYOFF AND REEMPLOYMENT PROCEDURES

### SECTION 20 LAYOFF PROCEDURES

20-1 REASONS FOR LAYOFF: 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 in accordance with Education Code Section 88117 and 88127. 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 office and a recognized exclusive representative may not provide for less than the mandated employee protections and procedures outlined in this rule.

REFERENCE: Education Code Sections 88117, 88127

20-2 LAYOFF DEFINITION: As used in this rule, the following term has the following meaning:

(a) "Reemployment list" means a list of names of persons by classification arranged in order of their right to reemployment, who have been laid off from permanent positions by reason of lack of work, lack of funds, abolishment or reclassification of position, or who take a voluntary demotion or voluntary reduction in assigned time in lieu of layoff or other reasons specified in these rules, and who are eligible for reemployment without examination in their former class.

(b) "Layoff" means layoff from employment or reduction in assigned time per day, week, month, or year.

REFERENCE: Education Code Sections 88117, 88127

20-3 LAYOFF RESOLUTION BY BOARD:

(a) Before any layoff notice can be issued, the Board shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by classification and assigned time. The layoff resolution shall be signed by the Clerk of the Board, and a copy shall be attached to each layoff notice.

(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.

(c) The District shall notify the affected classified employees in writing a minimum of forty-five (45) calendar days prior to the date of any layoff for lack of work or funds. The notice to the affected employee shall specify the reason for the layoff and be given by personal delivery or by certified mail to the last known home address of the employee on file in the Human Resources 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 properly mailed, it shall be effective on the second working day following the postmark date of the notice.

(d) A notice of layoff shall contain the following items:

(1) The reason for the layoff;

(2) Effective date of layoff;

- (3) Seniority placement within class;
- (4) The employee's displacement rights, if any;
- (5) The employee's reemployment rights in lower class in which an employee meets minimum qualifications;
- (6) The name and classification of the employee designated for layoff;
- (7) A statement that the employee has a right to continue insurance at his/her own expense; and
- (8) Service retirement options if over 50 years of age.

(e) **ADVANCE NOTIFICATION TO EXCLUSIVE REPRESENTATIVE:** If any of the impacted positions are represented by a collective bargaining exclusive representative, the District Administration and the exclusive representative shall meet in advance of layoff notices being sent out to review the proposed layoff. A copy of each layoff notice will be sent to the exclusive representative.

REFERENCE: Education Code Sections 88017, 88080, 88081

#### 20-4 ORDER OF LAYOFFS:

(a) In the event of layoff, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class plus higher classes shall be laid off first. Regular classified employees who have been laid off shall have the right of reemployment. Reemployment shall be in the reverse order of layoff. Human Resources staff shall prepare a layoff list by class. The Chancellor or designee shall use the ratified list to affect the remainder of this Rule.

(b) Service credit shall include time on paid leave, family leave, illness leave, maternity leave, industrial accident leave, or military leave.

(c) Time served prior to a break in service shall not be counted in computing seniority unless the employee is reinstated, reemployed in regular status, or appointed in regular status from an eligibility list within thirty-nine (39) months after layoff.

(d) When reclassification results in the merger of two or more classes or the separation of a class into two or more classes, seniority of a continuing regular employee whose former class has been abolished shall be counted from the date determined by the Personnel Commission to be the date the incumbent started regularly and continuously to perform the duties identified as the basis for the reclassification. Such a determination shall be made at the time that the reclassification is approved.

(e) When all or a portion of the positions in a class is reclassified to a class on the same salary range, the extent of seniority credit to be granted incumbents of affected positions shall be determined by the Personnel Commission. The Commission will base its decision on the amount of seniority credit to be granted on the following factors and others that are pertinent to the case:

- (1) The date of any change in the class description for the employee's former or new class.
- (2) The date of any pertinent change in the classification plan.

(3) The date of any significant change in assigned duties or responsibilities as evidenced by requests for reclassification, and approval of the request for reclassification.

(4) Any date that will serve to establish the approximate date the employee first started performing the duties or responsibilities that provided the basis for reclassification of the position.

(f) An employee transferred or reclassified from one class to a higher class shall not be credited in the new class with seniority accumulated in the class from which transferred, except as provided in 20-4(d).

(g) When it is necessary to break a tie in seniority for the purpose of determining which employee is to be laid off or reassigned, the employee to be retained shall be the one who:

(1) Has the greater total seniority with the District.

(2) In case the tie remains selection shall be by who had the higher rank on the eligibility list from which the tied employees were appointed.

REFERENCE: Education Code Section 88127

20-5 BUMPING AND DISPLACEMENT RIGHTS:

(a) An employee laid off from his or her present class may displace the least senior employee in that class;

(b) The least senior employee in a class may bump into a lower class in which the employee has served previously providing the employee has more seniority in the lower class than the least senior employee in that class.

(c) An employee who cannot exercise a displacement right under 20-5(a) and/or 20-5(b) above may displace another employee in the same family, as defined by the Personnel Commission, in a lower class, providing the laid-off employee has more seniority than the least senior person in the lower class, even though the laid-off employee has not had service in the lower class;

(d) The displacement rights listed above are contingent upon the employee meeting the minimum qualifications as established by the Personnel Commission for the position. (CSEA Contract Article 35, Section 5)

20-6 VOLUNTARY DEMOTION: Displacement into a lower class shall be considered a voluntary demotion and salary placement shall be in accordance with the Rules on Salary on Demotion. An employee, after having had the opportunity to exercise all rights guaranteed under this policy, who must be laid off and placed on a reemployment list will be selected first in reverse order of layoff for the first opening occurring in any class in which that employee had seniority for a period of up to thirty-nine (39) months. The following rules shall also apply.

(a) If an employee is on any eligibility list and is laid off, that employee shall retain that position on such list until reemployed, selected, or expiration of the list.

(b) At the employee's option, return to a position in their former class or to positions with increased assigned time as vacancies become available, and with no time limit, except that they shall be ranked in accordance with their seniority on any valid reemployment list (CSEA Contract, Article 35)

(c) Laid off employees do not accumulate seniority credit while on the reemployment lists.

REFERENCE: Education Code Sections 88080, 88081, 88127

20-7 VOLUNTARY DEMOTION IN LIEU OF LAYOFF: An employee who has accepted demotion in lieu of layoff has the right to be reemployed, in accordance with seniority rules, in a vacant position in the employee's former class within thirty-nine (39) months after demotion. Intervening reassignments to other classes shall not abrogate that right. If the employee has not been reemployed in that former class within (39) months, eligibility shall be retained for appointment to a vacant position in that class without examination for an additional twenty-four (24) months, provided that the same test of fitness under which the employee qualified for appointment to the class shall still apply.

(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 of Classified Personnel.

(b) Any transfers in lieu of layoff which are being considered by exercising the options provided herein shall take precedence over the consideration of any permanent employees who have had an application for transfer on file.

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

(d) When additional hours are assigned to a regular employee the assignment shall be offered to the employee in the same class with the highest placement on the reemployment list providing the employee has more seniority than the employee given the additional hours.

REFERENCE: Education Code Sections 88080, 88081, 88127

20-8 PERMANENT EMPLOYEE RIGHTS AND PRIVILEGES:

(a) The rights and privileges described above apply to a regular employee who has:

(1) Been laid off;

(2) Been bumped by person with greater seniority to avoid layoff;

(3) Been displaced from a class because of reclassification of a position;

(4) Taken voluntary demotion to remain in the same position after reclassification;

(5) Accepted demotion, transfer, or reduction in status in lieu of layoff from the District;

(6) Returned from leave of absence and could not be assigned in the same class;

(7) Failed to complete a probationary period in a class and could not be assigned in a class in which permanency had previously been achieved;

(8) Accepted a reduction in assignment or time; or

(9) Accepted reduction in hours of employment because of the lack of bumping rights and placement opportunity.

(b) When any of the conditions described in Rule 20-8 above exist, a reemployment list shall be established. A reemployment list may be established for a class, for positions on a specific assignment basis, for full time positions, or for a combination thereof. 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. Reemployment rights exist for 39 months, except that an employee who takes a voluntary demotion or reduction in assigned time in lieu of layoff shall have an additional 24 months.

(c) A laid off employee shall retain rank on any eligibility list on which his/her name appears.

REFERENCE: Education Code Sections 88080, 88081, 88127

20-9 CERTIFICATION FROM A REEMPLOYMENT LIST: An employee shall notify the Human Resources Office of his/her intent to accept or refuse reemployment within five (5) working days following postmark of reemployment notice or PERSONAL CONTACT OF SUCH NOTICE.

(a) Persons shall be certified from a reemployment list in the reverse order of layoff, provided that the person is willing and able to report for duty on the effective date of the appointment or within 14 days after the offer of reemployment has been made, whichever is later. In cases of limited term appointments, the former employee must be willing and able to report for duty on the effective date of the appointment, or the employee will be considered unavailable for the appointment.

(b) 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 these rules or the provisions of Section 88122 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 Rule 5-24.

(c) A person whose name appears on a reemployment list may be given a medical examination prior to certification. Subject to the conditions described below, the employee may be considered unable to report for duty and may be passed over in the order of certification until the prescribed standards are met.

(1) The standards applied in the medical examination shall be no more stringent than those that would be applied to a continuing employee to determine fitness for duty.

(2) No person shall be withheld from reemployment because of a health or medical condition that existed prior to layoff or because of a normal progressive deterioration of such medical or physical condition. Such a person may be placed on illness leave or other appropriate leave after reemployment, if necessary. While on such leave, the employee shall receive seniority credit for the purpose of retention in case of future layoff. Failure to obtain a District-approved medical examination as directed at the time of layoff shall be sufficient reason to deny the benefits of this paragraph.

(3) Written notice of nonapproval and the reason therefore shall be provided to the employee, who shall be afforded and notified of appeal rights identical to those provided in Rule 5-24.

(d) If a former employee cannot meet legal requirements to perform the prescribed duties of the class of reemployment, his/her name shall be withheld from certification until those requirements are met.

REFERENCE: Education Code Sections 88080, 88081, 88127

20-10 PROBATIONARY EMPLOYEE RIGHTS: Should a probationary employee be laid off without fault or delinquency on his/her part before completion of the probationary period, the person's name shall be restored to the eligibility list.

REFERENCE: Education Code Sections 88080, 88081

20-11 LEAVE OF ABSENCE PRIOR TO LAYOFF

(a) When a layoff because of lack of funds or lack of work is about to occur, the division concerned shall, insofar as practicable, determine which classes will be affected. A list of such classes shall be furnished to both the Human Resources Division and the Personnel Commission.

(b) Any regular employee who has received notice of impending layoff may be given a leave of absence, at the discretion of the division head, from or after the date of such notice until the effective date of layoff.

(c) Rescission of the notice of impending layoff shall cancel all leaves granted under this Chapter. Employees in executive/administrative and supervisory classes shall be allowed 28 days in which to return to employment; employees in other classes shall be allowed 14 days in which to return to employment.

REFERENCE: Education Code Sections 88080, 88081, 88127

20-12 P.E.R.S. RETIREMENT IN LIEU OF LAYOFF: Regular employees who have at least five (5) years service credit under the Public Employees' Retirement System and are fifty (50) years of age or older, may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reduction in assigned time. Such employees shall complete and submit a form to the Public Employees' Retirement System. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with the Rules within this Chapter. If the District makes an offer of reemployment, the retired person shall be allowed sufficient time to request reinstatement with the Public Employees' Retirement System.

REFERENCE: Education Code Sections 88080, 88081



## CHAPTER 21 - RESIGNATIONS

### SECTION 21 RESIGNATION PROCEDURES

- 21-1 RESIGNATION DURING PROBATIONARY PERIOD: A person who resigns while in good standing during his/her probationary term may be returned to his/her original place on the eligibility list from which he/she was appointed at the discretion of the Commission so long as the list is not expired or exhausted.

REFERENCE: Education Code Sections 88080, 88081

- 21-2 RESIGNATION AND EFFECT ON ELIGIBILITY LISTS: A resignation relates only to the specific position from which the employee resigns and does not impair his/her rights on other eligibility lists, except that if his/her name is on any promotional eligibility list, it shall be removed from any such list.

REFERENCE: Education Code Section 88080

- 21-3 PROCEDURE FOR RESIGNATION OF EMPLOYEE:

SEPARATION BY RESIGNATION: Separation from the District by resignation shall be by written statement directed to the College President (or to the Chancellor for District Office employees) giving the intended last day of service.

The District Chancellor, or the Chancellor's designee, is authorized by the Governing Board to accept the resignation of any employee. The resignation shall be official and not subject to withdrawal when it has been accepted by the Chancellor or his designee. (BP 4017)

Separation by Resignation requires the following conditions and procedures:

(a) A letter from the employee addressed to the College President (or to the Chancellor for District Office employees)

(1) Stating the employee's desire to resign; and

(2) Giving the employee's intended last day of service.

(b) A letter of acceptance by the College President (or the Chancellor, as appropriate) to the employee.

The date of the letter of acceptance will be the effective date of acceptance of the resignation. Formal ratification by the Board of Trustees will occur at the next earliest meeting of the Trustees.

A resignation may not be withdrawn by an employee after the date of official acceptance by the College President or by the Chancellor.

The last day of service will be as indicated by the employee in his/her letter of resignation, subject to the approval of the College President or the Chancellor.

- 21-4 TWO WEEK NOTICE OF RESIGNATION: Classified employees are requested to provide the District with at least two (2) weeks notice. Management classified employees are requested to provide at least four (4) weeks notice to the District.



REFERENCE: Education Code Sections 88080, 88081

- 21-5 RESIGNATIONS SHALL BE SUBMITTED IN THE YEAR EFFECTIVE: A resignation shall take effect no later than the close of the fiscal year during which the resignation is received and acted upon by the Board of Trustees.

REFERENCE: Education Code Sections 88201, 88080, 88081

- 21-6 RETIREMENT UNDER P.E.R.S.: Classified working over 1000 hours per year (approximately 4 hours per day) will be covered by the Public Employees' Retirement System and Social Security. Employees wishing to retire under this system are required to submit appropriate retirement applications to the Public Employees' Retirement System. Forms will be available in the Payroll Office.

REFERENCE: Education Code Sections 88080, 88081

- 21-7 HEALTH BENEFIT CONTINUATION UPON RESIGNATION

- 21-8 C.O.B.R.A. HEALTH CONTINUATION REQUIREMENTS: Under federal law employees and their families are provided a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where coverage under the health plan would otherwise end.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985. 2. Education Code Sections 88080, 88081

- 21-9 EMPLOYEE CONTINUATION UPON REDUCTION OR LAYOFF: A classified employee who is covered by the District's health plans has the right to continuation coverage as outlined in these Rules if the employee loses his/her group health coverage because of a reduction in hours of employment, or the termination of his/her employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985. 2. Education Code Sections 88080, 88081

- 21-10 SPOUSE COVERAGE: The spouse of an employee covered by the District's health plans has the right to choose continuation coverage if the employee loses group health coverage for any of the following reasons:

(a) The death of the employee.

(b) A termination of the employee's employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations.

(c) Divorce or legal separation from the employee.

(d) The employee becomes eligible for Medicare.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

21-11 **DEPENDENT CHILD COVERAGE:** The dependent child of an employee covered by the District's health plans has the right to choose continuation coverage if the employee loses group health coverage for any of the following reasons:

(a) The death of a parent covered by the plans.

(b) The termination of a parent's employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations with the District, or reduction in a parent's hours of employment with the District which results in a loss of health benefits.

(c) A parent's divorce or legal separation.

(d) A parent becomes eligible for Medicare.

(e) The dependent ceases to be a "dependent child."

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

21-12 **RESPONSIBILITY TO NOTIFY DISTRICT IN STATUS CHANGE:** The classified employee or eligible party has the responsibility to inform the District of a marriage, divorce, legal separation, or a child losing dependent status under the District's health plans.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

21-13 **DISTRICT SHALL SEND NOTIFICATION OF RIGHTS:** When the District is notified about one of the circumstances outlined in Rules 21.2.2 - 21.2.4, the District's Administration shall notify the eligible party (employee, spouse, dependents) in writing of the right to choose continuation coverage. The eligible party shall have 60 days from the date of notification of coverage because of the events outlined in Rules 21-9 to 21-11 to inform the District in writing that continuation coverage is desired.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

21-14 **FAILURE TO ACCEPT CONTINUATION:** If an employee or eligible party eligible under these Rules for health benefits continuation coverage either opts not to accept coverage or fails to indicate that coverage is desired within the stated time lines in these Rules, the right to continue to participate in the District's group health insurance plans will be terminated.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

21-15 **REQUIREMENT TO PROVIDE SIMILAR COVERAGE:** If an employee or eligible party chooses continuation coverage, the District is required to give health benefit continuation coverage which, as of the time coverage is provided, is identical to the coverage provided under the health plans to similarly situated employees or to family members.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

21-16 LENGTH OF CONTINUATION COVERAGE PROVIDED: The eligible employee is afforded the opportunity to maintain continuation coverage for eighteen (18) months except as noted below. The employee's spouse and dependents are afforded the opportunity to maintain continuation coverage for three (3) years except as noted below. If the employee or eligible party lost group health coverage because of a termination of employment or reduction in hours of the classified employee, the required continuation coverage may be cut short for any of the following reasons:

- (a) The District no longer provides group health coverage to any of its employees.
- (b) The premium for the continuation coverage is not paid by the employee or the eligible party.
- (c) The employee or eligible party becomes an employee covered under another group health plan.
- (d) The employee or eligible party becomes eligible for Medicare.
- (e) The divorced spouse of a covered employee subsequently remarries and is covered under the new spouse's group health plan.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

21-17 NO EVIDENCE OF INSURABILITY NECESSARY: An employee or eligible party is not required to prove insurability to choose continuation coverage.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

21-18 PAYMENT OF PREMIUM: The employee or eligible party must pay the full premium for the health benefit continuation coverage, plus an additional charge not to exceed 2% for administrative expenses.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

21-19 INDIVIDUAL CONVERSION PLANS: At the conclusion of the continuation coverage eligibility period, the employee or eligible party does not have the option of participating in an individual conversion health plan provided under health plans offered by the District.

REFERENCE: 1. Federal Public Law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985 2. Education Code Sections 88080, 88081

Chapter 21  
Approved: November 20, 2007

## CHAPTER 22 - APPEAL OF MEDICAL EXAMINATIONS

### SECTION 22 APPEALS OF MEDICAL DISQUALIFICATIONS OF CLASSIFIED EMPLOYEES AND ELIGIBLES

22-1 MEDICAL DISQUALIFICATION: The Commission's Rules that provide for medical disqualification of eligibles and laid off employees and for disciplinary actions against employees are Chapters 4, 19, and 20. A summary of actions related to medical concerns that may be appealed is as follows:

- (a) Disqualification of an eligible.
- (b) Refusal of reemployment, reinstatement, or return from leave of absence based on District health standards.
- (c) Dismissal for health reasons.
- (d) Placement of an employee on involuntary illness leave.

22-2 PROCEDURE TO FOLLOW: The procedure set forth below shall be followed in the actions described in 22-1 above.

REFERENCE: Federal Public law 99-272, (100 Stat. 82) Consolidated Omnibus Budget Reconciliation Act of 1985; Education Code Sections 88080, 88081

(a) The Human Resources Office shall notify the individual in writing of the reason for the action and of the opportunity for written appeal to the Personnel Commission within fourteen (14) days. The notice shall state that appeal may be made on the grounds listed in Chapter 19 or on the basis that the disqualification was not in accord with the health standards set forth in the Rules of the Board of Trustees. If a current employee is involved, a copy of the notice shall be provided to the appropriate administrator.

(b) If appeal is made to the Personnel Commission, the appellant shall be notified that the matter will be investigated and that the appellant bears the burden of proof. The appellant shall be invited to submit, in support of the appeal and at appellant's expense, written medical or laboratory reports, x-rays, photographs, other exhibits or written statements as appropriate.

(c) The Personnel Commission shall determine whether the appeal will be the subject of a special investigation or a hearing by a hearing officer.

22-3 MEDICAL EXAMINATION: A hearing officer is the representative of the Personnel Commission and is authorized to grant or refuse extensions of time, to set proceedings for examination of facts to appoint a medical expert or specialist to examine the appellant, and to perform any and all acts in connection with such proceedings that may be authorized by these Rules. A hearing officer's findings and recommendations shall be based on health standards established by the Board of Trustees.

Expenses for the services of the hearing officer or medical expert shall be in the Personnel Commission's budget.

A hearing officer may appoint a medical expert or specialist to examine the appellant and report finds to the medical examiner or may require additional information from the appellant or the District.

Expense of a special physical examination initiated by the hearing officer shall be paid by the appellant; if the appeal is sustained, the employee shall be reimbursed by the Board of Trustees for the fees of the medical expert or specialist. The hearing officer shall report its findings and recommendations to the Personnel Commission. The Personnel Commission shall provide copies of the findings and recommendations to the appellant, and, if the appellant is an employee, to the Associate Vice Chancellor, Human Resources.

(a) The appellant shall consent to the release of all medical records requested for review.

22-4 FINDINGS & RECOMMENDATIONS: The medical examiner's or special investigator's written findings, and recommendation shall be considered by the Commission. The decision of the Personnel Commission shall be rendered in writing. Copies of the decision shall be sent to the appellant, and, if the appellant is an employee, to the Associate Vice Chancellor of Human Resources.

22-5 DECISION OF THE PERSONNEL COMMISSION: The decision of the Personnel Commission shall include instructions to the administration regarding the action to be taken as a result of the appeals. If an eligible is given health approval for employment, his/her name shall be restored or added to the eligibility list and retained on the eligibility list for certification for the balance of the life of the list. The adding of names to eligibility lists shall not invalidate appointments made from such lists from the time the lists were established until the names were restored or added.

22-6 FAILURE OF APPELLANT TO APPEAR: Failure of the appellant to appear at times established for examination of persons or facts shall be deemed a withdrawal of the appeal, and the case shall be closed.

REFERENCE: Education Code Sections 88021, 88080, 88081

Chapter 22  
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