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CHAPTER IX
EMPLOYMENT STATUS

RULE 9.0 **GENERAL PROVISIONS**

Employment status for unit members shall be made in accordance with these Rules and the negotiated labor agreement between the Santa Monica-Malibu Unified School District and the recognized employee organization.

RULE 9.1 **CERTIFICATION OF PAYROLLS**

- A. No person shall be appointed to a position in the classified service unless the position control form is certified by the Director of Classified Personnel. The Director shall certify that the assignment has been made in accordance with these Rules and the provisions of the Education Code.

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

- C. All time sheets, payroll reports, or other financial or employment documents shall be made available to the Director of Classified Personnel upon request. The Director shall periodically audit these documents to insure that assignments are in accordance with existing laws and these Rules. The Director shall immediately notify the Superintendent of any irregularities and attempt to resolve these problems.

- D. The Director of Classified Personnel shall notify the Commission when irregularities remain unresolved. The Commission may, after a public hearing, order that no warrant thereafter be drawn to the employee.

References: Education Codes 45310 and 45311

RULE 9.2 EMPLOYEE ASSIGNMENT

9.2.1 ASSIGNMENT DATA

- A. Upon initial employment and upon each change in classification thereafter, each classified employee shall be furnished:
 - 1. Their classification specification;
 - 2. Notice of salary data, including pay period and the hourly, daily, monthly, annual and overtime, and differential rate of pay, whichever are applicable;
 - 3. Work location and the duty hours, prescribed work week and work year, and
 - 4. The terms and conditions of the probationary period, including performance evaluation procedures.
- B. The employee shall sign an acknowledgement of the receipt of the assignment data. The original shall be placed in the employee's personnel file, one copy given to the employee, and one copy sent to the employee's immediate supervisor.
- C. The District shall have the right to assign and reassign daily hours of work and shifts, with the consent of the employee, to meet the operational needs of the District. When such a change is made, the employee's supervisor shall notify the employee and the Assistant Superintendent-Human Resources in writing at least five (5) working days prior to the effective date of the change.

Reference: Education Code 45169

9.2.2 ORIENTATION OF NEW EMPLOYEES

- A. Within five (5) working days of assignment, each employee shall be advised by their immediate supervisor of information relating to the employee's position, including specific duty hours, break time and lunch period, work rules and department regulations, procedure for reporting absences, terms and conditions of probation, and the procedures for performance evaluation.

9.2.3 WORK SCHEDULE

- A. The standard workweek for full-time classified employees shall consist of five (5) consecutive days of eight (8) hours or four (4) consecutive days of (10) hours.
- 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 and secure the employee's consent. Classified employees shall not be required to work Saturday or Sunday, if they certify in writing that the assignment conflicts with religious beliefs or practices.
- C. Each employee shall be entitled to one paid fifteen (15) minute break in each four hours of work.
- D. Employees that work five (5) or more consecutive hours per day are required to take a minimum one-half hour unpaid meal period, except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of the employer and employee.
- E. The starting and ending times of the work day, meal and break times shall be determined by the immediate supervisor, as provided in Rule 9.2.3.A. Meals shall be scheduled as near as possible to the middle of the work day. Breaks shall be scheduled as near as possible to the middle of the work period.

References: Education Codes 45127 and 45132

9.2.4 PART-TIME EMPLOYMENT

- A. A part-time position is an assignment of less than thirty-five (35) hours per week.
- B. Part-time employees shall be entitled to sick leave and all other benefits conferred by law on classified employees. Part-time employees shall be entitled to all leaves and benefits granted by the Board of Education. These shall be provided on a prorated basis.

Reference: Education Code 45136

9.2.5 FOUR DAY WORK WEEK

- A. The Board of Education may approve a ten (10) hours per day, four (4) consecutive day, forty (40) hour work week for individual employees or classifications of employees. The assignment to such a workweek shall be with the mutual consent of the District and the employee.

- B. Employees assigned to a ten (10) hour per day, four (4) day, forty (40) hours work week shall be eligible for overtime compensation for time worked in excess of ten (10) hours per day or forty (40) hours per week.

Reference: Education Code 45132

RULE 9.3 PROBATIONARY STATUS

9.3.1 INITIAL PROBATIONARY PERIOD

- A. Each employee shall serve an initial probationary period of six (6) months or one hundred thirty (130) working days, whichever is longer, in one (1) classification before attaining permanency in the classified service.
- B. For classifications designated by the Commission as executive or administrative the probationary period shall be twelve (12) months.
- C. Each probationary classified employee shall be evaluated three (3) times during the probationary period, as specified on the initial assignment data sheet.
- D. Credit toward completion of probation shall be granted only for service in a regular position in a classification after appointment. Probationary credit shall not include time when an employee is absent from work for ten (10) or more consecutive work days.

Reference: Education Code 45301

9.3.2 COMPLETION OF INITIAL PROBATION

- A. An employee may be disqualified from probationary status for unsatisfactory work performance upon presentation of a Notice of Disciplinary Action.
- B. An employee may be suspended and dismissed at any time for cause as stated in these Rules.
- C. A classified employee shall be given written notice from the District when disqualified from probationary status prior to the date on which the probationary period ends.
- D. When a probationary employee is to be disqualified for unsatisfactory work performance or suspended and dismissed for misconduct, the immediate supervisor shall prepare the recommendation and submit it to the Assistant Superintendent-Human Resources, who, upon approval, shall notify the employee of the action taken and the reason(s) therefore. A copy of the notice shall be filed simultaneously with the Director of Classified Personnel.
- E. A probationary employee who is to be disqualified for unsatisfactory work performance may be allowed the opportunity to resign in lieu of disqualification prior to Board of Education action.

- F. A probationary employee shall not have the right to appeal disqualification or suspension and dismissal unless the appeal is based on a claim of discrimination because of race, color, national origin, age, marital status, gender, sexual harassment, ancestry, disability, religion, or protected political or employee organizational activities.
- G. A probationary employee who resigns in good standing during the initial probationary period shall, upon request, be restored in proper rank to the eligibility list. Such action shall not extend the life of the list or the period of eligibility of the person.

Reference: Education Code 45301

9.3.3 SUBSEQUENT PROBATION FOR PERMANENT EMPLOYEES

- A. A permanent classified employee who has been promoted, reclassified, laterally transferred, or who has demoted voluntarily to a new classification, shall serve a new probationary period in the classification before attaining permanency in that classification.
- B. A permanent classified employee who has been promoted, reclassified to a higher classification, or transferred to a new classification may be involuntarily demoted or returned to his/her former classification due to unsatisfactory work performance upon presentation of a Notice of Disciplinary Action. The employee shall not have the right of appeal unless the demotion will result in separation of the employee from the classified service or the employee's appeal is based on discrimination.
- C. Suspension of a permanent classified employee serving a probationary period in a new classification shall constitute a disciplinary action and the employee shall retain the right to appeal.

Reference: Education Code 45301

RULE 9.4 PERMANENCY

9.4.1 PERMANENT STATUS

- A. Upon successful completion of the prescribed initial probationary period of six (6) months or one hundred thirty (130) days for bargaining unit classifications, or twelve (12) months for executive or administrative classifications, a classified employee shall be deemed to be a part of the permanent classified service.

9.4.2 RIGHTS, BENEFITS AND BURDENS OF PERMANENT CLASSIFIED EMPLOYEES

- A. Every permanent classified employee shall be entitled to all the rights, benefits and burdens conferred by law or by action of the Board of Education for classified employees of like classification including a vested right to their position. A permanent classified employee may be removed only for cause or due to lay-off.

Reference: Education Code 45301

RULE 9.5 TRANSFER

9.5.1 DEFINITIONS

- A. A position transfer shall mean the relocation of an employee between job sites within the same classification.
- B. A lateral transfer is the transfer of an employee to a position in a similar or related classification with the same salary range.

9.5.2 POSITION TRANSFER

- A. A position transfer may be initiated by the District Administration or at the request of the employee.
- B. Administration initiated position transfers may be made at any time to meet District needs upon approval of the Assistant Superintendent-Human Resources and the department supervisors affected and shall be governed by the following procedures:
 - 1. An employee who is about to be transferred shall be notified in writing by the Assistant Superintendent-Human Resources at least ten (10) working days prior to the effective date of the transfer.
 - 2. An employee may request a conference or written statement regarding the reasons for an involuntary transfer.
 - 3. Employees shall not be transferred for punitive or preferential reasons.
 - 4. Transfers shall not affect salary rate, sick leave or vacation balances.
- C. A permanent employee, including those on Needs to Improve status or with current unsatisfactory performance evaluations may submit a written request to the Director of Classified Personnel for transfer to positions within their current classification at any time during the work year.

Reference: Education Code 45261

9.5.3 LATERAL TRANSFER

- A. Transfer from a position in one classification to a position in another related classification shall first be approved by the Director of Classified Personnel. Determination of whether classifications are sufficiently related to permit transfer between them shall be based on the similarity of:
 - 1. Duties;
 - 2. Desirable minimum qualifications;
 - 3. Examination content, and
 - 4. Salary.
- B. A permanent employee who transfers to a position in which they have not completed a probationary period shall be considered probationary in that classification. An employee who transfers from one classification to another shall receive separate seniority credit in each of the lateral classifications.

9.5.4 TRANSFER PROCEDURE

- A. Transfer opportunities for vacant positions shall be announced to employees by a written bulletin, which shall be, distributed and posted for six (6) days at all work sites.
- B. Positions in which no transfer candidates are eligible shall be exempt from the bulletin posting.
- C. An employee may request a transfer by submitting a transfer request to the Director of Classified Personnel. During periods when school is not in session or during an approved leave of absence, a permanent employee shall be notified of transfer opportunities, provided a request has been filed with the Director of Classified Personnel.
- D. The Director of Classified Personnel shall certify the names of all qualified position transfer candidates to the hiring authority for interview. The hiring authority shall consider transfer candidates based on specific skills and qualifications and prior job performance as evidenced by the employee's most recent performance evaluation on file.

A selection may be made from the transfer candidates or the hiring authority may request the certification of eligibles from the appropriate eligibility list.

- E. The hiring authority shall notify the Director of Classified Personnel of the decision made within three (3) working days after completion of the interviews. A transfer candidate selected shall be released within ten (10) working days of the date of selection, unless otherwise agreed to by all parties. The effective date of transfer shall be communicated in writing to all parties by the Director of Classified Personnel.

- F. 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 law and these Rules.

Reference: Education Code 45278

RULE 9.6 CHANGES IN ASSIGNED TIME

9.6.1 GENERAL RULE

- A. When a classification contains permanent positions of varying hours per day, hours per week or months per year, vacant positions shall be filled certifying eligibles as provided in these Rules.

9.6.2 INCREASES IN ASSIGNED TIME

- A. When a part-time employee is required to work for thirty (30) minutes or longer per day in excess of the regular assigned time of the position for twenty (20) or more consecutive work days, the assigned time of the position shall have their basic assignment changed to reflect the longer hours in order to acquire fringe benefits on a properly prorated basis as specified in Education Code 45136.

Reference: Education Code 45137

9.6.3 DECREASES IN ASSIGNED TIME

- A. A decrease in the assigned hours per day, hours per week or months per year of an existing regular position shall be considered a lay-off for lack of funds or lack of work.
- B. When a regular assignment is to be reduced, the Assistant Superintendent-Human Resources shall process the reduction in accordance with the lay-off procedures in these Rules.
- C. Employees whose assignment has been reduced shall have the opportunity to voluntarily accept the reduction in order to remain in their positions.
- D. Employee requests for voluntary reduction in assignment will be processed with requests for voluntary demotion under these Rules.

Reference: Education Code 45298

RULE 9.7 DEMOTION AND REINSTATEMENT

9.7.1 VOLUNTARY DEMOTION

- A. A permanent employee may request a voluntary demotion to a vacant position in a classification with a lower salary rate, provided that:
1. The employee had previously achieved permanent status in that classification, or
 2. The request for demotion is to a related classification in the same occupational group.

The request shall be approved by the Director of Classified Personnel.

- B. In lieu of layoff, an employee may take a voluntary demotion or a reduction in assigned time in order to remain in their present position rather than being reassigned.
- C. In lieu of layoff, a voluntary demotion is available to a probationary employee, who does not hold permanent status in the District.
- D. An employee who demotes to a classification in which he/she does not hold permanency shall complete the appropriate probationary period in the new classification.
- E. Salary placement for employees who demote to a classification with a lower salary rate shall be in accord with these Rules.

Reference: Education Code 45272

9.7.2 INVOLUNTARY DEMOTION

- A. Involuntary demotion is a disciplinary action for cause and is subject to the disciplinary procedures in these Rules.
- B. A permanent employee who has been promoted or reclassified to a higher classification, or transferred to a new classification may be involuntarily returned to a vacant position in their former classification, during the probationary period, due to unsatisfactory work performance without the right of appeal.
- C. If no vacant position is available, a permanent employee may submit a reinstatement request to the Director of Classified Personnel.
- D. Salary placement upon involuntary demotion shall be in accord with these Rules.

Reference: Education Codes 45302 and 45304

9.7.3 REINSTATEMENT

- A. An employee who has taken a voluntary demotion may be reinstated to a vacant position in their former classification within thirty-nine (39) months. Reinstatement shall be discretionary with the appointing authority.
- B. Salary placement shall be in accordance with these Rules.

Reference: Education Code 45298

RULE 9.8 ASSIGNMENT OF DISABLED EMPLOYEES

9.8.1 GENERAL RULE

- A. When a permanent employee becomes unable to perform the duties of their classification because of illness or injury as determined by medical authority approved or designated by the Board of Education, the District may reassign the employee to new duties within the employee's capabilities. Re-assignment shall be at the discretion of the District, with the approval of the Commission as noted in this Rule.

Reference: Education Code 45279

9.8.2 REASSIGNMENT

- A. A disabled employee's duties may be altered in accordance with the disability. Such changes in duties shall be reported to the Director of Classified Personnel and are subject to classification by the Commission.
- B. A disabled employee may accept demotion or transfer to a less demanding classification, with the approval of the Commission.
- C. A disabled employee may be assigned to a position in a higher classification, with the approval of the Commission, but shall receive no salary benefit from such assignment unless appointed from an eligibility list resulting from a competitive examination.

Reference: Education Code 45279

9.8.3 EFFECT OF REFUSAL BY EMPLOYEE

- A. A disabled employee may refuse assignments to other classifications without affect on their rights under sick leave provisions of the law and these Rules. However, there is no obligation for the appointing authority to renew offers of reassignment which have been refused or to make alternative offers.

RULE 9.9 EMPLOYEE PERSONNEL FILE

9.9.1 GENERAL RULE

- A. The District shall maintain an official employee personnel file for each classified employee. The file shall be confidential.

- B. The employee personnel file shall be available for inspection by the Superintendent, the Assistant Superintendent-Human Resources and the Director of Classified Personnel and designated members of their staffs, the immediate supervisor above the employee and the employee and their representative. To inspect the personnel file, the employee shall request approval from their supervisor for release time, if necessary, and make arrangements with Human Resources.

- C. Materials in the employee's personnel file which may affect the status of employment are available for inspection by the employee, except that, such materials shall not include confidential ratings, reports or records which were:
 - 1. Obtained prior to the person's employment;
 - 2. Prepared by examination committee members, or
 - 3. Obtained in connection with a promotional examination.

- D. Whenever information of a derogatory nature is to be placed in an employee's personnel file, they shall first be given written notice that they have five (5) working days to review the information and submit a written response and place it in their personnel file. Such review shall take place during normal business hours and without loss of pay to the employee.

References: Education Code 44031; Government Code 6250