

# MERIT RULES

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## CHAPTER I

### PRELIMINARY STATEMENT AND DEFINITION OF TERMS

- Rule 1.1            PREAMBLE: THE MERIT SYSTEM
- 1.1.1            STATUTORY AUTHORITY FOR THESE RULES AND REGULATIONS
- A.            The Rules contained herein are established pursuant to the authority of the Personnel Commission under Article 6 (commencing with Section 45240) of the Education Code and other provisions of the Education Code applicable to school districts that have adopted the merit system.
- 1.1.2            CONTENT OF RULES (EDUCATION CODE 45260, 45261)
- A.            The Rules shall provide for procedures to be followed by the Board of Education as they pertain to the classified service regarding application, examination, eligibility, appointment, promotion, demotion, transfer, dismissal, resignation, layoff, reemployment, vacation, leaves of absence, work hours and overtime compensation within classification, job analysis and job specifications, performance evaluation, 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 Act.
- 1.1.3            INTERPRETATION AND APPLICATION OF RULES (EDUCATION CODE 45260, 45261)
- A.            The commission shall prescribe, amend and interpret such Rules as may be necessary to insure the efficiency of the classified service and selection and retention of employees on the basis of merit and fitness.
- B.            The Commission recognizes that no set of Rules can contemplate all possible combinations of circumstances affecting particular cases. The Rules are to be applied with consideration of their intent and shall not preclude the Commission from approving the waiver of a specific Rule provision where special circumstances require it. The Commission is open to responsible suggestions to

amend the Rules; however, no Rule amendment or to Rule shall be applied retroactively.

- C. No Rule or amendment which could affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the Commission until the exclusive bargaining representative and the public school employer are given reasonable notice.
- D. If the subject matter and procedure in a Rule is within the scope of representation, as defined in Government Code 3543.2, the Rule shall be applicable as follows:
  - 1. if a Rule provides for a benefit and a collective bargaining contract does not provide for that benefit, the benefit shall not be available to employees in the unit unless the benefit is required by law or
  - 2. if a Rules prescribes a procedure and a contract does not, the Rule shall apply to employees in the unit.

#### 1.1.4 TERMINOLOGY (EDUCATION CODE 72, 74, 75)

- A. As used in these rules, the present tense includes the past and future tenses and the future tense includes the present. Singular terms shall include the plural and plural terms shall include the singular. Shall is to be construed as mandatory and may is permissive.

#### 1.1.5 JUDICIAL REVIEW

- A. If a judicial review or a change in the law invalidates any portion of these Rules, such finding or amendment shall not affect the validity of other Rules.

#### 1.1.6 ENFORCEMENT OF THE RULES AND REGULATIONS (EDUCATION CODE 45260, 45311)

- A. The commission shall enforce the provisions of these rules and hold such hearings and conduct such investigations as may be necessary.

Rule 1.2 AMENDMENT, DELETION OR ADDITION TO RULES  
1.2.1 MERIT RULES ADVISORY COMMITTEE (EDUCATION CODE 45260)

- A. All proposals to amend, delete or add to these Rules, unless directed by the Commission, will be presented to the Merit Rules Advisory Committee for review and comment before presentation to the Commission.
- B. The Merit Rules Advisory Committee shall consist of a representative from each classified employee unit, namely:
  - 1. Operations Support
  - 2. Office, Technical and Business Services
  - 3. Instructional Assistant and Paraprofessional
  - 4. Classified Management/Supervisory

Additionally, the Superintendent may appoint a District Administrator to serve on the Committee.

1.2.2 PROCEDURE FOR AMENDMENT, DELETION, OR ADDITION TO RULES (EDUCATION CODE 45260)

- A. After review by the Merit rules Advisory Committee, all proposals to amend, delete or add to these Rules will be presented to the Commission as a “first reading” and shall include a recommendation by the Director of Classified Personnel.
- B. All Rule proposals shall be distributed to all departments where classified employees are assigned and notification of the proposals shall be made to Administration and the classified employees exclusive bargaining representative(s) before final approval.
- C. A period of at least two (2) weeks shall elapse between the first reading of a new Rule or proposed amendment of an existing Rule, and its final adoption. If the Commission declares an emergency, final action may be taken after the lapse of one week. A special bulletin to all departments shall precede any emergency action.

- D. Rules of the Commission requiring the expenditure of funds by the Board shall be submitted to the Board for concurrence.

Rule 1.3 DEFINITION OF TERMS

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

ALLOCATE OR ALLOCATION:	The official placing of a position in a given class assigned to a particular range on the salary schedule.
ANNIVERSARY DATE:	The day on which an employee completes the prescribed amount of service in the District to qualify for longevity benefits such as longevity pay or additional vacation. Anniversary dates shall be on the first day of the month and breaks in service and unpaid absences of two months or more shall not be credited.
APPEAL:	A protest by an employee regarding an administrative action which is detrimental to the employee.
APPLICANT:	A person who has filed an application for employment.
APPOINTING AUTHORITY:	The Board of Education of the Santa Monica-Malibu Unified School District, the Personnel Commission or their designees.
APPOINTMENT:	The official act of the appointing authority in approving the employment of a person.
ASSISTANT SUPERINTENDENT, HUMAN RESOURCES	The Assistant Superintendent, Human Resources is employed by the Board of Education to have responsibility for such classified personnel activities as assignments, disciplinary actions, establishment of positions and hearing of contract grievances.
BOARD:	The Santa Monica-Malibu Unified School District Board of Education.
CANDIDATE:	A person who has successfully completed one or more portions of an examination.

CAUSE:	The grounds for a disciplinary action by the Board against an employee as stated in state law, written Policies of the board and/or the written Rules of the Commission.
CERTIFICATION:	The submission of names of eligibles from an appropriate list to the appointing authority.
CLASS:	A group of positions whose duties and responsibilities are sufficiently similar so that the same descriptive title may be used to designate each position to the class; substantially the same requirements of education, experience, knowledge and ability are demanded of incumbents; substantially the same tests of fitness may be used in choosing qualified appointees; and the same salary range may be applied with equity.
CLASS SPECIFICATIONS:	A written statement of the duties and responsibilities of the positions in the class, illustrated by examples of typical tasks and of the qualification requirements of the positions in the class.
CLASSIFIED SERVICE	All employees of the District not requiring certification and not specifically e exempted by law.
CLASSIFY OR CLASSIFICATION:	To assign or the assignment of a position to a class, whether new or existing, because of the position's qualifications, duties and responsibilities.
COMMISSION:	The Personnel Commission of the Santa Monica-Malibu Unified School District.
DEMOTION:	The change of assignment of an employee from a position in one class to a position in another class with a lower maximum salary rate.
DIRECTOR OF CLASSIFIED PERSONNEL	The Director of Classified Personnel is employed by the Commission to act a Secretary to the Commission and to have responsibility for such classified personnel activities as examinations, job classification, Rules development, assignment auditing, hearings and appeals.
DISCHARGE OR DISMISSAL:	Involuntary separation from service for cause.

DISCIPLINARY ACTION:	An action by the Board to deprive a regular employee of his/her position or salary entitlement without his/her consent. This includes suspension, demotion or salary reduction and dismissal.
DISTRICT:	The Santa Monica-Malibu Unified School District.
ELIGIBLE:	<i>Adjective:</i> Legally qualified to be appointed. <i>Noun:</i> A person whose name appears on an eligibility list.
ELIGIBILITY LIST:	A list of the names of persons who have qualified in all parts of an examination.
EMPLOYEE ORGANIZATION:	An organization which represents all or part of the employees in their relations with the District.
ENTRY LEVEL CLASS:	The class with the lowest salary range in a job family.
EXAMINATION:	The process of testing and evaluating the fitness and qualifications of applicants.
EXCLUSIVE REPRESENTATIVE:	The employee organization recognized or certified by PERB which exclusively represents an approved unit of employees.
FULL-TIME:	An employee assigned to work 35 or more hours per week.
GOVERNING BOARD:	The Santa Monica-Malibu Unified School District Board of Education.
GRIEVANCE:	The procedure through which regular classified employees may seek adjustment of complaints arising out of alleged violations of Board or Commission Rules or Policies or administrative procedures, working conditions or job relations, including a complaint of one employee against another. (Rule 16.1)
HEARING:	The formal meeting of the Commission at which evidence is presented concerning an appeal from disciplinary action, on investigation by Commission staff or a grievance by an employee.

INCREMENT DATE:	The date on which an employee becomes eligible for salary advancement. (Rule 12.2.5)
JOB ANALYSIS:	The technical process by which positions are studied to define what tasks are performed on the job or will be assigned to a new position and to determine the knowledge, skills, abilities and behaviors which are required for successful job performance. It is used as a basis for classifying positions and developing selection plans.
JOB FAMILY:	A group of classifications having similar job characteristics.
LATERAL TRASFER:	The transfer of an employee to a position in a similar or related class with the same salary range. (Rule 9.5.3)
LAYOFF:	Separation from a regular position because of lack of work, lack of funds or because an employee has exhausted all leave privileges after illness or injury . (EDUCATION CODE 45102, 45191)
LIMITED TERM POSITION:	A position established for a fixed period which does not exceed six months.
MAY:	A verb indicating that an action is permissive.
MERIT SYSTEM:	A personnel system in which merit and fitness govern each individual's selection and progress in the service.
MINIMUM QUALIFICATIONS:	The statement of the qualifications which are determined to be minimally required and additionally helpful for successful performance of the duties of the class. The statement may include education, experience, knowledge, skill, ability and personal and physical characteristics.



MULTIPLE ASSIGNMENT:	A part-time limited-term assignment and a part-time regular classified assignment or two regular part-time classified assignments performed by one incumbent.
OPEN EXAMINATION:	A competitive examination in which any qualified person may participate.
PART-TIME:	Any employee assigned to work less than thirty-five (35) hours per week.
PERB:	Public Employment Relations Board.
PERS:	Public Employees Retirement System.
PERMANENT EMPLOYEE:	An employee who has completed a probationary period in any class.
PERMANENT POSITION:	A position established for a continuing and indefinite or unlimited period of time or for a fixed period in excess of six months.
POSITION:	A group of duties and responsibilities assigned by the Board requiring the full or part-time employment of a person on a permanent or limited term basis.
POSITION TRANSFER:	The relocation of an employee between job sites within the same classification.
PROBATIONARY PERIOD:	A trial period of six (6) months or one year, as determined by the Commission, immediately following an appointment to a regular position.
PROMOTION:	A change of assignment of an employee from a position in one class to a position in a class with a higher maximum salary rate.
PROMOTIONAL LIST:	An eligibility list resulting from an examination limited to qualified permanent employees only.
PROVISIONAL ASSIGNMENT:	The temporary appointment of a qualified person to fill a position for which no appropriate employment list exists, pending an examination. Provisional appointments shall not exceed ninety (90) working days, except as specified in Education Code 45287, 45288, 45289.

RANGE:	A series of consecutive salary steps that comprise the rate of pay for a class.
RANKS, RULE OF THREE:	The scope of choice available to an appointing power in making a selection from an eligibility list. Selection is from among those eligibles having any of the three highest scores who are ready and willing to be appointed to a specific position
REALLOCATE OR REALLOCATION:	To reassign or the reassignment of a position from one class to another because of significant change in duties or responsibilities.
RECLASSIFY OR RECLASSIFICATION:	To reassign or the reassignment of a position from one class to another because of significant change in duties or responsibilities. (Rule 3.3)
RE-EMPLOYMENT:	Reappointment of an employee who has been laid off within thirty-nine (39) months. The thirty-nine (39) month period shall be extended by twenty-four (24) months when an employee has accepted a lower position in lieu of layoff. (Rules 9.7.3 and 13.4.1)
RE-EMPLOYMENT LIST:	A list of names of persons who have been layed off from permanent positions for lack of work, lack of funds or exhaustion of benefits. Persons on a re-employment list have the right to the next vacant position in their classification. (Rule 6.1.5)
REGULAR EMPLOYEE:	An employee in the classified service who has probationary or permanent status.
REINSTATEMENT:	A reappointment to a vacant position in a former class.
RESIGNATION:	Voluntary termination of employment.
RESTORATION:	The reassignment of an employee to his/her former class or status after a voluntary or involuntary demotion or reduction.

RESTRICTED EMPLOYEE:	An employee hired in a position which is limited to the employment of persons from low-income groups or designated geographical areas. Such employees are part of the classified service but do not receive permanent status, seniority or promotional opportunities. (Rule 3.1.6)
SALARY RANGE:	A series of consecutive salary steps that comprise the rate of pay for a class.
SALARY RATE:	A specific amount of money paid for a specific period of service: i.e. dollars per hour or per month.
SALARY SCHEDULE:	The complete list of ranges, steps and rates established for the classified service.
SENIORITY:	The total number of hours in paid status in a class plus higher classes, exclusive of overtime.
SEPARATION:	The termination of employment of an employee.
SERIES:	A number of classes closely related in an occupational hierarchy.
SHALL OR WILL:	These verbs indicate that the action is mandatory.
STATUS:	The condition of an employee's present appointment such as provisional, part-time, probationary, limited-term or permanent.
SUBSTITUTE EMPLOYEE:	An employee occupying a permanent position during the absence of the incumbent..
SUSPENSION:	An involuntary absence without pay for disciplinary purposes or pending investigation of charges pursuant to Education Code 45304.
TEMORARY EMPLOYEE:	An employee hired on a basis other than permanent or probationary: i.e. in limited-term or provisional status.
TRANSFER-POSITION:	The reassignment of an employee without examination from one position to another position in the same class.

UNCLASSIFIED  
SERVICE:

All positions not in the classified or certificated service: i.e. those positions exempted by law. (Rule 3.1.2)

WAIVER:

The voluntary relinquishment by an individual of any right to consideration for appointment from an eligibility list.

WORKING OUT OF  
CLASS:

Assignment of additional or new duties to an employee which are not a part of his/her regular position and which require the use of a higher skill. Working out of class assignments are compensated only when the assignment exceeds five (5) out of fifteen (15) consecutive calendar days. (Rule 3.2.9)

Y-RATED:

A term applied to the salary of an employee, when frozen, until the salary schedule rises to or above the dollar amount frozen. (Rule 3.3.3B)

## CHAPTER II

### THE PERSONNEL COMMISSION

Rule 2.1 COMMISSION ORGANIZATION AND PROCEDURE – BY LAWS

2.1.1 ORGANIZATION

- A. The Personnel Commission of the Santa Monica-Malibu Unified School District shall consist of three (3) members.

Reference: Education Code Sections 45243, 45247

2.1.2 APPOINTMENT

- A. By law, the term of each Commissioner is for three (3) years and expires at noon, December 1. The term of one (1) Commissioner expires each year. On or about September 1 of each year, the Director of Classified Personnel shall notify the Governing Board of the name of the Commissioner whose term will expire and whether or not he/she will seek re-appointment.

The following steps shall be followed when the Personnel Commission announces there is a vacancy on the Commission.

1. The Commission will set an application period and will advertise the opportunity to serve as a Personnel Commissioner through an announcement on the Personnel Commission's agenda, a press release, and online.
2. The Commission will notify the Board of Education, any recognized classified bargaining units, confidential classified employees, classified managers, at least one major parent association, and the community, about the application period and opportunity for a representative from their group to participate on the Commissioner Selection Panel. The opportunity will be announced through District email and a classified advertisement in at least one local newspaper for both Santa Monica and Malibu.
3. Applications will be available in the Personnel Commission Department and through the District website.

4. All candidates must submit a complete application by the deadline.
5. The Secretary to the Personnel Commission (Director of Classified Personnel) will screen the applications received by the deadline to determine if the applicants meet the following minimum requirements:
  - a. Known adherent to the principles of the merit system;
  - b. Legal resident and registered voter within the geographic boundaries of the School District;
  - c. Not an active employee in SMMUSD, including membership on the Board of Education
6. The Commission will schedule applicants who meet the minimum qualifications to participate in a structured interview with the Commissioner Selection Panel.
7. The Commissioner Selection Panel shall be composed of not more than one representative from any of the following groups: recognized classified bargaining units, confidential employees, classified managers, the Board of Education, the Personnel Commission, one major parent association, the community of Santa Monica, or the community of Malibu. The Panel will score the applicants based upon their responses to the interview questions.
8. The Commission will submit the name of the candidate selected by the Commissioner Selection Panel to the Board of Education for official approval of the nomination. The name will be placed on the agenda at a regular or special Board of Education meeting with a rationale describing the steps taken to recruit the nominee.
9. The Board shall take action to approve the candidate recommended by the Selection Panel as the District's official nominee to the State Superintendent of Public Instruction
10. The Commission staff will submit a Nomination Package to the Office of the State Superintendent. The Package will consist of a statement of Board approval, a copy of the approved Board agenda item regarding the nomination, a statement of consent from the recognized classified

bargaining unit, the initial Commissioner job posting, and the nominee's application used in the recruitment.

Reference: Education Code Sections 45240, 45244, 45248, 45249

### 2.1.3 TERMS OF OFFICE

- A. The term of each Commissioner is for three (3) years and expires at noon, December 1. The term of one Commissioner expires each year. On or about September 1 of each year the Director of Classified Personnel shall notify the Board and concerned employee groups of the name and home address of the Commissioner whose term will expire and whether he/she will accept reappointment. The notification shall also list the appointing authority.

Reference: Education Code Sections 45247

### 2.1.4 ELECTION OF OFFICERS

- A. At the first meeting following December 1 of each year, the Commission shall elect one (1) member as Chairperson and one (1) member as Vice Chairperson to serve a term of one year or until a successor is duly elected. The Chairperson shall be the presiding officer of all regular and special meetings. In the event of the absence of the Chairperson, the Vice Chairperson shall preside.

### 2.1.5 REMOVAL OF A COMMISSIONER

- A. A member of the Commission shall be deemed to have vacated the seat on the Commission if any of the following circumstances occur:
  - 1. The death of the Commissioner.
  - 2. An adjudication 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 his/her term.
  - 3. The Commissioner's resignation.
  - 4. The Commissioner's removal from office by a court of competent jurisdiction.
  - 5. The Commissioner's absences exceed five (5) total regular meetings in a fiscal year, except when prevented by illness or other excused absence.

6. Commissioner's conviction of an offense involving a violation of the official duties of a commissioner as required by these rules and law or a conviction of an offense that would preclude employment in a public school.
7. The Commissioner becomes an employee of SMMUSD.
8. The Commissioner is elected or appointed to the SMMUSD Board of Education.

In addition, if a Commissioner violates the confidentiality of a closed session, the remaining Commissioners may consider removing said Commissioner from the Commission.

- B. A written accusation regarding willful or corrupt misconduct by a Commissioner may be presented to the Grand Jury of Los Angeles County.

Reference: Government Code 3060

Rule 2.2 MEETINGS

2.2.1 REGULAR MEETINGS

- A. The Commission shall hold a regular meeting once each month. At least seventy-two (72) hours prior to the regular meeting, the Commission shall post an agenda containing the date and location of the meeting and brief descriptions of each matter to be considered or discussed on the Commission's official bulletin board and website.
- B. The schedule of regular meetings for each fiscal year shall be adopted by the Commission at a regular meeting before the start of each fiscal year and shall be posted on the Commission's official bulletin board and in each meeting agenda.

Reference: Government Code 54953

2.2.2 SPECIAL MEETINGS

- A. The Commission may hold special meetings. At least twenty-four (24) hours prior to the special meeting, the Commission shall post an agenda containing the date and location of the meeting and brief descriptions of each matter to be considered or discussed.
- B. The Secretary of the Commission may call a special meeting of the Commission whenever he/she considers it necessary. He/she



shall call such a meeting if requested to do so by the Chairperson of the Commission.

- C. The members of the Commission shall be notified of each special meeting by written notice delivered to them personally, or by mail, at least twenty-four (24) hours in advance of the meeting. The time and place shall be specified. Only those items of business listed in the special agenda will be considered at the meeting.
- D. Newspapers, radio stations, and other agencies specified in Government Code 54956 shall be notified twenty-four (24) hours in advance of special meetings if they have requested such notification prior to the meeting.

Reference: Government Code 54956-54956.5

### 2.2.3 ADJOURNMENT

- A. The Commission may adjourn any regular meeting to a specified time and place.

### 2.2.4 PUBLIC MEETINGS

- A. All regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meetings of the Commission except as provided in Rule 2.2.5. This Rule shall not be construed as permitting employees to be absent from duty to attend Commission meetings without proper authorization, unless such employee has business before the Commission.
- B. Individual employees, employee organizations, and other interested parties may submit their written views on any matter before the Commission and will be granted five (5) minutes to present their views at the appropriate time in the meeting.

Reference: Government Code 54953

### 2.2.5 CLOSED SESSIONS

- A. Other provisions of the Brown act authorizing closed sessions (for example, real estate negotiations) do not apply to the Personnel Commission. Items to be discussed in closed sessions must be on the agenda and must include the reason for the closed session.

Closed sessions should include only commissioners, plus any additional support staff required. No one in attendance at a closed session may disclose confidential information acquired by being present in the closed session unless authorized by the body to disclose the information.

- B. The items to be deliberated shall be limited to personnel matters: i.e., appointment, employment and eligibility lists, evaluation of performance, charges or complaints of misconduct, and hearings on disciplinary action. Action taken while in closed session, and the roll call vote therein, shall be reported at the conclusion of the closed session upon reconvening to open session, or at the next public meeting.
- C. The Commission may also meet in closed session to consult with its legal counsel.

Reference: Government Code 54954.5, 54957-54957.1, 54963

## 2.2.6 RULES OF ORDER

- A. The Commission shall be governed by the Rules of Order approved by the Commission.

## 2.2.7 ORDER OF BUSINESS AND AGENDA

- A. The order of business at each meeting of the Commission shall be established in the agenda for the meeting.
- B. The Secretary to the Commission shall prepare an agenda for all regular and special meetings. The agenda shall be delivered to each Commission member at least seventy-two (72) hours before regular meetings and at least twenty-four (24) hours before special meetings.
- C. A copy of the official agenda shall be provided to the Assistant Superintendent of Human Resources and the designated representative of any recognized classified employee organization(s). The designee shall be identified in writing to the Commission.

Reference: Government Code 54957.5

## 2.2.8 PUBLIC COMMENTS

- A. Any person may address the Personnel Commission on any item appearing on the meeting agenda.
- B. The “Public Comments” agenda item is designated as the time when members of the audience may address the Personnel Commission on items not scheduled on the meeting agenda.
- C. The Commission will allow the individual five (5) minutes to make a presentation. Additional time may be allowed by majority consent of the Commission.
- D. Action shall not be taken on items not posted in accordance with the Brown Act.

2.2.9 QUORUM

- A. Two (2) members of the Commission shall constitute a quorum and may transact business.

2.2.10 RECORDING OF MOTIONS

- A. Motions or resolutions shall be recorded as having passed or failed. Dissenting votes shall be recorded if the action is not unanimous.

2.2.11 MINUTES

- A. The Secretary to the Commission shall record in the minutes the time and place of each meeting, the names of the Commissioners present, all official acts of the Commission, and votes of the Commissioners. When requested, a Commissioner’s dissent or approval and his/her reasons shall be recorded. The minutes shall be written and presented for correction and approval at the next regular meeting. The minutes or a true copy thereof shall be open to public inspection. A copy of the official minutes shall be provided to the designated representative of any recognized classified employee organization(s). The designee shall be identified in writing to the Commission.

Reference: Government Code 54957.5

2.2.12 PAYMENT FOR MEETING ATTENDANCE

- A. Each Commissioner shall receive the sum of \$50.00 for each meeting attended, including regular, adjourned or special meetings but not to exceed a total of \$250.00 per month.

Reference: Education Code Section 45250

Rule 2.3 COMMISSION EMPLOYEES

2.3.1 STATUS OF COMMISSION EMPLOYEES

- A. The Commission shall appoint the Director of Classified Personnel.
- B. The Commission shall appoint all employees paid from funds budgeted for the support of the Commission, who shall be considered classified employees of the District and accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the District, including representation by the recognized classified employee organization(s) representative, if any.
- C. The Director of Classified Personnel shall be responsible for conducting classification, salary, and rules studies; for planning and administering examinations; for selecting classified employees, monitoring the assignment, and transfer of employees by the Board; for conducting such other investigations of protests and non-contractual grievances as directed by the Commission, and for investigating such other matters as he/she deems necessary. He/she may be designated as a hearing officer in accordance with Education Code 45312.
- D. In cases where two (2) or more rules appear to be in conflict, or when no Rule provides a clear-cut answer to a problem, the matter shall be decided by the Director of Classified Personnel, subject to appeal to the Commission.

Reference: Education Code Section 45264

Rule 2.4 MISCELLANEOUS PROVISIONS

2.4.1 BUDGET

- A. The Director of Classified Personnel shall prepare and submit a proposed operating budget to the Commission for the next fiscal year. The budget shall be submitted not later than the appropriate Commission meeting in April.

- B. The Commission shall designate a meeting in May at which a public hearing on its proposed budget will be held. At the time the Commission schedules the public hearing a copy of the proposed budget shall be forwarded to the Board notifying the Board of the time, date and place of the public hearing. Board and administration representatives shall be invited to attend the public hearing and present their views on the proposed budget.
- C. Prior to adoption of its budget, the Commission will hear and fully consider all comments and suggestions that may be offered by District administration, the Board, or other concerned persons or organizations. Efforts shall be made to resolve any differences that may exist between the Commission and the Board.
- D. Upon approval by the Commission, the budget shall be submitted to the County Superintendent of Schools for approval.
- E. Upon approval by the County Superintendent of Schools, the Commission budget shall be incorporated into the budget of the District.

Reference: Education Code Section 45253

#### 2.4.2 ANNUAL REPORT

- A. The Director of Classified Personnel shall prepare an annual report of Commission activities. Upon approval by the Commission, the annual report shall be submitted to the Board.
- B. The report shall be prepared for Commission approval as soon after each fiscal year as possible and no later than the last meeting in September. The report shall cover all significant Commission activities for the preceding fiscal year.

Reference: Education Code Section 45266

#### 2.4.3 COUNSEL FOR THE COMMISSION

- A. The legal counsel of the Board shall aid and represent the Commission in all legal matters. If the legal counsel does not respond to a written 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. The legal counsel shall refuse to represent the Commission in circumstances in which the counsel knows, or has reason to know, that at the time the request is made a conflict exists between the interests of the Commission and the interests of the Board or the District.
  
- C. If the legal counsel of the Board refuses to represent the Commission or if the Commission determines that a conflict of interests exists with the legal counsel, the Commission may employ its own attorney to be paid from the general funds of the District.

Reference: Education Code Section 45313

#### 2.4.4 OFFICE ACCOMMODATION

- A. The Board shall provide the Commission with suitable office accommodations.

Reference: Education Code Section 45252

## CHAPTER III: CLASSIFICATION

### RULE 3.1

#### THE CLASSIFIED SERVICE

- Section 3.1.1 Positions Included
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#### RECLASSIFICATION

- Section 3.3.1 Reclassification of Positions
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## CHAPTER III

### CLASSIFICATION OF EMPLOYEES AND POSITIONS

#### RULE 3.1 THE CLASSIFIED SERVICE

##### 3.1.1 POSITIONS INCLUDED

- A. All positions not required by law to have certification qualifications or which are specifically exempted in these Rules shall be designated as classified. All employees serving in classified positions shall be classified employees and the employees and the positions shall be known as the classified service.
- B. In no case may any individual be appointed or paid from District funds, when that individual's contribution consists solely of individual personal services that are normally performed, or could be reasonably expected to be performed, by classified employees.
- C. Nothing in this section shall be construed to prohibit the employment of any individual in a position described by this section as a part of the classified service who is in possession of certification qualifications, nor shall the possession of certification qualifications be grounds for the elimination of an individual for consideration for employment in such a position.

Reference: Education Code Sections 45104 and 45105

##### 3.1.2 EXEMPTION FROM THE CLASSIFIED SERVICE

###### A. General Exemptions

The following shall be exempt from the classified service:

1. Positions which require certification qualifications;
2. Full-time students who are employed on a part-time basis;
3. Part-time students who are employed part-time in any college work study program, or in a work experience program conducted by a community college district and financed by state or federal funds;
4. Apprenticeship positions;
5. Professional experts employed on a temporary basis for a specific project by the Board or by the Commission, when so designated by the Commission; and



6. Part-time playground positions where the employee is not otherwise employed in a classified position. Part-time playground positions shall be considered part of the classified service when the employee in the position also works in the same school district in a classified position.

**Reference: Education Code Sections 45103.1, 45256 and 45263**

**B. Special Categories**

The Board may create positions of staff assistants or field representatives to directly assist the Board or individual Board members. Such positions, if created, are exempt from provisions of these Rules insofar as they relate to position classification, recruitment, employment, and salary setting.

Persons employed in such positions shall be members of the classified service for all purposes except that they may not achieve permanency in the classified service. Staff assistants shall serve at the pleasure of the Board. A field representative shall serve at the pleasure of the individual Board member.

If a permanent classified employee is appointed to serve in such an exempt position, the employee shall retain status as a permanent employee. If the employee is terminated from the exempt position, the employee shall have bumping rights in the employee's former class in the same manner as if the employee had been laid off for lack of work or lack of funds.

**Reference: Education Code Section 45112**

**C. Community Representatives**

Positions established for the employment of community representatives in an advisory or consulting capacity for not more than ninety (90) working days in a fiscal year shall be exempt from the classified service provided that:

1. The authorized duties are not those normally assigned to a class of positions in the classified service;
2. The authorized duties are approved by the Commission in advance of employment, and
3. The regular classified employee of the school district shall not receive a concurrent appointment to such a position.

**Reference: Education Code Section 45258**

**D. Senior Management**

1. The Board may designate certain positions as senior management of the classified service. The decision of the Board shall not be negotiable but shall be subject to review by the Public Employment Relations Board.
2. Employees whose positions are designated as senior management shall be afforded all rights, benefits and burdens of the classified service, except they shall not gain permanent status.
3. Positions shall be filled from an unranked list of eligibles who have demonstrated managerial ability and been found qualified as specified by the Superintendent and determined by the Commission.
4. Notice of reassignment or dismissal shall be in accordance with Education Code 35031.

**Reference: Education Code Section 45256.5**

**3.1.3 EFFECT OF EXEMPTION**

- A. Any position or employee lawfully exempted from the classified service shall be excluded from the benefits and burdens imposed by these Rules, except as provided by the law or the Board.
- B. The Director of Classified Personnel shall be responsible for interpreting this policy regarding the employment of classified personnel.

**3.1.4 PROFESSIONAL EXPERT ASSIGNMENTS**

- A. When a professional expert assignment is to be made, the administration shall submit to the Director of Classified Personnel a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to the assigned employee, nor shall a limited-term position be filled by a professional expert if the duties and responsibilities fit an existing class.
- B. In order to be exempted from the classified service as a professional expert, an individual must be recognized as such by reputable members of the individual's own profession as evidenced by one of the following:
  1. Approval of a committee of members of the individual's own profession;
  2. Certification of license to practice that profession by a government agency, if such license is established;
  3. Listing in professional publications where individuals are chosen for listing by members of their own profession;

4. By membership in professional honor societies limited to that profession;
  5. By advanced degrees from a recognized university with a major in the field of that profession, or
  6. By equivalent criteria acceptable to the Commission.
- C. Evidence of professional qualifications must be presented to the Commission at the time the written request for temporary appointment is made. Professional experts may be hired for a "limited-term" project (i.e., a maximum of ninety (90) working days during the current fiscal year). A supervisor may request an extension of an additional ninety (90) working days during the current fiscal year. Additional service required shall be subject to approval by the Commission.
- D. Professional experts may be hired yearly for "on call/as needed" assignments with approval by the Director of Classified Personnel.

**Reference: Education Code Sections 45103.1 and 45256**

### **3.1.5 RESTRICTED POSITIONS AND EMPLOYEES**

- A. Persons employed under specially funded programs and programs which are restricted to the employment of persons of low-income groups or from designated impoverished areas, or other criteria which restricts competition for employment, shall be employed in restricted positions in their respective classes. They shall have all the rights, benefits, and burdens of other classified employees except that:
1. They shall not attain permanent status in any non-restricted classification for which they are not otherwise entitled;
  2. They shall not be accorded seniority rights for the purpose of lay-off for lack of work, lack of funds, or abolishment of a position in the restricted positions;
  3. They shall not be given provisional appointments concurrent with status in restricted positions, and
  4. They are not eligible to compete in promotional examinations in the regular classified service.
- B. Positions established from general funds as assistants in an instructional setting or other positions involving personal contact with students which are established to assist school staff personnel responsible for school community relations or educational support services in counseling, library, health, or the correction or prevention of behavioral problems, may also be designated as "restricted."

- C. Positions established solely for the employment of persons having physical, mental, or developmental disabilities may also be designated as "restricted."
- D. The selection and retention of restricted employees shall be made on the same basis as that of persons selected and retained in positions as part of the regular classified service.
- E. The selection and retention of restricted employees for Instructional Assistant positions, when recruitment is limited to specific geographic areas of residency, shall not be subject to all examination procedures prescribed in Rule 3.1.5. The area of residency for each school site shall be limited to the school attendance area as defined in the official Board record. No person shall be employed as a restricted employee unless the specific vacancy has been approved as a restricted position by the Board and meets the residency and other requirements set forth in these Rules and applicable government regulations.
- F. At any time, after completion of six months of satisfactory service, a person serving in a "restricted" position shall be given the opportunity to take qualifying examinations that are required for all other persons serving in the same class in the regular classified service. If the person satisfactorily completes the qualifying examination, regardless of final numerical listing on an eligibility list, he or she shall be accorded full rights, benefits and burdens of any other classified employee serving in the regular classified service. His or her service in the regular classified service shall be counted from the original date of employment in the "restricted" position and shall continue even though he or she continues to serve in a "restricted" position.
- G. Funds derived from the Federal Emergency Employment Act or any similar law enacted to provide transitional employment in public service positions for unemployed or underemployed personnel shall not be expended for work that:
  - 1. Would otherwise have been performed at federal, state, or local expense;
  - 2. Would result in a decrease in the employment which would otherwise be available;
  - 3. Would result in the displacement of members of the classified service, including partial displacement, such as reduction in the hours of non-overtime work or wages or employment benefits, or
  - 4. Would impair the existing rights of permanent members of the classified service.

**Reference: Education Codes Sections 45105, 45108 and 45259.**

### **3.1.6 WEEKEND/HOLIDAY POSITIONS**

- A. The Board may create a position or class of positions that require and permit incumbents to work on weekends and holidays. If so created, the Commission shall in classifying the position:
1. Establish a salary rate which recognizes the peculiarity of the work and the days and hours required to work;
  2. Exempt employees serving in such positions from overtime pay for work required to be performed on a holiday; however, overtime shall be paid for hours worked in excess of eight (8) on any Saturday, Sunday or holiday unless the class is specifically exempted in accordance with Education Code 45127 (for example, recreation and security classes), and
  3. Ensure that the position being created is not being created to avoid payment of overtime to otherwise qualified employees. If it does find that such a position is being created to avoid overtime payment, it shall refuse to classify the position and will notify the Board.

## **RULE 3.2 THE CLASSIFICATION PLAN**

### **3.2.1 ASSIGNMENT OF DUTIES**

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

**Reference: Education Code Section 45109**

### **3.2.2 THE GENERAL CLASSIFICATION PLAN**

- A. The Commission shall classify all employees and existing and new positions within the jurisdiction of the Board or the Commission, except those positions which are exempt from the classified service under Rule 3.1.2.
- B. For purposes of this Rule, classification shall include, but not be limited to:
1. Assigning positions to the appropriate classification;
  2. Arranging classifications into appropriate job sub-families;

3. Arranging job sub-families into appropriate job families within the classification plan;
  4. Recommending reasonable relationships for classifications within job sub-family and job family occupational hierarchies in order to maintain overall internal alignment within the classification plan.
  5. Preparing written classification specifications, as outlined in Rule 3.2.3.B.
- C. The Commission shall maintain a classification plan for all positions in the classified service, organized by occupational hierarchy within the appropriate job sub-family and larger job family. The plan shall indicate the classifications that are filled by open competitive examination. The Commission shall decide, when it orders an examination, whether the examination shall be open competitive, promotional, or merged promotional and open competitive (dual certification). The list of classifications shall contain designation of salary rate and range applicable to each classification.
- D. The Commission may create new classifications and abolish, divide, or merge existing classifications in the classified service, as the needs of the District require. In doing so, the Commission shall establish the relative ranking within occupational hierarchies.

**Reference: Education Code sections 45256 and 45260**

### **3.2.3 CLASS SPECIFICATIONS**

- A. Class, or classification, specifications are descriptive and explanatory only; they are not restrictive. They indicate the kinds of duties performed across the classification but do not necessarily prescribe the duties and responsibilities for any one position in the classification.
- B. For each classification, initially established or subsequently revised by the Commission, the Director of Classified Personnel shall establish and maintain a class specification which shall include:
1. The official class title which should be as descriptive as possible of the duties performed, and in concert with prevailing titles;
  2. The definition of the classification, indicating the general type of duties and responsibilities of the classification, the amount of supervision received and exercised, and placement within the organizational scheme;
  3. A statement of typical tasks to be delegated to persons employed in positions assigned to the classification, and the critical knowledge, skills, abilities, and/or other characteristics required to perform the tasks successfully;
  4. A statement of the minimum qualifications for admission to examination and regular service in the particular classification – the minimum qualifications

may include education, experience, personal, and physical requirements and other characteristics;

5. A statement of distinguishing characteristics which differentiates the classes from other related or similar classes within a series;
6. Any licenses or special certificates required as a condition of employment;
7. Minimum qualifications shall not require a teaching, administrative or other credential, or restrict applicants to credential holders, and
8. The title of the classification, which shall be used as the title of all positions in the classification on payrolls submitted to the Commission for auditing and in the records and correspondence of the Commission and the Board.

**Reference: Education Code Sections 45104, 45109, and 45276**

#### **3.2.4 CREATION OF NEW CLASSIFICATIONS**

- A. For the Board to initiate the creation of a new classification, it shall submit the duties to be performed in writing to the Director of Classified Personnel. The Board may recommend minimum educational and work experience requirements for the classification. The Director of Classified Personnel shall present recommendations to the Commission for action. The Commission shall:
  1. Determine whether the duties should be allocated to an existing classification or whether a new classification should be established;
  2. Set forth recommended qualifications with consideration of those recommended by the Board, if any. The qualifications approved by the Commission must reasonably relate to the duties submitted by the Board;
  3. Designate the proper salary placement when a new classification is established, and
  4. Direct its Secretary to notify the Board of the Commission's action.

**References: Education Code Sections 45109 and 45276**

#### **3.2.5 ALLOCATION OF POSITIONS TO EXISTING CLASSIFICATIONS**

All positions which substantially consist of comparable duties, responsibilities, and qualifications shall be allocated to the same classification.

### **3.2.6 CHANGES IN DUTIES OF POSITIONS**

Any substantial change in the duties of existing positions shall be promptly reported in writing, by an employee or the administration, to the Director of Classified Personnel, who shall conduct a review of the position (refer to Rule 3.2.7).

### **3.2.7 REVIEW OF POSITIONS**

- A. The Personnel Commission shall monitor the classified service and will conduct studies as necessary to review classification and maintain internal alignment in the classified service.
- B. The Director of Classified Personnel shall establish a procedure whereby the duties and responsibilities of a position will be reviewed to determine their proper classification. Such review may be initiated by an employee, the Administration, or the Director of Classified Personnel.
- C. Upon receipt of a request for a classification review, the Director of Classified Personnel shall notify the requester in writing of the following:
  - 1. The date the request was received in the Personnel Commission Office;
  - 2. The anticipated date of completion of the review, and
- D. Should the review of any occupied position require longer than three (3) months to complete, the Personnel Commission will be notified in order that they may consider the use of other available resources for the accomplishment of the review.
- E. As approved by the Commission, the Director of Classified Personnel may recommend reallocation of a class to a new salary range based on internal alignment and without significant change in title, minimum qualifications, and duties assigned. The employee shall be entitled to the increased salary, if any, as determined by the Rules, without examination.
- F. Cases of reassignment of a position where there has been significant change in title, duties, or minimum qualifications, shall be considered a reclassification and subject to Rule 3.3 of this section.

### **3.2.8 WORKING OUT OF CLASS**

- A. Each classified employee shall be required to perform the duties approved by the Board and classified by the Commission for the class to which assigned. The employee may be required to perform other related duties consistent with the definition of the class to which assigned.



- B. When an employee is assigned to perform work beyond that indicated in the definition of the class to which the employee is assigned for a period of time exceeding five (5) out of fifteen (15) calendar days, shall be compensated as follows:
1. Classify the position and determine whether the position should be allocated to an existing class or whether a new class should be established.
  2. If a new class is recommended, the Director of Classified Personnel shall set forth the qualifications recommended and those recommended by the Board, if any. The qualifications approved by the Commission must reasonably relate to the duties assigned to the position by the Board.
- C. Request for differential pay for working out of class shall be submitted in writing to the Director of Classified Personnel by the employee or the supervisor within thirty (30) calendar days of performing the assignment/duties in question.
- D. The Director of Classified Personnel will notify the supervisor upon receipt of a request submitted by an employee.
- E. Retroactive pay for working out of class shall be limited to the thirty (30) calendar days preceding the date that the request was submitted.
- F. Pay for working out of class shall be limited to ninety (90) working days in one fiscal year for each employee. The Commission may authorize one extension of working out of class not to exceed an additional ninety (90) working days.
- G. A claim for pay differential for working out of class must contain a list of the assigned duties that are outside the scope of employee's assigned position.
- H. The Director of Classified Personnel shall review the duties assigned to the position and shall determine if the assigned duties are at a higher level, and shall recommend an appropriate pay differential to the Commission for approval.
- I. If review by the Director of Classified Personnel determines that the assigned duties are not at a higher level, the Director of Classified Personnel shall notify the employee and the appropriate supervisor. If the employee or supervisor wishes to appeal this decision, it must be presented to the Commission at the next regular meeting.

**References: Education Code Sections 45110, 45276 and 45310**

**RULE 3.3 RECLASSIFICATION**

**3.3.1 RECLASSIFICATION OF POSITIONS**

- A. The only basis for reclassification of a position with an incumbent shall be the gradual accretion of duties and not a sudden change caused by a reorganization. Recommendations as to gradual accretion will be made by the Director of Classified Personnel. The Commission shall be the final approving authority.
- B. Requests for classification studies of existing positions shall be presented in writing to the Director of Classified Personnel. A request for a reclassification study may be initiated by the incumbent, administrator, or the Personnel Commission.
  - 1. Requests initiated by an employee shall include a listing of duties and a statement indicating the reasons supporting the reclassification request.
  - 2. Requests initiated by the administration shall include a statement by the employee's supervisor verifying the assigned duties of the position.
  - 3. If an employee is reclassified, at least two (2) years must elapse from the date of reclassification before another reclassification study can be initiated for the same position.
- C. This Rule shall apply only to positions that are occupied at the time of reclassification. If reclassification occurs to a vacant position, the position shall be filled through normal selection procedures.

**Reference: Education Code Section 45285**

**3.3.2 EFFECTIVE DATE OF RECLASSIFICATION**

- A. Notification of a recommendation for the classification or reclassification of a position or employee shall be given to the employee(s) affected, their exclusive representative, the employee's supervisor and the Assistant Superintendent–Human Resources before the classification proposal is adopted.
- B. Changes in classification and salary resulting from the permanent reclassification of a position shall be effective no later than whichever of the following dates is applicable:
  - 1. The first of the month following the date in which the Personnel Commission received the request for differential pay (*per SEIU Article 29.2.6*)

2. The first of the month following the Personnel Commission approval for reclassification, provided the employee is eligible to be reclassified with the position without examination as specified in these Rules, or
3. The first of the month following the date on which the employee becomes fully qualified for the position by successfully completing all parts of the selection procedure. (Rule 3.3.3A)

### **3.3.3 EFFECTS OF RECLASSIFICATION ON INCUMBENTS**

A. When positions are reclassified to a class at a higher salary level the following shall apply:

1. When all of the positions in a classification are reclassified to a higher classification, the incumbents who have a continuous employment record of regular service in the class for two (2) or more years in the position shall be reclassified with the position, without examination and shall serve a probationary period.
2. When the incumbents do not have a continuous employment record of regular service in the classification for at least two (2) years, the position shall be filled through competitive examination procedures. Prior to filling the position, a promotional only examination for the higher class shall be held, with the resulting eligibility list taking precedence. The examination shall be held in accordance with these Rules.

B. When positions are reclassified to a class at a lower salary level the following shall apply:

1. An incumbent who has been performing satisfactorily shall be offered a transfer to any vacant position for which the employee is qualified and which is at the present salary level. If no vacancy exists, the incumbent may elect to remain in the position, which would result in a demotion; if neither of these actions is taken, the employee may choose to be demoted to any vacant position for which the incumbent is qualified or may be laid off for lack of work (See Rule 12.2.8).
2. When a regular classified employee is demoted to a position at a lower salary range due to displacement or abolishment of the position by reclassification, and the employee has been performing satisfactorily; the employee's salary shall be Y-rated. The Y-rate shall terminate on the earlier of these dates:

- a. The effective date of an annual salary increase which results in the Y-rate falling within the salary range of the class to which the position was reclassified.
  - b. The date an equal vacancy exists in the same class from which the employee was Y-rated. If the employee does not accept the vacancy but elects to remain in his/her present position, the Y-rate shall terminate.
- C. When a position is reclassified to a similar class at the same salary range, the incumbent may elect to remain in the position, in which case the salary shall be treated as if it were a lateral transfer.
- D. When a position is abolished, the incumbent may be transferred, demoted, or laid off as determined by these Rules.
- E. An employee whose position has been reclassified shall be ineligible for subsequent reclassification with the same position for a period of at least two (2) years from the date the position was reclassified.
- F. Any positions which are created or changed as a result of a sudden reorganization or assignment of new duties and responsibilities shall be filled through the normal competitive selection process as provided in these Rules.

**Reference: Education Code 45285**

#### **3.3.4 REEMPLOYMENT LIST FOR DISPLACED INCUMBENTS**

Any displacement of a permanent employee which results from the reclassification of a position or class of positions, shall be considered a layoff for lack of work and an appropriate reemployment list shall be established. The employee shall have the right of reemployment in his/her previous classification for a period of up to thirty-nine (39) months provided that the duties have not changed substantially as determined by job analysis procedures.

#### **3.3.5 REAPPRAISAL OF ELIGIBILITY LIST DUE TO RECLASSIFICATION**

When all positions in a classification are reclassified, the Commission shall determine whether the current eligibility and employment lists are to be reclassified. Salary reallocation of classes shall have no effect on eligibility and employment lists.

## CHAPTER IV: APPLICATION FOR EMPLOYMENT

### RULE 4.1                    FILLING A VACANCY

### Rule 4.2                    APPLICATION

- Section            4.2.1    Filing of Applications  
                      4.2.2    General Qualifications of Applicants

### RULE 4.3                    DISQUALIFICATION OF APPLICANTS AND CANDIDATES

- Section            4.3.1    Causes for Disqualification  
                      4.3.2    Appeal from Disqualification

## CHAPTER IV: APPLICATION FOR EMPLOYMENT

### RULE 4.1     FILLING A VACANCY

- A. Whenever it becomes necessary to fill existing or anticipated vacancies, and an appropriate eligibility list does not exist (as determined by these Rules), the Personnel Commission shall recruit applicants to compete in a competitive examination for the position(s).
- B. The Personnel Commission shall prepare, or cause to be prepared, job announcement bulletin(s).

### RULE 4.2     APPLICATION

#### 4.2.1     FILING OF APPLICATIONS

- A. All applications for employment shall be submitted on the official forms provided by the Commission, either on-line or on paper as determined by the Commission. Every item shall be answered in full and the application filed on or before the date and time specified on the Job Announcement Bulletin.
- B. Applicants shall submit a separate and complete application for each classification.
- C. For reporting purposes, questions regarding ethnicity, gender, age, disability, and other protected categories shall be placed on a separate form. Answers to such questions shall be voluntary and kept confidential and shall not be considered by, or made available, to anyone who will assign ratings during the examination process.
- D. The application form shall require that each applicant indicate whether or not he or she has been convicted of a crime. An applicant may be disqualified based on a conviction as set forth in Rule 4.3.1.
- E. Applications and examination papers are confidential and shall not be returned to the applicant.

Reference: Education Code Sections 45260 and 45272

#### 4.2.2     GENERAL QUALIFICATIONS OF APPLICANTS

- A. Applicants must be permanent residents of the United States or must otherwise prove their right to work. Applicants must meet the

qualifications established for the class. Every applicant must, in all aspects, be mentally and physically competent to perform the essential functions of the position for which the applicant applied.

- B. Every qualified applicant shall have an opportunity to seek, obtain and hold permanent employment without discrimination based on race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, gender, sexual orientation, age, or other protected categories.
- C. Residency within the District shall not be a condition for filing applications for employment except in the case of restricted positions that require specific residency.
- D. No maximum age limit shall be set as a condition for initial or continued employment in the District.
- E. Applicants with disabilities shall be given equal employment opportunity and reasonable accommodation for employment shall be made.

**References:**

- 1. Education Code Sections 45111, 45122-45124 and 45272**
- 2. Labor Section 2805**
- 3. Government Code Sections 12921 and 12926**

**RULE 4.3 DISQUALIFICATION OF APPLICANTS AND CANDIDATES**

**4.3.1 CAUSES FOR DISQUALIFICATION**

- A. An applicant, candidate, or eligible may be barred from an examination, or removed from an eligibility list, for any of the following reasons:
  - 1. Failure to meet the general qualifications of Rule 4.2.2.;
  - 2. Advocacy of the overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means;
  - 3. Conviction, either by a plea of guilty or nolo contendere, a court decision or a jury verdict to a charge of a sex or narcotics offense, as defined in Education Code 44010 or 44011;
  - 4. A history of drug or alcohol addiction or other substance abuse without acceptable evidence of rehabilitation;

5. Conviction, either by a plea of guilty or nolo contendere, a court decision or a jury verdict of a felony or serious crime, or a record of one or more convictions which would indicate that the person is a poor employment risk. A conviction record will be evaluated on the following basis: nature, seriousness and circumstances of the offense(s); recency of the conviction(s); age of the person at the time of the conviction(s); number of convictions; relationship of the offense to the position for which the applicant has applied; evidence of rehabilitation and maturing, including the employment record with respect to job responsibility and duration; truthfulness in admitting to the offense(s); and person's attitude;
6. Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form;
7. Practicing any deception or fraud in connection with an examination or to secure employment;
8. Obtaining or attempting to obtain either directly or indirectly, privileged information regarding test questions or examination content;
9. Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District under these Rules;
10. Previous dismissal from the District or resignation not in good standing in lieu of dismissal;
11. A record of unsatisfactory service within the District as evidenced by a disciplinary action, needs to improve, or unsatisfactory job performance;
12. Dishonorable discharge from the armed forces of the United States;
13. Refusal to furnish testimony, other than self-incrimination, at a hearing or investigation before the Commission or Board;
14. Attempting to or making contact with any member of the Board, Superintendent, the Personnel Commission or anyone involved in the examination process with the intent of inappropriately attempting to favorably influence any 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 Commission as a whole by any candidate through the established process;



15. Failure to report for duty after an assignment has been offered and accepted; or
16. Any other reason determined to be, according to these Rules, cause for disciplinary action of a regular classified employee.

**Reference: Education Code Sections 44009, 44010, 45111, 45122-45125, 45134 and 45303**

#### **4.3.2 APPEAL FROM DISQUALIFICATION**

- A. The Director of Classified Personnel shall be responsible for notifying in writing applicants, candidates, and eligibles who have been disqualified. Those individuals may appeal to the Director for administrative review, subject to the following conditions:
  1. The protest is made within five (5) working days from the postmark date of the notice.
  2. The appeal is made in writing and states the reason upon which the appeal is based.
  3. After receipt of a timely written appeal, the Director of Classified Personnel shall confirm receipt of the appeal within (10) working days. The Director shall then review the written protest and render a decision. The decision shall be transmitted in writing to all concerned.
  4. Failure to appeal the disqualification shall make the action final and conclusive.
  5. Anyone who has an appeal of disqualification pending may be permitted to participate conditionally in the examination process.
- B. If there has been an administrative review by the Director of Classified Personnel, as provided above, applicants, any candidate, and any eligible shall have the further right to appeal to the Personnel Commission subject to the following conditions:
  1. The appeal is made in writing and received by the Director of Classified Personnel within five (5) working days from the postmark date of the notice.
  2. The appeal is based upon a charge that the disqualification constitutes a violation of law, misapplication of the Personnel

Commission Rules, abuse of discretion, or that the reasons for rejection are inconsistent with the facts. The facts supporting such a charge shall be clearly set forth in the appeal.

3. After receipt of a written appeal, the Commission shall set a date for a review at which time the evidence shall be considered, and the Commission will render a decision. The decision shall be transmitted in writing to all concerned and shall be final.
4. If a disqualification is not sustained by the Personnel Commission, the Director of Classified Personnel shall immediately institute action to ensure the rights of the applicant, candidate, or eligible. However, regular appointments made in the interim shall not be disturbed except in cases of promotional examinations where no regular appointments shall be made if a timely appeal has been filed.

**Reference: Education Code Section 45111, 45122-45124, 45134, 45274 and 45303**

## CHAPTER V: RECRUITMENT AND EXAMINATIONS

### RULE 5.1                    RECRUITMENT

Section            5.1.1    Announcement of Examinations

### RULE 5.2                    EXAMINATION

Section            5.2.1    Determination of Examinations  
                      5.2.2    Open Competitive Examinations  
                      5.2.3    Promotional Examination  
                      5.2.4    Promotional and Open Competitive Examinations  
                      5.2.5    Merged Examinations  
                      5.2.6    Continuous Examinations  
                      5.2.7    Retaking of Examinations  
                      5.2.8    Types of Examinations  
                      5.2.9    Written Examinations  
                      5.2.10   Interview panel Examinations  
                      5.2.11   Evaluation of Training and Experience  
                      5.2.12   Admission to Examinations  
                      5.2.13   Examination Procedures  
                      5.2.14   Seniority Credit  
                      5.2.15   Veteran's Preference  
                      5.2.16   Notice of Final Score

### RULE 5.3                    REVIEW AND PROTEST OF EXAMINATION

Section            5.3.1    Review and Protest Procedures

## CHAPTER V

### RECRUITMENT AND EXAMINATIONS

#### RULE 5.1 RECRUITMENT

##### 5.1.1 ANNOUNCEMENT OF EXAMINATIONS

- A. The Commission shall direct the holding of examinations for the purpose of filling vacancies or creating lists for the classified service.
- B. No examination announcement may be made and no part of any examination may be held until the Board has properly designated the position duties of a new class and the Commission has completed the position classification including the establishment of minimum education and work experience requirements. This action includes approval by the Commission of the class specification and appropriate placement on the salary schedule.
- C. Each examination shall be announced on an Employment Opportunities Bulletin which shall be distributed to all employee work sites and community locations for at least fifteen (15) working days. The Director of Classified Personnel shall determine the appropriateness of placing advertisements in newspapers, trade and business journals, or other media. The Director of Classified Personnel shall insure that community agencies and organizations dealing with women, minorities, and disabled persons are notified of each examination.
- D. The Employment Opportunity Bulletin shall contain the title of the class and may include the following:
  - 1. Information concerning the location of employment, the expected number of vacancies, 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 application;
  - 6. The general content of the examination and the types of tests to be given, and
  - 7. Such other information as will assist interested persons in full understanding of the nature of the employment and procedures necessary to participate in the examination.

**Reference: Education Code Sections 45260, 45261, 45272 and 45278**

### **5.1.2 WAIVER OF POSTING REQUIREMENT**

- A. The Personnel Commission may waive the posting time requirement references in Rule 5.1.1.B provided that:
1. Published summary examination bulletins are distributed to all work locations at least once each month.
  2. Requests for transfers and change of location shall be maintained, and eligible candidates shall be certified to the appointing authority, along with names of appropriate applicants from employment lists.

## **RULE 5.2 EXAMINATIONS**

### **5.2.1 DETERMINATION OF EXAMINATION**

- A. The Commission shall determine the standards of proficiency to be required for each examination and determine whether the examination shall be:
1. Open competitive;
  2. Promotional;
  3. Promotional and open competitive, with the promotional list taking precedence, or
  4. Merged promotional and open competitive.

**Reference: Education Code Sections 45272 and 45284**

### **5.2.2 OPEN COMPETITIVE EXAMINATIONS**

- A. All entry-level classes shall be considered open competitive examinations and veterans' preference points shall be allowed as specified in Rule 5.2.15. These examinations shall be open to all qualified applicants.

### **5.2.3 PROMOTIONAL EXAMINATIONS**

- A. Where an adequate field of competition exists within the District and examinations can reasonably be expected to result in a minimum three (3) qualified ranks of eligibles, the field of competition may be limited to promotional applicants.
- B. Promotional examinations shall be restricted to permanent employees of the District and former employees on valid reemployment lists who meet the qualifications of the class.

- C. Written notices concerning tests shall be distributed to all work locations for at least fifteen (15) working days prior to the application filling deadline. During periods when school is not in session or during periods of approved paid or unpaid leave of absence, regular classified employee shall be notified by mail of examinations which the employee designates, providing a request has been filed with the Commission office. The notice will be mailed to the last mailing address listed for the employee.

**Reference: Education Code Section 45272**

#### **5.2.4 PROMOTIONAL AND OPEN COMPETITIVE EXAMINATIONS**

- A. Where an adequate field of promotional applicants does not exist, or there is doubt as to its adequacy, the Director of Classified Personnel may advertise the examination among employees and the general public.
- B. This examination procedure shall result in a promotional and open eligibility list. The promotional eligibility list shall take precedence when certifying eligibles. When the promotional list does not contain sufficient ranks of eligibles, certification of additional ranks shall then be made from the open list.

#### **5.2.5 MERGED EXAMINATIONS**

- A. Upon the recommendation of the Director of Classified Personnel, the Commission may authorize the holding of an examination under merged promotional and open competitive procedures. The resulting eligibility list shall consist of promotional and open competitive eligibles on one (1) merged list.

**Reference: Education Code Section 45284**

#### **5.2.6 CONTINUOUS EXAMINATIONS**

- A. 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.

#### **5.2.7 RETAKING OF EXAMINATION**

- A. A candidate may not retake the same examination for a period of ninety (90) calendar days from the date the examination was administered.

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

### **5.2.8 TYPES OF EXAMINATIONS**

- A. Examinations shall be administered objectively and shall consist of test parts that relate to job requirements. The parts may be any of the following:
1. Written examination;
  2. Practical demonstration of skill;
  3. Evaluation of applicants' training and experience submitted on application materials, and
  4. Evaluation of training, education, and experience by a qualifications appraisal interview panel.
- B. All examination parts shall be prepared under the direction of the Director of Classified Personnel who shall determine passing scores and assign relative percentage weights to each part. The procedure for setting percentage weights shall be impartial.

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

### **5.2.9 WRITTEN EXAMINATIONS**

- A. The written examination for a class may cover any subject matter appropriate to the duties of positions within the class including testing of skills, knowledge, and abilities.

### **5.2.10 INTERVIEW PANEL EXAMINATIONS**

- A. If an examination requires the use of an interview panel, the Director of Classified Personnel shall assure that the following Rules are followed:
1. The panel shall consist of at least two (2) persons;
  2. First or second level supervisors over a vacant position in the class for which the examination is being held shall not sit on the oral interview panel;
  3. When the interview panel is directed to evaluate technical knowledge and skills, at least two (2) members of the panel shall be technically qualified in the specified occupational areas under examination, and
  4. Members of the Board or Commission shall not serve on an interview panel.
- B. Interviews shall be tape recorded and filed in the Commission office.
- C. Scores achieved by the candidate on other parts of the examination shall not be made available to the interview panel.

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

### **5.2.11 EVALUATION OF TRAINING AND EXPERIENCE**

- A. If a part of the examination is an evaluation of the applicants' training and experience, the evaluation shall be individually and independently conducted by at least two (2) members of a committee other than the interview panel.

### **5.2.12 ADMISSION TO EXAMINATION**

- A. Each applicant whose application has been approved shall be notified in advance of the time, date and place of the examination. Such notice shall be the applicant's authority to take the examination. No candidate may be admitted to any examination without this authorization. In addition, each candidate shall be required to provide a valid picture identification at the time of admittance to the examination.

### **5.2.13 EXAMINATION PROCEDURES**

- A. Candidates in any test must take the test on the prescribed date unless an alternative is approved by the Director of Classified Personnel.
- B. Copies of any portion of a test shall not be duplicated.
- C. Written answer sheets shall be managed so that none of the test papers will disclose the name of any candidate until all papers of all candidates in a given examination have been marked and rated.
- D. A candidate in any examination who places an identifying mark upon their test papers (other than the identifying mark prescribed at the time of examination) may be disqualified.

### **5.2.14 SENIORITY CREDIT**

- A. Seniority credit shall be added to the final passing scores of candidates who have permanency with the District or who are on a reemployment list.
- B. The following is the schedule of seniority credits allowed:
  - 1 - One (1) month permanency through second year of service;
  - 2 - In the third and fourth year of service;
  - 3 - In the fifth and sixth year of service;
  - 4 - In the seventh and eighth year of service, or
  - 5 - In the ninth and tenth year of service and in all succeeding years.



- C. A full year's credit shall be granted to employees whose regular position is assigned on a less than twelve-month (12) basis.

### **5.2.15 VETERAN'S PREFERENCE**

- A. Veterans shall be allowed an additional five (5) points added to their final score in entry-level examinations, only if they received an overall passing score.
  - 1. Disabled veterans shall have an additional five (5) points added to their final score in entry-level examinations.
  - 2. A disabled veteran is an individual classified by the U.S. Veteran's Administration to be ten percent (10%) or more disabled as a result of service in the armed forces.

**Reference: Education Code Sections 45294, 45295 and 45296**

### **5.2.16 NOTICE OF FINAL SCORE**

- A. Each candidate who qualifies shall be notified within fifteen (15) working days after completion of the examination of their standing on the eligibility list.
- B. Candidate who does not qualify shall be notified within fifteen (15) working days after completion of the examination.

## **RULE 5.3 REVIEW AND PROTEST OF EXAMINATIONS**

### **5.3.1 REVIEW AND PROTEST PROCEDURES**

- A. Examination records, including test answer sheets, tape recordings of interviews, and the rating sheets of each member of an oral interview panel shall be retained for a period of not less than ninety (90) days after promulgation of an eligibility list.
- B. Examination records, such as identifiable ratings of oral panel members or references from previous employers, shall not be available for review by candidates, and shall be maintained in a confidential manner by the Personnel Commission staff.
- C. Other examination records, such as papers, recordings and scores of the candidate shall be available for review only by the candidate or their representative. The candidate or their representative may not review the records of another candidate.
- D. Candidates or eligibles, may protest any test part within five (5) working days from the postmark date of the notice of the test results.
  - 1. The protest shall be in writing and based solely on one or more of the following:

- a. Illegal discrimination;
  - b. Abuse of discretion;
  - c. Procedure or content error.
- 2. The protest must include rationale to support the protest and proposed remedy.
  - 3. A valid protest, as described above, may allow the protesting candidate to participate conditionally in the examination process or may temporarily suspend examination activities while the decision is pending.
- E. 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 examination process.
  - F. The Director of Classified Personnel shall review and act upon all protests. The Director of Classified Personnel 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 re-scored accordingly.

**Reference: Education Code Section 45274**

## CHAPTER VI: ELIGIBILITY LISTS

### RULE 6.1

#### ELIGIBILITY FOR EMPLOYMENT

- Section
- 6.1.1 Establishment of Life of Eligibility List
  - 6.1.2 Types of Eligibility Lists
  - 6.1.3 Duration of Eligibility Lists
  - 6.1.4 Merger of Eligibility Lists
  - 6.1.5 Reemployment Lists
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  - 6.1.7 Eligibility of After Appointment
  - 6.1.8 Waivers of Certification
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### RULE 6.2

#### CERTIFICATION FROM EMPLOYMENT LISTS

- Section
- 6.2.1 Appointing Authority
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  - 6.2.6 Certification of Additional Eligibles
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**CHAPTER VI**  
**ELIGIBILITY FOR EMPLOYMENT**

**RULE 6.1**     **ELIGIBILITY LISTS**

**6.1.1**     **ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS**

- A. After an examination, the names of successful candidates shall be arranged in the order of examination score plus additional points when applicable. The completed list constitutes an eligibility list for that class, after approval by the Commission.
  
- B. 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. An eligibility list shall contain the:
  - 1. Type of eligibility list – open, promotional, open and promotional with the promotional list taking precedence or merged promotional and open competitive;
  - 2. Names of all eligibles in final rank order of total examination scores;
  - 3. Adjusted scores of each part of the examination and the weighted total score;
  - 4. Dates of each part of examination and the weight assigned to that part of the examination;
  - 5. Expiration date of each person's eligibility;
  - 6. Signature of the Director of Classified Personnel attesting to the accuracy of the information on the eligibility list, and
  - 7. Date the list was approved by the Commission.
  
- C. All eligibility lists shall be certified by the Director of Classified Personnel at the first reasonable opportunity.
  - 1. The Director of Classified Personnel may submit eligibility lists for approval by the Commission subsequent to certification from the list. Appointments may be made from available eligibles pending final decision on the protest(s) and/or appeal(s) and shall not be changed even though the outcome is in the appellant's favor.

**Reference: Education Code Section 45272**

## **6.1.2 TYPES OF ELIGIBILITY**

- A. Appointments to positions shall be made from the following certification lists:
1. Reemployment – A list of employees who have been laid off from permanent positions because of lack of work, lack of funds or exhaustion of benefits. These eligibles shall take precedence over all other persons eligible for appointment. Except for those referenced in Rule 6.1.5.B.
  2. Promotional – A list of eligibles resulting from an examination limited to qualified permanent employees only.
  3. Promotional and Open Competitive – Separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.
  4. Merged Promotional and Open Competitive – One list of eligibles resulting from a single examination.
  5. Open Competitive – A list of eligibles resulting from an examination open to all qualified applicants.
  6. Transfer – Employees who, having left in good standing, requested appointment to a vacant position in the same or related classification (Rule 9.5).
  7. Reinstatement – Former employees who have requested reinstatement to a vacant position in a class in which they held permanent status.
  8. Demotion – Employees who have requested assignment to a vacant position in a lower classification (Rule 9.7).

## **6.1.3 DURATION OF ELIGIBILITY LISTS**

- A. An eligibility list shall be in effect for a period of one (1) year, unless exhausted. A list may be extended for an additional period of two (2) years or less at the discretion of the Commission.
- B. The Commission may approve the establishment of an eligibility list for a period of six (6) months when announced on the recruitment bulletin for the examination.
- C. When fewer than three (3) ranks of available eligibles remain on an eligibility list, the appointing authority may request certification of additional eligibles.

**Reference: Education Code Section 45300**

#### **6.1.4 MERGER OF ELIGIBILITY LISTS**

- A. If a new examination for a class is given during the first year of the life of an existing list, the examination shall be sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles. The new list shall then be merged with the existing list with eligibles ranked in the order of examination score, plus additional points where applicable. Promotional lists shall be merged only with promotional lists.
- B. When lists are merged under this Rule, the earlier list shall be terminated according to its established expiration date and those eligibles' names shall be removed from the merged list, except when the earlier list is extended.
- C. All eligibles on an eligibility list which is terminated shall be notified at the time a new examination is scheduled for the class. Each eligible may retake the examination if a period of ninety (90) days has elapsed since the eligible last took the examination. Notification is not required when an eligibility list expires.

**Reference: Education Code Section 45291**

#### **6.1.5 REEMPLOYMENT LISTS**

- A. 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, demoted, or retired from any position because of lack of work, lack of funds, or exhaustion of medical leave benefits.
- B. An employee who acquires 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 left.
- C. The life of the reemployment list for persons laid off shall be thirty-nine (39) months. Employees returning from military leave shall be eligible for reemployment for a period not to exceed six (6) months after discharge.
- D. Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall retain eligibility for reemployment for an additional period of twenty-four (24) months, provided the same tests of fitness under which they qualified for appointment still apply.

**Reference: Education Code Sections 45114, 45115, 45117, 45118, 45298 and 45308  
Military and Veteran Codes 395.1 and 395.3**

### **6.1.6 TERMINATION OF ELIGIBILITY LISTS**

- A. An eligibility list is automatically terminated one (1) year from the date of its approval unless extended by the Commission. Lists established under Rule 6.1.3.B shall terminate six (6) months from the date of approval.
- B. An eligibility list automatically terminates when no eligibles remain on the list.
- C. An eligibility list may be terminated by the Director of Classified Personnel prior to its expiration when no eligible is available for appointment to a specific permanent position in a class or when there are fewer than three (3) eligibles remaining on the list. Eligibles on such a list shall be notified prior to its termination.

**Reference: Education Code Section 45300**

### **6.1.7 ELIGIBILITY AFTER APPOINTMENT**

- A. 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 a limited-term assignment shall continue to be eligible for regular employment.

### **6.1.8 WAIVERS OF CERTIFICATION**

- A. An eligible may request to be made unavailable for certification to specific locations or shifts, to part-time or full-time positions and to limited-term or permanent positions by written notice to the Director of Classified Personnel.
- B. Certification of eligibles who have made themselves unavailable for certification shall not be made. Eligibles may revise or withdraw their unavailability by written notice to the Director of Classified Personnel.
- C. An available eligible may waive certification twice without penalty. When a third waiver is made, the eligible will be informed that, the eligible is being removed from the eligibility list per Rule 6.1.9.

### **6.1.9 REMOVAL OF NAMES FROM ELIGIBILITY LISTS**

- A. The name of an eligible may be removed from an eligibility list by the Director of Classified Personnel for any of the following reasons:
  - 1. Failure to respond within three (3) business days following the notification of an inquiry regarding availability for employment;

2. Any of the causes listed in Rule 4.3.1;
  3. Failure to respond for a scheduled interview after certification;
  4. Termination of employment (Promotional Eligibility List only);
  5. Three (3) waivers of certification during the life of the eligibility list, except that waivers relating to limited-term appointments should not be counted for the purpose of this Rule;
  6. Refusing two (2) employment offers after having been properly certified as eligible and available for the appointment, or
  7. A written request by the eligible for removal.
- B. The Director of Classified Personnel shall notify the eligible of the action taken and the reasons therefore and shall provide the person with the opportunity to appeal the decision within ten (10) days of notification. The decision of the Director of Classified Personnel shall be final.

## **RULE 6.2      CERTIFICATION FROM EMPLOYMENT LISTS**

### **6.2.1      APPOINTING AUTHORITY**

- A. The appointing authority shall be the Board and its designated managers.

### **6.2.2      RULE OF THREE (3) RANKS**

- A. Eligibles shall be placed on the eligibility list in rank order according to their score on the examination. The final scores of eligibles 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.
- B. For classifications approved for continuous testing, certification shall be made at the time the Director of Classified Personnel can first reasonably certify three (3) ranks of eligibles to the appointing authority.

**Reference: Education Code Section 45272**



### **6.2.3 PROCEDURE FOR CERTIFICATION AND APPOINTMENT FROM ELIGIBILITY LISTS**

- A. When position is to be filled, the appointing authority shall notify the Director of Classified Personnel of the date of anticipated need. The employment request shall state the duties, classification title, hours and location of employment and other pertinent information required by the Director of Classified Personnel.
- B. 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 the position. Certification shall be in accordance with Rules 6.1.2 and 6.2.2.
- C. Certification from existing eligibility lists to interview for existing vacancies shall be within two (2) weeks after job posting and other contractual requirements have been met.
- D. If an eligible fails to keep the interview appointment or declines the interview opportunity results in less than three (3) ranks, the appointing authority may fill the vacancy from the remaining eligibles or may request certification of eligibles in accordance with Rule 6.2.5
- E. The Site Administrator/Department concerned shall, within five (5) working days of the interview, make a selection from the eligibles presented and shall notify the Director of Classified Personnel of their selection.

### **6.2.4 FEWER THAN THREE (3) RANKS REMAIN**

- A. When a promotional list has fewer than three (3) ranks of eligibles, sufficient eligibles shall be certified from the open or merged promotional open competitive list to allow selection from three (3) ranks.
- B. 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 any of them and may request additional eligibles.

### **6.2.5 CERTIFICATION OF ADDITIONAL ELIGIBLES**

- A. If an eligible who has been certified, refuses appointment or fails to respond for an interview the appointing authority shall document such on the certification list.
- B. When a request for additional eligibles is made, the Director of Classified Personnel shall:
  - 1. At his/her discretion, investigate the matter to determine that any appointment refusal is in fact voluntary, and
  - 2. Remove the names of eligibles who failed to report for interviews or refused appointment from the certification list;

3. Certify additional eligibles as required;
4. Request authorization from the Commission to refuse further certification of eligibles should the investigation determine that refusal of appointment by an eligible is in fact not voluntary.

#### **6.2.6 WITHHOLDING NAMES FROM CERTIFICATION**

- A. The name of an eligible may be withheld from certification by the Director of Classified Personnel when the eligible:
  1. Expresses unwillingness or inability to accept the terms of a specific position;
  2. Fails to respond within three (3) working days following inquiry regarding availability;
  3. Cannot be reached in time for appointment when immediate temporary employment is required;
  4. Fails to present the license, registration, certificate, or any other credential required, or
  5. Any reason listed in Rule 4.6.

#### **6.2.7 RESTORATION**

- A. When an eligible has been withheld from certification, the Director of Classified Personnel may subsequently approve placement or restoration to the list subject to ratification by the Commission, under the following circumstances:
  1. When an eligible was withheld from certification because of the inability to accept employment, failure to respond to inquiry, failure to appear for an interview, and the eligible presents a valid reason, in writing to the Director of Classified Personnel that the eligible is now willing and able to accept an appointment, or
  2. When the withholding was for a reason listed in Rule 4.6, and the eligible has presented verifiable documentation of the correction.

#### **6.2.8 CERTIFICATION FROM ANOTHER CLASS LIST**

- A. If there is no eligibility list for the class in which the vacancy occurs, certification may be made from an eligibility list of another class at the same or a higher salary level if the duties and qualifications of the class, for which the examination was given, include substantially

all of the duties of the position to be filled; and the Director of Classified Personnel finds, subject to approval by the Commission, that necessary skills and knowledge were adequately tested in the examination.

### **6.2.9 DUTIES OF ELIGIBLES**

- A. It shall be the duty of every eligible to respond promptly after receiving notice of certification. The eligible will be required to respond within three (3) working days. Failure to respond within the above stated time may result in removal from the certification list. Three (3) waivers of certification may result in removal 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) weeks or one (1) month in the case of management classes, may be considered to have refused appointment. The appointing authority may allow a longer period at its discretion.
  - 1. The date of the offer of appointment shall be the date on which the eligible is notified by the Personnel Commission Office of selection.
  - 2. Notification may be made by telephone, electronic mail, registered or certified mail.
- C. When appointment is to a limited-term position, the eligible must be available on the date specified by the appointing authority.
- D. Persons placed on any eligibility list shall provide a current address and telephone number to the Commission office. It shall be the responsibility of the eligible to notify the Commission office of any changes in contact information. Failure to file such information with the Commission office may constitute a waiver of certification or selection.

### **6.2.10 SELECTIVE CERTIFICATION**

- A. If a position requires the use of a language other than English, or a valid driver's license, the appointing authority shall so indicate to the Director of Classified Personnel when the position control form is submitted.
- B. The Director of Classified Personnel shall determine which eligibles possess the required language(s) or license(s) and shall certify the names of the first three (3) ranks of eligibles who meet the requirements.
- C. If there are insufficient eligibles who meet the requirements and willing to accept the position, a provisional appointment may be made.

**Reference: Education Code Section 45277**

### **6.2.11 CONFIDENTIALITY OF ELIGIBILITY LISTS**

- A. Eligibility lists shall be considered public information and shall contain names, ranks, and classification title. They shall be available for review in the Commission office. Individual examination scores will be made available to the eligible(s) or their representative(s). Scores of eligibles shall not be made available to the public.

**Reference: Education Code Section 45274 and Government Code Sections 6250-6255**

## CHAPTER VII

### APPOINTMENT TO CLASSIFICATIONIFIED POSITIONS

#### RULE 7.1

#### PROCEDURES FOR APPOINTMENT

- Section 7.1.1 Procedure for Selection
- 7.1.2 Appointment
- 7.1.3 Discrimination Prohibited
- 7.1.4 Nepotism

#### RULE 7.2

#### PROVISIONAL APPOINTMENTS

- Section 7.2.1 General Provisions
- 7.2.2 Qualifications of Provisional Appointees
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#### RULE 7.4

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- Section 7.4.1 Positions Defined
- 7.4.2 Procedure for Limited Term and Substitute Positions
- 7.4.3 Eligibility for Appointment
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#### RULE 7.5

#### EMPLOYMENT OF PERS RETIREES

- Section 7.5.1 General Policy
- 7.5.2 Compensation
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## CHAPTER VII

### APPOINTMENT TO CLASSIFICATIONIFIED POSITIONS

#### RULE 7.1    PROCEDURES FOR APPOINTMENT

- A. The subject of this rule is within the scope of representation under Section 3543.2 of the Government Code. If an agreement on this subject is in effect between the District and an exclusive representative of employees in a recognized bargaining unit, the agreement shall supersede the provisions of this Rule as they apply to employees in that unit.

#### 7.1.1    PROCEDURES FOR SELECTION

- A. The appointing authority shall interview eligibles certified from appropriate lists. A selection shall be required when a certification list of three (3) ranks has been provided.
- B. In all other instances of certification for position transfer, voluntary demotion, reinstatement and lateral transfer, selection shall be at the discretion of the appointing authority.

#### 7.1.2    APPOINTMENT

- A. Official offers of employment to perspective employees shall only be extended by the Personnel Commission Office. Appointment to the position shall be approved by the Board.
- B. The prospective employee shall be allowed two (2) weeks to report for duty after an official offer of employment. In the case of management positions, the perspective employee shall be allowed one (1) month to report for duty.
- C. Should the perspective employee be unable or unwilling to report for duty within the required period, the time period may be extended at the discretion of the appointing authority.
- D. Should the perspective employee be unable or unwilling to report for duty within the required period, the appointing authority may request that additional eligibles be certified, if appropriate.

### 7.1.3 DISCRIMINATION PROHIBITED

- A. No applicant or eligible certified for appointment shall be discriminated against because of their political or religious opinions or affiliations, race, color, national origin or ancestry, gender, marital status, physical or mental handicap.

Reference: Education Code Section 45293

### 7.1.4 NEPOTISM

- A. No person shall be employed, transferred, or assigned in any position which is in direct line of supervision under a supervisor or administrator who is a member of that person's immediate family.
- B. For purposes of this Rule, immediate family shall include the spouse, brother, sister, parent, child or grandchild; son, son-in-law, daughter, daughter-in-law, brother-in-law, sister-in-law; stepfather or stepmother; step-brother, step-sister, half-brother, half-sister; and any person residing in the household of the supervisor or administrator.

## RULE 7.2 PROVISIONAL APPOINTMENT

### 7.2.1 GENERAL PROVISIONS

- A. The appointing authority may make a provisional appointment when the Director of Classified Personnel certifies that:
  - 1. No eligibility list exists for the classification or an eligibility list exists, but there are less than three (3) ranks.
- B. A provisional appointment may accumulate to a total of ninety (90) working days. The Commission may extend the ninety (90) working days provisional appointment for a period not to exceed thirty-six (36) additional working days provided:
  - 1. An examination for the classification was completed during the initial ninety (90) working days of an employee's provisional assignment, and
  - 2. Extension of this provisional assignment is necessary to carry on vital functions of the District.
- C. A ninety (90) calendar day interval shall elapse before an employee is again eligible to serve in any full-time provisional assignment. In no case may a person be employed in full-time provisional assignments for a total

of more than one hundred twenty-six (126) working days in any fiscal year.

- D. In the absence of an appropriate eligibility list, successive ninety (90) working day appointments may be made to a position for a period exceeding the one hundred twenty-six (126) working day limitation when:
  - 1. Continuous examination procedures have been authorized by the Commission, or
  - 2. The position is less than half time – twenty (20) hours/week.

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

#### **7.2.2 QUALIFICATIONS OF PROVISIONAL APPOINTEES**

- A. Provisional appointees shall meet the qualifications for the classification. The appropriateness of qualifications shall be made by the Director of Classified Personnel prior to appointment.

#### **7.2.3 STATUS OF PROVISIONAL EMPLOYEES**

- A. To be eligible for appointment to a permanent regular position, the provisional appointee shall qualify by competitive examination for a place on the eligibility list.
- B. Time served in provisional status shall not be counted as credit toward permanency or completion of the probationary period for the classification in which the provisional appointment is made.

#### **7.2.4 TERMINATING PROVISIONAL APPOINTMENT**

- A. The services of a provisional appointee shall be terminated within twenty (20) working days after the certification list has been provided to the appointing authority.
- B. A provisional appointment may be terminated at any time at the discretion of the appointing authority.

**Reference: Education Code Sections 45287, 45288, and 45289**



**RULE 7.3      SPECIAL APPOINTMENTS**

**7.3.1      PROCEDURE FOR EMERGENCY APPOINTMENT**

- A. The Board through its authorized management representatives, to prevent the stoppage of public business when an actual emergency arises and persons on an eligibility lists are not immediately available, may make appointments for a period not to exceed fifteen (15) working days.
  
- B. When such emergency appointments are made, it shall be the duty of the Board to notify the Director of Classified Personnel in writing, naming the appointee or appointees, date of appointment and nature of the duties performed, providing a statement justifying the emergency nature of such appointments.

**Reference: Education Code Section 45290**

**RULE 7.3.2      SUMMER SESSION ASSIGNMENT**

- A. When the Board establishes temporary positions during the Summer recess, such positions shall be offered to permanent employees of the District, not regularly employed during this period.  
Appointment to summer positions shall be as follows:
  - 1. Highest seniority in the classification at the work site;
  - 2. Highest seniority in the classification in the District;
  - 3. Highest seniority in a related classification at the work site;
  - 4. Highest seniority in a related classification in the District.

**RULE 7.4      LIMITED TERM AND SUBSTITUTE APPOINTMENTS**

**7.4.1      POSITIONS DEFINED**

- A. Positions established to perform duties which are not expected to exceed six (6) months shall be designated limited term positions.
  
- B. Positions established to replace temporarily absent employees shall be designated substitute positions.

#### **7.4.2 PROCEDURE FOR LIMITED TERM AND SUBSTITUTE POSITIONS**

- A. When a limited term position is requested, the appointing authority shall notify Assistant Superintendent-Human Resources in writing of the hours, starting date and length of the assignment. Limited term positions shall be subject to ratification by the Board.
- B. A limited term appointment may not exceed six (6) months.
- C. Limited term positions shall be reviewed and approved by the Director of Classified Personnel and shall be subject to ratification by the Commission.
- D. A substitute assignment may not exceed the duration of the absence of a regular employee.

#### **7.4.3 ELIGIBILITY FOR APPOINTMENT**

- A. Limited term and substitute appointments shall be made from eligibility lists and employment lists.
- B. If an eligible is appointed from an eligibility list to a substitute or limited term position, the eligible shall continue to be eligible for substitute or limited term appointments in the same classification. The same privilege of continued eligibility shall apply to a former employee who has resigned in good standing and has accepted a limited term appointment within thirty-nine (39) months after resignation.
- C. When no eligible is available to accept a substitute or limited term position, the Director of Classified Personnel is authorized to certify applicants or candidates for appointment.

#### **7.4.4 COMPENSATION**

- A. When a regular employee is appointed to a limited term position, the rate of pay shall be the rate of that classification.
- B. Former employees who accept a limited term or substitute assignment in their previous classification shall be placed on the step of the salary schedule closest to their last rate of pay. Former employees who accept a limited term or substitute assignment to positions in other classifications shall be placed on the first step of the salary range for that classification.
- C. All other limited term employees shall be paid at the hiring rate for regular appointments in the classification.

#### **7.4.5 RIGHTS AND BENEFITS**

- A. Regular employees who are serving in limited term assignments while retaining regular status in another classification shall continue to earn and be granted all rights and benefits of a regular employee.
- B. No credit toward completion of probation or seniority credit shall accrue from service in a limited term or substitute appointment.

#### **7.4.6 TERMINATION OF APPOINTMENT**

- A. A limited term or substitute appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority.
- B. A limited term or substitute employee may be dismissed for cause. When the appointing authority dismisses the employee, the Assistant Superintendent-Human Resources shall be notified in writing of the cause for dismissal. The Director of Classified Personnel may investigate the matter and may remove that person's name from all employment lists.

**Reference: Education Code Section 45286**

### **RULE 7.5 EMPLOYMENT OF PERS RETIREES**

#### **7.5.1 GENERAL POLICY**

- A. Any person receiving a retirement allowance from the Public Employee's Retirement System may be employed up to nine hundred eighty (980) hours per calendar year.
- B. The retired person must be informed that employment is restricted to nine hundred eighty (980) hours in any calendar year with the District.

#### **7.5.2 COMPENSATION**

- A. A retired employee under authority of this Rule shall be entitled only to the appropriate salary earned including overtime compensation.
- B. 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 classification shall be placed on the first step of the appropriate range on the salary schedule.

### 7.5.3 ASSIGNMENT

- A. A retired employee employed under this Rule is not subject to reinstatement to PERS nor does the compensation period provide for retirement allowance adjustment.
- B. The appointing authority shall certify to the Director of Classified Personnel that a retired employee employed under this Rule meets the provision of this Rule and the combined calendar-year employment will not exceed nine hundred eighty (980) hours.

Reference: Education Code Section 45135 and Government Code Sections 21150 et seq)

**CHAPTER VIII:  
EMPLOYEE CLEARANCES**

RULE 8.1                      PHYSICAL EXAMINATIONS

- |         |       |                      |
|---------|-------|----------------------|
| Section | 8.1.1 | Initial Employment   |
|         | 8.1.2 | School Bus Drivers   |
|         | 8.1.3 | Medical Review Board |

RULE 8.2                      CRIMINAL RECORDS

- |         |       |                            |
|---------|-------|----------------------------|
| Section | 8.2.1 | Fingerprinting             |
|         | 8.2.2 | Review of Criminal Records |

## CHAPTER VIII

### EMPLOYEE CLEARANCES

#### RULE 8.1     PHYSICAL EXAMINATIONS

##### 8.1.1     INITIAL EMPLOYMENT

- A. Candidates and eligibles appointed to a position in the District may be required to pass a physical examination prior to initial appointment.
- B. The examination shall be administered by the medical facility designated by the District.
- C. Prior to employment, every candidate and eligible must undergo a skin test or chest X-ray to determine that they are free from active tuberculosis. To be acceptable, the examination must have been conducted within a sixty (60) day period prior to the date of employment appointment.
- D. The medical facility designated by the District shall determine the ability of the candidate and eligible to perform the prescribed duties of the class in which they shall be employed, and shall notify the District of the examination results.
  1. If the candidate or eligible does not receive physical clearance from the medical facility, facility shall provide the Assistant Superintendent–Human Resources with a statement describing the candidate’s or eligible’s conditions and limitations.
  2. If the physical examination reveals job-related limitations, the District may require the candidate or eligible to report for follow-up examinations related to the identified job-related limitations. The Assistant Superintendent-Human Resources shall review the final examination results and may approve the individual’s employment, which may include a reasonable accommodation.

References: Education Codes 45122 and 49406

### **8.1.2 SCHOOL BUS DRIVERS**

- A. In addition to any other examination that may be required by these Rules, school bus drivers must have a valid School Bus Driver's Certificate which requires a separate medical examination to meet the minimum requirements set forth by the Department of Motor Vehicles.

**References: Education Codes 45122 and 49406**

### **8.1.3 MEDICAL REVIEW BOARD**

- A. Any medical rejection of candidate or eligible may be appealed to the Personnel Commission.
- B. Upon formal appeal by the candidate or eligible, the Commission shall determine whether the medical rejection should be sustained.
- C. The Personnel Commission shall base its decision upon evidence submitted by the candidate or eligible and advice of independent medical experts employed by the Personnel Commission.

## **RULE 8.2 CRIMINAL RECORDS**

### **8.2.1 FINGERPRINTING**

- A. Every new candidate or eligible shall submit to a criminal records check in accordance with prescribed procedures or shall forfeit eligibility for employment. The District will notify each candidate or eligible where and when to report for fingerprinting.

### **8.2.2 REVIEW OF CRIMINAL RECORDS**

- A. 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.
- B. The criminal records report from the Department of Justice and/or the Federal Bureau of Investigation shall be reviewed with the person's employment application by the Assistant Superintendent-Human Resources. If there is a criminal record which was undisclosed, the Assistant Superintendent- Human Resources shall decide whether or not the person should be employed. In the case of disqualification, the Assistant Superintendent-Human Resources shall notify the Director of Classified Personnel of the disqualification.

- C. If candidate or eligible is to be dismissed because of information obtained on the criminal records report, they shall be removed from all eligibility lists. The Director of Classified Personnel shall notify the candidate or eligible of the action taken and the reasons and shall provide the candidate or eligible with an opportunity to appeal the decision in writing within five (5) days of notification. If an appeal is filed, the Director of Classified Personnel shall follow the procedures outlined in Rule 4.6.2 – Appeal from Disqualification.

**Reference: Education Code 45125**



## CHAPTER IX: EMPLOYMENT STATUS

### RULE 9.1

### CERTIFICATION OF PAYROLLS

### RULE 9.2

### EMPLOYEE ASSIGNMENT

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EMPLOYEE PERSONNEL FILE

Section

9.9.1 General Rule

**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**

## CHAPTER X: PERFORMANCE EVALUATION

### RULE 10.1

### GENERAL PROVISION

- Section 10.1.1 When Evaluations Are to Be Made  
10.1.2 Procedure to Be Followed

## CHAPTER X

### PERFORMANCE EVALUATION

#### RULE 10.1 GENERAL PROVISION

Performance evaluations 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.

#### 10.1.1 WHEN EVALUATIONS ARE TO BE MADE

- A. An employee may be given an evaluation at any time during their employment.
- B. Every regular classified employee shall be evaluated during their initial probationary period in accordance with the following schedule:
  - 1. For regular employees serving a six (6) month probationary period - at the end of the second and fourth months of service and prior to completion of the sixth month of service, and
  - 2. For regular employees serving a twelve (12) month probationary period - at the end of the fourth and eighth months of service and prior to completion of the twelfth month.
- C. Promoted and reclassified employees shall be evaluated during their probationary periods in accordance with the above schedules.
- D. Every permanent classified employee shall be evaluated at least once each fiscal year.
- E. In cases of unsatisfactory work performance, evaluations shall be made in accordance with these Rules.

Reference: Education Code 45261

#### 10.1.2 PROCEDURE TO BE FOLLOWED

- A. Performance evaluation reports shall be made on a District approved form and shall be prepared and signed by the employee's immediate supervisor. Where needs to improve or unsatisfactory performance is noted, the evaluation form shall be reviewed and signed by the department head.

- B. The immediate supervisor shall present the performance evaluation report to the employee at an evaluation conference which shall include a review of the specific ratings given to the employee and suggestions for improvement where applicable. The evaluation report should be signed by the employee to indicate receipt. If the employee refuses to sign, the fact shall be noted on all copies of the report by the immediate supervisor.
- C. Employees shall be informed by their immediate supervisor that they have five (5) working days to attach a rebuttal before the evaluation is filed in the employees' personnel file.
- D. The performance evaluation report shall be distributed as follows: one (1) copy of the evaluation shall be given to the employee, one (1) copy shall be retained by the evaluator and the original shall be sent to the personnel department to be filed in the employee's file.
- E. If the employee wishes to file a rebuttal, it shall be submitted in writing to the Assistant Superintendent- Human Resources within ten (10) working days. Upon receipt of the rebuttal, the Assistant Superintendent-Human Resources shall send a copy to the department head. And the immediate supervisor shall then meet with the employee in an attempt to resolve the problems in no more than ten (10) working days.

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## CHAPTER XI

### VACATION, LEAVES OF ABSENCE AND HOLIDAYS

The subject of this Rule is within the scope of representation under Section 3543.2 of the Government Code. If an agreement on this subject is in effect between the District and an exclusive representative of employees in a recognized bargaining unit, the agreement shall supersede the provisions of this Rule as they apply to employees in that unit.

Rule 11.1 VACATION

11.1.1 RATIO FOR EARNING VACATION

- A. Regular classified employees or a regular employee temporarily assigned to a provisional, working-out-of-class or limited term assignment, shall earn vacation at the rate defined in the collective bargaining agreement.
- B. Regular classified management or confidential employees shall earn vacation at the following rate of two (2) days per month of employment.
- C. Vacation leave is earned if an employee is in paid status for eleven (11) or more of the working days in the month.

11.1.2 VACATION PROCEDURES

- A. Earned vacation becomes a vested right upon completion of six (6) months of employment.
- B. Vacation schedules shall be approved by the department supervisor. An effort shall be made to enable vacation to be taken at times convenient to the employee, consistent with the needs of the District and the work load of the department.

- C. Upon separation from the District a permanent employee shall be entitled to lump sum compensation for all earned and unused vacation. Payment shall be made at the regular rate of pay earned at the time of separation.
  - Regular rate of pay is the rate of pay in the employee's permanent class.
- D. Classified employees who have not completed six (6) months of continuous employment in regular status at the time of separation from the classified service shall not be entitled to compensation for vacation.
- E. A classified employee may be granted vacation during the school year even though time has not been earned at the time the vacation is taken.
- F. Upon separation, the full salary amount which has been granted in advance of being earned, shall be deducted from the employee's final check.
- G. All regular part-time classified employees shall be entitled to vacation prorated in the same proportion as the number of hours worked per week bear to forty (40) and the number of days worked per week bear to five (5).
- H. The rate at which vacation is paid shall be the employee's regular rate at the time the vacation is taken.
- I. The minimum increment of vacation which may be taken is two (2) hours.
- J. In determining the vacation schedule for the department, the supervisor shall give employees the choice of times available on the basis of seniority.
- K. Vacation shall be requested in advance and must be approved by the supervisor before it is taken.



11.1.3

VACATION FOR TWELVE MONTH EMPLOYEES

- A. Classified employees assigned to a twelve (12) month work year may take their vacation at any time during the school year upon the approval of their supervisor.
- B. If the employee is not permitted to take their full 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 Education.

11.1.4

VACATION FOR LESS THAN TWELVE MONTH EMPLOYEES

- A. Classified employees assigned to a work year of less than twelve (12) months shall take their vacation during the school year in which it is earned and shall use their vacation during the winter and spring recess periods unless otherwise scheduled by the supervisor.
- B. Classified employees assigned to a less than twelve (12) month work year shall be compensated by a lump sum payment for unused vacation remaining to their credit at the end of their assignment each school year.

References: Education Codes 45136, 45137, 45190, and 45197

11.1.5

INTERRUPTION OF VACATION

- A. Governing boards of school districts may allow permanent classified employees to interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption or termination to Human Resources.

Reference: Education Code 45200

Rule 11.2

LEAVES OF ABSENCE

11.2.1

GENERAL PROVISIONS

- A. A leave of absence is an authorization for an employee to be absent from duty for a specific period of time for an approved purpose.
- B. The granting of a paid or unpaid leave of absence of six (6) months or less shall guarantee the employee the right to return to his/her same classification in a position of equal hours and months as the position held prior to the leave. The position may be in a different department or location.
- C. A paid leave, unpaid illness leave, FMLA, CFRA and military leave do not constitute a break in service.
- D. An employee on a paid leave of absence shall continue to accrue all benefits to which he/she is entitled as a regular employee.
- E. The Board of Education may cancel any leave of absence by giving the absent employee due notice. Due notification shall allow sufficient time for the employee to return to work, but shall not be less than five (5) working days.
- F. Failure to report for duty within five (5) working days after a leave expires or has been cancelled shall be considered abandonment of position and the employee may be terminated by the Board. Termination for abandonment shall be deemed termination for cause and treated as a disciplinary action.
- G. Any required license or certificate held by the employee at the time the leave was granted must be valid at the time the employee returns to work.
- H. An employee, while on leave of absence, may not accept other gainful employment, except ordered military service, without express prior approval of the Board of Education.

References: Education Codes 45136, 45137, 45190, 45192, 45197, 45200, 45260 and 45261

Rule 11.3            SICK LEAVE

11.3.1            REGULAR SICK LEAVE PROVISIONS

- A. 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 regular duties of the position due to illness, injury or for legally established quarantine or
  - 2. A visit to a licensed physician, dentist, practitioner, psychologist or other therapist for examination, treatment, consultation or therapy.
- B. Every regular classified employee shall earn one (1) day of sick leave per full month of service as follows:
  - 1. To qualify for a full month of service, the employee must be in a paid status for eleven (11) days during the month.
  - 2. Employees assigned to a work year of less than twelve (12) months or less than forty (40) hours per week shall receive sick leave credit prorated in the same proportion as the number of months bear to twelve (12), and the number of hours worked per week bear to forty (40).
- C. The rate at which sick leave is paid shall be the employee's regular rate at the time sick leave is taken.
- D. Sick leave accrued, but not used, shall carry over from one fiscal year to another with no limit on accumulation.
- E. When paid sick leave is used on the working day immediately before or after a paid holiday, the holiday is not charged against sick leave.

- F. New probationary employees may not use more than six (6) days of paid sick leave during their initial probationary period.
- G. At the beginning of each fiscal year, the sick leave account of the employees shall be increased by the number of days of paid sick leave which would normally be earned in the ensuing fiscal year.
- H. In order to receive compensation while absent on sick leave, the employee shall notify the District in accordance with procedures promulgated by the employee's supervisor or the District. If no procedure is otherwise established, the employee shall notify his/her supervisor prior to the start of his/her shift.
- I. When a substitute employee has been provided, the absent employee shall notify his/her supervisor of his/her expected return date in order that the substitute may be released.
- J. Employees shall utilize available leaves for illness in the following order:
  - 1. industrial accident (if applicable);
  - 2. accrued and advanced sick leave;
  - 3. compensation time, then
  - 4. accrued vacation.

References: Education Codes 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45196.5, 45200, 45203, 45260 and 45261

### 11.3.2 INDUSTRIAL ACCIDENT, INJURY AND ILLNESS LEAVE

- A. An employee shall be eligible for not less than sixty (60) working days in any one (1) fiscal year for the same accident.
- B. When an industrial accident or illness occurs at a time when 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 injury or illness occurred, for the same illness or injury.

- C. An employee who is absent from work due to an industrial accident shall report the injury on the form provided by the District within twenty-four (24) hours, or as soon as practical, to his/her supervisor.
- D. An employee claiming an industrial accident shall be examined and treated by a licensed physician approved by the District. If the employee has a physician's designation form on file with the District, they may elect to be examined by that physician. The medical report from the physician and such other evidence as may be required affirming that the accident, injury or illness resulted from employment with the District, shall be promptly forwarded to the District. The employee may be required to submit, at any time during the absence, to an examination performed by a physician selected by the District.
- E. Industrial accident leave shall commence on the first day of the absence and shall be reduced by one (1) day for each day of authorized absence.
- F. Payment for wages lost as a result of absence due to industrial accident shall not exceed the regular salary of the employee. For employees paid on an hourly basis, the normal wages for the day shall be based on the assigned work time of the employee.
- G. 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 Assistant Superintendent of Human Resources.
- H. If an employee is still unable to return to duty after exhausted paid industrial accident leave, the employee shall then utilize accumulated sick leave. Sick leave will be reduced only in the amount necessary to provide full pay, as determined by the employee's assignment, when added to the worker's compensation award.

- I. After all accumulated sick leave has been exhausted an employee will be paid from accrued vacation, compensatory time and extended sick leave to the extent necessary to make up the employee's full salary when combined with the worker's compensation award.
- J. An employee shall be permitted to return to service after an industrial accident or illness leave only upon presentation of a release from the District appointed physician or the treating physician. The release must certify that the employee is able to return to his/her position without restrictions or limitations.
- K. A 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.
- L. When all available leaves of absence, paid or unpaid, have been exhausted following an industrial accident or illness, and the employee is still unable to return, the employee shall be placed on a reemployment list for his/her class for thirty-nine (39) months. When available, during the thirty-nine (39) month period, the employee shall be employed in a vacant position in the class of the employee's previous assignment over all other available eligibles except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations. 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.
- M. An employee who has been placed on a reemployment list, as provided in this Rule, who has been medically released to return to duty and fails to accept an appropriate assignment, shall be dismissed and removed from the reemployment list.
- N. While an employee is on any paid leave resulting from an industrial accident or illness, the employee's salary paid by the District shall not, when added to the

worker's compensation award, exceed the employee's regular salary.

- O. The District shall issue appropriate warrants for payment of wages and shall deduct normal retirement and other authorized deductions.

Reference: Education Code 45192

### 11.3.3 EXTENDED SICK LEAVE (NON-INDUSTRIAL)

- A. The employee shall submit a request for extended leave [in excess of ten (10) working days] accompanied by a medical verification from a licensed physician or practitioner stating the nature of the illness or injury, the dates the employee has been under care and the expected date of return to work.
- B. All regular classified employees who have exhausted all accrued and advanced sick leave shall be eligible to receive extended sick leave benefits subject to the following conditions:
  - 1. Extended sick leave shall be paid at fifty percent (50%) of the employee's regular salary.
  - 2. Extended sick leave shall be limited to one hundred (100) workdays in each fiscal year. At the beginning of a fiscal year, one hundred (100) workdays shall be credited to the employee's account, whether or not the employee is currently drawing benefits subject to this Rule.
  - 3. These one hundred (100) workdays shall be exclusive and in addition to all other paid and compensable leaves such as vacation, industrial accident or illness leave and holidays.
  - 4. All other available leaves, such as vacation, donated sick days, and floating holidays, must be exhausted.
- C. When a regular classified employee has exhausted all accumulated sick leave and continues to be unable to resume the regular duties of his/her position due to

illness or injury, the employee may request of the Assistant Superintendent of Human Resources to be placed on additional leave for accident, verified illness leave, or on unpaid illness leave.

Reference: Education Code 45196

#### 11.3.4 ADDITIONAL LEAVE FOR ACCIDENT OR ILLNESS (NON-INDUSTRIAL)

- A. A permanent employee of the classified service, who has exhausted all entitlement to sick leave, vacation, compensatory overtime, or other available paid leave and who continues to be absent because of non-industrial illness or accident may be granted an additional leave, paid or unpaid, not to exceed six (6) months upon recommendation of the supervisor and Assistant Superintendent of Human Resources, and with the approval of the Board of Education. The Board of Education may renew the leave of absence, paid or unpaid, for two (2) additional six (6)-month periods or lesser leave periods that it may provide but not to exceed a total of eighteen (18) months.
- B. Prior to granting this leave the following factors shall 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 services and performance evaluations of the employee;
  - 3. The employee's previous leave history and attendance record;
  - 4. The number of positions in the employee's class, and
  - 5. The uniqueness of the duties performed, and the availability of a substitute.
- C. An employee, upon ability to resume the duties of a position within the class to which they were assigned, may do so at any time during the leave of absence granted under this Rule and time lost shall not be considered a break in service. The employee shall be restored with all the rights, benefits,



and burdens of a permanent employee to a position within the class to which the employee is assigned and, if at all possible, to their position.

- D. If at the conclusion of all leaves of absence, paid or unpaid, the employee is still unable to assume the duties of his or her position, the employee shall be placed on a reemployment list for a period of 39 months.
- E. At any time, during the prescribed 39 months, the employee is able to assume the duties of his or her position the employee shall be reemployed in the first vacancy in the classification of his or her previous assignment. The employee's reemployment will take preference over all other applicants except for those laid off for lack of work or funds under Section 45298 in which case the employee shall be ranked according to his or her proper seniority. Upon resumption of his or her duties, the break in service will be disregarded [with an adjustment in seniority based on the leave] and the employee shall be fully restored as a permanent employee.

Reference: Education Code 45195

#### 11.3.5 RETURN FROM ILLNESS LEAVE (NON-INDUSTRIAL)

- A. To be eligible to return to work following paid or unpaid illness leave, a written release from the employee's physician may be required. If required, this statement shall be presented to the Assistant Superintendent-Human Resources. The release must certify that the employee is able to return to their position with no restrictions or limitations. The release is:
  - 1. Required upon return from surgery or illness requiring hospitalization regardless of the duration of the absence, or
  - 2. Required upon request by the District.
- B. The employee shall provide at least one (1) day advance notice of return to his/her supervisor and to Human Resources.

Rule 11.4 BEREAVEMENT LEAVE AND PROCEDURE

11.4.1 GENERAL PROVISIONS

Every person employed in the classified service of any school district shall be granted necessary leave of absence, not to exceed three (3) days, or five (5) days if out-of-state travel is required, on account of the death of any member of his/her immediate family. No deduction shall be made from the salary of such employee nor shall such leave be deducted from leave granted by other sections of this code or provided by the governing board of the district.

Reference: Education Code 45194

11.4.2 IMMEDIATE FAMILY DEFINED

A. The governing board may enlarge the benefits of this section and may expand the class of relatives listed below as members of the immediate family. Members of the immediate family, as used in this section, means the parent, child, grandparent or grandchild of either the unit member or his/her spouse; the spouse, brother, sister, aunt, uncle, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law of the unit member; step parents, step children, step siblings; domestic partner as defined by law; or any person living in the immediate household of the unit member; or any person for whose care the unit member has assumed primary responsibility. Individual exceptions may be submitted for approval to the Superintendent or his/her designee.

Reference: Education Code 45194

Note: SEIU Contract 9.3.2

11.4.3 BEREAVEMENT FOR OTHER THAN IMMEDIATE FAMILY

If granted, bereavement leave for other than immediate family members may be charged to personal necessity.

Rule 11.5 PERSONAL NECESSITY LEAVE AND PROCEDURE

11.5.1 GENERAL PROVISIONS

- A. A probationary or permanent employee may, at their election, use any days of absence for illness or injury earned pursuant to Education Code Section 45191 in cases of personal necessity, including any of the following:
1. Death of a member of the employee's immediate family when additional leave is required beyond that provided in Section 45194 and that provided, in addition thereto, as a right by the governing board.
  2. Accident, involving the employee's person or property, or the person or property of a member of the employee's immediate family.
  3. Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.
  4. Other reasons that the governing board may prescribe, including, but not limited to, and of the following:
    - a. Incapacitating illness of a member of the immediate family;
    - b. Natural disaster such as earthquake, flood, or fire of a serious nature which requires the employee's presence;
    - c. Observance of major religious holidays of the employee's faith;
  5. Examples of reasons that would not justify personal necessity leave:
    - a. Political activities or demonstration
    - b. Vacation, recreation, or social activities, or
    - c. Extension of a school holiday, recess or vacation
- B. The governing board of each school district shall adopt rules and regulations requiring and prescribing the manner of proof of personal necessity for the purpose of this section. The adopted rules and regulations may not require an employee to secure advance permission for leave taken for the purposes specified in paragraphs (1) and (2) of subdivision (a). Earned leave in excess of seven (7) days may not be used in any school year for the purposes enumerated in this section, except if either of the following conditions exist:

1. A maximum number of days in excess of seven (7) is specified for that purpose in an agreement between the exclusive representative of the employees and the school district.
  2. If there is no exclusive representative of the employees, the governing board of the school district, by resolution, adopts a policy allowing earned leave in excess of seven (7) days to be used in any school year for the purposes enumerated in this section.
- C. Authorized necessity leave shall be deducted from sick leave earned under the exemption of Section 45191.
- D. "Immediate family" has the same meaning as Section 45194.
- E. Employees shall submit report of absence forms to their supervisor for approval. Employees may be required to provide additional verification of the use of this leave as required by the District.

Reference: Education Code 45207

Rule 11.6 PREGNANCY DISABILITY LEAVE

11.6.1 GENERAL PROVISIONS

- A. 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.
- B. Paid leave, including regular sick leave and extended sick leave may be used for the period of absence medically certified by the employee's treating physician and approved by the District.
- C. Prior to the eighth month of pregnancy, the employee shall request an extended leave of absence and provide Human Resources a medical certificate stating the last date on

which she will be able to work, accompanied by a verification of her disability.

- D. Prior to returning to work, the employee shall provide to Human Resources, a release to return to work, from the treating physician.

Reference: Education Code 45193

Rule 11.7 UNPAID CHILD REARING LEAVE, FAMILY MEDICAL LEAVE ACT (FMLA), AND CALIFORNIA FAMILY RIGHTS ACT (CFRA)

11.7.1 GENERAL PROVISIONS

- A. UNPAID CHILD REARING LEAVE
  - 1. A regular classified employee who is the natural or adoptive parent of a child shall be entitled to an unpaid leave of absence for the purpose of rearing the child immediately after the birth of the child or the completion of appropriate adoption procedures. Such leave shall be for a maximum period of one (1) year and shall be granted provided that the employee submits a leave request to the Human Resources Department four (4) weeks prior to the commencement of the leave.
- B. FMLA AND CFRA LEAVE
  - 2. Refer to the Human Resources Department for provisions of FMLA and CFRA and District policies related thereto.

Reference: Family Medical Leave Act (1993); California Family Rights Act (1991)

Rule 11.8 JURY DUTY AND WITNESS LEAVE

11.8.1 GENERAL PROVISIONS

- A. Leave of absence shall be granted to any regular classified employee who has been officially summoned to jury duty in

any local, State or Federal Court. Leave shall be granted for the period of jury service.

- B. Leave of absence to serve as a witness in a court case shall be granted to any regular classified employee when that employee has been served a subpoena to appear as a witness, not as a litigant, in the case. Leave shall be granted for the number of days required to be in attendance in court.
- C. The employee shall receive full pay for jury service or witness leave provided:
  - 1. The summons to jury service or the subpoena to appear has been filed with the District Office;
  - 2. The jury service or court attendance is certified by the jury commissioner or the clerk of the court and filed with the District Office, and
  - 3. In accordance with District policy, the jury service or witness fees shall be assigned to the District except for travel, parking and meal allowances
- D. An employee granted leave of absence under this Rule shall report to work during hours when his/her presence is not required in court. The employee shall notify the District to release the substitute employee, when applicable.

References: Education Code 44036 and 44037

## Rule 11.9 MILITARY LEAVE

### 11.9.1 GENERAL PROVISIONS

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- A. Regular classified employees under official orders, who are called to active duty in the Armed Services of the United States of America shall be granted military leave of absence for the period of the service.
- B. Regular classified employees who are members who are members of a reserve corps, and who must be temporarily absent due to active duty training or exercises shall be granted temporary military leave of absence.

- C. Regular classified employees on military leave shall be granted the first thirty (30) calendar days at full pay, salary step advancement, and continue to accrue seniority for purposes of layoff. No other fringe benefits, such as sick leave or vacation shall accrue during any unpaid portion of the leave.
- D. In order for a paid leave of absence to be granted the employee must submit official orders to active duty, stating the date to report.
- E. Upon return from temporary military leave the employee shall be reinstated to his/her same regular position or an equal position in the same class.

References: Education Code 44018  
Military and Veterans Codes 389, 395.01, 395.02, 395.03, 395.04, 395.05, 395.1, 395.3  
Federal Uniformed Services Employment and Reemployment Rights Act (USERRA)

#### Rule 11.10 OTHER LEAVES

##### 11.10.1 LEAVE OF ABSENCE DUE TO EPIDEMIC/QUARANTINE

- A. 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, epidemic or other conditions involving the health or safety of employees provided that the employee is ready, willing and able to perform his/her regular or other reasonable and suitable duties. During this period, the District shall endeavor to assign the employee to work elsewhere.

Reference: Education Codes 45260 and 45261

##### 11.10.2 LEAVE TO VOTE

- A. If a voter does not have sufficient time outside of working hours to vote at a statewide election, the voter may, without loss of pay, take off enough working time that, when added to the voting time available outside of working hours, will enable the voter to vote.

- B. No more than two (2) hours of time may be taken off for voting without loss of pay. The time off for voting shall be only at the beginning or end of the regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless otherwise mutually agreed.

Reference: Election Code 14000

#### 11.10.3 RELEASE TIME FOR PERSONNEL ACTIVITIES

- A. Regular classified employees shall be granted time off from duty with pay for the following:
  - 1. To take an examination or attend an interview for promotion or transfer in the District, or
  - 2. To attend a Board of Education or Personnel Commission meeting at which a recommendation affecting the employee's classification, salary or status is being presented.
- B. The employee shall notify his/her supervisor at least two (2) days prior to the date of the desired release. Exceptions to the two (2) day notice requirement for items in A.1. and A.2. shall be determined by the Director of Classified Personnel.

#### 11.10.4 LEAVE TO SERVE IN AN EXEMPT, TEMPORARY OR LIMITED TERM POSITION

- A. A regular classified employee may accept the assignment to an exempt, temporary or limited term position without loss or status in his/her regular position, classifications or entitlement to benefits.
- B. The employee may voluntarily return to his/her regular position prior to completion of the assignment in an exempt, temporary or limited term position, on a date mutually agreed upon by all parties.

#### Rule 11.11 SPECIAL LEAVES OF ABSENCE

##### 11.11.1 CONVENTION ATTENDANCE

- A. Regular classified employees shall receive release time without loss of pay to attend conventions, workshops,



seminars, training or professional business meetings related to the employees' job and approved by the District.

11.11.2 ADMINISTRATIVE LEAVE

- A Regular classified employees may be granted paid leave of absence for not more than thirty (30) business days upon approval of the Board of Education.

Reference: Education Codes 45190 and 45198

Rule 11.12 TRANSFER OF SICK LEAVE FROM ANOTHER SCHOOL DISTRICT

11.12.1 GENERAL PROVISIONS

- A. Any person employed by the District in a regular classified position shall be entitled to transfer all accumulated sick leave under the following circumstances:
  1. The employees was employed for a period of one (1) calendar year or more by any school district, county superintendent of schools, or community college district.
  2. The employee separated for reasons other than action initiated by the employer for cause,
  3. The employee was employed by the District within one (1) year of separation from the previous district.

Reference: Education Code 45202

Rule 11.13 UNPAID LEAVE OF ABSENCE

11.13.1 GENERAL PROVISIONS

- A. A permanent classified employee may be granted a leave of absence without pay for a period not to exceed thirty (30) calendar days upon written request from and approval by the Assistant Superintendent – Human Resources.
- B. A permanent classified employee may be granted a leave of absence without pay for a period not to exceed one (1) year upon written request from the employee and approval of the

Board of Education for reasons satisfactory to the District and not otherwise enumerated in these Rules.

- C. Granting of leave of absence without pay will give the employee the following right:
  - 1. The employee is entitled to return to a position in his/her class which is equal to the position that was held at the time the leave was granted.
- D. The Board of Education may, for good cause, cancel an unpaid leave of absence by giving the absent employee at least five (5) working days notice of cancellation. E. An employee may make a written request to the Board of Education to return to work prior to the expiration date of the leave. The Board may approve or reject the request.
- F. Failure to report for duty within five (5) working days after a leave has been cancelled or expires shall constitute abandonment of the position. This provision does not apply to military leave.
- G. A probationary employee is not eligible for unpaid leave of absence.
- I. An employee on unpaid leave of absence may continue to participate in the District health and welfare plan, as provided by the insurance carrier. The employee must pay all premiums due during the unpaid leave, except in circumstances where benefits are covered under provisions of FMLA or CFRA (Merit Rule 11.7).

References: Education Codes 45190 and 45198

## Rule 11.14 PAID HOLIDAYS

### 11.14.1 GENERAL PROVISIONS

- A. All regular classified employees shall be entitled to the following paid holidays which occur during their assigned work year, subject to eligibility provisions of this Rule.

1. Legal holidays

New Year's Day	January 1 (or 2 according to District Calendar)
Martin Luther King Day	3 <sup>rd</sup> Monday in January
Lincoln's Birthday*	2 <sup>nd</sup> Monday in February
President's Day*	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Admissions Day*	September 9
Veterans Day	November 11
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Christmas Day	December 25

\*See Merit Rule 11.14.1.B

2. Board of Education approved Holidays

In addition to the legal holidays listed above, all regular classified employees shall be granted four (4) additional paid holidays as designated on the District calendar adopted each year prior to the beginning of the school year.

3. Specially Declared Holidays

Regular classified employees shall also be entitled to pay for all other holidays declared by the President or the State Governor or the Board of Education.

4. Child Development Services Calendar

The Board of Education may adopt a different holiday calendar for the Child Development Services Department. When Child Development employees work on District designated holidays they shall be granted a substitute holiday.

B. The District may designate other days during the year as holidays in lieu of the holidays marked with an asterisk above, provided that:

1. The substitute holiday is scheduled to provide at least a three (3) day weekend, and

2. The substitute holidays are designated prior to the beginning of the school year.
- C. Regular classified employees who are required to work on a holiday shall be paid:
1. Their regular pay for the holiday plus
  2. Their regular overtime rate (time and one-half) for all hours worked on the holiday.

#### 11.14.2 ELIGIBILITY FOR HOLIDAY PAY

- A. Regular employees must be in a paid status during some portion of the working day before or the working day after the holiday.
- B. Provisional, limited term, temporary and substitute employees and employees hired for exclusive weekend or holiday work shall not be eligible for holiday pay.
- C. When a holiday falls on a Saturday, the holiday shall be observed on the preceding Friday. When a holiday falls on a Sunday, the holiday shall be observed the following Monday.
- D. A regular classified employee assigned to a work week other than Monday through Friday shall be provided a substitute holiday when the regular holiday falls on a day on which the employee is not assigned to work, with approval by the supervisor.
- E. A regular classified employee who is not assigned to duty during student recess periods between August and June shall be paid for any holiday that falls within the recess, provided he/she was in a paid status during any portion of the working day that immediately precedes or follows the recess period.

Reference: Education Codes 45203, 45204, 45205, and 45206.5

## CHAPTER XII: SALARIES, OVERTIME PAY, AND BENEFITS

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## CHAPTER XII: SALARIES, OVERTIME PAY AND BENEFITS

### RULE 12.1 DETERMINATION OF SALARY SCHEDULES

The subject of this Rule is within the scope of representation under Section 3543.2 of the Government Code. If an agreement on this subject is in effect between the District and an exclusive representative of employees in a recognized bargaining unit, the agreement shall supersede the provisions of this Rule as they apply to employees in that unit.

#### 12.1.1 ESTABLISHING ANNUAL SALARY SCHEDULES

- A. The Board of Education shall establish the annual salaries for all classified employees and other employees not requiring certification qualifications, employed by the District, unless otherwise prescribed by law.
- B. The Board of Education may increase the salary schedule for classified employees at any time during the fiscal year and shall adopt increases and/or decreases resulting from the classification or reclassification of positions as approved by the Personnel Commission.
- C. The provisions of this section shall not be construed to permit the Board of Education to demote or dismiss an employee due to the reclassification of a position or class of positions unless otherwise authorized by law or these Rules.
- D. If the Board of Education is unable to comply with the provisions of paragraph A above because it is engaged in a study, which was initiated prior to the commencement of the school year, to increase the salaries and wages of the persons employed by the District in positions not requiring certification qualifications, the Board of Education may, by appropriate action taken prior to the final adoption of the budget, do either of the following:
  1. Adopt an interim salary schedule which shall be the same schedule as for the preceding year, except that increases may be granted at that time based upon increased cost-of-living indexes, and provide that the salaries and wages fixed as a result of the study shall be payable for the entire school year to include the period thereof in which the study was conducted and final Board of Education action taken.
  2. Provide that the salaries and wages fixed as a result of the study shall be effective only for that portion of the school year, as determined by the Board of Education at the time it takes action after the study has been completed. "Portion of the school year," as used here shall not be for any period of time less than the period of time remaining in the school year from the date the Board of Education adopts the salary schedule based on the study commenced prior to that school year.
- E. The Board of Education shall employ, pay and otherwise control the services of classified employees only in accordance with the provisions of Title 2, Division 3, Part 25, Chapter 5, Article 6 (Merit System of the State of California Education Code and these Rules).

### 12.1.2

#### FACTORS IN SALARY DETERMINATION

- A. The Director of Classified Personnel shall prepare recommendations for the allocation of classes to salary ranges for approval by the Personnel Commission. These recommendations may take into account the following factors:
  - 1. Wages and salaries paid for similar work in private industry in the recruitment area;
  - 2. Wages and salaries paid by other governmental agencies in the recruitment area;
  - 3. The principle of like pay for like work within the classified services;
  - 4. Appropriate differentials between related classes to reflect differences in duties and responsibilities as established in the classification plan, and
  - 5. Such other information as the Personnel Commission may require.

### 12.1.3

#### SALARY STUDIES

- A. The Director of Classified Personnel shall conduct or, with the approval of the Commission, cause to be conducted, a salary study:
  - 1. When a new class is created, or
  - 2. When directed by the Personnel Commission.
- B. The administration, an employee, or employee representative, may request a salary study of a class by directing a written communication to the Personnel Commission and setting forth the reasons for the study.
- C. A salary study may consist of a review of internal relationships with other related classes and may include a salary survey of private industry and public sector pay rates.

### 12.1.4

#### SALARY RECOMMENDATIONS

- A. After making its findings, the Personnel Commission shall present salary recommendations to the Board of Education for approval. The Board of Education may approve, amend or reject the recommendations. No amendment shall be adopted until the Personnel Commission is first given a reasonable opportunity to comment on the effect the amendment will have on the principle of like pay for like work. No changes shall operate to disturb the relationship in which compensation schedules bear to one another, as the relationship has been established in the classification made by the Personnel Commission.
- B. Salary recommendations may be based on evidence that the class in question is substantially overpaid or underpaid as determined by a survey of relative community rates or the internal alignment of classes.
- C. Adjustments may also be made when a classification study indicates that changes of duties and responsibilities require such a change.

References: Education Codes 45160, 45162, 45163, 45241, and 45268

Rule 12.2 GENERAL SALARY PROVISIONS

12.2.1 INTERPRETATION OF THE SALARY SCHEDULE

- A. The schedule of pay for each class represents the standard rate of pay for full-time employment, unless in the pay schedule it is specifically indicated that the rate is for part-time service.
- B. The rates of pay, as set forth in the salary schedules, do not include reimbursements for actual and necessary expenses for travel, subsistence, car mileage and similar purposes authorized and incurred as part of the employment.

12.2.2 PAYROLL PROCEDURE

- A. The County Superintendent of Schools, with the approval of the County Auditor, shall prepare separate payroll warrants for classified employees. These warrants shall:
  - 1. Provide a statement of the amount earned;
  - 2. Include an itemization of the amounts withheld;
  - 3. Show the closing date of the pay period and the date of issue, and
  - 4. Be issued on or before the tenth (10<sup>th</sup>) calendar day following the end of the pay period.
- B. The payroll procedures may provide for salary payment, including salary advances, more frequently than once a month.

Reference: Education Code 42646

12.2.3 CORRECTION OF ERROR IN SALARY

- A. Whenever it is determined that an error has been made in the calculation, reporting or in the payment of any classified employee's salary, the District shall, within five (5) working days:
  - 1. Provide the employee with a statement of correction; and
  - 2. Issue a supplemental payment to cover the underpayment when the employee has been underpaid, or make equitable arrangements for repayment when the employee has been overpaid.



- B. The correction of errors made in the calculation, reporting or in the payment of any classified employee's salary shall be for no more than three (3) years from the date the error is discovered.

Reference: Education Code 45167

#### 12.2.4 SALARY ON EMPLOYMENT

- A. New employees shall be appointed at the hiring rate for the class as approved by the Personnel Commission. The hiring rate shall be the first step of the schedule except as provided for any minimum and/or living wage provision adopted by the Board of Education. Additionally, for classes where recruitment efforts have indicated difficulty in recruiting at that step, an accelerated hiring rate may be set with the approval of the Board of Education and the Personnel Commission at any step of the schedule for the class. If an accelerated hiring rate is approved, all current employees in the class shall be advanced to that rate and shall begin a new cycle of step advancement.
- B. A new employee may request or be recommended for Advanced Step Placement within the first sixty (60) working days during the probationary period. If the new employee is granted Advanced Step Placement, the salary rate shall be retroactive to the date of entry in the classification. The request or recommendation shall be submitted, in writing, to the Director of Classified Personnel. The Advanced Step Placement is subject to the recommendation of the Director of Classified Personnel and approval of the Personnel Commission.

#### 12.2.5 SALARY INCREMENTS

- A. After satisfactory completion of six (6) months in a regular position, classified employees, including confidential, shall advance to the next step on the appropriate salary range. After completion of one (1) year in a regular position, classified management employees shall advance to the next step on the appropriate salary range upon completion of each year of continuous and satisfactory service until the maximum salary is reached.
- B. Salary advancement shall be effective on the first (1<sup>st</sup>) day of the month. When an anniversary date falls on or before the fifteenth (15<sup>th</sup>) of the month, the increment shall be the first (1<sup>st</sup>) of that month. When the anniversary date falls after the fifteenth (15<sup>th</sup>) of the month, the increment shall be the first (1<sup>st</sup>) of the following month.
- C. Employees placed above the first step of a salary range will advance at one (1) year intervals until the maximum is reached.

#### 12.2.6 WITHHOLDING SALARY INCREMENTS

- A. A salary increment shall be withheld when an employee has received a Needs to Improve or Unsatisfactory Performance Evaluation. Upon clearance of the Needs to Improve or Unsatisfactory Performance Evaluation by a subsequent Job Performance Progress Report or evaluation by the employee's immediate supervisor, the increment shall be approved effective the first (1<sup>st</sup>) of the month following the filing of a satisfactory evaluation. This shall then become the new salary increment date.

- B. Withholding a salary increment for a permanent employee shall be subject to appeal to the Personnel Commission only as a part of any appeal resulting from a disciplinary action.

12.2.7 SALARY ON PROMOTION

- A. When an employee is promoted to a position on a higher salary range, the employee shall receive at least a one (1) step salary increase, but not less than the first step of the new salary range.
- B. If the increase is less than one (1) salary step, the employee shall be placed on the next higher salary step but not higher than the highest salary step in that range.
- C. The promoted employee shall serve a probationary period in the new class.
- D. Promoted employees placed on step A will advance one (1) step on the salary schedule upon satisfactory completion of the probationary period in the new class, or promoted employees placed above step A will advance one (1) step on the salary schedule upon satisfactory completion of one (1) year of service in the new class.

12.2.8 SALARY ON DEMOTION

- A. An employee who accepts a voluntary demotion shall be placed on the step of the range of the lower class which is closest to the rate earned in the higher class, provided that the employee shall not receive a salary increase thereby. The increment date established in the higher class shall be retained.
- B. An employee who accepts a voluntary demotion in lieu of layoff shall be "Y" rated (Rule 3.3.3B).
- C. If an employee is involuntarily demoted during probation, as provided in these Rules, salary placement shall be at the step of the lower salary range to which the employee would have progressed if the employee had served continuously in the lower class. When the demotion is a disciplinary action, the notice shall specify the step of the salary schedule at which the employee shall be placed.

12.2.9 SALARY ON RECLASSIFICATION

- A. When the position held by a regular employee is reclassified, the salary placement and increment date shall be determined as follows:
  - 1. If the position is allocated to a class with a higher salary range and the employee is granted status without examination, the employee shall retain the same salary step on the higher range and the same increment date as held in the lower class.
  - 2. If the position is allocated to a class with a higher salary range and the employee obtains status in the higher class upon passing an

examination (Rule 3.3.3.A), the change of classification shall be treated as a promotion (Rule 12.2.7).

3. If the position is allocated to a class with a lower salary range and the employee retains the position, the employee's salary shall be "Y" rated (Rule 3.3.3B).

12.2.10 SALARY ON REALLOCATION

- A. When a class is reallocated to a higher salary range, employees in the class shall be placed on the new salary range on the same salary step they held prior to reallocation. The employee's salary increment date shall not change.

Reference: Education Code 45268

12.2.11 SALARY ON TRANSFER

- A. When an employee is transferred from one (1) position to another in the same class, or a related class on the same salary range, the employee's step placement and salary increment date shall not change.

12.2.12 SALARY ON REEMPLOYMENT, REINSTATEMENT, AND RETURN FROM LEAVE OF ABSENCE

- A. Upon reemployment, reinstatement or return from leave of absence, an employee shall be placed on the same step of the salary range that was previously held.
- B. Credit for step advancement shall accrue during military leave and all paid leaves.

Reference: Education Code 45309

12.2.13 SHIFT DIFFERENTIAL PAY

- A. An employee assigned to a regular position requiring four (4) or more hours of service after 5:00 p.m. and before 12:00 midnight shall be paid a differential of two (2) ranges on the salary schedule.
- B. An employee assigned to a regular position requiring four (4) or more hours of service after 12:00 midnight and before 6:00 a.m. shall be paid a differential of four (4) ranges on the salary schedule.
- C. Employees assigned to evening and night positions on a regular basis who are required to work a temporary day assignment shall continue to be granted the differential.
- D. Positions for which differential compensation is granted shall be filled as vacancies according to these Rules.

- E. Positions which require the incumbent to regularly work evening or night hours for three (3) or more days per week shall be granted differential pay.
- F. The Board of Education may provide differential pay to those classified employees who perform duties of a distasteful, dangerous or unique nature when reasonably justified. Such differential shall be based upon findings and recommendations of the Personnel Commission.

References: Education Codes 45180, 45181 and 45182

12.2.14 LONGEVITY PAY

- A. Regular classified employees shall receive a longevity increment in addition to their regular salary in recognition of continuous service, adjusted for any break(s), to the District. For all non-management classifications, longevity increments are granted in accordance with the collective bargaining agreement. For management and confidential classifications, longevity increments are granted and approved by the Board of Education.

12.2.15 EFFECTIVE DATE OF SALARY CHANGES

- A. Salary increments shall be effective on the first (1<sup>st</sup>) day of the calendar month as provided below:
  - 1. When the date of change falls on or before the fifteenth (15<sup>th</sup>) of the month, the salary change shall be effective on the first (1<sup>st</sup>) of that month.
  - 2. When the date of change falls after the fifteenth (15<sup>th</sup>) of the month, the salary change shall be effective on the first (1<sup>st</sup>) of the following month.

RULE 12.3 OVERTIME PROVISIONS

12.3.1 OVERTIME DEFINED

- A. Overtime shall be defined as authorized work time in excess of eight (8) hours in one (1) day or forty (40) hours in one (1) week.
- B. Employees assigned to a ten (10) hour day, four (4) day, forty (40) hour week shall receive overtime pay for hours worked in excess of ten (10) hours per day or forty (40) hours per week.
- 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, compensatory time off, or other paid leave of absence shall be considered as time worked by the employee.

12.3.2 OVERTIME COMPENSATION

- A. An employee who works authorized overtime shall be paid at the rate of one and one-half (1-1/2) times their regular hourly rate of pay or shall receive compensatory time at the rate of one and one-half (1-1/2) times for the number of overtime hours worked.
  - 1. For overtime purposes the employee's regular rate of pay includes **all** shift and special assignment differentials, longevity, professional growth, bilingual or other earned differential(s).
  - 2. The employee's overtime regular rate of pay is the appropriate rate for the class in which the duties are performed.
- B. Overtime at the rate of one and one-half (1-1/2) times his/her regular rate shall be paid to part-time employees as follows:
  - 1. An employee having an average workday of four (4) hours or more shall receive overtime compensation for any authorized work performed on the sixth (6<sup>th</sup>) or seventh (7<sup>th</sup>) consecutive day of work.
  - 2. An employee having an average workday of less than four (4) hours shall receive overtime compensation for any authorized work performed on the seventh (7<sup>th</sup>) consecutive day of work.
- C. When a classified employee is required to work on any District paid holiday the employee shall be paid, in addition to the regular pay received for the holiday, at the rate of one and one-half (1-1/2) times the employee's regular rate of pay.

12.3.3 ASSIGNMENT OF OVERTIME

- A. Overtime work shall be based on seniority and on a rotating basis among all qualified employees who are in the same class, the same organizational unit, to the same work location.

12.3.4 COMPENSATORY TIME

- A. Compensatory time off may be granted in lieu of cash payment for overtime hours worked at the election of the employee and with the approval of the supervisor. The following provisions apply:
  - 1. A record of compensatory time worked and taken shall be maintained in the department.
  - 2. Compensatory time may be taken in lieu of any other authorized leave.
  - 3. Compensatory time shall be approved by the supervisor before it is taken.

4. When compensatory time off is authorized in lieu of cash compensation, such compensatory time off shall be granted within twelve (12) calendar months following the month in which the overtime was worked and without impairing the services rendered by the employing District.
5. Compensatory time is earned at the overtime rate. When the hours worked are in excess of eight (8) per day or forty (40) per week, the rate shall be at one and one-half (1-1/2) times.

#### 12.3.5 CALL BACK

- A. Whenever an employee is called back to duty by his/her supervisor or designee after the conclusion of the normal work shift, the employee shall receive a minimum of two (2) hours pay at the appropriate salary rate.
- B. When an employee is called back to duty by his/her supervisor or designee on a day which is not a regularly scheduled work day he/she shall receive a minimum of two (2) hours pay at the appropriate salary rate.
- C. Employees called back for more than two (2) hours shall be paid for the actual hours worked at the appropriate salary rate.

#### 12.3.6 EXEMPTION FROM OVERTIME

- A. Positions or classes of positions designated supervisory, administrative, or executive by the Personnel Commission, when applicable, or the Board of Education, are exempt from the overtime provisions of these Rules.
- B. To be exempted from overtime, positions or classes of positions must clearly and reasonably be 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.
- C. Notwithstanding the provisions of paragraph A of this Rule, if an exempt employee is required to work on any District paid holiday, he/she shall be paid, in addition to the regular pay received for the holiday, at the rate of one and one-half (1-1/2) times the employee's rate of pay.

References: Education Codes 45127, 45128, 45129, 45130 and 45131

#### RULE 12.4 EMPLOYEE BENEFITS

##### 12.4.1 HEALTH AND WELFARE BENEFITS

- A. The District shall provide a health and welfare benefit plan for all regular employees assigned twenty (20) or more hours per week.
- B. Benefits shall be the amount approved annually by the Board of Education.

- C. Group medical and dental insurance shall be provided from carriers agreed on by the District and the recognized employee organizations.
- D. Regular employees assigned thirty-five (35) or more hours per week and nine (9) or more months per year, shall be considered full time employees.
- E. Regular employees assigned less than thirty-five (35) but twenty (20) or more hours per week, shall receive a pro rata share of the benefits authorized for full time employees. This proration shall be based on the ratio that hours worked per week bear to forty (40) hours.
- F. Employees assigned less than twenty (20) hours per week shall not be eligible for benefits provided by this Rule.
- G. Notwithstanding other provisions of this Rule, classified employees hired prior to September 19, 1977, who were receiving full benefits provided by the District, shall continue to receive these benefits provided:
  - 1. They have been continuously employed by the District since September 19, 1977, and
  - 2. That this benefit has not been forfeited as a result of voluntary reduction in hours, except for a voluntary reduction in lieu of lay-off.

12.4.2 MILEAGE REIMBURSEMENT

- A. Any classified employee who is required by his/her supervisor to use his/her personal vehicle for District business shall be reimbursed for mileage at the rate determined by the Internal Revenue Service as provided by the Los Angeles County Office of Education.

Reference: Education Code 44032

## CHAPTER XIII: SENIORITY, LAYOFF, DISPLACEMENT AND REEMPLOYMENT

### RULE 13.1

### SENIORITY PROVISIONS

- Section 13.1.1 Seniority Defined  
13.1.2 Seniority Computation  
13.1.3 General Provisions  
13.1.4 Seniority Lists

### RULE 13.2

### LAYOFF PROCEDURES

- Section 13.2.1 Procedure for Employee Layoff

### RULE 13.3

### DISPLACEMENT (BUMPING) RIGHTS

- Section 13.3.1 Displacement Rights for Permanent Employees  
13.3.2 Rights of Non-Permanent Employees

### RULE 13.4

### REEMPLOYMENT

- Section 13.4.1 Reemployment Rights of Permanent Employees  
13.4.2 Reemployment Rights of Retired Employees



## RULE 13.1 SENIORITY

### 13.1.1 SENIORITY DEFINED

- A. Seniority shall be defined as the length of service a regular classified employee has served in the class plus higher classes.
- B. For all employment in the regular classified service, seniority shall be determined by the employee's original date of hire in a class plus higher related classes.
- C. No seniority shall be earned during unpaid periods of separation from the service of the school district in excess of thirty (30) working days per year except for military leave. Time spent on military leave shall count toward seniority provided that the employee returns to active service with the District within six (6) months of release or discharge from the military under honorable conditions.
- D. A permanent employee, who is laid off and is subsequently reemployed pursuant to Education Code 45308, shall regain the seniority status held prior to the time of layoff, less the amount of time the employee was in a lay-off status.
- E. Should a permanent employee voluntarily separate from service and be subsequently reinstated to employment pursuant to Education Code 45309. All time spent working in the regular classified service shall count toward seniority accrual when the period of separation does not exceed thirty-nine (39) months.

Reference: Education Code Sections 45308 and 45309

### 13.1.2 SENIORITY COMPUTATION

- A. Computation of seniority in a class shall include:
  - 1. All time served in the classification from the date of hire into the class in a regular probationary or permanent status.
  - 2. Time for which a regular employee is paid in an equal or higher class on a limited term or provisional basis shall be credited to the employee's regular class.
  - 3. Time served in restricted status upon qualification by the employee as provided in Rule 3.1.6.G.

- B. Computation of seniority in a class shall not include:
  - 1. Time served or compensated for in a substitute, limited term or provisional assignment prior to entering into the classified service as a probationary employee.
  - 2. Time, in excess of thirty (30) working days per year, of unpaid separation from service in the school district except for military leave and the normal summer break for employees serving in less than an eleven (11) month per year assignment.

**Reference: Education Code Section 45308**

### **13.1.3 GENERAL PROVISIONS**

- A. Whenever a tie in seniority in a class exists, the tie shall be broken in the following manner:
  - 1. The employee with the longest total service in probationary/permanent status with the District shall be accorded the greater seniority.
  - 2. If two (2) or more employees continue to be tied, the Director of Classified Personnel shall provide for the employees to draw lots to break the tie.
- B. When reclassification results either in the merger of two (2) or more classes, or the separation of a class into two (2) or more classes, seniority rights of probationary/permanent employees who are reclassified with their positions shall be computed from the effective date of the reclassification.
- C. An employee changing from one (1) class to another shall retain seniority in the former class; seniority in the new class shall begin on the date of the change.

### **13.1.4 SENIORITY LISTS**

- A. Seniority lists shall be prepared for each class and updated as needed. The lists shall be approved by the Director of Classified Personnel and certified by the Commission.
- B. A record of seniority computation shall be maintained for each employee. This record shall be made available to the employee for review.
- C. When an employee believes that an error has been made on the seniority computation, the employee may notify the Director of Classified Personnel who shall review the computations and any additional information provided by the employee. The Director of Classified Personnel shall determine if a re-

computation is appropriate. Seniority lists shall be corrected and presented to the Commission for certification, as necessary.

- D. In computing seniority for a single class with both full-time and part-time positions, only one list shall be prepared which shall include both the full-time and part-time positions.

## RULE 13.2 LAYOFF PROCEDURES

### 13.2.1 PROCEDURE FOR EMPLOYEE LAYOFF

- A. The Board may layoff employees because of lack of work or lack of funds, and only in accordance with the rules and regulations of the Personnel Commission. 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. 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. Employees who have been laid off shall have the right of reemployment. Reemployment shall be in the reverse order of layoff. The seniority list for the class shall be used to carry out all applicable Rules in regard to layoff.
- B. When the Board determines that classified employees must be laid off and has approved the positions, services or programs which are to be eliminated, the Assistant Superintendent-Human Resources shall notify the employees affected.
  - 1. Employees who are to be laid off shall be given notice of layoff not less than forty-five (45) days prior to the effective date of layoff. Employees who are to be laid off due to the expiration of a specially funded program shall be given notice on or before April 29. However, if the termination date of any specially funded program is other than June 30, such notice shall be given not less than forty-five (45) days prior to the effective date of their layoff.
  - 2. The layoff notice shall include the:
    - a. Reason for the layoff;
    - b. Effective date of layoff;
    - c. Employee's displacement (bumping and voluntary demotion) rights;
    - d. Employee's reemployment rights;

- e. Employee's benefit entitlement, unemployment compensation rights, and promotional testing preference;
  - f. Name and classification of the employee, and
  - g. Right to an exit interview during office working hours with the Director of Classified Personnel and bargaining representative.
3. The Board may waive the forty-five (45) day notice for lack of funds in the event of an actual and existing financial inability to pay salaries or for lack of work for causes not foreseeable or preventable by the Board.
  4. When the assigned work year and/or the assigned hours of a position must be reduced, or when a position is reallocated to a lower salary level, the incumbent shall be given the opportunity to elect a voluntary reduction in order to remain in the position. This reduction shall be in lieu of layoff.
  5. When a limited term assignment exists in the same class in which a regular employee is to be laid off, the regular employee shall be offered the limited term assignment. If the regular employee accepts the limited term assignment, the limited term employee shall be terminated. The regular employee remains on the reemployment list.
  6. Probationary employees who are to be laid off shall be given forty-five (45) days notice and returned to the appropriate eligibility list.

### **RULE 13.3 DISPLACEMENT (BUMPING) RIGHTS**

- 13.3.1** A. Permanent classified employees who are to be laid off may exercise displacement rights in their class or in a class with the same or lower salary in which they hold seniority credit greater than an incumbent. The incumbent who is displaced shall be the one with the least seniority in the class plus higher classes. In determining displacement rights, the following rules shall apply.
1. In cases of reclassification, reorganization or abolishment of position, or in cases where an employee is promoted and subsequently disqualified during probation, an incumbent's seniority in the class shall be computed according to Rule 13.1.2.
  2. An employee has the choice of displacing that employee within the employee's classification who has the least seniority in the class or the one who holds the next most comparable assignment. Assignment is defined as the total number of hours of paid status assigned to a position per year. The employee finally laid off shall be the one with the least seniority in the class plus higher classes.

3. When an employee displaces into a lower classification, the employee displaced shall be the one with the least seniority who holds the most comparable assignment. The employee finally laid off shall be the one with the least seniority in the class plus higher classes.
4. If an employee waives the opportunity to displace within the employee's classification, these procedures may be followed only in an equal or a lower classification in which seniority is held. If the employee waives the right to displacement or a vacant position the employee shall be laid off and placed on the reemployment list.
5. An employee shall have five (5) working days to notify the Director of Classified Personnel of the intent to exercise displacement rights.
6. Displacement into a lower class under this Rule shall be considered a voluntary demotion and shall qualify the employee for "Y" rate salary placement under Rule 12.2.8.

#### **13.3.2. RIGHTS OF NON PERMANENT EMPLOYEES**

- A. Probationary employees who are laid off shall have no displacement rights but shall be restored to their place on the eligibility list from which they were appointed.
- B. All other employees without permanent status in the classified service, shall hold no displacement rights and may be terminated at the end of their work shift by their supervisor without regard to the notification procedures of Rule 13.2.
- C. No regular employee shall be laid off from any position while temporary or limited term employees are assigned to positions in the same class, unless the regular employee declines the temporary assignment.

**Reference: Education Code Sections 45114, 45117 and 45308**

### **RULE 13.4 REEMPLOYMENT**

#### **13.4.1 REEMPLOYMENT RIGHTS OF PERMANENT EMPLOYEES**

- A. A permanent employee after having had the opportunity to exercise all rights guaranteed under this Rule who must be laid off and placed on a reemployment list for the first comparable vacancy occurring in the class from which the employee was laid off for a period of up to thirty-nine (39) months. The following procedures shall also apply:

1. An eligible on a reemployment list may decline three (3) offers of reemployment in the eligible's former class. After the third refusal, no additional offers need be made and the eligible shall be considered unavailable until the eligible indicates availability in writing.
  2. If an employee is on an eligibility list at the time of layoff, the employee shall be restored to or remain on the list until placed from the list or the employee's eligibility expires.
  3. Eligibles on reemployment lists may compete in promotional examinations for which they qualify and shall be granted seniority credit.
  4. Laid off employees shall not accumulate seniority in the class while on the reemployment list.
- B. An employee who has accepted voluntary demotion or voluntary reductions in assigned time in lieu of layoff has the right to be reemployed without examination, in accordance with the employee's seniority, in a vacant position in the employee's former class within sixty-three (63) months after demotion. Intervening assignments or reassignments to other classes shall not abrogate this right.
- C. Upon reemployment the District shall restore all rights, benefits, and burdens of a permanent employee in the classified service. Salary placement shall be determined according to Rule 12.2.12.

**References: Education Code Sections 45298 and 45308**

#### **13.4.2 REEMPLOYMENT RIGHTS OF RETIRED EMPLOYEES**

- A. Notwithstanding any other provisions of law, any person who was subject to being or was in fact laid off for lack of work or lack of funds and who elected service retirement from the Public Employees' Retirement System shall be placed on an appropriate reemployment list. The District shall notify the Board of Administration of the Public Employees' Retirement System of the fact that retirement was due to layoff for lack of work or lack of funds. If the person is subsequently subject to reemployment and accepts, in writing, the appropriate vacant position, The District shall maintain the vacancy until the Board of Administration of the Public Employees' Retirement System has properly processed the person's request for reinstatement from retirement.

**Reference: Education Code Section 45115**

## CHAPTER XIV

### DISCIPLINARY ACTION AND APPEAL

#### Rule 14.1 DISCIPLINARY ACTION - SUSPENSION, DEMOTION AND DISMISSAL

The subject of this Rule is within the scope of representation under Section 3543.2 of the Government Code. If an agreement on this subject is in effect between the District and an exclusive representative of employees in a recognized bargaining unit, the agreement shall supersede the provisions of this Rule as they apply to employees in that unit.

##### 14.1.1 GENERAL PROVISIONS

- A. A classified employee shall be subject to disciplinary action only for cause as prescribed by law or this Rule. No disciplinary action shall be taken against any employee for any cause which arose more than two (2) years prior to the date of the notice of disciplinary action unless such cause was concealed or not disclosed by the employee when the facts reasonably should have been disclosed.
- B. No employee shall be suspended, demoted or dismissed, sexually harassed, or in any way discriminated against because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, or military or veteran status (as defined in Government Code 12926), or religious or political beliefs or acts, except as provided in Rule 14.1.4.
- C. No classified employee shall be suspended, demoted or dismissed except as provided in Rule 14.1.5.

References: California Education Code 45302

##### 14.1.2 NOTICE OF DISCIPLINARY ACTION

- A. The notice of disciplinary action shall include causes or charges for discipline as specified in Rule 14.1.4.

The notice of disciplinary action shall also include a Statement of Charges. The Statement of Charges must be in ordinary and concise language and be clear enough so that the employee will know the precise charges against him/her and be able to respond to them.

- B. When an employee is to be disciplined, he/she shall be advised of his/her right to answer, explain or deny the charges within five (5) working days after receipt of the notice of disciplinary action. The answer, explanation or denial of charges shall be made to the person sending the notice of disciplinary action. The employee shall be entitled to review any records or materials which are used as part of the discipline and shall be provided copies upon request.
- C. All communications from the District to the employee shall be:
  - 1. delivered personally and signed for by the employee or
  - 2. sent by certified mail, return receipt requested, to the last known address of the employee on file in the Human Resources Office.

#### 14.1.3 DEFINITIONS

- A. Suspension shall mean the temporary removal of an employee from a position for cause with loss of pay as a disciplinary measure, or indefinite removal preliminary to investigation of charges pursuant to Education Code 45304.
- B. Demotion shall mean the involuntary reduction of an employee for cause from a class with a higher salary range to a class with a lower salary range.
- C. Dismissal shall mean the involuntary separation of an employee from service for cause.

#### 14.1.4 CAUSES FOR SUSPENSION, DEMOTION OR DISMISSAL



- A. A classified employee may be subject to disciplinary action by the Board of Education for the following causes:
1. insubordination, including, but not limited to refusal or failure to do reasonably assigned work;
  2. discourteous, offensive or abusive conduct toward other employees, students or the public;
  3. misuse, theft, destruction or mishandling of District property, or property of employees or students of the District;
  4. offering anything of value, or offering any service in exchange for special treatment in connection with an employee's job or employment, or the accepting of anything of value or any service in exchange for granting special treatment to another employee or to any member of the public;
  5. possession of an alcoholic beverage or drinking alcoholic beverages, or being intoxicated while on the job, or the unauthorized use or being under the influence of alcohol, narcotics or any controlled substances not prescribed to the employee by a licensed physician;
  6. engaging in political, religious or personal activities during assigned hours of employment, which impairs the efficiency of the service;
  7. immoral conduct;
  8. conviction of a felony or serious crime or a record of one (1) or more convictions which indicate that the person is a poor employment risk for the particular job which he/she holds in the District. (A plea, verdict, or finding of guilty, or a conviction following a plea of nolo

contendere is to be deemed a conviction within the meaning of these Rules);

9. conviction of a sex or narcotics offense as defined in Education Codes 44010, 44011, or 45124
10. abuse of leave privileges which impairs the efficiency of the service;
11. falsifying information supplied to the District including, but not limited, to information supplied on applications, employment forms, payroll documents or other records;
12. violation of, or failure to enforce, rules, regulations, policies or procedures pertaining to health and safety;
13. engaging in unprofessional conduct that may injure the District or its reputation;
14. violation of the provisions of the Education Code or of written rules, regulations or procedures adopted or established by the Board of Education, Personnel Commission or administration;
15. abandonment of position, which means an absence without continued notification, in excess of five (5) working days, except in case of dire emergency;
16. advocacy of the overthrow of the federal, state or local government by force, violence or other unlawful means;
17. failure to report for a review of criminal records or for a health examination after due notice;
18. failure to maintain a valid license or certificate required by the District for the particular position which he/she holds;
19. sexual harassment of another; sexual harassment includes but is not limited to

unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature, made by someone from or in the work or education setting, under any conditions listed in Education Codes 212.5 and 230;

20. failure to obey a duly served subpoena issued by the Personnel Commission, or any refusal to furnish testimony or documents, other than self-incriminating, at a hearing or investigation before the Personnel Commission or Board of Education;
21. incompetency, which means below standard work performance, a pattern of inefficiency, continued neglect or dereliction in the performance of assigned duties;
22. repeated or unexcused tardiness or absence;  
or
23. physical or mental unfitness as determined by a District authorized physician.

References: California Education Codes 45302, 45303 and 45304

- B. A classified employee may be subject to dismissal from service or change in status due to physical or mental unfitness as determined by a District authorized physician. The employee shall retain the right to appeal to the Personnel Commission. Administration shall base the decision to recommend dismissal from service or change of status based on the degree of physical or mental unfitness and the physician's prognosis as they relate to the duties to be performed.
- C. Permanent classified management and confidential employees shall be subject to disciplinary action for the following causes only after completion of Need for Work Improvement, Unsatisfactory Work Performance and Recommendation of Disciplinary Action notices as provided in Rule 14.1.4B and Rule 14.1.5D.

Represented employees shall be subject to disciplinary action in accordance with the collective bargaining agreement.

1. incompetency, which means below standard work performance, a pattern of inefficiency, continued neglect or dereliction in the performance of assigned duties or
2. repeated or unexcused tardiness or absence, or
3. abuse of leave privileges which impairs the efficiency of the service.

#### 14.1.5 SUSPENSION FOR SPECIFIC CAUSES

(a) For reasonable causes, an employee may be suspended without pay for not more than thirty (30) days, except as provided in this section, or may be demoted or dismissed. In this case, the school district shall, within ten (10) days of the suspension, demotion, or dismissal, file written charges with the Personnel Commission. The personnel director shall give to the employee or deposit in the United States registered mail with postage prepaid, addressed to the employee at his or her last known place of address, a copy of the charges and inform the employee of his or her appeal rights.

(b) Whenever an employee of a school district or county office of education is charged with a mandatory leave of absence offense, as defined in subdivision (a) of Section 44940, the Board of Education shall immediately place the employee upon a compulsory leave of absence for a period of time extending for not more than ten (10) days after the date of entry of the judgment in the proceedings.

Once the employee is placed on leave of absence, he or she is subject to the provisions of Section 44940.5.

(c) Whenever an employee of a School District or county office of education is charged with an optional leave of absence offense, as defined in subdivision (b) of Section 44940, the Board of Education may immediately place the employee upon a compulsory leave of absence in accordance with the provisions of Section 44940.5.

Reference: California Education Code 45304

- A. An employee may be suspended immediately for up to two (2) days without pay upon recommendation of his/her immediate supervisor and with the approval of the Superintendent or his/her designee. Immediate suspension shall be for cause as listed in Rule 14.1.4A when such suspension is necessary for the safety and/or best interests of students, parents, staff, the District or the employee.
  - 1. Such suspension shall be documented on an appropriate notice of disciplinary action and presented to the employee upon return from suspension.
  - 2. A conference shall be scheduled with the employee and the Assistant Superintendent-Human Resources to discuss the suspension.
  - 3. All procedures for disciplinary action shall be followed.
  - 4. The disciplinary action shall be ratified at a regular meeting of the Board of Education.
  
- B. An employee may be suspended, without pay, pending recommended termination by the Superintendent or his/her designee. Such suspension shall be for cause as listed in Rule 14.1.4 when the suspension is in the best interest of students, parents, staff, the employee or the District. Suspension under this provision shall otherwise follow the procedure in Rule 14.1.6.
  
- C. In cases of disciplinary action arising from causes listed in Rule 14.1.4B, the immediate supervisor shall initiate a Needs to Improve cycle to provide the employee with the following three notices before disciplinary action can be taken.
  - 1. Need for Work Improvement - First Notice. This notice shall include performance standards, areas of needed improvement and

suggestions for improvement. The first notice shall provide a minimum thirty (30) calendar day period for the employee to improve.

2. Unsatisfactory Job Performance - Second Notice. This notice shall include the Need for Work Improvement – First Notice, performance standards, areas of unsatisfactory performance and improvement required. The second notice shall provide a minimum thirty (30) calendar day period for the employee to improve.
3. Recommendation of Disciplinary Action - Final Notice. This notice shall include the First and Second Notices, performance standards not met and the recommended disciplinary action. Procedure for disciplinary action shall be followed.
4. A supervisor may remove an employee from the Needs to Improve cycle if job performance has been corrected. An employee who subsequently resumes the behaviors noted during the Needs to Improve cycle may be subject to disciplinary action for up to one (1) year without the necessity of completing any of the above steps completed within the previous twelve (12) months.
5. Failure to complete the second or the final notice within ninety (90) calendar days shall remove an employee from the Needs to Improve cycle and the employee shall be deemed to be working at an acceptable performance standards.

#### 14.1.6 PROCEDURE FOR DISCIPLINARY ACTION

- A. An employee may be suspended without pay for cause as listed in this Rule for not more than thirty (30) days upon recommendation of the Assistant Superintendent - Human Resources and the Superintendent with approval by the Board of Education.

- B. When a classified employee is recommended for suspension for cause as listed in this Rule, the recommendation shall be prepared by the supervisor and forwarded to the Assistant Superintendent - Human Resources for approval.
- C. The Assistant Superintendent - Human Resources shall prepare a notice of disciplinary action.
- D. Upon completion of the notice of disciplinary action and prior to action by the Board of Education, the Assistant Superintendent - Human Resources shall notify the employee that disciplinary action may be taken and schedule a meeting to discuss the matter. The employee shall be notified that he/she is entitled to be represented by any person of his/her choice.
- E. If, subsequent to the above meeting, it is determined that the District will proceed with disciplinary action, the notice of disciplinary action shall be sent to the employee's last known address by certified mail with return receipt requested. The notice shall be mailed and available to the employee at least five (5) working days prior to the scheduled Board action. Alternatively, the Notice of Disciplinary Action may be delivered to the employee personally and he/she shall be requested to sign acknowledgement of receipt. A copy of the notice of disciplinary action shall immediately be filed with the Director of Classified Personnel.
- F. An employee who has permanent status in the classified service may be involuntarily demoted with the right of appeal.
- G. An employee who has permanent status in the classified service and who has been promoted to a higher class may be involuntarily demoted during the probationary period to his/her former class without right of appeal. If the demotion results in the separation of the employee from the classified service or if the employee alleges that the disciplinary action was taken because of prohibited basis of discrimination, the employee shall have the right of appeal.

- H. Dismissal may cause removal of the employee's name from all reemployment and eligibility lists.

Reference: California Education Code 45304

14.1.7 PROCEDURE FOR NOTIFICATION OF RIGHT TO APPEAL

- A. When the Board of Education has taken final action to discipline an employee, the Assistant Superintendent-Human Resources shall, within three (3) working days, notify in writing the Director of Classified Personnel of the Board of Education's action.
- B. The Director of Classified Personnel shall, within ten (10) days of the Board of Education's action, notify the employee in writing of the Board of Education's decision and the employee's right to appeal the Board of Education's decision with the Personnel Commission.
- C. This notification to the employee shall contain:
  - 1. a copy of written charges,
  - 2. the time allowed to file an appeal,
  - 3. the right of an employee to a hearing on the appeal and
  - 4. the requirements for employee's response as set forth in Rule 14.2.1



Rule 14.2 PROCEDURE FOR APPEAL AND HEARING

14.2.1 PROCEDURE FOR APPEAL

- A. A permanent employee who has been suspended, demoted or dismissed may appeal to the Personnel Commission within fourteen (14) days after receipt of the Board of Education's decision and the employee's right to appeal.
- B. To appeal, the employee shall submit in writing the reasons for which the appeal is based and request a hearing before the Personnel Commission. The grounds for appeal are:
  - 1. That the charges made do not constitute sufficient cause for the action taken.
  - 2. That the action taken was not in accord with the facts.
  - 3. That the penalty involved by the District was excessive.
  - 4. That the procedure set forth in these Rules has not been followed. or
  - 5. That the disciplinary action was taken because of prohibited basis of discrimination.
- C. For purposes of this Rule, if a notice is mailed, the official date of receipt shall be two (2) working days from the postmark date of the notice.
- D. Failure to appeal disciplinary action as provided in this Rule shall make the action of the Board of Education final.

14.2.2 PROCEDURE FOR HEARING

- A. After an employee has filed an appeal in answer to the charges against him/her, the Personnel Commission shall order a hearing. If a hearing is so ordered, the Personnel Commission shall schedule the time and place of the hearing. The hearing shall be held within a reasonable length of time from the

receipt of the appeal and the Director of Classified Personnel shall provide written notification to all parties.

- B. The Personnel Commission may conduct the hearing or may appoint a hearing officer to conduct the hearing to report Findings and Recommendations to the Personnel Commission. The Personnel Commission may accept, reject or amend any of the Findings or Recommendations in the proposed decision. Any rejection or amendment shall be based on a review of the transcript or upon the results of any supplemental hearing(s) or investigation(s) as the Personnel Commission may order.
- C. Prior to the hearing, each party shall have the right to copy any written documents that may be presented during the hearing and to a list of all witnesses to be called.
- D. Hearings shall be conducted in the manner most conducive to the determination of the truth, and neither the Personnel Commission nor its hearing officer shall be bound by technical Rules of Evidence. Decisions made by the Personnel Commission shall not be invalidated by any informality in the proceedings.
- E. The hearing shall be electronically recorded. However, 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.
- F. The Personnel Commission or its hearing officer shall determine the relevancy, weight and credibility of testimony and evidence. Hearsay evidence may be admitted, but shall not be sufficient in and of itself to support a Finding. The Findings of the Personnel Commission or its hearing officer shall be based on a preponderance of the evidence.
- G. The burden of proof shall be on the District except in cases of discrimination.
- H. Each party will be permitted an opening statement, with the District opening first. The District shall next

present its witnesses and evidence to sustain its charges, then the employee will present witnesses and evidence in defense. Each party shall then be permitted closing arguments with the District closing first except in appeals alleging discrimination, in which case the order is reversed.

- I. Each party will be allowed to examine and cross-examine witnesses, including adverse witnesses. If the appellant does not testify on his/her own behalf, he/she may be called and examined as an adverse witness. (California Evidence Code 772)
- J. The Personnel Commission, appellant, and District may be represented by separate legal counsel or other designated representative.
- K. On request of the District or the appellant the Personnel Commission shall order the Director of Classified Personnel to issue subpoenas to require the presence of witnesses, the production of records, or for information pertinent to the hearing. Subpoenas shall be delivered to the requesting party for service.
- L. The Personnel Commission may, at any time, grant a continuance for any reason it believes important to its reaching a fair and proper decision.
- M. Disciplinary hearings shall be held in closed session unless an open hearing is requested by the appellant. The Personnel Commission may, at its discretion, exclude witnesses not under examination except the appellant, District representative and their respective counsel or designated representative. When hearing testimony on alleged scandalous or indecent conduct, all persons not having direct interest in the hearing shall be excluded.
- N. The Personnel Commission shall deliberate its decision in closed session and exclude all persons other than members of the Personnel Commission, its staff or counsel. If counsel also served as counsel for the District, he/she shall be excluded from the final deliberations.

### 14.2.3

### FINDINGS AND DECISION OF APPEAL HEARING

- A. The Personnel Commission shall render a decision within fourteen (14) calendar days after the conclusion of deliberations unless all parties agree to an extension.
- B. The Personnel Commission's Decision shall set forth which charge(s), if any, are sustained or rejected and the reasons therefor. The Decision shall be set forth in writing by the Director of Classified Personnel and signed by a Personnel Commissioner. A copy of the Decision shall be sent to all parties.
- C. The Personnel Commission may sustain or reject any or all of the charges filed against the employee. If the Personnel Commission rejects any or all of the charges against the employee, it may:
  - 1. modify the disciplinary action, but not make the action more stringent than that approved by the Board of Education;
  - 2. order all or part of the employee's full compensation from the time of suspension, demotion or dismissal paid;
  - 3. order the employee's reinstatement upon such terms and conditions as it may determine appropriate;
  - 4. order the employee transferred or a change of work location;
  - 5. order seniority credit for off-duty time pending reinstatement;
  - 6. order that the employee's personnel file be expunged of all records pertaining to the disciplinary action on charges which were not sustained by the Personnel Commission;
  - 7. order the District to pay compensation for all or any part of the legitimate expenses incurred by the parties in pursuit of appeal and/or

8. order such other action as it may find necessary to effect a just settlement of the appeal.
- D. The Decision of the Personnel Commission shall be final and shall not be subject to review by the Board of Education.
- E. Upon receipt of the Personnel Commission's written decision the Board of Education shall forthwith comply with the provisions thereof. When the Board of Education has fully complied with the Personnel Commission's decision it shall so notify the Personnel Commission in writing.

#### 14.2.4 HEARING TRANSCRIPT

- A. If requested, a copy of the hearing transcript shall be prepared and furnished to either party, under the following conditions:
  1. the cost of the transcript and copies if requested, shall be borne by the party making the request;
  2. the request shall be in writing and a cash deposit made in an amount determined by the Director of Classified Personnel prior to preparation;
  3. the final cost of the transcript shall be the actual cost of preparation plus the cost of copies as determined by the Director of Classified Personnel and,
  4. the transcript shall only be released upon payment in full. When the deposit is greater than the actual costs, plus copies, of the document the remainder shall be refunded.

## CHAPTER XV

### RESIGNATION AND REINSTATEMENT

Rule 15.1 RESIGNATION AND RETIREMENT

15.1.1 RESIGNATION

- A. An employee shall submit a Separation Form to Human Resources to resign from a position.
- B. A resignation is accepted on the date tendered and may be withdrawn by the employee only with the approval of the Assistant Superintendent-Human Resources.
- C. A resignation relates only to the specific position from which the employee resigns and does not impair his/her standing on eligibility lists for other classes, except that an employee who resigns shall be removed from all promotional eligibility lists and preference points removed from all merged lists.
- D. Employees who resign in lieu of termination shall be removed from all eligibility lists.

References: California Education Code 45201

15.1.2 RETIREMENT

- A. An employee shall submit a Separation Form to Human Resources at least one (1) month prior to the planned date of retirement.
- B. The minimum age for retirement is fifty (50), provided that the employee meets the eligibility requirement of the Public Employees Retirement System (PERS). There is no compulsory retirement age for classified employees, however, upon reaching age seventy (70), classified employees may be required to take a mental and/or physical examination annually.

15.1.3 RETIREMENT BENEFIT

- A. The District shall provide health and welfare benefits for retired employees as follows:
  - 1. The benefit paid will be the same pro-rata percent the employee was earning at the time of retirement not to exceed the amount approved by the Board of Education and
  - 2. Health and welfare, and dental benefits are limited to the retiree only.
- B. This benefit will be provided when the employee retires at age fifty (50) or greater with at least ten (10) consecutive years of service to the District immediately preceding retirement.
- C. This benefit shall continue until the first of the month prior to the retiree's sixty-fifth birthday. In the event of the retiree's death this benefit terminates with no benefits provided to the retiree's estate or surviving dependents.
- D. In addition to the above benefit, the retiree may continue in any additional health and welfare benefit provided at no cost to the District. Participation in these additional programs is subject to any reasonable requirements or limitations imposed by the District or benefit carrier regarding timely premium payment.

Rule 15.2 REINSTATEMENTS

15.2.1 REINSTATEMENT PROCEDURE

- A. A classified employee who resigned in good standing may be reinstated to a vacant position in any former class in which he/she held permanency.

Reinstatement is subject to the following:

1. Reinstatement must be within thirty-nine (39) months of the last date of paid service.
2. Reinstatement shall be at the discretion of the appointing authority.

- B. Reinstatement shall have the following effects:

1. When a former employee is reinstated to a vacant position, all rights, benefits and burdens of classified employees shall be restored.
2. Salary shall be in accordance with Rule 12.2.12.
3. Seniority shall be in accordance with Rule 13.1.1.

References: California Education Code 45309



## CHAPTER XVI

### GRIEVANCE PROCEDURE

Rule 16.1 GRIEVANCE PROCEDURE

16.1.1 PURPOSE (EDUCATION CODE 45260)

- A. The grievance procedure is the medium through which classified employees may seek the adjustment of complaints arising from an employee's belief that established laws, Board Policies, Commission Rules or administrative procedures have been violated.
- B. It is the intent of this Rule to establish an orderly procedure through which a classified employee may receive timely consideration of his/her grievance. Although specific steps and time limits are set forth in this procedure, it is recognized that the fair and reasonable settlement of grievances may require some alteration of this procedure for individual situations.

16.1.2 MATTERS EXCLUDED

- A. The following matters are excluded from this grievance procedure:
  - 1. any complaint which relates to a cause for disciplinary action;
  - 2. complaints about the subject matter of a Board Policy, Commission Rule or administrative procedure, rather than the administration or implementation of the Policy, Rule or procedure;
  - 3. matters which are contained in a negotiated labor contract. (such matters are subject to the negotiated grievance procedure) and
  - 4. complaints of one employee against another (such complaints shall be submitted to the Superintendent for resolution by the Board).

### 16.1.3 GENERAL PROCEDURES

- A. The grievant and employer shall have the right to be represented by a person or persons of their own choosing at any time during the grievance procedure.
- B. The Assistant Superintendent-Human Resources shall be responsible for maintaining grievance records except that when the grievance pertains to Commission Rules, the Director of Classified Personnel shall maintain the grievance records. Grievance records shall be maintained separately from the grievant's personnel file.
- C. In order to encourage a professional and harmonious disposition of a grievance, neither the grievant his/her representative or the District shall make public either the grievance or any evidence regarding it until the grievance is settled
- D. If a grievance is not processed by the grievant or his/her representative in accordance with the time limits set forth, the grievance shall be considered settled on the basis of the decision last made by the District.
- E. Time limits set forth herein may be lengthened or shortened in any particular case only by mutual written agreement. The parties shall attempt, in good faith, to adjust time limit problems which occur.
- F. No reprisals of any kind shall be taken by the District against the grievant or any representative of the grievant by reason of his/her bringing a grievance or participating in a grievance.
- G. The grievant and/or his/her representative shall be provided reasonable release time, without loss of compensation, to attend grievance conferences or hearings. The District will attempt to schedule grievance meetings so as not to conflict with normal work duties.

### 16.1.4 LEVELS IN THE GRIEVANCE PROCEDURE

- A. Informal Level

1. Before filing a formal written grievance, the employee shall make a reasonable attempt to resolve the grievance by means of an informal conference with his/her immediate supervisor.
2. The informal grievance shall be submitted to the employee's immediate supervisor within ten (10) working days after the grievant knew or reasonably should have known of the event giving rise to the grievance.
3. The immediate supervisor shall answer the grievance within ten (10) working days of submission of the informal grievance.

B. LEVEL I

1. If the grievance is not settled at the Informal Level, the grievant must present the grievance in writing to his/her immediate supervisor within ten (10) working days of the answer at the Informal Level.
2. The written grievance shall be a clear concise statement of the act or omission causing the grievance, including specific Rules, Policies, Laws or procedures alleged to have been violated, the circumstances involved, the decision rendered at the informal level and the remedy sought by the grievant.
3. In addition to the written statement, either party may request a personal conference to discuss the pending grievance.
4. The immediate supervisor shall provide a written answer to the grievant within five (5) working days after receipt of the grievance and such answer will complete Level I.

C. LEVEL II

1. In the event the grievant is not satisfied with the decision at level I, the grievant may appeal the decision in writing to the Superintendent or

his/her designee within ten (10) working days after completion of Level I.

2. The written appeal shall include a copy of the original grievance, the decision rendered at Level I and a clear, concise statement of the reasons for the appeal.
3. Within five (5) working days, the Superintendent or his/her designee shall schedule a meeting with the grievant to review and discuss the grievance.
4. A decision shall be rendered by the Superintendent or his/her designee within five (5) working days from the date of the above meeting and such decision will complete Level II.

#### D. LEVEL III

1. If the grievant is not satisfied with the decision at Level II, the grievant may appeal the decision to the Board of Education within five (5) working days.
2. This appeal shall include a copy of the original grievance, the decisions rendered at Levels I and II, and a clear, concise statement of the reasons for the appeal.
3. The Board shall consider the grievance on the written record at its next regularly scheduled meeting. The Board may, if it desires, hear witnesses or request additional documents as it believes necessary to reach a decision.
4. Within ten (10) working days after the meeting at which the Board makes its final decision, the Board shall cause to be delivered to the grievant and his/her representative, its written response to the grievance.
5. The decision by the Board shall be final.

- A. In the event that the subject matter of the grievance is violation of Commission Rules or procedures, the grievant's appeal at Level II shall be considered by the Director of Classified Personnel and an appeal at Level III shall be considered by the Commission.