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## Chapter 6

### *Appointment to Classified Positions*

#### **6.1 PROCEDURES FOR APPOINTMENT**

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

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

6.1.1.1.1 The date of the offer of appointment shall be the date on which the eligible is notified by the Director of Classified Personnel or designee of the selection.

6.1.1.1.2 Notification may be made by telephone, registered or certified mail.

6.1.1.1.3 The appointing authority may allow a period longer than two weeks at its discretion.

REFERENCE: Education Code Sections 45260 and 45261

**6.1.2 DISCRIMINATION PROHIBITED:** No applicant or eligible certified for appointment shall be discriminated against because of his/her political or religious beliefs or affiliations, race, color, national origin or ancestry, sex, age, marital status, employee organization membership or non-membership and legal activities related thereto, physical or mental disability, medical condition or sexual orientation. No questions shall be asked relating to these

matters during the selection and interview stages of employment.

**REFERENCE:**

1. Education Code Section 45293
2. Government Code Sections 12941, 12926 and 12940

**6.1.3 NEPOTISM:** The Commission's Rule governing the employment of immediate family in classified positions is intended to establish a minimum exclusion regarding supervisor/subordinate relationships.

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

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

**REFERENCE:** Government Code Section 12940

**6.2 PROVISIONAL APPOINTMENT**

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

6.2.1.1 No eligibility list exists for the class or;

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

**REFERENCE:** Education Code Sections 45260, 45261, 45287, 45288, and 45289

**6.2.2 LENGTH OF PROVISIONAL APPOINTMENT:** A provisional appointment may accumulate to a total of ninety (90) working days. In no case

may a person be employed in full-time provisional assignment for a total of more than 126 working days in any fiscal year.

REFERENCE: Education Code Sections 45260, 45261, 45287, 45288, 45289

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

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

6.2.3.2 Satisfactory evidence is presented indicating:

6.2.3.2.1 Adequate recruitment effort has been and is being made.

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

6.2.3.2.3 The position cannot be satisfactorily filled by use of other employment lists or procedures.

REFERENCE: Education Code Sections 45260, 45261, 45287, 45288, 45289

**6.2.4 SUCCESSIVE 90 DAY APPOINTMENTS:** In the absence of an appropriate eligibility list, successive ninety (90) working day appointments may be made to a position for a period of more than the 126 working days limitation when:

6.2.4.1 Continuous examination procedures have been authorized by the Commission and;

6.2.4.2 The position is less than twenty (20) hours per week.

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

REFERENCE: Education Code Sections 45287, 45288, and 45289

**6.2.5 QUALIFICATIONS OF PROVISIONAL APPOINTEES:** Provisional appointees must meet the minimum qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be made by the Director of Classified Personnel prior to appointment. When no one who meets the minimum qualifications is

available, a conditional provisional appointment may be made.

REFERENCE: Education Code Sections 45260 and 45261

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

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

REFERENCE: Education Code Sections 45260, 45261, 45287, 45288, 45289

**6.2.7 TERMINATING PROVISIONAL APPOINTMENT:** The services of a provisional appointee shall be terminated within twenty (20) working days after the date on which certification for interview from an eligibility list has been made provided that this period does not extend beyond the 90 working-day provisional assignment or any approved extension. A provisional appointment may be terminated at any time, at the discretion of the appointing authority. Provisional appointments are employed at-will and can be terminated without cause.

REFERENCE: Education Code Sections 45260 and 45261

### **6.3 SPECIAL APPOINTMENTS**

**6.3.1 PROCEDURE FOR EMERGENCY APPOINTMENT:** If it should become necessary in time of declared emergency to fill positions in the Classified Service to prevent the stoppage of public business, the Board, through its authorized management representatives, may request the Director of Classified Personnel to make emergency appointments without reference to eligibility lists, for a period not to exceed fifteen (15) working days. The Director of Classified Personnel shall comply with the request if appropriate.

6.3.1.1 When such emergency appointments are to be made by the Director of Classified Personnel, it shall be the duty of the Board of Education to provide the Director with written information outlining the date of appointment and nature of duties performed, giving a statement justifying the emergency nature of such appointments, and any other additional information requested by the Director so that an appropriate decision may be made under this Rule.

REFERENCE: Education Code Section 45290

**6.3.2 CONDITIONAL APPOINTMENT:** Temporary appointments in an existing class, not to exceed thirty (30) days, may be made in lieu of an appointment to fill a new position pending the classification of the new position by the Commission. Salary shall be determined by the Director of Classified Personnel subject to ratification by the Personnel Commission.

REFERENCE: Education Code Sections 45260, and 45261

#### **6.4 LIMITED-TERM / SUBSTITUTE APPOINTMENTS**

**6.4.1 POSITIONS DEFINED:** Positions established to perform duties which are not expected to exceed six (6) months and appointments in lieu of an absent employee shall be designated limited-term positions.

REFERENCE: Education Code Section 45286

**6.4.2 PROCEDURE FOR ESTABLISHMENT OF LIMITED –TERM SUBSTITUTE POSITIONS:** When a limited-term position is established, the appointing authority shall notify the Personnel Commission Office in writing of the hours, starting date and length of the assignment. Establishment of limited-term positions shall be subject to approval of the Director of Classified Personnel, and ratified by the Personnel Commission and the Board of Education.

6.4.2.1 A limited-term appointment may not exceed six (6) months. A substitute assignment may not exceed the duration of the absence of a regular employee. The appointment may be in the same class as that of the absent employee or the duties may be reduced in level and the appointment may be made to a lower class.

6.4.2.2 Limited-term positions shall be classified by the Director of Classified Personnel and shall be subject to ratification by the Personnel Commission.

REFERENCE: Education Code Sections 45286 - 45290

**6.4.3 ELIGIBILITY FOR APPOINTMENT:** Limited-term and substitute appointments shall be made from eligibility lists and employment lists.

6.4.3.1 If an eligible is appointed from an eligibility list to a substitute or limited-term position, the individual shall continue to be eligible for substitute or limited term appointments in the same or related lower class after the eligibility list has expired. 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.

6.4.3.2 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.

REFERENCE: Education Code Sections 45286 - 45290

**6.4.4 COMPENSATION FOR LIMITED-TERM AND/OR SUBSTITUTE ASSIGNMENTS:** When a regular employee is given a limited-term appointment in a higher class in lieu of all or part of the employee's regular appointment, the rate of pay in the second class shall be the rate of that class which is next above the employee's regular rate, and which will provide at least a 2 1/2% salary increase, but not more than the highest rate applicable to that class.

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

6.4.4.2 Limited-term/substitute employees in the Instructional Aide series and the Clerical/Secretarial series shall be paid on the following basis:

6.4.4.2.1 Limited-term/substitute employees in the Instructional Aide series shall be paid at the rate of pay as described in Section 6.4.4.

6.4.4.2.2 Limited-term and/or substitute employees in the Clerical/ Secretarial series shall be paid at step 1 of the entry-level clerk salary range. Long-term assignments of more than ten consecutive working days in the same position shall be paid at step 1 of the salary range for the Clerical/Secretarial class in which the employee is working commencing on the eleventh consecutive day.

6.4.4.3 All other limited-term employees shall be paid at step 1 of the class for regular appointments in the class.

REFERENCE: Education Code Sections 45286 - 45290, and 45309

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

6.4.5.1 No credit toward completion of probation shall accrue from service in a limited-term or substitute appointment.

REFERENCE: Education Code Sections 45260, 45261, 45286-45290, 45309

**6.4.6 TERMINATION OF LIMITED-TERM APPOINTMENT:** A limited-term or substitute appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority. The appointing authority shall immediately notify the Personnel Commission Office when a limited-term assignment is being terminated.

6.4.6.1 A limited-term or substitute employee is an at-will employee and may be dismissed without cause.

REFERENCE: Education Code Sections 45260, and 45261

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

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

REFERENCE: Education Code Sections 45260 and 45261

## **6.5 EMPLOYMENT OF PERS RETIREES AND VOLUNTEERS**

**6.5.1 GENERAL POLICY ON RETIREES:** Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed up to 960 hours per calendar year. The retired person must be

informed that employment is restricted to 960 hours in any calendar year with the District.

**REFERENCE:**

1. Education Code Section 45135
2. Government Code Section 21220 et seq

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

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

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

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

**6.5.4 EMPLOYMENT OF VOLUNTEER AIDES:** Volunteer aides may be assigned non-instructional work, which serves to assist certificated personnel. They shall be under the immediate supervision of certificated personnel. No classified positions may be abolished to use volunteer assistants in lieu thereof.

**REFERENCE:** Education Code Sections 35021, 35212, and 45349 □