

SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT
HUMAN RESOURCES DEPARTMENT

RULES AND REGULATIONS

CLASSIFIED SERVICE

September 18, 2019

Personnel Commissioners

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NOTICE TO ALL CLASSIFIED EMPLOYEES

Wherever the terms of a lawfully reached collective bargaining agreement conflict with Personnel Commission Rules, the collective bargaining agreement terms will govern insofar as unit members are concerned. Personnel Commission Rules continue to cover employees duly designated as management or confidential by the Board of Education, except in those situations where Administrative Regulations govern.

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CHAPTER 1

PRELIMINARY STATEMENT AND DEFINITIONS

1.1 Preliminary Statement

A. Statutory Authority for Commission Rules

The rules contained herein are established pursuant to the authority of the Personnel Commission under Article 6 (commencing with Section 45240) of Chapter 5 of Division 3 of the Education Code, and other provisions governing the Merit System Act in the Education Code. It is recognized that certain of these rules venture into substantive matters within the prerogative of the Board of Education. For that reason, the initially adopted set of rules and regulations were submitted to the Board of Education for its approval. Thereafter, it has been the policy of the Commission to submit new rules or amendments to the Board when:

1. The rule requires Board approval, and
2. It is difficult to define the division of Commission and Board authority regarding the rule in question.

In such cases, the rule in question will not become effective until it has been approved by the Board of Education.

B. Interpretation and Application of Rules

The Commission shall prescribe, amend, and interpret, subject to Article 6 of the Education Code, such rules as may be necessary to ensure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in the Government Code, and is included in a negotiated agreement between the Board of Education and that unit. The rules shall be binding upon the Board, but shall not restrict the authority of the Board provided pursuant to other sections of this Education Code. *(Reference: Education Code Section 45260(a))*

The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration of their intent; however, specific, applicable provisions of the rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. The Commission is open to responsible suggestions to amend the rules with prospective application; however, no rule amendment or new rule shall have retroactive applicability.

C. Judicial Review

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

1.2 Additions, Deletions, or Amendments of Rules

- A. All proposals, from any source, to amend, delete, or add to these rules will be considered a "first reading" at the meeting in which they are first presented to the Commission. They will not, unless a critical emergency exists, be acted upon at that meeting.
- B. At the "first reading" the Commission will set a date for Commission action on the proposal, which date shall not be less than two weeks later. The Director of Human Resources shall refer the proposal to interested persons or organizations for comment and recommendation.
- C. Insofar as possible, interested parties shall submit their reactions to proposals in writing on or before the stipulated agenda deadline date and shall have the right to present reactions to the Commission orally at the appropriate Commission meeting.
- D. No rule or amendment which would 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 of the classified employees who would be affected have been given reasonable notice of the proposal. *(Reference: Education Code Section 45260(b))* The inclusion of such rules or amendments in the Commission agenda on the occasion of both first reading and adoption, together with the timely issuance of the agenda to the exclusive bargaining representative and the District, shall constitute such reasonable notice.
- E. The rules of the Commission shall be electronically available to each school, office, and permanent worksite where employees report. *(Reference: Education Code Section 45262(a))*

1.3 Definitions

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

ACCELERATED HIRING RATE: An initial hiring rate at other than the first step of the range for the class, which must be specifically approved by the Superintendent and the Personnel Commission for the particular class. Such rates are considered where recruitment efforts have indicated difficulty in recruiting at the first step of the range.

ACT or THE ACT: The Act shall mean those sections of the Education Code of the State of California applying to the merit system for classified employees. It shall include all of the provisions of Article 6 (commencing with Section 45240), Chapter 5, Division 3, and such other provisions of the Education Code that are specifically applicable.

ALLOCATION: The official placing of a position in a given class and the assignment of the class title to the position; also, the placement of a class on a salary schedule or range.

ANNIVERSARY DATE: The date on which an employee's step increase occurs.

APPEAL: A protest by an employee regarding an administrative action actually or potentially detrimental to him.

APPLICANT: A person who has filed an application to participate in the District's selection process.

APPOINTING AUTHORITY or APPOINTING POWER: The Board of Education of the San Luis Coastal Unified School District, or its designee, and the Personnel Commission when referring to Commission employees and positions.

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

BEREAVEMENT LEAVE: Paid leave of limited duration granted to an employee upon the death of a member of his immediate family.

BUMPING RIGHT: The right of an employee, under certain conditions, to displace an employee with less seniority in a class.

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

CERTIFICATED SERVICE: All positions and employees required by law to possess credentials issued by the California Commission on Teacher Credentialing and the positions which are limited to those who possess such credentials.

CERTIFICATION: The submission by the Director of Human Resources of the names of eligibles from an appropriate eligibility list established by the Personnel Commission, or from some other source of eligibility, to the appointing authority which selects employees, subject to the approval of the Board of Education.

CLASSIFICATION (also known as Class): Noun: A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be used to designate each position allocated 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. Verb: The act of placing a position in a class.

CLASS SPECIFICATION: A formal 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 positions not included in Education Code 44065 or otherwise exempted by the Education Code. See Rules 3.1 and 3.2.

COMMISSION: The three-member Personnel Commission established pursuant to the merit system provisions of the Education Code.

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

CONTINUOUS EXAMINATION: A procedure authorized by the Personnel Commission for the frequent testing of applicants for designated classes.

DEMOTION: A change in assignment of an employee from a position in one class to a position in another class that is allocated to a lower maximum salary rate.

DIFFERENTIAL PAY: Salary allowance in addition to the authorized salary step based upon additional skills, responsibilities, or scheduled working hours.

DISCHARGE or DISMISSAL: Involuntary separation from service for cause.

DISTRICT: The San Luis Coastal Unified School District.

ELIGIBLE: Adjective: Legally qualified to be appointed to a position. Noun: A person whose name appears on an eligibility list.

ELIGIBILITY LIST: A rank-order list of the names of persons who have qualified in a competitive examination. In the event of tie scores, more than one name may hold the same rank.

EMERGENCY APPOINTMENT: An appointment made for a period not to exceed 15 working days, without reference to eligibility lists, to prevent the stoppage of public business.

EMPLOYEE: A person who is an incumbent of a position or who is on authorized leave of absence.

EMPLOYMENT LIST: A list of names from which certification may be made. Includes eligibility lists, reemployment lists, and lists of persons who wish to transfer, change location, demote, be reinstated or reemployed after resignation, or be restored after voluntary demotion or reduction to limited-term or part-time status.

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

GOVERNING BOARD: The Board of Education of the San Luis Coastal Unified School District.

GRIEVANCE: An employee complaint concerning a violation of the collective bargaining agreement or conditions of employment.

GROUP OR JOB FAMILY: A number of classes related in duties and responsibilities, as set forth in the list of classes established by the Personnel Commission.

INDUSTRIAL ACCIDENT OR INDUSTRIAL ILLNESS LEAVE: Absence because of injury or illness which arose out of and in the course of employment with the District.

LAYOFF: Any reduction in assigned daily hours and/or work year due to lack of work or lack of funds.

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

LIMITED TERM: A term used in the Education Code to designate employment for periods not to exceed six months (limited-term supplemental) or employment of a temporary employee during the authorized absence of a permanent employee (limited-term substitute).

MANAGEMENT EMPLOYEE: Any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

MERIT SYSTEM: A personnel system in which merit and fitness govern each individual's selection, progress, and retention in the service.

MILITARY LEAVE: Authorized absence to engage in ordered military duty.

PERFORMANCE EVALUATION: An evaluation of the work and conduct of an employee. Also refers to the form used for this purpose.

PERMANENT EMPLOYEE: In reference to District employment status, an employee who has completed his initial probationary period of six months or 130 days of paid service, whichever is longer, in a class in the classified service. One year probation is required for management positions. In reference to employment status in a specific class, an employee who has completed a probationary period for that 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.

PERSONNEL COMMISSION: Three members appointed in accordance with Education Code provisions who are responsible for administration of the merit system for classified employees.

POSITION: A group of duties and responsibilities assigned by appropriate authority requiring the full- or part-time employment of one person on a permanent or limited-term basis. A position can only be established by action of the Board of Education or by the Personnel Commission for a member of its own staff.

PROBATIONARY PERIOD: The trial period of six months or 130 working days of paid service, whichever is longer, immediately following an original or promotional appointment to a permanent position from an eligibility list. For those classes designated by the Commission as management, the probationary period shall be one year from the first day of employment.

PROMOTION: A change in the assignment of an employee from a position in one class to a position in another class with a higher maximum salary rate.

PROMOTIONAL LIST: An eligibility list resulting from a promotional examination limited to qualified permanent employees of the District.

PROVISIONAL APPOINTMENT: A temporary appointment to a permanent vacant position made in the absence of an appropriate eligibility list, not to exceed 90 working days except in specified circumstances.

REEMPLOYMENT: Return to duty of an employee, after layoff, or abolishment or reclassification of position, or other reason specified in these rules, to a vacant position in the employee's former or previously held classification(s).

REEMPLOYMENT LIST: A list of names of persons who have been laid off due to lack of work, lack of funds, abolishment or reclassification of position, or other reason specified in these rules, and who are eligible to reemployment without examination in their former class, arranged in order of their right to reemployment.

REGULAR EMPLOYEE: An employee in the classified service who has probationary or permanent status.

REINSTATEMENT: A discretionary reappointment after resignation, within 39 months after the last day of paid service, without examination, to a position in the employee's former class or in a related lower class, with restoration of all rights, benefits, and burdens of a permanent employee in the class to which restored.

RESIGNATION: A voluntary statement, in writing, from an employee terminating one or all of his assignments.

RULE OF THREE RANKS: The scope of choice available to an appointing authority in making a selection from an eligibility list. It consists of the first three ranks of eligibles who are ready and willing to be appointed to a specific position.

SALARY RANGE: A series of consecutive salary steps that comprise the rates of pay for the classification.

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

SALARY STEP: A specific rate in a salary range. One of the consecutive rates that comprise a monthly or hourly salary range.

SENIORITY: Status determined by date of hire in a job classification and time in any higher job classification. Used for determining order of layoff and to calculate extra points for employees taking promotional examinations.

SEPARATION: Leaving a position; includes resignation, dismissal, layoff, and retirement.

SERIES: A number of classes closely related in occupational hierarchy and arranged in a list in order to indicate occupational levels in a group.

SICK LEAVE: Paid leave given to an employee because of personal illness or injury.

SKELLY: The term comes from the name of a California Supreme Court decision, Skelly v State Personnel Board (1975) 15 Cal. 3d 194.

SKELLY MEETING: Pre-disciplinary procedure due process meeting which may be required by State and Federal law when a permanent classified employee is disciplined.

SKELLY OFFICER: A person who has sufficient authority to make a disciplinary recommendation to the Superintendent and who is far enough removed to be a reasonably impartial and non-involved reviewer.

STATUS: The employee's present standing in the classified service, such as limited-term, probationary, or permanent.

SUSPENSION: An enforced absence of an employee with or without pay for disciplinary purposes or pending investigation of charges made against the employee.

TEMPORARY: Employment on a basis other than permanent or probationary; i.e., such as in limited-term or provisional status.

TRANSFER: The reassignment of an employee without examination from one position to another position in the same class or, with the approval of the Personnel Commission, to a position in a similar or related class with the same salary range.

UNSATISFACTORY SERVICE: The performance of assigned duties in a manner which is detrimental to the good of the service or the failure to adequately perform assigned duties.

VETERANS' CREDIT: Five additional points added to a passing score in entrance examinations for veterans with 30 days or more of military service rendered during a time of war or national emergency. An additional five points is added for disabled veterans.

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

WORKWEEK: Forty hours, usually served in five consecutive days within a seven-day cycle, is the regular workweek for the majority of classified employees.

Chapter 1

References: Education Code
45260 Rules; standards; prescribing, amendment and interpretation by commission
45261 Subjects of rules
45262 Printing and distribution of rules

CHAPTER 2

THE PERSONNEL COMMISSION

2.1 Establishment of Commission and Applicability of Merit System Provisions

The San Luis Coastal Unified School District has been a merit system district since 1967.

2.2 Appointment of Commissioners

- A. To be eligible for appointment or reappointment to the Commission a person shall (a) be a registered voter and resident within the territorial jurisdiction of the District and (b) be a known adherent to the principle of the merit system. No member of the Board of Education or the County Board of Education shall be eligible for appointment, reappointment, or continuance as a member of the Commission. During his term of service, a member of the Commission shall not be an employee of the District. *(Reference: Education Code Section 45244(a)(1)(2))*
- B. One member of the Commission shall be appointed by the Board of Education and one member, nominated by the classified employees of the District, shall be appointed by the Board of Education. Those two members shall, in turn, appoint the third member. "Classified employees" shall mean an exclusive representative which represents the largest number of noncertificated employees in a unit or units within the District. *(Reference: Education Code Section 45245)*

2.3 Terms of Commissioners

By law, the term of each Commissioner is for three years and expires at noon, December 1. The term of one Commissioner expires each year. On or before September 1 of each year, the Director of Human Resources shall notify the Board of Education of the name and home address of the Commissioner whose term will expire and whether or not reappointment will be accepted. The notification shall also list the appointing authority and indicate that the Board must follow the provisions of Education Code Section 45246.

A. Appointee of the Board of Education

When a vacancy is to occur on December 1 for the appointee of the Board of Education, the Board shall publicly announce the name of the person it intends to appoint or reappoint by no later than September 30. At a Board of Education meeting to be held after 30 days and within 45 days of the date the Board of Education publicly announced its candidate, the Board of Education in an open hearing shall provide the public, employees, and employee representative groups the opportunity to express their views on the qualifications of the person recommended by the Board for appointment. The Board may at that time make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

B. Appointee of the Commission

When a vacancy is to occur on December 1 for the joint appointee of the Board of Education appointee and the classified employee's appointee, the Commission shall publicly announce

the name of the person they intend to appoint or reappoint by no later than September 30. At the next regularly scheduled meeting of the Personnel Commission to be held after 30 days from the day the intended appointee is announced, the appointee of the Board of Education and the appointee of the classified employees shall, in open hearing, provide the public, employees, and employee representative groups the opportunity to express their views on the qualifications of the candidate recommended for the vacancy. The candidate shall be invited to this meeting. The appointee of the Board of Education and the appointee by the classified employees may at that time make their appointment or may make a substitute appointment or recommendation without further notification or public hearing.

C. Appointee Nominated by the Classified Employees

When a vacancy is to occur on December 1 for the appointee nominated by the classified employees, the name of the classified employees' nominee shall be submitted to the Board of Education at least 30 days prior to the date on which the vacancy will occur and the Board of Education shall appoint that nominee to be effective on the date on which the vacancy would occur unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee.

D. Filling Vacancy During Term of Office

In the event that a vacancy occurs during the term of office of any of the commissioners, a new appointee shall be selected by the original appointing authority to complete the unexpired term. The Director of Human Resources shall notify the Board of Education of the vacancy. Immediate recruitment shall begin to fill the vacancy.

2.4 Officers of the Commission

At its first meeting following December 1 of each year, the Commission shall elect one of its members as Chairperson and another member as Vice Chairperson, to serve a term of one year or until their successors are duly elected.

2.5 Quorum

Two members shall constitute a quorum for any regular or special meeting of the Commission. The affirmative vote of two members shall be necessary for any action.

2.6 Motions by Chairperson

The Chairperson of the Commission may present a motion or second a motion when in his judgment a motion is necessary to expedite the proceedings.

2.7 Regular Meetings

Subject to cancellation or proper change, the Commission shall meet during the fourth week of each month in the Human Resources Conference Room at 1500 Lizzie Street. When the regular meeting date falls on a holiday, the Commission shall meet on the next succeeding business day, unless at a prior regular meeting it designates some other day for its meeting.

In the cases of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of District services, the Commission may hold an emergency meeting without complying with the notice requirement of Government Code Section 54956.

2.8 Adjourned Regular Meetings

The Commission may adjourn any regular or adjourned meeting to a time and place specified in the order of adjournment. When so adjourned, the adjourned meeting is a regular meeting for all purposes. When an order of adjournment of a regular or adjourned meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour designated for regular meetings.

2.9 Special Meetings

Special meetings may be called at any time by the Chairperson and shall be called upon the written request of any two members or the Director of Human Resources. Written notice shall be delivered personally or by mail to each member of the Commission. Notice must also be given to each of the following who have filed written requests for such notice: each local newspaper of general circulation, radio or television station, and recognized employee or other organizations. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. A copy of the notice shall be posted on the Commission's official bulletin board. The order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Commission. (*Reference: Government Code Section 54956(a)*)

2.10 Public Meetings

In accordance with Government Code Sections 54950-54963, the Ralph M. Brown Act, all regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meeting of the Commission, except as provided in Rule 2.11. This rule shall not be construed as permitting employees to be absent from duty to attend Commission meetings unless employees are authorized to do so.

2.11 Closed Sessions

The Commission may hold executive sessions to consider the employment, dismissal, or evaluation of an employee or to hear complaints or charges brought against such employee, unless such employee requests a public hearing. The Commission shall not consider any matter in executive session relating to an employee unless the employee has been notified of his right to a public hearing and has declined the public hearing or properly failed to request same. The Commission may hold executive sessions also to consider administrative matters relative to its own staff and to consider examination materials as provided in these rules. The Personnel Commission shall also publicly report at the meeting during which the closed session is held or at its next meeting, any action taken in closed session and the roll call vote thereon.

2.12 Prohibition of Commissioners Gathering Privately

Individuals or groups who seek interviews with individual Commissioners as to matters which are, or may later be, placed before the Personnel Commission for decision shall be referred to

the Commission staff office with the explanation that it is against the policy of the Commission to take up such matters except at open meetings with the majority of the Commission present.

2.13 Commissioner Compensation

Each Commissioner shall receive a sum not to exceed \$50.00 for each meeting attended in any one month, including regular, adjourned, or special meetings, but not to exceed a total of \$250.00 per month. *(Reference: Education Code Section 45250)*

2.14 Agenda and Supporting Data

- A. Insofar as possible, at least 72 hours prior to every regular or special Commission meeting, the agenda shall be provided to the designated representatives of all employee organizations representing District classified employees. When practical, supporting data will be furnished in advance. The agenda will also be posted on the Commission's official bulletin board and distributed to news media which have requested it. *(Reference: Government Code Section 54954.2(a))*
- B. Individual employees, employee organizations, and other interested parties may submit their written views on any matter before the Commission, except those matters listed in Rule 2.11, and will be provided reasonable opportunity to present their views orally. The Commission will consider their comments and recommendations prior to arriving at a course of action. Communications and requests shall be acknowledged and replied to, noting official Commission action when appropriate.
- C. Individual employees, employee organizations, and other interested parties may submit items to be placed on a Commission agenda by submitting the items to the Director of Human Resources not less than seven calendar days prior to the scheduled Commission meeting.
- D. It is against the policy of the Commission to take up proposals except at open meetings, although the Commission may designate one of its members to investigate a specific subject.
- E. The Commission will not take action on an item introduced during Public Communication as this would constitute an illegal act on the part of the Commission.

2.15 Commission Minutes

The Director of Human Resources 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 the votes of the Commissioners. When requested by a Commissioner, the Commissioner's dissent or approval and the reasons therefor 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. Copies of the official minutes shall be distributed to recognized employee organization representatives who have requested them.

2.16 Status of Commission Employees

The Director of Human Resources and other persons required to carry out the responsibilities of the Commission shall be employees of the Personnel Commission. However, they shall be considered part of the classified service, and the rules, procedures, benefits, and burdens

pertinent to the classified service shall apply to Commission employees, except as the Commission may specifically direct.

2.17 General Duties of the Director of Human Resources

- A. The Director of Human Resources has the authority to carry out all procedures and functions in the administration of the classified personnel in conformity with this rule and the other rules of the Commission, and in doing so will be responsible to the Personnel Commission. The Director of Human Resources shall act as secretary to the Commission and shall issue and receive all notifications on its behalf, direct and supervise the employees of the Commission, conduct administrative transactions consistent with the law and necessary to the proper functioning of the office and staff of the Commission, and shall be free of prejudgment or bias in order to ensure the impartiality of the Commission. *(Reference: Education Code Section 45266)* The Director of Human Resources is expected to attend to the routine operations of the Merit System, but to make the Commission aware of, and where appropriate, recommend action regarding policy matters and significant changes and/or problems in procedures. This delegation of authority applies in general to all Commission rules, but specifically to Chapters 4, 5, 6, and 7 of the Rules and Regulations of the Classified Service.
- B. The Director of Human Resources shall conduct classification, salary, and rules studies and shall make such other investigations as directed by the Commission or as deemed necessary to the Director's responsibilities. The Director of Human Resources may be designated as a hearing officer in accordance with Education Code Section 45312.
- C. In cases where two 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 Human Resources, subject to appeal to the Commission.

2.18 Commission Budget

The Director of Human Resources shall prepare and submit to the Commission a proposed operating budget for the Commission for the next ensuing fiscal year not later than the first Commission meeting in April. Education Code 45253 requires that the Commission hold a public hearing regarding the budget not later than May 30 unless there are circumstances which would prevent such a hearing by that date. Prior to the public hearing, the Commission is to forward a copy of its proposed budget to the Board of Education indicating the time, date, and place for the public hearing on the budget and is required to invite Board and District Administration representatives to attend and present their views. The Commission is required to consider fully the views of the Board prior to the adoption of its proposed budget. After approval by the Commission, the budget shall be submitted to the County Superintendent of Schools.

2.19 Annual Report

- A. The Director of Human Resources shall prepare, as required by Education Code Section 45266, an annual report of Commission activities. When approved by the Commission, the annual report shall be submitted to the Board of Education.
- B. The report shall be prepared for Commission approval as soon after each fiscal year as possible and no later than a meeting in November. The report shall cover Commission activities for the preceding fiscal year.

2.20 Counsel for the Commission

The counsel of the Board of Education shall ordinarily aid and represent the Commission in all legal matters. However, the Commission reserves the right to employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the District. *(Reference: Education Code Section 45313)*

2.21 Violations of Education Code

Any person who willfully or through culpable negligence violates any of the provisions of this article is guilty of a misdemeanor. *(Reference: Education Code Section 45317)* It is also unlawful for any person:

- A. Willfully by himself or in cooperation with another person to defeat, deceive, or obstruct any person with respect to his right of examination, application, or employment under this article or Commission rule.
- B. Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under this article or Commission rule, or to aid in so doing, or make any false representation concerning the same or the person examined.
- C. Willfully to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under this article or Commission rule.

Chapter 2

References: Education Code

- 45244 Qualifications for membership on personnel commission
- 45245 Appointment of members of personnel commission
- 45246 Announcement of recommended appointees; public meeting of governing board
- 45247 Terms of office; performance of act authorized or required by law
- 45250 Compensation of members of personnel commission
- 45253 Annual budget of personnel commission
- 45266 Duties of personnel director; freedom from prejudice or bias; restriction on advice or recommendation regarding certain disciplinary action taken
- 45312 Hearings or investigation by hearing officer
- 45313 Counsel for the commission
- 45317 Violation of article a misdemeanor; other unlawful acts

Government Code

54950-54963, Ralph M. Brown Act

CHAPTER 3
CLASSIFICATION

3.1 Positions Included in Classified Service

- A. The Commission shall classify all employees and positions within the jurisdiction of the Board of Education or of the Commission, except those which are exempt from the classified service. "To classify" shall include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within the occupational hierarchies, and preparing written class specifications. All positions established by the Board of Education which are not exempt from the classified service by law shall be a part of the classified service. All employees serving in classified positions shall be classified employees. The employees and positions shall be known as the classified service. *(Reference: Education Code Section 45256(a))*
- B. No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exemptions established in the law shall be employed outside the classified service. *(Reference: Education Code Section 45256(d))*

3.2 Positions Exempt from Classified Service

- A. Positions required by law to have certification qualifications; part-time playground positions, where the employee is not otherwise employed in a classified position; full-time students employed part-time; part-time students employed part time in any college workstudy program; apprentices; and professional experts employed on a temporary basis for a specific project by the Board of Education or by the Commission, when so designated by the Commission, shall be exempt from the classified service. *(Reference: Education Code Sections 45256(b) and 44815)*
- B. A part-time position, for the purpose indicated in the exemption rule, is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis is less than 87-1/2 percent of the normally assigned time of the majority of employees in the classified service. *(Reference: Education Code Section 45256(e))*
- C. 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 law or the Board of Education.

3.3 Professional Expert Assignments

- A. When a professional expert assignment is to be made, the administration shall submit to the Director of Human Resources 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 assignment if the duties and responsibilities fit an existing class for which a reemployment or eligibility list exists. *(Reference: Education Code Section 45256(b)(5))*

- B. When the person is known who is to be appointed as a professional expert, his name and data relative to his qualifications shall be submitted to the Director of Human Resources. In order to be exempted from the classified service as a professional expert, an individual must be recognized as such by reputable members of his own profession. Evidence of professional qualifications must be presented to the Commission at the time the written request for temporary appointment is made. Authorization for service as a professional expert shall not exceed six months. Additional required service shall be submitted to the Commission for approval.

3.4 Specially Funded Positions in the Classified Service

- A. Positions not requiring certification qualifications created by the Board of Education under the Manpower Development and Training Act of 1962, the Economic Opportunity Act of 1964, the Elementary and Secondary Education Act of 1965, or Section 11300 or Section 13650 of the Welfare and Institutions Code, any future federal or state legislative enactment, or any other special funding, and which are not a part of the regular school program shall nevertheless be part of the classified service.

Persons employed in such positions shall be classified employees and shall enjoy all of the rights, burdens and benefits accorded other classified employees. Their selection and retention shall be made on the same basis as that of persons selected for positions that are a part of the regular school program. *(Reference: Education Code Section 45105(a))*

- B. If specially funded positions are restricted to employment of persons in low-income groups, from designated impoverished areas or other criteria which restricts the privilege of all citizens to compete for employment in the positions, all these positions shall, in addition to the regular class title, be classified as "restricted." *(Reference: Education Code Section 45105(b))*

Persons employed in positions properly classified as "restricted" shall be classified employees for all purposes except that they shall not attain permanent status, shall not be accorded seniority rights in the event of layoff, and shall not be eligible for promotion within the classified service.

After the completion of six months of satisfactory service, an employee serving in a restricted position may be given the opportunity to take an appropriate competitive examination being given for the class in which they are serving. Should such persons successfully complete the examination process for placement on the eligibility list and regardless of the employee's numerical standing on the eligibility list, the employee shall become a member of the regular classified service even though such person may continue to serve in the "restricted" position. Employees who have attained regular permanent status under the provisions of this rule shall be accorded the full rights, benefits, and burdens of a regular permanent classified employee including, but not limited to, seniority rights from the date of the employee's original employment with the District in a "restricted" position.

3.5 Establishment of Positions/Assignment of Duties

- A. The Board of Education shall fix and prescribe the duties to be performed by all persons in the classified service and other positions not requiring certification qualifications of the District, except those persons employed as a part of the Personnel Commission staff. *(Reference: Education Code Section 45109)*

- B. The Board may recommend the minimum educational and work experience requirements for classified positions to the Personnel Commission. Minimum qualification requirements shall be subject to approval of the Commission. *(Reference: Education Code Sections 45109 and 45276)*

3.6 Classification Plan

The Personnel Commission shall establish and maintain a plan of classification for all positions in the classified service. *(Reference: Education Code Section 45256)* Classes will be placed in groups according to general occupational nature and, within groups, shall be listed in series by specific occupation.

3.7 Definition of Class

A class is a group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be used to designate each position allocated 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.

3.8 Class Specifications

For each class of positions, as initially established or subsequently approved by the Commission, there shall be established and maintained a class specification, which shall include:

- A. The official class title;
- B. A definition of the purpose of the class, indicating the type of duties and responsibilities;
- C. A statement of essential functions to be performed by persons holding positions allocated to the class;
- D. A statement of the minimum qualifications for service in the class. The minimum qualifications may include education, experience, knowledge, skills, abilities, and personal and physical traits and characteristics;
- E. License or other special requirements for employment or service in the class.

3.9 Interpretation of Class Specifications

The class specifications and their various parts are declared to have the following force and effect:

- A. The definition of the purpose of the class and essential functions are descriptive and explanatory only and not restrictive. They indicate the kinds of positions that should be allocated to the respective classes and determined by their duties, responsibilities, and qualification requirements, and do not prescribe what these details shall be in respect to any position. The use of a particular expression or illustration as to duties, responsibilities, qualification requirements, or other attributes is typical or descriptive of the class and does

not exclude others not mentioned but of similar kind and/or quality as determined by the Personnel Commission.

- B. In determining the class to which any position shall be allocated, the specification for each class is considered as a whole. Consideration is given, not to isolated clauses, phrases, or words, apart from their context and from illustrative information in other parts of the specifications, but to the general duties, responsibilities, specific tasks, and qualification requirements as affording a picture of the positions that the class includes.
- C. Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series and group of classes, in such manner as to maintain a proper gradation in the series in which the class is located and proper differentiation within the group of classes.
- D. Qualifications commonly required of the incumbents of all or many offices or positions, such as freedom from disabling defects such that would render a candidate unable to perform the essential job duties and responsibilities, citizenship (see Labor Code Section 3100 et seq. for exceptions), honesty, sobriety, and industry, even though not specifically mentioned in the specifications, are implied in the qualification requirements.
- E. The statement of qualification requirements, when considered with other parts of the specification, is to be used as a guide in the announcement and preparation of tests and in the evaluation of the qualification of candidates seeking appointment to positions allocated to the class, but does not require a particular form or content of test or testing procedure.

3.10 Classification of New Positions (revised 5/24/17)

When the Board of Education creates a new position, it shall submit to the Director of Human Resources, in writing, the duties to be performed by the position. The Director of Human Resources shall present recommendations to the Commission which shall:

- A. Allocate the position to an existing class or create a new class if needed.
- B. Designate the proper salary placement of a new class, if one is established.

3.11 Out-of-Class Assignments

When regular District employees are authorized to substitute in higher range positions for more than five working days within a 15-calendar-day period, they shall be paid for the entire period they are required to work out of classification at Step A on the salary range of the absent employees, or on that step which will give them a minimum of a 5% increase over their regular rate of pay, whichever is greater. Regular rate of pay shall include shift differential and/or premiums applicable to the employee's regular assignment. *(revised 12/13/17) (Reference: Education Code Section 45110)*

When an employee believes he or she is being required to work out of classification in violation of this rule the employee shall report the fact in writing within ten (10) working days following the incident to the Director of Human Resources, who shall immediately investigate and report to the Personnel Commission. After review, the Commission shall take such action as necessary based upon the facts. This rule shall not be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.

3.12 Changes in Duties of Positions

Any substantial changes in the duties of existing positions shall be promptly reported in writing by the appointing authority to the Director of Human Resources who shall determine whether the positions should be allocated to different classes.

3.13 Effect of Classification Changes on Incumbents

- A. When positions or whole classes are reclassified to a higher class, the rights of incumbents are determined in accordance with Education Code Section 45285:
1. When all of the positions in a class are reclassified to a higher class, the incumbents of the positions who have been in the class for two or more years may be reclassified with their positions by the Personnel Commission.
 2. When a portion of the positions within a class are reclassified to a higher class, an incumbent who has a continuous employment record of two or more years in one or more of the positions being reclassified may be reclassified with his position. Employees eligible to be reclassified with their position will be placed on the higher salary range in accordance with Personnel Commission Rule 11.1.C., Promotions.
 3. Those incumbents not able to be reclassified with their positions shall have one opportunity to compete in a competitive examination for the higher class.
 4. The basis for reclassification of the position shall be a gradual accretion of duties and not a sudden change occasioned by a reorganization or the assignment of completely new duties and responsibilities. Determination as to gradual accretion will be based on an analysis of the following factors:
 - a. Approximate date the incumbent began the performance of the newly acquired duties and responsibilities.
 - b. Conditions which led to the added duties and responsibilities.
 - c. Evidence of the employee's performance of the added duties and responsibilities.
 - d. Nature of the changes, including, but not limited to, a change in minimum entry requirements, a change in level of authority, or significant changes in complexity of duties and scope of responsibility.
 5. An employee who has been reclassified with his position shall be ineligible for subsequent reclassification with his position for a period of at least two years from the initial action.
- B. When a position or group of positions is reclassified to a class with an equal or lower wage or salary range, an incumbent shall have the following rights:
1. The right to bump the employee in the same class with the lowest seniority in the class, provided that the incumbent has greater seniority in the class.

2. The right to bump the employee with the least seniority in any equal or lower class in which the incumbent had permanent status, provided that the incumbent had greater seniority in that class.
 3. The right to be demoted or to transfer, without examination, to the class to which the employee's position is reclassified.
 4. The employee may choose to transfer, demote, or exercise bumping rights at the employee's option, and the employee's choice shall not affect the employee's right under Rule 3.13.C. which follows.
 5. Employees reclassified to a class with a lower salary range will be placed on the lower range in accordance with Personnel Commission Rule 11.1.E, Placement When Demoted.
- C. Any displacement of a regular employee resulting from a reclassification of a position, positions, or class of positions shall be considered a layoff for lack of work, and an appropriate reemployment list will be established in accordance with these rules. This rule shall be followed in all instances of reclassification whether it results in upgrading, downgrading, lateral class movement, bumping, or complete displacement of incumbents.

3.14 Review of Positions

- A. The Director of Human Resources shall review the duties and responsibilities of positions on a scheduled, five-year cycle and as necessary to determine their proper classification. If the Director finds that a position or positions should be reclassified, the administration shall be advised of these findings. If the administration verifies the duties of the position or if the duties are not revised to fit within the current classification, the Director shall report the findings and recommendations to the Commission. The Director shall also report the findings in cases where the review indicates that no change in classification is necessary.
- B. Requests for classification study of existing positions outside of the established five-year cycle shall be presented to the Director of Human Resources together with a statement of the reasons for requesting study. Requests for study may be initiated by the administration, with the approval of the Superintendent, or by employees or employee organizations. Requests initiated by the administration shall be accompanied by a statement of the current authorized duties of the position(s) and any prospective changes.
- C. Reclassification of a position shall become effective on the date prescribed by the Commission and shall not have retroactive effect unless specifically recommended by the administration and approved by the Commission. Effective dates may be set sufficiently in the future to allow time for examinations to be completed, but for not more than three months.

Chapter 3

References: Education Code

- 35021 Volunteer aides
- 44815 Noncertificated supervisors; compensation
- 45104 Positions not requiring certification qualifications

- 45105 Positions under various acts not requiring certification qualifications;
classifications
- 45109 Fixing of duties
- 45110 Inconsistent duties; compensation
- 45256 Classified service; establishment; exclusions
- 45258 Exemptions from classified service; community representatives in advisory or
consulting capacities
- 45276 Educational and work experience requirements for classified positions
- 45285 Reclassification

CHAPTER 4

RECRUITMENT BULLETINS AND APPLICATIONS

4.1 Vacant Positions and Recruitment

Prior to recruitment, the hiring authority shall notify the Director of Human Resources promptly of a vacant position or anticipated vacancies, including location, hours, and anticipated start date. When possible, eligibility lists shall be developed prior to the position becoming vacant.

4.2 Competitive Basis for Examinations

- A. The Director of Human Resources shall ensure that each examination is job related and properly tests the relative merit of the applicants.
- B. Examinations shall, where practicable, as determined by the Commission, be limited to promotional applicants. When no promotional field of competition exists or when there is doubt of its adequacy, the Commission may order an open examination or simultaneous open and promotional examinations. *(Reference: Education Code Section 45272(a))*
 - 1. Open examinations shall be conducted for applicants from within and from outside the District. All District employees are eligible to compete in an open examination.
 - 2. Promotional examinations shall be restricted to permanent employees of the District who meet the prescribed qualifications of the class. Any probationary, limited-term, or provisional appointee who immediately preceding his current appointment held permanent status in an eligible class shall be deemed to meet the requirement of permanent status for eligibility to compete in a promotional examination.
 - 3. Combined open/promotional examinations shall be conducted for applicants from within and from outside the District. All District employees are eligible to compete in an open/promotional examination.
- C. Continuous examinations on an open competitive basis only may be conducted for classes specifically designated by the Commission. Authorization for the use of continuous examination procedures for a specific class shall be valid until revoked by the Commission. *(Reference: Education Code Section 45292)* The criteria for approving continuous examination procedures for a class are as follows:
 - 1. The class must be an entry level.
 - 2. The class must have a larger number of positions in relation to other classes in its hierarchy.
 - 3. The class must have regular vacancies during the school year.

Accordingly, the Personnel Commission has determined that positions in the classes of Special Education Paraeducator and EL Instructional Aide cannot be practicably filled by promotional examination only; therefore, the continuous examination of eligibles for these two classes is authorized when needed.

The names of successful applicants resulting from the holding of a continuous open competitive examination shall be merged with the existing open competitive eligibility list.

4.3 Recruitment Bulletins

Whenever it is necessary to fill existing or anticipated vacancies in the classified service and an appropriate eligibility list does not exist as determined by Commission Rules, the Director of Human Resources shall direct the holding of an examination to provide eligibles. At least 15 working days' advance public notice of such examinations shall be given. The recruitment bulletin shall be distributed to each District work site and on the District's website. (*Reference: Education Code Section 45278(a)*) The following information shall be included:

- A. Information concerning the probable location of employment, the expected number of vacancies, and other conditions of employment;
- B. Description of the scope of duties and responsibilities of the position and the class;
- C. Minimum qualifications required;
- D. The salary and other forms of compensation;
- E. The last date for filing an application;
- F. A general summary of the skills, knowledge, and abilities about which competitors may be examined and the weights of the various parts of the examinations; and
- G. Such other information as will assist the applicants in fully understanding the nature of the employment and procedures necessary to participate in the examination.

4.4 Filing of Applications

- A. All applications for employment shall be made electronically, filled out as therein directed, and filed on or before the date specified in the examination announcement.
- B. Applicants taking more than one examination must file a separate and complete application for each such examination.

4.5 General Qualifications of Applicants

Applicants must be citizens of the United States, or must otherwise prove their right to work in the United States, and possess all other requirements that may be specified in the minimum qualifications established for the class. Every applicant must be in all respects mentally and physically competent to perform the duties of the position for which the applicant applies. Applicants with disabilities shall be given equal employment opportunity and reasonable accommodation for employment shall be made where practicable.

Every qualified applicant shall have an opportunity to seek, obtain, and hold permanent employment without discrimination because of actual or perceived race, color, national origin, ancestry, religious creed, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sexual orientation, genetic information, gender expression, or

gender identity. The Board of Education also prohibits retaliation against any job applicant who complains, testifies or in any way participates in the District's complaint procedures.

4.6 Disqualification of Unfit Applicants and Eligibles

- A. An applicant may be refused examination, and an eligible may be refused certification or appointment, for any of the following reasons:
1. Failure to meet the general qualifications of Rule 4.5.
 2. Failure to execute the oath or affirmation of allegiance required by the State of California for disaster service workers and public employees.
 3. Advocacy of overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
 4. Conviction of a controlled substance or sex offense, as defined in Education Code Sections 44010, 44011, 45123, and 45124. Other convictions which indicate the person is a poor employment risk may be grounds for disqualification, including various felonies, mistreatment of children offenses, or a misdemeanor of a serious nature. A conviction record will be evaluated on the following criteria: nature, seriousness, and circumstances of the offense(s); age of the person at the time of conviction and recency of the offense(s); number of convictions; relationship of the offense(s) to the position applied for; evidence of rehabilitation and maturing, including the employment record with respect to job responsibility and duration of employment; truthfulness in admitting to the offense(s); person's attitude; and the duties of the class.
 5. Criminal, infamous, dishonest, immoral, or disgraceful conduct or any other reason which the Personnel Commission deems to be of harm to the public and educational services of the District.
 6. Intentionally making a false statement or omitting a statement as to any material fact 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. Drug addiction and/or use of intoxicating beverages to excess.
 10. Dismissal from a previous employment for cause if the cause would have subjected the applicant to dismissal by the District.
 11. Previous dismissal from this District unless the District waives this subsection.
 12. A record of unsatisfactory service with this District as evidenced by a disciplinary action, a work improvement notice, unsatisfactory job performance notice, or a resignation in lieu of dismissal.

13. Unsatisfactory health conditions which clearly indicate that the applicant or eligible would be unable to perform the essential functions of the job or would endanger his health and safety and/or the health and safety of others.
 14. Discharge other than honorable from the National Guard or armed forces of the United States.
 15. Failure to report for duty after an assignment has been offered and accepted.
 16. Failure, after due notice, to report promptly for review of any of the above bases for rejection.
 17. Refusal to furnish testimony, other than self-incriminating, at a hearing or investigation before the Personnel Commission or Board of Education.
 18. Serious or numerous traffic violations when driving is part of the duties of the class.
- B. The Commission may limit the number of applicants permitted to take an open examination to a predetermined number of the most qualified, based on job-related criteria applied to the application and related materials submitted by the applicant. All permanent District classified employees who apply to take a written examination shall be permitted to do so provided they meet the minimum requirements of training and experience for the class.

4.7 Disqualification and Appeal of Disqualification

- A. Applicants and eligibles who are disqualified for any of the reasons enumerated in Rule 4.6 shall be notified in writing by the Director of Human Resources. The notification shall state:
1. The reason(s) for disqualification.
 2. The length of time the individual shall be ineligible to be considered for examination or appointment to a position in the District.
 3. That, the individual may, within five working days, appeal, in writing, to the Director of Human Resources for administrative review, and that failure to appeal for administrative review makes the disqualification final and conclusive.
- B. If there has been an administrative review, as provided above, and the disqualification is sustained, the individual shall be:
1. Given a written notice outlining the reason(s) for sustaining the disqualification, and
 2. Informed of his right to make a written appeal of the disqualification and/or the period of disqualification, within five working days, to the Personnel Commission. The appeal may be based on any of the following reasons:
 - a. Inconsistency of the reasons given for the disqualification with the facts.
 - b. Abuse of discretion.

- c. Discrimination because of affiliations, political or religious acts or opinions, race, color, sex, or marital status.
- C. Upon receipt of an appeal, the Commission shall set a date for hearing, hear all of the evidence, and render a decision. Its decision shall be transmitted in writing to all concerned and shall be final.
- D. If a disqualification is not sustained by the Director of Human Resources or the Personnel Commission, the Director of Human Resources shall institute immediate action to ensure the rights of the applicant or eligible as if the disqualification had not been made. However, appointments made in the interim shall remain unless they were fraudulently made.

4.8 Application Forms are Property of the District

All applications and examination papers are confidential records of the District and shall not be returned to the applicants.

4.9 Applicant's Names are Confidential

The names of the applicants in any examination shall not be made public.

4.10 Who May Compete

Competitive examinations for positions in the classified service shall be open to all applicants who meet the minimum qualifications and who are not disqualified as provided in Rule 4.6, provided that examinations may be restricted to promotional applicants at the discretion of the Director of Human Resources.

Chapter 4

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| References: | Education Code |
| | 44010 "Sex offense" |
| | 44011 "Controlled substance offense" |
| | 45123 Employment after conviction of sex offense or controlled substance offense; rehabilitated controlled substance offender |
| | 45124 Employment of sexual psychopath |
| | 45272 Vacancies in classified service; exemptions; promotional applicants |
| | 45278 Written notice re tests, vacancies, and transfer opportunities |
| | 45292 Right to provide continuous examinations |

CHAPTER 5

EXAMINATIONS

5.1 Purpose and Character of Examinations

- A. The purpose of an examination is to provide equal opportunity for all qualified applicants to demonstrate their relative merit in relationship to the skills, knowledge, abilities, and traits required for the class.
- B. Examinations may be written or oral, or in the form of a practical demonstration of skill and ability, or any combination of these. Any investigation of education, experience, character or identity, and test of technical knowledge, manual skill, or physical and mental fitness which, in the judgment of the Personnel Commission, serves this end may be employed.
- C. It is the intent of the Commission that the most appropriate method of testing be used which is both job related and which has the least adverse impact for any race, sex, or ethnic group, with due consideration for factors of time and cost of administration.

5.2 Test Preparation

- A. The best possible tests should be developed which will provide proper coverage of subjects at an appropriate level of difficulty and, therefore, extensive use of all possible facilities, experts, and materials shall be utilized.
- B. The Director of Human Resources shall prepare or cause to be prepared the written examination questions. The assistance of any competent person or agency may be used.
- C. Test security shall be given top priority by not using test materials from just one source, keeping sources of materials confidential, and evaluating the recency and amount of use of test materials when selecting test materials for re-administration.

5.3 Notice of Tests

Each applicant, whose application has been received in the Human Resources Office by the announced filing date, shall be eligible to take the written examination, if required, at the time, date, and place announced in the recruitment bulletin.

Each applicant may be asked to present proper identification which contains their picture, such as a driver's license or state identification card, prior to admission to the test site.

5.4 Use of Proctors

- A. All tests shall be administered under proper, continuous supervision.
- B. Proctors shall be required to inventory supplies/tests, record applicant questions and unusual occurrences, note beginning and ending times, and document the number of applicants.

5.5 Written Examination Administration

- A. Competitors in any written test must take the test on the prescribed date, time, and place.
- B. No applicant may be admitted once the test instructions have begun.
- C. All necessary explanations will be made to the whole group, and no questions will be explained to any individual competitor. Examiners are forbidden to explain the meaning of or to make remarks relating to any question that may assist in its solution.
- D. Communication between applicants during the examination is strictly forbidden, and applicants are forbidden to receive aid from one another or to use any unauthorized help in any form. Evidence of copying or collusion by a competitor may result in the cancellation of that applicant's examination papers and the elimination of the applicant from future examinations.
- E. Copies of the questions in a test shall not be made by competitors or other unauthorized persons.
- F. Where written tests are required, they shall be so managed that none of the test papers will disclose the name of any competitor until all papers of all competitors in a given examination shall have been marked and rated.
- G. Any competitor in any examination who places any identifying mark upon his test papers (other than the identifying mark prescribed at the time of examination) or makes any attempt to disclose to others the identity of his papers prior to the completion of the examination shall be disqualified.
- H. During a test no applicant shall be permitted to leave the room except in case of necessity and only with the proctor's permission. No more than one person may be allowed to leave the room at any one time.
- I. All test materials, scratch papers, and answer sheets shall be collected before an applicant is allowed to leave.

5.6 Late Test Administration

- A. Since examinations have a significant impact on an applicant and since there may be extenuating circumstances which are often beyond the applicant's control, late test administrations may be authorized if test conditions can be closely reconstructed.
- B. Written requests for late test administration must be submitted with verification of the reason for such request as soon as possible and may be granted by the Director of Human Resources depending upon a variety of circumstances in recreating the testing conditions.

5.7 Oral Examination Administration

- A. Those competitors eligible for the oral examination will be examined at the earliest practicable date after conclusion and rating of the written examination and applications.

- B. Unless specifically directed to evaluate applicants' technical knowledge and skills, the oral examination board shall confine itself to evaluating general fitness for employment in the class. When the oral examination board is directed to evaluate technical knowledge and skills, at least two members of the board shall be technically qualified in the specified occupational area. *(Reference: Education Code Section 45273)*
- C. The Director of Human Resources designates the members of an oral board. Members of the Board of Education or Personnel Commission shall not serve on an oral examination board. A District employee may serve on an oral examination board if the employee is not at the first or second level of supervision over a vacant position in the class for which the examination is held. If practical, all applicants qualifying for the same class shall be rated by the same oral examination board. *(Reference: Education Code Section 45273)*

5.8 Briefing Panel Members

- A. To assist panel members, a copy of the class specification providing a statement of the knowledge and abilities to be evaluated will be provided along with suggested questions or issues.
- B. The panel shall be briefed regarding the duties of the class; skills, knowledge, abilities, and traits; examination process; knowledge and abilities to be covered in the panel and use of the interview rating sheet; interviewing techniques; and scoring methods.
- C. All questions must be job related. No questions shall be asked relating to political or religious opinions, union affiliation, race, color, national origin, ancestry, sex, marital status, or any other subjects prohibited by the Department of Fair Employment and Housing Guidelines. *(Reference: Education Code Section 45293)*
- D. When the interview is completed, each rater shall independently assign a score which will be shared with the other raters.
- E. If there is a substantial spread of points between the raters, it is recommended they discuss the basis of their evaluations to consider data which may have been overlooked.
- F. If a rater decides to change a score, the rater should line out the old score, initial the line out and write in the new score.
- G. If a rater gives a failing score, specific reasons for failing the applicant must be made on the interview rating sheet identifying applicant actions or statements which led to such decision.

5.9 Recording Interviews

The proceedings of all oral examinations shall be electronically recorded. Recordings of the oral examination shall be retained for 90 days after establishment of an eligibility list. *(Reference: Education Code Section 45274)*

5.10 Computing Final Scores

A. Examination Weighting

All parts of the examination shall be prepared and rated under the direction of the Director of Human Resources who shall determine passing scores and assign relative percentage weights to each part.

B. Rating Required

Competitors may be required to attain a designated minimum rating in each part or in combined parts of the examination to qualify for participation in the next step in the process.

C. Seniority Credit

In combined open/promotional examinations and in promotional only examinations, seniority credit shall be added to the final passing scores of applicants in the amount of 1/4 of one point for each year of service, not to exceed a total of five points. Credit shall be granted for time spent in probationary or permanent status in the classified service and on leave from the classified service while otherwise employed in this District. A full year's credit shall be granted to employees whose regular position is assigned on less than a calendar-year basis. Credits shall be calculated for units of not less than a half year.

D. Veterans' Preference

In all entrance examinations, veterans with 30 days or more of military service who become eligible for appointment by attaining the passing marks established for the examination shall be allowed an additional credit of 5 points and disabled veterans shall be allowed an additional credit of 10 points, which shall be added to the percentages attained in the examinations by the veterans. *(Reference: Education Code Section 45296)* "Entrance" in this rule shall be interpreted as meaning the beginning of District employment.

1. "Veteran" as used in this rule means any person who served in the United States armed forces in time of war, or national emergency declared by the President of the United States, and who has been discharged or released under conditions other than dishonorable. "Armed forces" means the United States Air Force, Army, Navy, Marine Corps, or Coast Guard. *(Reference: Education Code Section 45294)*
2. "Disabled veteran" means any veteran who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the armed forces. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration. *(Reference: Education Code Section 45295)*
3. In order to obtain credit, the applicant shall furnish satisfactory proof of qualifying military service prior to establishment of the eligibility list. No adjustment of rank on the list shall be made when such proof is presented thereafter.
4. National Guard and Reservists who provide satisfactory proof of having been called to active duty for a period of 30 days or more in time of war, or national emergency declared by the President of the United States, shall also be eligible for examination

credit as described above. Guard and Reserve active duty for required training purposes and drills does not count toward this 30-day period.

5.11 Notice of Final Scores

Each competitor shall be notified in writing of his final score and, if qualified, of his relative standing on the eligibility list.

5.12 Protest Period *(Reference: Education Code Section 45274)*

- A. An applicant may protest any part of an examination by presenting his reasons in writing to the Director of Human Resources not later than five working days after the effective date of the eligibility list.
- B. If, in the judgment of the Director of Human Resources, the protest is justified, a review may be granted and the rating of the competitor changed if found necessary after review. The Director of Human Resources shall inform the protestant of his decision in writing.
- C. The Personnel Office shall attempt to obtain a dated receipt as evidence that the notice of the Director of Human Resources' decision was received by the individual. Where personal delivery is impracticable, the intent to obtain the signature of the individual shall be considered as having been carried out if a registered or certified letter, return receipt requested, has been mailed to the individual at his last-known address.
- D. No change in the eligibility list shall invalidate any appointment which was made prior to the ordered adjustment unless the appointee was fraudulently appointed.

5.13 Confidentiality and Retention of Examination Records *(Reference: Education Code Section 45274)*

All examination papers submitted by competitors are the property of the District and are confidential records. Examination records shall not be available to the public or to any person for any purpose not directly connected with the examination. Hiring supervisors who are responsible for personally conducting selection interviews may be provided with written examination scores upon request. Examination records including tests and eligibility lists shall be retained for a minimum of two years.

Chapter 5

References: Education Code

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| 45272 | Vacancies in classified service; exemptions; promotional applicants |
| 45273 | Examinations; examination boards; membership; recordings |
| 45274 | Retention and availability of examination records; review and protests |
| 45293 | Questions to be asked candidates; no discrimination in appointment |
| 45294 | "Veteran" |
| 45295 | "Disabled veteran" |
| 45296 | Additional credits for veterans' entrance examination |

CHAPTER 6
EMPLOYMENT LISTS

6.1 Use of Eligibility Lists

A. Establishment and Life of Eligibility Lists

After an examination, applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations. The final scores of candidates, plus additional points where applicable, shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

An eligibility list shall be in effect for six months, unless exhausted, and may be extended for not to exceed an additional six months at the discretion of the Commission. Names of successful competitors may be added to eligibility lists resulting from continuous examinations without approval by the Commission. *(Reference: Education Code Section 45300)*

B. Reemployment Lists

There shall be established for each class a reemployment list which shall take precedence over all other employment lists in appointment. This list shall contain the names of all probationary and permanent classified service employees who have been laid off or demoted from any position because of lack of work or lack of funds. After a period of 39 months, the employee's name shall be removed from the list.

Employees who acquire leaves of absence for military reasons and those who are ordered, pursuant to the laws of the United States, to serve in any civilian war effort or war industry, shall take precedence by having their names placed over other names on the reemployment list in any given class. *(Reference: Education Code Section 45298)*

C. Termination of Eligibility Lists

1. An eligibility list is automatically terminated six months from the date of its establishment unless previously extended by the Commission.
2. An eligibility list is automatically terminated when no eligibles remain on the list.
3. An eligibility list may be terminated by the Director of Human Resources when no eligible is available for appointment to a specific permanent position in a class or when there are fewer than three eligibles remaining on the list.

D. Consolidation of Eligibility Lists *(Reference: Education Code Section 45291)*

1. If a new examination for a class is given during the six months 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.

2. When lists are consolidated under this rule, the earlier list shall be terminated six months after its establishment, and those eligibles' names shall be removed from the consolidated list.

E. Eligibility after Appointment

An eligibility list shall be used for full-time, part-time, regular, and limited-term assignments in the class. An eligible who accepts part-time employment shall continue to be eligible for full-time employment, and an eligible who accepts limited-term employment shall continue to be eligible for regular appointment for the duration of the eligibility list.

6.2 Certification from Employment Lists

A. Order of Precedence

Certification from eligibility lists shall be of the first three ranks of available candidates. Names shall be certified for appointment from employment lists in the following sequence:

1. Reemployment list.
2. Promotional eligibility list (first three ranks) plus transfer requests.
3. Open eligibility list (first three ranks) plus transfer or reinstatement requests.
4. Open/promotional eligibility list (three ranks) plus transfer or reinstatement requests.

When an open competitive examination and a promotional examination for a particular class are held at the same time, the Commission may, in the announcement of testing, authorize certification for employment of candidates from the open competitive eligibility list before the promotional eligibility list has been exhausted if the candidates on the open list have a higher percentage score before adjustment for any preferential credits than the percentage score of the highest available candidates on the promotional list after seniority credits have been added, and provided that the candidate with the highest percentage score on the promotional list will also be certified, for employment. The first three ranks of candidates from the combined open and promotional eligibility list will be certified to the hiring authority. (*Reference: Education Code Section 45284*)

B. Certification for Position with Foreign Language Requirements

1. If a position has a foreign language requirement, the appointing power shall so indicate to the Director of Human Resources when calling for certification of eligibles to fill the vacancy. The appointing power must clearly set forth valid reasons for placing language requirements on a position, including, but not limited to, how frequently the employee is called upon to speak or write a non-English language and the number of non-English speaking students and parents at the site. The duties of the position must be the same as those for all other positions within the classification, except for the

language requirement. The Director of Human Resources shall make the final decision on the addition of the language requirement.

2. Appointments may be made from other than the first three ranks of applicants on the eligibility list when the ability to speak, read, or write a language in addition to English is a requirement of the position to be filled provided that the eligible has passed the appropriate language examination. *(Reference: Education Code Section 45277)*
3. The recruitment bulletin announcing the examination shall indicate the special requirement which may be necessary for filling one or more of the positions in the class.
4. When a vacancy occurs in a position which has approved bilingual skill requirements, the position shall maintain the bilingual requirement until the appointing power certifies that it is no longer required for the position.

C. Procedure When Fewer Than Three Names Remain

When fewer than three ranks of eligibles are available for certification, the available eligibles shall be certified; however, the appointing authority may choose not to appoint any of them and may request a new examination.

D. Other Sources of Eligibility

In the absence of a reemployment list for a class, a vacancy may be filled by transfer, demotion, reinstatement (after resignation), restoration to former class after voluntary demotion, or other means provided in the rules, without regard to the existence of eligibility lists.

An employee requesting a voluntary demotion from a higher class may be considered if the duties and qualifications of the higher class include substantially all of the duties of the position to be filled and if the Director of Human Resources determines that the necessary skills and knowledge were adequately tested in the examination. *(added 12/13/17)*

E. Procedure of Certification and Appointment

1. When a position is to be filled, the appointing power shall notify the Director of Human Resources of that fact and of the date of the anticipated need. The request for certification shall state the class title, hours, location of employment, and other pertinent information as required by the Director of Human Resources.
2. The Director of Human Resources shall ascertain the availability of eligibles and shall certify names to the appointing power in accordance with these rules.
3. The appointing power shall make its selection and shall notify the Director of Human Resources, who shall see that the necessary employment procedures are carried out.

F. Waivers of Certification

1. An eligible may waive certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions either by verbal request or by filing a written request with the Human Resources Office.
2. An eligible may waive appointment to a specific position and retain eligibility, but after three such waivers the eligible's name shall be removed from the eligibility list for that class.
3. Eligibles may revise or withdraw their waivers in writing during the life of the eligibility list.

G. Certification from List for Another Class

If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list for another class of the same or a higher 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, provided that the Director of Human Resources finds that the use of the list is in the best interest of the District and that the necessary skills and knowledge were adequately tested in the examination.

H. Withholding Names from Certification

The name of an eligible may be withheld from certification when he:

1. Expresses unwillingness or inability to accept appointment.
2. Fails to respond within three business days following contact by phone, or electronic mail if necessary, regarding availability for permanent employment or request to appear for interview regarding such employment.
3. Fails to present himself for an interview arranged by the Director of Human Resources or for duty at the time agreed upon after having accepted an appointment.
4. Cannot be reached in time for appointment when immediate temporary employment is required. This provision shall apply only to such immediate temporary employment.
5. Fails to present the license, registration, certificate, or any other credential required. The name of any such eligible shall be restored by the Director of Human Resources for certification when the particular requirement has been met.
6. For any reason listed in Rule 4.6.

I. Restoration to Certification

When the name of a person has been withheld from an eligibility list or from certification or has been removed from the list, it may be placed on such list or restored thereto by the Director of Human Resources under the following circumstances:

1. When the withholding or removal was because of the waiver or inability of the eligible to accept employment, or failure to respond to inquiry as to his availability, to appear for interview, or to present himself for duty, and the applicant presents a good and valid

reason and certifies to the Director of Human Resources that he is now willing and able to accept appointment.

2. When the withholding or removal was for a reason stated in Rule 4.6 and such action was improper or the defect has since been corrected.

J. Duties of Eligible

1. An eligible who has been certified may be allowed two weeks to report for duty after an offer of appointment to a permanent position has been made. If an eligible is unable or unwilling to report by the end of two weeks, he may be considered to have refused appointment; and the appointing power may request certification of another name from the eligibility or reemployment list.
 - a. The date of the offer of appointment shall be the date on which the eligible is notified by the Director of Human Resources and/or hiring authority of his selection.
 - b. Notification may be made by telephone, electronic mail, or regular mail.
 - c. The appointing power may allow a period longer than two weeks at its discretion.
 - d. When appointment is to a limited-term position, the eligible must be available on the date specified by the appointing power.
2. Whenever an eligible shall have any change in their contact information, the Human Resources Office shall be notified promptly of the list or lists upon which the eligible's name appears, together with the new contact information. Failure or neglect on the part of any such person to file such information may, at the discretion of the Director of Human Resources, operate as a waiver of his order of certification and/or appointment from any such list or lists.

K. Subjects Regarding Which No Questions Shall Be Asked

No applicant or eligible certified for appointment shall be discriminated against because of his actual or perceived race, religious creed, color, national origin, ancestry, handicapping condition, medical condition, employee organization membership or non-membership and legal activities related thereto, marital status, sex, sexual orientation, gender, or age. No questions shall be asked relating to these matters during the selection and interview stages of employment. (*Reference: Education Code Section 45293*)

L. Substitutes

Nothing in the preceding rules shall preclude the temporary employment of limited-term substitutes for absent classified personnel without reference to an eligibility list.

6.3 Removal of Names from Eligibility List

- A. The name of an eligible may be removed from an eligibility list for any of the following reasons:

1. A written request by the eligible for removal,
 2. Failure to respond to an inquiry regarding availability for employment,
 3. A total of three instances of waiver of certification or refusal of regular appointment,
or
 4. Any of the causes listed in Rule 4.6.
- B. The Director of Human Resources shall notify the eligible in writing of the action and the reasons therefor and shall provide the eligible with the opportunity to appeal the decision to the Personnel Commission by a specified date not less than five (5) business days from notification.

Chapter 6

References: Education Code

- 45277 Appointments from eligibility lists where another language or driver's license is required; Provisional appointments
- 45284 Conditions for certification for employment from open competitive eligibility list before exhaustion of promotional eligibility list
- 45286 Limited-term employees
- 45291 Combinations of successive eligibility lists
- 45293 Questions to be asked candidates; No discrimination in appointment
- 45298 Persons laid off because of lack of work or lack of funds
- 45300 Duration of eligibility lists

CHAPTER 7

IN SERVICE STATUS AND TRANSACTIONS

7.1 Transfer

- A. An employee may be transferred at his request or for the good of the service from one position to another in the same classification at the discretion of the department head(s) involved, provided that such action shall not be taken for punitive or preferential reasons.
- B. No employee (probationary or permanent) can request a transfer to another position in the same classification unless the employee spends at least six months with satisfactory service in his present assignment. The District administration, however, reserves the right to transfer any employee for the good of the service.
- C. The Director of Human Resources shall maintain a transfer list of all permanent classified employees who request assistance in obtaining transfers and shall be of such assistance as may be possible in effecting the transfers.
 - 1. Request for transfer by an employee shall be made in writing to the Director of Human Resources on a Request for Transfer form.
 - 2. The District shall consider those employees seeking voluntary transfers together with those on promotional and open eligibility lists, and when all other factors are equal, the applicant with the most District seniority shall be selected.
- D. Transfers shall be made without change in salary rate, anniversary date, accumulated illness leave, and accumulated vacation credit.
- E. A permanent employee may be transferred to a position in a related class on the same range of the salary schedule. Such transfers shall be made only with the approval of the Commission.
- F. The Director of Human Resources will provide a recommendation to the Personnel Commission as to whether the classes are sufficiently related to permit transfer between them and will consider similarity of duties and responsibilities, salary, minimum entrance qualifications, examination content, occupational group, and promotional field (above and below). In general, more latitude in transfers is permitted:
 - 1. As the employee's seniority in the classified service increases.
 - 2. When the transfer request is based on reclassification, impending layoff, or for reasons of health.
- G. A permanent employee who transfers to a position in a related class in which he has not previously completed a probationary period shall be considered probationary in that class for a period not to exceed six months or 130 days of paid service, whichever is longer. A transferee who is rejected during the probationary period shall be allowed to return to his former position. The displaced employee shall be placed in a vacant position in the same

classification, if such exists, or to his former position. If no prior position was held, his name will be placed at the top of the reemployment list.

- H. Transfers shall have the following effects on seniority:
 - 1. Within the same class, none.
 - 2. From a related class, the employee shall not receive seniority credit in the new class for service in the related class; however, the employee shall retain such credit as seniority in the classified service.
- I. Reasons for any transfer which is not voluntary shall be discussed with the employee by his immediate supervisor.

7.2 Demotions (*Reference: Education Code 45302*)

- A. A permanent employee may request a voluntary demotion to a related class with a lower maximum salary rate. Such requests require the approval of the department head and that of the head of the department to which the employee is to be assigned.
- B. Requests for demotion by an employee shall be made in writing on a Request for Transfer form.
- C. Voluntary demotion is a privilege available to a probationary employee only in cases when the employee would otherwise be laid off for lack of work or lack of funds.
- D. Involuntary demotion is a disciplinary action for cause and is subject to the pertinent rules and procedures.

7.3 Reinstatement and Reemployment

- A. A former permanent employee who resigned in good standing may be reinstated in a vacant position in his former class and status within 39 months of the last date of paid service without further competitive examination. (*Reference: Education Code 45309*) Also, the employee may be reemployed in a lower related class, if qualified, or in limited-term status in the same or lower class. Such actions are discretionary with the appointing authority.

In instances in which the class from which a former employee resigned has ceased to exist or has been separated into more than one classification on the same salary range, the employee may be reinstated in any of the new related classifications on the same salary range for which the former employee is qualified, subject to approval of the Director of Human Resources.

- B. Reinstatement or reemployment of a former employee shall have the following effects:
 - 1. Restoration to the former step in the current salary range for the class, or, if reemployed in a lower class, to the rate closest to that of the step to which he would be assigned if he were reinstated in his former class.
 - 2. If restored to permanent status, restoration of accumulated sick leave and seniority as of the date of the separation.
 - 3. Restoration of anniversary date, but without step-advancement credit for the period not employed by the District.

4. Restoration of all rights, benefits, and burdens of a permanent employee in the class to which restored.
- C. A permanent classified employee who accepts a provisional or limited-term appointment in another class shall be allowed to return to his former position at the expiration of such service.
- D. Reinstatement is not a right but is a privilege to be granted only on recommendation of the appointing power and approval of the Board.

7.4 Changes in Assigned Time

- A. A classified employee who works a minimum of 30 minutes per day in excess of his part-time assignment for a period of 20 consecutive working days or more, shall have his basic assignment changed to reflect the longer hours in order to acquire fringe benefits on a properly prorated basis. (*Reference: Education Code 45137*)
- B. Increases in Assigned Time
 1. When the District determines that the daily, weekly, or annual hours of any particular part-time regular position are to be increased by more than the equivalent of one hour per day, that position shall be treated as "vacant," and is to be filled either pursuant to transfer procedures by an employee who has been assigned to the same or more hours at another location, or pursuant to the procedures applicable to any other vacancy, i.e., use of the "rule of three" from (a) most senior class incumbents requesting an increase in hours, (b) promotional lists, and (c) eligibility lists.
 2. Employees may waive their opportunities for increased hours of work; however, once proper assignment is made, it shall not be revoked or revised because of withdrawal of waivers.
- C. Decreases in Assigned Time

Any reduction in assigned daily hours and/or work year due to lack of work or lack of funds shall be considered a layoff. Layoff procedures are defined in Chapter 9 of these Rules.

7.5 Limited-Term Employment

- A. Types of limited-term employment:
 1. The appointing authority may establish new positions the duration of which is six months or less; such positions shall be designated "limited-term supplemental." Requests for limited-term supplemental positions shall be submitted to the Director of Human Resources in writing stating the probable duration of the appointment. Such positions are subject to classification by the Personnel Commission, except that the Director of Human Resources may classify them, subject to later ratification by the Personnel Commission, if the good of the service demands expeditious action. (*Reference: Education Code 45286*)
 2. A limited-term substitute appointment shall be made, if possible, when a regular employee has been granted an authorized leave of absence. The limited-term

substitute appointment may be made not to exceed in duration the authorized absence of the regular employee, but the appointment need not coincide with the dates of that absence. Also, a limited-term substitute appointment may be made in a lower class related to that of the absent employee if the assigned duties are reduced in level accordingly. A person in a limited-term position of this type shall not attain permanent status.

- B. A permanent employee who accepts a limited-term appointment shall be allowed to return to his former position at the expiration of such service.

7.6 Eligibility for Limited-Term Employment

- A. When not filled through the temporary promotion of a permanent employee to work out-of-class, limited-term positions will be filled from candidates appearing on appropriate eligibility lists (same classification or classification exhibiting similar characteristics). When no appropriate eligibility list exists, limited-term positions may be filled through other selection methods with the prior approval of the Director of Human Resources.
- B. If an eligible has been appointed from an eligibility list to a limited-term substitute assignment or limited-term supplemental position, the person shall continue to be eligible for 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 resigned in good standing and who accepted a limited-term appointment within 39 months after resignation.
- C. No regular employee shall be laid off from any position while employees serving under limited-term appointment are retained in positions of the same class unless the regular employee declines the limited-term position.

7.7 Compensation for Limited-Term Employment

- A. When a regular employee is given a limited-term appointment in a higher class in lieu of all or part of his regular appointment, his rate of pay in the higher class shall be the rate for working out of classification pursuant to Rule 3.11.
- B. Reinstatement of Former Regular Employees in Limited Term Assignments (revised 12/16/15)
 - 1. Former regular employees who are reinstated in their former classification as limited term employees within 39 months after resignation or retirement shall be placed on the classified salary schedule on the step closest to but not below their previous hourly wage upon separation from the district, not to exceed Step 8.
 - 2. If an employee is placed in a classification lower than their previously held position, the rate of pay will be the step closest to but not below their previous hourly wage upon separation from the district, not to exceed Step 8 on the range of the classification of the work being performed.
 - 3. If a returning employee is assigned to a higher classification than previously held as a regular employee, the rate of pay will be the same as if assigned to their former classification.

- C. Limited-term employees shall be paid from the limited-term substitute salary schedule at the rate specified for the limited-term substitute classification in which they are working. For limited-term assignments over twenty days in the same position are paid at the Step A rate for regular appointments in the class.
- D. Permanent employees who are serving in a limited-term appointment in their same classification, ~~retain regular status in the class from which they came,~~ and continue to earn and be granted all rights and benefits of regular employees. ~~Seniority credit during service in the limited-term appointment accrues as time spent in the regular classification.~~
- E. Permanent employees who are serving in a limited-term appointment in a different classification retain regular status in the class from which they came and continue to earn and be granted all rights and benefits of regular employees. Time spent in such limited-term position does not count toward completion of a probationary period in that classification. Seniority credit during service in the limited-term appointment accrues as time spent in the regular classification.
- F. All other limited-term employees shall be granted only those benefits prescribed by law.
- G. Limited-term employees may only receive health and welfare benefits, including sick leave and vacation accrual, under the following conditions:
 - 1. The limited-term employee must be replacing a regular employee and for a period of not less than six months.
 - 2. The regular employee being replaced temporarily must not be receiving health and welfare benefits nor accruing sick leave or vacation credits.
- H. PERS/STRS retirees must meet the 180 day waiting period following retirement before being reinstated as a limited-term employee. (added 12/16/15, renumbered 3/23/16)

7.8 Termination of Limited-Term Employees

Limited-term employees shall be subject to termination at any time without cause.

7.9 Provisional Appointments

A. Restrictions

- 1. When no eligibility list exists for a position in the classified service, an employee may receive provisional appointments which may accumulate to a total of 90 working days. A 90-calendar-day interval shall then elapse during which the person will be ineligible to serve in any full-time provisional capacity. No person shall be employed in a full-time provisional capacity for more than 126 working days in any one fiscal year. *(Reference: Education Code 45287)*
- 2. When no one is available on an eligibility list for a part-time position, successive 90 working day provisional appointments may be made to the part-time position for more than 126 working days in any one fiscal year. *(Reference: Education Code 45287)*

- B. The Personnel Commission may authorize the extension of a full-time provisional employee's appointment for a period not to exceed 36 working days provided the following requirements are met (*Reference: Education Code 45288*):
1. An examination for the class was completed during the first 90 working days of his provisional appointment.
 2. Evidence satisfactory to the Personnel Commission is presented indicating:
 - a. That an adequate recruitment effort has been and is being made.
 - b. That extension of the provisional appointment is necessary to carry on vital functions of the District.
 - c. That the position cannot be satisfactorily filled by use of other employment lists or procedures.
- C. Insofar as possible, provisional appointees shall be required to meet the minimum qualifications for the class of the appointment as stated in the class specification. When no one who meets the minimum qualifications is available, a provisional appointment may be made until a qualified candidate is available.
- D. Terminating Provisional Appointments
1. The services of a provisional appointee shall be terminated within 15 calendar days after the date on which an eligibility list has been established, provided that this 15-day period does not extend beyond the 90-working-day provisional appointment or the additional 36 working days if authorized by Rule 7.9.B.
 2. A provisional appointment may be terminated at any time without cause.
- E. Emergency Appointments
1. If it should become necessary in time of emergency to fill positions in the classified service to prevent the stoppage of public business, the Board of Education, through its authorized Department Heads, may make emergency appointments, without reference to eligibility lists, for a period not to exceed 15 working days. (*Reference: Education Code 45290*)
 2. When such emergency appointments are made, it shall be the duty of the Board of Education to notify the Director of Human Resources in writing, naming the appointee or appointees, date of appointment, and nature of duties performed, and giving a statement justifying the emergency nature of such appointments. Time served under such emergency appointments shall be considered as part of the period permitted under the Education Code for provisional appointments.

7.10 Assignments at Times Other than Regular Academic Year

When classified employees are hired to serve in temporary summer assignments, the assignment shall be made on the basis of qualification for such employment and may be made without reference to existing eligibility lists. For such service, the employee shall receive, on a

pro-rata basis, the compensation and benefits which are applicable to that classification during the regular academic year. Selection for temporary summer assignments will follow the applicable collective bargaining agreement.

7.11 Employment of PERS Retirees

- A. Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed as a limited-term employee for up to 960 hours in any fiscal year whenever other eligibles are not available either during an emergency to prevent the stoppage of public business or because the retirees' skills or knowledge are needed in performing work of limited duration. *(Reference: Education Code 45135)*
- B. For a CalPERS employee retiring on or after January 1, 2013, a 180-day waiting period is required before the retiree can return to work for a CalPERS employer without reinstating from retirement. A one-year waiting period is required for those who received a golden handshake or other employer incentive to retire.
- C. The retired person must be informed that he is restricted to 960 hours in any fiscal year with the District and other employers subject to PERS and that employment and continuance in employment is discretionary.
- D. Compensation
 - 1. A retiree employed under authority of this rule shall be entitled only to salary earned including any overtime compensation.
 - 2. The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate. A retired person shall not receive any benefits, incentives, compensation in lieu of benefits or other forms of compensation in addition to the hourly rate. *(Reference: Government Code Title 2, Division 5, Chapter 8, 21229(a))*
 - 3. A retired employee employed under this rule is not subject to reinstatement to PERS nor does the compensation paid provide for retirement allowance adjustment.

7.12 Vacation *(Reference: Education Code 45197)*

- A. Every regular classified employee, permanent and probationary, shall earn vacation at the prescribed rate as part of his compensation. Regular employees who are on leave to serve in a classified limited-term assignment, or who serve in classified limited-term assignments during periods when they are not regularly assigned, shall earn vacation during such limited-term assignments. Vacations shall also be earned during any paid leave of absence.
- B. Following completion of six months of continuous service, each classified employee who is employed full time shall be eligible to take paid vacation days equal to the amount accrued to date.
- C. Vacation, based on full-time employment of 40 hours per week, 12 months per year, shall be earned and accumulated in accordance with the following schedule:

Calendar Years

| <u>of Service</u> | <u>Vacation Earned Per Month</u> |
|-------------------|--|
| 1-5 years | 1.00 (12 days per year for full-time, 12-month employee) |
| 6-10 years | 1.42 (17 days per year for full-time, 12-month employee) |
| 11 years | 1.50 (18 days per year for full-time, 12-month employee) |
| 12 years | 1.58 (19 days per year for full-time, 12-month employee) |
| 13 years | 1.67 (20 days per year for full-time, 12-month employee) |
| 14 years | 1.75 (21 days per year for full-time, 12-month employee) |
| 15 years | 1.83 (22 days per year for full-time, 12-month employee) |
| 16 years | 1.92 (23 days per year for full-time, 12-month employee) |
| 17 years | 2.00 (24 days per year for full-time, 12-month employee) |
| 18 or more years | 2.08 (25 days per year for full-time, 12-month employee) |

As needed, the accumulation rates shown above will be updated to reflect current union contract provisions.

On a monthly basis, vacation time is earned at the rates specified above and is credited to the employee's "vacation account"; the employee is eligible to take only that vacation time which has been earned and accumulated to date.

- D. Vacation time for part-time employees shall accrue on a pro rata basis according to time served.
- E. Employees assigned to management positions shall earn vacation time at the rate of 16-2/3 hours per month, or 25 paid vacation days for 12 months of service. Vacation credit for management employees may be accumulated to a total not exceeding that which the employee could earn in three years.
- F. Vacation credit for confidential employees may be accumulated to a total not exceeding that which the employee could earn in four years. Vacation credit for other employee groups may accumulate to a total not exceeding the maximum as stated in current union contracts.
- G. Vacation schedules shall be prepared by the administration. Effort shall be made to enable vacation to be taken at times convenient to the employee, consistent with the needs of the service, and the work load of the department. An absence request should be submitted to the immediate supervisor as far in advance of the vacation date as possible, but no later than three working days prior to the effective date. Approval must be received from the supervisor prior to starting any vacation leave. Under unusual circumstances, the immediate supervisor may permit a modification of these requirements.
- H. Pay for any day of vacation leave shall be the same pay the employee would have received if he had worked that day.
- I. Upon separation from the service, an employee shall be paid for his accumulated vacation credit at the rate of pay applicable to his last regular assignment, except that employees who have not completed six months of employment in regular status shall not be entitled to such compensation.
- J. When an employee has accumulated the maximum allowable vacation credit and when a critical emergency prevents his taking vacation time, the nature and duration of the

emergency shall be reported to the Director of Human Resources. The Director of Human Resources may authorize payment in lieu of vacation earned above the maximum or may permit the accumulation of excess vacation credit for the duration of the emergency.

- K. Upon approval of the administrative supervisor, a permanent classified employee may be permitted to interrupt or terminate vacation leave in order to begin illness leave. The supervisor may request supporting documents or certification of illness from a licensed physician before approving the request.
- L. Upon approval of the administrative supervisor, a permanent classified employee may be permitted to interrupt or terminate vacation leave in order to begin bereavement leave.

7.13 Sick Leave (*Reference: Education Code 45136 and 45191*)

- A. Twelve working days of sick leave per year are granted, at the beginning of each fiscal year, to regular, full-time, twelve-month employees in paid status for absence due to illness or injury of the employee. Employees who work part-time and/or for less than a full year shall be granted sick leave on a pro rata basis in the proportion that their employment bears to full-time twelve-month employment. Sick leave is cumulative from year to year without limit.
- B. The cumulative aspect of sick leave from year-to-year is based on accrual at the rate of one day's sick leave per whole month employment. At least half the number of working days in the calendar month must be worked to earn sick leave for that month. For example, new hires who start in the second half of the month will not earn sick leave for that month, and, similarly, an employee who terminates during the first half of the month will not earn sick leave for that month.
- C. After sick leave, accumulated compensatory time, accumulated vacation time, and other available paid leave have been used, the employee, for additional absences due to illness or injury, whether or not the absence arises out of or in the course of employment, shall be entitled to extended sick leave benefits as defined in the CSEA and SEIU contracts.

Classified management and confidential employees shall be entitled to as much as 100 days of extended sick leave benefits, as follows:

1. Extended sick leave will provide compensation in an amount equal to 50% of the employee's regular salary, for a period of time not to exceed 100 days in any fiscal year, and not to exceed a total of 100 days for any illness or injury. If the same illness or injury extends into the next fiscal year, the unit member shall be allowed to use only the amount of the 100 days remaining unused from the previous fiscal year.
2. In no event shall the total of extended sick leave benefits for any illness or injury, or combination of illnesses and injuries, exceed 100 days in any one fiscal year.
3. Extended sick leave is in the nature of an extended disability plan, and if not used is not accumulated from year to year.
4. Extended sick leave benefits are to be integrated with any statutory industrial accident/injury benefits and any other statutory disability benefits. The amount received

from any such statutory benefits shall be credited against the amount of these extended sick leave payments.

- D. An employee whose sick leave credit has been exhausted and who remains absent from work because of nonindustrial accident or illness, may request to be placed on unpaid leave of absence to retain his rights to a position within the class to which he was assigned. The employee shall be notified, in writing, that available paid leave has been exhausted, and shall be offered an opportunity to request additional leave. The Board of Education may grant such leave up to six months. Two more subsequent six month leaves may be granted.
- E. A new employee shall not be eligible to take more than six days paid sick leave until the first day of the calendar month after completion of six months or 130 days of paid service, whichever is longer. In the event an employee terminates and has used more sick leave than the one day per month accrual rate, any leave in excess of such accrual will be deducted from the final check.
- F. Pay for any day of sick leave shall be the same pay the employee would have received if he had worked that day.
- G. Sick leave for part-time employees shall be prorated in the proportion that their employment bears to full-time, twelve month employment. Sick leave for part-time employees is for the part of the day normally worked when the sick leave was earned.
- H. The Director of Human Resources may require a statement from a qualified medical examiner whenever there is reason to believe that sick leave is being used for other than its intended purpose.
- I. If for any reason the employee cannot report for work, he shall notify his principal or supervisor immediately.

Each employee is responsible for notifying his principal or supervisor of the date he plans to return to work. Whenever possible, this notification is to be made on the day before he plans to return. Failure of regular employees to give proper notification will automatically permit the limited-term substitute to serve with pay. The regular employee will forfeit one day's sick leave.

7.14 Industrial Accident and Industrial Illness Leave *(Reference: Education Code 45192)*

- A. Classified employees are entitled to leave for qualified industrial accidents and illness as follows:
 - 1. Allowable leave shall be for not more than 60 working days in any one fiscal year for the same accident.
 - 2. Allowable leave shall not be accumulative from year to year.
 - 3. Industrial accident or illness leave will commence on the first day of absence.
 - 4. Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.

5. Industrial accident leave will be reduced by one day for each day of authorized absence regardless of a compensation award made under workers' compensation.
 6. When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.
- B. Days absent while on paid industrial accident leave shall not be deducted from the number of days of paid sick leave to which an employee may be entitled.
 - C. If the employee is still unable to return to duty after exhausting paid industrial accident leave, the employee shall be placed on paid sick leave if he is eligible. Accumulated sick leave will be reduced only in the amount necessary to provide a full day's wages or salary, as indicated in the employee's assignment, when added to compensation from the self-insured workers' compensation administrator.
 - D. After all paid sick leave has been exhausted following a paid industrial accident leave, an employee will receive pay from accrued vacation to the extent necessary to make up the employee's regular salary when receiving a temporary disability allowance from the self-insured workers' compensation administrator.
 - E. The employee shall secure a medical release before being permitted to return to work.
 - F. Upon return to service from an industrial accident or industrial illness leave of absence, an employee shall be assigned to a position in his former class ahead of any employee with a lesser amount of seniority. If no vacancy exists in his former class, the employee may displace the most recently appointed employee in the class with less seniority. If an employee's former class has ceased to exist, the employee may be reassigned or placed on a suitable reemployment list.
 - G. An employee returning from an industrial accident or industrial illness leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and Personnel Commission rules. An employee shall continue to receive seniority credit for all purposes while on industrial accident or industrial illness leave of absence.
 - H. When all paid or unpaid leaves of absence have been exhausted following an industrial accident or industrial illness, the employee's name shall be placed on the reemployment list for the class from which he was on leave for a period not to exceed thirty-nine (39) months.
 - I. An employee who fails to accept an appropriate assignment after being medically approved therefor shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class, in his former status and time basis, and in assignment areas in which the employee has made himself available. Employees removed from a reemployment list under this rule may appeal the removal to the Personnel Commission.
 - J. While an employee is on any paid leave resulting from an industrial accident or industrial illness, the employee's salary paid by the District shall not, when added to a normal

temporary disability allowance award granted the employee under State Workers' Compensation Insurance laws, exceed the employee's regular salary. A permanent employee's regular salary is computed on the basis of the number of hours and days in his basic daily assignment. An employee who is not permanent shall have his regular salary computed on the basis of the average number of hours worked each month in which the employee was in paid status during the preceding year. An employee who received a shift or other salary differential shall lose the advantage of the differential after 10 consecutive days of paid industrial accident leave for any one accident or illness.

- K. Any employee receiving benefits as a result of this section shall, during periods of injury or illness, remain within the State of California unless the Board of Education authorizes travel outside the state.

7.15 Bereavement Leave *(Reference: Education Code 45194)*

A probationary or permanent employee in the classified service shall be allowed regular pay for not more than five working days when absent on account of the death of any member of the employee's immediate family. The following relatives shall be considered as members of the immediate family: mother, father, spouse, registered domestic partner, son, daughter, brother, sister, grandmother, grandfather, grandchild, guardian with whom the employee has lived, or other person living in the employee's home. The definition includes "in-law" relationship in each case, and includes "step" relationships in the case of parents and children.

7.16 Personal Necessity Leave *(Reference: Education Code 45207)*

- A. Sick leave may be used by an employee in cases of personal necessity. An employee may elect to use not more than the amount of their annual sick leave accrual for purposes of approved personal necessity leave for reasons 1 through 6 below. Personal business leave (reason 7 below) shall not exceed seven days in any fiscal year. Personal necessity leave entitlement shall not be accumulated from year to year. Personal necessity leave will be granted only in case of true necessity for any of the following reasons:
 - 1. Death of a member of his immediate family when additional leave is required beyond that provided under Bereavement Leave.
 - 2. Accident involving his person or property, or the person or property of a member of his immediate family.
 - 3. Appearance in court or before any administrative tribunal as a litigant, party, or as a witness under subpoena or any order made with jurisdiction.
 - 4. Serious illness of a member of the immediate family which requires the care of the employee.
 - 5. Absence for father on the occasion of childbirth, and absence of mother and/or father to meet legal compliance for adoption.
 - 6. Major religious observance.
 - 7. Personal Business (requires three (3) days advance notice).

Immediate family has the same meaning as provided in Section 7.15.

- B. An employee shall request personal necessity leave at least three (3) days prior to taking the leave. The immediate supervisor shall give a prompt response to the request.
- C. The employee shall not be required to secure advance permission for leave taken for (1) death or serious illness of a member of his immediate family, (2) an accident involving his person or property, or the person or property of a member of his immediate family, or (3) if the reason for the leave became known at such a time that it would preclude the employee from complying with B. above.

7.17 Critical Illness or Injury in Family

- A. Leave of absence may be granted an employee for absence due to illness or injury of some member of his immediate family in cases which do not qualify for, or which extend beyond the time limits of Personal Necessity Leave. Such leave must be requested by the employee, acknowledged by the school principal and/or immediate supervisor, and approved by the Superintendent or the Superintendent's designee. Such leave shall not exceed five (5) days per occurrence.
- B. During the time of such leave, the employee shall be compensated as specified in the applicable negotiated agreement or Personnel Commission Rule.
- C. Immediate family has the same meaning as provided in Section 7.15.

7.18 Jury Duty and Witness Leave *(Reference: Education Code 44036 and 44037)*

- A. Leave of absence for jury service shall be granted to any classified employees who have been officially summoned to jury duty in local, state, or federal court. Leave shall be granted for the period of the jury service. The employee shall receive full pay while on leave less the amount of the jury service fee.
- B. Any classified employee receiving a call for jury duty shall notify his immediate supervisor as soon as possible after receipt of a letter directing appearance for qualification for jury duty service and/or jury summons.
- C. Leave of absence to serve as a witness in a court case shall be granted an employee when he has been served a subpoena to appear as a witness, not as the litigant in the case. The length of the leave granted shall be for the number of days in attendance in court as certified by the clerk or other authorized officer of the court. The employee shall receive full pay during the leave period less the amount of the witness fee. Request for leave of absence to serve as a witness should be made by presenting the official court summons to the immediate supervisor.
- D. Employees appearing in court as litigants shall be allowed personal necessity leave.
- E. The jury service fee and witness fee referred to in A and C, respectively, do not include reimbursement for transportation expenses.
- F. An employee who has received leave of absence under this rule shall make himself available for work during hours when his presence is not required in court.

7.19 Military Leave

Any classified employee who is on temporary military leave of absence and who has been in the service of the District for a period of not less than one year immediately prior to the day on which the absence begins shall be entitled to receive his salary or compensation for the first 30 calendar days of any such absence. "Temporary military leave of absence" means a leave of absence from employment to engage in ordered military duty for a period which by the order is not to exceed 180 calendar days. Pay for such purposes shall not exceed 30 days in any one fiscal year. For the purposes of this section, in determining the one year of District service, all service of the employee in the recognized military service shall be counted as District service.

Military leave of absence shall be granted and compensated in accordance with Military and Veterans Code Sections 389 and 395.

7.20 Leave of Absence Without Pay

- A. Upon the written request of the employee and the recommendation of the Superintendent or the Superintendent's designee, the District may grant a leave without pay for any reason satisfactory to the District.

The granting of a leave of absence without pay gives to the employee the right to return to the same or an equivalent position at the expiration of the leave of absence, provided that the employee is physically and legally capable of performing the duties. In accordance with Education Code Section 45286, the position may be filled for the length of the authorized leave of absence. Such appointment will include regular salary, fringe, vacation, and sick leave benefits; however, such service shall not be considered as probationary, nor count toward permanency as provided for in Education Code Section 45301.

- B. The Board of Education may, for good cause, cancel any leave of absence by giving the absent employee due notification. The employee may appeal the cancellation to the Personnel Commission which shall investigate and hear the appeal. The appeal by the employee will stay the cancellation directive of the Board of Education until action by the Personnel Commission, which shall be final and binding.
- C. 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 of Education may approve or reject the request.
- D. Failure to report for duty within five working days after a leave has been canceled or expires shall be considered abandonment of the position and the employee may be terminated by the Board of Education. The termination may be appealed to the Personnel Commission in the same manner as any other dismissal for cause.
- E. If the employee's classification has been abolished during the employee's absence, the employee shall be laid off for lack of work and placed on the reemployment list for the class effective the date of termination of leave. He may be returned to a vacant position in a class at the same or a lower salary level for which he is qualified.

7.21 Maternity Leave *(Reference: Education Code 45193)*

- A. Maternity leave shall be granted on an individual basis. The commencement and termination of the leave shall be determined by (a) the medical advice of her physician, and (b) the judgment of the Director of Human Resources, as advised by the employee's supervisor, as to the period of time during which the employee can perform her job responsibilities satisfactorily.
- B. Employees who are pregnant shall submit a written statement requesting maternity leave to Human Resources no later than three (3) months before the expected date of delivery together with a written statement from the attending physician. The physician statement and employee statement shall be on the forms prescribed by the District.
- C. Sick leave shall be granted upon request of the employee for that time period verified by the attending physician that the employee is unable to continue to perform assigned duties because of disability caused or contributed to by pregnancy, miscarriage, child birth and recovery therefrom.
- D. Parental leave shall be extended to all qualifying employees following the birth, placement or adoption of a child according to applicable federal and state laws. The employee may use accrued sick leave, vacation and extended sick leave during this leave.
- E. An unpaid Infant Care Leave of Absence may be granted in conjunction with a maternity leave pursuant to Personnel Commission Rule 7.20.

7.22 Leave to Serve in a Limited-Term Position

- A. Any permanent classified employee who accepts an assignment within the District in a limited-term position shall, during such assignment, be considered for status purposes as serving in his regular position, and such assignment shall not be considered separation from service.
- B. The employee may, with the approval of the appointing authority, voluntarily return to his position or a position in the class of his permanent status prior to the completion of service in a limited-term position. Failure to complete the required service, unless approved as specified herein, will constitute abandonment of position and may be grounds for disciplinary action by the appointing authority.

7.23 Leave of Absence for Retraining *(Reference: Education Code 45380-45387)*

In the event that the Board of Education contemplates the abolition of positions in the classified service and creation of new positions because of automation, technological improvements, or for any other reason, it may provide for retraining of displaced employees in accordance with this rule.

- A. To be eligible for retraining leave, an employee must:
 - 1. Have served at least three consecutive years in the District.
 - 2. Be serving in a position which the District contemplates abolishing, or
 - 3. Show that the retraining will clearly benefit the District.
 - 4. Indicate a willingness to undergo the prescribed training program.

5. Indicate a willingness to serve the District for at least two years after successful completion of the retraining program.
- B. The Board of Education shall prescribe the retraining program and may provide the program internally or designate the institution or place where the program is to be given.
- C. The employee shall be considered a permanent employee for all purposes during the period of the retraining program and shall receive his normal compensation and benefits. The Board may prescribe duties, if any, to be performed by the employee on behalf of the District during retraining leave.
- D. The Board shall provide for reasonable expenses necessary for the prescribed retraining, but may recover costs from the employee if the employee fails to complete the prescribed retraining program.

7.24 Absence to Take Promotional Examination

Every employee in the classified service shall be permitted to be absent from his duties during working hours in order to take any examination for promotion in the District without deduction of pay or other penalty, provided that he gives two days' notice to his immediate supervisor.

7.25 Probationary Period

- A. Duration of Probation (*Reference: Education Code 45301*)
 1. A new employee appointed from an eligibility list shall serve a probationary period of six months or 130 working days of paid service, whichever is longer, in one class before attaining permanency in the classified service. An employee who has been promoted shall serve a probationary period of six months or 130 working days of paid service, whichever is longer, in the higher class before attaining permanency in that class. Credit toward completion of probation shall be granted only for service in regular positions in the class after appointment from the eligibility list.
 2. For those classes designated by the Commission as management, the probationary period shall be one year from the first day of employment.
 3. The six months or 130 working days of paid service shall exclude days absent from service exceeding six (6) during the probationary period, regardless of paid status. The employee's date for completion of probation shall be adjusted accordingly. (*Added 12/13/17*)
- B. Rights of Probationary Employees
 1. A new employee who resigns in good standing during his initial probationary period shall, upon request, have his name restored in proper rank to the eligibility list. Such action shall not extend the life of the eligibility list or the period of eligibility of the employee.
 2. A probationary employee may be terminated at any time during the probationary period.

3. An employee who has permanent status in the classified service, and who has been promoted to a higher class, may be demoted during the probationary period to his former class in accordance with Education Code 45305.
4. A permanent employee who is suspended or dismissed or demoted to other than his former class during a probationary period retains full rights of appeal to the Personnel Commission.
5. Should a probationary employee be laid off before the probationary period is completed, his name shall be restored to the eligibility list and the time served shall be credited to the probationary period.

7.26 Resignation *(Reference: Education Code 45201)*

- A. When an employee desires to resign from his position, the employee shall present his resignation in writing to the immediate supervisor, and a copy of such resignation shall immediately be filed by the supervisor with the Director of Human Resources.
- B. A resignation relates only to the specific position from which the employee resigns and does not impair his rights to other positions which he may hold on eligibility lists.

Chapter 7

References: Education Code

| | |
|----------|---|
| 44036 | Leaves of absence for judicial and official appearances |
| 44037 | Jury duty; exemptions |
| 45135 | Employment of retired classified employee |
| 45136 | Benefits of probationary and permanent part-time classified employees |
| 45137 | Fringe benefits of part-time classified employees |
| 45191 | Leave of absence for illness or injury |
| 45192 | Industrial accident and illness leaves for classified employees |
| 45193 | Leave of absence for pregnancy |
| 45194 | Bereavement leave of absence |
| 45196.1 | Parental Leave |
| 45197 | Annual vacations |
| 45201 | Power of governing board to accept resignation and fix its effective date |
| 45207 | Personal necessity |
| 45286 | Limited-term employees |
| 45287 | Provisional appointments |
| 45288 | Provisional assignment; Extension |
| 45289 | Successive provisional appointments |
| 45290 | Emergency appointments |
| 45301 | Probationary period for entry into permanent classified service |
| 45302 | Demotion and removal from permanent classified service |
| 45305 | Appeal by employee from suspension, demotion, or dismissal |
| 45309 | Reinstatement of permanent non-certificated employees after resignation |
| 45380 to | |
| 45387 | Retraining and study |

Military and Veterans Code

- 389 Military Leave Definitions
- 395 Temporary Military Leave of Absence

CHAPTER 8

PERFORMANCE EVALUATION

8.1 Evaluations of Probationary and Permanent Employees

All regular classified employees shall be evaluated by their immediate supervisors in accordance with the following schedule:

- A. Probationary employees - prior to the end of the second and fifth months. However, if during the six-month probationary period, one or more items on the evaluation form are declared unsatisfactory, then the employee may be evaluated every month during the remainder of the probationary period.
- B. Probationary management employees - prior to the end of the fifth and eleventh months. If during the probationary period, one or more items on the evaluation form are declared unsatisfactory, then the employee may be evaluated every month during the remainder of the probationary period.
- C. Permanent management and confidential employees - at least once each year prior to June 30.
- D. Permanent classified employees shall receive a minimum of one written evaluation every other year unless otherwise requested by the employee or supervisor. If an evaluation is not given in a specific year, it shall be assumed that the employee is performing satisfactorily.

8.2 Who Makes Evaluations

The immediate supervisor shall prepare the performance evaluation.

8.3 Evaluation Forms

Performance evaluation reports shall be made on forms prescribed by the District.

8.4 Evaluation Procedure

- A. The immediate supervisor shall prepare the written performance evaluation and discuss it with the employee. Both the immediate supervisor and the employee will sign the form. The employee may attach written comments to the evaluation at his option.
- B. Copies of the evaluation, together with any attachments, shall be distributed as follows: the original to the Human Resources Office, one copy to the employee, and one copy to the evaluator. The original will be filed in the employee's personnel file and shall be available for review in connection with any disciplinary action.
- C. If the employee disagrees with his performance evaluation, he may submit a written statement within five (5) working days to be attached to the evaluation form, and/or he may request a review of the evaluation by the next level administrator.

If requested, the evaluation shall be reviewed by the next level administrator and discussed with the employee within 15 working days. The next level administrator and employee shall sign the form. Copies of the form shall be distributed as indicated in 8.4.B. above. The decision of the next level administrator shall be final.

Chapter 8

References: Education Code

45260 Retention of Employees

45261 Evaluation Procedures to be Followed

CHAPTER 9

LAYOFF

9.1 Procedure Regarding Layoff

- A. Layoff is defined as any reduction in assigned daily hours and/or work year due to lack of work or lack of funds.
- B. Computation of Seniority

In accordance with the agreements between the classified unions and the District, and as allowed under Education Code 45308, seniority shall, for purposes of layoff and recall, be determined by length of service in the affected classification, plus higher classifications, using the employee's date of hire in the relevant classification(s). Periods of separation from the District due to duly granted leaves of absence or layoff are to be counted towards an employee's seniority.

Layoff shall be made in reverse order of seniority in the class for which the layoff occurs. If two or more employees who are subject to layoff or reduction have equal length of service in their classification, the employee with the earliest District hire date shall be considered the most senior. If their District hire date is equal, determination shall be by lot.

- C. When, as a result of the expiration of a specially funded program, classified positions must be eliminated at the end of the school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of the school year shall be given written notice on or before April 29 informing them of their layoff effective at the end of the school year and of their displacement (bumping) rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, the notice shall be given not less than 60 days prior to the effective date of layoff. *(Reference: Education Code 45117(a))*

When, as a result of a bona fide reduction or elimination of services being performed, classified employees shall be subject to layoff for lack of work, affected employees shall be given notice of layoff not less than 60 days prior to the effective date of layoff and informed of their displacement (bumping) rights, if any, and reemployment rights. *(Reference: Education Code 45117(b))*

- D. A classified employee who has received written notice of impending layoff shall have bumping (displacement) rights, in the following order, provided that the right to bump shall not be allowed if there is a vacant position of equal or greater assigned daily hours and/or work year in the employee's class to which he can be assigned:
 - 1. He may bump the least senior employee in the same class so as to minimize loss of assigned daily hours and/or work days per year.
 - 2. If he has served in another class at the same salary level as his present class, he may bump the least senior employee in the class so as to minimize loss of assigned daily hours and/or work days per year.

3. If he has served in a lower class (a class at a lower salary level than his present class), he may bump the least senior employee in the lower class so as to minimize loss of assigned daily hours and/or work days per year.
 4. An employee faced with layoff who has previously served in two or more equal or lower classes may bump into the most recent voluntarily held class in which that employee has sufficient seniority.
 5. Any classified employee who is bumped by an employee with greater seniority shall have bumping rights as though he were laid off for lack of work or funds.
- E. Employees shall have three (3) working days from the date of contact to accept or reject any displacement rights to which they are entitled.
 - F. An employee who is demoted in lieu of layoff shall be placed on the step of the salary range of the lower class that is closest to his present salary in that class from which he was demoted, provided that he shall not receive a salary increase thereby.
 - G. Provisional, limited-term, and emergency employees shall have no bumping rights.
 - H. Employees on layoff may be appointed to vacant positions in classes where they have not served in probationary or permanent status without reference to their placement on any eligibility list as long as they meet the minimum qualifications for the position. The employee shall contact the Director of Human Resources to determine their ability to meet these minimum qualifications.
 - I. A permanent employee who transfers into an equal or lower class shall retain permanent status.
 - J. A probationary employee who is reemployed following layoff shall complete the remainder of their probationary period.

9.2 Reemployment Lists

- A. The names of employees laid off, demoted, or reduced in time, pursuant to this rule shall be placed upon the reemployment list for the class from which they were laid off, demoted, or reduced in time. Names on the reemployment list shall be in the order of seniority with the person who holds the highest seniority being offered the first opportunity for reemployment.

Employees who are laid off shall have reemployment rights for no less than 39 months from the effective date of layoff. An employee who takes a voluntary demotion or a voluntary reduction in assigned time in lieu of layoff or to remain in his present position rather than be reassigned, shall retain eligibility to be considered for reemployment for an additional period of 24 months. (*Reference: Education Code 45298(b)*)

- B. An employee on a layoff may decline three offers of reemployment in the former class and status. An employee offered reemployment shall have three (3) working days from the date of contact to accept or decline. After the third refusal no additional offers need be made and the employee shall be considered unavailable.

- C. Employees on layoff lists shall be eligible to compete in promotional examinations.
(Reference: Education Code 45298(a)(2))

Chapter 9

References: Education Code

- 45117 Notice of layoff due to expiration of specially funded program or bona fide reduction or elimination of service
- 45298 Reemployment and promotional examination preference of persons laid off; voluntary demotions or reduction in time
- 45308 Order of layoff and reemployment; length of service

CHAPTER 10

DISCIPLINARY ACTION AND APPEAL

10.1 Causes for Disciplinary Action

- A. A permanent classified employee may be suspended, demoted, or dismissed for any of the causes listed below and shall be subject to the progressive discipline procedures outlined herein.

Disciplinary action includes any action whereby an employee is deprived of any classification or any incident of any classification in which the employee has permanence, including dismissal, suspension, demotion, or any reassignment, without voluntary consent, except a layoff for lack of work or lack of funds.

Such disciplinary action may include transfer or suspension without pay for an appropriate period of time, which may vary from a minimum of 3 days to a maximum of 20 days depending on the nature and seriousness of the infraction and on how often it has occurred. In all cases the test of reasonableness is to be applied to both the determination that an infraction has been committed and to the subsequent disciplinary action.

1. **Insubordination:** Indicated by a refusal to follow duly authorized instructions or to perform reasonably assigned duties; also indicated by more than one instance of the inappropriate challenging of authority. Except in flagrant cases the employee must have been previously warned.
2. **Inattention to or dereliction of duties:** Indicated by absence from duty for reasons such as repeated, unauthorized, or excessively long breaks, or repeatedly getting to work late or leaving early. May also be indicated by work inefficiency.
3. **Discourteous, offensive, or abusive treatment of the public, students, or of fellow employees:** Courtesy is expected of employees and consists of respect for the rights of others, consideration of others, being civil to others, and being cooperative. Discourtesy is the opposite of courtesy.
4. **Dishonesty:** Indicated by not being truthful in work performance. Includes failure to disclose requested facts regarding criminal records, or providing any other false or misleading information on application forms or examination or employment records.
5. **Unauthorized use, theft, negligent use, or destruction of District property.**
6. **Unexcused absences or tardiness in reporting to work.** (See CSEA Article X.A.4 and SEIU Article 12.1.6 for further details.)
7. **Abandonment of position:** Three successive days of absence from work without authorization or notice, and after the District has made a reasonable effort to contact the employee. Exceptions may be granted based on extenuating circumstances.
8. **Being in the possession of illegal substances or under the influence of alcoholic beverages or narcotics when at work:** For purposes of efficiency, safety, and public

relations, employees are expected not to be under the influence of unsanctioned or unapproved alcohol or narcotics when at work. Determination that an employee has violated this rule will depend upon circumstances, but will typically involve verification by two or more witnesses. However, in case of serious infraction, a single witness could be sufficient.

9. **Failure to report for health examination after due notice.**
10. **The practice of non-business-related activities** by an employee during assigned hours of employment (other than at breaks and/or lunch time).
11. **Unacceptable written evaluation** reflecting a pattern of below standard work performance and negligence in the performance of the duties of the position.
12. **Revocation of or other failure to retain a required license:** Loss of job-required license, such as a school bus driver's certificate, through revocation, failure to renew, or reason brought about by employee's negligence, malfeasance, or other misbehavior.
13. **Arrest on a sex or narcotics offense or other crime involving moral turpitude as specified in Education Code Sections 45123 and 45124:** Such suspension shall be without pay unless the employee furnishes a bond or other security as provided for below:

Employees suspended without pay upon such charges may file a written denial with the Board of Education within five (5) working days of the beginning of the suspension. In such event the employee will continue to be paid their regular salary during the period of suspension and until the decision of the Board of Education regarding employment status provided that: a) the employee demands an immediate trial, if warranted, and b) during this period the employee furnishes to the District a suitable bond, or other security acceptable to the Board of Education, as a guarantee that the employee will repay to the District the amount of salary paid during the period of suspension in case the decision of the Board is that the employee shall be dismissed. If it is determined that the employee will not be dismissed, the District shall reimburse the employee for the cost of the bond.

14. **Conviction of a felony, or of any crime involving moral turpitude,** which, in the judgment of the District and in consultation with legal counsel, makes it inimical to the welfare of the District, its employees, and/or the students thereof to continue a person's employment with the District as specified in Education Code Sections 45123 and 45124.
15. **Unlawful discrimination, including harassment.** Discrimination shall consist of adverse treatment including creation of a hostile working environment against an employee, student, or member of the public because of that person's membership in a class of people protected from discrimination by applicable state, federal, or local law.
16. **Unlawful retaliation against another employee, student, or member of the public who files a complaint.** Retaliation is adverse treatment, including creation of a hostile working environment against an employee, student, or member of the public for making a complaint about that employee or for supporting such a complaint, even if the complaint is held not be meritorious.

17. **Violations of the Education Code (or other applicable code), or the rules and regulations of the District Board of Education or of the Personnel Commission, where the employee knew or should have known that he or she was breaking a rule related to his or her employment.**
- B. No disciplinary action against a permanent employee shall be based upon any cause which arose prior to the employee's becoming permanent, nor for any cause which arose more than two years preceding the date of the filing of the notice of cause unless such cause was concealed.

10.2 Procedure for Disciplinary Action

- A. No employee in the classified service shall be subject to disciplinary action because of his affiliations, political or religious acts or opinions, perceived or actual race, color, national origin, ancestry, religious creed, gender, sexual orientation, genetic information, gender expression, gender identity, age, marital status, or physical or mental disability.

- B. **Progressive Discipline**

Generally, except where the misconduct is of such a serious nature that a warning is not reasonably justified, the employee shall first be given notice of any performance problems or other misconduct which may give rise to disciplinary action and given an opportunity to improve. For example, full progressive discipline, which would be appropriate for a minor offense such as tardiness, would include:

- 1) Verbal counseling;
- 2) If the problem is not corrected within a reasonable time (to be determined between the employee and the supervisor), an evaluative conference and one or more written reprimands/warnings indicating the nature of the problem and the consequences of a further violation;

Note: In these rules, a reprimand/warning means all of the following:

- a. The warning is in writing and signed by the supervisor.
 - b. The written warning contains:
 - 1) the date of the alleged infraction,
 - 2) the location(s) where the infraction(s) occurred,
 - 3) the nature of the infraction(s),
 - 4) the desired behavior along with suggestions, where appropriate, on how to achieve it,
 - 5) a caution that the infraction, offense, or behavior is not to be repeated;
 - c. At a meeting with the supervisor or designee the employee shall be invited to sign the warning. The employee shall be entitled to have a witness or representative present at this meeting, and the employee shall be given the opportunity to add a written response to the warning within five (5) working days after the meeting;
- 3) If the problem persists, a suspension without pay for up to 5 working days, and an appropriate reprimand/warning;
 - 4) Then if the problem persists, either a longer suspension, demotion, or dismissal.

The above progressive disciplinary procedures may vary based upon the seriousness of the offense, and in the case of a serious offense may not be applicable.

- C. A District administrator may recommend to the Superintendent that a permanent employee be suspended, demoted or dismissed.
- D. Prior to recommending suspension, demotion or dismissal to the Board of Education, the Superintendent, or designee, shall give the employee specific written notice of the charges involved, setting forth the specific acts and omissions upon which the proposed disciplinary action is based. The charges will include sufficient detail to enable the employee to understand the circumstances and basis for the possible discipline and to investigate and formulate a meaningful response. The District will give the employee notice of his right to meet with a "Skelly officer." If the employee desires to meet with a Skelly officer, who is designated by the Superintendent, prior to the charges being presented to the Board, the employee shall request in writing that an informal meeting be scheduled, at which the employee may present any information he may wish to in support of his position. It shall not be the employee's right at this meeting to confront or examine District witnesses, but the employee may present his own witnesses and witness statements. The request for a meeting must be received by the Superintendent within five working days after the employee has been served with the charges, and the informal meeting shall then be scheduled in writing to be held not less than ten working days after the employee was served with the charges. The employee may have representation at this meeting. The employee may submit a statement in writing or orally at the time of the meeting or may submit a written statement in lieu of the meeting. Following the meeting, the Skelly officer shall, in writing, recommend, modify and recommend, or withdraw the proposed disciplinary action.
- E. The specific written charges and notice of disciplinary action recommended by the Superintendent, with any written response submitted by the employee, and the Skelly officer's statement, shall be presented to the Board of Education in closed session for action. The employee may request to have the matter heard in open session instead.
- F. The Board of Education may take action to suspend, with or without pay, demote, or dismiss the employee as recommended by the Superintendent or take action to impose a less severe disciplinary action than recommended by the Superintendent.
- G. The disciplinary action shall be effective the day following Board action unless the Board postpones enforcement of the disciplinary action until the employee has exhausted all appeal rights to the Personnel Commission.
- H. When formal disciplinary action has been taken by the Board of Education, the action and the charges shall be reported to the Director of Human Resources. The Director shall notify the employee and the Personnel Commission upon receipt of the Board's decision, or as soon thereafter as possible.
- I. Written notice to the employee shall be served personally or by registered or certified mail and shall include a copy of the charges, the Skelly officer's statement, the Board's decision, and a statement of the employee's right to appeal to the Personnel Commission within 14 days after receipt of the notice. A copy of Rule 10.3 setting forth the appeal procedure shall be provided to the employee.

- J. The action of the Board of Education shall become final and conclusive upon the failure of the employee to appeal to the Personnel Commission in a timely manner.
- K. A regular employee charged with the commission of any sex offense as defined in Section 44010 of the Education Code or any narcotics offense as defined in 44011 or other offenses as set forth in Education Code Section 45304 by complaint, information, or indictment filed in a court of competent jurisdiction may be suspended immediately as set forth in Education Code Section 45304 without following the above procedure. Such suspension will be processed as provided for in Education Code 44940.5 and the Personnel Commission shall receive an update every 90 calendar days during the suspension.

10.3 Appeal of Disciplinary Action

- A. A permanent employee who has been subjected to disciplinary action may, within 14 days after having been furnished with a copy of the Board's decision, submit a written request for an appeal hearing to the Personnel Commission. The written appeal must include the grounds for the appeal.
- B. A permanent employee who has not served the full probationary period for the class and who is demoted to the class from which promoted may request an investigation by the Commission within 14 days after the receipt of the copy of written charges. The request for the investigation must include the grounds for the request. The Commission shall conduct an investigation confined to the grounds set forth in the charges and in the request for the investigation but shall not be required to follow the procedures for appeals and hearings set forth in these rules. The Commission shall notify the Board of Education and the employee in writing of its findings. If the Commission's investigation and findings, however, indicate any discriminatory action, the Commission may order a formal hearing. The decision of the Commission shall be binding on the Board of Education.

10.4 Hearing Procedure

- A. The Personnel Commission may conduct hearings of appeals with or without a hearing officer or may appoint a hearing officer to conduct the hearings and report findings and recommendations to the Commission.
- B. Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officer shall be bound by technical rules of evidence. Decisions made by the Commission shall not be invalidated by any informality in the proceedings. No finding upholding discipline shall be based totally on hearsay evidence or on testimonial evidence not subject to cross-examination.
- C. The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. It shall base its findings on the preponderance of evidence.
- D. Each side will be permitted an opening statement (Board first) and closing arguments (employee first). The Board shall first present its witnesses and evidence to sustain its charges and the employee will then present his witnesses and evidence in response. The Board bears the burden of proof to factually support and justify its disciplinary action and decision.

- E. Each side will be allowed to examine and cross-examine witnesses.
- F. Both the Board and the employee will be allowed to be represented by legal counsel or other designated representation. The legal counsel for the Personnel Commission shall be independent of legal counsel for the Board of Education or the employee.
- G. The Commission may, and shall if requested by the Board or the employee, subpoena witnesses and/or require the production of records or other material evidence.
- H. The Commission may, prior to or during a hearing, grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.
- I. Whether the hearing is held in a public or closed session, the Commission, after it concludes the hearing, may deliberate its decision in closed session. No persons other than members of the Commission, its counsel, and its staff shall be permitted to participate in the deliberation. If the Director of Human Resources was a witness in the proceedings, he shall also be barred from the Commission's final deliberation.
- J. The Commission shall render its judgment as soon after the conclusion of the hearing as possible and in no event later than 14 days. Its decision shall set forth which charges, if any, are sustained and the reasons therefor. The decision of the Commission shall be final.
- K. The Commission may sustain or reject any or all of the charges filed against the employee. It may sustain, reject, or modify the disciplinary action invoked against the employee. It may not provide for discipline more stringent than that determined by the Board.
- L. The Commission's findings and decision shall be set forth in writing, signed by the chairperson of the Commission, and filed with the Board of Education and the charged employee.
- M. If a dismissal is not sustained, the Commission's order shall set forth the effective date the employee is to be reinstated, which may be any time on or after the date of disciplinary action.
- N. The Commission may, if it finds in favor of the employee, include any of the following as part of its judgment:
 - a. Order the employee's reinstatement upon such terms and conditions as it may determine appropriate.
 - b. Modify the disciplinary action, but not to make more stringent the action taken by the Board.
 - c. Order paid all or part of the employee's lost compensation, costs of representation to the employee, and other economic injury proximately caused by the wrongful termination.
 - d. Order expunction from the employee's personnel file of records pertaining to the disciplinary action.

Chapter 10

References: Education Code

- 44010 "Sex offense"
- 44011 "Controlled substance offense"
- 44940.5 Compulsory unpaid leave bond
- 45123 Employment after conviction of sex offense or controlled substance offense; rehabilitated controlled substance offender
- 45124 Employment of sexual psychopath
- 45302 Demotion and removal from permanent classified service
- 45303 Additional causes for suspension or dismissal of employees in classified service
- 45304 Suspension for reasonable cause; filing of charges; employee charged with mandatory or optional leave of absence offense
- 45305 Appeal by employee from suspension, demotion or dismissal
- 45306 Investigation and hearing on appeal
- 45307 Reinstatement and employee compensation; determination of terms and conditions; notification
- 45311 Powers of commission in conducting hearings, and inspecting records of governing board
- 45312 Hearings or investigation by hearing officer

CHAPTER 11

WAGE AND SALARY PROVISIONS

The wage and salary rules as presented in this chapter apply specifically to confidential and management employees. In many respects, the rules are the same as the provisions of the negotiated contracts for the California School Employees Association employees and the Service Employees International Union employees.

11.1 Application of Salary Schedules

A. Salary Placement

1. Initial Placement

New employees shall be appointed at the hiring rate for the class as approved by the Commission. The hiring rate is normally the first step (Step A) of the salary range unless certain criteria (a or b) are met.

a. Prior Experience

Appointment of non-management employees shall be made at Step B (2) of the appropriate range for the classification when the appointee has closely related education and/or experience, within the past ten years, beyond the minimum qualifications set forth in the job description. An appointment may be made at Step C (3) of the appropriate range for the classification when the appointee at least three years of equivalent experience within the past ten years.

Equivalent experience is generally gained through employment in a public school district or county office of education but other experience may be deemed equivalent by the Director of Human Resources. In determining equivalency, the Director will consider similarity in level of responsibility, work setting and specific job duties performed. The Director shall make an annual report to the Personnel Commission of all instances of the use of this rule.

b. Confidential Positions

The Director of Human Resources may authorize appointment from an open eligibility list at a step higher than Step C (3) but no higher than Step G (7) based upon actual years of comparable experience in a public school district, county office of education or public agency.

The Director may consider a step placement between Step D (4) and Step G (7) if the candidate has a record of exceptional accomplishment and achievement in a comparable position based on a thorough background and reference check.

The Director shall make a report to the Superintendent and the Personnel Commission upon application of this rule to a new appointment.

c. Management Positions

All classified managers will be placed at Step 1 upon initial hire. Exception: If the appointment is a promotion of a permanent classified employee, the employee will

be placed at the lowest step on the management salary schedule which will ensure at least a 5% increase in salary.

d. Appeal of Initial Placements

A candidate for employment or a current employee who has been offered a position may appeal the decision of the Director of Human Resources in regard to his initial salary in writing and orally at a regular meeting of the Commission.

2. Accelerated Hiring Rate for Difficult Recruitments

An accelerated hiring rate may be set when recruitment efforts have indicated difficulty in recruiting at the first step of the salary range with the approval of the Superintendent and the Commission, at any step of the salary schedule range 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. Step Advancement

1. All permanent employees shall receive their step increase annually on July 1 until they reach the top step of the salary schedule.
2. Probationary employees will receive their initial step in the classification following completion of their probationary period. At the end of the probationary period, the employee step takes effect on the first of the month as follows:
 - For employees completing probation on or before the 15th day of the month, the step will take effect on the first day of the month in which probation is completed.
 - For employees completing probation after the 15th day of the month, the step will take effect on the first day of the following month.

(Reference: Education Code 45301; PCR&R 7.25.A.1-2)
3. Subsequent step increases are applied annually on July 1. Employees who complete their probationary period from July 1 to December 31 receive their next step increase on July 1 of the following calendar year. Employees who complete their probationary period from January 1 to June 30 will not receive a subsequent step increase until July 1 of the following calendar year. No employee will receive two step increases in a single calendar year.
4. Employees who receive a promotion or demotion and new placement on the salary schedule will retain their July 1 step increase date.
5. New employees (except management employees) placed on Step C of a range will receive a step increase at the completion of the probationary period, six months or 130 days of paid service whichever is longer. The next salary step advancement will occur on July 1; one step increase per calendar year.
6. For new employees hired at an accelerated rate, the probationary period will be six months or 130 days of paid service whichever is longer. Step increases will follow rules B.2 and B.3 above.

7. Employees serving one-year probationary periods in classes designated by the Commission as management shall receive their step advancement at the end of one year of paid service. *(Reference: Education Code 45301; PCR&R 7.25.A.2)*

C. Promotions

An employee who receives a promotion to a class allocated to a higher salary range shall be placed at a step in the new class range which will ensure at least a 5% increase above the rate the employee received in the previous class. The employee will be given an additional 1% for each range beyond the initial 5% one-range increase, up to a maximum increase of 10% total, and placed on the appropriate step of the salary schedule. If the increase falls between steps, then the increase will be placed at the higher level.

For the purpose of this rule, appointment of an employee to a class with a salary range equal to or below his current range shall not be considered a promotion and shall not warrant a salary increase. In such cases, placement will be made on the same rate formerly earned by the employee, not to exceed the maximum of the range of the class to which he is appointed.

D. Placement after Leave of Absence

Unless the leave taken provides that the break in service will be disregarded, the employee upon return from a leave of absence will resume his step placement and advancement on the range as if the leave had not been taken, but unpaid leave time will not be counted for salary step advancement purposes.

E. Placement When Demoted

An employee who is demoted, voluntarily or involuntarily, shall be placed on the step of the range of the lower class which is calculated by a 1% decrease for each range below the employee's current range. If the decrease falls between steps, then the decrease will be placed at the lower level. The employee shall retain the anniversary date established in the higher class.

An employee who accepts a demotion at the request of the District 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.

F. Placement for Additional Assignments in Designated Classifications

When employees in regular part-time positions accept an additional regular assignment as a
a
Playground Supervisor, Crossing Guard, or Before or After School Program Aide, the additional
Assignment will be paid at the employee's rate of pay for their primary position.

11.2 Work Periods and Overtime

A. Work Day and Work Week

The work week for full-time employees shall be comprised of five consecutive days of eight hours per day, exclusive of the lunch period. However, the Board of Education may employ persons for lesser periods of time and may, through authorized administrators, order and authorize employees to work in excess of eight hours in one day and forty hours in one week.

All extra time, overtime, holiday, and compensatory time must be approved by the immediate supervisor prior to the work being performed, except where extenuating circumstances make such notice impracticable.

B. Call Back to Duty

Employees who are called back to duty, shall receive a premium of two hours pay at their regular hourly rate plus compensation for any time worked. Overtime provisions shall apply as appropriate to any such time worked.

A call back contains all of the following characteristics:

1. An unanticipated, unscheduled administrative request made during non-assigned, non-working hours to report to a work site.
2. Showing up at the work site.
3. Working, if necessary.
4. Terminating work, leaving the work site, and resuming personal activity.

If the time so worked runs into the employee's regular scheduled workday, the two-hour premium shall not be payable.

This provision is independent of compensation received for holidays.

C. Overtime (*Reference: Education Code 45128*)

1. Any employee shall be entitled to pay at the rate of one and one-half times the regular hourly rate for any work performed in excess of eight hours in any one day or forty hours in one week. Employees working an alternate work schedule (4-10) will be paid overtime rate for hours in excess of 10 hours or forty hours in one week. Shift and special assignment differentials regularly received by the employee shall be included in determining the regular rate of pay. On any designated holiday, employees shall receive pay at one and one-half times their regular hourly rate in addition to the regular pay they will already be receiving for the holiday.
2. In cases where any classified employee has an average work day of four hours or more, payment of overtime is required for work on the sixth or seventh day. (*Reference: Education Code 45131*)
3. In cases where any classified employee has an average work day of less than four hours and who was in paid status through the entire preceding five-day work week, payment of overtime is required for work on the seventh day. (*Reference: Education Code 45131*)
4. All overtime shall be reported and credited in multiples of 15 minutes of working time rounded to the nearest quarter hour.

D. Compensatory Time Off (*Reference: Education Code 45129*)

With prior approval of the immediate supervisor, overtime services may be compensated through compensatory time off in lieu of cash compensation. Compensatory overtime shall be defined as that time which an employee may opt to take off at the rate of one and one half times the overtime actually worked subject to the approval of the appropriate supervisor. Normally, compensatory time off should be utilized by the end of the next succeeding pay period. However, when this is not possible, the compensatory time off may be carried over until the immediate administrator and employee may find a mutually acceptable time to use the time off. If, after six (6) months, no mutually acceptable arrangements can be found, the compensatory time shall be paid through payroll.

E. Classifications Exempt from Overtime Payment and Compensatory Time Accrual (*Reference: Education Code 45130*)

Positions identified on the Classified Management Salary Schedule shall be excluded from the overtime payment and compensatory time accrual provisions of this rule.

11.3 Holiday Pay (*Reference: Education Codes 45203, 45205, and 45206.5*)

A. Eligibility

All classified employees will be entitled to payment for authorized holidays, provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday.

B. Holidays include: July 4, Labor Day, Veterans Day, Thanksgiving Day, the Friday after Thanksgiving Day, the last working day before December 25 or before the paid holiday granted for December 25 when December 25 occurs on a Saturday, December 25, December 31 (in lieu of Admissions Day), January 1, Martin Luther King, Jr. Day, Lincoln Day, Washington Day, Spring Holiday, Memorial Day, and other days approved by the Board of Education. If the holiday falls on Saturday, the preceding Friday shall be deemed to be the holiday. If the holiday falls on Sunday, the following Monday shall be deemed the holiday.

C. School Holidays

Regular employees who are not normally assigned to duty during the school holidays which include December 25, January 1, and Spring Holiday shall be paid for those holidays, provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday.

D. Substitute Holiday

If a classified employee is required to work a workweek other than Monday through Friday and as a result thereof the employee loses a holiday to which he would otherwise be entitled, the District shall provide a substitute holiday for such employee or provide compensation in the amount to which the employee would have been entitled had the holiday fallen within his normal work schedule. (*Reference: Education Code 45206*)

11.4 Payrolls

A. Official Roster

The Director of Human Resources shall maintain, in his office, an official roster containing the names and complete employment records of all District employees holding positions under the provisions of the Education Code of the State of California.

B. Payroll Audit (*Reference: Education Code 45310*)

1. The Assistant Superintendent, Business Services, or his designee, is responsible for checking and signing payroll warrant listings.
2. If, upon examination of a payroll or service report, it is found that any person named thereon has been employed in violation of any provision of the Education Code of the State of California or the rules and regulations of the Commission, notice of such violation shall be made upon such payroll or service report, and such notice shall serve as official notification of the Board of Education and the County offices that the drawing, signing, or issuing of any warrant for the payment of salary or compensation to such person is unlawful.

Chapter 11

References: Education Code

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| 45128 | Overtime |
| 45129 | Compensatory time off |
| 45130 | Exclusion from overtime provision |
| 45131 | Overtime; length of workday |
| 45162 | Salary of employees not requiring certification qualifications |
| 45182 | Differential compensation for certain duties |
| 45203 | Paid Holidays |
| 45205 | Holiday in lieu of specified holiday |
| 45206 | Substitute holiday |
| 45206.5 | Admission day |
| 45301 | Probationary period |
| 45310 | Certification for payment; appointments in violation of article or rules |

CHAPTER 12

EMPLOYER - EMPLOYEE RELATIONS

12.1 General Provisions

- A. The collective bargaining statutes, Section 2, Chapter 10.7 of Division 4 of Title 1 of the Government Code (Sections 3540-3549.3) and subsequent modifications and revisions, wherever applicable to classified employees, shall serve as the basis for the maintenance of appropriate employer-employee relations within the San Luis Coastal Unified School District.

The purpose of Chapter 10.7 of the Government Code is to promote the improvement of personnel management and employer-employee relations within the public school systems in the State of California by providing a uniform basis for recognizing the right of public school employees to join organizations of their own choice, to be represented by the organizations in their professional and employment relationships with public school employers, and to select one employee organization as the exclusive representative of the employees in an appropriate unit. *(Reference: Government Code 3540)*

Government Code Chapter 10.7 shall not supersede other provisions of the Education Code and the rules and regulations of public school employers which establish and regulate a merit system or which provide for other methods of administering employer-employee relations, so long as the rules and regulations or other methods of the public school employer do not conflict with lawful collective bargaining agreements.

B. **Work Stoppage or Other Concerted Labor Activities**

1. Any employee or groups of employees, either by their own initiative or through an employee organization, leaving their duty assignment or refusing to perform or failing to report to duty as a result of a strike or other concerted labor activities may be considered as having abandoned their positions and, if dismissed, shall not be eligible for reinstatement or subsequent employment with the District. The Board may bring charges against any employee or employees for abandonment of position under this rule.
2. Any classified employee who is absent from duty, for any reason, during the period of an work stoppage, sitdown, slowdown, or other concerted activities shall be required to provide proper evidence that the absence was lawful and in no way an effort on the employee's part to further the strike or concerted activity.
3. Any provision prescribed in these rules which permits personal or illness absences without evidence of necessity is suspended and void during any attempted strike or other concerted labor activity against the District.

12.2 Adjustment of Grievances

- A. **Purpose of the Adjustment Procedure**

This grievance procedure applies to grievances which are presented by classified employees who are not covered by a collective bargaining agreement that contains a grievance procedure and to grievances by all classified employees with respect to grievances that do not come within the terms of a bargaining agreement grievance procedure.

Because complaints should be adjusted as promptly as possible, time limits have been established to minimize delays in the steps that have been provided. There is an obligation on the part of an aggrieved employee to make known the existence of the complaint and the facts pertaining to the complaint within 20 working days of any specific or documented incident or at the earliest possible date after the recognition of a nonspecific occurrence so that efforts can be made through the adjustment procedure to resolve differences and to promote harmonious relationships.

B. Matters excluded from the adjustment procedure shall be:

1. A matter grievable under a collective bargaining agreement.
2. Accusatory charges relating to the moral or professional fitness of an employee. Such charges shall be processed by the Board of Education in closed session.
3. Matters specifically reserved for action or review by the Personnel Commission under Personnel Commission rules in effect at the time the events leading to the grievance occurred. Such matters shall be processed through normal channels by the Personnel Commission.

In cases where the Personnel Commission rule regulates less than the total procedure, the Commission may waive that rule and thereby provide that the dispute be settled through the adjustment procedure.

4. Complaints about the subject matter of a Board rule or policy or administrative procedure, rather than the administration of the Board rule or policy or procedure. An employee with such a complaint should direct suggestions for change through administrative channels to the Board or to the administrator who established it.

C. Steps in the Adjustment Procedure

1. Informal Level

Before filing a formal written grievance, informal discussion between an employee (or group of employees) and the immediate supervisor shall take place to attempt to resolve the problem. The conference shall be confined to the parties immediately concerned. A prompt and courteous examination of the facts to reach a satisfactory adjustment shall be attempted within five working days. The decision of the supervisor shall be communicated promptly to the employee(s). If requested by the employee(s), the supervisor will provide a written decision.

2. Formal Level, Step 1

- a. If the problem is not resolved at the informal level, within 20 working days after the occurrence of the act or omission giving rise to the grievance, the grievant

must present the grievance in writing to the immediate administrator. The written statement shall state the facts surrounding the grievance, the decision rendered at the informal conference, and the remedy sought. The statement will be signed and dated by the employee.

- b. The immediate administrator shall attempt to hold a conference with the employee within three working days from the date the written grievance is received by the administrator.
- c. The employee must be in attendance at the conference. The employee may present the problem or may choose a representative to present the problem at the informal review and at any subsequent stage of the adjustment procedure. The administrator and the respondent may each have a representative at the informal review and at any subsequent stage of the adjustment procedure. Any employee of the District may serve as a representative without prejudice or loss of salary, provided that he notifies his supervisor in advance.
- d. The immediate administrator will give a written reply by the end of the fifth working day following the date of the meeting, and the giving of such reply shall terminate Step 1.

3. Formal Level, Step 2

- a. If the grievance is not settled in Step 1, the grievant may submit the grievance in writing to the Superintendent, or designee, within three working days after the termination of Step 1.
- b. The written request shall include: a clear, concise statement of the complaint; the act or condition on which it is based; the remedy desired; the persons involved; and the course of action that has been followed, including the decision rendered in Step 1, the reasons why the decision is being appealed, and the name of the grievant's representative, if any. The grievant may obtain assistance from the District's Human Resources Office, or such other office as may be designated, throughout the course of the adjustment procedure.
- c. The Superintendent, or designee, shall hold a meeting with the grievant within five working days from the date the grievance is received by the Superintendent or designee. The Superintendent, or designee, may invite other representatives of management to be present at such meeting, and the grievant may be accompanied by a representative.
- d. A written decision shall be rendered by the Superintendent, or designee, within five working days from the date of the meeting and the giving of such decision shall terminate Step 2. The immediate administrator shall implement the decision.

4. Formal Level, Step 3

- a. If the grievant is not satisfied with the decision of the Superintendent, a written appeal may be made to the Personnel Commission within five working days after receipt of the decision of the Superintendent. A copy of the appeal shall be submitted to the Superintendent.

- b. The Personnel Commission will schedule a hearing date on the grievance at its next regularly scheduled meeting. At that meeting, both the grievant and the grievant's representative and a representative of the administration shall have an opportunity to testify and to present evidence and witnesses pertaining to the grievance.
- c. Within twenty working days after this meeting, the Personnel Commission will deliver to the grievant, the grievant's representative, and the Superintendent its written decision on the grievance. The Superintendent shall implement the decision.
- d. The decision of the Personnel Commission on an appeal shall be final and conclusive.

CHAPTER 13
MISCELLANEOUS

13.1 Political Activity

A. Political Activity Freedom

Every classified employee may, during off-duty hours, participate in political activities not specifically prohibited by the Education Code. (*Reference: Education Code 7050-7058*)

B. Cause for Disciplinary Action

Any employee may be disciplined for improper political activity. Improper political activity includes:

1. The use of any District property, equipment, or facility for any political purpose, unless the use thereof is authorized by law for such purposes and the employee has obtained prior required approval.
2. The use of any District property, equipment, or facility for any political purpose or the performance of any political act during regular hours of duty.
3. Engaging in active campaigning in behalf of any candidate, including himself, for public office, whether by speaking, soliciting funds or support, distributing handbills, or otherwise, during his assigned hours of employment.
4. Attempting to gain any advancement or privilege under these rules through political activity.

C. Personal Candidacy

Any employee may be a candidate for any political office for which he may file without suffering any loss of employment status in the District unless there is a violation of the provisions of Rule 13.1.B.

D. Leave of Absence

An employee who files for a political office may request, and may be granted, an unpaid leave of absence.

E. Election to a Political Office

An employee who is elected to a political office, the duties of which will clearly conflict with his normal duty hours and assignment with the District, may request and may be granted, an unpaid leave of absence to commence on the date he assumes the office and to terminate not later than 30 days after his last day in the elected office. Reelection to the same office or election to a different office which provides reasonable continuity of elected public service may cause extension of the approved leave.

An employee granted a leave under this rule may be used as a limited-term substitute employee, unless specifically prohibited by law, during the period of the leave. He will be placed on (an) appropriate employment list(s) and notified that he may be offered limited-term employment.

F. Intent

It is the Commission's intent and purpose in enacting these rules to allow employees their lawful privilege of political freedom and activity, but to insure that political activities are not engaged in during normal duty hours and normal duty assignments. The District has a reasonable obligation to make certain that personnel are aware of their political rights and can exercise those rights, but, at the same time to ensure that its employees do not wrongfully use their duty hours or District facilities for political purposes.

13.2 Employee Clearances

A. Tuberculosis (*Reference: Education Code 49406*)

1. Upon initial employment, each employee shall file with the Human Resources Office a certificate showing freedom from active tuberculosis, as required by law. The examination must have been conducted within the 60-day period immediately preceding the date of employment. However, a person who transfers employment from another school district shall be deemed to meet this requirement if a copy of a certificate can be provided which shows that the person was examined within the past four years and was found to be free of communicable tuberculosis. After employment, every employee is required to undergo an examination at least once every four years to determine that the person is free from active tuberculosis.

2. The employee shall be responsible for any expense incurred for the initial clearance.

The expense of succeeding examinations for regular employees will be borne by the District only if the skin test, or chest x-ray if required, is taken at a District-designated medical location.

The District is not responsible for costs of treatment if a person is found to have active tuberculosis or other physical ailments.

B. Physical Examinations (*Reference: Education Code 45122*)

1. New Employees

a. Each regular employee of specified job families shall have a physical examination prior to the first day of work to determine that they are physically able to perform the job duties. The employee shall not report to work until the clearance is received. The physical examination for employment shall be obtained at a District-designated location and shall be paid for by the District. The District may reject the employee on the basis of the results of the physical examination.

Any expense involved with referrals for treatment for conditions found in the physical examination shall be borne by the employee.

- b. If the Director of Human Resources determines that an eligible should be removed from an eligibility list because of the results of the physical examination, the procedures for rejection of eligibles as outlined in Personnel Commission Rule 4.9 shall apply.

2. School Bus Drivers

School bus drivers must have the physical examination required by the California Department of Motor Vehicles for initial employment and for license renewal. For bus drivers no other physical examination is required for initial employment. The District shall pay for all such examinations after the examination for initial employment. The District reserves the right to select the physician.

3. Physical and/or Psychological Examinations after Initial Employment

The District Superintendent, or designee, may require an employee to pass a physical and/or psychological examination at any time such an examination appears necessary to preserve the health and welfare of District students and employees or to furnish medical proof of physical or mental ability to perform satisfactorily the assigned duties of an individual's position. The examination shall be obtained at a District-designated location and shall be paid for by the District. Any expense involved with referrals for treatment for conditions found in the examination shall be borne by the employee.

- C. Criminal Records Check (*Reference: Education Code 45125*)

1. Initial California Department of Justice Clearance

Each new employee shall submit to a criminal records check in accordance with prescribed procedures, or shall forfeit eligibility for employment. The District will notify each such employee where to report for fingerprinting. The employee shall not begin work until the California Department of Justice completes its obligations regarding arrest and conviction information. Should the background check reveal any serious and violent felonies, any sex offense as defined in Education Code 44010, or any controlled substance offense as described in Education Code 44011, all proceedings to hire that person will cease.

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 California Department of Justice and/or the Federal Bureau of Investigation will be reviewed together with the person's application form. If there is a criminal record, the Director of Personnel shall decide whether or not the person should be employed.
- c. If the Director of Human Resources determines that an eligible should be removed from an eligibility list because of information on the criminal records report, the procedures for rejection of eligibles as outlined in Personnel Commission Rule 4.9 shall apply.

- d. If the Director of Human Resources determines that an employee should be dismissed because of information on a subsequent arrest criminal records report, the procedures for disciplinary action as outlined in Personnel Commission Rule 10.2 shall apply.

13.3 Availability of Personnel File

- A. The Director of Human Resources shall establish and maintain official personnel records for all employees in the classified service. Such records shall include application forms, references, emergency data, performance evaluations, appointments, change of status forms, salary information, and other information pertinent to the individual's employment status.
- B. Materials in an employee's personnel file which may affect the status of employment are available for the inspection of the employee; such material shall not include ratings, reports or records which were:
 - 1. Obtained prior to employment of the employee.
 - 2. Prepared by examination committee members.
 - 3. Obtained in connection with a promotional examination.
- C. The employee shall have the right to inspect such material upon request, provided that such inspection is made at a time when the employee is not required to render services to the District.
- D. Whenever information is to be entered in a personnel file which is of a derogatory nature, the affected employee shall first be given written notice that he has ten (10) working days to review the information and comment thereon. Such review shall take place during normal business hours and without loss of pay to the employee.

An employee shall have the right to have his own written comments attached to any such derogatory statement before the item is placed in the personnel file.

Chapter 13

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| | 7050-7058 Political Activities of School Officers and Employees |
| | 44031 Personnel Files |
| | 49406 Examination for tuberculosis |
| | 45122 Physical examinations |
| | 45125 Fingerprint cards; criminal history; confidentiality |

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