

# PERSONNEL COMMISSION RULES



BARSTOW UNIFIED  
SCHOOL DISTRICT

BARSTOW UNIFIED SCHOOL DISTRICT

*A MERIT SYSTEM SCHOOL DISTRICT*

# **BARSTOW UNIFIED SCHOOL DISTRICT**

## **PERSONNEL COMMISSION RULES**

First Printing

**November 2020**

The rules and regulations of the Personnel Commission shall be printed and distributed to each school, office, and permanent work site and shall be distributed to all school libraries for loan to employees. Rules are also available online at:

Rules are current as of **November 12, 2020.**

Subsequent rule revisions will be updated as needed.

The Personnel Commission Office is located at:  
Barstow Unified School District  
551 South Avenue H  
Barstow, CA 92311

## **BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION**

### **STATEMENT OF ETHICS**

We, the members of the Barstow Unified School District Personnel Commission, believe:

- As a member of an organization incorporated under the Statutes of the State of California, that the final arbiters of the judgments we make as we exercise our responsibilities, are the Federal Constitution and the statutes of the State of California.
- That public-school service is the noblest of all services; that stewardship is one of public trust; and, that we should endeavor to perform our duties in a manner to bring honor and credit to education.
- That excellence in the support of public education is the fundamental goal of the Merit System.
- In equal opportunity for ALL and will allow ALL to present their qualifications under a system of merit selection.
- That efficiency of the classified service begins with individual responsibility to a shared ethical and work-related commitment by all employees in the workplace.
- That as leaders in support of the Merit System, we set the ethical tone by our personal conduct and our institutional leadership.
- That implicit in our support of the Merit System is our obligation to administer state and federal laws honestly in the mutual interest of the citizens, elected representatives, management and employees.
- That we should continue to seek, through state legislation and local policies, rules and processes, which will further the interest of efficiency and fairness under Merit System guidelines.
- In acting in accordance with the best interests of sound personnel management; in refraining from partisanship and from pressure brought on by special interest groups; and, in upholding the public interest as opposed to individual, private, or group interest.
- In conducting ourselves both on and off the job in such a manner as to create faith in the objectivity and impartiality of our decisions, and we will not engage in an activity or enterprise which would impair this standard.

**CODE OF PROFESSIONAL CONDUCT  
for the  
BARSTOW UNIFIED SCHOOL DISTRICT  
PERSONNEL COMMISSION**

**FUNDAMENTAL PRINCIPLES**

As a member of the Barstow Unified School District Personnel Commission, I recognize that my work on the Personnel Commission has an impact on the Classified service, the governing board, the District's administration, the Classified employee's association, the general public, the students and our public education system.

I shall uphold and promote the integrity, honor and dignity of the Merit System in the Barstow Unified School District by:

1. Cooperating with the governing board and administration in the quest for competent employees and good personnel administration.
2. Representing the interest of the general public by providing a personnel system dedicated to hiring and retaining good employees in the Classified Service of the Barstow Unified School District.
3. Assuring that Classified employees of the Barstow Unified School District receive fair and equitable treatment.
4. Assuring that employment and promotion with the Barstow Unified School District is based on merit as shown by competitive examination within the Personnel Commission Rules and Education Code.
5. Assuring that employees of the Barstow Unified School District's Classified Service be encouraged to remain and promote whenever possible within the scope of the Personnel Commission Rules and the Education Code.
6. Assuring that employees of the Classified Service of the Barstow Unified School District receive like pay for like services in that all employees performing similar tasks at the same level of difficulty and responsibility are compensated equally in accordance with Personnel Commission Rules and Education Code.
7. Assuring that a Classified employee may appeal a disciplinary action and is entitled to a request for hearing before the Personnel Commission or designated hearing officer to ensure due process and fair treatment pursuant to Personnel Commission Rules and Education Code.
8. Assuring that no applicant or Classified employee be denied a job or promotion because of political affliction, religious belief, race, color, national origin, marital status, sex, physical or mental handicap.

**BARSTOW UNIFIED SCHOOL DISTRICT  
PERSONNEL COMMISSION**

**FUNDAMENTAL CANONS**

In the fulfillment of my duties as a Personnel Commissioner for the Barstow Unified School District,

I SHALL:

1. Hold paramount the fundamental principles listed for the Barstow Unified School District's Personnel Commission;
2. Act in a professional manner as a faithful agent of the Merit System for the Barstow Unified School District's Personnel Commission;
3. Act as a professional and avoid any conflicts of interest;
4. Be objective and truthful in my statements in accordance with my authority as a Personnel Commissioner for the Barstow Unified School District;
5. Provide equal opportunities and treatment for all;
6. Strive for continuous self-improvement and development for the Merit System of the Barstow Unified School District;
7. Build my professional reputation on merit for service and strive for continuous self-development and improvement to better serve the Classified employees of the Barstow Unified School District;
8. Accept the judgment of my peers if I knowingly or wantonly break any of the stated Fundamental Canons set forth in this document.

# BARSTOW UNIFIED SCHOOL DISTRICT

## PERSONNEL COMMISSION RULES AND REGULATIONS

### TABLE OF CONTENTS

#### STATEMENT OF ETHICS

#### FUNDAMENTAL PRINCIPLES

#### FUNDAMENTAL CANONS

#### CHAPTER 10- RULE MAKING AUTHORITY AND DEFINITIONS

10.1	AUTHORITY AND APPLICATION OF RULES	10-1
10.1.1	Statutory Authority for These Rules	10-1
10.1.2	Interpretation and Application of Rules	10-1
10.1.3	Generic Terminology	10-2
10.1.4	Judicial Review	10-2
10.1.5	Printing and Distribution of Rules and Regulations	10-2
10.1.6	Subjects of Rules	10-3
10.2	DEFINITIONS	10-3

#### CHAPTER 20 - THE PERSONNEL COMMISSION

20.1	ORGANIZATION OF THE COMMISSION	20-1
20.1.1	Term(s) of Office and General Selection Procedures	20-1
20.1.2	Specific Appointment Procedures	20-2
20.1.3	Filling of Vacancies During Term of Office	20-4
20.1.4	Officers	20-7
20.1.5	Quorum and Majority Vote	20-7
20.1.6	Compensation of Commission Members	20-8
20.1.7	Commissioner Authority	20-8
20.2	MEETINGS OF THE COMMISSION	20-9
20.2.1	Regular Meetings	20-9
20.2.2	Adjourned Regular Meetings	20-10
20.2.3	Special Meetings	20-10
20.2.4	Public Meetings	20-11
20.2.5	Closed Sessions	20-11
20.2.6	Agenda and Supporting Data	20-12
20.2.7	Amendments, Deletions or Additions to Rules	20-13
20.2.8	Minutes	20-14
20.2.9	Conduct	20-14
20.3	COMMISSION EMPLOYEES	20-15
20.3.1	Status of Commission Employees	20-15
20.3.2	General Duties of the Personnel Director	20-15

20.4	COMMUNICATIONS	20-16
20.4.1	Communications	20-16
20.4.2	Interviews with Commissioners	20-17
20.5	PERSONNEL COMMISSION BUDGET	20-17
20.5.1	Duties	20-17
20.6	PERSONNEL COMMISSION ANNUAL REPORT	20-18
20.6.1	Annual Report	20-18
20.7	LEGAL COUNSEL FOR THE PERSONNEL COMMISSION	20-19
20.7.1	Legal Counsel	20-19

### **CHAPTER 30 - POSITION CLASSIFICATION PLAN**

30.1	THE CLASSIFIED SERVICE	30-1
30.1.1	Positions Included	30-1
30.1.2	Exemption from the Classified Service	30-1
30.1.3	Part-Time Defined	30-2
30.1.4	Effect of Exemption	30-2
30.1.5	Professional Expert Assignments	30-2
30.1.6	Restricted Positions	30-3
30.2	GENERAL CLASSIFICATION RULES	30-5
30.2.1	Assignment of Duties	30-5
30.2.2	The General Classification Plan	30-5
30.2.3	Classification Specifications	30-6
30.2.4	Interpretation of Classification Specifications	30-7
30.2.5	Creation of New Positions	30-9
30.2.6	Allocation of Positions to Existing Classes	30-10
30.2.7	Changes in Duties of Positions	30-10
30.2.8	Working Out of Classification	30-10
30.2.9	Review of Positions	30-12
30.2.10	Positions Requiring Special Language or Skills	30-13
30.2.11	Deletion of Classifications	30-13
30.3	RECLASSIFICATION	30-14
30.3.1	Reclassification Procedure	30-14
30.3.2	Effective Date of Reclassification	30-15
30.3.3	Notification of Reclassification	30-16
30.3.4	Reclassification of Vacant Position	30-16
30.3.5	Effects of Reclassification on Incumbents	30-16
30.3.6	Definition of Gradual Accretion	30-19
30.3.7	Effect on Reemployment and Eligibility Lists	30-20
30.3.8	Reemployment Lists for Displaced Incumbents	30-20

**CHAPTER 40 - APPLICATION FOR EMPLOYMENT**

40.1	APPLICATION	40-1
40.1.1	Filing of Applications	40-1
40.1.2	General Qualifications of Applicants	40-1
40.2	DISQUALIFICATION OF APPLICANTS AND CANDIDATES	40-2
40.2.1	Causes for Disqualification	40-2
40.2.2	Appeal from Disqualification	40-6
40.2.3	Submitting Proof of Veteran's Preference	40-7
40.2.4	Applicant's Names Not to be Made Public	40-7

**CHAPTER 50 - RECRUITMENT AND EXAMINATIONS**

50.1	RECRUITMENTS	50-1
50.1.1	Announcement of Examinations	50-1
50.2	EXAMINATIONS	50-2
50.2.1	Determination of Examinations	50-2
50.2.2	Open Competitive Examinations	50-2
50.2.3	Promotional Examinations	50-3
50.2.4	Promotional and Open Competitive Examinations	50-3
50.2.5	Merged Examinations	50-4
50.2.6	Continuous Examinations	50-4
50.2.7	Types of Examinations	50-4
50.2.8	Scoring and Weighting of Tests	50-5
50.2.9	Oral Interview Panel Examination	50-5
50.2.10	Structured Oral Interview Examination	50-6
50.2.11	Evaluation of Training and Experience	50-6
50.2.12	Admission to Examination	50-7
50.2.13	Examination Procedures	50-7
50.2.14	Rating Required	50-8
50.2.15	Seniority Credit	50-8
50.2.16	Veteran's Preference	50-9
50.3	REVIEW AND PROTEST OF EXAMINATION	50-10
50.3.1	Retention of All Examination Records	50-10
50.3.2	Examination Records Shall Be Confidential	50-10
50.3.3	Availability for Review	50-10
50.3.4	Notification of Results and Review	50-10
50.3.5	Failure to File Protest	50-10
50.3.6	Director Shall Review All Protests	50-10
50.3.7	Appeal to Commission	50-11

**CHAPTER 60 - ELIGIBILITY FOR EMPLOYMENT**

60.1	ELIGIBILITY LISTS	60-1
60.1.1	Establishment and Life of Eligibility Lists	60-1
60.1.2	Contents of Eligibility Lists	60-1
60.1.3	Certification by Commission	60-2



60.1.4	Types of Eligibility	60-2
60.1.5	Duration of Eligibility Lists	60-3
60.1.6	Merger of Eligibility Lists	60-4
60.1.7	Re-employment Lists	60-4
60.1.8	Termination of Eligibility Lists	60-5
60.1.9	Eligibility After Appointment	60-6
60.1.10	Waivers of Certification	60-6
60.1.11	Removal of Names from Eligibility Lists	60-6
60.1.12	Notification to Eligibles of Removal from List	60-7
60.2	CERTIFICATION FROM EMPLOYMENT LISTS	60-7
60.2.1	Appointing Authority	60-7
60.2.2	Order of Precedence in Filling Vacancies	60-7
60.2.3	Rule of Three (3) Ranks	60-8
60.2.4	Certification and Appointment from Eligibility Lists	60-9
60.2.5	Procedure When Fewer Than Three (3) Ranks Remain	60-10
60.2.6	Certification of Additional Eligibles	60-10
60.2.7	Withholding Names from Certification	60-11
60.2.8	Failure to Make Appointment	60-11
60.2.9	Restoration to Eligibility List	60-11
60.2.10	Certification from List for Another Class	60-12
60.2.11	Duties of Eligibles	60-12
60.2.12	Selective Certification	60-13
60.2.13	Confidentiality of Lists	60-13

## **CHAPTER 70 - APPOINTMENT TO CLASSIFIED POSITIONS**

70.1	PROCEDURES FOR APPOINTMENT	70-1
70.1.1	Procedures for Selection	70-1
70.1.2	Appointment	70-1
70.1.3	Nepotism	70-1
70.2	PROVISIONAL APPOINTMENT	70-2
70.2.1	Reasons for Provisional Appointment	70-2
70.2.2	Length of Full-Time Provisional Appointment	70-2
70.2.3	Extension of Provisional Appointment	70-3
70.2.4	Successive Ninety (90) Day Appointments	70-3
70.2.5	Qualifications of Provisional Appointees	70-4
70.2.6	Status of Provisional Employees	70-4
70.2.7	Terminating Provisional Appointment	70-4
70.3	SPECIAL APPOINTMENTS	70-4
70.3.1	Procedure for Emergency Appointment	70-4
70.4	LIMITED TERM APPOINTMENTS	70-5
70.4.1	Positions Defined	70-5
70.4.2	Procedure for Establishment of Limited Term Positions	70-5
70.4.3	Eligibility for Appointment	70-5
70.4.4	Termination of Limited Term Appointment	70-6
70.4.5	Summer/Recess Appointments (Limited Term)	70-6

**CHAPTER 80 - EMPLOYMENT REQUIREMENTS**

80.1	PHYSICAL EXAMINATIONS	80-1
80.1.1	T.B. Examinations	80-1
80.1.2	Medical Examinations	80-1
80.1.3	Return to Work and Unscheduled Exams	80-2
80.2	CRIMINAL RECORDS	80-2
80.2.1	Fingerprinting	80-2
80.2.2	Review of Criminal Records	80-3
80.3	OTHER EMPLOYMENT REQUIREMENTS	80-3
80.3.1	Income Tax Withholding Form (W4)	80-3
80.3.2	Social Security Number	80-3
80.3.3	Loyalty Oath	80-4
80.3.4	Verification of Right to Work Status	80-4
80.3.5	Requirement to Notify District of Any Status Changes	80-4
80.3.6	Filing of Required Licenses or Certificates	80-4

**CHAPTER 90 - EMPLOYMENT STATUS**

90.1	CERTIFICATION OF PAYROLLS	90-1
90.1.1	Certification of Payrolls	90-1
90.1.2	Noncompliance With Order of Director	90-1
90.2	EMPLOYEE ASSIGNMENT	90-2
90.2.1	Assignment Data	90-2
90.2.2	Orientation of New Employees	90-2
90.3	PROBATIONARY STATUS	90-3
90.3.1	Initial Probationary Period	90-3
90.3.2	Completion of Initial Probation	90-3
90.3.3	Trial Service Period for Promotional Employees	90-5
90.4	PERMANENCY	90-6
90.4.1	Permanent Status	90-6
90.4.2	Rights/Benefits/Burdens of Permanent Employee	90-6

**CHAPTER 100 - HOURS OF EMPLOYMENT AND OVERTIME**

100.1	WORK SCHEDULES	100-1
100.1.1	Work Week	100-1
100.1.2	Alternative Work Weeks	100-1
100.1.3	Workday	100-2
100.1.4	Adjustment of Assigned Time	100-2
100.1.5	Decreases in Assigned Time	100-3

100.1.6	Benefits for Assignments of Less Than Eight (8) Hours/ Twelve (12) Months	100-3
100.1.7	Meal Periods	100-3
100.1.8	Rest Periods	100-3
100.1.9	Split Shift Assignments	100-4
100.2	OVERTIME AND RELATED MATTERS	100-4
100.2.1	Overtime	100-4
100.2.2	Compensatory Time Off (CTO/Comp Time)	100-5
100.2.3	Assignment of Overtime	100-6
100.2.4	Call Back Time	100-6
100.2.5	Call In Time	100-6
100.2.6	Exemption from Overtime	100-6

## **CHAPTER 110 - TRANSFER OF EMPLOYEES**

110.1	TRANSFER	110-1
110.1.1	Definition of Transfer	110-1
110.1.2	Position Transfer	110-1
110.1.3	Lateral Transfer	110-2
110.1.4	No Adverse Effect from Transfers	110-2
110.1.5	Seniority Credit	110-2
110.1.6	Transfer Shall Not Alter Effects of Layoffs	110-3
110.1.7	Posting of Vacancy Notices	110-3
110.1.8	Submission of Requests for Transfer	110-3
110.1.9	Certification of Names to Interview	110-3
110.1.10	Factors Considered by Supervisor in Transfers	110-3
110.1.11	Notification of Transfer Selection	110-4
110.2	DEMOTIONS	110-4
110.2.1	Voluntary Demotion	110-4
110.2.2	Involuntary Demotions	110-5
110.3	RESTORATION/REINSTATEMENT	110-5
110.3.1	Restoration of Current Employees to Former Class	110-5
110.3.2	Reinstatement of Former Employee	110-5
110.3.3	Effects of Reinstatement	110-6

## **CHAPTER 120 - EMPLOYEE PERSONNEL FILES**

120.1	PERSONNEL FILES	120-1
120.1.1	Maintenance of File	120-1
120.1.2	Inspection of Personnel Files by Employee	120-1
120.1.3	Inspection by Others	120-1
120.1.4	Personnel File Log Maintained	120-2
120.1.5	Derogatory Information	120-2
120.1.6	Signature/Date Required	120-2
120.1.7	Appeal of Placement of Material in File	120-3
120.1.8	Removal of Derogatory Material	120-3
120.1.9	Copying of Materials in Personnel File	120-3

**CHAPTER 130 - PERFORMANCE EVALUATIONS**

130.1	GENERAL POLICY	130-1
130.1.1	Policy Statement	130-1
130.1.2	Administration of Performance Appraisal System	130-1
130.1.3	When Evaluations are to be Made	130-1
130.1.4	Evaluation Rater	130-2
130.1.5	Evaluation Forms	130-2
130.1.6	Evaluation Meeting	130-3
130.1.7	Documentation	130-3
130.1.8	Specific Recommendations for Improvements	130-3
130.1.9	Signing of Form	130-3
130.1.10	Distribution of Evaluation	130-3
130.1.11	Employee Attachments to Evaluation	130-4

**CHAPTER 140 - VACATIONS**

140.1	VACATIONS	140-1
140.1.1	Ratio for Earning Vacation/Regular Employees	140-1
140.1.2	Ratio for Earning Vacation/Management Employees	140-1
140.1.3	Vacation Rate of Pay	140-1
140.1.4	Employees Hired for Partial Fiscal Year	140-1
140.1.5	Vacation Credit for Partial Month	140-1
140.1.6	Vacation Earned During Paid Status	140-1
140.1.7	Probationary Employees' Vacation Rights	140-1
140.1.8	Vacation Scheduling for Less Than Twelve (12) Month Employees	140-2
140.1.9	Vacation Scheduling for Twelve (12) Month Employees	140-2
140.1.10	Crediting of Vacation to Employee's Account	140-2
140.1.11	Unearned Vacation Upon Termination	140-2
140.1.12	Earned Vacation Upon Termination	140-3
140.1.13	Maximum Accrual of Vacation	140-3
140.1.14	Vacation Postponement	140-3
140.1.15	Vacation Holidays	140-3
140.1.16	Interruption of Vacation	140-3

**CHAPTER 150 - LEAVES OF ABSENCE**

150.1	GENERAL PROVISIONS	150-1
150.1.1	Definition of Leave of Absence	150-1
150.1.2	Guarantee of Right to Position Upon Return	150-1
150.1.3	Rights to Position for Leaves Over Six (6) Months	150-1
150.1.4	Authorized Leave is Not a Break in Service	150-1
150.1.5	Continuation of all Benefits During Paid Leaves	150-1
150.1.6	Health Coverage May Continue During Paid Leaves	150-1
150.1.7	Cancellation of Voluntary Leaves	150-2
150.1.8	Failure to Report for Duty After a Leave is Canceled	150-2
150.1.9	Employee Must Maintain Licenses/Certificates	150-2
150.1.10	Absent Employees May Not Accept Gainful Employment	150-2
150.1.11	Absence Reports Submitted with Time Sheets	150-2
150.1.12	Holidays During Paid Leaves	150-2
150.1.13	Order of Available Leaves for Illness or Injury	150-3

150.2	SICK LEAVE	150-3
150.2.1	Definition of Sick Leave	150-3
150.2.2	Number of Sick Leave Days Per Year	150-3
150.2.3	Sick Leave Shall be Earned in Hours	150-4
150.2.4	Pay Rate for Sick Leave	150-4
150.2.5	Carry-Over of Sick Leave	150-4
150.2.6	Probationary Employees' Use of Sick Leave	150-4
150.2.7	Sick Leave Given in Advance at Start of Month	150-4
150.2.8	Notification of Absence	150-4
150.2.9	Notification of Return to Work	150-5
150.2.10	Doctor's Note Required for Absences Exceeding Three (3) Days	150-5
150.2.11	Submission of Doctor's Notes	150-6
150.2.12	General District Right to Require Medical Exam	150-6
150.2.13	No Sick Leave Payoff When Employee Leaves	150-6
150.2.14	Sick Leave on Holidays	150-6
150.3	EXTENDED SICK LEAVE	150-7
150.3.1	Extended Sick Leave	150-7
150.3.2	Use Extends Into Next Fiscal Year	150-8
150.3.3	Verification of Illness	158-8
150.4	INDUSTRIAL ACCIDENT/ILLNESS LEAVE (Workers Comp)	150-8
150.4.1	Sixty (60) Working Days of Full Paid Leave	150-8
150.4.2	Reporting of Injury	150-8
150.4.3	Leave Commences on First Day	150-9
150.4.4	Workers' Compensation Check Endorsed to District	150-9
150.4.5	Use of Sick Leave After Exhaustion of Sixty (60) Days	150-9
150.4.6	Use of Other Leaves After Exhaustion of Sick Leave	150-9
150.4.7	Employee Must Remain in State of California	150-10
150.4.8	Placement on Re-employment List at Exhaustion of Leaves	150-10
150.4.9	Abolishment of Previous Classification	150-10
150.4.10	Return to Service After Industrial Leave	150-10
150.4.11	Absences Not Considered a Break in Service	150-11
150.5	TRANSFER OF SICK LEAVE	150-11
150.5.1	Transfer of Sick Leave from Another District	150-11
150.6	UNPAID ILLNESS LEAVE	150-12
150.6.1	Six (6) Month Unpaid Leave	150-12
150.6.2	Factors That Must Be Considered	150-12
150.6.3	Right to Return to Class	150-12
150.7	BEREAVEMENT LEAVE	150-12
150.7.1	Five (5) Days of Paid Leave	150-12
150.8	PERSONAL NECESSITY LEAVE	150-13
150.8.1	Use Up to Seven (7) Days	150-13
150.8.2	Notification and Approval of Leave Usage	150-13
150.8.3	Personal Necessity Not Cumulative	150-14

150.9	PERSONAL BUSINESS LEAVE	150-14
150.9.1	Personal Business Leave – Regular Employees	150-14
150.9.2	Personal Business Leave – Management Employees	150-14
150.9.3	Notification to Supervisors	150-14
150.9.4	Unused Personnel Business Leave	150-14
150.9.5	Usage	150-14
150.9.6	Unauthorized Usage	150-15
150.10	UNPAID CHILD REARING LEAVE	150-15
150.10.1	Granting of Unpaid Child Rearing Leave	150-15
150.10.2	Establishment of Beginning/End Dates	150-15
150.10.3	Employee May Return Earlier	150-15
150.10.4	Unpaid Child Rearing Leave	150-15
150.11	JURY DUTY LEAVE	150-16
150.11.1	Leave of Absence for Jury Duty	150-16
150.11.2	Return from Jury Duty	150-16
150.11.3	Notification of Jury Duty Leave	150-16
150.12	OTHER LEAVES	150-16
150.12.1	Family Medical Leave	150-16
150.12.2	Paid Family Leave	150-17
150.13	RELEASE TIME FOR PERSONNEL ACTIVITIES	150-17
150.13.1	Leave to Take District Examination	150-17
150.13.2	Attendance at Interview	150-17
150.13.3	Attendance at Commission Meeting	150-18
150.14	MILITARY LEAVE	150-18
150.14.1	All Regular Employees Granted Military Leave	150-18
150.14.2	Reserve Service	150-18
150.14.3	Thirty (30) Days Leave with Pay	150-18
150.14.4	Official Orders Must Be submitted	150-18
150.14.5	Return from Military Leave	150-18
150.15	LEAVE TO SERVE IN EXEMPT/TEMP/PROVISIONAL/LIMITED TERM POSITION(S)	150-19
150.15.1	Leave to Serve in Exempt/Temp/Provisional/Limited Term Position(s)	150-19
150.15.2	Voluntary Return to Regular Position	150-19
150.16	LEAVES OF ABSENCE WITHOUT PAY	150-19
150.16.1	When Granted	150-19
150.16.2	Length of Leave	150-19
150.16.3	Reasons	150-19
150.16.4	Denial	150-20
150.16.5	Right to Return	150-20
150.16.6	Cancellation of Unpaid Leave of Absence	150-20
150.16.7	Filling vacancy	150-20
150.16.8	Report of Reinstatement	150-20
150.16.9	Failure to Return	150-20
150.16.10	Counting Time for Seniority or Salary Adjustment	150-21
150.16.11	Unpaid Leaves of Five (5) Days or Less	150-21

150.17	FAMILY SCHOOL PARTNERSHIP ACT	150-21
150.17.1	Up to Forty (40) Hours Leave	150-21
150.17.2	Notification of Leave Usage	150-21
150.18	PREGNANCY DISABILITY LEAVE	150-22
150.18.1	Entitled to All Sick Leave Benefits	150-22
150.18.2	Sick Leave During Medically Certified Absence	150-22
150.18.3	Certification of Last Day Able to Work	150-22
150.18.4	Release to Return to Work	150-22

## **CHAPTER 160 - HOLIDAYS**

160.1	HOLIDAYS	160-1
160.1.1	Holidays for Classified Employees	160-1
160.1.2	Governor/President Declared Holidays	160-1
160.1.3	Other Paid Holidays	160-1
160.1.4	Rate of Pay for Holidays	160-2
160.1.5	Overtime Pay for Working Holidays	160-2
160.1.6	Holiday Eligibility	160-2
160.1.7	Weekend Holidays	160-2

## **CHAPTER 170 - COMPENSATION AND PAY PRACTICES**

170.1	DETERMINATION OF SALARY SCHEDULES/PAY RATES	170-1
170.1.1	Fixing Annual Salary Schedules	170-1
170.1.2	Increases/Decreases to Schedule Shall Be Percentage	170-1
170.1.3	Board Shall Not Dismiss Employee Due to Reclassification	170-2
170.1.4	Board May Delay Adoption of Salary Schedule	170-2
170.1.5	Board Shall Employ and Pay in Accordance with Merit System	170-2
170.1.6	Commission Shall Recommend Salary Schedules to Board	170-2
170.1.7	Salary Survey(s)/Studies	170-3
170.1.8	Board Action on Salary Schedule Recommendation(s)	170-3
170.1.9	Commission Shall Determine Salary Range Placement	170-3
170.2	APPLICATION OF SALARY SCHEDULES	170-4
170.2.1	Initial Salary Placement	170-4
170.2.2	Evaluation of Step Placement	170-4
170.2.3	Salary Placement of Temporary Employees	170-4
170.2.4	Step Advancement	170-5
170.2.5	Salary Range Changes	170-5
170.2.6	"Y" Rating Incumbents	170-5
170.2.7	Promotional Salary Rate	170-6
170.2.8	Placement After Unpaid Leave of Absence	170-6
170.2.9	Salary Placement Upon Demotion	170-7
170.2.10	Placement When Re-employed or Reinstated	170-7
170.2.11	Summer/Recess Period Salary Placement	170-8
170.2.12	Placement When Assigned Substitute/Temp/Provisional/ Limited Term Position	170-8

170.3	DIFFERENTIAL PAY PRACTICES	170-8
170.3.1	Differential Compensation	170-8
170.3.2	Temporary Assignment	170-8
170.4	SPECIAL PAY PRACTICES	170-9
170.4.1	Payroll Errors	170-9
170.4.2	Mileage	170-9
170.4.3	Meal and Overnight Expenses	170-9
170.4.4	Uniforms	170-10
170.4.5	Safety Equipment	170-10

## **CHAPTER 180 - COMPLAINT PROCEDURE**

180.1	PROCEDURE FOR THE ADJUSTMENT OF COMPLAINTS	180-1
180.1.1	Purpose of Complaint Procedure	180-1
180.1.2	Certain Matters Excluded from Procedure	180-1
180.1.3	Commission Staff Will Lend Assistance	180-1
180.1.4	Approval of Director	180-2
180.1.5	Complaint Time Limits Shall Be Considered Maximums	180-2
180.1.6	Complaint Must Be Filed Within Twenty (20) Workdays	180-3
180.1.7	Definition of Complainant	180-3
180.1.8	Employee Representation	180-3
180.1.9	No Reprisals for Filing of Complaint	180-3
180.1.10	Reasonable Release Time	180-3
180.1.11	Maintenance of Complaint Files	180-3
180.1.12	Step One – Resolution Procedure	180-4
180.1.13	Step Two – Department/Site Administrator	180-4
180.1.14	Step Three – Director, Classified Personnel	180-4
180.1.15	Step Four – Commission Ruling	180-5
180.1.16	Decision Must Include Consideration of a Just Settlement	180-5

## **CHAPTER 190 - PROCEDURE FOR DISCIPLINARY ACTION AND APPEAL**

190.1	GENERAL PROVISIONS ON DISCIPLINARY ACTIONS	190-1
190.1.1	Disciplinary Action Only Pursuant to this Rule	190-1
190.1.2	Time Limits on Disciplinary Action	190-1
190.1.3	Prohibited Acts Related to Discipline	190-1
190.1.4	Definition of Discipline	190-1
190.1.5	Causes for Discipline	190-2
190.1.6	Progressive Discipline	190-4
190.1.7	Immediate Suspension – Without Pay	190-5
190.1.8	Immediate Suspension – With Pay	190-6
190.1.9	Dismissal of Substitute/Temp/Provisional/Limited Term Employee(s)	190-6
190.1.10	Burden of Proof	190-6
190.2	NOTIFICATION	190-6
190.2.1	Notice of Intent to Discipline	190-6
190.2.2	Contents of Notice of Intent to Discipline	190-7
190.2.3	Notice Shall Use Readily Understood Language	190-8
190.2.4	Disciplinary Notice Sent to Director	190-8
190.2.5	Notice Shall Be in Writing and Served on Employee	190-8



190.3	PRE-DISCIPLINARY CONFERENCE - SKELLY	190-9
190.3.1	Pre-Disciplinary Conference Before Superintendent or Designee	190-9
190.3.2	Action if Conference is Not Attended by Employee	190-9
190.3.3	Designee for Superintendent	190-9
190.3.4	Employee Shall Have Opportunity to Refute Charges	190-10
190.3.5	Right to Representation	190-10
190.3.6	Pre-Disciplinary Conference Decision	190-10
190.3.7	Final Step for Probationary Employees	190-10
190.3.8	Permanent Employee in Probationary or Trial Service Promotional Position	190-11
190.3.9	Notification Required to Commission	190-11
190.4	COMMISSION APPEAL HEARING PROCEDURES	190-12
190.4.1	Authority of Commission Hearing and Decision	190-12
190.4.2	Notice of Right to Appeal	190-12
190.4.3	Employee Response to Charges	190-12
190.4.4	Appointment of Hearing Officer	190-13
190.4.5	Commission Shall Determine Time and Place of Hearing	190-14
190.4.6	All Hearings Shall Be Recorded	190-14
190.4.7	Hearings Conducted to Determine Truth	190-14
190.4.8	Oral Evidence By Oath Only	190-14
190.4.9	Ability to Examine Evidence	190-15
190.4.10	Appellant May Be Called to Testify	190-15
190.4.11	Admission of Evidence	190-15
190.4.12	Right to be Represented	190-16
190.4.13	Granting of Continuance	190-16
190.4.14	Ruling on Objections	190-16
190.4.15	Burden of Proof	190-16
190.4.16	Findings Based on Preponderance of Evidence	190-16
190.4.17	Order of Presentation of Evidence	190-16
190.4.18	Examination of Witnesses	190-16
190.4.19	Subpoena of Witnesses/Evidence	190-17
190.4.20	List of Witnesses	190-17
190.4.21	Sworn Affidavits	190-17
190.4.22	Deliberation and Findings of Hearing Officer	190-18
190.4.23	Deliberation of Personnel Commission	190-18
190.4.24	Decision of Personnel Commission	190-18
190.4.25	Board Shall Comply with Commission Decision	190-19
190.4.26	Commission Action	190-19
190.4.27	Decision Must Include Consideration of Just Settlement	190-20
190.4.28	Obtaining Copies of the Hearing Transcript	190-20
190.4.29	Disqualification of Hearing Officer or Commissioner	190-21
190.4.30	Counsel for the Personnel Commission	190-21

## **CHAPTER 200 - LAYOFF AND REEMPLOYMENT PROCEDURES**

200.1	LAYOFF PROCEDURES	200-1
200.1.1	Reason for Layoff	200-1
200.1.2	Order of Layoff	200-1
200.1.3	Displacement Rights	200-2
200.1.4	Voluntary Demotion or Transfer	200-2
200.1.5	Layoff Versus Temporary Positions	200-2
200.1.6	Acceptance of Substitute or Temporary Employment	200-2
200.1.7	Refusal of Temporary Employment	200-3
200.1.8	Salary Placement After Demotion or Transfer	200-3

200.1.9	Lateral Transfer	200-3
200.1.10	Notice of Layoff	200-3
200.1.11	Advance Notification to the Exclusive Representative	200-3
200.1.12	Contents of Layoff Notice	200-4
200.1.13	Layoff Resolution by Board	200-4
 200.2	 RE-EMPLOYMENT PROCEDURES	 200-4
200.2.1	Laid Off Employees Placed on Re-employment List	200-4
200.2.2	Employees with Equal Seniority	200-4
200.2.3	Eligible for Re-employment for Thirty-Nine (39) Months	200-5
200.2.4	Eligibility for an Additional Twenty-Four (24) Months	200-5
200.2.5	CalPERS Retirement in Lieu of Layoff and Re-employment	200-5
200.2.6	Offer of Re-employment and Acceptance	200-6

## **CHAPTER 210 - RESIGNATIONS**

210.1	RESIGNATION PROCEDURES	210-1
210.1.1	Resignation During Probationary Period	210-1
210.1.2	Resignation and Effect on Eligibility List(s)	201-1
210.1.3	Procedure for Resignation of Employee	210-1
210.1.4	Notice of Resignation	210-1
210.1.5	Acceptance of Resignation	210-1
210.1.6	Retirement under CalPERS	210-1

## CHAPTER 10

### RULE-MAKING AUTHORITY AND DEFINITIONS

#### 10.1 AUTHORITY AND APPLICATION OF RULES

**10.1.1 STATUTORY AUTHORITY FOR THESE RULES:** Article 6 (Merit System) in Chapter 5 of Part 25 in Division 3 of the California Education Code (commencing with Section §45240) provides the Personnel Commission with the right and responsibility for establishing rules and regulations to govern the District's classified employees.

10.1.1.1 The rules and regulations contained herein are established by the Personnel Commission pursuant to its authority under Education Code Section §45260, as well as other provisions of law that have been made applicable to classified school employees.

10.1.1.2 Since the implementation of new rules or amendments to existing rules can impact the Board, the Administration, and the classified employees, the Commission has hereby established the policy of submitting copies of all proposed rules, amendments to, or the deletion of existing rules to the exclusive bargaining representative(s) and the District Superintendent for their review and comments at least fourteen (14) calendar days prior to adoption by the Personnel Commission. This submission shall be accomplished through the process of a minimum of two (2) successive public readings on the Commission meeting agenda.

Reference: Education Code Sections §45241 and §45260  
Government Code Section §3543.2

**10.1.2 INTERPRETATION AND APPLICATION OF RULES:** 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 and applicable provisions of the rules shall not be waived, ignored, or superseded because of the special

circumstances of particular cases. In instances where a rule appears to be in conflict with the California Education Code, the Education Code applies. In instances where two (2) or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Director, Classified Personnel, subject to appeal to the Personnel Commission. The Commission is open to responsible suggestions to amend rules which prove to be unclear, or subject to more than one (1) interpretation. However, no rule amendment or new rule shall have retroactive application.

10.1.2.1 In areas that are open to negotiations, the collective bargaining agreement between the Employees Association and the District shall take precedence for those classified employees represented by that organization.

Reference: Education Code Section §45260

**10.1.3 GENERIC TERMINOLOGY:** As used in these rules, the term "they", "them" or "their" shall refer to gender or items. Singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

Reference: Education Code Sections §73-74 and §45260

**10.1.4 JUDICIAL REVIEW:** If a judicial review or a change in law causes any portion of these rules to become invalid or unenforceable, such finding, or amendment shall not affect the validity or the enforceability of the other rules or regulations.

Reference: Education Code Sections 6 and §45260

**10.1.5 PRINTING AND DISTRIBUTION OF RULES AND REGULATIONS:** The rules and regulations of the Personnel Commission shall be printed and distributed to each school, office, permanent work site, District Administration and Union Executive Board as well as distributed to all school libraries for loan to employees. Copies of Article 6 of Chapter 5 of Part 25 of the California Education Code (commencing with §45240) shall also be printed and given the same distribution as the Rules.

Reference: Education Code Section §45262

**10.1.6 SUBJECTS OF RULES:** The Rules and Regulations shall provide for the procedures to be followed by the Board as they pertain to the classified service regarding such matters as applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, re-employment, vacations, leaves of absence, compensation within classification, job examinations and evaluations, rejection of unfit applicants, and any other matters deemed necessary by the Commission to insure the efficiency of the classified service and the selection and retention of employees upon a basis of merit and fitness.

In matters involving classified employees who are represented by an exclusive bargaining representative wherein a conflict exists between these Rules and Regulations and the language of the current Contract Agreement, the current Contract Agreement shall prevail.

**10.1.7 EFFECT OF DATA CONTAINED IN ADDENDUM(S) TO RULES.** The salary schedule(s), related data, classification on the salary schedule, the classification plan and classification descriptions contained in any addendum to these rules are to be interpreted as having the same force and effect as Commission Rules.

Reference: Education Code Sections §45260-§45261

## **10.2 DEFINITIONS**

**ABANDONMENT:** Failure to report for duty for a period of consecutive workdays without notification to supervisor.

**ACT or THE ACT:** The Act shall mean those sections of the Education Code of the State of California applying to the Merit System for classified employees in certain school districts (that have adopted the Merit System). It shall include all of the provisions of Article 6, Chapter 5, Part 25, as well as the provisions of Chapter 1 and Articles 1 to 4 of Chapter 5 in Part 25.

**ADMINISTRATIVE LEAVE:** An enforced absence of an employee with or without pay pending investigation of disciplinary charges made against the employee

**ALLOCATION:** The official placing of a position in a given class by the Commission, and the assignment of a class title to the position, or the assignment of a class to a salary schedule or rate.

**ANNIVERSARY DATE:** The date on which an employee is granted an earned salary increment, longevity, vacation and seniority rights.

**APPEAL:** A protest by an employee or applicant relative to an administrative action detrimental to them or a disciplinary action by the Board.

**APPLICANT:** A person who has filed an application for employment with the District and who wishes to participate or compete in the District's recruitment and selection process.

**APPOINTING AUTHORITY OR POWER:** The Board or its designees, and the Commission or their designees.

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

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

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

**BEREAVEMENT LEAVE:** A paid leave of limited duration granted to an employee upon the death of a member of his immediate family or household.

**BOARD:** The District's elected Board of Trustees (also referred to as "the Board"). Synonymous with Governing Board.

**BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ):** Employment qualifications that employers are allowed to consider while making decisions about hiring and retention of employees.

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

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

**CAUSE:** The grounds for a disciplinary action against an employee as stated in law, written policies and/or the rules of the Commission.

**CERTIFICATED SERVICE:** Those persons and positions required by law to possess credentials for teaching as issued by the State Department of Education for the State of California; includes Administration or Administrator positions.

**CERTIFICATION:** The submission of names by the Director, of eligible's from an appropriate eligibility list or from some other source of eligibility, to the appointing authority or their designee.

**CERTIFYING OFFICER:** The Commission, a member of the Commission or the Director as empowered by the Commission.

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

**CLASSIFICATION:** A defined specification of duties and/or functions necessary to perform a job as approved by the Board; a list of the requisite minimum qualifications, education and experience, licenses, knowledge, skills, abilities, environment, hazards and physical abilities as approved by the Commission.

**CLASSIFICATION REVIEW:** An internal review of classification families on an established periodicity; similar to a classification study.

**CLASSIFICATION SPECIFICATION:** A formal statement of duties and responsibilities of the positions in the class, as well as the qualification requirements for employment.

**CLASSIFICATION STUDY:** A complete audit of all classification specifications in their relation to positions, class family hierarchy, minimum qualifications, essential duties/functions, KSA's and salary schedule alignment. Generally conducted by an outside, independent agency skilled in performing classification studies.

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

**CLASSIFY:** The act of the Personnel Commission in assigning a classification to a position; "to classify".

**COMMISSION:** A committee of appointed three (3) members established pursuant to the requirements of The Act, to establish rules and regulations to govern the classified service of the school district, to oversee the personnel management function related to the classified service, and to regulate the actions of the Board of Trustees and/or Administration in carrying out the requirements of The Act and the rules and regulations of the Commission.

**COMPLAINT:** An employee complaint concerning an alleged violation of Commission Rules.

**CONTINUOUS EXAMINATIONS:** A procedure authorized by the Commission for ongoing as needed testing of applicants in specified classes that has no closing date.

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

**DIFFERENTIAL or DIFFERENTIAL PAY:** A salary allowance in addition to the basic salary rate or schedule, based upon additional skills, responsibilities, or specifically scheduled working hours.

**DIRECTOR, CLASSIFIED PERSONNEL:** The person appointed by the Commission in accordance with Education Code Section §45264 to act as its designated manager in administering the Merit System under the provisions of law and the rules and regulations established by the Commission.

**DISCHARGE or DISMISSAL:** Separation from the classified service for cause in accordance with the rules and regulations of the Commission. Requires action by the Board of Trustees.

**DISTRICT:** The Barstow Unified School District.

**DUAL CERTIFICATIONS:** A procedure authorized by the Commission that provides for certification of eligibles from a combined list according to examination scores where promotional and internal candidates have received seniority credit.

**ELIGIBILITY LIST:** A rank order list of the names of persons who have qualified on all parts of a competitive examination.

**ELIGIBLE:** (As an adjective) Legally qualified to be appointed to a position. (As a noun) A person whose name appears on an eligibility list.



**EMERGENCY APPOINTMENT:** The assignment of an individual to a regular classified position for a period of time, not to exceed fifteen (15) working days, in order to prevent the stoppage of public business when persons on an eligibility list are not immediately available.

**EMPLOYEE:** A person who is in paid status with the District, or one who is on an authorized leave of absence.

**EMPLOYMENT LIST:** A list of names from which certifications may be made. The term includes eligibility lists, re-employment lists, as well as lists of individuals who wish to be transferred, demoted, or reinstated.

**ENTRY LEVEL CLASSIFICATION:** Lowest level classification in the occupational series that has an open competitive examination.

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

**EXCLUSIVE REPRESENTATIVE:** An employee organization recognized or certified which exclusively represents an approved unit of employees.

**EXECUTIVE SECRETARY EXEMPT:** Positions within the classified service that shall be afforded all rights, benefits, and burdens of other classified employees, except that they shall be exempt from all provisions relating to obtaining permanent status in an executive secretary position. Executive Secretary positions shall be filled from an unranked list of eligible persons who have demonstrated managerial ability who have been found qualified for the positions as specified by the Superintendent and determined by the Commission. EC §45272

**EXEMPT:** Refers to those positions and employees exempt from the regular classified service as provided in The Act. It also refers to a defined status as provided for under the Fair Labor Standards Act (29 U.S.C. 201)

**EXHAUSTION OF BENEFITS (EOB):** When an employee has used/exhausted all leaves, and is still unable to work following an illness or injury; is then placed on the thirty-nine (39) month re-employment list and are then eligible for re-employment without examination in their former class upon full medical clearance.

**FAMILY:** A number of classes closely related in occupational hierarchy.

**FIELD OF COMPETITION:** Those categories of persons (either from within or outside of the District) that have been identified as possessing the necessary qualifications to participate in the District's selection process.

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

**FULL-TIME POSITION:** A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is equal to or greater than eighty-seven and a half percent (87.5%/seven (7) hour) of the normally assigned time of the majority of employees in the classified service.

**GOVERNING BOARD:** The Board of Trustees (also referred to as "the Board") of the Barstow Unified School District (Appointing Authority or Power).

**GRIEVANCE:** An employee complaint concerning conditions of employment. The procedure through which regular classified employees may seek adjustment of complaints arising out of alleged violations of the Collective Bargaining Unit Contract Agreement.

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

**HIRE DATE:** Date of original or most recent employment with the District, adjusted for any break in service.

**ILLNESS LEAVE:** Authorized paid or unpaid leave given to an employee because of personal illness or injury.

**IMMEDIATE FAMILY:** spouse, child, mother, father, grandmother, grandfather, brother, sister, a grandchild of the employee or of the spouse of the employee, child of the spouse, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the employee or any other person who has been living in the immediate household of the employee

**IMMEDIATE SUPERVISOR:** The employee who assigns, checks and supervises the work of the employee; the employee who is immediately responsible for the employee or is the most closely acquainted with the employee's performance. If the employee has more than one (1) immediate supervisor, each such supervisor shall evaluate the employee's work performance.

**INCUMBENT:** An employee assigned to a position within a class.

**INTERNAL:** A current permanent employee with the District who is an eligible on an eligibility list for a classification that is of an equal or lessor salary range but different than their current assigned classification.

**INTERNAL LIST:** An eligibility list resulting from an examination limited to qualified permanent employees of the District not resulting in promotion; may be in combination with promotional lists.

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

**KSA's:** Knowledge, Skills and Abilities required to perform the duties or functions of a classification specification.

**LATERAL TRANSFER:** The transfer of an employee to a position in a similar or related class with the same salary range.

**LAYOFF:** Separation from a regular position because of lack of work, or lack of funds, or because an employee with permanence has been released from a trial service period/probation with rights to their formally held permanent position.

**LEAVE OF ABSENCE:** An approved absence from duty, with or without pay, for a prescribed period of time from a class, but not necessarily from a specific position within the class.

**LIMITED TERM:** A temporary position in the Classified service of a Merit System school district, established for periods of time not to exceed six (6) calendar months or for the duration of an absent employee. §45286

**LIMITED-TERM EMPLOYEE:** A Merit System Classified employee, who is serves in a temporary position established for six (6) months or less; or for the duration of an absent employee. Synonymous with substitute. §45286

**LONGEVITY:** Time spent in a permanent position with the District from initial hire date until resignation or retirement.

**LOYALTY OATH:** A statement required for each new employee concerning his support of the United States and California Constitutions and required by state law.

**MAY:** A verb indicating that an action is permissive.

**MERGING:** The act of combining two (2) or more eligibility lists for the same class, which were established not more than a year apart, in the rank order of the scores of the eligibles. The eligibility of each individual expires one (1) year from the date on which it was established by the Personnel Commission.

**MERIT SYSTEM:** A personnel management system in which comparative merit and fitness governs selection and progress through the classified service.

**MINIMUM QUALIFICATIONS:** A statement of the qualifications which are determined by the Personnel Commission to be minimally required and additionally helpful for the successful performance of the duties of the class. The statement may include education, experience, knowledge, skill, ability, and personal and physical characteristics.

**NEPOTISM:** Favoritism shown to a relative on the basis of relationship versus merit.

**OPEN EXAMINATION:** An examination in which any or all applicants who meet the minimum qualifications for examination shall be eligible to compete.

**PART-TIME POSITION:** A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than eighty-seven and a half percent (87.5%/seven (7) hour) of the normally assigned time of the majority of employees in the classified service.

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

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

**PERMANENT POSITION:** A position established for a continuing and indefinite or unlimited period of time, or for a fixed period of time in excess of six (6) months.

**PERS:** Public Employees Retirement System.

**PERSONAL NECESSITY LEAVE:** A leave of absence with pay for a limited duration which may be taken for reasons of personal need. Such leave is charged against the employee's earned cumulative sick leave and is limited to a maximum of seven (7) days per fiscal year.

**PERSONNEL COMMISSION** (also referred to as "Commission"): A three (3) member committee established pursuant to the requirements of "The Act" to administer the "Merit System" in the Barstow Unified School District.

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

**POSITION CLASSIFICATION:** The process of categorizing jobs by occupational group, series, class, and grade; according to similarities and differences in duties, responsibilities and qualification requirements.

**POSITION SITE TRANSFER:** The relocation of a position between job sites within the same classification and salary range.

**PROBATIONARY EMPLOYEE:** A person serving an initial trial service period of six (6) months, or one hundred and thirty (130) days in paid service whichever is longer, or twelve (12) months or two hundred and sixty (260) days in paid service whichever is longer for confidential, supervisory and management employees, following an appointment to a new classification and/or a new regular position. A probationary or trial service period must be served in each classification before permanent status is granted.

**PROBATIONARY PERIOD:** A trial period of six (6) months or one hundred and thirty (130) days in paid service whichever is longer, or twelve (12) months or two hundred and sixty (260) days in paid service whichever is longer for confidential, supervisory or management employees, of paid service following appointment to a regular position.

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

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

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

**PROVISIONAL APPOINTMENT:** The temporary appointment of a person to a regular or temporary position, which is made in the absence of and/or when there is no appropriate eligibility list, for a period not to exceed ninety (90) working days, except in specified circumstances.

**REALLOCATION:** The reassignment of an entire class from one salary range to another salary range without significant change in class title, minimum qualifications, duties, or responsibilities.

**RECLASSIFICATION:** The reassignment of a position or positions from one class into another, as a result of a significant change in duties or responsibilities.

**RE-EMPLOYMENT:** Return to duty of an employee who has been laid off or who exhausted benefits within thirty-nine (39) months of a being laid off or exhausting all leaves. The thirty-nine (39) month period shall be extended by twenty-four (24) months when an employee has taken a voluntary demotion or a reduction in time in lieu of layoff.

**RE-EMPLOYMENT LIST:** A list of names, in rank order of seniority, of persons who have been laid off from permanent positions by reason of a lack of work, lack of funds, abolishment of position(s) or exhaustion of all leaves, and who are eligible for re-employment without examination in their former class for thirty-nine (39) or sixty-three (63) months. See "Y-rated" for employees impacted by reduction(s) during a classification study.

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

**REINSTATEMENT:** A discretionary reappointment of a former employee, within a period of thirty nine (39) months following the date of their resignation in good standing, without examination, to a position in one of the person's former classes, or to a related class in a lower salary range in the same occupational series. Also refers to a return to duty after appeal from disciplinary action when so ordered by the Commission.

**RELATIVE:** A spouse, domestic partner, son, daughter, mother, father, brother, sister, grandfather, grandmother, grandson, granddaughter, son-in-law, daughter-in-law of the employee or spouse of the employee or any relative living in the immediate household of the employee.

**RESIGNATION:** A voluntary separation of employment.

**RESTORATION:** The reinstatement to duty of an employee or former employee with all of the rights, benefits, and burdens held prior to the break in service. This term includes re-employment as well as reinstatement following demotion or dismissal.

**RIGHT:** A benefit which is bestowed on a person by law or rule and must be granted to the person.

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

**SALARY ANNIVERSARY DATE:** The date on which an employee is granted an earned salary increment.

**SALARY RANGE:** A series of consecutive salary steps that comprise the rates of pay for a classification; generally standardized at the rate of two and one-half (2.5) percent between ranges.

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

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

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

**SALARY STEP:** A specific rate in a salary range. One of the consecutive rates that comprise a salary range; generally standardized at a specific percentage rate between steps.

**SALARY SURVEY:** The collection of current wage and salary data for the purpose of determining the prevailing wage for certain types of work. The data is usually secured from other public agencies and from private sector businesses in the labor market area. The term also includes the written report containing the data collected.

**SCOPE:** The knowledge, skills and abilities listed within classifications are generally inclusive within any higher classification in the job family.

**SHALL:** A verb indicating that an action is mandatory.

**SENIOR MANAGEMENT EXEMPT:** Positions within the classified service that shall be afforded all rights, benefits, and burdens of other classified employees, except that they shall be exempt from all provisions relating to obtaining permanent status in a senior management position. Positions in the senior management of the classified service shall be filled from an unranked list of eligible persons who have demonstrated managerial ability who have been found qualified for the positions as specified by the district superintendent and determined by the personnel commission. §45100.5 & §45256.5

**SENIORITY:** Status secured by length of service with permanency in a classification; an equivalent classification and all higher classifications.

**SENIORITY CREDIT:** Credit added to the final passing scores of candidates who have permanency with the District or who are on a valid re-employment list.

**SEPARATION:** The action of ending one's employment with the District; includes resignation, dismissal, termination, layoff or retirement.

**SERIES:** A grouping of classes closely related in occupational hierarchy and arranged in a list in order to show occupational levels within the group.



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

**STEP ADVANCEMENT:** Movement to a higher step on the salary range for the class as a result of having served the required number of months in that class.

**SUBSTITUTE EMPLOYEE:** See Limited Term Employee

**SUSPENSION:** An enforced absence of an employee with or without pay for disciplinary actions approved by the Board. or pending the outcome of an investigation of charges that have been filed against the employee.

**TEMPORARY:** Employment on the basis of other than permanent or probationary status. See also Limited Term or Provisional.

**TRANSFER:** The reassignment of an employee without examination from one position to another position within the same classification or similar classification with the hierarchical family with the same salary range.

**TRIAL SERVICE PERIOD:** A trial performance period/probationary period of six (6) months or one hundred and thirty (130) days of paid service whichever is longer for non-supervisory personnel; twelve (12) months or two hundred sixty (260) days of paid service whichever is longer for management, supervisory and confidential personnel following a re-assignment, lateral transfer, promotion or demotion. Employees covered by a Collective Bargaining Agreement (CBA) will complete the applicable trial service period listed in their CBA.

**UNCLASSIFIED:** Employees not in the classified service, filling positions not requiring classification. (Examples: Student Workers, Tutors, Coaches)

**VETERANS' CREDIT:** Five (5) points for military or related service rendered during time of war or national emergency, or ten (10) points if disability is a result of such service. Veteran's credit is added to the final passing score on any open examination that may result in a candidate being initially hired. Veteran's credit shall not be added in promotional or internal exams.

**WAIVER:** The voluntary relinquishment, by an eligible, of a right to be considered for appointment from an employment list.

**Y-RATED:** When, as the result of a classification study, salary study, salary schedule realignment or negotiation; and the current salary of an employee is higher than the approved revised salary range; the employee's salary shall remain the same dollar amount until the salary schedule rises to or above the dollar amount.

Reference: Education Code Sections §45103, §45127, §45194, §45256, §45260, §45261, §45262, §45269, §45270, §45275, §45285, §45286, §45287, §45290, §45292, §45294, §45296, §45298, §45301, §45302, §45305, §45307 and §45309

## THE PERSONNEL COMMISSION

### 20.1 ORGANIZATION OF THE COMMISSION

**20.1.1 TERM(S) OF OFFICE AND GENERAL SELECTION PROCEDURES:** The Personnel Commission is composed of three (3) members who must be registered voters, reside within the geographical limits of the Barstow Unified School District and be known adherents of the principles of the Merit System. One (1) Commissioner is appointed by the Board as the Boards' representative on the Commission; one (1) Commissioner is selected by the classified employees' organization and appointed by the Board as the Employee representative on the Commission; and one (1) Commissioner is appointed by the other two (2) Commissioners as the Joint representative on the Commission.

20.1.1.1 No member of the Board of any school district or county board of education shall be eligible for appointment, reappointment, or continuance as a member of the Commission. During their term of office, a member of the Personnel Commission shall not be an employee of the Barstow Unified School District.

20.1.1.2 As used in this chapter, known adherent to the principle of the merit system, with respect to a new appointee, shall mean a person who, by the nature of their prior public or private service, has given evidence that they support the concept of employment, continuance in employment, in-service promotional opportunities and other related matters on the basis of merit and fitness. With respect to a candidate for reappointment, it shall mean a Commissioner who has clearly demonstrated through meeting attendance and actions that they support the Merit System and its operation.

20.1.1.3 In addition, a Commissioner must be a registered voter, reside within the geographical limits of the Barstow Unified School District and be a known adherent of the Merit System as well as must not have been convicted of a felony.

20.1.1.4 The term of office for each of the Commissioners is for a three (3) year period and expires at Noon on December 1 of the third year. The terms of office have been scheduled/staggered so that the term of office of not more than one (1) of a three-member Commission expires each December 1.

**20.1.2 SPECIFIC APPOINTMENT PROCEDURES:** On or about September 1st of each year, the Director shall notify the Board and the recognized classified employee organization(s) of the name of the commissioner whose term will be expiring, and whether or not they will accept reappointment for another three-year term. The notification will also provide the name of the appointing authority, and the procedures to be followed in filling the upcoming vacancy.

20.1.2.1 The Board' Appointment: By September 30, the Board shall publicly announce the name of the person it intends to appoint or reappoint at a Board meeting to be held after (30) thirty days and within (45) forty-five days of the date the Board publicly announced its candidate. The Board shall hold a public hearing to provide the public, employees, and employee organizations the opportunity to express their views on the qualifications of the person recommended by the Board for appointment. The Board at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

20.1.2.2 The Classified Employees' Appointment: By November 1, the classified employee organization having authority to nominate the classified employees' appointees to the Commission, shall publicly submit the name of the person it wishes to appoint, to the Commission and to the Board. The Board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee.

- 20.1.2.2.1 In the event that the classified employees of the District are represented by more than one (1) recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on September 1 of the year in which the classified employees' appointment is to be made shall be the one authorized to submit the recommended appointment to the Board for action.
- 20.1.2.2.2 In the event that the classified employees have no exclusive representative, the Director shall solicit nominees from the classified employees. Those qualified nominees accepting the nomination shall be placed on a ballot for a vote by all classified employees of the District. The name of the nominee receiving the greatest number of votes cast in a secret ballot shall be submitted to the Board for appointment to fill the vacancy.
- 20.1.2.2.3 In the event that a vacancy is created on the Personnel Commission because of the classified employees' failure to agree upon a nominee, the Board, upon the recommendation of the Director may make an emergency appointment until such time as a permanent appointment can be made, but not to exceed sixty (60) days.
- 20.1.2.3 The Commissioners' Joint Appointment: By September 30, the appointees of the Board and the appointees of the classified employees shall publicly announce the name of the person they intend to appoint or reappoint at a Personnel Commission meeting to be held after thirty (30) and within forty-five (45) days of the date the Commission publicly announced its candidate. The

Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

20.1.2.3.1 If the Board Appointee and the Employee Appointee Commissioners are unable to agree upon a nominee, because the Board has made a legitimate claim as to the lack of mandated qualifications of the nominee, or the classified employees' organization has refused to submit a nominee by September 30, the State Superintendent of Public Instruction (SSPI) shall, within thirty (30) days, make the necessary appointment.

20.1.2.4 A Commissioner whose term has expired may continue for (90) ninety days or until an appropriate appointment can be made whichever occurs first.

Reference: Education Code Sections §45244 - §45248  
Government Code Section §1302, §1770

**20.1.3 FILLING OF COMMISSIONER VACANCIES DURING TERM(S) OF OFFICE:** In the event that a vacancy occurs during the term of office of any of the commissioners, a new appointee shall be selected by the original appointing authority to complete the unexpired term in accordance with the procedures noted below. The Director shall immediately notify the other Commissioners, the Board, and the recognized classified employee organizations of the name of the Commissioner, the effective date of the vacancy, the duration of the unexpired term, the name of the appointing authority, and the procedures to be followed in filling the vacancy.

20.1.3.1 The Board' Appointment: Within thirty (30) days of notification of the vacancy, the Board shall publicly announce the name of the person it intends to appoint to fill the unexpired term. At a Board meeting to be held after thirty (30) and within forty-five (45) days of the date the Board publicly announced its candidate, the Board shall hold a public hearing to provide the public, employees, and employee organizations the opportunity to express their views on the qualifications of the person recommended by the Board for appointment. The Board at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

20.1.3.2 The Classified Employees' Appointment: Within thirty (30) days of notification of the vacancy, the classified employees' organization having authority to nominate the classified employees' appointees to the Commission, shall publicly submit the name of the person it wishes to appoint to the Board to fill the unexpired term. The Board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee.

20.1.3.2.1 In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employees' organization which represents the largest number of the District's classified staff on September 1 of the year in which the classified employees' vacancy occurs, shall be the one authorized to submit the recommended appointment to the Board for action.

20.1.3.2.2 In the event that the classified employees have no exclusive representative, the Director shall solicit nominees from the classified employees. Those qualified nominees accepting the nomination shall

be placed on a ballot for a vote by all classified employees of the District. The name of the nominee receiving the greatest number of votes cast in a secret ballot shall be submitted to the Board for appointment to fill the vacancy.

20.1.3.3 The Commissioners' Joint Appointment: Within fifteen (15) days of notification of the vacancy, the appointees of the Board and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint to fill the vacancy. At a Personnel Commission meeting to be held after thirty (30) and within forty-five (45) days of the date the Commission publicly announced its candidate. The Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

20.1.3.3.1 If the Commissioners are unable to agree upon a joint appointment within forty-five (45) days after the notification of the vacancy, the appointment to fill the unexpired term shall be made by the State Superintendent of Public Instruction (SSPI).

20.1.3.4 In the event that the vacancy goes unfilled because of the failure to agree upon a nominee, the Board, upon the recommendation of the Director, may make an emergency appointment until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

Reference: Education Code Sections §45244 - §45248, §45260  
Government Code Section §1302, §1770



**20.1.4 OFFICERS:** At the first regularly scheduled meeting in December of each year, the Commission shall elect one (1) of its members to serve as Chairperson and another of its members to serve as Vice Chairperson for a period of one (1) year or until such time as their successors are duly elected. In the absence of the Chairperson, the Vice-Chairperson shall assume the duties of the Chairperson.

20.1.4.1 The Chairperson shall perform duties as directed by law and the Personnel Commission rules. Those duties shall include but not be limited to:

20.1.4.1.1 Sign all instruments and correspondence as directed by the Commission.

20.1.4.1.2 Consult with the Director on the preparation of the Commission agenda(s).

20.1.4.1.3 Confer with the Director on matters which may arise between meetings.

20.1.4.1.4 Share any correspondence or communications directed to the Commission.

Reference: Education Code Sections §45260 - §45261  
Government Code Section §1302

**20.1.5 QUORUM AND MAJORITY VOTE:** Two (2) of a three-member Commission shall constitute a quorum for any regular or special meeting of the Personnel Commission. The affirmative vote of at least two (2) of a three-member Commission is required to carry any motion or action.

20.1.5.1 Voting - Commissioners present shall vote upon each "action" item on the agenda. A vote may be taken for or against the motion, or a Commissioner may abstain from voting. An abstention vote shall not be counted for or against the motion. A Commissioner shall abstain if he/she has a personal or pecuniary interest.

In voting on the disposition of disciplinary cases, a Commissioner shall abstain if he/she had his/her objectivity prejudiced prior to the case being heard.

Reference: Education Code Sections §45260 - §45261  
Government Code Section §54952.6

**20.1.6 COMPENSATION OF COMMISSION MEMBERS:** The members of the Personnel Commission may receive compensation at the rate of fifty dollars (\$50) per meeting.

Reference: Education Code Sections §45250, §45260

**20.1.7 COMMISSIONER AUTHORITY:** Commissioners have the responsibility to adhere to the laws that affect the Commission and to uphold the Commission rules. Individual Commissioners have no authority, except as provided by law and these rules.

20.1.7.1 A Commissioner may:

20.1.7.1.1 Seek information from the Director and/or consult with the Director regarding Commission business.

20.1.4.1.2 Pursue diligent efforts to observe, understand and evaluate Commission operations.

20.1.4.1.3 Attend meetings, staff development programs or activities that increase knowledge and understanding of Commission operations, goals or programs.

20.1.7.2 The Commission as a Public Entity shall have sole discretionary authority to:

20.1.7.2.1 Adopt positions on various issues.

20.1.7.2.2 Provide direction to Commission staff through the Director.

20.1.7.2.3 Absent concurrence by the Commission, the Director may not be bound to a course of action established by an individual Commissioner.

20.1.7.2.4 Upon the occurrence of meeting with an individual Commissioner, the Director shall note the basis and outcome(s). The Director shall notify the absent Commissioners of same.

Reference: Education Code Sections §45260 - §45261  
Government Code Section §1302

## **20.2 MEETINGS OF THE COMMISSION**

**20.2.1 REGULAR MEETINGS:** The Commission shall meet monthly on a date and time as established annually. Meetings shall be held in the District Board Room or a location to be determined based on the availability and scheduling of District facilities. Any change in meeting location shall be noted on the agenda for public viewing and posted within the standard seventy-two (72) hours prior to the meeting. The commission shall announce in advance the date and location of each meeting and post the monthly schedule of meetings publicly in the District Office complex.

20.2.1.1 When the regular meeting date falls on a holiday or during a scheduled District break (fall, winter, spring, summer), the Commission shall designate a different day to schedule the meeting.

20.2.1.2 If a quorum is not present at the scheduled time for a meeting, a Commissioner or the Secretary of the Commission shall adjourn the meeting to a specified time and place; and shall issue a written notice of the adjournment as provided for Special Meetings. A copy of the notice shall be posted conspicuously on or near the door of the place where the meeting was scheduled and where the meeting will be held within twenty-four (24) hours after the time of adjournment.

20.2.1.3 In cases of an emergency, the Commission may meet at another time and/or place, provided that at least twenty-four (24) hours' notice is given to representatives of the employees' organizations and the District's administration as well as posted publicly in the District Office complex.

Reference: Education Code Section §45260  
Government Code Sections §54952 – §54952.7 and §54956.5

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

Reference: Education Code Section §45260  
Government Code Sections §54952, §54952.7 and §54956.5

**20.2.3 SPECIAL MEETINGS:** Special meetings may be called at any time by the Commissioners or the Director. Written notice for any such meeting shall be delivered personally or by mail to each member of the Commission. Notification of such meeting shall be at least twenty-four (24) hours before the time of such meeting. A copy of the notice shall be posted in the District Office complex. The meeting notice shall specify the time and place of the special meeting as well as the business to be transacted and no other business shall be considered at that meeting.

Reference: Education Code Section §45260  
Government Code Section §54956

**20.2.4 PUBLIC MEETINGS:** All regular and special meetings of the Commission shall be open to the public, and all persons shall be permitted to attend any of the Commission's meetings except as provided for in Personnel Commission Rule 20.2.5. This rule shall not be construed as authorizing employees to be absent from duty for attendance at Personnel Commission meetings, unless they have specific business before the Commission.

Reference: Education Code Section §45260  
Government Code Sections §54952 and §54953

**20.2.5 CLOSED SESSIONS:** A closed session may be conducted only during a regular or special meeting of the Personnel Commission that has been called with proper notification. Prior to holding a closed session, the Commission shall state the reasons for the closed session and cite the statutory or other legal authority under which the session is being held. In the closed session, the Commission may consider only those matters covered in its statement of reasons. In the case of a special or an adjourned meeting, the statement of reasons shall be made as part of the written meeting notice for such special or adjourned meeting. In giving the reasons for holding a closed session, the Commission is not required or authorized to give names or other information which might constitute an invasion of privacy or otherwise unnecessarily divulge protected facts and information for which the closed session is being held.

20.2.5.1 The Commission shall publicly report, in the public portion of the meeting in which the closed session is being held or at its next public meeting, any action taken by the Commission in the closed session and any roll call vote taken on such items as appointment, employment or dismissal of any classified employee arising during the closed session.

20.2.5.2 The following are authorized exceptions to the open meeting requirement:

A. Appointment, employment, dismissal, or evaluation of employees.

- B. Consideration of complaints brought against employees unless the affected employee requests to be heard in open session.
- C. Consideration of legal matters coming within the purview of the attorney/client relationship.

20.2.5.3 A violation of the confidentiality of a closed session by a member of the Personnel Commission may constitute a misdemeanor under the provisions of Government Code Section §1222.

Reference: Education Code Sections 35146, §49073  
Government Code Sections §1222, §3543, §3543.2, §3549.1, §54957, §54957.1, §54957.2, §54957.6, §54957.7

**20.2.6 AGENDA AND SUPPORTING DATA:** Insofar as possible, at least seventy-two (72) hours prior to every regular Commission meeting, the agenda shall be provided to the designated representatives of all employee organizations representing classified employees, the Commission members, District Superintendent and Board. The agenda(s) will be posted on the Commission's official bulletin board and distributed to the news media having requested it/them.

20.2.6.1 When practicable, supporting data for agenda items may be furnished prior to the meeting date.

20.2.6.2 Individual employees, employee organizations, and other interested parties may submit their written views on any item on the agenda, except for those matters listed in Personnel Commission Rule 20.2.5 Closed Sessions, and/or given a reasonable opportunity to present their views orally during the Commission meeting. In reaching its decisions, the Commission has made it a policy to consider all comments and recommendations made to it in this manner.

- 20.2.6.3 District personnel, representatives of recognized employee organizations, representatives of the Board, District Administrators, or other interested parties may submit items to be placed on a Commission agenda by submitting the items to the Director not less than seven (7) calendar days prior to the scheduled Commission meeting at which the item is to be considered.

Reference: Education Code Section §45260  
Government Code §4954.2

**20.2.7 AMENDMENTS, DELETIONS, OR ADDITIONS TO RULES:** All proposals, from any source, to amend, delete, or add to these rules and regulations will be considered for a first reading at the meeting in which they are first presented to the Personnel Commission. They will not, unless an emergency exists, be acted upon when presented for first reading.

- 20.2.7.1 On a first reading, the Personnel Commission will set a date for Commission action on the proposal, which date shall normally be the next regularly scheduled Commission meeting. The Director will refer the proposed rule changes to the designated representatives of recognized employee organizations representing the District's classified employees, the District Superintendent and others who have indicated their interest in such matters in order to provide them with an opportunity to submit their comments or recommendations.

- 20.2.7.2 Insofar as possible, the interested parties shall submit their reactions and/or recommendations to proposed rule changes in writing on or before the stipulated agenda deadline date as provided in Personnel Commission Rule 20.2.6. However, those who want to also speak about those rule items listed on the agenda at the Commission meeting will be given that opportunity as provided in Personnel Commission Rule 20.2.6.

Reference: Education Code Section §45260

**20.2.8 MINUTES:** The Director, acting as Secretary to the Personnel Commission, shall record in the minutes the time and place of each Personnel Commission meeting, the names of the Commissioners present, all official acts of the Commission, and the votes of the Commissioners. When requested by a Commissioner, the Director shall record that Commissioner's approval or dissent and any expressed reasons, therefore.

20.2.8.1 The minutes of each meeting shall be reduced to written form and presented to the Commission for correction and/or approval at the next regularly scheduled meeting of the Commission.

20.2.8.2 The minutes of each Commission meeting or a true copy thereof shall be open and available for public inspection.

20.2.8.3 Copies of the Commission's minutes shall be distributed to the designated representatives of all employee organizations representing the District's classified employees, the Commission members, the Board, the District Superintendent and others who have indicated their interest in such matters.

**20.2.9 CONDUCT:** Robert's Rules of Order shall prevail for Commission meetings, except where they may conflict with the procedures of the Commission. Additionally, all meetings are governed by the rules of parliamentary procedures and the Ralph M. Brown Act (Govt Code §45950).

Reference: Education Code Section §45260



## **20.3 COMMISSION EMPLOYEES**

**20.3.1 STATUS OF COMMISSION EMPLOYEES:** The Director shall be selected by the Commission and shall be viewed as an employee of the Personnel Commission. Other members of the Commission office staff who are required to carry out the responsibilities of the Commission shall be responsible to the Personnel Commission. It shall be noted that persons so employed shall be a part of the District's classified service and subject to all the rules, procedures, benefits, and burdens pertinent to the classified service, except as the Commission may specifically direct.

Reference: Education Code Sections §45260 and §45264

**20.3.2 STATUS AND GENERAL DUTIES OF THE DIRECTOR:** As delegated by the Commission, the Director is the managing representative of the Commission and responsible for the day-to-day operations of the Commission office and assigned staff. They shall have the positional authority to select Commission office staff. The Director shall perform all the duties assigned and carry out all the functions imposed upon them by law, these rules and regulations. They shall act as Secretary to the Personnel Commission and shall issue and receive all notifications on its behalf. They shall direct and supervise the employees of the Commission and conduct administrative transactions consistent with the law and necessary to the proper functioning of the office and staff of the Personnel Commission. In cases where two (2) or more rules or regulations 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, subject to appeal to the Personnel Commission.

20.3.2.1 The Director shall be evaluated annually by the Commission. A new Director shall be evaluated three times during the twelve (12) month probationary period at the three (3), eight (8) and eleven (11) month of the probation.

20.3.2.2 The Director shall oversee and maintain the Commission budget and any expenditure of funds involving a Commissioner or in excess of \$8,000.00 shall be agendized for Commission approval at a Commission meeting.

- 20.3.2. The Director shall conduct classification reviews, salary surveys, research rule revisions and make other investigations into items governed by the Commission and their rules as directed. The Director shall be responsible for the overall management of all matters involving an appeal of disciplinary action(s) taken by the Board involving members of the Classified Service. The Director may also be empowered as the Certifying Officer for the Commission.
- 20.3.3 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.

Reference: Education Code Sections §45260 - §45261, §45266 and §45312

## **20.4 COMMUNICATIONS**

**20.4.1 COMMUNICATIONS:** Communications and requests shall, when practicable, be in writing. Communications and requests shall be acknowledged and replied to, noting official Commission action whenever it is appropriate to do so.

- 20.4.1.1 Since it is against the policy of the Personnel Commission to take up or consider matters except at open meetings, individuals or groups who seek interviews with particular commissioners regarding matters which may later be placed before the Personnel Commission for consideration shall be referred to the Commission Office; specifically to the Director who shall have the positional authority to investigate matters requested to go before the Personnel Commission. Such individuals or groups will be asked to put the matters in writing in accordance with 20.2.6.3.

- 20.4.2 INTERVIEWS WITH COMMISSIONERS:** Individuals or groups who seek interviews with particular Commissioners as to matters which may later be placed before the Commission for a decision; shall be referred to the Commission office. It is against the policy of the Commission to take up such matters except at open meetings. Such information shall be requested by individual or groups to be placed on the Commission agenda.

Reference: Education Code Section §45260

## **20.5 PERSONNEL COMMISSION BUDGET**

- 20.5.1 DUTIES:** The Director shall prepare and submit a proposed operating budget to the Commission for the next fiscal year. In preparation of the Commission budget, the Director shall meet with the District's designated Business Officer to discuss the proposed Commission budget. The budget shall be submitted for a first reading not later than the regular meeting in April.

- 20.5.1.1 After preparation and study, the Commission shall provide for a public hearing on its proposed budget, to be held prior to submission to the County not later than June 30th.
- 20.5.1.2 Prior to the public hearing on its budget, the Personnel Commission shall forward a copy of its proposed budget to the Board indicating the time, date, and place of the public hearing, and shall invite the Board and District Administration representatives to attend the meeting and to present their views regarding the proposed budget. The Commission shall fully consider the views and opinions expressed by the Board and Administration representatives in adopting its budget for the ensuing fiscal year.
- 20.5.1.3 Following its adoption of a budget for the ensuing year, the Commission shall then forward its adopted budget to the County Superintendent of Schools for action.

- 20.5.1.4 Upon approval by the County Superintendent of Schools, the Commission budget shall be incorporated into the budget of the Barstow Unified School District.
- 20.5.1.5 If the Board of the Barstow Unified School District does not feel that its' views, as expressed during the Commission's public hearing on the budget, have been fully considered by the Personnel Commission in the adoption of the budget; the Board may then forward its concerns to the County Superintendent of Schools.
- 20.5.1.6 The County Superintendent of Schools may reject the Personnel Commission's adopted budget but may not amend the budget without the approval of the Commission. In the absence of agreement between the Personnel Commission and the County Superintendent of Schools regarding the amount of money to be budgeted for the Commission's operations, the amount of the prior year's budget shall determine the amount of the new Personnel Commission budget. However, the items of expenditure within that new budget shall be determined by the Commission.
- 20.5.1.7 If the Commission's adopted budget is rejected by the County Superintendent of Schools; and the Personnel Commission, by majority vote, feels that the resulting budget does not provide sufficient funds to adequately carry out the functions of the Act, the Personnel Commission reserves the right to seek judicial review and relief.

Reference: Education Code Sections §45253 and §45260

## **20.6 PERSONNEL COMMISSION ANNUAL REPORT**

- 20.6.1 ANNUAL REPORT:** The Director shall prepare an annual report of the Commission's activities. When approved by the Commission, the annual report shall be submitted to the Board no later than the Board's regularly scheduled December meeting.

- 20.6.1.1 The report shall be prepared for Commission approval as soon as possible after the close of each fiscal year, but no later than the Commission's first regularly scheduled meeting in November. The report shall cover the Personnel Commission's activities for the preceding fiscal year.

Reference: Education Code Section §45266

## **20.7 LEGAL COUNSEL FOR THE PERSONNEL COMMISSION**

- 20.7.1 LEGAL COUNSEL:** The legal counsel for the Board shall also aid and represent the Commission in all legal matters. If such counsel refuses, or if the Commission or legal counsel determines that a conflict of interest may exist, the Commission may employ its own legal counsel and the reasonable cost therefore shall constitute a legal charge against the District's general funds, whether or not the costs for such legal services appear in the Commission's budget.

Reference: Education Code Section §45313

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## CHAPTER 30

### POSITION CLASSIFICATION PLAN

#### 30.1 THE CLASSIFIED SERVICE

**30.1.1 POSITIONS INCLUDED:** All positions established by the Board or Commission which are not exempt from the classified service by law shall be a part of the classified service of the District. All employees serving in classified positions shall be classified school employees. The employees and positions shall be known as the Classified Service.

30.1.1.1 No person whose contribution to the District consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exemptions established by law shall be employed outside of the classified service.

Reference: Education Code Sections §44065, §44066, §44068, §44069, §45103 - §45106, §45108, §45256, §45256.5 and §45259

**30.1.2 EXEMPTION FROM THE CLASSIFIED SERVICE:** Positions required by law to have credentialing qualifications, full-time day students employed part-time, AVID or college tutors, volunteers, walk-on coaches, adult students employed as part-time student workers for the Adult school, students employed in part-time college work study programs or in a legally authorized work experience program conducted by a community college district, apprentices, community representatives and professional experts employed on a temporary basis for a specific project by the Board or by the Commission provided that the Commission has agreed to designate such persons as professional experts, shall be exempt from the classified service.

Reference: Education Code Sections §44065, §44066, §44068, §44069, §44814, §44815, §45103 - §45106, §45108, §45256, §45256.5, §45258, §45259, §51760, §51760.3 and §51764

**30.1.3 PART-TIME DEFINED:** A part-time position for the purpose of exemption under Commission Rule 30.2 is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis is less than eighty-seven and a half percent (87.5%/seven (7) hour) of the normally assigned time for the majority of employees classified service.

Reference: Education Code Sections §45256 and §45260

**30.1.4 EFFECT OF EXEMPTION:** Any position or employee lawfully exempted from the classified service shall be excluded from the benefits and burdens imposed by these rules and regulations, except as otherwise provided by law, the Board or these rules and regulations.

Reference: Education Code Sections §44065, §45103, §45106, §45256, §45256.5, §45258 and §45260

**30.1.5 PROFESSIONAL EXPERT ASSIGNMENTS:** Whenever the use of a professional expert assignment is being contemplated, the administration shall submit to the Director 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 employee so assigned, nor shall a limited-term position be filled by the assignment of a professional expert if the duties and responsibilities to be performed by the person fit an existing class.

30.1.5.1 When the person is known, who is to be employed as a professional expert, their name as well as the data relative to their qualifications shall be submitted to the Director. In order to be exempt from the classified service as a professional expert, an individual must be recognized as such by reputable members of their own profession. Evidence of professional qualifications must be presented to the Commission at the time that the written request for such temporary appointment is made. The duration of the authorization for a person to serve as a professional expert shall be determined by the Commission, based upon the request of the Board. However, authorization for service as a professional expert shall not exceed six



(6) months. Under extraordinary circumstances, the Commission may approve an extension of the assignment, with the total period of the original assignment and extension not to exceed twelve (12) months.

Reference: Education Code §45256 and §45260

**30.1.6 RESTRICTED POSITIONS:** If specially-funded programs of the District are required, as a part of such program, to employ persons of low-income groups, from designated impoverished areas or such other criteria that limits the privilege of all citizens to compete for employment in such positions, those positions shall, in addition to the regular class title, be classified as restricted. The selection and retention of employees in such positions shall be made on the same basis as that of persons selected and retained in positions that are a part of the regular school program, except that persons employed in the following restricted classifications need not participate in the same type of selection processes as other similar non-restricted positions: 1) The position of Instructional Aide (Restricted), and 2) Any other position involving personal contact with pupils or parents established to assist regular school personnel that are responsible for school-community relations, educational support services, or prevention of behavioral problems.

30.1.6.1 Exempt From Certain Rights: Persons employed in Restricted positions shall be classified employees for all purposes except:

30.1.6.1.1 They shall not attain permanent status.

30.1.6.1.2 They shall not be accorded seniority rights in the event of layoff.

30.1.6.1.3 They shall not be eligible for promotions within the classified service until they have complied with the provisions of Commission Rule 30.1.6.2.

- 30.1.6.2 Provided Rights: Employees serving in restricted positions may, after completion of six (6) months of satisfactory service, 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, as a result thereof, and regardless of the employee's numerical standing on the eligibility list, the employee shall become a member of the regular classified service of the District, even though such person may continue to serve in the restricted position. Employees who have attained regular permanent status with the District 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.
- 30.1.6.3 Prohibited Uses: Funds derived from the Federal Emergency Employment Act or any similar law enacted to provide transitional employment in public service positions for unemployed or under-employed persons shall not be expended for work that:
- 30.1.6.3.1 Would otherwise have been performed at federal, state, or local expense;
  - 30.1.6.3.2 Would result in a decrease in the employment which would otherwise be available;
  - 30.1.6.3.3 Would result in the displacement of members of the classified service, including partial displacement, such as reduction in the hours of non-overtime work or wages or employment benefits or;

30.1.6.3.4 Would impair the existing rights of probationary and permanent members of the classified service.

Reference: Education Code Sections §45105, §45108, §45259, §45260 and §45261

## **30.2 GENERAL CLASSIFICATION RULES**

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

Reference: Education Code Sections §45100, §45104, §45105, §45109, §45240, §45241, §45264, §45266 and §45276

**30.2.2 THE GENERAL CLASSIFICATION PLAN:** The Commission shall classify all employees and positions within the jurisdiction of the Board or the Commission, except positions which the Commission determines are exempt from the Classified Service pursuant to Rule 30.1.2. The Commission shall maintain a classification plan for all positions in the Classified Service, organized by class series and occupational hierarchy. Knowledge, skills and abilities from lesser classifications within job families may be inclusive within the knowledge, skills and abilities of higher classifications in the same job family. This principle is the underpinning that increased knowledge, skills and abilities allows for movement in the promotional direction. The Commission may create new classes and abolish, divide, or combine existing classes within the classification plan as the needs of the classified service require as determined by the Commission. The list of classes shall contain designation of the salary rate or range applicable to each class. For purposes of this rule, classification shall include, but not be limited to:

30.2.2.1 Allocation of all positions to appropriate classes.

30.2.2.2 Arrangement of classes into occupational hierarchies or job families. These families include the following: (but are not limited to):

Clerical	Nutrition Svcs	Safety/Security
Finance	Ops/Maint	Technology
Instructional	Ops/Custodial	

30.2.2.3 Determination of reasonable percentage relationships between classes within the occupational hierarchies.

30.2.2.4 Determination of reasonable percentage relationships between occupational hierarchies.

30.2.2.5 Preparing written class specifications.

Reference: Education Code Sections §45100, §45104, §45105, §45109, §45241 and §45256

**30.2.3 CLASS SPECIFICATIONS:** For each class, the Commission shall establish and maintain a class specification which may include:

30.2.3.1 The class title.

30.2.3.2 A definition of the class, indicating the type of duties and responsibilities and placement within the organizational scheme.

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

30.2.3.4 A statement of the essential duties or functions to be performed by persons holding positions allocated to the class.

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

- 30.2.3.6 A statement about any license, certificates, or other special requirements for employment or service in the particular class.
- 30.2.3.7 A statement about any physical requirements required of positions in the class.
- 30.2.3.8 A statement about any additional qualifications considered to be so desirable that any person applying for employment who possesses such qualifications may be given additional credit in the evaluation of their qualifications, even though such additional qualifications were not listed as a prerequisite.
- 30.2.3.9 Minimum qualifications shall not require a teaching, administrative, or other credential, nor may they require work experience which would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials.
- 30.2.3.10 The title of the class shall be used as the title of all positions in the class on payrolls submitted to the Commission for auditing and in the records and correspondence of the Commission and the Board.

Reference: Education Code Sections §45256, §45260, §45273, §45276, §45277, §45285 and §45285.5

**30.2.4 INTERPRETATION OF CLASS SPECIFICATIONS:** The class specifications and their various parts have the following force and effect:

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

- 30.2.4.2 Each class specification shall contain a listing of those duties and responsibilities, which in the judgment of the appointing authority, are essential to the successful accomplishment of the job. When they have been determined or modified, they shall be sent to the Commission in order that the class specification be modified accordingly.
- 30.2.4.3 The specification for each class is considered as a whole in determining the class to which any position shall be allocated - giving consideration, not to isolated clauses, phrases or words, but to the essential duties, responsibilities, specific tasks and qualification requirements as affording a picture of the positions that the class includes.
- 30.2.4.4 Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series in such manner as to maintain a proper relationship in the series in which the class is located and proper differentiation within the group of classes.
- 30.2.4.5 The following personal qualification requirements apply to all classes even though not necessarily specifically mentioned in the specification: good health and freedom from work related disabling defects and communicable diseases; good physical condition and agility and strength commensurate with the duties of the class; integrity; sobriety; industriousness; initiative; resourcefulness; dependability; good judgment; good moral character and reputation; loyalty; ability to work cooperatively with others; and willingness and ability to assume the responsibilities and to conform to the conditions of work characteristics of the particular position.
- 30.2.4.6 The statement of qualification requirements, when considered with other parts of the specification, is to be used as a guide in the announcement and preparation of tests and in the evaluation of the

qualifications of candidates seeking appointment, but does not require a particular form or content of test or testing procedure.

Reference: Education Code Sections §45256, §45260, §45273, §45276, §45277, §45285 and §45285.5

**30.2.5 CREATION OF NEW POSITIONS:** When the Board creates a new position, it shall submit the duties officially assigned to the position, in writing, to the Director. The Director shall present recommendations to the Commission for action. The Commission shall:

- 30.2.5.1 Determine if the new position shall be a part of the Classified Service or exempt under Rule 30.1.2.
- 30.2.5.2 Classify the position and determine whether the position should be allocated to an existing class or whether a new class should be established.
- 30.2.5.3 If a new class is recommended, the Director, shall set forth a proposed class specification setting out the title, essential duties, KSA's and minimum qualifications. The qualifications approved by the Commission must reasonably relate to the essential duties assigned to the position by the Board.
- 30.2.5.4 The Commission shall recommend the proper salary placement on the appropriate classified salary schedule. Salary placement is subject to negotiations as long as the placement does not disturb the relationship with other classifications on the salary schedule.
- 30.2.5.5 The Commission shall have the Director notify the Board of the Commission's action.

Reference: Education Code Sections §45104, §45105, §45109, §45241 and §45256

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

Reference: Education Code Sections §45256, §45260, §45273, §45276, §45277, §45285 and §45285.5

**30.2.7 CHANGES IN DUTIES OF POSITIONS:** Any substantial change in the duties of existing positions shall be promptly reported in writing to the Director, who shall conduct a review to determine if the matter should be referred for Reclassification as set forth in 30.3 or acted upon immediately. Should a change in classification be warranted or necessary, the Director shall submit their recommendation to the Commission for action. Classifications and positions within the purview and scope of Collective Bargaining shall have the effects of any changes to existing positions/classifications negotiated.

Reference: Education Code Sections §45256, §45260, §45273, §45276, §45277, §45285 and §45285.5

**30.2.8 WORKING OUT OF CLASSIFICATION:** Each classified employee shall be required to perform the essential duties approved by the Board and classified by the Commission for the classification to which they are assigned. Classified employees shall not be required to perform duties and responsibilities which are not fixed and prescribed for their positions by the Board unless the duties assigned reasonably relate to those fixed for the position by the Board, for any period of time which exceeds five (5) working days within a fifteen (15) calendar day period except as provided by this rule. An employee may be assigned to work outside the scope of their normally assigned duties, provided that their salary is adjusted as outlined below:

30.2.8.1 An employee may be required to perform duties inconsistent with those assigned to a higher position by the governing board for a period of more than five (5) working days provided that their salary is adjusted upward for the entire period they are required to work out of classification.



- 30.2.8.2 Working out of class in a lower classification or to another classification on the same range, shall not constitute a change in salary.
- 30.2.8.3 Whenever an employee is required to perform all or the majority of the assigned duties of a higher classification, the salary shall be adjusted upward to the salary range of that classification, and then to the step of their range that will provide the employee at least a 5% increase above the employee's regular salary for the duration of the assignment.
- 30.2.8.4 Working out of class assignments are designed for temporary situations and shall not be used to place an employee in a long-term or permanent assignment in a different classification. No employee shall be assigned to work out of class for more than ninety (90) working days in one fiscal year or for more than one assignment without the approval of the Commission. An example of the kind of exemption allowed by the Commission would be the temporary replacement of an employee on a long-term leave where the employee is assigned to work out of class for the duration of the absent employee's leave. No working out of class assignment shall exceed ninety (90) days without the specific approval of the Commission.
- 30.2.8.5 If an employee is required to perform essential duties which are not allocated to an existing class, the assignment shall be reported to the Director in writing so that a review may be conducted to determine the appropriate pay differential for the temporary assignment and/or the need to create a new classification.
- 30.2.8.6 A claim for pay differential for working out of class shall be submitted to the Director within thirty (30) days of assignment by the employee or the supervisor. The Director will notify the supervisor upon receipt of a claim submitted by an employee.

- 30.2.8.7 A claim for a pay differential for working out of class must contain a list of the assigned duties.
- 30.2.8.8 The Director shall review the assigned duties and shall determine if the duties are of a different classification. If the requirements of Section 30.2.8 are satisfied, the Director shall recommend approval to the Commission of an appropriate pay differential consistent with these rules.
- 30.2.8.9 If the Director's review determines that the assigned duties are not of an equal or higher classification, the Director shall notify the employee, the appropriate supervisor and present the findings to the Commission at the next regular meeting.
- 30.2.8.10 These rules shall not be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.

Reference: Education Code Sections §45110, §45256, §45260, §45285 and §45285.5

**30.2.9 REVIEW OF POSITIONS:** The Director shall review the duties and responsibilities of positions as necessary to determine their proper classification and shall cause all positions to be reviewed periodically. If the Director finds that a position or positions should be reclassified, they shall advise the Administration of their 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 their findings to the Commission for appropriate action. The Director shall also report the findings in cases where the review indicates that a change of classification is not warranted.

Reference: Education Code Sections §45256, §45260, §45268, §45285 and §45285.5

**30.2.10 POSITIONS REQUIRING SPECIAL LANGUAGE OR SKILLS:**

The Board may request that the Commission designate certain positions within a class or classes to require the holder of the position to possess a special skill, license, or language. The Board must clearly set forth valid reasons for requesting such special requirements and shall designate such a requirement as a Bona Fide Occupational Qualification (BFOQ) as defined under Title VII of the Civil Rights Act of 1964. The duties of the position must be the same as those for all other positions within the classification, except for this special requirement.

30.2.10.1 An announcement calling for an examination for a class with position(s) containing special requirements will contain appropriate information and will indicate that successful candidates possessing the special skill will be given preference over other successful candidates.

30.2.10.2 When a vacancy occurs in a position which has approved special skill requirements, the position shall revert back to the standard requirements unless the Board states that the position should still possess the special requirements and the Commission concurs.

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

Reference: Education Code Sections §45104, §45105, §45109, §45241, §45256 and §45277

**30.2.11 DELETION OF CLASSIFICATIONS:** The Commission shall eliminate a classification when the Board has abolished all positions in a classification. If, at a later time or when necessary, a new classification shall be created by the Commission when the Board has recognized the need to re-establish positions with functions/duties that will fill a need in the Classified Service.

### **30.3 RECLASSIFICATION**

**30.3.1 RECLASSIFICATION PROCEDURE:** The Commission shall maintain a system whereby an employee may request an appeal or review of their assigned classification. The Commission shall also conduct studies as it deems necessary to review classifications and maintain internal alignment in the Classified Service.

**30.3.1.1** The only basis for reclassification of a position shall be the gradual accretion or measurable addition of duties. Procedures involving the review of requests for reclassification of bargaining unit members shall be handled in accordance with the bargaining unit agreement. In all other cases, recommendations as to gradual accretion will be made by the Director, and the Commission shall be the final approving authority.

**30.3.1.2** Requests for review of positions in the bargaining unit shall be made in accordance with the collective bargaining unit contract. Requests for review of non-represented classes shall be made as prescribed by the Commission. Requests for a reclassification or classification study of a non-represented existing position shall be presented in writing to the Director, together with a statement setting forth the reasons for the request. Requests for the reclassification or classification study of a position may be initiated by an employee or the District Administration. Requests initiated by an employee shall include a listing of duties and a statement indicating the reasons the employee feels a reclassification is justified. Requests initiated by the District Administration shall include the above information as well as a statement by the employee's supervisor verifying the authorized duties of the position.

- 30.3.1.3 If a request for reclassification results in a recommendation of no change, a twelve (12) month time period must elapse before another request for reclassification review may be submitted. If a reclassification is approved, twenty-four (24) months must elapse before another request will be considered for the same position.

Reference: Education Code Sections §45256, §45260, §45268, §45285 and §45285.5

**30.3.2 EFFECTIVE DATE OF RECLASSIFICATION:** Reclassification of a position or positions covered by a bargaining unit agreement shall become effective on the date prescribed by the Commission. Reclassification shall not normally have retroactive effect. Changes in classification and salary resulting from the permanent reclassification of a position(s) shall be effective no later than whichever of the following dates is applicable:

- 30.3.2.1 The first of the month following the Commission's approval of the reclassification provided the employee is eligible to be reclassified with their position without examination as specified in these rules.
- 30.3.2.2 The first of the month following the date on which the employee becomes fully qualified for the position by successfully completing all parts of the selection procedure.
- 30.3.2.3 The first of the month, ninety (90) days following the reclassification submission deadline, when the reclassification process has resulted in an extended delay (submission, scheduling of panel, disapproval, appeal, and job audit) and that this delay is through no result of the employee requesting reclassification. At no time shall the effective date be designated as such that the effective date is in a prior fiscal year. (Example: if a request is submitted in accordance with

the normal submission deadline of September 30<sup>th</sup>, and the resultant process takes more than nine (9) months crossing over into the next fiscal year; the effective date could be set then to the first of the month at the start of the new fiscal year).

Reference: Education Code Sections §45256, §45260, §45268, §45285 and §45285.5

**30.3.3 NOTIFICATION OF RECLASSIFICATION:** Notification of a recommendation for the classification or reclassification of a position or employee shall be given to the employees affected, their exclusive representative, the employee's supervisor, and the District Administration before the classification proposal is adopted.

Reference: Education Code Sections §45256, §45260, §45268, §45285 and §45285.5

**30.3.4 RECLASSIFICATION OF VACANT POSITION:** If a reclassification occurs to a vacant position, the position shall be filled through normal selection procedures.

Reference: Education Code Sections §45256, §45260, §45268, §45285 and §45285.5

**30.3.5 EFFECTS OF RECLASSIFICATION ON INCUMBENTS:** Whenever a position or entire classes of positions are reclassified the rights of incumbents will be determined in accordance with these rules and regulations.

30.3.5.1 Reclassification Upward: When all of the positions in a class or one or more positions are reclassified to a higher class, the incumbents of the positions who have been in the class for two (2) or more years shall be reclassified by the Commission with their positions.

- 30.3.5.1.1 When one or more positions within a class are reclassified upward, the incumbent(s) in the position who have/has a continuous employment record of two (2) or more years in the position being reclassified shall be reclassified by the Commission with their position.
- 30.3.5.1.2 In order for an incumbent to be reclassified with their position, the basis for the reclassification of the position must be the gradual accretion of duties and not a sudden change occasioned by reorganization or the assignment of completely new duties and responsibilities. Determination as to the gradual accretion of duties will be on the basis of the guidelines provided by the rules and regulations of the Commission.
- 30.3.5.1.3 An employee who has been reclassified with their position shall be ineligible for subsequent reclassification with their position for a period of at least two (2) years from the date of the prior reclassification action.
- 30.3.5.1.4 In cases of upward reclassification where the incumbent has not been in the position for two (2) years, the incumbent shall be granted status in the higher class upon passing *a qualifying examination* for the higher class as determined by the Commission. A qualifying examination is defined as one in which *only incumbents of reclassified positions may compete*. The incumbent must meet the employment standards for the position and achieve a passing score on the examination.

30.3.5.1.5 When an employee obtains status in the higher class upon passing a qualifying examination, the change of classification shall be treated as a promotion.

30.3.5.2 Reclassification Equal or Lower: When all of the positions in a class or group of positions is reclassified to another class, or one or more positions in a class are reclassified to a lower class in a lower salary range, incumbent shall have the following rights:

30.3.5.2.1 The right to bump a less senior employee in the same class pursuant to bumping procedures outlined in the layoff provisions of these rules.

30.3.5.2.2 The right to bump a less senior employee in any equal or class in a lower salary range which the incumbent formerly served, pursuant to bumping procedures outlined in the layoff provisions of these rules.

30.3.5.2.3 The right to be demoted or to transfer without examination to the class to which their position is reclassified and shall be "Y"-rated at their current salary range.

30.3.5.2.4 The employee may choose to transfer, demote, or exercise bumping rights at their option, and their choice shall not affect their rights under Commission Rule 30.3.8.

30.3.5.2.5 When an employee is demoted to a position at a lower salary range due to displacement, reclassification, or abolishment of their position, the employee's salary shall be "Y"-rated.



30.3.5.2.6 The "Y"-rate shall terminate on the effective date of an annual salary increase which results in the Y-rate falling within the salary range of a class in a lower salary range or the date a vacancy exists in the same class from which the employee was Y-rated if the employee fails to accept the vacancy to remain in the class with a lower salary range. The Y-rate terminates on the earlier of these dates.

Reference: Education Code Sections §45256, §45260, §45268, §45285 and §45285.1

**30.3.6 DEFINITION OF GRADUAL ACCRETION:** For purposes of these rules, gradual accretion of the measurable addition of duties must occur over a period of two (2) or more years while the employee is assigned to the same position and classification. Determination as to gradual accretion will be based on an analysis of data to be supplied by the division or school, as well as the Commission staff, regarding the following factors:

- 30.3.6.1 The nature and scope of each identified change in duties and responsibilities.
- 30.3.6.2 The exact or approximate date the incumbent began the performance of the newly acquired duties and responsibilities.
- 30.3.6.3 The conditions which led to the association of the added duties and responsibilities with the subject position.
- 30.3.6.4 Evidence of the employee's performance of the added duties and responsibilities.

Reference: Education Code Sections §45256, §45260, §45268, §45285 and §45285.1

**30.3.7 EFFECT ON RE-EMPLOYMENT AND ELIGIBILITY LISTS:** The reclassification of a position or all positions in a class automatically re-titles the re-employment list for that class. The Commission shall also review the appropriateness of the current eligibility list for the class to determine whether or not it should be reclassified. Salary re-allocations of classes shall have no effect on lists unless a specific finding to the contrary is made by the Commission.

Reference: Education Code Sections §45256, §45260, §45268, §45285 and §45285.1

**30.3.8 RE-EMPLOYMENT LISTS FOR DISPLACED INCUMBENTS:** Any displacement of a regular employee resulting from a reclassification of a position, or a class of positions, shall be considered a layoff for lack of work, and an appropriate re-employment list will be established in accordance with these rules.

30.3.8.1 Persons laid off because of a reclassification are eligible for re-employment for a period of thirty-nine (39) months and shall be re-employed in preference to new applicants. In addition, such laid-off persons have the right to participate in promotional examinations within the District during that thirty-nine (39) month period.

30.3.8.2 Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff due to a reclassification, or to remain in their present positions rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall retain eligibility to be considered for re-employment for an additional period of twenty-four (24) months, provided that the same tests of fitness still apply as determined by the Commission.

Reference: Education Code Sections §45260, §45285, §45298 and §45308

## CHAPTER 40

### APPLICATION FOR EMPLOYMENT

#### 40.1 APPLICATION

**40.1.1 FILING OF APPLICATIONS:** All applications for employment shall be submitted through the application program utilized by the Commission. Every item shall be answered in full and the application filed on or before the time and date specified in the employment opportunity bulletin.

40.1.1.1 Applicants taking more than one (1) examination must file a separate and complete application for each examination unless otherwise directed.

40.1.1.2 In accordance with state and federal law, for affirmative action and federal/state reporting purposes, questions regarding ethnicity, sex, age, and disability condition shall be placed on a separate form. Answers to such questions shall be voluntary, and no other information shall be requested relative to race, religious creed, color, national origin, ancestry, disability condition, medical condition, marital status, sex, sexual preference, or age prior to employment.

40.1.1.3 Applications and examination papers are confidential and become the property of the Commission and shall not be returned to the applicant.

Reference: Education Code Sections §45260 and §45272

**40.1.2 GENERAL QUALIFICATIONS OF APPLICANTS:** Applicants must be permanent residents of and/or must otherwise prove their right to work in the United States and must possess all other requirements that are specified in the qualifications established for the class. Every applicant must be mentally and physically competent to perform the duties of the position for which applying.

- 40.1.2.1 Every qualified applicant shall have an opportunity to seek, obtain, and hold permanent employment without discrimination because of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, gender origin, sex, sexual preference, or age.
- 40.1.2.2 Residency within the District shall not be a condition for filing applications or offering employment except in the case of restricted positions which require specific residency.
- 40.1.2.3 No maximum age limit shall be set as a condition for initial or continued employment in the District.
- 40.1.2.4 Disabled persons shall be given equal employment opportunity and reasonable accommodation shall be made where possible.

Reference: Education Code Sections §45105, §45111, §45122, §45123, §45124, §45134, §45260 and §45272  
Government Code Section §12921

## **40.2 DISQUALIFICATION OF APPLICANTS AND CANDIDATES**

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

- 40.2.1.1 Failure to meet the general qualifications of Rule 40.1.2.
- 40.2.1.2 Advocacy of the overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.

- 40.2.1.3 Conviction, either by a plea of guilty or nolo contendere, a court decision or a jury verdict to a charge of a narcotics or controlled substance offense as defined in Education Code Sections 44011, or a charge of moral turpitude, any sex offense as defined in section 44010, or mistreatment of children or a serious or violent felony as defined in Education Code Section 45122.1.
- 40.2.1.4 A history of controlled substance abuse without acceptable evidence of rehabilitation.
- 40.2.1.5 Conviction, either by a plea of guilty or nolo contendere, a court decision or a jury verdict of a felony or serious crime or a record of one (1) or more convictions which would indicate that the person is a poor employment risk. A conviction record will be evaluated on the following basis; nature, seriousness and circumstances of the offenses; age of the person at the time and recency of the offense; number of convictions; relationship of the offense to the position applied for; evidence of rehabilitation and maturing including the employment record with respect to job responsibility and duration; truthfulness in admitting to the offense; the person's attitude; and the duties of the class.
- 40.2.1.6 Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form.
- 40.2.1.7 Practicing any deception or fraud in connection with an examination or to secure employment.
- 40.2.1.8 Obtaining or attempting to obtain either directly or indirectly, privileged information regarding test questions or examination content.
- 40.2.1.9 Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District under these rules.
- 40.2.1.10 Any previous dismissal or release from the District.

- 40.2.1.11 A record of unsatisfactory service within the District as evidenced by a disciplinary action, a performance improvement plan, unsatisfactory job performance notice or a resignation in lieu of dismissal by the Board.
- 40.2.1.12 Discharge for other than honorable reasons from the Armed Forces of the United States, including the National Guard and reserve components thereof.
- 40.2.1.13 Refusal to furnish testimony, other than self-incriminating, at a hearing or investigation before the Commission or the Board.
- 40.2.1.14 Unsatisfactory health conditions which clearly indicate that the applicant or candidate would be unable to perform the essential duties of their job with or without reasonable accommodations or would endanger their health and safety or the health and safety of others as recommended by a licensed medical profession specializing in industrial or occupational medicine.
- 40.2.1.15 Attempting to or making contact with any member of the Board or the Commission with the intent of attempting to favorably influence the recruitment, examination, and/or selection process in any way. Exempted from this restriction would be any formal appeal of the recruitment/examination/selection process to the Commission as a whole by any candidate through the established appeal process.
- 40.2.1.16 Failure, after due notice, to report for review of any of the above causes for disqualification within fourteen (14) calendar days.
- 40.2.1.17 Failure to report for duty after an assignment has been offered and accepted within fourteen (14) calendar days.
- 40.2.1.18 Physical or mental unfitness for the performance of the duties of the class, not subject to reasonable accommodations.

- 40.2.1.19 Failure to execute the oath or affirmation of allegiance required by the State of California (Section 3, Article 20 of the California Constitution).
- 40.2.1.20 Criminal, infamous, dishonest, immoral, or disgraceful conduct according to standards approved by the Commission. The following definitions apply:
  - 40.2.1.20.1 Criminal - Conviction of crime(s) specifically set forth in the Education Code as cause(s) for rejection or termination.
  - 40.2.1.20.2 Infamous - Crimes against nature.
  - 40.2.1.20.3 Dishonest - Thefts, burglaries, truthfulness of information provided.
  - 40.2.1.20.4 Immoral - sex offenses, more specifically those set forth in the Education Code as causes for termination.
  - 40.2.1.20.5 Disgraceful Conduct - Drunk or fighting in public, insulting, slandering a fellow employee.
- 40.2.1.21 Narcotics offense, drug addiction, as defined in Health and Safety Code Section 11001, use of intoxicating beverages to excess or evidence of being under the influence of intoxicating beverages or controlled substances while on duty.
- 40.2.1.22 Conviction of a crime involving narcotics or substance abuse, violence of moral turpitude, or conviction of crime where the nature of the crime is such that it will indicate that the applicant is a poor employment risk or the position(s) for which they are applying.
- 40.2.1.23 Involuntary separation from the Barstow Unified School District because of incompetence or inefficiency, or any disciplinary cause, or voluntary separation while such charges were pending against such employee.

- 40.2.1.24 Directly or indirectly obtaining or seeking to obtain question(s) to be utilized in any examination given or to be given by the Commission.
- 40.2.1.25 Failure to submit application for employment correctly or within the prescribed time limits.
- 40.2.1.26 Failure to submit to and pass a pre-employment medical evaluation (may include screening) or failure to satisfactorily pass the medical examination including the drug and tuberculosis test as recommended and/or conducted by a licensed medical professional.
- 40.2.1.27 Other reasons deemed sufficient by the Commission.

Reference: Education Code Sections §45111, §45122, §45123, §45124, §45134, §45260, §45261 and §45303

**40.2.2 APPEAL FROM DISQUALIFICATION:** Any applicant, candidate, and/or eligible disqualified based on Rule 40.2 shall be notified in writing, indicating the reasons for disqualification and advising them that they have five (5) working days from receipt of notification to appeal the decision to the Director.

- 40.2.2.1 Anyone who has appealed a disqualification shall conditionally be permitted to take the examination pending final decision.
- 40.2.2.2 Upon receipt of an appeal, the Director shall conduct an investigation. If the decision is in favor of the applicant, they shall be notified and given rights as though the disqualification had not occurred. If the decision is to deny the appeal, the applicant may appeal to the Commission within five (5) working days after being notified.
- 40.2.2.3 Upon receipt of an appeal, the Commission shall conduct a hearing and shall receive evidence and render a decision within fourteen (14) calendar days.



If the Commission's decision is in favor of the applicant, they shall be given rights as though the rejection had not occurred. The decision of the Commission is final and binding on all parties.

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

Reference: Education Code Sections §45111, §45122, §45123, §45124, §45134, §45260, §45261 and §45303

- 40.2.3 SUBMITTING PROOF OF VETERAN'S PREFERENCE:** Any applicant who claims veteran's preference must submit Form DD214 at the time the employment application is submitted in order to receive the five (5) point veterans' credit. Any applicant who claims disabled veteran's preference must submit a copy of their Veterans Administration Disability Award Letter in order to receive the ten (10) point veterans' credit. Failure to submit Form DD214 or the VA Disability Letter at the time of application may result in veteran's credit not being considered or added to any passing score. Veteran's preference is applicable on examinations resulting in initial employment with the District; generally during all recruitments open to outside candidates.

Reference: Education Code Sections §45260, §45261, §45294, §45295 and §45296

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

Reference Education Code Sections §45260 and §45261

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## CHAPTER 50

### RECRUITMENT AND EXAMINATIONS

#### 50.1 RECRUITMENT

**50.1.1 ANNOUNCEMENT OF EXAMINATIONS:** The Commission shall direct the holding of examinations for the purpose of filling vacancies or creating eligibility lists for the Classified Service.

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

50.1.1.2 Whenever it is necessary to fill existing or anticipated vacancies and an appropriate eligibility list does not exist, the Commission shall announce each examination on an Employment Opportunities Bulletin which shall be distributed to all employee work sites and community locations for at least fifteen (15) working days. The Director shall determine the appropriateness and may place advertisements in newspapers, trade and business journals or other media. The Director shall insure that community agencies and organizations dealing with women, minorities, and the disabled are notified of examinations.

50.1.1.3 The Employment Opportunity Bulletin or Recruitment Bulletin shall contain

50.1.1.3.1. The job title and a brief description of the position and duties with minimum qualifications required for the position. The assigned job site(s) and work assignment(s).

50.1.1.3.2. The number of hours per day, work shift time if applicable, days per week, and number of workdays assigned per year to the position.

50.1.1.3.3. The salary range and the deadline for filing an application.

50.1.1.3.4. The general content of the examination and the types of tests to be given.

50.1.1.3.5. Such other information as will assist interested persons in fully understanding the nature of the employment and procedures necessary to participate in the examination.

Reference: Education Code Sections §45109, §45260, §45261, §45272 and §45278

## **50.2 EXAMINATIONS**

**50.2.1 DETERMINATION OF EXAMINATIONS:** The Commission shall determine the standards of proficiency to be required for each examination and determine whether the examination shall be:

50.2.1.1 Open Competitive

50.2.1.2 Promotional

50.2.1.3 Promotional and Open Competitive with the promotional list taking precedence

50.2.1.4 Merged promotional and open competitive

50.2.1.5 Continuous

Reference: Education Code Sections §45272 and §45284

**50.2.2 OPEN COMPETITIVE EXAMINATIONS:** All entry level classifications have an open competitive examination and veterans' preference points shall be allowed as specified in these rules. These examinations shall be open to all qualified applicants.

**50.2.3 PROMOTIONAL EXAMINATIONS:** Where an adequate field of competition exists within the District and examinations can reasonably be expected to result in three (3) qualified ranks of eligibles, the field of competition may be limited to promotional applicants.

50.2.3.1 Promotional examinations shall be restricted to regular permanent employees of the District which may include probationary employees who shall obtain permanence prior to appointment and former employees on a valid re-employment list who meet the qualifications of the class. Probationary employees shall only be considered when the examination is as defined in rule 50.2.4 below (promotional and open).

50.2.3.2 Performance evaluations and employee development appraisals prepared by the immediate supervisor and reviewed by the employee may be considered in evaluating an employee's general fitness for promotion. Probationary employees shall have evaluations completed as stated in PC Rule 130.1.3.1.

Reference: Education Code Sections §45103, §45260, §45261, §45272 and §45281

**50.2.4 PROMOTIONAL AND OPEN COMPETITIVE EXAMINATIONS:** Where an adequate field of promotional applicants does not exist or there is doubt as to its adequacy, the Director, may advertise the examination among employees and the general public.

50.2.4.1 Applicants shall be considered as a group in determining passing scores on the examination.

50.2.4.2 This examination procedure shall result in a promotional and an open eligibility list. The promotional eligibility list shall take precedence when certifying eligibles. When the promotional eligibility list does not contain sufficient ranks of eligibles, certification of additional ranks shall then be made from the open list.

Reference: Education Code Sections §45103, §45260, §45261, §45272 and §45284

**50.2.5 MERGED EXAMINATIONS:** Upon the recommendation of the Director, the Commission may authorize the holding of an examination under merged promotional and open competitive procedures. The resulting eligibility list shall consist of promotional and open competitive eligibles in one (1) merged list. Veteran's credits will be allowed on open examinations only. Seniority credit for promotional candidates will be allowed on all examinations.

Reference: Education Code Sections §45284 and §45291

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

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

Reference: Education Code Sections §45260, §45261, §45273, §45274 and §45292

**50.2.7 TYPES OF EXAMINATIONS:** Examinations shall be conducted by the Commission's staff and shall be administered objectively and shall consist of test parts that relate to job performance. The parts may be any of the following:

50.2.7.1 Written examination.

50.2.7.2 Practical demonstration of skill/performance.

50.2.7.3 Evaluation of applicants' training and experience submitted on application materials.

50.2.7.4 Evaluation of training, education, and experience by a qualifications appraisal interview (QAI) panel.

50.2.7.5 Other tests of fitness determined by the Commission.

Reference: Education Code Sections §45260, §45261, §45273 and §45274

**50.2.8 SCORING AND WEIGHTING OF TESTS:** All examination parts shall be prepared under the direction of the Director, who shall determine passing scores and assign relative percentage weights to each part. The procedure for setting percentage weights shall be impartial.

Reference: Education Code Sections §45260, §45261 and §45274

**50.2.9 ORAL INTERVIEW PANEL EXAMINATIONS:** If an examination requires the use of an oral interview panel, the Director, shall assure that the following rules are followed:

- 50.2.9.1 The panel shall consist of at least two (2) persons.
- 50.2.9.2 Employees of the District or of the Commission may serve on an interview panel if they are not at the first or second level of supervision over a vacant position in the class for which the examination is being held.
- 50.2.9.3 Unless specifically directed to evaluate candidates' technical knowledge and skills, the interview panel shall confine itself to evaluating general fitness for employment in the class.
- 50.2.9.4 When the interview panel is directed to evaluate technical knowledge and skills, at least two (2) members of the panel shall be technically qualified in the specified occupational areas under examination.
- 50.2.9.5 Members of the Board or Commission shall not serve on an interview panel.
- 50.2.9.6 Interviews shall be electronically recorded and filed in the Commission Office.
- 50.2.9.7 Scores achieved by the candidate on other parts of the examination shall not be made available to the interview panel.
- 50.2.9.8 In no case will an oral or performance examination board be provided with confidential references on employees of the District who are competing in examinations.

Reference: Education Code Sections §45260, §45261, §45273 and §45274

**50.2.10 STRUCTURED ORAL INTERVIEW EXAMINATIONS:** If an examination requires the use of a Subject Matter Expert (SME) to conduct a Structured Oral Interview, the Director shall assure that the following rules are followed:

- 50.2.10.1 The SME is currently working in that career field/industry.
- 50.2.10.2 Employees of the District or of the Commission may serve as a SME if they are not at the first or second level of supervision over a vacant position in the class for which the examination is being held.
- 50.2.10.3 The SME may be used to evaluate the general fitness for employment in the classification.
- 50.2.10.4 When the SME is used to evaluate technical knowledge and skills, they shall be technically qualified in the specified occupational areas under examination.
- 50.2.10.5 Members of the Board or Commission shall not serve as a SME.
- 50.2.10.6 Interviews shall be electronically recorded and filed in the Commission Office.
- 50.2.10.7 Scores achieved by the candidate on other parts of the examination shall not be made available to the SME.
- 50.2.10.8 In no case will a SME be provided with confidential references on employees of the District who are competing in examinations.

Reference: Education Code Sections §45260, §45261, §45273 and §45274

**50.2.11 EVALUATION OF TRAINING AND EXPERIENCE (T&E):** If a part of the examination is an evaluation of the applicant's training and experience, the evaluation shall be conducted by the Director, or individually and independently conducted by at least two (2) members of a committee other than the interview panel. The Director shall be responsible for determining which of these



processes will be utilized when the need arises. The Director shall determine and weight the passing scores of the training and experience evaluation.

Reference: Education Code Section §45260

**50.2.12 ADMISSION TO EXAMINATION:** Each applicant whose application has been approved shall be notified five (5) workdays in advance of the time, date, and place of the examination, and such notice shall be the applicant's authority to take the examination. No candidate may be admitted to any examination without this authorization or other satisfactory evidence of having filed an acceptable application. In addition, each candidate must provide proof of personal identification at time of examination admittance in order to take the test.

50.2.12.1 Employees of the district shall be given ample release time to compete in examinations/interviews; provided their supervisor has been given ample notification. In the case of a work emergency when the release of said employee for an examination/interview, a limited term substitute may be authorized.

50.2.12.2 Applicants shall be responsible for ensuring they have allotted ample time for travel/transit to arrive in a timely fashion. Once the examination has started, there will be no further admissions to the testing area.

50.2.12.3 Late/early examinations - applicants may request to take an examination earlier or later than the scheduled examination in the event of an unforeseeable incident occurs. The Director shall have sole discretion in granting an early or late make-up examination.

**50.2.13 EXAMINATION PROCEDURES:** Competitors in any written test must take the test on the prescribed date unless otherwise approved by the Director.

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

50.2.13.2 Where written tests are required, they shall be so managed that none of the test papers will disclose the name of any competitor until all papers of all competitors in a given examination have been marked and rated.

50.2.13.3 A competitor in any examination who places an identifying mark upon their test papers (other than the identifying mark prescribed at the time of examination) or makes an attempt to disclose to others the identity of their papers prior to the completion of the examination may be disqualified.

Reference: Education Code Sections §45260, §45261 and §45273

**50.2.14 RATING REQUIRED:** Candidates may be required to attain a designated minimum rating/passing score in each part or in combined parts of the selection process to qualify for participation in the next succeeding part.

Reference: Education Code Sections §45260, §45261 and §45273

**50.2.15 SENIORITY CREDIT:** Seniority credit shall be added to the final passing scores of candidates who have permanency with the District or who are on a valid re-employment list. A full year's credit shall be granted to employees whose regular position is assigned on less than a full calendar year basis or less than an eight (8) hour day. The following is the schedule of seniority credits allowed:

50.2.15.1 One (1) point from one (1) month permanency through the second year of service.

50.2.15.2 Two (2) points in the third and fourth years of service.

50.2.15.3 Three (3) points in the fifth and sixth year of service.

50.2.15.4 Four (4) points in the seventh and eighth year of service.

50.2.15.5 Five (5) points in the ninth and tenth year of service and in all succeeding years.

Reference: Education Code Sections §45260, §45261, §45272, §45281 and §45283

**50.2.16 VETERAN'S PREFERENCE:** A veteran, as defined in this rule, shall mean any person who has served at least one hundred eighty (180) days of active duty in the Army, Navy, Marine Corps, Air Force, Coast Guard, Merchant Marine or as a nurse on active duty with the Red Cross 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. A veteran shall also be defined as any person who has served at least one hundred eighty (180) days in and currently serving in the Reserve branch of the above listed Armed Forces or who has been discharged or released under conditions other than dishonorable from a Reserve branch of the above listed Armed Forces whose service time included a time of war or national emergency as declared by the President of the United States.

50.2.16.1 Veterans, except disabled veterans, who achieve a passing score on an entry examination shall have an additional five (5) points added to their passing score.

50.2.16.2 Disabled veterans who achieve a passing score on an entry examination shall have an additional ten (10) points added to their passing score. A disabled veteran is an individual classified by the U.S. Veteran's Administration to be ten percent (10%) or more disabled as a result of service in the Armed Forces of the United States.

50.2.16.3 Veteran's preference is applicable on examinations resulting in initial employment with the District; generally during all recruitments open to outside candidates.

Reference: Education Code Sections §45260, §45261, §45294, §45295 and §45296

Code of Federal Regulations Title 38 (Title 38 C.F.R)

Code of Federal Regulations Title 36, §21703

**50.3 REVIEW AND PROTEST OF EXAMINATIONS**

**50.3.1 RETENTION OF ALL EXAMINATION RECORDS:** Examination records, including test answer sheets, recordings of oral panel interviews and the rating sheets of each member of an oral interview panel shall be retained for a period of not less than ninety (90) days.

Reference: Education Code Section §45274

**50.3.2 EXAMINATION RECORDS SHALL BE CONFIDENTIAL:** Examination records shall be confidential. Records, such as identifiable ratings of oral panel members and confidential references of previous employers shall not be available for review.

**50.3.3 AVAILABILITY FOR REVIEW:** Remaining examination records, such as papers, tapes and scores of the candidate or eligible shall be available for review by appointment with the Director, only by the candidate or eligible or their representative. The candidate or their representative may not review the records of another person.

**50.3.4 NOTIFICATION OF RESULTS AND REVIEW:** Notification of test results shall be provided to candidates as soon as practicable following administration of the test. Review of test segments shall be made five (5) working days following notification. At the time of review the candidate may protest in writing, any part of the examination, outlining the basis for the protest and stating the remedy sought. No candidate may remove or copy information from the examination materials.

**50.3.5 FAILURE TO FILE PROTEST:** Failure to review or file a protest with the Director, within the review period shall constitute a waiver of the right to appeal that part of the selection process.

**50.3.6 DIRECTOR SHALL REVIEW ALL PROTESTS:** The Director, shall review and act upon all protests. They may allow more than one (1) answer to a question or may disqualify a question if the protest is valid. If a protest results in any change, the test papers of all candidates will be reviewed and re-scored accordingly.

**50.3.7 APPEAL TO COMMISSION:** The Director shall inform the candidate who has submitted the protest of their decision. Should the Director rule against the protest, that decision may be appealed to the Commission. However, the filing of such an appeal shall not stop or otherwise delay the selection process unless so ordered by the Commission.

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## CHAPTER 60

### ELIGIBILITY FOR EMPLOYMENT

#### 60.1 ELIGIBILITY LISTS

**60.1.1 ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS:** After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable. The completed list constitutes an eligibility list for that class after approval by the Commission.

60.1.1.1 Unless specifically authorized in these Rules, all appointments to positions in the classified service shall be made from eligibles whose names appear on eligibility lists. The Director shall be responsible for establishing eligibility lists as a result of examination authorized by these rules.

Reference: Education Code Sections §45260, §45261, §45272 and §45300

**60.1.2 CONTENTS OF ELIGIBILITY LIST:** An eligibility list shall contain:

60.1.2.1 The type of eligibility list - open, promotional, open and promotional with the promotional list taking precedence, or merged promotional and open competitive.

60.1.2.2 The names of all eligibles in final rank order of total examination scores.

60.1.2.3 The adjusted scores of each part of the examination and the weighted total score.

60.1.2.4 The dates of each part of the examination and the weight assigned to that part of the examination.

60.1.2.5 The expiration date of each person's eligibility.

60.1.2.6 The signature of the Director, attesting to the accuracy of the information on the eligibility list.

60.1.2.7 The date the list was ratified or approved by the Commission.

Reference: Education Code Sections §45260 and §45261

**60.1.3 CERTIFICATION BY COMMISSION:** All eligibility lists shall be certified or considered for ratification by the Commission at the first reasonable opportunity.

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

60.1.3.2 Dual Certification: A procedure authorized by the Commission that provides for certification of eligibles from a combined list according to examination scores where promotional and internal candidates have received seniority credit.

**60.1.4 TYPES OF ELIGIBILITY:** Appointments to position shall be made from:

60.1.4.1 Eligibility Lists: In order of preference:

1. Re-employment: A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, or exhaustion of benefits. These eligibles shall take precedence over all other persons eligible for appointment.
2. Promotional/Internal: A list of eligibles resulting from an examination limited to qualified permanent employees only.
3. Promotional/Internal and Open Competitive: Separate promotional/internal and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.



4. Merged Promotional/Internal and Open Competitive: One list of eligibles resulting from a single examination including seniority credit and/or veteran's preference.
5. Open Competitive: A list of eligibles resulting from an examination open to all qualified applicants including seniority credit and/or veteran's preference.

60.1.4.2 Requests: Other methods of filling positions include (but not in order of precedence):

1. Transfer: Employees who have requested appointment to a vacant position in the same or related classification.
2. Reinstatement: Former employees who have requested reinstatement to a vacant position in a class in which they held permanent status within the thirty-nine (39) month reinstatement period provided by the Education Code.
3. Demotion: Employees who have requested assignment to a vacant position in a lower classification in which they have held permanent status.

**60.1.5 DURATION OF ELIGIBILITY LISTS:** An eligibility list shall be in effect for a period of one (1) year, unless exhausted, and may be extended for an additional period of one (1) year by the Commission. Names of successful competitors may be added to eligibility lists by the Director.

60.1.5.1 The Commission may approve the establishment of an eligibility list for a period of six (6) months when announced on the recruitment bulletin for the examination.

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

Reference: Education Code Sections §45260, §45261 and §45300

**60.1.6 MERGER OF ELIGIBILITY LISTS:** If a new examination for a class is given during the life of an existing list, the examination shall be sufficiently like 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/Internal lists shall be merged only with promotional/internal lists.

60.1.6.1 When lists are merged under this rule, the earlier list shall be terminated one (1) year after its establishment and those eligibles' names shall be removed from the consolidated list, except when the earlier list is extended.

60.1.6.2 All candidates on the previous eligibility list which is terminated shall be notified at the time a new examination is scheduled for the class. Each candidate may retake the examination if a period of ninety (90) days has elapsed since the candidate last took the examination. Notification is not required when an eligibility list expires.

Reference: Education Code Sections §45260, §45261 and §45291

**60.1.7 RE-EMPLOYMENT LISTS:** There shall be, established for each class, as necessary, a re-employment list which shall take precedence over all other employment lists in filling vacant positions. This list shall contain the names of all regular classified employees who have been laid off or demoted from any position because of lack of work, lack of funds, or exhaustion of benefits.

60.1.7.1 Any employee who is ordered to military duty, and is serving on a military leave, pursuant to the laws of the United States, to serve in any branch of the Armed Forces of the United States, shall have the right to displace the least senior incumbent in the classification which they left. The right to military re-employment shall be requested in writing within six (6) months of the termination of active service.

- 60.1.7.2 The life of the re-employment list for persons laid off shall be thirty-nine (39) months. Employees returning from military leave shall be eligible for re-employment for a period not to exceed six (6) months after release from active duty.
- 60.1.7.3 Employees who take voluntary demotions or voluntary reductions in assigned time, in lieu of layoff, shall retain eligibility for re-employment for an additional period of twenty-four (24) months, provided the same tests of fitness under which they qualified for appointment still apply, as determined by the Commission.

Reference: Education Code Section §45298  
Military and Veterans Codes §395.1 and §395.3

**60.1.8 TERMINATION OF ELIGIBILITY LISTS:** An eligibility list is automatically terminated one (1) year from the date of its approval unless extended by the Commission, except that lists established under Rule 60.1.5.1 shall terminate six (6) months from the date of approval.

- 60.1.8.1 An eligibility list is automatically terminated when no eligibles remain on the list.
- 60.1.8.2 An eligibility list may be terminated by the Director, prior to its expiration when no eligible is available for appointment to a specific regular position in a class or when there are fewer than three (3) ranks of eligibles remaining on the list. Candidates on such lists shall be notified of the proposed termination. The exception to this rule will apply if a promotional/internal list has less than three (3) ranks remaining on the list, but an open eligibility list exists. In this case the Director, will continue to certify three (3) ranks by first drawing from the promotional list and then using the first available rank from the open list to provide three (3) ranks of candidates for interview.

Reference: Education Code Section §45300

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

Reference: Education Code Sections §45260, §45261, §45278, §45286 and §45300

**60.1.10 WAIVERS OF CERTIFICATION:** An eligible may make himself unavailable for certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by filing a waiver request in writing to the Commission Office in advance of the certification of eligibles to the Appointing Authority.

60.1.10.1 Certification of eligibles who have made themselves unavailable shall not be made, provided that eligibles may revise or withdraw their unavailability.

60.1.10.2 An available eligible may waive certification twice without penalty. At the time a third waiver is made by an eligible, they will be informed that, upon filing the third waiver, their name will be removed from the eligibility list per Rule 60.1.11.

**60.1.11 REMOVAL OF NAMES FROM ELIGIBILITY LISTS:** The name of an eligible may be removed from an eligibility list by the Director, for any of the following reasons:

60.1.11.1 Failure to respond within five (5) workdays following the mailing or electronic notification of an inquiry regarding availability for employment.

60.1.11.2 Any of the causes listed in Rule 40.2.

60.1.11.3 Failure to respond for a scheduled interview after certification.

- 60.1.11.4 Termination of employment (Promotional/Internal Eligibility List only).
- 60.1.11.5 Three (3) waivers of certification during the life of the eligibility list, except that waivers relating to limited-term appointments shall not be counted for the purpose of this rule. Waivers to part-time assignments with less than twenty (20) hours per week will not be counted, if the classification also has either full-time or part-time assignments with greater than twenty (20) hours and if the eligible has filed a definitive statement with the Commission office in accordance with Rule 60.1.10.
- 60.1.11.6 Refusing an employment offer after having been properly certified as eligible and available for the appointment.
- 60.1.11.7 A written request by the eligible for removal.

Reference: Education Code Sections §45260, §45261 and §45300

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

Reference: Education Code Sections §45260, §45261 and §45300

## **60.2 CERTIFICATION FROM EMPLOYMENT LISTS**

**60.2.1 APPOINTING AUTHORITY:** The appointing authority shall be the Board and its designated managers, except that the Commission is the appointing authority for its Director and staff of the Commission.

**60.2.2 ORDER OF PRECEDENCE IN FILLING VACANCIES:** Certification for filling vacancies in the classified service shall be made in the following order: (Bargaining unit employees see contract)

- 60.2.2.1 Re-employment List: Persons previously laid off because of lack of work, lack of funds or exhaustion of medical leave privileges shall be assigned to vacant positions in order of seniority.
- 60.2.2.2 Voluntary Demotion / Transfer / Reinstatement: All qualified persons requesting increase or decrease in hours, voluntary demotion, transfer or reinstatement shall be certified in addition to eligibles from eligibility lists established by competitive examination.
- 60.2.2.3 Promotional Eligibility List: When the vacancy is not filled through the procedures listed above, the top three (3) ranks of available eligibles shall be certified.
- 60.2.2.4 Open Competitive List: When the vacancy cannot be filled from the promotional list, the top three (3) ranks of available eligibles on the open or merged promotional open competitive list shall be certified.

Reference: Education Code Section §45272

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

- 60.2.3.1 For classes approved for continuous testing, certification shall be made at the time the Director can first reasonably certify three (3) ranks of eligibles to the appointing authority.

Reference: Education Code Sections §45260, §45261 and §45272

**60.2.4 CERTIFICATION AND APPOINTMENT FROM ELIGIBILITY LISTS:** When a new position is to be filled, the appointing authority shall notify the Director, (bargaining unit members, see contract) of the fact and of the date of anticipated need. The employment request shall state the class title, hours and location of employment and other pertinent information required by the Director.

- 60.2.4.1 When a vacancy occurs in an established position, a written request shall be completed.
- 60.2.4.2 The Director, shall determine the availability of eligibles and shall certify the names of all eligibles that are ready and willing to accept the position. Certification shall be in accordance with Rule 60.2.2 and 60.2.3.
- 60.2.4.3 The Administrator concerned shall, within three (3) working days of the interview, make their selection from the persons presented and shall notify the Director, who shall see that the necessary employment procedures are carried out.
- 60.2.4.4 If a candidate who was declared eligible for appointment to a position fails to keep their interview appointment or declines the appointment, the appointing authority may fill the vacancy from the remaining eligibles or may request certification of eligibles in accordance with Rule 60.2.6.
- 60.2.4.5 In the event that there is more than one (1) authorized position in the class to be filled, the Director, may certify additional ranks of eligibles to allow two (2) more ranks of candidates than the number required to fill the vacancies.

Reference: Education Code Sections §45260, §45261, §45272 and §45277

**60.2.5 PROCEDURE WHEN FEWER THAN THREE (3) RANKS REMAIN:** When fewer than three (3) ranks of eligibles are available on the promotional list, sufficient ranks shall be certified from the open or merged promotional open and then the open competitive lists to allow a choice among three (3) ranks of eligibles.

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

Reference: Education Code Sections §45260, §45261, §45272 and §45277

**60.2.6 CERTIFICATION OF ADDITIONAL ELIGIBLES:** If an eligible that has been certified, refuses appointment or fails to respond for an interview, the appointing authority shall notify the Director. When a request for additional eligibles is made, the Director, shall:

60.2.6.1 Certify additional eligibles as required.

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

60.2.6.3 Investigate the matter at their discretion to determine that any appointment refusal is in fact voluntary.

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

Reference: Education Code Sections §45260, §45261, §45272 and §45277



**60.2.7 WITHHOLDING NAMES FROM CERTIFICATION:** The name of an eligible may be withheld from certification by the Director, when the eligible:

- 60.2.7.1 Expresses unwillingness or inability to accept appointment.
- 60.2.7.2 Fails to respond within five (5) working days following an inquiry regarding availability.
- 60.2.7.3 Cannot be reached in time for appointment when immediate temporary employment is required.
- 60.2.7.4 Fails to present the license, registration, certificate or any other credential required.
- 60.2.7.5 Any reason listed in Rule 40.2

Reference: Education Code Sections §45260, §45261, §45272 and §45277

**60.2.8 FAILURE TO MAKE APPOINTMENT:** Should the appointing authority fail to make a selection from the top three (3) ranks of eligibles as certified by the Director, the Director shall ensure that the position be vacated, and remain vacant until such time as the eligibility list for that class expires. Vacant shall mean that no person in any employment status may fill the position.

Reference: Education Code Sections §45260, §45261, §45272 and §45277

**60.2.9 RESTORATION TO ELIGIBILITY LIST:** When the Director, has withheld a candidate or eligible from placement on, or certification from the eligibility list, they may subsequently approve placement on or restoration to the list subject to ratification by the Commission, under the following circumstances:

- 60.2.9.1 When the withholding or removal was because of the waiver or inability of the eligible to accept employment, or failure to respond to inquiry, appear for an interview or report for duty, and the applicant presents a good and valid reason and certifies to the Commission that they is now willing and able to accept an appointment.

60.2.9.2 When the withholding or removal was for a reason listed in Rule 40.2 and the defect or reason for ineligibility has since been corrected.

**60.2.10 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 at the same or higher salary level if the duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled, provided that the Director 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.

Reference: Education Code Sections §45260, §45261 and §45272

**60.2.11 DUTIES OF ELIGIBLES:** It shall be the duty of every eligible to respond promptly after receiving notice of certification. The eligible will be expected to respond within five (5) working days from the date notification is received. Failure to respond within the above stated time may result in removal from the eligibility list. If a notice is mailed, the working day following the postmark date of the notice shall be considered the official date of receipt.

60.2.11.1 Eligibles are required to keep the Commission Office informed as to current home address and telephone numbers where they can be reached to schedule employment interviews. Failure to keep the Commission Office informed could result in the eligible being bypassed on the eligibility list as unreachable. In that event, the Director, shall send a letter inquiring as to continued availability and interest. Failure to respond pursuant to these rules will result in removal from the eligibility list.

60.2.11.2 An eligible who has been selected for a permanent position and is unable or unwilling to report by the end of two (2) full weeks, one (1) full month in the case of management classes, may be considered to have refused appointment and the appointing authority may request certification of additional eligibles.

1. The date of the offer of appointment shall be the date on which the eligible is notified by the Director, of selection.
2. Notification may be made by telephone, telegram, registered or certified mail.
3. The appointing authority may allow a period longer than two (2) weeks at its discretion.

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

**60.2.12 SELECTIVE CERTIFICATION:** If a position within a classification requires a special skill, license, or language requirement, pursuant to Rule 30.2.10 or a BFOQ, the Director, shall determine which eligibles possess the required skill, license, or language and shall certify the names of the first three (3) ranks of eligibles who meet the special requirements. If there are insufficient eligibles who meet the special requirements and who are ready and willing to accept the position, a provisional appointment may be made, pending completion of a recruitment and examination process to fill the position.

Reference: Education Code Sections §45260, §45261 and §45283

**60.2.13 CONFIDENTIALITY OF LISTS:** Eligibility lists shall be considered confidential information and release of information on lists shall be limited to:

- 60.2.13.1 Posting eligibility lists showing the relative ranking of each candidate without showing the candidates name.
- 60.2.13.2 Only information relating to eligibles who have been certified shall be released to the appointing authority.
- 60.2.13.3 Only information pertaining to an eligible's own scores and current position on the list shall be released to the eligible or their representative.

Reference: Education Code Sections §45260 and §45261  
Government Code Section §1098

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## CHAPTER 70

### APPOINTMENT TO CLASSIFIED POSITIONS

#### 70.1 PROCEDURES FOR APPOINTMENT

**70.1.1 PROCEDURES FOR SELECTION:** The appointing authority shall interview eligibles certified from appropriate employment or eligibility lists. A selection shall be required when sufficient eligibles are certified for a given vacancy to total three (3) ranks of eligibles. In certain situations, interviews may be waived with the approval of the Director.

Reference: Education Code Sections §45260, §45261 and §45272

**70.1.2 APPOINTMENT:** Upon selection, each prospective employee shall be given an offer of employment by the Commission Office. Appointment to the position shall be subject to certification by the Director, and approval/ratification by the Board (action to employ as the employer except for Commission positions).

Reference Education Code Section §45160, §45241 and §45370

**70.1.3 NEPOTISM:** No person shall be employed in any position which is in a direct line of supervision under a supervisor or administrator who is a member of that person's immediate family.

70.1.3.1 For purposes of this rule, immediate family shall include the spouse, domestic partner, child, father, mother, grandparent, grandchild of the supervisor; also included is the spouse, domestic partner, child, son-in-law, daughter-in-law, brother, brother-in-law, sister, sister-in-law, or any person residing in the household of the supervisor.

70.1.3.2 District managers, supervisors, administrators and other public officials should make every effort to prevent hiring situations which may be considered nepotism. This includes the advocacy of hiring or

promoting a relative, whether that relative is, by definition, an immediate family member or whether that relative is in the direct line of supervision of the District official. Advocacy, for the purpose of this rule, shall mean using one's official capacity to exhort, encourage, recommend or demand the hiring of a relative.

Reference: Education Code Sections §45260 and §45261  
Government Code Section §1091.5

## **70.2 PROVISIONAL APPOINTMENT**

**70.2.1 REASONS FOR PROVISIONAL APPOINTMENT:** The appointing authority may make a provisional appointment when the Director certifies that:

70.2.1.1 No eligibility list exists for the class or;

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

Reference: Education Code Sections §45260, §45261, §45269, §45272, §45287, §45288 and §45289

**70.2.2 LENGTH OF FULL-TIME PROVISIONAL APPOINTMENT:** A full-time provisional appointment may accumulate to a total of ninety (90) working days. A ninety (90) calendar day interval shall elapse before an employee is again eligible to serve in any full-time provisional assignment. In no case may a person be employed in a full-time provisional assignment for a total of more than one hundred twenty-six (126) working days in any fiscal year.

Reference: Education Code Sections §45260, §45261, §45269, §45272, §45287, §45288 and §45289

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

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

70.2.3.2 Satisfactory evidence is presented indicating:

1. Adequate recruitment effort has been and is being made.
2. Extension of this provisional assignment is necessary to carry on vital functions of the District or;
3. The position cannot be satisfactorily filled by use of other employment lists or procedures.

Reference: Education Code Sections §45260, §45261, §45269, §45272, §45287, §45288 and §45289

**70.2.4 SUCCESSIVE NINETY (90) DAY APPOINTMENTS:** In the absence of an appropriate eligibility list, successive ninety (90) working day appointments may be made to a part-time position for a period exceeding the one hundred twenty-six (126) working day limitation when:

70.2.4.1 Continuous examination procedures have been authorized by the Commission or;

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

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

Reference: Education Code Sections §45260, §45261, §45269, §45272, §45287, §45288 and §45289

**70.2.5 QUALIFICATIONS OF PROVISIONAL APPOINTEES:** Provisional appointees must meet the qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be made by the Director, prior to appointment.

Reference: Education Code Sections §45260, §45261, §45269, §45272, §45287, §45288 and §45289

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

70.2.6.1 Time served in provisional status shall not be counted as credit toward permanency or completion of the probationary or trial service period for the class in which the provisional appointment is made.

Reference: Education Code Sections §45260, §45261, §45269, §45272, §45287, §45288 and §45289

**70.2.7 TERMINATING PROVISIONAL APPOINTMENT:** The services of a provisional appointee shall be terminated within fifteen (15) working days after the date on which certification for interview from an eligibility list has been made. A provisional appointment may be terminated at any time, at the discretion of the appointing authority.

Reference: Education Code Sections §45260, §45261, §45287, §45288 and §45289

### **70.3 SPECIAL APPOINTMENTS**

**70.3.1 PROCEDURE FOR EMERGENCY APPOINTMENT:** The appointing power may, to prevent the stoppage of public business when an actual emergency arises and persons on eligibility lists are not immediately available, make appointments for a period not to exceed fifteen (15) working days, in accordance with commission rule.

Reference: Education Code Section §45290



## **70.4 LIMITED TERM AND SUBSTITUTE APPOINTMENTS**

**70.4.1 POSITIONS DEFINED:** Vacant positions established to perform duties which are not expected to exceed six (6) months or assignment in lieu of an absent employee (substitute positions) shall be designated limited term positions. Limited term and/or substitute assignments regardless of duration shall not result in appointment, tenure or permanence.

Reference: Education Code Sections §45260, §45261, §45269, §45272 and §45286

**70.4.2 PROCEDURE FOR ESTABLISHMENT OF LIMITED TERM:** When a limited term position is established, the appointing authority shall notify the Commission office in writing of the hours, starting date and length of the assignment. Establishment of limited term positions shall be subject to approval of the Director and ratified by the Commission and the Board.

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

70.4.2.2 Limited term positions shall be classified by the Director and shall be subject to ratification by the Commission.

Reference: Education Code Sections §45260, §45261, §45286

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

70.4.3.1 If an eligible is appointed from an eligibility list to a substitute or limited term position, they shall continue to be eligible for substitute or limited term appointments in the same or a related lower class after the eligibility list has expired. The status of all

limited term or substitute personnel shall be reviewed annually and reapproved by the Board. The same privilege of continued eligibility shall apply to a former employee who has resigned in good standing and has accepted a limited term appointment within thirty-nine (39) months after resignation.

70.4.3.2 When no eligible is available to accept a substitute or limited term position, the Director, is authorized to certify applicants or candidates for appointment.

70.4.3.3 Time served in a limited term or substitute status shall not be counted as credit toward permanency or completion of the probationary period for the class in which the limited term or substitute appointment is made.

Reference: Education Code Sections §45260, §45261, §45269, §45272, §45286 through §45290

**70.4.4 TERMINATION OF LIMITED TERM APPOINTMENT:** A limited term or substitute appointment may be terminated at any time at the discretion of the appointing authority. The appointing authority shall immediately notify the Commission office when a limited term assignment is being terminated.

Reference: Education Code Sections §45260, §45261, §45287, §45288 and §45289

**70.4.5 SUMMER/RECESS APPOINTMENTS (LIMITED TERM):** A summer/recess appointment shall fall within the scope of a limited term appointment and may be terminated at any time at the discretion of the appointing authority. Summer/recess appointments shall be offered to regular employees of the District not normally employed during those recess periods. Assignments shall be made:

1. By those requesting the assignment.
2. By those who hold permanence in the classification for the assignment.

3. By those who hold permanence in a classification within the occupational family and who meet the minimum qualifications for that classification.
4. By those who have placement on an eligibility list for that classification.
5. By those who have previously worked as a provisional, limited term or substitute in that classification.

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## CHAPTER 80

### EMPLOYMENT REQUIREMENTS

#### 80.1 PHYSICAL EXAMINATIONS

- 80.1.1 T.B. EXAMINATIONS:** All new employees shall present evidence of a negative chest x-ray or intradermal tuberculin test taken within the past sixty (60) days. If a new employee is transferring his employment from one school or school district (including private and parochial schools) to this district, the sixty (60) days requirement above will be waived if the new employee can produce a certificate as provided for in Section 3450 of the California Health and Safety Code which shows that they were examined within the past four (4) years and was found to be free of communicable tuberculosis. For new employees, evidence of compliance with the requirements of this section must be on file with the Personnel Office prior to the first day in paid status.

Reference: Education Code Sections §45122, §45260, §45261 and §49406  
Health and Safety Code Section §3450  
Administrative Code, Title 5, Section §5505

- 80.1.2 MEDICAL EXAMINATIONS:** Every individual appointed to specific positions shall pass a job-related physical examination prior to initial appointment. Promotional eligibles who have been offered employment in a classification possessing different physical requirements may also be required to undergo a medical examination as determined by the District. The examination will be administered after the initial offer of employment but prior to actual finalization of the appointment. The examination may or may not be administered by a physician chosen by the District. The determination of the kind and extent of the examination shall be determined by the District. Costs associated with this physical may be borne by the new employee.

- 80.1.2.1 The physician conducting the physical shall provide the District a written statement of qualification or disqualification.

80.1.2.2 In the event of disqualification, the individual shall request in writing, for reasonable accommodation within five (5) working days. If a determination by the District is that reasonable accommodation can be made, the appointment shall be made. If the determination by the District is that reasonable accommodation is not possible, the individual will be so notified by the District.

80.1.2.3 Individuals who do not request reasonable accommodation or if a reasonable accommodation is not possible shall have the offer of employment rescinded.

Reference: Education Code Sections §45122, §45260, §45261 and §49406

**80.1.3 RETURN TO WORK AND UNSCHEDULED EXAMS:** An employee may be required to undergo a physical examination at any time there is deemed to be reasonable cause by the District Administration.

80.1.3.1 Every employee returning from an illness/injury leave of absence may be required to submit to a medical examination to verify sufficient recovery to return to his regularly assigned duties.

Reference: Education Code Sections §45122, §45260 and §45261

## **80.2 CRIMINAL RECORDS**

**80.2.1 FINGERPRINTING:** Every new employee shall submit to a criminal record check of their fingerprints in accordance with prescribed procedures and be cleared by the State Department of Justice in accordance with Education Code section 45125 prior to commencing employment. Any failure by the new employee to comply with this requirement will result in the forfeiture of eligibility for employment. The costs of fingerprinting shall be borne by the employee.

Reference: Education Code Section §45125

**80.2.2 REVIEW OF CRIMINAL RECORDS:** All criminal record reports are to be treated as confidential. Any employee whose responsibility it is to receive and review such records who divulges information contained therein to an unauthorized person is subject to disciplinary action.

80.2.2.1 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 which was not disclosed, the Director, may require the dismissal/disqualification of the employee/applicant.

80.2.2.2 If an employee/applicant is to be dismissed/disqualified because of information disclosed on the criminal records report, they shall be removed from all eligibility lists.

80.2.2.3 The Director shall notify the eligible or employee of the action taken and the reasons therefore and shall provide the person with an opportunity to appeal the decision in writing within ten (10) calendar days of notification. If an appeal is filed, the Commission shall hear the appeal as outlined in Commission Rule 40.2.2. The decision of the Commission shall be final and binding on all parties.

Reference: Education Code Sections §45112.1, §45125, §45260 and §45261  
Penal Code §11105

### **80.3 OTHER EMPLOYMENT REQUIREMENTS**

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

**80.3.2 SOCIAL SECURITY NUMBER:** New employees shall submit proof of their social security number to the Personnel Office at time of employment.

**80.3.3 LOYALTY OATH:** All new employees must sign a loyalty oath as required by Article XX, Section 3 of the California State Constitution and the Education Code. The loyalty oath shall be administered in the Personnel Office at time of initial employment. Refusal to sign the loyalty oath may cause the initial employment offer to be withdrawn.

Reference: Education Code Sections §7000 - §7006, §45260 and §45261  
California State Constitution, Article XX, Section 3

**80.3.4 VERIFICATION OF RIGHT TO WORK STATUS:** All individuals employed after November 1, 1986, are required to provide proof of their right to work in the United States and for the Barstow Unified School District. An individual's right to work is a minimum qualification for employment with the District.

**80.3.5 REQUIREMENT TO NOTIFY DISTRICT OF ANY STATUS CHANGE:** Employees shall notify the Personnel Office whenever their status changes, such as new address, new telephone number, marital status, increase or decrease in the number of dependents, name of person to notify in case of emergency, etc.

**80.3.6 FILING OF REQUIRED LICENSES OR CERTIFICATES:** Some classifications may require the employee to possess certain licenses and/or certificates. Every new employee must file copies of all licenses and/or certificates required as a condition of employment with the appropriate department manager and with Personnel Services for placement in their personnel file.



## **CHAPTER 90**

### **EMPLOYMENT STATUS**

#### **90.1 CERTIFICATION OF PAYROLL**

**90.1.1 CERTIFICATION OF PAYROLL:** No person shall be appointed to a position in the Classified service unless the assignment order is certified by the Director. The Director shall certify that the assignment has been made in accordance with these Rules and the provisions of the Education Code.

90.1.1.1 The Director, shall audit all changes of status for classified employees. The Director shall certify that all changes are in accordance with existing laws and these Rules.

90.1.1.2 All time sheets, payroll reports and other financial or employment documents shall be made available to the Director upon request. The Director shall make periodic audits of all payrolls and, if they find assignments that are not in accordance with existing law or the Rules and Regulations of the Commission, they shall immediately notify the Superintendent of any irregularities and attempt to resolve these problems.

**90.1.2 NONCOMPLIANCE WITH ORDER OF THE DIRECTOR:** If any irregularities are unsolved within a reasonable time period, the Director, shall have the authority to submit a notice of withdrawal of their certification to both the District and the County Superintendent of Schools and order that payment be stopped. Notice of such violation shall also be made upon such payroll or service report, and such notice shall serve as an official notification to the Board and the County Superintendent of Schools that the drawing, signing, or issuing of any warrant on the County Treasurer or other disbursing officer of the County or the school district for payment of salary or other compensation to such person named is unlawful.

Reference: Education Code Sections §45169, §45260, §45261, §45310 and §45311

## **90.2 EMPLOYEE ASSIGNMENT**

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

1. Their class specification.
2. Notice of salary data.
3. Work location and the duty hours, prescribed work week and work year.
4. The terms and conditions of the probationary period, including performance evaluation procedures.

90.2.1.1 Except in the case of employees covered by a bargaining unit agreement, the District shall have the right to assign and reassign daily hours of work and shifts with the consent of the employee, to meet the operational needs of the District. When such a change is made, the employee's supervisor shall notify the employee and the Director, in writing at least five (5) working days prior to the effective date of the change. Matters of this nature involving employees covered by a bargaining unit agreement shall be handled in accordance with that agreement.

Reference: Education Code Section §45169

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

**90.3 PROBATIONARY STATUS**

**90.3.1 INITIAL PROBATIONARY PERIOD:** Except in the case of employees covered by a bargaining unit agreement, each new employee appointed from an eligibility list shall serve an initial probationary period of six (6) months, one hundred and eighty days (180) or one hundred and thirty (130) days of paid regular service in one classification before attaining permanency in the classified service. For classes designated by the Commission as management, supervisory or confidential, the probationary period shall be twelve (12) months or two hundred and sixty (260) days of paid regular service in one classification before attaining permanency in the classified service.

90.3.1.1 Credit toward completion of probation shall be granted only for service in a regular position while in paid status in a classification after appointment from an eligibility list. Probationary credit shall not include time when an employee is absent from work when less than fifteen (15) paid regular service days were worked in the classification for which they are serving their probation which includes all scheduled recess months (summer, fall, winter, spring breaks) nor for any time completed as a Provisional, Limited Term or Substitute Employee nor during any unpaid leave(s) of absence.

Reference: Education Code Section §45301

**90.3.2 COMPLETION OF INITIAL PROBATION:** Each probationary classified employee shall be evaluated twice during the six (6) month probationary period; at the end of the second and fifth month. Management, Supervisory and Confidential classified employees shall be evaluated three (3) times during the twelve (12) month probationary period; at the end of the third, eighth and eleventh month.

90.3.2.1 A classified employee shall be given notice by the appointing authority or their assigned supervisor and in writing whenever possible, *when* disqualified or released from probationary status prior to the date on which the probationary period ends.

- 90.3.2.2 A probationary employee may be disqualified or released at any time.
- 90.3.2.3 When a probationary employee is to be disqualified or released, the immediate supervisor shall notify the probationary employee in writing and submit a copy of it to the Assistant Superintendent, Personnel Services who, shall notify the employee of the action taken if not so already notified. A copy of the notice shall be filed in the probationary employee's personnel file.
- 90.3.2.4 A probationary employee is an "at-will" employee during the probationary period and as such shall not have the right to appeal disqualification or release while in a probationary status. This only applies during the probationary "at-will" period and does not apply to any matters involving disciplinary action or Title VII discrimination complaints.
- 90.3.2.5 A probationary employee who resigns in good standing during the initial probationary period shall, upon request, be restored in proper rank to the eligibility list. Such action shall not extend the life of the list or the period of eligibility of the person.
- 90.3.2.6 Should the work for which a probationary employee has been appointed prove temporary instead of permanent as certified, and should such person be laid off without fault or delinquency on their part before completion of the probationary period, the person's name shall be restored to the eligibility list.

Reference: Education Code Sections §45256, §45260, §45261, §45269, §45270, §45272, §45281, §45301, §45302 and §45305

**90.3.3 TRIAL SERVICE PERIOD FOR PROMOTIONAL/INTERNAL EMPLOYEES:** Except in the case of employees covered by a bargaining unit agreement, a permanent classified employee who has been promoted or who transfers to a new classification, shall serve a trial service/new probationary period not to exceed of six (6) months, one hundred and eighty (180) days or one hundred and thirty (130) work days in the class before attaining permanency in that class.

- 90.3.3.1 A permanent classified employee who is judged as being unsuccessful either by himself or the District in the new classification during the trial service period shall have the right to revert to their prior classification and salary; this action will be the act of exercising their bumping rights. The employee shall not have the right of appeal unless the demotion results in separation from the classified service or is based on discrimination. The employee shall have the right to request reconsideration to reapply to retest for the same promotional classification from which they were reverted. This request may only be submitted after six (6) months, but no longer than one (1) year from the date of reversion.
- 90.3.3.2 Suspension of a permanent classified employee serving a promotional trial service period in a new class shall constitute a disciplinary action and the employee shall retain the right to appeal.
- 90.3.3.3 A permanent employee who resigns in good standing during the trial service period shall, upon request, be restored in proper rank to the eligibility list. Such action shall not extend the life of the list or the period of eligibility of the person.
- 90.3.3.4 Should the permanent employee revert to their prior classification and salary without fault or delinquency on their part before completion of the trial service period, the person's name shall be restored to the eligibility list per their written request. This request must be received no later than ninety (90) days from the date of the reversion

Reference: Education Code Sections \$45256, \$45260, \$45261, \$45269, \$45270, \$45272, \$45281, \$45301, \$45302 and \$45305

**90.4 PERMANENCY**

**90.4.1 PERMANENT STATUS:** Upon successful completion of the prescribed initial probationary period, a classified employee shall be deemed to be a part of the permanent classified service.

90.4.1.1 Senior Management Exempt classification(s) shall be afforded all rights, benefits, and burdens of other classified employees, except that they shall be exempt from all provisions relating to obtaining permanent status in that position.

90.4.1.1 Executive Assistant Exempt classification(s) shall be afforded all rights, benefits, and burdens of other classified employees, except that they shall be exempt from all provisions relating to obtaining permanent status in that position.

Reference: Education Code Section §45256.5, §45272 and §45301

**90.4.2 RIGHTS/BENEFITS/BURDENS OF PERMANENT EMPLOYEE:** Every permanent classified employee shall be entitled to all the rights, benefits, and burdens conferred by law, the Commission's Rules and Regulations, or by action of the Board for classified employees of like classifications including a vested right to their position. A permanent classified employee may be removed only for cause or due to layoff.

## **CHAPTER 100**

### **HOURS OF EMPLOYMENT AND OVERTIME**

#### **100.1 WORK SCHEDULES**

**100.1.1 WORK WEEK:** The regular workweek of a full-time classified employee shall be forty (40) hours and the regular workday shall be eight (8) hours, exclusive of lunch. This rule shall not restrict the extension of a regular workday or workweek on an overtime basis when such is necessary to carry on the business of the District.

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

100.1.1.2 When the District determines that a classified employee is to be assigned a work week which includes Saturday or Sunday, the District shall notify the employee in writing and secure the employee's consent. Classified employees shall not be required to work Saturday or Sunday, if they certify in writing that the assignment conflicts with religious beliefs or practices. Employees covered by a bargaining unit agreement shall have the right to have this matter handled in accordance with said agreement.

Reference: Education Code Sections §45127 and §45132

#### **100.1.2 ALTERNATE WORK WEEKS**

100.1.2.1 **TEN (10) HOUR WORKDAY:** The District may establish a ten (10) hour-per-day, forty (40) hour, four (4) consecutive day work week for all, or certain classes of its employees, or for employees within a class when, by reason of the work location and duties actually performed by such employees, their services are not required for a work week of five (5) consecutive days. This provision may only be implemented if the establishment of such a work week has the concurrence of the concerned employee, class of employees, or classes of employees. Employees

covered by a bargaining unit agreement have the right to have this matter handled in accordance with said agreement.

100.1.2.2 **NINE/EIGHTY (9/80) WORK WEEK:** The District may establish a workweek to include a nine (9) hour workday, eighty (80) hours per two (2) week schedule, in accordance with section 45133 of the Education Code. The Commission may establish the same workweek as permitted in Education Code section 45133 for its staff.

Reference: Education Code Section §45132, §45133

**100.1.3 WORKDAY:** The length of the workday shall be designated by the District for each classified assignment in accordance with the provisions set forth in these rules. Each classified employee shall be assigned a fixed, regular, and ascertainable minimum number of assigned hours per day (with fixed, regular starting and ending times), days per week, and months per year.

**100.1.4 ADJUSTMENT OF ASSIGNED TIME:** Any classified employee who works an average of thirty (30) minutes or more per day in excess of their regular part-time assignment for a period of twenty (20) consecutive working days or more shall be awarded statutory/fringe benefits on a properly prorated basis reflecting the temporary increase in hours.

100.1.4.1 If an employee's average paid time for a part-time assignment, excluding overtime, exceeds their minimum assigned time by fifty (50) minutes or more per working day in any quarter, the hours paid per day for compensable leaves of absence and holidays in the succeeding quarter shall be equivalent to the average paid per working day in the preceding quarter, excluding overtime.

Reference: Education Code Section §45137



**100.1.5 DECREASES IN ASSIGNED TIME:** A District initiated decrease in the assigned hours per day, hours per week, days per year, or months per year of an existing regular position shall be considered a layoff for lack of work or lack of funds. All District initiated decreases in assigned time shall be performed in accordance with the layoff procedures in these Rules and, when appropriate, the bargaining unit agreement.

**100.1.6 BENEFITS FOR ASSIGNMENTS OF LESS THAN EIGHT (8) HOURS / TWELVE (12) MONTHS:** All employees assigned less than eight (8) hours per day and/or less than twelve (12) months per year shall be entitled to sick leave and all other benefits conferred by law on classified employees. These employees shall be entitled to all leaves and benefits granted by these rules, the law, or the Board. These benefits shall be provided on at least a pro-rated basis.

Reference: Education Code Section §45132

**100.1.7 MEAL PERIODS:** All employees who are assigned to work more than five (5) consecutive hours per day shall be assigned an unpaid, uninterrupted meal period of at least thirty (30) minutes to a maximum of one (1) hour except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of the District and employee. For full-time employees, the meal period shall be assigned at or about the mid-point of each work shift by the immediate supervisor.

Reference: Education Code Section §45180  
Labor Code Section §512a

**100.1.8 REST PERIODS:** All employees shall be assigned one (1) paid rest period during each four (4) hour work period as noted below:

100.1.8.1 Employees who work six (6) to eight (8) hours per day shall be assigned two (2) fifteen (15) minute rest periods. Rest periods shall be scheduled approximately at the half shift midpoint unless conditions for services require an earlier or later rest period as assigned by the immediate supervisor.

100.1.8.2 Employees working fewer than six (6) but four (4) or more hours per day shall be provided one (1) fifteen (15) minute paid rest periods.

100.1.8.3 Employees shall remain at their assigned work sites during a paid rest period unless specific authorization to leave the work site has been given by the supervisor.

**100.1.9 SPLIT SHIFT ASSIGNMENTS:** The District shall have the right to assign classified employees to a split shift as part of a regular assignment. The periods between split shifts shall be unpaid so long as the period of unpaid time exceeds one (1) hour. Split shifts of one (1) hour or less shall be paid at the appropriate regular or overtime rate of pay. Bona fide scheduled meal periods of at least thirty (30) minutes but no more than one (1) hour as required under these rules shall not be considered a split shift and shall be considered as unpaid time.

**100.2 OVERTIME AND RELATED MATTERS -** Employees covered by a bargaining unit agreement have the right to have this matter handled in accordance with said agreement.

**100.2.1 OVERTIME:** Overtime shall apply to all employees working in non-exempt (as defined by FLSA) classification positions. All overtime hours as defined in this rule shall be compensated at the rate of pay equal to time and one-half (1-1/2) times the regular rate of pay of the employee for all hours worked in an overtime status. Overtime is defined to include any ordered and authorized overtime time worked in excess of eight (8) hours in any one (1) day, or in excess of forty (40) hours in any one week unless the employee works an alternate week, or after an employee works five consecutive days for four (4) hours or more per day, then works the sixth or seventh day during that week.

100.2.1.1 Employees having an average workday of four (4) or more hours shall receive overtime compensation for any authorized work performed on the sixth or seventh consecutive day of work.

- 100.2.1.2 Employees having an average workday of less than four (4) hours shall receive overtime compensation for any authorized work performed on the seventh consecutive day.
- 100.2.1.3 All hours worked by an employee on any holiday designated by these rules, the law, or the Board of Education shall be compensated at the overtime rate of pay in addition to regular pay received for the holiday.
- 100.2.1.4 When a four (4)-day work week, ten (10)-hour day is established by the District, the overtime rate shall be paid for all hours worked in excess of ten (10) hours per day, or forty (40) hours per week. Work performed on the fifth, sixth, and seventh consecutive days shall be compensated at the overtime rate of pay.
- 100.2.1.5 For purposes of defining the regular rate of pay in order to determine the proper overtime rate, the District shall take the employee's hourly rate of pay, and add any differential rates, premium rates, or longevity increments received by the employee.

Reference: Education Code Sections §45128, §45131, §45260 and §45261

**100.2.2 COMPENSATORY TIME OFF (CTO):** By mutual agreement of the employee and supervisor, overtime may be compensated as compensatory time off.

- 100.2.2.1 A record of compensatory time worked and taken shall be maintained in the department.
- 100.2.2.2 Compensatory time may be taken in lieu of any other authorized leave.
- 100.2.2.3 Compensatory time shall be approved by the immediate supervisor before it is taken.
- 100.2.2.4 Employees shall use compensatory time within twelve (12) calendar months following the month in which the overtime was worked.

100.2.2.5 Compensatory time is earned at the regular or overtime rate as established in these Rules.

Reference: Education Code Section §45129

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

100.2.3.1 Special skills and/or training required for an employee to perform the specific work.

100.2.3.2 The availability of regular part-time classified employees to perform the required work.

100.2.3.3 Seniority in the class.

100.2.3.4 Longevity with the District.

**100.2.4 CALL BACK TIME:** Whenever an employee is called back to duty by their supervisor or designee after the conclusion of the normal work shift, the employee shall receive a minimum of two (2) hours pay or pay for the actual hours worked at the appropriate salary rate, whichever is greater.

**100.2.5 CALL IN TIME:** Whenever an employee is called to work by their supervisor or designee on a day which is not a regularly scheduled work day, they shall receive a minimum of two (2) hours pay or pay for the actual hours worked at the appropriate salary rate, whichever is greater.

**100.2.6 EXEMPTION FROM OVERTIME:** Positions or classes of positions designated management, supervisory or confidential may be exempted from the overtime provisions of these Rules. To be exempted from overtime, positions or classes of positions must clearly and reasonably be management positions. Notwithstanding this rule, if an exempt employee is required to work with prior approval of the Superintendent on any District paid holiday, they shall be paid, in addition to the regular pay received for the holiday, at the rate of one and one-half (1-1/2) times the employee's regular rate of pay.

Reference: Education Code Section §45130

## CHAPTER 110

### TRANSFER OF EMPLOYEES

#### 110.1 TRANSFER

**110.1.1 DEFINITION OF TRANSFER:** For purposes of this rule, a vacancy shall occur when a new position is created, or an existing position becomes vacant. There are two (2) different types of transfers impacting classified employees:

110.1.1.1 A position transfer shall mean the relocation of an employee between job sites or between departments at the same job site, within the same classification.

110.1.1.2 A lateral transfer is the transfer of an employee to a position in a similar or related class with the same salary range.

**110.1.2 POSITION TRANSFER:** A position transfer may be initiated by the District Administration (involuntary) or at the request of the employee (voluntary). An employee may request a position transfer if they have permanent status and are performing satisfactorily. An employee whose last overall evaluation was unsatisfactory or needs to improve is not eligible for transfer, except with the specific approval of the Director. An Administration initiated position transfer may be made at any time for the good of the Classified Service upon recommendation of the department/site supervisors and the approval of the Director, and shall be governed by the following rules:

110.1.2.1 An employee who is about to be involuntarily transferred shall be notified in writing by their immediate supervisor at least five (5) working days prior to the effective date of the transfer.

110.1.2.2 An employee may request a conference or written statement regarding the reasons for an involuntary transfer. Upon such a request the District will comply prior to the effective date of the transfer. The reasons for the transfer shall be clearly spelled out to the employee.

110.1.2.3 Employees shall not be transferred for punitive, preferential, or disciplinary reasons except as allowed under the disciplinary action provisions of these Rules.

**110.1.3 LATERAL TRANSFER:** Transfer from a position in one (1) class to a position in another related class shall first be approved by the Director. Determination of whether classes are sufficiently related to permit transfer between them shall be based on the similarity of 1) duties; 2) minimum qualifications; and 3) examination content. The extent to which the two (2) classes must be comparable may depend on additional factors. In general, more latitude is allowed as an employee's length of service with the District increases; when the request for lateral transfer is based on layoff, reclassification, or health or; when the employee meets the minimum qualifications for the class.

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

**110.1.5 SENIORITY CREDIT:** Except in the case of employees covered by a bargaining unit agreement, seniority credit shall be awarded as follows:

110.1.5.1 There shall be no adverse effect upon seniority.

110.1.5.2 Where the transfer is to a position in the employee's current or equal class, there shall be no effect upon seniority.

110.1.5.3 Where the transfer is to a position in a higher class (promotion), the employee shall not receive seniority in the new class for service in the former class except as allowed elsewhere in these Rules. Seniority in the new class shall commence with the employee's first day of paid service in the new class.

110.1.5.4 The employee shall retain their seniority in their former class or classes as well as their total seniority with the District.

**110.1.6 TRANSFER SHALL NOT ALTER EFFECTS OF LAYOFFS:** A transfer shall not be used to circumvent the Merit System in the event of impending layoffs, except as provided for elsewhere in these Rules.

**110.1.7 POSTING OF VACANCY NOTICES:** Transfer opportunities for vacant positions shall be announced to employees by a written bulletin which shall be distributed and posted at all work sites for at least fifteen (15) workdays prior to the closing date for the filing of appropriate applications. During periods when all employees would not be present due to recess, or when an employee is on an approved leave of absence, or is off track, an employee shall be notified by U.S. Mail of transfer opportunities, provided a request for such notification has been filed with the Commission office. The transfer notice will be mailed to the last address listed for the employee in the Commission office.

**110.1.8 SUBMISSION OF REQUEST FOR TRANSFER:** An employee may request a transfer by submitting a request to transfer to the Commission office within the fifteen (15) workday posting period. Consideration shall be given to all requests for transfer which are properly submitted.

110.1.8.1 A classified employee may submit a written request for a transfer at any time to the Commission office to be held on file for transfer consideration for a period of one (1) year from the date of submission. Such requests on file prior to the close of any transfer posting period shall be considered as if they had been received during the posting period. If an employee is interested in transferring to more than one (1) classification, the employee must file a separate form for each lateral classification they are considering for transfer.

**110.1.9 CERTIFICATION OF NAMES TO INTERVIEW:** The Director shall certify and submit to the appropriate administrator or supervisor the names of all candidates who are qualified for transfer consideration.

**110.1.10 FACTORS CONSIDERED BY SUPERVISOR IN TRANSFERS:** The supervisor of the vacancy shall consider transfer candidates based on the:

110.1.10.1 Specific skills and qualifications for the vacancy, and

110.1.10.2 Prior job performance as evidenced by the employee's most recent performance evaluation.

**110.1.11 NOTIFICATION OF TRANSFER SELECTION:** The department supervisor shall notify the Director, of the decision made within three (3) working days after completion of the interviews. The selected transfer candidate shall be released from their other site/department within ten (10) working days of the date of selection, unless otherwise agreed to by all parties. The effective date of transfer shall be communicated in writing to all parties by the Director.

## **110.2 DEMOTIONS**

**110.2.1 VOLUNTARY DEMOTION:** A permanent employee may request a voluntary demotion to a vacant position in a class with a lower salary rate, provided that the employee has previously achieved permanent status in that class or, the request for demotion is to a related class in the same occupational group. All demotion requests shall require the approval of the Director.

110.2.1.1 An employee may take a voluntary demotion or reduction in assigned time in lieu of layoff or to remain in their present position rather than being reassigned.

110.2.1.2 A permanent employee may accept a temporary demotion on a voluntary basis to fill a limited term position or a summer recess assignment.

110.2.1.3 A voluntary demotion is available to a probationary employee, who does not hold permanent status in the District, only in cases when they would otherwise be laid off.

110.2.1.4 An employee who demotes to a class in which they do not hold permanency shall complete the appropriate probationary or trial service period in the new class.



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

Reference: Education Code Section §45272

**110.2.2 INVOLUNTARY DEMOTION:** Involuntary demotion is a disciplinary action for cause and is subject to the disciplinary procedures in these Rules.

110.2.2.1 A permanent employee who has been promoted or reclassified to a higher class, or transferred to a new class may be involuntarily returned to their former class, during the probationary period, due to unsatisfactory work performance, without the right of appeal, pursuant to these Rules.

110.2.2.2 Salary placement upon involuntary demotion shall be in accordance with these Rules.

Reference: Education Code Sections §45302 and §45304

### **110.3 RESTORATION / REINSTATEMENT**

**110.3.1 RESTORATION OF CURRENT EMPLOYEE TO FORMER CLASS:** An employee who has taken a voluntary demotion may be restored to a vacant position in their former class within thirty-nine (39) months after demotion. Except for a demotion taken in lieu of layoff, restoration is discretionary with the appointing authority.

**110.3.2 REINSTATEMENT/REEMPLOYMENT OF FORMER EMPLOYEE:** A former permanent employee who resigned in good standing may be reinstated to a vacant position in their former class and status within thirty-nine (39) months of the last date of paid service. In addition, they may be reinstated to a vacant position in a lower-related class, if qualified, or in a limited-term status in the same or lower class. Such employment actions are discretionary with the appointing authority.

**110.3.3 EFFECTS OF REINSTATEMENT / REEMPLOYMENT:**

Reinstatement or restoration of a current or former employee shall have the following effects:

- 110.3.3.1 A former employee would be reinstated to the same step in the salary range for the class, or if reinstated in a lower-related class, to the rate closest that of the step to which they would be assigned if they were reinstated to their former class.
- 110.3.3.2 A current employee being restored to a former higher class would be placed at the salary range of the higher class and then to the step required in these Rules as if the employee was receiving a promotion.
- 110.3.3.3 The former employee would receive restoration of accumulated sick leave, who subsequently is reinstated within one year of the termination of their or her former employment,
- 110.3.3.4 The former employee would receive restoration of their seniority as of the date of separation.
- 110.3.3.5 The former employee would receive restoration of their former anniversary date, deducting time away from the District and without step-advancement credit for the break in service.
- 110.3.3.6 The former employee would receive restoration of any prior longevity steps granted prior to resigning, without longevity step-advancement credit for the break in service.

Reference: Education Code Section §45202

## CHAPTER 120

### EMPLOYEE PERSONNEL FILES

#### 120.1 PERSONNEL FILES

**120.1.1 MAINTENANCE OF FILE:** An official personnel file for each Classified service employee will be properly maintained in the Personnel Office.

Reference: Education Code Sections §45260 and §45261

**120.1.2 INSPECTION OF PERSONNEL FILES BY EMPLOYEE:** An employee shall have the right to inspect their personnel file upon request. Such inspection shall take place during normal business hours, by appointment only, and with the approval of the supervisor, the employee shall be released from duty for this purpose without salary reduction. An employee shall have access to all material in their personnel file, except that such materials subject to inspection shall not include confidential ratings, reports or records which were:

120.1.2.1 Obtained prior to the person's employment.

120.1.2.2 Prepared by examination committee members.

120.1.2.3 Obtained in connection with a promotional examination.

Reference: Education Code Sections §45260, §45261 and §44031.  
Labor Code Section §1198.5  
Government Code Section §6250

**120.1.3 INSPECTION BY OTHERS:** The employee personnel file shall be available for inspection by: the Superintendent; the Assistant Superintendent, Personnel Services and members of their staff; the Director and members of their staff; members of the Board; members of the Commission; the immediate supervisor above the employee; the employee and their official representative (with written approval from the employee). The inspection of the personnel file by an individual other than the employee (or their official representative) shall only be allowed when necessary in the construct of their District assignment or the supervision of the employee.

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

**120.1.5 DEROGATORY INFORMATION:** Information that is of a derogatory nature, except material referred to in Rules #120.1.2.1 - #120.1.2.3, shall not be entered or filed *unless and until* the employee is given notice and an opportunity to review and comment thereon. Such review shall take place during normal business hours and without loss of pay to the employee. The affected employee shall be furnished with a copy of the proposed material ten (10) workdays prior to it being placed in their file. An employee shall have the right to enter, and have attached to any such derogatory statement, their own rebuttal statement. Nothing in this section shall be construed as to prevent the employee from entering and having attached to any derogatory material, a response within thirty (30) days after receipt of the derogatory material.

Reference: Education Code Section §44031

**120.1.6 SIGNATURE / DATE REQUIRED:** Any person who places written material or drafts written material for placement in an employee's personnel file shall sign the material and signify the date on which such material was drafted. Any written materials placed in a personnel file shall indicate the date of such placement. Employees have the right to enter appropriate materials into their personnel files at any time with the consent of the Director, or the Assistant Superintendent, Personnel Services provided that the material directly impacts the employee's employment. The filing of materials that would result in an unreasonable burden to store in a personnel file will not be accepted.

- 120.1.7 APPEAL OF PLACEMENT OF MATERIAL IN FILE:** An employee may appeal the placement of derogatory information in their personnel file through the Commission's complaint procedure. The timeline for appealing shall coincide with the ten (10) working day inspection period outlined in Rule #120.1.5. The only cause for appeal shall be a claim that a law or rule of the Commission has been violated.
- 120.1.8 REMOVAL OF DEROGATORY MATERIAL:** If the Commission sustains a complaint, the derogatory material shall be removed from the employee's personnel file. In no other instance shall derogatory information be removed from the personnel file. At the point that any complaint is not sustained by the Commission or the time period for filing a classified association grievance related to derogatory information has passed without the filing of a complaint, the derogatory material shall be considered a part of their Permanent Record.
- 120.1.9 COPYING OF MATERIALS IN PERSONNEL FILE:** Photocopies of legally obtainable portions of the employee's personnel file shall be made available to the employee upon written request. A rate of twenty-five cents (\$.25) per page may be charged to the employee for additional copies.

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## CHAPTER 130

### PERFORMANCE EVALUATIONS

#### 130.1 GENERAL POLICY

**130.1.1 POLICY STATEMENT:** The employee performance evaluation report serves as an important tool for both management and employees in the task of insuring quality and efficient work performance. The following rules provide the performance rating standards and procedures which shall be used in connection with the eligibility for advancement, promotion, demotion, and dismissal from the Classified Service, as well as other decisions relative to members of the Classified Service. Such evaluation reports shall be the means by which a member of the Classified Service can learn how their supervisor feels about the quantity and quality of their work, as well as the opportunity to discuss the matter with the supervisor. In addition, the completion and review of the evaluation report with the subordinate affords the supervisor an opportunity to review the employee's performance with them in an effort to correct work deficiencies and/or encourage the person to greater efforts in the performance of their duties.

Reference: Education Code Sections §45260 and §45261

**130.1.2 ADMINISTRATION OF PERFORMANCE APPRAISAL SYSTEM:** The Assistant Superintendent, Personnel Services or designee shall be charged with administering the performance appraisal system of the District for all members of the Classified Service. They shall be responsible for ensuring that all evaluations are properly completed, reviewed, and submitted for inclusion in employees' personnel files. The Director shall be responsible for monitoring the performance appraisal system.

**130.1.3 WHEN EVALUATIONS ARE TO BE MADE:** All regular classified employees shall be evaluated by their immediate supervisors in accordance with the following schedule:

130.1.3.1 Probationary Employees: Employees designated as probationary shall be evaluated at the end of the second and fifth months of service. For persons

employed in positions designated as management, supervisory, administrative or executive by the Commission; performance evaluations shall take place at the end of the third, seventh and eleventh months of service.

130.1.3.2 Permanent Employees: Employees designated as permanent shall be evaluated at least once each fiscal year.

130.1.3.3 Special Evaluations: An employee may be given a special evaluation at any time during their employment if deemed necessary by the supervisor. A special evaluation for unsatisfactory performance shall be made no later than thirty (30) calendar days after the unsatisfactory performance has taken place.

130.1.3.4 Trial Service Periods: Employees designated as working a Trial Service period shall be evaluated once during the Trial Service period.

Reference: Education Code Sections §45260 and §45261

**130.1.4 EVALUATION RATER:** Each employee is to be evaluated by their immediate supervisor who is defined as the person of higher classification who assigns, checks, and supervises more of the work of the employee than any other person in the section, crew, office, or department, and is designated management or supervisory. The evaluation shall be made in a joint conference between the employee and supervisor. In cases where the employee is assigned to more than one (1) department, site, and/or classification, the employee shall receive a joint evaluation.

130.1.4.1 Teachers or classified bargaining unit personnel shall not act as the assigned rater for classified employees. Only designated supervisory or management employees may rate and sign the formal evaluation form. Supervisors may receive input from employees having a lead function over the employee to be evaluated.

**130.1.5 EVALUATION FORMS:** Performance evaluations shall be made on approved District forms.



- 130.1.6 EVALUATION MEETING:** In preparing the performance evaluation form, the supervisor shall have a conference with the employee at which time they will discuss ways and means of improving the conditions under which the employee is working to provide greater efficiency and productivity. Together, the supervisor and employee will analyze the employee's strong points and the areas in which improvement may be made. The performance evaluation form shall be a product of their joint cooperation. Such meeting shall be held during the subordinate's normal working time and without loss of pay. The meeting shall be scheduled by the supervisor to allow adequate time for a discussion with and by the employee.
- 130.1.7 DOCUMENTATION:** All evaluations indicating a need to improve or unsatisfactory comments about the employee's performance shall include substantiating comments and/or documentation.
- 130.1.8 SPECIFIC RECOMMENDATIONS FOR IMPROVEMENT:** Any adverse evaluation shall include specific recommendations for improvements and provisions for assisting the employee in implementing any recommendations made.
- 130.1.9 SIGNING OF FORM:** The completed evaluation form shall be signed by the evaluator and the person being evaluated to indicate that the evaluation has been seen and discussed with the employee and they have received a copy of the evaluation. The signing of the evaluation form by the employee shall not be construed to mean that the employee is necessarily in agreement with the contents of the evaluation form only that they have received the evaluation form.
- 130.1.10 DISTRIBUTION OF EVALUATION:** The completed evaluation form shall be distributed as follows:
- 130.1.10.1 One copy to the employee being evaluated.
  - 130.1.10.2 One copy to the supervisor performing the evaluation.
  - 130.1.10.3 The original copy for inclusion in the employee's personnel file.

**130.1.11 EMPLOYEE ATTACHMENTS TO EVALUATION:** The employee shall have a minimum of ten (10) working days from the date of the final evaluation meeting to submit their written comments and/or documentary evidence to refute or rebut any derogatory rating or comments in the evaluation form. Any employee submissions shall be attached to the evaluation prior to placement in the employee's personnel file, and a copy shall be forwarded to the evaluator.

## CHAPTER 140

### VACATIONS

#### 140.1 VACATIONS

##### 140.1.1 **RATIO FOR EARNING VACATION - REGULAR EMPLOYEES:**

Regular classified employees, permanent and probationary, or a regular permanent employee temporarily assigned to a provisional or limited term assignment, shall earn vacation at the rate as set forth in the current bargaining unit agreement.

##### 140.1.2 **RATIO FOR EARNING VACATION - MANAGEMENT EMPLOYEES:**

Classified confidential, supervisory and management employees shall earn vacation at the rate of twenty-two (22) days a year or as set forth in the current Management Team Guidelines and Benefits.

Reference: Education Code Sections §45190 and §45197

##### 140.1.3 **VACATION RATE OF PAY:**

All vacation shall be paid at the employee's regular rate of pay earned in their permanent classification, including any longevity, differential, or stipend payments.

##### 140.1.4 **EMPLOYEES HIRED FOR PARTIAL FISCAL YEAR:**

An employee hired after July 1 of any year will have earned allowable vacation time pro-rated to the actual time served. Regular full-time employees who work less than twelve (12) months are granted paid vacation in proportion to their periods of service

##### 140.1.5 **VACATION CREDIT FOR PARTIAL MONTH:**

Full vacation leave for a given month is credited if an employee is in paid status for 50% or more of the working days in the month.

##### 140.1.6 **VACATION EARNED DURING PAID STATUS:**

Vacation is earned at all times that an employee is in a paid status including working time, paid holidays, and all paid leaves of absence.

##### 140.1.7 **PROBATIONARY EMPLOYEES VACATION RIGHTS:**

New Hire probationary employees shall not use earned vacation until the completion of their probationary period. In the event of a catastrophic event, a probationary employee may request to use

only accrued vacation with the District holding discretionary approval rights. After the probationary period is completed; earned vacation shall become a vested right. Management, Supervisory and Confidential employees may use earned vacation as needed during probation with supervisory approval.

**140.1.8 VACATION SCHEDULING FOR LESS THAN TWELVE (12) MONTH EMPLOYEE:** The scheduling and duration of a requested vacation shall be at the discretion of the employee's supervisor and/or the District. There shall be no window period requirement for submission of vacation requests. All vacations shall be scheduled between the start and end of the employee's assigned work year.

**140.1.9 VACATION SCHEDULING FOR TWELVE (12) MONTH EMPLOYEES:** An employee assigned twelve (12) months per year shall take their vacation at a time convenient to both the employee and their supervisor. The employee shall be allowed to take all of their earned vacation in one (1) unbroken period if it is the employee's wish to do so.

140.1.9.1 In determining the vacation schedule for individual departments, the supervisor shall give employees the choice of times available on the basis of seniority whenever possible.

**140.1.10 CREDITING OF VACATION TO EMPLOYEE'S ACCOUNT:** At the beginning of each fiscal year (July 1) each employee shall be granted in advance the number of vacation days expected to be earned that fiscal year as stipulated in Section 140.1.1 and 140.1.2 of these rules.

**140.1.11 UNEARNED VACATION UPON TERMINATION:** When a classified employee terminates and had been granted vacation which was not yet earned at the time of termination of their services, the District shall deduct from the employee's final check the full amount of salary which was paid for such unearned days of vacation taken.

- 140.1.12 EARNED VACATION UPON TERMINATION:** When a classified employee terminates, the employee shall be entitled to lump sum compensation for all earned and unused vacation, at their regular rate of pay, except that employees who have not completed six (6) months of employment in regular status (probationary employees) shall not be entitled to such compensation.
- 140.1.13 MAXIMUM ACCRUAL OF VACATION:** Classified employees covered by the current bargaining unit agreement shall accrue vacation only in accordance with that agreement. Classified confidential, supervisory and management employees may accrue no more than one (1) and a half (.5) years of accumulated vacation. Vacations are expected to be used during the year in which they are earned.
- 140.1.14 VACATION POSTPONEMENT:** Vacation may, with the approval of the District, be taken any time during the school year. If the employee is not permitted to take their annual vacation, the amount not taken shall accumulate for use in the next year.
- 140.1.15 VACATION HOLIDAYS:** If a District-approved holiday falls within a scheduled vacation, the employee shall not be charged a vacation day for the holiday.
- 140.1.16 INTERRUPTION OF VACATION:** Permanent classified employees may interrupt or terminate vacation leave to begin another type of paid leave without a return to active service provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption or termination.

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## CHAPTER 150

### LEAVES OF ABSENCE

#### 150.1 GENERAL PROVISIONS

- 150.1.1 DEFINITION OF LEAVE OF ABSENCE:** A leave of absence is an authorization for a regular, permanent classified employee, or a regular permanent classified employee temporarily assigned to a provisional or limited term assignment; to be absent from duty for a specific period of time for an approved purpose.
- 150.1.2 GUARANTEE OF RIGHT TO POSITION UPON RETURN:** The granting of a paid or unpaid leave of absence of six (6) months or less shall guarantee the employee the right to return to their same position.
- 150.1.3 RIGHTS TO POSITION FOR LEAVES OVER SIX (6) MONTHS:** The granting of a paid or unpaid leave of absence of more than six (6) months shall guarantee the employee the right to return to a position of equal status in the employee's same classification. However, the assignment may be in a different department or location. In no event would the assignment be on a different work shift than the previous position without the written voluntary permission of the returning employee.
- 150.1.4 AUTHORIZED LEAVE IS NOT A BREAK IN SERVICE:** An authorized paid leave, unpaid illness leave, industrial leave, military leave or other leave as authorized by law does not constitute a break in service.
- 150.1.5 CONTINUATION OF ALL BENEFITS DURING PAID LEAVES:** An employee on a paid leave of absence shall continue to accrue all benefits to which they are entitled as a regular employee.
- 150.1.6 HEALTH COVERAGE MAY CONTINUE DURING ABSENCES:** An employee, who is otherwise eligible for District-paid health insurance shall continue to receive such benefits during all periods of paid leaves or periods of unpaid approved leaves thirty (30) calendar days or less. In the event that the employee is absent as the result of a District-approved unpaid leave exceeding thirty (30) calendar days, the employee shall be allowed to maintain their health insurance benefits by remitting monies to the District to cover the necessary costs of such insurance.

- 150.1.7 CANCELLATION OF VOLUNTARY LEAVES:** The Trustees may cancel any voluntary leave of absence for good cause by giving the absent employee due notice. Due notification shall allow sufficient time for the employee to return to work but shall not be less than five (5) working days.
- 150.1.8 FAILURE TO REPORT FOR DUTY AFTER A LEAVE IS CANCELED:** Failure to report for duty within five (5) working days after a leave has been canceled shall be considered abandonment of position and the employee may be terminated by the Trustees. Termination for abandonment shall be deemed termination for cause and treated as a disciplinary action.
- 150.1.9 EMPLOYEE MUST MAINTAIN LICENSES / CERTIFICATES:** Any required license or certificate held by the employee at the time the leave was granted must be valid at the time the employee returns to work.
- 150.1.10 ABSENT EMPLOYEES MAY NOT ACCEPT GAINFUL EMPLOYMENT:** An employee, while on leave of absence other than vacation, may not accept other gainful employment, except ordered military service, without express prior approval of the Trustees.
- 150.1.11 ABSENCE REQUESTS:** Absence requests shall be submitted by every classified employee taking any leave of absence including time off carried as Sick, Personal Business, Personal Necessity, Vacation, Jury Duty, Non-Duty, etc.
- 150.1.11.1 Requests for unpaid leaves shall be submitted to the employee's site supervisor for approval. After approval, the site supervisor shall forward the request to the Assistant Superintendent. Personnel Services or their designee.
- 150.1.12 HOLIDAYS DURING PAID LEAVES:** Authorized paid holidays which occur during the period in which an employee is on a paid leave of absence shall be paid as holiday pay and shall not be deducted from any paid leave days being used or eligible to be used by the employee.



**150.1.13 ORDER OF AVAILABLE LEAVES FOR ILLNESS OR INJURY:**

An employee who is absent for any reason related to illness or injury shall utilize available leaves in the following order:

150.1.13.1 Industrial Accident and Illness Leave (if applicable).

150.1.13.2 Accrued and advanced sick leave.

150.1.13.3 Compensatory time off.

150.1.13.4 Accrued or credited vacation days.

150.1.13.5 Extended illness leave.

Education Code §45190-§45196.5, §45260 and §45261

**150.2 SICK LEAVE**

**150.2.1 DEFINITION OF SICK LEAVE:** Sick leave is the authorized absence of a regular employee when the absence is due to physical or mental inability to perform the usual and customary duties of the position due to illness, injury, or for legally established quarantine.

150.2.1.1 Time off to visit a licensed physician, dentist, medical practitioner, psychologist or other therapist for examination, treatment, consultation, or therapy for the employee is covered by Personal Illness (Sick) Leave and if for their immediate family is covered by Personal Necessity Leave.

**150.2.2 NUMBER OF SICK LEAVE DAYS PER YEAR:** Every regular classified employee shall earn sick leave in accordance with the current bargaining unit agreement. Classified confidential, supervisory and management employees shall earn one (1) day per month of paid service.

150.2.2.1 To qualify for a full month allocation of sick leave, the employee must be in paid status for at least 50% or more of the workdays in the month.

150.2.2.2 Employees assigned to a work year of less than twelve (12) months or less than forty (40) hours per

week shall receive sick leave credit pro-rated in the same proportion as the number of months bear to twelve (12) and the number of hours worked per week bear to forty (40).

**150.2.3 SICK LEAVE SHALL BE EARNED IN HOURS:** Employees shall earn sick leave on the basis of accrual by hours. The pay for earned sick leave shall be determined based upon Rule 150.2.4.

**150.2.4 PAY RATE FOR SICK LEAVE:** When an employee takes sick leave, pay for that sick leave shall be the same pay the employee would have received had they worked that day.

**150.2.5 CARRYOVER OF SICK LEAVE:** Sick leave accrued, but not used, shall carry over from one (1) fiscal year to another without limit on accumulation.

**150.2.6 PROBATIONARY EMPLOYEES' USE OF SICK LEAVE:** New probationary employees may not use more than accrued paid sick leave during their initial probationary period. This rule shall not apply to those regular classified employees who have previously completed a probationary period.

**150.2.7 SICK LEAVE GIVEN IN ADVANCE:** At the beginning of each fiscal year, the sick leave account of the employee shall be increased by the number of hours of paid sick leave which would normally be earned in the ensuing fiscal year. This is subject to change based upon changes to District Policies and/or collective bargaining agreements.

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

**150.2.8 NOTIFICATION OF ABSENCE:** In order to receive compensation for sick leave, the employee shall notify the District in accordance with procedures established by the employee's supervisor or the District. If no procedure is otherwise established, the employee shall notify their immediate supervisor prior to the start of their workday if possible, but not later than the first working hour of absence. If such notification is impossible, the burden of proof of impossible conditions shall be upon the employee.

**150.2.9 NOTIFICATION OF RETURN TO WORK:** In order to allow the District the opportunity to make arrangements for the return of an absent employee, the employee shall notify their immediate supervisor of their impending return as soon as possible, but not later than 3:00 p.m. of the work day preceding the day on which the employee is to return to work. If an employee fails to notify their supervisor, and a limited term substitute has been assigned to work for the day when the employee returns to work, the employee may be sent home and charged with a vacation day or other applicable paid leave if available. If no paid leave is available, the employee shall be charged with a day of leave without pay.

**150.2.10 DOCTOR'S NOTE REQUIRED FOR ABSENCES EXCEEDING THREE (3) DAYS:** An employee who is absent for more than three (3) consecutive working days should, prior to the employee's return, present the District with a doctor's release note, report or clearance as well as the date on which the employee can be expected to return to work, and shall certify whether the release to work is with or without restriction or limitation. In addition, the District may send an employee to a District appointed physician for a fitness for duty examination at the District's expense.

150.2.10.1 An employee returning from surgery or illness requiring hospitalization, regardless of the duration of the absence, shall be required to provide medical verification of fitness to perform all the duties of their assigned position without restriction or limitation before being permitted to return to work. Employees who have been released to return to work with limitations or restrictions may be eligible to return to work and shall be scheduled for an interactive accommodation meeting to discuss potential accommodations in the event the employee has restrictions or limitations on their ability to return to work.

150.2.10.2 An employee required to wear a cast or other orthopedic device while at work shall be required to provide medical verification of their fitness to perform all the duties of their assigned position without

restriction or limitation. The interactive process (accommodation meeting) shall be scheduled to discuss potential accommodations in the event the employee has restrictions or limitations on their ability to return to work.

150.2.10.3 Employees on Industrial Illness Leave (Workers Compensation) who have been released by their doctor to return to work with limitations or restrictions may be eligible to participate in the District Return to Work Program and are encouraged to inquire about their eligibility.

**150.2.11 SUBMISSION OF DOCTOR'S NOTES:** Doctor's report and/or clearances to return to work should be submitted to the immediate supervisor who shall forward the note to Personnel Services or an office designated by the District.

**150.2.12 GENERAL DISTRICT RIGHT TO REQUIRE MEDICAL EXAM:** The District shall have the right to require a fitness-for-duty examination and have an employee examined by a state-licensed physician, at District expense, whenever there is a question as to the employee's physical, mental, or emotional ability to perform the duties and/or responsibilities of their position; regardless of whether or not the employee has claimed or received paid benefits under the provisions of these rules and regulations.

**150.2.13 NO SICK LEAVE PAYOFF WHEN EMPLOYEE LEAVES:** If an employee leaves the employment of the District, accumulated unused sick leave will not be credited to the employee's final payment.

Education Code Education Code §45202

**150.2.14 SICK LEAVE ON HOLIDAYS:** When paid sick leave is used on the working day immediately before or after a paid holiday, the holiday shall not be charged against sick leave.

Education Code §45191

**150.3 EXTENDED SICK LEAVE**

**150.3.1 EXTENDED SICK LEAVE:** All regular classified employees who have exhausted all accrued and advanced sick leave are eligible for extended sick leave benefits subject to the following conditions:

- 150.3.1.1 Extended sick leave shall be limited to five (5) months per fiscal year or per single illness, beginning with the first day of illness.
- 150.3.1.2 When a regular classified employee has exhausted all accumulated sick leave and continues to be unable to resume the regular duties of their position due to illness or injury, the employee may be placed on extended sick leave.
- 150.3.1.3 Extended sick leave pay shall be the employee's regular rate of pay less the amount actually paid a limited term substitute employee. If no limited term substitute is hired, the employee shall receive full pay.
- 150.3.1.4 Accrued and advanced sick leave, compensatory time, and vacation, when used for illness, shall be included concurrently in the five (5) month period.
- 150.3.1.5 In order to be eligible for extended sick leave, the employee shall use all available leave in the following order:
  - A. All industrial accident or illness leaves, when applicable.
  - B. All accrued and advanced sick leave.
  - C. All accumulated compensatory time.
  - D. All earned vacation.
- 150.3.1.6 An employee shall be required to provide medical verification/doctor's note when requesting extended sick/illness leave.

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

**150.3.3 VERIFICATION OF ILLNESS:** All rules governing verification of illness absences outlined in Rule 150.2 shall also apply to any absences taken under this rule.

#### **150.4 INDUSTRIAL ACCIDENT/ILLNESS LEAVE**

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

**150.4.2 REPORTING OF INJURY:** In the case of an industrial accident or injury, the employee shall report the incident to their supervisor within twenty-four (24) hours of the occurrence. Injuries or illnesses not reported within this time constraint shall require justification for the delay.

150.4.2.1 When an employee is absent from their duties due to an industrial accident or illness, they shall notify their supervisor or principal, on the first day of absence that the injury is industrial and submit an absence notification form signed by the employee and accompanied by a statement from a licensed physician. The supervisor or principal, after countersigning the absence notification form, shall clearly indicate on the employee's monthly time sheet that the absence is due to industrial accident or illness.

150.4.2.2 Employees may use a licensed physician of choice if the pre-designated physician form is submitted prior to the industrial accident. The choice of a licensed physician shall be made in writing and kept on file in the employee's personnel file for the duration of employment. Absent an employee's written selection for a physician of choice, the Districts appointed Physician shall be used.

**150.4.3 LEAVE COMMENCES ON FIRST DAY:** An industrial accident or illness leave shall commence on the first day of absence and shall be reduced by one (1) day for each day of authorized absence.

**150.4.4 WORKERS' COMPENSATION CHECK ENDORSED TO DISTRICT:** During a leave taken under Rule 150.4, the employee shall endorse to the District any temporary disability indemnity checks received on account of their industrial accident or illness. The District, in turn, shall issue the employee appropriate salary warrants for payment of the employee's full salary and shall deduct normal retirement and other authorized contributions.

**150.4.5 USE OF SICK LEAVE AFTER EXHAUSTION OF SIXTY (60) DAYS:** Upon exhaustion of the industrial accident/illness leave, the employee shall be entitled to use sick leave provided in Rule 150.2. This leave shall commence on the date of termination of the industrial leave of absence. Provided the employee continues to receive temporary disability indemnity, they may elect to take as much of accumulated sick leave which, when added to their temporary disability indemnity, will result in a payment to them of not more than their full salary.

**150.4.6 USE OF OTHER LEAVES AFTER EXHAUSTION OF SICK LEAVE:** After all accumulated sick leave has been exhausted an employee will be paid from any compensatory time off the employee may have accumulated. If no compensatory time off is accumulated or has been exhausted, the employee will then use accrued vacation credit. If no vacation credit is available or has been exhausted, the employee will then begin to use the extended illness leave provided in Rule 150.3. The use of leaves outlined in this section shall be governed by the coordinated use of temporary disability benefits outlined in Rule 150.4.5.

- 150.4.7 EMPLOYEE MUST REMAIN IN STATE OF CALIFORNIA:** An employee receiving benefits under the provisions of this Rule shall, during the period of the leave, remain within the State of California unless out-of-state travel is authorized by the District.
- 150.4.8 PLACEMENT ON RE-EMPLOYMENT LIST AT EXHAUSTION OF LEAVES:** When all available paid or unpaid leaves of absence have been exhausted, and if the employee is still not medically able to assume the duties of their position, they shall be placed on a re-employment list for a period of thirty-nine (39) months. When the employee is medically able to return to work during this thirty-nine (39) month period, they shall be employed in a vacant position in the class of their previous assignment over all other candidates, except for a re-employment list established because of a layoff for lack of work or lack of funds, in which case they shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a re-employment list, as provided herein, and who has been medically released for return to duty, and who fails to accept an appropriate assignment, shall be removed from the re-employment list. An appropriate assignment for purposes of this rule shall be defined as a position in the previous class having the same or greater number of assigned hours per day, days per week, and months per year, and on the same approximate shift.
- 150.4.9 ABOLISHMENT OF PREVIOUS CLASSIFICATION:** If the employee's class has been abolished during their absence, and the employee has been released to return, the employee shall be placed in a vacant position in a comparable class for which the employee is qualified as determined by the Director, and approved by the Commission.
- 150.4.10 RETURN TO SERVICE AFTER INDUSTRIAL LEAVE:** An employee shall be permitted to return to service after an industrial accident or illness leave only upon presentation of a release from the District appointed physician and the employee's treating physician. These releases must certify that the employee is able to return to their position without restrictions or limitations. If the employee's treating physician gives a full release and the District's appointed doctor does not, the employee may request an



independent evaluation by a third physician. Employees with only partial releases may not be guaranteed a right to return. Employees released with restrictions or limitations; or with partial releases shall be afforded all rights of "reasonable accommodation" considerations. The District shall determine, based upon the medical restrictions and limitations placed on the employee, whether or not the employee will be able to return based upon reasonable accommodations the District may or may not be able to provide. The Interactive Process shall be conducted as soon as reasonably possible between District designated parties (Risk Management and/or Personnel Services) and the employee and the employee's representative if so desired. The Director shall be available for assistance in providing guidance on interpretation of minimum qualifications, knowledge, skills and abilities as stated in the classification description.

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

Reference: Education Code Sections §45192, §45260 and §45261

## **150.5 TRANSFER OF SICK LEAVE**

- 150.5.1 TRANSFER OF SICK LEAVE FROM ANOTHER DISTRICT:** Any classified employee of another school district, county superintendent's office, community college, or other public school agency deemed a school district by California law, who was not terminated from that agency for cause, who accepts employment with the District within one (1) calendar year from the date of the termination of employment with the other district shall be allowed to transfer their accumulated sick leave from that agency to this district. In order to effectuate the transfer of the accumulated sick leave; at the request of the newly-hired employee, the District shall forward the request to the former school agency and upon receipt of the requisite documentation, transfer the sick leave balance for inclusion in the employee's sick leave accumulation bank.

Reference: Education Code Sections §45202, §45260 and §45261

## **150.6 UNPAID ILLNESS LEAVE**

**150.6.1 SIX (6) MONTH UNPAID LEAVE:** A permanent classified employee, who has exhausted all paid leaves and who continues to be absent due to illness or injury may be granted an additional six (6) month unpaid leave of absence upon recommendation of the Assistant Superintendent, Personnel Services or their designee and approval of the Board. This leave may be extended for one (1) additional six (6) month period.

**150.6.2 FACTORS THAT MUST BE CONSIDERED:** Prior to granting or not granting this leave the following factors shall be considered:

150.6.2.1 The likelihood that the employee will be able to return to regular duties at the conclusion of the leave.

150.6.2.2 The length of service and work record of the employee.

150.6.2.3 The employee's previous leave history and attendance record.

150.6.2.4 The number of positions in the employee's class.

150.6.2.5 The uniqueness of the duties performed, and the availability of a limited term substitute.

**150.6.3 RIGHT TO RETURN TO CLASS:** The granting of an unpaid leave of absence under this rule shall guarantee the employee the right to return to a position in their former classification.

Reference: Education Code Sections §45195, §45260 and §45261

## **150.7 BEREAVEMENT LEAVE**

**150.7.1 FIVE (5) DAYS OF PAID LEAVE:** In the event of the death of an immediate family member (as defined in Chapter 10.2 of these Rules), an employee shall be granted necessary leave of absence, not to exceed five (5) workdays. Additional days of absence beyond those described herein may be provided under the terms of Personal Necessity Leave provisions contained in Rule 150.8. Employees granted bereavement leave under this rule shall suffer

no deduction from their salary, nor shall such leave be deducted from leave granted by other sections of these rules or the Education Code.

Reference: Education Code Sections §45194, §45260 and §45261

## **150.8 PERSONAL NECESSITY LEAVE**

**150.8.1 USE UP TO SEVEN (7) DAYS:** An employee may use, upon District approval, not more than seven (7) days accumulated sick leave benefits in any fiscal year, in the following cases of personal emergency:

150.8.1.1 Death of a member of the immediate family in addition to the bereavement leave outlined in Rule 150.7.

150.8.1.2 Accident involving the employee or their property or the person or property of the immediate family of such nature as to require the presence of the employee during the workday.

150.8.1.3 When resulting in an appearance in any court or before an administrative proceeding as a litigant, party or witness under subpoena.

150.8.1.4 Such leave may not be used for seeking other employment, rendering paid services, or working either with or without remuneration for oneself or for anyone else; for recreational activities; political activities or demonstrations, social activities, extension of a school holiday, recess or vacation or for withholding of services. The permissive sections of this leave may not be granted for the first or last day of the school year, nor on the first working day preceding or following a vacation or holiday period including weekend holidays.

**150.8.2 NOTIFICATION AND APPROVAL OF LEAVE USAGE:** Personal Necessity Leave should be requested in advance from the employee's immediate supervisor. Exceptions are permitted if there is a death, accident or serious/critical injury/illness to the employee or a member of their family.

**150.8.3 PERSONAL NECESSITY NOT CUMULATIVE:** Personal necessity leave is non-cumulative. Employees are limited in each fiscal year to the amount of usage outlined in Rule 150.8.1.

Reference: Education Code Sections §45207, §45260 and §45261

**150.9 PERSONAL BUSINESS LEAVE**

**150.9.1 PERSONAL BUSINESS LEAVE - REGULAR EMPLOYEES:** Regular classified employees shall be entitled to two (2) days personal business leave per fiscal year.

**150.9.2 PERSONAL BUSINESS LEAVE – MANAGEMENT EMPLOYEES:** Classified confidential, supervisory and management employees shall be entitled to four (4) days of personal business leave per fiscal year.

**150.9.3 NOTIFICATION TO SUPERVISOR:** Except in cases of emergency, all classified employees shall provide notification to their supervisor at least twenty-four (24) hours in advance.

**150.9.4 UNUSED PERSONAL BUSINESS LEAVE:** Unused Personal Business Leave shall be credited to the employee sick leave account on June 30<sup>th</sup> at the end of the fiscal year.

**150.9.5 USAGE:** Personal Business Leave shall be granted for situations that cannot be resolved outside the regular working day. It shall be used for personal, legal, business or family matters requiring absence during normal working hours; to include but not limited to:

150.9.5.1 Additional time for bereavement or settlement of an estate.

150.9.5.2 Any emergency not covered elsewhere in these Rules.

150.9.5.3 Serious damage to personal property

**150.9.6 UNAUTHORIZED USAGE:** Personal Business Leave shall not be used for:

150.9.6.1 Personal or social convenience

150.9.6.2 Extension of a holiday or vacation period

150.9.6.3 Recreational activities

150.9.6.4 Any matter or situation that can be taken care of outside normal work hours.

150.9.6.5 Any activity that shall interfere with or disrupt normal educational activities of the District.

150.9.6.6 Purposes of supplementary income.

Reference: Education Code Sections §45198, §45260 and §45261

## **150.10 UNPAID CHILD REARING LEAVE**

**150.10.1 GRANTING OF UNPAID CHILD REARING LEAVE:** An unpaid child rearing leave of up to one (1) year may be granted to an employee for the purpose of raising their natural or adopted child.

**150.10.2 ESTABLISHMENT OF BEGINNING / END DATES:** The employee is expected to establish a beginning and ending date for the child rearing leave with their supervisor as far in advance of the start of the child rearing leave as possible in order to plan for a temporary replacement.

**150.10.3 EMPLOYEE MAY RETURN EARLIER:** An employee who has been granted an unpaid child rearing leave may return early from that leave with at least a ten (10) working days' notice to the District.

**150.10.4 UNPAID CHILD REARING LEAVE:** May run concurrently with Family Medical Leave (FMLA) as Child Bonding Leave until the child is one (1) years old.

## **150.11 JURY DUTY LEAVE**

**150.11.1 LEAVE OF ABSENCE FOR JURY DUTY:** Regular classified employees who are called to serve on a jury shall be entitled to be absent from duty without loss of pay. Any compensation, excluding reimbursements for meals, mileage, and parking allowances, received by an employee as a member of a jury shall be remitted to the District.

**150.11.2 RETURN FROM JURY DUTY:** An employee shall return to work from jury duty if they can do so and complete at least two (2) hours work during their regular assigned hours, allowing for travel and a thirty (30) minute meal period if the normal meal period was not provided by the court. In no event shall an employee be expected to put in more time, when combining jury duty hours (including travel time) and regular work hours, than their regular number of assigned hours. The exception to the rule would be if the District required the employee to work additional hours beyond their regular number of assigned hours per day and compensated the employee for the additional hours at their regular or overtime rate as appropriately determined by these rules and regulations.

**150.11.3 NOTIFICATION OF JURY LEAVE:** A request for jury duty leave must include a copy of the Jury Summons and shall be submitted to the employees' assigned Supervisor. The employee shall submit the Daily Jury Form that is received from the Court for every day of Jury service.

Reference: Education Code Sections §44037, §45260 and §45261

## **150.12 OTHER LEAVES:**

**150.12.1 FAMILY MEDICAL LEAVE:** A federal law (Title 29 U.S.C. Ch 28), Family Medical Leave Act (FMLA) allowing for up to twelve (12) weeks of **unpaid** leave for qualified medical and family reasons as allowed for by the State and the District. May run concurrently with PFL.

150.12.2 PAID FAMILY LEAVE (PFL): A program administered by the State of California Employment Development Department (EDD) through the State Disability Insurance (SDI) Program that provides partial monetary benefits to employees who need to take time off to care for a seriously ill family member as well as new parents desiring time to bond with a new child entering their life by birth, adoption or foster care for up to eight (8) weeks.

150.12.2.1 May run concurrently with FMLA.

150.12.2.2 Employees may or may not be eligible as determined by whether the employer participates or does not participate in a SDI or equivalent voluntary short-term disability insurance program.

Reference: Education Code Sections §45260 and §45261  
Unemployment Insurance Code Section §3300-3308  
Title 29 U.S.C. Chapter 28

### **150.13 RELEASE TIME FOR PERSONNEL ACTIVITIES**

**150.13.1 LEAVE TO TAKE DISTRICT EXAMINATION:** Any employee in the classified service of the District shall be permitted to take any examination given by the District during their regular working hours without deduction of pay or other penalty. This paid release time shall be valid only with written authorization to take the examination signed by the Director, or their designee. The employee shall provide at least two (2) days' notice to their immediate supervisor.

**150.13.2 ATTENDANCE AT INTERVIEW:** Any employee in the classified service of the District shall be permitted release time to attend an interview for promotion or transfer in the District during their regular working hours without deduction of pay or other penalty. The employee shall provide notice to their immediate supervisor as soon as possible after notification by Classified Personnel of the interview time.

**150.13.3 ATTENDANCE AT COMMISSION MEETING:** Any employee in the classified service of the District shall be permitted release time to attend a Commission meeting at which a recommendation affecting the employee's classification, salary or status is being presented, without deduction of pay or other penalty. The employee shall provide at least twenty-four (24) hours' notice to their immediate supervisor.

Reference: Education Code Sections §45260, §45261 and §45272

## **150.14 MILITARY LEAVE**

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

**150.14.2 RESERVE SERVICE:** Regular classified employees who are members of a reserve corps, and who must be temporarily absent due to active duty training or exercises shall be granted temporary military leave of absence.

**150.14.3 THIRTY (30) DAYS LEAVE WITH PAY:** Regular classified employees shall be granted full pay for the first thirty (30) calendar days of the leave. Employees on military leave shall be granted salary advancement and shall continue to accrue seniority for purposes of layoff. No other fringe benefits, such as sick leave or vacation shall accrue during any unpaid portion of the leave.

**150.14.4 OFFICIAL ORDERS MUST BE SUBMITTED:** In order for a paid leave of absence to be granted, the employee must submit official orders to active duty or reserve duty, stating the dates to report.

**150.14.5 RETURN FROM MILITARY LEAVE:** Upon return from military leave the employee shall be reinstated to their same regular position or an equal position in the same class, within thirty (30) days of release from active duty, return to inactive reserve status or discharge from active duty.

Reference: Education Code Sections §45190, §45260 and §45261  
California Military and Veterans Code Sections §389, §395, §395.01 - §395.05, §395.1 - §395.4



**150.15 LEAVE TO SERVE IN EXEMPT/TEMP/PROVISIONAL/LIMITED TERM POSITION**

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

**150.15.2 VOLUNTARY RETURN TO REGULAR POSITION:** Such employee may, with the approval of the appointing authority, voluntarily return to their regular position or to a position in the class of their permanent status prior to the completion of service in the exempt, temporary, or limited-term assignment.

Reference: Education Code Sections §45260 and §45261

**150.16 LEAVES OF ABSENCE WITHOUT PAY**

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

**150.16.2 LENGTH OF LEAVE:** Leave of absence without pay may be granted for any period not exceeding six (6) months but may be extended for one (1) additional six (6) month periods with the approval of the District.

**150.16.3 REASONS:** A leave of absence may be granted an employee provided they meet all other requirements set forth in this rule:

150.17.3.1 An employee who desires to attend an educational institution or to enter training to improve the quality of their service.

150.17.3.2 For reasons already enumerated in Chapter 150 of these Rules.

150.17.3.3 For reasons deemed satisfactory to the District.

- 150.16.4 DENIAL:** A leave of absence may not be used for completing temporary, probationary or trial employment elsewhere.
- 150.16.5 RIGHT TO RETURN:** The granting of a leave of absence without pay gives the employee the right to return to their position at the expiration of their leave of absence, or before, with the concurrence of the appointing authority and/or in conformance with procedures contained in Chapter 150 of these rules and regulations, if such a position still exists. Such leaves are granted only to employees who desire to return to their former position. A physical examination may be required by the Director, before the employee returns to work.
- 150.16.6 CANCELLATION OF UNPAID LEAVE OF ABSENCE:** The Director, may, for cause, and upon request of the appointing authority, cancel any leave of absence approved by giving the absent employee due notification.
- 150.16.7 FILLING VACANCY:** When a leave of absence without pay is granted it shall be understood that the vacancy thus caused may be filled for the duration of the leave only, and that the position is being held open for the employee who is on leave.
- 150.16.8 REPORT OF REINSTATEMENT:** Report of the employee's return to work at or before the expiration of a leave of absence without pay, shall be made directly to the Director, prior to the employee returning. At the same time, notice to the employee who has been filling the position temporarily shall be made by the Director.
- 150.16.9 FAILURE TO RETURN:** Failure to report for duty within five (5) consecutive working days after the deadline for returning from a leave shall be considered abandonment of position and subject the employee to disciplinary action up to and including termination from employment. The employee may present evidence to the Director, to show why the failure to return was excusable, in which case the employee may be reinstated with no further action.

**150.16.10 COUNTING TIME FOR SENIORITY OR SALARY ADJUSTMENT:** Time spent on leave of absence without pay of over two (2) months shall not count towards seniority except in cases of military leave, illness leave, pregnancy disability leave, child-rearing leave, and industrial accident/illness leave. Time spent on leave of absence without pay shall not count towards salary step increase.

**150.16.11 UNPAID LEAVES OF FIVE (5) DAYS OR LESS:** A voluntary informal unpaid leave of absence may be granted by the immediate supervisor for a period of five (5) working days or less without approval of the Director. However, this unpaid leave must be reported on the employee's time sheet and an absence notification form must be filled out and attached to the time sheet.

Reference Education Code Sections §45122, §45136, §45137, §45190, §45191, §45193, §45195, §45196.5, §45198, §45199, §45260 and §45261

## **150.17 FAMILY SCHOOL PARTNERSHIP ACT**

**150.17.1 UP TO FORTY (40) HOURS LEAVE:** An eligible employee may be entitled, with District approval, to not more than forty (40) hours off during each fiscal year to participate in school activities.

150.17.1.1 For the purposes of this leave, an eligible employee must be a parent, guardian or grandparent having custody of one (1) or more child in grades K - 12.

150.17.1.2 Employees shall use existing vacation, personal leave, compensatory time off or unpaid leave for the period of their absence.

**150.17.2 NOTIFICATION OF LEAVE USAGE:** Classified employees desiring to use such leave shall request to utilize such leave at least three (3) working days in advance of the anticipated absence for approval by their supervisor. Written proof of the school participation by the employee must accompany the request.

Reference: Labor Code Section §230.8

**150.18 PREGNANCY DISABILITY LEAVE**

**150.18.1 ENTITLED TO ALL SICK LEAVE BENEFITS:** Regular female classified employees who must be absent from their duties because of pregnancy or convalescence following childbirth shall be entitled to utilize all regular and extended sick leave benefits to which they may be entitled under these Rules and other contractual agreements.

**150.18.2 SICK LEAVE DURING MEDICALLY CERTIFIED ABSENCE:** Paid leave, including regular sick leave and extended sick leave may be used for the period of absence medically certified by the employee's attending physician.

**150.18.3 CERTIFICATION OF LAST DAY ABLE TO WORK:** Prior to the eighth month of pregnancy, the employee shall furnish the supervisor with a medical certificate stating the last date on which they will be able to work, accompanied by a verification of their disability. This documentation shall be forwarded to the Assistant Superintendent, Personnel Services or their designee.

**150.18.4 RELEASE TO RETURN TO WORK:** Prior to returning to work, the employee must present to the District, a release to return to work without limitations, from the treating physician. In addition, the District, may require that the employee be examined by a District appointed physician to confirm the employee's ability to return to work.

**150.18.5** May run concurrently with FMLA and CFRA (PFL).

Reference: Education Code Sections §45193, §45260 and §45261

**CHAPTER 160****HOLIDAYS****160.1 HOLIDAYS**

**160.1.1 HOLIDAYS FOR CLASSIFIED EMPLOYEES:** All regular classified employees shall be entitled to the following paid holidays which occur during their assigned work year, subject to eligibility provisions of this Rule:

New Year's Day	Labor Day
Martin Luther King Day	Veterans' Day
Lincoln's Birthday	Thanksgiving Day
Washington's Birthday	Day after Thanksgiving
Spring Vacation Day	Christmas Day
Memorial Day	Floating Holiday (Columbus Day)
Independence Day	Floating Holiday (Admission Day)

Reference: Education Code Sections §45203, §45260 and §45261

**160.1.2 GOVERNOR/PRESIDENT DECLARED HOLIDAYS:** In addition to the holidays listed in Rule 160.1.1, all regular classified employees shall be entitled to a paid holiday for every day appointed by the President of the United States or the Governor of the State of California as a public fast, thanksgiving or holiday, pursuant to Education Code Section §37220.

Reference: Education Code Sections §1318, §37220, §45203, §45260 and §45261

**160.1.3 OTHER PAID HOLIDAYS:** All regular classified employees shall be entitled to a paid holiday for any day declared a holiday by the Board of this District pursuant to Education Code Sections §1318 or §37222 for all employees. For purposes of Rule 160.1.4, a holiday is defined as follows:

160.1.3.1 Any day specifically declared and called a holiday by the Board for all employees that requires the closing of school shall be a paid holiday.

Reference: Education Code Sections §1318, §37222, §45203, §45260 and §45261

**160.1.4 RATE OF PAY FOR HOLIDAYS:** Any day defined as a holiday by these rules shall be paid at the normal rate of pay the employee would have received had the employee worked that day.

Reference: Education Code Sections §45260 and §45261

**160.1.5 OVERTIME PAY FOR WORKING HOLIDAYS:** Regular classified employees who work on a holiday shall be paid their regular pay for the holiday, pursuant to Rule 160.1.4, plus their regular overtime rate (time and one-half) for all hours worked on the holiday.

Reference: Education Code Sections §45203, §45260 and §45261

**160.1.6 HOLIDAY ELIGIBILITY:** A regular classified employee shall be entitled to any holiday falling under these rules, provided he is in a paid status during any portion of his scheduled working days either immediately preceding or succeeding the holiday.

160.1.6.1 A regular classified employee of the District who is not normally assigned to work during student recess periods during the normal school term shall be paid for any holiday that falls within the recess, provided he was in a paid status during any portion of his scheduled working days either immediately preceding or succeeding the recess period.

Reference: Education Code Sections 45203, 45260 and 45261

**160.1.7 WEEKEND HOLIDAYS:** When a holiday falls on a Saturday, the holiday shall be observed on the preceding workday not a holiday. When a holiday falls on a Sunday, the holiday shall be observed on the succeeding workday not a holiday.

Reference: Education Code Sections 45203, 45205, 45260 and 45261

## CHAPTER 170

### COMPENSATION AND PAY PRACTICES

#### **170.1 DETERMINATION OF SALARY SCHEDULES/PAY RATES**

**170.1.1 FIXING ANNUAL SALARY SCHEDULES:** The Board shall fix the annual salaries for all classified employees and other employees not requiring certification qualifications employed by the District unless otherwise prescribed by law. The fixing of annual salaries shall mean that the Board shall adopt a salary schedule or matrix with specific dollar amounts for each range and step.

Reference: Education Code Sections §45160, §45260, §45261, §45262 and §45267

170.1.1.1 The Board may increase the salary schedule for classified employees at any time during the fiscal year and shall adopt increases and/or decreases resulting from the classification or reclassification of positions as approved by the Commission.

Reference: Education Code Sections §45162, §45260, §45261, §45262 and §45267

170.1.1.2 Any action taken by the Board pursuant to this rule must be in compliance with the Commission's Rules and Regulations, and if impacted employees belong to a bargaining unit, the Board must comply with any legal duty to meet and negotiate on the salary schedule as provided in the Government Code.

Reference: Education Code Sections §45160, §45162, §45260, §45261, §45262 and §45267

**170.1.2 INCREASES/DECREASES TO SCHEDULE MUST BE PERCENTAGE:** The Board shall increase or decrease the salary schedule or matrix by a percentage amount. A flat dollar amount increase or decrease to the salary schedule is prohibited as it would disturb the reasonable percentage relationship between classifications as determined by the Commission.

Reference: Education Code Sections §45256, §45260 and §45261

**170.1.3 BOARD MAY NOT DISCIPLINE OR DISMISS EMPLOYEE DUE TO RECLASSIFICATION:** The provisions of these rules shall not be construed to permit the Board to discipline or dismiss an employee due to the reclassification of a position or class of positions unless otherwise authorized by law or these Rules to include layoffs due to lack of work or lack of funds.

Reference: Education Code Sections §45162, §45260, §45261 and §45298

**170.1.4 BOARD MAY DELAY ADOPTION OF SALARY SCHEDULE:** If the Board is unable to comply with the provisions of Rule 170.1.1 due to collective bargaining negotiations or because a salary study is being conducted, the Board may, prior to final adoption of the district's budget either reserve the right to adjust salaries upon completion of the study and/or negotiations or adopt an interim salary schedule which shall be the same schedule as for the preceding year.

Reference: Education Code Sections §45163, §45260 and §45261

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

Reference: Education Code Sections §45241, §45260 and §45261

**170.1.6 COMMISSION SHALL RECOMMEND SALARY SCHEDULES TO BOARD:** The Director shall prepare recommendations for the allocation of classes to salary ranges for approval by the Commission. The Commission's recommended salary schedule may take into account the following factors:

170.1.6.1 The wages and salaries paid for similar work in private industry in the recruitment area.

170.1.6.2 The wages and salaries paid by other governmental agencies in the recruitment area.



170.1.6.3 The principle of like pay for like work within the classified services.

170.1.6.4 Appropriate differentials between related classes to reflect differences in duties and responsibilities as established in the classification plan.

170.1.6.5 Such other information as the Commission may require.

Reference: Education Code Sections §45256, §45260, §45261 and §45268

**170.1.7 SALARY STUDIES:** The Director shall conduct or, with the approval of the Commission, cause to be conducted a salary study when a new class is established, or when directed by the Commission.

**170.1.8 BOARD'S ACTION ON SALARY SCHEDULE RECOMMENDATIONS:** The Board may approve, amend, or reject the salary schedule recommendations of the Commission, but may not alter the percentage relationships among classes as established by the Commission. No amendment shall be adopted until the Commission is first given a reasonable opportunity to comment on the effect the amendment will have on the principle of like pay for like work.

Reference: Education Code Sections §45256, §45260, §45261 and §45268

**170.1.9 COMMISSION SHALL DETERMINE SALARY RANGE PLACEMENT:** The Commission shall determine the salary range placement of all positions and classifications within the Classified Service of the District, pursuant to its obligation to set reasonable relationships among the various classifications. The Commission may make modifications to the range placement as part of its statutory obligations.

Reference: Education Code Sections §45162, §45256, §45260 and §45261

## **170.2 APPLICATION OF SALARY SCHEDULES**

**170.2.1 INITIAL SALARY PLACEMENT:** All newly hired or promoted regular classified employees shall be paid in accordance with the salary range established for the class to which assigned. The hiring rate for new employees shall normally be the first step of the salary range. However, a new employee may be provided with advanced step placement by the Commission based upon such factors as:

170.2.1.1 Additional qualifying experience beyond that required for entry into the class.

170.2.1.2 Additional education at the college level when related to the position, but beyond the educational requirements established for entry into the class.

170.2.1.3 Difficulty experienced in the recruitment of candidates to meet the vacancy needs in the class.

170.2.1.4 The additional skills or qualifications of the candidate that make them especially qualified for the position.

**170.2.2 EVALUATION OF STEP PLACEMENT:** The Director shall evaluate the qualifications of all candidates recommended for employment into the classified service in accordance with the provisions of Rule 170.2.1 and make a recommendation to the Commission regarding appropriate step placement. The Commission may accept, amend, or reject the Director's recommendations. The decision of the Commission shall be final.

**170.2.3 SALARY PLACEMENT OF TEMPORARY EMPLOYEES:** Salary placement of temporary, provisional and limited term substitute employees will be at the first step of the appropriate salary range. Classified Retirees of the District may be compensated at the same step of the range for classifications having served as a regular employee.

**170.2.4 STEP ADVANCEMENT:** When an employee has completed a minimum of six (6) months of satisfactory service in an assigned position, salary advancement may follow a normal progression of the current approved classified, confidential, supervisory and management salary schedule(s). Initial placement at Step 1 shall advance at six (6) months to Step 2 and advancement to Steps 3, 4 or 5 shall be in twelve (12) month increments. Individuals provided with an initial advanced Step placement in accordance with rule 170.2.1 shall advance at twelve (12) month increments. Employees who belong to a bargaining unit, may have their salary step advancement implemented as outlined in the applicable Collective Bargaining Agreement.

**170.2.5 SALARY RANGE CHANGES:** Unless otherwise provided by special resolution of the Commission, whenever the salary range for a class is changed upward, the salary of each incumbent in the class on the date the change was effective shall be adjusted to the higher range with the same step of the lower range. Whenever the salary range for a class is changed downward, the salary of each incumbent in the class on the date the change was effective shall be adjusted to the lower range and then to that step of the lower range that provides a base hourly rate as close to the former higher salary without exceeding the former higher salary. The employee's original Anniversary Date will remain unchanged unless so ordered by the Commission.

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

170.2.6.1 Whenever the Commission gives authorization to "Y" rate an incumbent, the rate will be discontinued when the employee receiving the rate is promoted and the salary is equal to or higher than the current rate, separates from the service, or refuses appointment to a higher class with an equal or higher salary. It will also be discontinued whenever the salary range for

the class is increased so that it encompasses the employee's present rate, in which event the employee's salary rate will be adjusted to the nearest highest amount in the new range.

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

- 170.2.7.1 When an employee is promoted to a position on a higher salary range, the employee shall receive at least a one (1) step salary increase, but not less than the first step of the new salary range.
- 170.2.7.2 If the increase is less than one (1) salary step, the employee shall be placed on the next higher salary step but not higher than the highest salary step on that range.
- 170.2.7.3 The promoted employee shall serve a trial service period in the new class as defined in Commission Rule 10.2. Promoted employees will follow the normal step placement on the current salary schedule after the initial step is determined.
- 170.2.7.4 Employees who belong to a bargaining unit, may have their promotional salary rate, step advancement and trial service period implemented as outlined in the applicable Collective Bargaining Agreement.

Reference: Education Code Sections §45260 and §45261

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

- 170.2.8.1 When the employee's paid status credit since returning, when combined with any previous service time earned prior to the unpaid leave but after the last anniversary date increase, add up to the equivalent of one (1) years' service credit for purposed of step

advancement. Upon return from an unpaid leave of absence, the Director, Classified Human Resources shall recalculate any changes necessary in the employee's anniversary date in order to comply with this rule.

170.2.8.2 The law and/or these rules provided that credit for advancement shall accrue during such leave(s) of absence.

170.2.8.3 Credit for step advancement shall accrue during leaves of absence for military service, family leave and unpaid sick leave and to serve in limited-term positions within the District, and any paid leaves of absence (e.g. illness, vacation, industrial accident/illness, etc.).

Reference: Education Code Sections §45260, §45261 and §45309

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

Reference: Education Code Sections §45260, §45261 and §45309

**170.2.10 PLACEMENT WHEN RE-EMPLOYED OR REINSTATED:** When an employee is re-employed or reinstated following a resignation, layoff, or other separation from employment, the employee shall be placed on the same step of the range for the class which they had achieved prior to the separation, including any change(s) in rate or range applicable to the employee's class; except that step advancement within the range shall be granted under the following conditions:

170.2.10.1 When the employee's paid status credit since returning when combined with any previous service time earned prior to the employment separation but after the last anniversary date increase, add up to the equivalent of one (1) years' service credit for purposes of step advancement. Upon re-employment or

reinstatement, the Director, shall recalculate any changes necessary in the employee's anniversary date in order to comply with this rule.

Reference: Education Code Sections §45260, §45261 and §45309

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

Reference: Education Code Sections §45102, §45260 and §45261

**170.2.12 WORKING OUT OF CLASSIFICATION - PLACEMENT WHEN ASSIGNED LIMITED TERM SUBSTITUTE/TEMP POSITION:** Regular, probationary or permanent employees of the District who work in a higher classification shall be compensated for working out of classification as required by Rule 30.2.8.

Reference: Education Code Sections §45110, §45256, §45260, §45261, §45268, §45285 and §45285.5

### **170.3 DIFFERENTIAL PAY PRACTICES**

**170.3.1 DIFFERENTIAL COMPENSATION:** Matters of differential compensation for bargaining unit employees shall be covered by the classified employee bargaining unit contract.

170.3.1.1 No employee assigned to work in a position entitled to differential compensation shall be demoted in class or grade as a result of such an assignment.

Reference: Education Code Sections §45181, §45182, §45184, §45260 and §45261

**170.3.2 TEMPORARY ASSIGNMENT:** An employee receiving differential compensation pursuant to the classified bargaining unit contract shall not lose such compensation if the employee is temporarily, for twenty (20) working days or less, assigned to a position not entitled to such compensation.

Reference: Education Code Sections §45185, §45260 and §45261

#### **170.4 SPECIAL PAY PRACTICES**

**170.4.1 PAYROLL ERRORS:** Any payroll error resulting in insufficient payment for a classified employee shall be corrected, and a supplemental check issued, not later than five (5) working days after the employee provides notice to the District Payroll department. An equitable arrangement will be made for repayment when the employee has been over paid. The correction of salary errors shall be for not more than three (3) years from the date the error is discovered.

Reference: Education Code Sections §45167, §45260 and §45261

**170.4.2 MILEAGE:** Employees who are required to use their own automobiles in performance of their duties and employees who are assigned to more than one (1) site per day shall be reimbursed for all such travel at the current rate of reimbursement as determined by the Internal Revenue Service (IRS) for all driving done between arrival at the first location at the beginning of their workday, and the location at the completion of their workday.

**170.4.3 MEAL AND OVERNIGHT EXPENSES:** Any classified employee, who, as a result of a work assignment, must be lodged away from home overnight, shall be reimbursed by the District for reasonable costs of such lodging if prior approval was received from the employee's supervisor and in accordance with Board Policy. Any classified employee, who, as a result of a work assignment, incurs expenses for meals for the employee, shall be reimbursed by the District for the reasonable cost of such meals if prior approval was received from the employee's supervisor and in accordance with Board Policy. The District shall reimburse the employee for lodging and/or meal expenses only after the employee has submitted a valid expense claim.

Reference: Education Code Sections §44032, §45260 and §45261

**170.4.4 UNIFORMS:** The cost of the purchase, lease, or rental of uniforms for employees which are authorized and required by the District shall be borne by the District. The District shall bear the cost of uniforms, when authorized and required by the District whether purchased, leased or rented.

Reference: Education Code Sections §45138, §45260 and §45261

**170.4.5 SAFETY EQUIPMENT:** If the employment duties of a classified employee require use of any equipment or gear to insure the safety of the employee or others, the District shall furnish such equipment or gear, or reimburse the employee for the full cost of procuring such providing that prior approval is received from the employee's supervisor.

Reference: Education Code Sections §45260 and §45261



## CHAPTER 180

### COMPLAINT PROCEDURE

#### 180.1 PROCEDURE FOR THE ADJUSTMENT OF COMPLAINTS

**180.1.1 PURPOSE OF COMPLAINT PROCEDURE:** The purpose of this rule is to establish an orderly process through which regular classified employees may receive timely consideration of their complaints involving matters of the Commission. Although specific steps and time limits are set forth in the procedure, it is recognized that the settlement of complaints may require that procedures be altered in certain situations. It is also the intent of this chapter to emphasize the need for employee complaints to be submitted through established channels and for resolution of complaints at the lowest possible level. Employees may utilize this chapter of the Rules to seek adjustment of complaints arising in the following areas:

180.1.1.1 Established Commission Rules and Regulations.

180.1.1.2 Established provisions of the Education Code on matters within the scope of the Commission's authority.

180.1.1.3 Administrative Procedures. Other complaints against matters within the scope of the Commission's authority.

**180.1.2 CERTAIN MATTERS EXCLUDED FROM PROCEDURE:** There are certain subjects and matters that are not covered by this complaint procedure:

180.1.2.1 An alleged violation of any collective bargaining agreement shall be adjudicated using that agreement's grievance procedure.

180.1.2.2 An alleged violation of the disciplinary action section of these rules and regulations if formal disciplinary action has been initiated shall be adjudicated through the disciplinary action appeal process contained in Rule 190.

180.1.2.3 Complaints about the subject matter of a rule, regulation, policy, law, or administrative procedure. Any employee with such a complaint should direct their suggestions for change through administrative channels to the responsible authority.

180.1.2.4 Complaints about educational programs, instructional materials, facilities or conditions relating to the health or safety of staff and students shall be adjudicated through the Williams Uniform Complaint Procedures

180.1.2.5 Complaints alleging unlawful discrimination against any protected group as identified under Education Code §200 and §220 or Government Code §11135 shall be adjudicated through the Uniform Complaint Procedures

**180.1.3 COMMISSION STAFF WILL LEND ASSISTANCE:** At any stage in the procedure, the services of the Commission's staff will be available to all parties to provide requested information and to assist in the settlement of the problems.

**180.1.4 APPROVAL OF DIRECTOR:** If any settlement of any complaint covered by these procedures is reached without the involvement of the Commission or Director, the Director shall be informed of all proceedings, receive copies of all communications submitted in the case, and be notified of the proposed settlement and have an opportunity to comment on it prior to finalization. All settlements of any complaint covered by these procedures must be approved by the Director under the following circumstances:

180.1.4.1 When the complaint involves any Commission rule or regulation.

180.1.4.2 When the complaint involves any Commission administrative procedures.

180.1.4.3 When the complaint involves any Commission employee.

180.1.4.4 When the complaint involves any alleged violation of the Merit System Article of the Education Code within the purview of the Commission.

180.1.4.5 When the complaint involves any matter touching upon the authority of the Commission or the Merit System.

**180.1.5 COMPLAINT TIME LIMITS SHALL BE CONSIDERED MAXIMUMS:** It is important that complaints be resolved as quickly as possible, therefore the times indicated at each level shall be considered as maximums. Time limits may be extended by mutual agreement of both parties.

**180.1.6 COMPLAINT MUST BE FILED WITHIN TWENTY (20) WORKING DAYS:** A complaint must be filed at Step One (1) of this procedure within twenty (20) working days of the occurrence of the violation or infraction, or within twenty (20) working days of when the complaining party could reasonably have known of the occurrence of the act or omission giving rise to the complaint.

**180.1.7 DEFINITION OF COMPLAINANT:** A complainant is defined as a regular employee or employees, filing a complaint involving one (1) or more of the subjects covered by Rule 180.1.1.

**180.1.8 EMPLOYEE REPRESENTATION:** Any regular employee may have an independent representative, or an employee organization represent their interests at any level of this complaint procedure.

**180.1.9 NO REPRISALS FOR FILING OF COMPLAINT:** No reprisals of any kind shall be taken by the District against the complainant or any representative of the complainant by reason of their bringing a complaint or participating in a complaint.

**180.1.10 REASONABLE RELEASE TIME:** The complainant and/or their representative shall be provided reasonable release time, without loss of compensation, to attend complaint conferences or hearings but no release time shall be allowed for preparation of the presentation.

**180.1.11 MAINTENANCE OF COMPLAINT FILES:** All records pertaining to complaints filed under this rule shall be maintained by the Director in the Commission office. All complaint records shall be maintained separately from the complainant's and/or their representative's personnel files.

**180.1.12 STEP ONE (1) - RESOLUTION PROCEDURE:** An employee as described in 180.1.7 shall be encouraged and supported to meet with the immediate supervisor to discuss the potential complaint. It is recognized that every attempt and resource should be utilized to bring closure to a complaint presented to the immediate supervisor at this oral step. The immediate supervisor shall expedite the process by attempting to schedule a meeting within two (2) working days of the employee's request. The Director may be included at this step by request of the employee and/or immediate supervisor. The immediate supervisor shall reduce the complaint to writing and include the agreed upon resolution. If the parties were unable to resolve the matter the parties will individually write their understanding of the complaint which shall be a clear, concise statement of the complaint, including the rule or procedure allegedly violated, attachment of all relevant documentation and a statement of the specific remedy and submit it to the next step. This document must be signed by the employee and the immediate supervisor. This should take place within five (5) working days after a conference on the matter. The parties may mutually agree to accelerate the process and move directly to Step Four (4): Commission Ruling. If there is not agreement to accelerate the parties shall submit the complaint to Step Two or Step Three for further attempts at resolution.

**180.1.13 STEP TWO (2) - DEPARTMENT / SITE ADMINISTRATOR:** The documentation and materials required for submission at this step shall be presented to the appropriate administrator within two (2) working days after signature above. The administrator shall schedule a meeting with the employee and immediate supervisor within five (5) days after the receipt of materials not to exceed ten (10) days. The parties are encouraged to include the Director and a representative of the exclusive bargaining unit at this step. The administrator shall hold the meeting to include all interested parties and to promote an atmosphere of resolution. All resources should be utilized to bring closure to the complaint at this step. The administrator within five (5) working days will

write the response to include the previous documentation and resolution. If the resolution is satisfactory to both parties the report is submitted to the Director for approval and filing. If the resolution is not satisfactory to both parties the report is submitted to Step Three (3) as outlined below.

**180.1.14 STEP THREE (3) – DIRECTOR:** Within five (5) days after the receipt of the documentation and unsatisfactory resolution the Director will schedule a meeting of the interested parties to include a representative of the exclusive bargaining unit. At this meeting a complete review of the attempted resolution shall be given orally by the interested parties. The Director will be specific in referencing rules and intent in offering a resolution to the complaint. A resolution will be reduced to writing by the Director and distributed to the employee, immediate supervisor, Administrator and Commissioners. This resolution will be distributed within five (5) working days of the meeting on this matter. If legal counsel is sought, or necessary the timeline may be extended. If the employee is not satisfied with the resolution as formulated by the Director then *the* employee may submit the complaint with all documentation and written correspondence to date, to the Commission. The employee must also submit the desired resolution with the employee's signature and the signature of appropriate exclusive bargaining unit representative within five (5) working days of the receipt of the Director's decision. The representative's signature does not imply agreement but signifies that a conference was held and that the representative has knowledge that the complaint has been submitted to the Commission.

**180.1.15 STEP FOUR (4) - COMMISSION RULING:** The Commission shall schedule an open session unless provisions of the Brown Act permit and/or require a closed session of the Commission. All written and oral evidence will be presented at this time. The Commission shall render a decision within thirty (30) days after hearing the matter. The decision of the Commission shall be final and binding on all parties.

**180.1.16 DECISION MUST INCLUDE CONSIDERATION OF JUST SETTLEMENT:** The official body hearing the complaint shall consider other matters as it deems necessary and proper to affect a just settlement of the complaint, including, but not limited to:

180.1.16.1 Compensation of the employee for all or part of the legitimate expenses incurred in pursuit of the appeal. If such a finding is made, the expenses ordered paid by the official body having heard the complaints shall be a legitimate and legal draw upon the general fund of the District and the Board.

180.1.16.2 All causes of charges that are not sustained by the official body hearing the complaint shall be expunged from the employee's personnel file and/or record.

## **CHAPTER 190**

### **PROCEDURES FOR DISCIPLINARY ACTION AND APPEAL**

#### **190.1 GENERAL PROVISIONS ON DISCIPLINARY ACTIONS**

**190.1.1 DISCIPLINARY ACTION ONLY PURSUANT TO THIS RULE:** A permanent or probationary classified employee shall be subject to disciplinary action only for cause as prescribed by these rules and regulations, and only pursuant to the procedures outlined herein.

Reference: Education Code Sections 45260, 45261 and 45302

**190.1.2 TIME LIMITS ON DISCIPLINARY ACTION:** It is not recommended that disciplinary action be taken against any employee for non-criminal actions or cause which arose prior to the employee becoming permanent as new-hire probationary employees are at-will and may be released from probation at any time.

**190.1.3 PROHIBITED ACTS RELATED TO DISCIPLINE:** No employee shall be suspended, demoted, dismissed, subjected to any form of disciplinary action, sexually harassed, or in any way discriminated against because of the employee's affiliations, race, color, national origin, age, marital status, sex, sexual preference, disability ancestry, employee organization membership or non-membership and legal activities related thereto, medical condition (as defined in Government Code Section 12926), or religious or political beliefs or acts, except as legally provided in Rule 190.1.5.

Reference: Government Code Section 12926

**190.1.4 DEFINITION OF DISCIPLINE:** Disciplinary action includes any action whereby a regular classified employee is deprived of any classification or any incident of any classification, including dismissal, suspension without pay and demotion, except a layoff for lack of work or lack of funds.

Reference: Education Code Sections 45260 and 45261

**190.1.5 CAUSES FOR DISCIPLINARY ACTION:** The following causes shall be grounds for disciplinary action:

- 190.1.5.1 Incompetence or inefficiency in the performance of the duties of their position, or unprofessional conduct.
- 190.1.5.2 Inability to perform assigned duties due to physical or mental incapacity or failure to meet or retain job qualifications.
- 190.1.5.3 Insubordination.
- 190.1.5.4 Carelessness or negligence in the performance of duty or language toward other employees, pupils, or the public.
- 190.1.5.5 Discourteous, offensive, or abusive conduct or language toward other employees, pupils, or the public.
- 190.1.5.6 Dishonesty.
- 190.1.5.7 Reporting for work under the influence of alcohol or possessing or consuming alcoholic beverages while on duty.
- 190.1.5.8 Use of narcotics or a restricted substance, use of narcotics or restricted substances while on the job, or reporting to work while under the influence of a narcotic or restricted substance, or possession of narcotics or a restricted substance while on duty.
- 190.1.5.9 Personal conduct unbecoming an employee of the District while on duty.
- 190.1.5.10 Engaging in political activity during assigned hours of employment.
- 190.1.5.11 Conviction of a felony or crime involving moral turpitude.
- 190.1.5.12 Arrest for a sex offense as defined in Education Code §44010 / 87010.



- 190.1.5.13 Conviction of a narcotics offense as defined in Education Code §44010 / 87010.
- 190.1.5.14 Absence without leave or repeated tardiness.
- 190.1.5.15 Abuse of illness or other paid leave privileges.
- 190.1.5.16 Knowingly falsifying any information supplied to the District, including but not limited to, information supplied on application forms, employment records, or any other District records.
- 190.1.5.17 Persistent violation or refusal to obey Policies, Rules, Regulations and/or management directives, or any appropriate Federal, State, or local governmental agencies laws or regulations.
- 190.1.5.18 Offering anything of value or offering any service in exchange for special treatment in connection with the classified employee's job or employment or accepting anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
- 190.1.5.19 Willful or persistent violation of the Education Code or rules and regulations of the District.
- 190.1.5.20 Any willful conduct tending to injure the public service.
- 190.1.5.21 Abandonment of position [defined as absence without leave for consecutive working days without notification to supervisor or Central Services office], or excessive absenteeism.
- 190.1.5.22 Advocacy of overthrowing federal, state, or local governments by force, violence or other unlawful means.
- 190.1.5.23 Membership in the Communist Party (Education Code § 45303).

190.1.5.24 Unsatisfactory performance.

Reference: Education Code Sections 212.5, 230, 44010, 44011, 45260, 45261, 45302, 45303 and 45304  
Government Code Section 1028  
Penal Code Section 261  
Health and Safety Code Sections 11054, 11056, 11357 - 11361, 11363 - 11364, 11377 - 11382

**190.1.6 PROGRESSIVE DISCIPLINE:** Except in cases involving serious misconduct, or threats to the safety and/or welfare of District employees, students, or the public, an employee whose work performance or conduct is of such character as to incur discipline shall be afforded the right to progressive discipline in the hierarchal order as outlined in the following paragraphs.

**190.1.6.1 VERBAL WARNING:** An employee shall be orally notified by their supervisor that unsatisfactory job performance has been observed. Such verbal warning shall include but not be limited to the specific deficiency or deficiencies observed, the rule violated and suggestions for improving performance. After a reasonable period of time, the supervisor shall review the employee's performance. If the employee's performance has not improved, the supervisor may elect to move to the next step listed for progressive discipline.

**190.1.6.2 WRITTEN WARNING:** An employee whose work performance or conduct is of such character as to incur discipline shall be specifically warned in writing by the immediate supervisor. Such written warning shall state the rule violated the acts or omissions in violation, a recommended performance improvement plan developed in conjunction with the employee, and a reasonable time period during which the employees' performance will be reviewed for improvement or attainment of goals. The supervisor shall give a reasonable period of time to permit the employee the opportunity to correct the deficiency without incurring disciplinary action.

190.1.6.3 **SUSPENSION/DEMOTION:** After written warning, if the employee's continued actions warrant discipline under Rule 190.1.5, the employee may be suspended for up to twenty (20) working days without pay, demoted to a lower classification, suffer a loss of salary step, be dismissed, or any combination reasonably related to the seriousness of the alleged offense.

190.1.6.3.1 An alternative to a part or all of the suspension may be the employee's participation in an employee assistance program. Under this alternative, the employee must participate in the employee assistance program at their own expense, show reasonable justification, enter into a performance improvement plan with their supervisor and the District, and receive the approval of the Director.

190.1.6.4 **TERMINATION:** If the continued behavior warranting action under Rule 190.1.5 is found to be of such a serious nature, the employee may be terminated.

Reference: Education Code Sections 45260 and 45261

**190.1 .7 IMMEDIATE SUSPENSION WITHOUT PAY:** The Superintendent or their designee may immediately suspend an employee without pay and without pre-disciplinary notice when they determine that this action is appropriate because of the seriousness of the charges or potential harm to the health, welfare or safety of persons or property. Said disciplinary action shall be in accordance with legally required due process.

Reference: Education Code Sections 44010, 44011, 45260, 45261, 45302, 45303 and 45304  
Penal Code Section 261  
Health and Safety Code Sections 11054, 11056, 11357 – 11361, 11363 – 11364, 11377 – 11382

**190.1 .8 IMMEDIATE SUSPENSION – WITH PAY:** An employee, other than stated in Rule 190.1.7 above, may be immediately suspended without loss of compensation in the following instances and the District may end the suspension without loss of compensation or take action to suspend without pay in accordance with these rules.

190.1.8.1 Pending the initiation and completion of disciplinary action procedures to the Board level, if there is a clear and present danger to the health, safety, and well being of the employee, students, fellow employees, or District property.

190.1.8.2 Pending investigation of any incident involving an employee while operating a District vehicle.

**190.1. 9 DISMISSAL OF LIMITED-TERM SUBSTITUTES/ PROVISIONAL EMPLOYEES:** A substitute, limited-term, provisional, or other temporary employee is an “at-will” employee and may be terminated at any time during their assignment without regard to procedures set forth in this chapter.

Reference: Education Code Sections 45260, 45261 and 45305

**190.1.10 BURDEN OF PROOF:** The burden of proof in all hearings and proceedings under these rules shall remain with the District, and any rule, regulation, policy, practice, or procedure to the contrary shall be void.

## **190.2 NOTIFICATION**

**190.2.1 NOTICE OF INTENT TO DISCIPLINE:** A permanent classified employee may be subjected to disciplinary action after the employee receives a “Notice of Intent to Discipline,” and the employee has had an opportunity to respond to the charges (i.e., Skelly). The exception to this rule is in the case of action taken in accordance with Rule 190.1.9 and 190.1.10 above.

Reference: Education Code Sections 45260 and 45261

**190.2.2 CONTENTS OF NOTICE OF INTENT TO DISCIPLINE:** The Notice of Intent to Discipline, which is the notification that disciplinary action will be recommended to the Superintendent, and may be considered by the Board, shall contain statements in ordinary and concise language of:

- 190.2.2.1 The nature of the proposed action (suspension, demotion, dismissal, etc.).
- 190.2.2.2 The specific causes and sections of the Laws, Regulations, District Policies/Procedures, Commission Rules and Bargaining Unit Contract, that the employee is accused of violating.
- 190.2.2.3 The charges set forth in clear and understandable language, the specific acts, errors, or omissions giving rise to the charges.
- 190.2.2.4 The proposed effective date(s) of the disciplinary action.
- 190.2.2.5 The employee's right to a Pre-disciplinary conference (Skelly) before the Superintendent, or designee. This conference shall be scheduled in the Notice of Intent to Discipline. The purpose of this conference is to allow the employee to respond to the charges and/or causes stated in the Notice of Intent to Discipline. This conference may be rescheduled upon mutual consent.
- 190.2.2.6 The employee's rights to see and obtain copies of all evidence and documentation to support the District's case against the employee, including but not limited to, sections of all Laws, Regulations, District Policies/Procedures, Commission Rules and the Bargaining Unit Contract, and the rules and regulations which are alleged to have been violated..
- 190.2.2.7 The employee's right to representation at all phases of the disciplinary process.
- 190.2.2.8 The employee's right to respond to charges either orally or in writing.

Reference: Education Code Sections 45260, 45261 and 45305

**190.2.3 NOTICE MUST USE READILY UNDERSTOOD LANGUAGE:** The charges outlined in the Notice of Intent to Discipline must be written so clearly that the employee will know the exact complaint(s) and charge(s) against them and may be expected to respond to them. A Notice of Intent to Discipline stating one (1) or more causes or grounds for disciplinary action established by Laws, Regulations, District Policies/Procedures, Commission Rules and any rule, regulation, Bargaining Unit Contract or statute solely in the language of the Laws, Regulations, District Policies/Procedures, Commission Rules and Bargaining Unit Contract section or statute, is insufficient.

Reference: Education Code Sections 45116, 45260 and 45261

**190.2.4 DISCIPLINARY NOTICE SENT TO DIRECTOR:** The Notice of Intent to Discipline shall be delivered to the Commission Office. The Director shall have the responsibility of insuring that the employee is notified of their right to appeal the disciplinary action. The Director shall ensure the employee is served with the Notice of Intent to Discipline and all applicable rules.

**190.2.5 NOTICE MUST BE IN WRITING AND SERVED ON EMPLOYEE:** The Notice of Intent to Discipline shall be in writing and served in person or by certified mail, return receipt requested, to the employee. This requirement will be deemed to have been met if the Notice of Intent to Discipline is sent certified mail to the last known home address on file with the District. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. The responsibility for keeping the District informed of a home address is the responsibility of the employee. For purposes of this rule, if a notice is mailed, the second working day following the mailing date of the notice shall be considered to be the official date of receipt.

Reference: Education Code Sections 45260 and 45261

**190.3 PRE-DISCIPLINARY CONFERENCE: SKELLY**

**190.3.1 PRE-DISCIPLINARY CONFERENCE BEFORE SUPERINTENDENT OR HIS DESIGNEE:** The employee shall have a right to have a Pre-disciplinary Conference (i.e., Skelly) before the Superintendent. The Pre-disciplinary Conference shall be held prior to the Superintendent's recommendation of disciplinary action to the Board.

190.3.1.1 Pre-Disciplinary Conference or "Skelly" is the result of a 1975 California Supreme Court ruling in the case of Skelly v. State Personnel Board (124 Cal.Reptr. 14; 15 Cal.3d 194) where the court ruled that prior to any final disciplinary action, the following minimum due process safeguards were to include:

190.3.1.1.1 - Notice of the proposed disciplinary action.

190.3.1.1.2 - The reasons for the disciplinary action.

190.3.1.1.3 - A copy of the charges and materials upon which the action is based.

190.3.1.1.4 The right to respond, either orally or in writing, to the authority initially imposing the discipline.

**190.3.2 ACTION IF CONFERENCE IS NOT ATTENDED BY EMPLOYEE:** If the employee does not attend the Pre-disciplinary Conference (i.e., Skelly) outlined in the Notice of Intent to Discipline, the Superintendent shall recommend to the Board that the proposed disciplinary action be approved. The Board shall have the power to accept, lessen, or reject the recommendation of the Superintendent. The Board shall not act to provide for a penalty or disciplinary action more severe than that recommended by the Superintendent.

**190.3.3 DESIGNEE FOR SUPERINTENDENT:** If the Superintendent is unable to serve as the preliminary conference officer, the Superintendent may assign a designee. That designee must be an administrator who has the authority and authorization to accept, modify, or rescind the proposed disciplinary action. The administrator may not be a party to the proposed action, either as the supervisor initiating proposed disciplinary action, or as a witness.

**190.3.4 EMPLOYEE SHALL HAVE OPPORTUNITY TO REFUTE CHARGES:** The employee shall have the opportunity to refute all charges and shall be allowed to fully present their case at the pre-disciplinary conference, (i.e., Skelly).

**190.3.5 RIGHT TO REPRESENTATION:** The employee may, at their option, be represented by legal counsel, association representation, or any other person designated by the employee. The employee shall be required to attend the pre-disciplinary conference before the Superintendent, even if the employee's designated representative appears on their behalf. If the employee fails to appear, the employee will be deemed to have forfeited their rights and the Superintendent may recommend action to the Board.

**190.3.6 PRE-DISCIPLINARY CONFERENCE DECISION:** The Superintendent or their designee shall issue a written decision within five (5) working days after the conclusion of the Pre-disciplinary Conference (i.e., Skelly), to either continue the proposed disciplinary action, to modify the proposed disciplinary action, or to rescind and halt the proposed disciplinary action. The Superintendent shall not act to provide for a penalty or disciplinary action more severe than that recommended in the Notice of Intent to Discipline. The written decision of the Superintendent shall be filed with the Commission Office, and a copy shall be mailed to the employee via certified mail.

Reference: Education Code Sections 45260 and 45261

**190.3.7 FINAL STEP FOR PROBATIONARY EMPLOYEES:** Probationary employees holding permanency in another classification shall be disciplined pursuant to the provisions of Rule 190.3.8. The decision of the Superintendent and their recommendation to the Board is not subject to appeal except as noted below. The employee may appeal to the Commission only on the grounds that the disciplinary action took place because of the employee's affiliations, race, color, national origin, age, marital status, sex, sexual preference, sexual harassment, disability, ancestry, employee organization membership or non-membership and legal activities related thereto, medical condition (as defined in Government Code Section 12926), or religious or political beliefs or acts, except as legally provided in Rule 190.1.5. Refer also to Commission Rule 90.3.2 in matters pertaining to probationary employees holding no permanence with the district.



- 190.3.7.1 The probationary classified employee shall be required to submit a written statement within ten (10) working days of notification to the Commission Office, outlining the specific allegations and reasons for appeal. The Director shall schedule a conference on the appeal before the Commission pursuant to the timeline requirements outlined in Rule 190.4.5.
- 190.3.7.2 The appeal hearing shall be conducted pursuant to Rules 190.4.5 and 190.4.6, except that the grounds for the appeal shall be limited to the reasons outlined in Rule 190.3.7.
- 190.3.7.3 The decision of the Commission shall be final and binding on all parties.

**190.3.8 PERMANENT EMPLOYEE IN PROBATIONARY OR TRIAL SERVICE PROMOTIONAL POSITION:** A permanent classified employee who has not served the full probationary or trial service period for the class to which promoted, and who is demoted to their former class, may appeal their disciplinary action only pursuant to Rule 190.3.7. A permanent classified employee who has not served the full probationary or trial service period for the class to which promoted, and who is subjected to disciplinary action that would result in the separation of the employee from the permanent classified service shall have full appeal rights as if they had completed permanency in their present class.

**190.3.9 NOTIFICATION REQUIRED TO COMMISSION:** When formal disciplinary action has been approved or modified by the Board, the action and the charges shall be reported to the Commission's Director, within three (3) working days following the date on which the action was taken. This notification will be in the form described in rule 190.2.2. This notification will include any and all modifications to the Notice of Intent to Discipline in clear and concise language. This notice shall contain the right to appeal notification including the time allowed to file an appeal, right to a hearing, and copies of the Commission hearing procedures in Rule 190.4 and Chapter 27 of the Bargaining Unit Contract if appropriate. The Director, shall, within seven (7) working days of the action, formally notify and furnish the employee with a copy of the charges filed and action taken against them and a statement of

their right to appeal. The intent of this provision shall be deemed to have been carried out if a certified letter has been mailed to the last known mailing address of the employee which is on file in the Commission office.

Reference: Education Code Sections 45260, 45261 and 45305

#### **190.4 COMMISSION APPEAL HEARING PROCEDURES**

**190.4.1 AUTHORITY OF COMMISSION HEARING AND DECISION:** The Commission shall conduct hearings of appeals to disciplinary actions. The Commission shall have the right to sustain or reject any or all of the charges filed against the employee, take action to sustain, modify or reject the disciplinary action invoked against the employee, or it may direct such other action as it may find necessary to effect a just settlement of the appeal, pursuant to these rules and regulations.

**190.4.2 NOTICE OF RIGHT TO APPEAL:** A permanent classified employee who is covered by the Bargaining Unit Contract and who has been suspended, demoted, or dismissed may appeal this matter either in accordance with the Bargaining Unit Contract or they may appeal to the Commission. All other permanent classified employees may only appeal to the Commission.

All requests for appeal must be received by the Director, within fourteen (14) calendar days after receipt of the notification of discipline. Appeals shall be submitted on the Request for Appeal Hearing form which accompanied the Notification of Discipline.

**190.4.3 EMPLOYEE RESPONSE TO CHARGES:** The employee's written response to the charges must include information on the following grounds. Appeals must be written and can be made only on the following grounds.

190.4.3.1 The charges made do not constitute sufficient cause for the action taken.

190.4.3.2 The action taken was not in accord with the facts.

190.4.3.3 There has been an abuse of discretion.

- 190.4.3.4 That the procedures set forth in these rules have not been followed.
- 190.4.3.5 The action was taken because of sexual harassment, or because of the employee's affiliations, race, color, national origin, age, marital status, sex, sexual preference, disability, ancestry, employee organization membership or non-membership and legal activities related thereto, medical condition (as defined in Government Code Section 12926), or religious or political beliefs or acts.
- 190.4.3.6 Failure on the part of the employee to appeal and otherwise answer the disciplinary action against them within the fourteen (14) day period shall be construed as an admission of the truth of the charges made against them making the action of the Board final and conclusive.
- 190.4.3.7 The notice of appeal must be signed by the employee being disciplined and must include a current address at which the employee may be contacted. The notice of appeal shall also contain the name of their legal counsel or representative (if known at the time of appeal) and address of such counsel or representative.

Reference: Education Code Sections 45260, 45261, 45305, 45306 and 45307

**190.4.4 APPOINTMENT OF HEARING OFFICER:** The Commission may appoint a hearing officer to conduct any hearing or investigation which the Commission itself is authorized by the Education Code and/or these rules to conduct, including disciplinary action. Any such hearing officer conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of records, and cause the disposition of witnesses to be taken in the manner prescribed by law for like dispositions in civil cases in the superior court of this state. The Commission may instruct such hearing officer to present findings or recommendations. The Commission may accept, reject, or amend any of the findings or recommendations of the hearing officer. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript

of the hearing or investigation, or upon the results of such supplementary hearings or investigations as the Commission may order.

190.4.4.1 The Commission may employ by contract or as professional experts or otherwise any such hearing officer, and may adopt and amend such rules and procedures as may be necessary to effectuate this section of the rules.

Reference: Education Code Sections 45260, 45261 and 45312

**190.4.5 COMMISSION SHALL DETERMINE TIME AND PLACE OF HEARING:** Upon receipt of the appeal notice, the Commission shall determine the date, time, and place of the hearing on appeal. The appeal hearing shall be held within the boundaries of the District, and in a place which is conducive to the proper conduct of the hearing.

190.4.5.1 Disciplinary hearings shall be held in closed session unless an open hearing is requested by the appellant.

**190.4.6 ALL HEARINGS SHALL BE RECORDED:** All hearings under the authority of this chapter shall be electronically recorded in such a manner that a verbatim written transcript can be produced if necessary.

190.4.6.1 Either party may request that the hearing be recorded by a court reporter, in which case the party making the request shall bear the cost. If both parties make such a request, the cost shall be equally shared by the parties.

**190.4.7 HEARINGS CONDUCTED TO DETERMINE TRUTH:** Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its appointed hearing officer shall be bound by technical rules of evidence and the decision of the Commission shall not be invalidated by any informality in any of the proceedings.

**190.4.8 ORAL EVIDENCE BY OATH ONLY:** Oral evidence shall be taken only on oath or affirmation.

**190.4.9 ABILITY TO EXAMINE EVIDENCE:** Each party shall have the following rights as it relates to examination of witnesses and evidence:

190.4.9.1 To call and examine witnesses.

190.4.9.2 To introduce exhibits.

190.4.9.3 To cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination(s).

190.4.9.4 To attempt to impeach any witness regardless of which party first called them to testify.

190.4.9.5 To rebut all evidence presented by the opposing party.

Reference: Education Code Sections 45260 and 45261

**190.4.10 APPELLANT MAY BE CALLED TO TESTIFY:** If the appellant does not elect to testify on their own behalf, they may still be called to testify and be cross-examined as an adverse witness.

Reference: Education Code Sections 45260 and 45261  
California Evidence Code Section 772

**190.4.11 ADMISSION OF EVIDENCE:** The hearing need not be conducted according to the technical rules relating to evidence and the examination of witnesses. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious business; regardless of the existence of any common law or statutory rule which might cause the evidence to be objected to or ruled out if presented in a criminal or civil procedure before a court of law.

190.4.11.1 Hearsay evidence may be used for the purpose of explaining or providing supplemental evidence, but shall not be sufficient in and of itself to support a finding by the Commission or its hearing officer.

190.4.11.2 The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence shall be excluded.

**190.4.12 RIGHT TO BE REPRESENTED:** The Board and the appellant shall be allowed to be represented by legal counsel or other designated representatives.

Reference: Education Code Sections 45260, 45261 and 45306

**190.4.13 GRANTING OF CONTINUANCE:** The Commission or its hearing officer may, prior to or during the hearing, grant a continuance for reason(s) believed to be sufficient or important to reaching a fair and proper conclusion.

**190.4.14 RULING ON OBJECTIONS:** The Commission or its hearing officer shall rule on all objections raised by either party.

**190.4.15 BURDEN OF PROOF:** The burden of proof shall be on the District except in cases of alleged discrimination.

**190.4.16 FINDINGS BASED ON PREPONDERANCE OF EVIDENCE:** The Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented. The findings of the Commission or hearing officer shall be based upon the preponderance of evidence.

**190.4.17 ORDER OF PRESENTATION OF EVIDENCE:** Each side will be permitted an opening statement (and closing arguments), Board's representative first, appellant or their representative last. The Board shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or their representative will present their witnesses and evidence in defense.

Reference: Education Code Sections 45260 and 45261

**190.4.18 EXAMINATION OF WITNESSES:** Each side will be allowed to examine and thoroughly cross-examine witnesses.

190.4.18.1 The Commission or its hearing officer may, at its discretion, exclude witnesses not under examination except for the appellant, District representative, the Director and their respective counsel or designated representative.

**190.4.19 SUBPOENA OF WITNESSES / EVIDENCE:** The Commission or its hearing officer may, and shall if requested by either party, subpoena witnesses and/or require the production of records, documents, or other material evidence. The Director shall issue the subpoenas on behalf of the Commission or its hearing officer. Subpoenas shall be delivered to the requesting party for service.

190.4.19.1 Requests for subpoenas must be filed with the Commission Office at least seventy-two (72) hours prior to the date of the hearing.

**190.4.20 LIST OF WITNESSES:** A list of witnesses to be called by each party shall be submitted to the Commission Office at least twenty-four (24) hours prior to the date of the hearing. This will allow the Commission to secure the release time of employee witnesses prior to the hearing.

**190.4.21 SWORN AFFIDAVITS:** The policy of the Commission shall be that where possible, all witnesses shall give testimony orally at the hearing. However, if in the opinion of the Commission or its hearing officer, a witness has good and sufficient reason for being unable to be present, written testimony will be accepted under the following conditions:

190.4.21.1 Such evidence must be submitted by sworn affidavit of the witness. The affidavit shall be confined to a statement of facts bearing on the case and within the knowledge of the witness, and shall not contain any conclusions of the witness, except that a witness who qualifies as an expert may express their opinion based upon the facts which they recited.

190.4.21.2 Copies of all such affidavits must be filed with the Commission Office or the hearing officer at least three (3) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.

190.4.21.3 The Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

**190.4.22 DELIBERATION AND FINDINGS OF HEARING OFFICER:**

Whether the hearing is held in open or closed session, the hearing officer, if one is appointed by the Commission, shall deliberate on the evidence presented and make a determination of their findings and recommendations to the Commission in closed session.

190.4.22.1 The hearing officer shall submit their written recommendations and findings of fact to the Director, within ten (10) working days following the conclusion of the hearing.

190.4.22.2 Upon receipt of the hearing officer's written recommendations and findings of fact, the Director, shall contact the Chairperson of the Commission to schedule a meeting of the Commission to consider the findings and recommendations of the hearing officer.

Reference: Education Code Sections 45260 and 45261

**190.4.23 DELIBERATION OF COMMISSION:** Whether the hearing before the Commission is held in open or closed session, the Commission, after it concludes the hearing, shall deliberate its decision(s) in closed session. No persons other than members of the Commission, its legal counsel, and the Director, shall be permitted to participate in the deliberations. If the Director, was the administrator initiating the disciplinary action, or if they acted on behalf of the Board in the presentation of the case at any level of the appeal process, or if they served as a witness in the proceedings, they shall also be excluded from the Commission's deliberations.

Reference: Education Code Sections 45260, 45261, 45266 and 45305

**190.4.24 DECISION OF COMMISSION:** The Commission shall render its judgment as soon after the conclusion of the hearing as possible, but no later than twenty (20) working days following the conclusion of the hearing. The decision(s) of the Commission shall be in writing and shall set forth which charges, if any, are sustained and the reasons, therefore.

190.4.24.1 The Commission's written decision(s) shall contain findings of fact, a determination of the issues presented, and the penalty imposed. The findings may



be stated in the language of the pleadings or included by reference thereto.

190.4.24.2 If the disciplinary action is not sustained, the Commission's order shall set forth the effective date that the employee is to be restored or reinstated to their former position and/or status; such date to be set forth at any time on or after the date that the disciplinary action was invoked.

190.4.24.3 Copies of the Commission's decision(s) shall be delivered to the parties personally or transmitted to them by certified mail, return receipt requested. The requirement for notification of the employee will be deemed to have been met if the decision is sent certified mail to the last known home address on file in the Commission Office. Failure of the employee to retrieve delivered mail or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification. For purposes of this rule, if a notice is mailed, the second working day following the mailing date of the notice shall be considered to be the official date of receipt.

Reference: Education Code Sections 45260 and 45261

**190.4.25 BOARD SHALL COMPLY WITH COMMISSION DECISION:** Upon receipt of the Commission's written decision the Board shall forthwith comply with the provisions thereof. When the Board has fully complied with the Commission's decision, it shall so notify the Commission in writing.

190.4.25.1 If the Board fails and/or refuses to fully comply with the Commission's written decision(s) and order(s) as required by these rules and regulations and legal statutes, the Commission shall seek judicial action to ensure compliance.

**190.4.26 COMMISSION ACTION:** The Commission may sustain or reject any or all of the charges filed against the employee. The Commission may sustain, modify, or reject the disciplinary action invoked against the employee. However, the Commission may not invoke more stringent discipline against the employee than that invoked by the Board.

**190.4.27 DECISION MUST INCLUDE CONSIDERATION OF JUST SETTLEMENT:** Following its determination of the facts and findings relative to the disciplinary action invoked against the employee, the Commission shall consider such other matters as it deems necessary and proper to effect a just settlement of the appeal, including, but not limited to:

190.4.27.1 Compensation of the employee for all or part of the legitimate expenses incurred in pursuit of the appeal. If such a finding is made, the expenses ordered paid by the Commission shall be a legitimate and legal draw upon the general funds of the District and the Board.

190.4.27.2 The granting of seniority credit for any or all of the off-duty time pending restoration or reinstatement.

190.4.27.3 Transfer or other change of the employee's work location.

190.4.27.4 Expunction from the employee's personnel file and record of any and all causes, charges that are not sustained by the Commission, and/or disciplinary actions.

Reference: Education Code Sections 45260, 45261 and 45307

**190.4.28 OBTAINING COPIES OF THE HEARING TRANSCRIPT:** The employee or their designated representative and the Board or its designated representative may obtain a copy of the transcript under the following conditions:

190.4.28.1 The cost of the transcript and copies if requested shall be born by the party making the request.

190.4.28.2 The request shall be in writing and a cash deposit made in an amount determined by the Director, prior to preparation.

190.4.28.3 The final cost of the transcript shall be the actual cost of preparation plus the cost of making copies as determined by the Director.

190.4.28.4 The transcript shall only be released upon payment in full. When the deposit is greater than the actual costs of the document, the remainder shall be refunded.

**190.4.29 DISQUALIFICATION OF HEARING OFFICER OR COMMISSIONER:** A hearing officer or Commission member shall voluntarily disqualify themselves and withdraw from any appeal in which they cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or Commission member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.

190.4.29.1 If the Commission determines that there are sufficient grounds for disqualification, it may elect to disqualify the hearing officer or Commission member.

190.4.29.2 Where the disqualification request concerns a Commission member, the issue shall be determined by the other members of the Commission. However, no Commission member shall withdraw voluntarily or be subject to disqualification if their disqualification would prevent the existence of a quorum qualified to act in that particular appeal.

Reference: Education Code Sections 45260 and 45261

**190.4.30 COUNSEL FOR THE COMMISSION:** The Commission may, if it so desires, seek and appoint legal counsel as part of its appeal and investigatory hearing duties. To avoid any conflict of interest, the legal counsel shall not be the same counsel representing the Board, nor shall the Board and the Commission be represented by members of the same legal firm in a hearing held pursuant to these rules and regulations. All reasonable costs associated with the use of such legal counsel by the Commission in hearings shall constitute a legal charge against the District's general funds, whether or not the money or costs for legal services appear in the Commission's budget.

Reference: Education Code Sections 45260, 45261 and 45313

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## **CHAPTER 200**

### **LAYOFF AND RE-EMPLOYMENT PROCEDURES**

#### **200.1 LAYOFF PROCEDURES**

**200.1.1 REASON FOR LAYOFF:** The layoff of classified employees shall only occur for a lack of work or a lack of funds, and only in accordance with the rules and regulations of the Commission. Any effects of layoff that may be negotiated by and between the District and any recognized exclusive representative shall be in addition to these rules and regulations. Any agreement between the District and a recognized exclusive representative may not provide for less than the mandated employee protection and procedures outlined in this chapter.

Reference: Education Code Sections 45260, 45261 and 45308

**200.1.2 ORDER OF LAYOFF:** Length of service shall be the only criterion used to effect layoffs. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee, who has been employed the shortest time in the class, plus equal and higher classes, as determined by the Commission, shall be laid off first. Re-employment shall be in the reverse order of layoff. "Length of Service" shall be defined to include the hire date of that employee as a regular probationary or permanent employee in the class, plus any service in equal or higher classes.

200.1.2.1 The Commission shall grant length of service credit for time spent on unpaid leaves in the following areas: military leave, family leave, illness leave, pregnancy disability leave, and industrial accident/illness leave.

200.1.2.2 Except as noted above, all unpaid leaves of more than two (2) months shall not count towards earning "length of service" seniority credit. Employees taking leaves over two (2) months shall have their classification hire date adjusted on a day-for-day basis for the duration of the unpaid leave.

200.1.2.3 If two (2) or more employees subject to layoff have equal seniority, the determination as to who shall be laid off shall be made by lot.

Reference: Education Code Sections 45101, 45260, 45261 and 45308

**200.1.3 DISPLACEMENT RIGHTS:** Employees who are subject to layoff may displace the least senior employee having like hours in the current classification or in any previously held classification. If there are no positions available having like hours, the affected employee may displace the least senior employee occupying a position in the current, or previously held classification having the closest number of hours to that currently held by the employee being laid off. If an affected employee does not wish to exercise their retention rights, they may elect to accept the lay off.

Reference: Education Code Sections 45260, 45261 and 45308

**200.1.4 VOLUNTARY DEMOTION OR TRANSFER:** A permanent classified employee who will suffer a layoff for lack of work or funds despite their bumping rights may accept a voluntary demotion to a vacant position in a lower class or transfer to an equal class, providing that the employee is deemed to be qualified to perform the duties thereof by the Commission, and provided further that the Board approves the voluntary demotion or transfer.

**200.1.5 LAYOFF VERSUS TEMPORARY POSITIONS:** No regular classified employee shall be laid off from any position while employees serving temporary appointments are retained in positions of the same class, or others performing the duties of that classification, unless the regular employee refuses assignment to the temporary position.

**200.1.6 ACCEPTANCE OF SUBSTITUTE OR TEMPORARY EMPLOYMENT:** An employee who has been laid off for lack of funds or lack of work and who is on a re-employment list may be employed as a substitute or temporary employee in their original class or any other class for which qualified, and such employment shall in no way jeopardize or otherwise affect their status or eligibility for re-employment.

**200.1.7 REFUSAL OF TEMPORARY EMPLOYMENT:** Refusal of an offer of limited-term employment shall not have an effect on the standing of any employee on a re-employment list.

**200.1.8 SALARY PLACEMENT AFTER DEMOTION OR TRANSFER:** A classified employee who accepts a demotion in lieu of a layoff shall be placed at the salary range of the lower class, and then to that step of the lower range that comes closest to the employee's hourly salary rate in the higher classification without being more than the previous hourly salary rate.

**200.1.9 LATERAL TRANSFER:** A classified employee who accepts a lateral transfer to an equal class shall be placed on the same salary range and step as the previous position.

Reference: Education Code Sections 45260 and 45261

**200.1.10 NOTICE OF LAYOFF:** The District shall notify the affected classified employees in writing a minimum of sixty (60) calendar days prior to the date of any layoff for lack of work or funds. The notice to the affected employee shall specify the reason for the layoff and be given by personal delivery whenever possible or by certified mail, registered mail or federal express with return receipt; to the last known physical address of the employee on file in the Commission Office. Failure of the employee to respond to notifications of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the mailing date of the notice shall be considered to be the official date of receipt.

Reference: Education Code Sections 45117, 45260 and 45261

**200.1.11 ADVANCE NOTIFICATION TO EXCLUSIVE REPRESENTATIVE:** If any of the impacted positions are represented by a collective bargaining exclusive representative, the District Administration and the exclusive representative shall meet in advance of layoff notices being sent out to review the proposed layoff.

Reference: Education Code Sections 45260 and 45261  
Government Code Sections 3540 - 3549.3

**200.1.12 CONTENTS OF LAYOFF NOTICE:** Any notice of layoff shall include the following:

200.1.12.1 The reason for the layoff.

200.1.12.2 The employee's displacement rights, if any.

200.1.12.3 The employee's re-employment rights.

200.1.12.4 The effective date of layoff.

200.1.12.5 The name and classification of the employee designated for layoff.

200.1.12.6 A statement that the employee may have a right to unemployment compensation.

Reference: Education Code Sections 45117, 45260 and 45261

**200.1.13 LAYOFF RESOLUTION BY BOARD OF EDUCATION:** Before any layoff notice can be issued, the Board shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by classification and assigned time.

Reference: Education Code Sections 45260 and 45261

## **200.2 RE-EMPLOYMENT PROCEDURES**

**200.2.1 LAID OFF EMPLOYEES PLACED ON RE-EMPLOYMENT LIST:** The names of regular classified employees laid off shall be placed upon the re-employment list for the class from which there were laid off. Names on the re-employment list shall be in order of seniority as defined by these rules.

**200.2.2 EMPLOYEES WITH EQUAL SENIORITY:** If two (2) or more employees subject to rehire have equal class hire date seniority, then the rehire offer shall be made to the employee with the earliest regular hire date in the District. If District hire date is equal, the decision shall be made by lot.

Reference: Education Code Sections 45101, 45260, 45261 and 45308



**200.2.3 ELIGIBLE FOR RE-EMPLOYMENT FOR THIRTY-NINE (39) MONTHS:** Laid off employees are eligible for re-employment in the class from which laid off for a thirty-nine (39) month period and shall be employed in the reverse order of layoff. Their re-employment shall take precedence over any other type of employment. In addition, they shall have the right to apply for promotional and transfer positions and use their seniority therein for a period of thirty-nine (39) months following layoff. Upon written request to the Commission Office, an employee on a re-employment list shall be notified of promotional and/or transfer opportunities.

Reference: Education Code Sections 45260, 45261 and 45298

**200.2.4 ELIGIBILITY FOR AN ADDITIONAL TWENTY-FOUR (24) MONTHS:** Regular employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be returned to a position in their former class or to positions in accordance with their seniority on any valid re-employment list with increased assigned time as vacancies become available within a sixty-three (63) month period.

Reference: Education Code Sections 45260, 45261 and 45298

**200.2.5 CALPERS RETIREMENT IN LIEU OF LAYOFF AND RE-EMPLOYMENT:** Regular employees who have at least five (5) years service credit under the Public Employees Retirement System and are fifty (50) years of age or older, may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reductions in assigned time. Such employees shall, prior to the effective date of the proposed layoff, complete and submit a form to the Public Employees Retirement System provided by the Commission Office for this purpose. The employee shall then be placed on a thirty-nine (39) month re-employment list in accordance with this regulation. If the District makes an offer of re-employment, and the Commission Office receives a written acceptance of the offer within two (2) working days of the written offer of re-employment, the retired person shall be allowed sufficient time to terminate their retired status with the Public Employees Retirement System.

Reference: Education Code Sections 45115, 45260 and 45261

**200.2.6 OFFER OF RE-EMPLOYMENT AND ACCEPTANCE:** An employee who is laid off and is subsequently determined by the Commission to be eligible for re-employment based upon their seniority shall be notified by telephone, but if they cannot be reached, will be notified in writing of an opening. Such notice shall be sent by certified mail to the last known home address of the employee on file with the District Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the mailing date of the notice shall be considered to be the official date of receipt.

200.2.6.1 A regular employee shall notify the Commission Office of their intent to accept or refuse re-employment within five (5) working days following the mailing of the re-employment notice. If the employee accepts re-employment, the employee must report to work within ten (10) working days following the mailing of the re-employment notice. An employee given notice of re-employment need not accept the re-employment to maintain the employee's eligibility on the re-employment list, provided the employee notified the Commission Office in writing within five (5) working days from receipt of the re-employment notice.

Reference: Education Code Sections 45260, 45261 and 45298

## **CHAPTER 210**

### **RESIGNATIONS**

#### **210.1 RESIGNATION PROCEDURE**

**210.1.1 RESIGNATION DURING PROBATIONARY PERIOD:** A person who resigns while in good standing during their probationary term may submit a request in writing, to the Director, to be reinstated to their original place on the eligibility list. In the event the Director denies their request, the individual may appeal the decision to the Commission.

**210.1.2 RESIGNATION AND EFFECT OF ELIGIBILITY LISTS:** A resignation relates only to the specific position from which the employee resigns and does not impair their rights on other eligibility lists, except that if their name is on any promotional/internal eligibility list, it shall be removed from any such list in the event the individual employee no longer holds permanence as a classified employee of the District.

**210.1.3 PROCEDURE FOR RESIGNATION OF EMPLOYEE:** Whenever an employee desires to resign from their position with the District, they shall present their resignation in writing to Personnel Services or Commission Office and if presented to the Commission Office, shall be forwarded to Personnel Services. The resignation letter shall indicate the last day in paid status of the resigning employee and the reasons for the resignation. The Director shall ensure that the resignation is presented to the Board for action.

**210.1.4 TWO (2) WEEK NOTICE OF RESIGNATION:** Classified employees are requested to provide the District with at least two (2) weeks notice. Management, Supervisory, and Confidential employees are requested to provide at least four (4) weeks notice to the District.

**210.1.5 ACCEPTANCE OF RESIGNATION:** The resignation of a classified employee shall be considered final upon receipt by the Board or Superintendents designee.

Reference: Education Code Sections §45260 and §45261

**210.1.6 RETIREMENT UNDER THE CALIFORNIA PUBLIC EMPLOYEE RETIREMENT SYSTEM (CALPERS):** Classified employees working over one thousand (1,000) hours per year are covered by the Public Employees Retirement System and Social Security. Employees wishing to retire under this system are required to submit appropriate retirement applications to the Public Employees Retirement System. Such forms may be available in the Commission office.

210.1.6.1 Employees who retire under the CALPERS System shall not work for any CALPERS agency for at least 180 days from the date of retirement except when waived by law.

210.1.6.2 CALPERS Retirees who are eligible to work shall not work in any permanent position nor shall they work more than 960 hours in a fiscal year.

GOVT CODE TITLE 2, DIVISION 5 PART 3. – P.E.R.S.

# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Absence – see Leaves of Absence</b>	<b>150</b>
<b>Announcement of Examination</b>	<b>50.1.1</b>
<b>Appeal from Disciplinary Action</b>	<b>190.4</b>
Notice of Right to Appeal	190.4.2
<b>Applicants</b>	<b>40</b>
Appeal from Disqualification	40.2.2
Causes for Disqualification	40.2.1
Filing of	40.1.1
General Qualifications	40.1.2
<b>Appointment – Also see Assignment</b>	<b>70.1</b>
Emergency	70.3.1
Limited Term/Substitute	70.4
Nepotism	70.1.3
Procedures for Selection	70.1.1
Provisional	70.2
Special	70.3
<b>Assignment – Also see Appointment</b>	<b>90.2</b>
Adjustment of Assigned Time	100.1.4
Alternate Work Week	100.1.2
Benefits for Assignments of Less Than 8 Hours/12 Months	100.1.6
Data	90.2.1
Decreases	100.1.5
Meal Periods	100.1.7
Orientation	90.2.2
Rest Periods	100.1.8
Split Shift	100.1.9
Workday	100.1.3
<b>Certification from Employment Lists</b>	<b>60.2</b>
Additional Eligibles	60.2.6
Appointing Authority	60.2.1
Certification and Appointment from Eligibility Lists	60.2.4
Failure to Make Appointment	60.2.8
Fewer Than Three (3) Ranks	60.2.5
From A List For Another Class	60.2.10
Order of Precedence	60.2.2
Restoration To Eligibility List	60.2.9
Rule of Three (3) Ranks	60.2.3
Selective	60.2.12
Waiver of	60.1.10
Withholding Names	60.2.7

# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Certification of Payroll</b>	<b>90.1</b>
Noncompliance	90.1.2
<b>Classification Plan</b>	<b>30</b>
Allocation to Existing Classes	30.2.6
Assignment of Duties	30.2.1
Changes in Duties	30.2.7
Class Specifications, Interpretation of	30.2.4
Classified Service	30.1
Creation of New Positions	30.2.5
Exemption from	30.1.2
Exemption, Effect of	30.1.4
General Plan	30.2.2
Part-Time	30.1.3
Positions Included	30.1.1
Professional Expert	30.1.5
Restricted Positions	30.1.6
Review of Positions	30.2.9
Rules	30.2
Special Language or Skills	30.2.10
Working Out Of Class	30.2.8
<b>Complaint Procedure</b>	<b>180</b>
Approval of Director	180.1.4
Certain Matters Excluded	180.1.2
Commission Staff Will Assist	180.1.3
Decision	180.1.16
Definition	180.1.7
Employee Representation	180.1.8
Maintenance of Complaint Files	180.1.11
No Reprisals for Filing	180.1.9
Procedure for the Adjustment of Complaints	180.1
Purpose of Complaint Procedure	180.1.1
Reasonable Release Time	180.1.10
Steps	180.1.12 - 15
Time limits	180.1.5 - 6
<b>Criminal Records</b>	<b>80.2</b>
Fingerprinting	80.2.1
Review of	80.2.2

# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Definitions</b>	<b>10.2</b>
Demotion	110.2
Disciplinary Action	190.1.4
Gradual Accretion	30.3.6
Immediate Family	10.2
Limited Term	70.4.1
Overtime	100.2.1
Part-Time	30.1.3
Position Transfer	110.1.2
Substitute	70.4.1
<b>Demotion</b>	<b>110.2</b>
Involuntary	110.2.2
Salary Placement	170.2.9
Voluntary	110.2.1
<b>Disqualification of Applicant/Candidate</b>	<b>40.2</b>
Appeal From	40.2.2
Applicant's Names Not to Be Made Public	40.2.4
Causes for	40.2.1
Veteran's Preference Proof	40.2.3
<b>Eligibility for Employment</b>	<b>60</b>
<b>Eligibility Lists</b>	<b>60.1</b>
After Appointment	60.1.9
Certification of	60.1.3
Confidentiality of	60.2.13
Contents of	60.1.2
Duration of	60.1.5
Duties of Eligibles	60.2.11
Establishment of	60.1.1
Life of	60.1.1
Merger of	60.1.6
Notification of Removal from	60.1.12
Re-employment	60.1.7
Removal of Names	60.1.11
Termination of	60.1.8
Types of	60.1.4
Waivers of Certification	60.1.10
<b>Employment Requirements</b>	<b>80.3</b>
Income Tax Withholding Forms	80.3.1
License or Certification; filing of	80.3.6

# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Employment Requirements (continued)</b>	<b>80.3</b>
Loyalty Oath	80.3.3
Social Security Number	80.3.2
Verification of Right to Work	80.3.4
<b>Examinations</b>	<b>50.2</b>
Admission to	50.2.12
Announcement of	50.1.1
Continuous	50.2.6
Determination of	50.2.1
Evaluation of Training and Experience	50.2.11
Interview Panel, Oral and Structured	50.2.9-.10
Merged	50.2.5
Open Competitive	50.2.2
Procedures	50.2.13
Promotional	50.2.3
Promotional and Open Competitive	50.2.4
Protest of	50.3
Rating Required	50.2.14
Review of	50.3
Scoring and Weighting	50.2.8
Seniority Credit	50.2.15
Types of	50.2.7
Veterans Credit	50.2.16
<b>Fingerprinting</b>	<b>80.2.1</b>
Criminal Record Review	80.2.2
<b>Hearings</b>	<b>190.4</b>
Decision of the Personnel Commission	190.4.24
Transcript Copies	190.4.28
<b>Holidays</b>	<b>160.1</b>
Declared by Governor/President	160.1.2
Eligibility	160.1.6
For Classified Employees	160.1.1
Other	160.1.3
Overtime Pay	160.1.5
Rate of Pay	160.1.4
Weekends	160.1.7
<b>Layoff and Reemployment Procedures</b>	<b>200</b>
Acceptance of Substitute or Temporary Employment	200.1.6
Advance Notification to Exclusive Representative	200.1.11
Contents of Layoff Notice	200.1.12



# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Layoff and Reemployment Procedures (continued)</b>	<b>200</b>
Displacement Rights	200.1.3
Lateral Transfer	200.1.9
Layoff Resolution by the Board	200.1.13
Layoff versus Temporary Positions	200.1.5
Notice of Layoff	200.1.10
Order of Layoff	200.1.2
Reason for Layoff	200.1.1
Refusal of Temporary Employment	200.1.7
Salary Placement After Demotion or Transfer	200.1.8
Voluntary Demotion or Transfer	200.1.4
<b>Leaves of Absence</b>	<b>150</b>
Bereavement	150.7
Definition	150.1.1
Extended Sick Leave	150.3.1
Family School Partnership Act	150.17
General Provisions	150.1
Health Coverage	150.1.6
Industrial Accident	150.4
Jury Duty	150.11
Military	150.14
Order of Available Leaves	150.1.13
Personal Business	150.9
Personal Necessity	150.8
Pregnancy Disability	150.18
Release Time for Personnel Activities	150.13
Right to Position upon Return	150.1.2-.3
Salary on Return	170.2.8
Sick	150.2
To Serve in Exempt/Temp/Provision/Limited Term Positions	150.15
Transfer of Sick Leave	150.5
Unpaid	150.16
Unpaid Illness	150.6
Unpaid Child Rearing	150.10
Witness	150.8.1.3

# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Limited Term and Substitute Appointment</b>	<b>70.4</b>
Definition	70.4.1
Eligibility	70.4.3
Establishment of	70.4.2
Summer/Recess	70.4.5
Termination	70.4.4
<b>Mileage Reimbursement</b>	<b>170.4.2</b>
<b>Military Leave</b>	<b>150.14</b>
<b>Nepotism</b>	<b>70.1.3</b>
<b>Open Competitive Examinations</b>	<b>50.2.2</b>
<b>Overtime</b>	<b>100.2.1</b>
Assignment of	100.2.3
Call Back	100.2.4
Call In	100.2.5
Compensation	100.2.1
Compensatory Time Off (CTO/Comp Time)	100.2.2
Defined	100.2.1
Exemption From	100.2.6
<b>Performance Evaluation</b>	<b>130</b>
Administration of Appraisal System	130.1.2
Distribution	130.1.10
Documentation	130.1.7
Employee Attachments	130.1.11
Forms	130.1.5
Meeting	130.1.6
Policy Statement	130.1.1
Rater	130.1.4
Recommendations for Improvement	130.1.8
Signatures	130.1.9
When to Evaluate	130.1.3
<b>Permanency</b>	<b>90.4</b>
Rights, Benefits and Burdens	90.4.2
Status	90.4.1
<b>Personal Necessity Leave</b>	<b>150.8</b>
<b>Personnel Commission</b>	<b>20</b>
Action of (by Majority Vote)	20.1.5
Agenda	20.2.6
Annual Report	20.6.1
Appointment Procedures	20.1.2

# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Personnel Commission (continued)</b>	<b>20</b>
Budget	20.5
Communications	20.4.1
Compensation	20.1.6
Election of Officers	20.1.4
Filling of Vacancies During Term of Office	20.1.3
Legal Counsel for	20.7
Meetings of	20.2
Minutes	20.2.8
Organization of	20.1
Personnel Director Duties	20.3.2
Quorum	20.1.5
Selection Procedures	20.1.1
Status of Commission Employees	20.3.1
Term of Office	20.1.1
<b>Personnel Files</b>	<b>120.1</b>
Appeal of Placement of Material in File	120.1.7
Copying of	120.1.9
Derogatory Information	120.1.5
Inspection By Employee	120.1.2
Inspection By Others	120.1.3
Log	120.1.4
Maintenance of	120.1.1
Removal of Derogatory Material	120.1.8
Signatures/Date Required	120.1.6
<b>Physical Examinations</b>	<b>80.1</b>
Initial Employment Medical Exam	80.1.2
Return to Work and Unscheduled	80.1.3
T.B. Examinations	80.1.1
<b>Position Transfer</b>	<b>110.1.2</b>
<b>Pregnancy Disability Leave</b>	<b>150.18</b>
<b>Probationary Status</b>	<b>90.3</b>
Completion of Initial	90.3.2
Trial Service Period	90.3.3
Upon Initial Employment	90.3.1
<b>Promotional and Open Competitive Examinations</b>	<b>50.2.4</b>
<b>Promotional Examinations</b>	<b>50.2.3</b>
<b>Protest of Examination</b>	<b>50.3</b>

# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Provisional Appointment</b>	<b>70.2</b>
Extension of	70.2.3
Length of	70.2.2
Qualifications	70.2.5
Reasons	70.2.1
Status of Employees	70.2.6
Successive Appointments	70.2.4
Termination	70.2.7
<b>Reclassification</b>	<b>30.3</b>
Effect of Re-employment and Eligibility	30.3.7
Effective Date of	30.3.2
Effects on Incumbent	30.3.5
Gradual Accretion	30.3.6
Notification	30.3.3
Reclassification Procedure	30.3.1
Re-employment List for Displaced Incumbents	30.3.8
Vacant Position	30.3.4
<b>Recruitment</b>	<b>50.1</b>
Announcement of Examinations	50.1.1
<b>Re-employment Procedures</b>	<b>200.2</b>
<b>Re-employment list</b>	<b>60.1.7</b>
<b>Restoration/Reinstatement</b>	<b>110.3</b>
Former Employee	110.3.2
Effects	110.3.3
<b>Resignations</b>	<b>210</b>
<b>Restoration to Former Class</b>	<b>110.3.1</b>
<b>Rule Making Authority</b>	<b>10</b>
Generic Terminology	10.1.3
Interpretation and Application of	10.1.2
Judicial Review of	10.1.4
Printing and Distribution	10.1.5
Statutory Authority for	10.1.1
<b>Rules, Subject of</b>	<b>10.1.6</b>
<b>Salary (Compensation and Pay Practices)</b>	<b>170</b>
After Unpaid Leave	170.2.8
Differential	170.3
Fixing Annual Schedule	170.1.1
Initial Placement	170.2.1
On Demotion	170.2.9

# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Salary (Compensation and Pay Practices) - continued</b>	<b>170</b>
On Promotion	170.2.7
On Re-employment/Re-instatement	170.2.10
Range Changes	170.2.5
Step Advancement	170.2.4
Step Placement	170.2.2
Summer/Recess Period	170.2.11
Temporary Employees	170.2.3
"Y" Rating	170.2.6
<b>Salary Schedule (Determination of)</b>	<b>170.1</b>
Board Action on Recommendations	170.1.8
Delay of Adoption	170.1.4
Fixing Annual Schedule	170.1.1
Increases/Decreases in Percentages	170.1.2
No Dismissal Due to Reclassification	170.1.3
Pay in Accordance with Merit System	170.1.5
Recommendation to Board	170.1.6
Salary Range Placement	170.1.9
Salary Studies	170.1.7
<b>Seniority Credit</b>	<b>50.2.15</b>
<b>Substitute/Limited Term Appointment</b>	<b>70.4</b>
Definition	70.4.1
Eligibility	70.4.3
Termination	70.4.4
<b>T.B. Examinations</b>	<b>80.1.1</b>
<b>Transfer</b>	<b>110.1</b>
Certification for Interview	110.1.9
Definition	110.1.1
Factors Considered in Transfer	110.1.10
Lateral	110.1.3
No Adverse Effect	110.1.4
Notification	110.1.11
Position	110.1.2
Requests for	110.1.8
Seniority Credit	110.1.5
Shall Not Alter Effects of Layoff	110.1.6
Vacancy Notices	110.1.7

# BARSTOW UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION RULES AND REGULATIONS INDEX

<b><u>SUBJECT</u></b>	<b><u>RULE NUMBER</u></b>
<b>Uniforms</b>	<b>170.4.4</b>
<b>Vacations</b>	<b>140</b>
Accrual/Carryover	140.1.13
Credit	140.1.10
Earned During Paid Status	140.1.6
Earned Upon Termination	140.1.12
Holidays	140.1.15
Interruption	140.1.16
Partial Month	140.1.5
Partial Year	140.1.4
Postponement	140.1.14
Probationary Employees	140.1.7
Rate of Pay	140.1.3
Ratio for Management Employees	140.1.2
Ration for Regular Employees	140.1.1
Scheduling for 12 Month Employees	140.1.9
Scheduling for Less than 12 Month Employees	140.1.8
Unearned upon Termination	140.1.11
<b>Veterans Preference, Proof of</b>	<b>40.2.3</b>
<b>Veterans Credit</b>	<b>50.2.16</b>
<b>Working Out of Class</b>	<b>30.2.8</b>