

# MERIT SYSTEM RULES AND REGULATIONS FOR THE CLASSIFIED SERVICE

PERSONNEL COMMISSION  
OF THE  
SAN DIEGO COUNTY OFFICE OF  
EDUCATION

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## PREFACE

The Merit System was adopted by the Department of Education, San Diego County, in 1970. The Personnel Commission is established and governed by the provisions of the California Education Code, Title 2, Part 25, Chapter 5, Article 6, Section 45240-45330. These Rules and Regulations are statements of the procedures and regulations that must be followed in order to implement the Merit System as prescribed in the Education Code. A copy of the Rules and Regulations shall be available in each section, department, program site, or facility to which classified employees are assigned to work.

## **CHAPTER I INFORMATION**

### **1. ESTABLISHMENT OF RULES**

The rules and regulations contained herein are established pursuant to the authority of the Personnel Commission under provisions of the Education Code §45260 and §45261, Board of Education, provisions of the collective bargaining agreement with CSEA and other provisions governing the Merit System Act in the Education Code. If any provision of these regulations or the application thereof to any person or circumstance is held invalid, the remainder of the regulations and the application of such provision to other persons or circumstances shall not be affected thereby.

### **2. RELATIONSHIP OF MERIT SYSTEM AND STATUTES GOVERNING EMPLOYER-EMPLOYEE RELATIONS**

Parts of the Merit System Rules may be subject to negotiation with exclusive representative employee organizations under statutes governing employer-employee relations. Where agreements are reached between the County Office of Education and an exclusive representative and are included in an employee contract, such agreements shall supersede these rules.

### **3. MERIT SYSTEM PRINCIPLES**

The Personnel Commission has used as its guiding principle in approving these rules, the spirit of the law which forms an impartial body which is responsible to see that matters affecting the working lives of classified employees are handled in a fair manner. The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration of their intent; however, specific applicable provisions of the rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. The Commission is open to responsible suggestions to amend the rules with prospective application; however, no rule amendment or new rule shall have retroactive applicability.

### **4. APPLICATION OF THE MERIT SYSTEM**

The Merit System shall include, and these rules and regulations shall apply to, all employment positions in the classified service and persons employed to fill such positions with the following exceptions:

- A. Positions which by law require certification qualifications
- B. Part-time playground positions
- C. Full-time students employed part-time
- D. Part-time students employed part-time in any college work study program, or in a work experience education program conducted by a community college district pursuant to Education Code Article 7 of Chapter 5 of Part 28 and which is financed by state or federal funds

- E. Apprentices and professional experts employed on a temporary basis for a specific project by the governing board, Superintendent or the Commission, and board assistants employed to directly assist the board or individual board members
- F. Personnel employed under specifically funded programs in a status designated as “restricted” when such programs require employment of persons under criteria which restrict the privilege of all citizens to compete for such positions

**5. EFFECTS OF EXEMPTION** Any position or employee lawfully exempted from the classified service shall be excluded from the benefits and burdens imposed by these rules, except as provided by law, or the County Board of Education, or the County Superintendent of Schools.

**6. AMENDMENT OF MERIT SYSTEM RULES** The Commission shall prescribe, amend, and interpret, subject to Education Code §45260 as amended, such rules as may be necessary to ensure the efficiency of the service and selection and retention of employees upon the basis of merit and fitness. No rule or amendment which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the Commission until the exclusive bargaining representative and the public school employer of the classified employees who would be affected have been given reasonable notice of the proposed rule or amendment. All written proposals, from any source, to amend, delete, or add to these rules will be considered a “first reading” at the meeting in which they are first presented to the Commission.

At the “first reading” the Commission will set a date for Commission action on the proposal, which date shall not be less than two weeks later. It shall also instruct the Director, Human Resources, to refer the proposal to interested persons and/or organizations for comment and recommendation.

Interested parties shall submit their reactions to proposals in writing on or before the stipulated agenda deadline date and shall have the right to present reactions to the Commission orally at the appropriate Commission meeting.

## **CHAPTER II DEFINITIONS**

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

1. **Act or The Act:** The Act shall mean those sections of the Education Code of the State of California applying the Merit System to classified employees in certain school districts. It shall include all of the provisions of Article 6, Chapter 5, Part 25, Division 3 and applicable provisions of Chapter 1 and Articles 1-5 and 7-11 inclusive of Chapter 5, Part 25, Division 3.
2. **Affirmative Action:** Result oriented steps taken by the County Office of Education to ensure equal employment opportunities to all applicants and to remedy the under utilization of racial and ethnic minorities, women, and persons with disabilities at all job levels.
3. **Allocate or Allocation:** The assignment of a given class to a specific range on a salary schedule.
4. **Anniversary Date:** The date upon which an employee is granted an earned salary increment.
5. **Applicant:** A person who has filed a completed employment application for employment for an authorized regular or temporary vacancy or to take an examination announced by the Personnel Commission.
6. **Approval of Eligibility List:** The action taken by the Commission to authorize the final ranking of candidates on an eligibility list resulting from a classified employment examination.
7. **Appointing Authority:** The County Superintendent of Schools, San Diego County Office of Education, or designee, or in the case of Commission staff, the Personnel Commission.
8. **Appointment:** The official act of approving the recommendation of the appointing authority for the employment of an applicant.
9. **Bargaining Unit:** A group of employees recognized by the County Office of Education or designated by an authorized agency as appropriate for representation by an employee organization for purposes of collective bargaining.
10. **Board:** The San Diego County Board of Education.
11. **Candidate:** An applicant who is competing in an examination.
12. **Certification:** The process of submitting eligibles from the top three available ranks of the appropriate eligibility list to the appointing authority for employment consideration.
13. **Certify:** See Certification

14. **Class:** A group of positions which have duties and responsibilities sufficiently similar that the same descriptive title may be used; substantially, the same skills, knowledge, abilities and experience, training, and education may be used in qualifying applicants and required of incumbents; and the same rate of pay can be applied to all positions in the class.
15. **Classify:** The assignment of a position to a new or existing class.
16. **Class Specification:** An official statement of typical duties and responsibilities of the positions in a class which includes a listing of tasks and minimum qualifications, education, and training of positions in the class.
17. **Classified Service:** All positions in the County Office of Education's support and management service to which the Act and these rules and regulations apply.
18. **Commission:** The Personnel Commission for the San Diego County Office of Education.
19. **Confidential Employee:** An employee designated by the Office of Education with access to information regarding the County Superintendent's collective bargaining strategy. Confidential employees may not be represented by an exclusive representative.
20. **Continuous Examination:** A method of recruiting and examining applicants in which the filing deadline is not specified, the examination administered from time-to-time as needed, and new eligibles merged with those already on the eligible list.
21. **Contract (Collective Bargaining Agreement):** Written agreement between an employee bargaining unit and the San Diego County Board of Education and the County Superintendent of Schools.
22. **Day:** A day on which the administrative offices of the San Diego County Office of Education (located at 6401 Linda Vista Road) are open for business, except where "calendar" day is specified.
23. **Demotion:** A change in assignment of an employee from a position in one class to a position in another class that is allocated to a lower maximum salary rate.
24. **Discharge or Dismissal:** Involuntary separation from employment for cause.
25. **Eligible:** A candidate whose name appears on an eligibility or reemployment list.
26. **Eligibility List:** A ranked list of the candidates who have qualified for employment consideration in a class.
27. **Emergency Appointment:** An appointment not to exceed 15 days to prevent the stoppage of public business when persons on eligibility lists are not immediately available.
28. **Employment List:** A list of names from which certification may be made. This includes eligibility lists, reemployment lists, and lists of persons who wish to be transferred, demoted, reinstated, or in any manner employed, subject to the rules of the Personnel Commission.

29. **Entry Level Class:** The first class in a series for which recruitment is generally conducted on an open basis.
30. **Exempt Position:** A management, supervisory, or specialist position which meets the requirements of the Education Code and the Fair Labor Standards Act for exclusion from overtime pay provisions.
31. **Grievance:** An allegation by an employee, group of employees, or CSEA, of a violation, misinterpretation, or misapplication of the collective bargaining agreement.
32. **Grievance Procedure:** The process for review of a grievance in accordance with the provisions of the collective bargaining agreement.
33. **Hearing:** The presentation of evidence before the Personnel Commission or its designated representative.
34. **Incumbent:** The person currently assigned to a position.
35. **Layoff:** The elimination of positions or reduction in assigned time because of lack of work or lack of funds.
36. **Limited Term:** A term used in the Education Code to designate positions established for a fixed period not to exceed six months (synonymous with “temporary”) or the employment of an employee (synonymous with “substitute”) during the authorized absence of another employee.
37. **Open Examination:** A competitive examination in which any qualified person may participate, whether or not the person is a current Office of Education employee, which results in an open eligibility list.
38. **Out-of-Class Assignment:** The procedure used when assigning duties inconsistent with an employee’s regular job classification.
39. **Part-time Position:** Any position in the classified service assigned to work less than the normal workday or work week as defined by these rules or the collective bargaining agreement.
40. **Permanency:** Status which is acquired in a classification by successful completion of the prescribed probationary period.
41. **Permanent Employee:** In reference to Office of Education employment status, an employee who has completed an initial probationary period in the classified service. In reference to employment status in a specific class, an employee who has completed the probationary period for that class.
42. **Position:** A group of duties and responsibilities assigned by official authority usually performed by one person.
43. **Probationary Employee:** An employee who has not completed an initial probationary period in the classified service.



44. **Probationary Period:** The final phase in the examination process consisting of a trial period of six months, or in specified instances, one year immediately following an original or promotional appointment to a regular position.
45. **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 resulting from competition in an examination for the higher class.
46. **Promotional Examination:** A competitive examination in which only qualified permanent employees of the Office of Education or individuals on appropriate reemployment lists may compete.
47. **Provisional Appointment:** The appointment of a person to a regular position in the absence of an appropriate eligibility list and subject to the prescribed time limits as specified in Education Code §45287 – §45289.
48. **Quorum:** Two members of the Personnel Commission present at a regular or special meeting.
49. **Reallocate/Reallocation:** Movement of a class from one salary range to another without significant change in class title, minimum qualifications, duties or responsibilities.
50. **Reclassify/Reclassification:** The reassignment of a position from one class to another because of significant change in duties, responsibilities or employment standards, based upon a gradual accretion of duties.
51. **Reemployment:** Reemployment to duty of an employee who has been laid off, or the reassignment of a former employee to a lower class than that from which the former employee resigned within the past 39 months.
52. **Reemployment List:** A list of names of persons who have been laid off from regular positions, and who are eligible for reemployment in their former class without examination, arranged in order of their right to reemployment.
53. **Regular Employee:** A classified employee who has probationary or permanent status.
54. **Regular Position:** A position established for a continuing and indefinite or unlimited period of time or for a fixed period in excess of six months.
55. **Reassignment:** A management-initiated movement of an employee to another position in the same classification.
56. **Reinstatement:** The reappointment, without examination, of a permanent employee after resignation, to a position in the employee's former class.
57. **Restoration:** (See "Reinstatement") The reappointment to duty of an employee to the same class and status held at the time of resignation. Also, the reappointment to permanent status of an employee who had been demoted to a former or related class after reduction to limited-term status.

58. **Salary Range:** A series of consecutive salary steps that comprise the rate of pay for a class. The minimum and maximum salary paid to each classification as approved by the Commission.
59. **Salary Rate:** A specific amount of money paid for a specified period of service, i.e., dollars-per-hour, pay period, or month.
60. **Salary Schedule:** The complete list of ranges, steps, rates, and classification titles established for the classified service.
61. **Salary Step:** One of the consecutive rates that comprise a salary range. A specific rate in a salary range.
62. **Separation:** The official termination of employment with the Office of Education includes resignation, retirement, layoff, and dismissal.
63. **Seniority:** Status secured by length of service (measured in hours in paid status) in regular classified positions to which certain rights are attached. Time accumulated by length of service in a class.
64. **Series:** Classifications closely related in occupational hierarchy identifying varying levels of assignment.
65. **Status:** The condition of an employee's current employment, such as permanent, probationary, provisional, limited-term, restricted or substitute.
66. **Substitute Employee:** An employee occupying a regular position during the authorized absence of the incumbent.
67. **Suspension:** An enforced absence, with or without pay, for disciplinary purposes or pending investigation of charges made against an employee.
68. **Transfer:** An employee-initiated movement of a permanent employee to another position in the same classification (or related classification) on the same range of the salary schedule.
69. **Waiver:** An action to voluntarily forego employment consideration by an eligible on a valid eligibility list after being certified, or declining an offer of employment.
70. **Y-Rate:** A salary step, range, and/or rate placement which is different from that which the employee would otherwise be entitled.

**CHAPTER III**  
**COMMISSION ORGANIZATION and BYLAWS**

1. **TERMS OF COMMISSIONERS:** By law, the term of each Commissioner is for three years and expires at noon, December 1. The term of one Commissioner expires each year.
2. **OFFICERS:** At its first meeting following December 1 of each year, the Commission shall elect one of its members as chairperson and another member as the vice chairperson to serve a term of one year or until their successors are duly elected.
3. **QUORUM AND MAJORITY:** Two members shall constitute a quorum for any regular or special meeting of the Commission. The affirmative vote of two members shall be necessary to make any motion effective.
4. **REGULAR MEETINGS:** Subject to cancellation or proper change, the Commission shall meet regularly at times and places determined by the Commission. When the regular meeting date falls on a holiday, the commission shall meet on the next succeeding day, unless at a prior regular meeting it designates some other day for its meeting. Meetings shall be held within the boundaries of the County of San Diego.
5. **ADJOURNED REGULAR MEETINGS:** The Commission may adjourn any regular or adjourned meeting to a time and place specified in the order of adjournment. When so adjourned, the adjourned meeting is a regular meeting for all purposes. When an order of adjournment of a regular or adjourned meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour designated for regular meetings.
6. **SPECIAL MEETINGS:** Special meetings may be called at any time by the chairperson and shall be called upon the written request of any two members. Written notice shall be delivered personally or by mail to each member of the Commission. Notice must also be given to each of the following who have filed written requests for such notice: each local newspaper of general circulation, radio or television station, and recognized employee or other organization. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. A copy of the notice shall be posted on the Commission's official bulletin board. The order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Commission.
7. **EMERGENCY MEETINGS:** Special meetings in an emergency situation may be called without advance notification. The chairperson shall notify by telephone, newspapers, and radio or television stations one hour prior to the special meeting, unless telephone services are not functioning, in which case they must be notified as soon after the meeting as possible. Minutes of the meeting must be posted for at least ten (10) calendar days in a public place. The Commission may meet in closed session during a special meeting called under these circumstances. Emergency Situation for the purpose of this section shall mean:
  - A. Work stoppage
  - B. Impairment to health or safety
  - C. Crippling disaster as determined by a majority of the Commissioners

8. **PUBLIC MEETINGS:** All regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meetings of the Commission, except as provided in Section 9 below. This rule shall not be construed as permitting employees to be absent from duty without authorization to attend Commission meetings.
9. **CLOSED SESSIONS:** A closed session is a portion of a meeting from which the public and news media are excluded. Closed sessions are allowed during regular meetings, adjourned regular meetings, special meetings, and adjourned special meetings, but not during emergency meetings.
  - A. All closed session agenda items must have descriptions and be posted seventy-two (72) hours ahead of the meeting.
  - B. Grounds for closed sessions include “personnel matters,” “instructions to designated representatives,” “pending litigation,” and any other item permitted under the provisions of Government Code §54954.5 et. seq.
  - C. Prior to any closed session, the reason for the closed session shall be announced publicly.
  - D. After the closed session, the Commission shall reconvene into public session and announce any action taken.
10. **AGENDA AND POSTING:** The Director, Human Resources, shall prepare an agenda for each meeting of the Commission which shall be delivered to each Commission member and the Superintendent’s designated representative forty-eight (48) hours prior to a regular meeting or twenty-four (24) hours prior to every special meeting. The agenda shall contain a brief, general description of each item of business to be discussed or transacted at the meeting and shall state the time and location of the meeting. Copies of the agenda shall also be distributed to recognized employee organization representatives; the news media requesting, in writing such copies; and shall be posted on the Commission’s official bulletin board at least 72 hours before the meeting.
11. **APPEARANCE BEFORE THE COMMISSION:** Individual employees, employee organizations, and other interested parties may address the Commission on any subject that is within the jurisdiction of the Commission and will be provided reasonable opportunity to present their views.
  - A. No person shall discuss complaints against any employee which have not first been presented in writing to the Personnel Commission, signed by the person(s) making the complaint, and included in the agenda as a matter before the Commission.
  - B. Persons appearing before the Commission shall not be permitted to discuss any motion pending before the Commission except when the Commission consents to such discussion.
12. **COMMUNICATIONS:** Communications and requests directed to the Commission shall be in writing. Individuals or groups who wish to present proposals for action by the Commission shall present them to the office of the Director, Personnel Services, for placement on the Commission agenda within the prescribed timelines as required by law.

13. **MINUTES:** The Director, Human Resources, shall record in the minutes the time and place of each meeting, the names of the Commissioners present, all official acts of the Commission, and the votes of the Commissioners. When requested, a Commissioner's dissent or approval and the reasons shall be recorded. The minutes shall be written and presented for correction and approval at the next regular meeting. The minutes, or a true copy thereof, shall be open to public inspection. Copies of the official minutes shall be distributed to recognized employee organization representatives who have requested them.
14. **BUDGET:** The Director, Human Resources, shall prepare and submit to the Commission a proposed operating budget for the Commission for the ensuing fiscal year. The budget shall be prepared for a public hearing by the Personnel Commission to be held not later than May 30, or other date mutually agreed to by the Commission and the County Superintendent of Schools. The proposed budget shall be considered and adopted in accordance with Education Code provisions.
15. **ANNUAL REPORT:** The Director, Human Resources, shall prepare an annual report of Commission activities for the preceding fiscal year. The Annual Report shall be submitted to the County Superintendent of Schools and to the Board of Education no later than November 1.
16. **COMMISSION EMPLOYEES:** The Commission shall appoint a Personnel Director and staff required to carry out the responsibilities of the Commission. The Director shall act as secretary to the Commission and shall issue and receive all notifications on its behalf; and shall direct and supervise the Commission staff and conduct administrative transactions consistent with the law and necessary to the proper functioning of the office and staff of the Commission. Commission employees shall be considered part of the classified service, and the rules, procedures, benefits, and burdens pertinent to the classified service shall apply to Commission staff except as the Commission may specifically direct.
17. **PAYMENT FOR MEETING ATTENDANCE:** Each Commissioner shall receive payment for each meeting attended in any one month, including regular, adjourned or special meetings. Payment to members of the commission shall be twenty-five dollars (\$25) per meeting, not to exceed two hundred fifty dollars (\$250) per month.

**CHAPTER IV**  
**APPLICATION and EXAMINATION**

1. **JOB ANNOUNCEMENT BULLETIN:** The Director, Personnel Services, shall prepare, or cause to be prepared, an employment opportunity announcement to publicize examinations or vacancies. The bulletin shall be released from the Personnel Services Office no less than ten (10) calendar days prior to the filing deadline. The announcement shall contain:
  - A. Qualifications required
  - B. The salary range applicable for the position/classification
  - C. The filing deadline
  - D. An equal opportunity statement
  - E. A statement pertaining to the type of examination
  
2. **FILING APPLICATIONS:** All applications for employment shall be made upon the official forms furnished by the Personnel Commission and filed on or before the filing deadline specified in the job announcement. Applicants must meet the minimum qualifications set forth in the job announcement. No application will be rejected on the basis of the applicant's race, religious creed, sex, national origin, ancestry, marital status, physical handicap (unless it directly affects the applicant's ability to perform the job applied for), or age. Applications may be rejected for cause. Such cause shall relate solely to the welfare of the Office of Education.

Applicants taking more than one examination must file a separate and complete application for each such examination unless otherwise determined by the Director, Personnel Services.

3. **CAUSES FOR REJECTION:** An applicant or candidate may be refused examination, and an eligible may be refused certification of appointment, for any of the following reasons:
  - A. Failure to meet the general qualifications of the position applied for;
  - B. Failure to execute the oath of allegiance required by the State of California;
  - C. Conviction of, or pleading guilty to, a sex offense as defined in Education Code §44010 or conviction of, or pleading guilty to, a controlled substance offense as defined in Education Code §44011;
  - D. Making false statements or omitting a statement as to any material fact on the application form;
  - E. Practicing any deception or fraud in connection with an examination or to secure employment;

- F. Dismissal from a previous employment for cause or other unsatisfactory record of previous employment which would have subjected the applicant to dismissal by the Office of Education;
- G. Previous dismissal for cause from the Office of Education or unsatisfactory record of prior employment with the Office of Education unless the County Superintendent of Schools waives this subsection;
- H. Failure to satisfactorily complete a post-offer (pre-placement) medical examination;
- I. Failure to report for duty after an assignment had been offered and accepted;
- J. Failure, after due notice, to report promptly for review of any of the above bases for rejection;
- K. Refusal to furnish testimony at a hearing or investigation before the Personnel Commission or County Board of Education.

#### **4. ORDERING OF EXAMINATIONS**

- A. No examination announcement may be made and no part of any examination may be held until the appointing authority has approved the prescribed duties for the classification, and the Commission has approved the classification description including establishment of minimum qualifications.
- B. Examinations may be written or oral, or in the form of a practical demonstration of skill and ability, or any combination of these. Any investigation or review of education, experience, character, or ability and any test of technical knowledge, manual skill, or physical and mental ability that in the judgement of the Director, Personnel Services (subject to review by the Personnel Commission), serves this end, may be employed. Suitable alternative examinations may be used to establish the eligibility of applicants with disabilities. All examinations shall be prepared under the direction of the Director, Personnel Services, who shall determine the passing score and assign relative weight to the different parts of the examination.
- C. Examinations shall be held as open, promotional, or simultaneously open and promotional as determined by the Director, Personnel Services. Where an adequate field of promotional applicants does not exist or there is doubt as to its adequacy, the examination may be advertised as open and promotional. A promotional field exists when there are incumbents in one or more lower classifications who, from the nature of those classifications, can be expected to possess the minimum qualifications, skills, knowledge and abilities necessary to perform the duties of the higher classification.

#### **5. WHO MAY COMPETE:**

- A. Open Examinations: Application for examinations designated as “open” shall be open to all applicants who meet the prescribed requirements of the class and are not otherwise disqualified by these rules.

- B. Promotional Examinations: Those persons eligible to compete in a promotional examination shall be those who, by the filing deadline as listed on the job announcement bulletin, have permanent or probationary status, or those who are on an approved leave of absence, whether paid or unpaid, or those who have been laid off for lack of work or funds and are on a valid reemployment list and who meet the prescribed qualifications for the job.
  - C. Open/Promotional Examinations: Application for examinations designated as open/promotional shall be open to employees and the public who are not otherwise disqualified by these rules and who meet the prescribed qualifications of the class. All applicants shall be considered as a group in determining passing scores on the examination(s); however, two lists shall be established – one promotional and one open.
- 6. **CONTINUOUS EXAMINATIONS:** The Director, Personnel Services, may establish a process by which applicants are continuously examined. Tests may be administered from time to time as applicants are available and Office of Education needs dictate. Candidates successfully passing the examination shall be merged on a master eligibility list in order of their final score.
  - 7. **EMPLOYEE PREFERENCE POINTS:** Additional credit shall be added to the final passing score of regular employees of the San Diego County Office of Education in an open examination. Such employees shall receive a credit of one-half (.5) point for each full six (6) months of paid service in regular status to a maximum of five (5.0) points.
  - 8. **VETERAN’S PREFERENCE POINTS:**
    - A. In the case of examinations for entry level classes, veterans with thirty (30) calendar days or more of service, who attain a passing score established for the examination, shall be allowed an additional credit of five (5.0) points and disabled veterans shall be allowed an additional credit of ten (10) points, which shall be added to the examination score. “Entrance examinations” shall mean any written or oral selection process by which a candidate who is not an employee of the County Office at the time of the examination competes for a vacancy in the Classified Service except where the minimum qualifications include a bachelor’s degree and two (2) years of experience.
    - B. At least thirty (30) calendar days of active service in the Army, Navy, Marine, Air Force, or Merchant Marine, or as a nurse on active duty with the Red Cross, between the dates listed below are required:
      - 1. World War II: December 7, 1941 to December 31, 1946
      - 2. Korea: June 27, 1950 to January 31, 1955
      - 3. Vietnam: August 5, 1964 to May 7, 1975
      - 4. Service in the Coast Guard between December 7, 1941 and January 1, 1946
      - 5. Desert Storm
      - 6. Any other campaign in which medals were issued



- C. "Disabled Veteran" means any veteran who is currently declared by the United States Veterans Administration to be ten percent (10%) or more disabled as a result of service in the armed forces. Proof of the disability shall be deemed conclusive if it is of record in the United States Veterans Administration.
  - D. In order to obtain credit, the applicant shall furnish satisfactory proof of qualifying military service and discharge or release, under conditions other than dishonorable, at the time of the examination prior to establishment of the eligibility list. No adjustment or rank on the list shall be made when such proof is presented thereafter.
- 9. EXAMINATION PROCEDURES:** The Director, Personnel Services, shall establish procedures governing the details of the examination process. The procedures shall be fair, equitable, and equally applied to all applicants subject to review by the Personnel Commission.
- 10. EQUAL EMPLOYMENT OPPORTUNITY:** No questions or examination procedure shall be employed that serves to discriminate against any applicant or any eligible whose name has been certified for appointment on the basis of political or religious opinions or affiliations, race, creed, color, gender, marital status, sexual orientation, age, national origin, ancestry, physical or mental disability or cancer-related medical condition.
- 11. NOTICE OF FINAL SCORE:** Each candidate shall be notified in writing by U.S. mail of his score for each portion of the examination, additional veteran or employee preference points, the total thereof, and his/her ranking on the eligibility list, if qualified, within ten (10) days of the approval of the eligibility list.
- 12. NOTIFICATION AND APPEAL OF REJECTION:** Applicants, candidates and eligibles who have been rejected shall be notified in writing. The notification shall state the reasons for the rejection. Any rejected individual may appeal in writing within seven (7) calendar days of the date of notification to the Director, Personnel Services, for administrative review. Failure to appeal for administrative review in a timely fashion makes the rejection final and conclusive.

If there has been an administrative review as provided above, and the rejection is sustained, the individual shall have the right to appeal to the Personnel Commission subject to the following conditions:

- A. The appeal is made in writing and is received within seven (7) calendar days of notification of the results of the administrative review.
- B. The appeal is based upon a charge that the rejection constitutes a violation of law or a violation, misinterpretation, or misapplication of the rules of the Personnel Commission, or that the reasons for rejection are inconsistent with the facts. The facts supporting such a charge shall be set forth in the appeal. Within fifteen (15) calendar days of a receipt of a timely written appeal, the Commission shall set a date for review at which time the evidence shall be considered and the Commission will render a decision. The decision shall be transmitted in writing to all concerned and shall be final. If a rejection is not sustained by the Director, Personnel Services, or the Personnel Commission, action shall be taken to ensure the rights of the applicant,

candidate, or eligible. However, appointments made in the interim shall not be disturbed, unless they were fraudulently made.

- 13. CONFIDENTIALITY OF INFORMATION:** Unless these rules specifically designate otherwise, all documents such as applications, references, examination papers, etc., shall be considered confidential records of the Personnel Commission and shall not be returned. The names of applicants, candidates, or eligibles in any examination shall not be made public or open to inspection.
- 14. REVIEW OF EXAMINATION:** Review by applicants of written examination questions shall be allowed during the four (4) days following the administration of a test. Protests of questions shall be made within twenty-four (24) hours of the examination review. Failure to review within the four (4) days shall constitute waiver of the right to appeal that part of the selection process. The Director, Personnel Services, shall review and act upon all protests. If protests result in any change, the test papers of all applicants will be reviewed and re-rated accordingly. The Director, Personnel Services, shall render a decision and inform the protestant. If the Director rules against the protest, the applicant may appeal to the Personnel Commission, but the appeal shall not delay other parts of the examination process. Unless otherwise specified in this rule, reviews and protests shall be conducted in accordance with Section 12 of this chapter.

**CHAPTER V  
ELIGIBILITY LISTS**

1. **TYPES OF ELIGIBILITY LISTS:** Lists from which appointments to a class may be made shall be limited to: eligibility lists, either open, promotional, or open/promotional; reemployment lists; or transfer lists. 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.
2. **RANKING ON ELIGIBILITY LISTS:** The Personnel Commission shall approve all lists of eligibles whose names shall be ranked in the order of their final examination scores that have been rounded to the nearest whole percent. All eligibles with the same percentage score shall be considered to have the same rank.
3. **DURATION OF ELIGIBILITY LISTS:** Eligibility lists resulting from open or promotional examinations may be established for a minimum of six (6) months but for not more than one (1) year as determined by the Director, Personnel Services, at the time the examination is announced. Eligibility lists may be extended by the Director, subject to ratification by the Personnel Commission, for an additional period not to exceed one (1) year. Eligibles on lists so extended shall be notified in writing of the period of extension.
4. **USE OF OTHER THAN ELIGIBILITY LISTS:** In the absence of a reemployment list for a class, a vacancy may be filled by transfer, demotion, reinstatement or restoration to former class after voluntary demotion or other means provided in these rules, without regard for existence of eligibility lists.
5. **TERMINATION OF ELIGIBILITY LISTS:** An eligibility list is automatically terminated upon completion of the prescribed eligibility period or when no eligibles remain on the list. An eligibility list may be terminated by the Director, Personnel Services, when no eligible is available for appointment to a specific regular position in a class or when there are fewer than three ranks of eligibles remaining on the list who are willing and able to accept appointment. Those eligibles remaining on a list that is terminated shall be notified that the eligibility list has been terminated.
6. **REMOVAL FROM ELIGIBILITY LISTS/WITHHOLDING NAMES FROM CERTIFICATION:** An eligible may be removed from an eligibility list or withheld from certification for any of the following reasons:
  - A. A written request by the eligible for removal or inability to accept appointment.
  - B. Failure to respond within three (3) days to a written inquiry regarding availability for employment.
  - C. Failure to respond for an interview after certification.
  - D. Three waivers of consideration for selection (refusing certification) or an offer of regular appointment.

E. Any of the causes listed in Chapter IV, Section 3. An individual whose name is removed from an eligibility list may request reconsideration by submitting to the Director, Personnel Services, any pertinent facts regarding the situation. The Director will make a decision, subject to review by the Personnel Commission, after an appropriate investigation.

**7. ELIGIBILITY AFTER APPOINTMENT:**

A. An eligible serving in his initial probationary period of employment in the classified service of the County Office of Education shall not be eligible for appointment to a position in another position classification (job title) until the initial probationary period has been satisfactorily completed.

B. An eligible who accepts part-time employment shall continue to be eligible for full-time employment, and an eligible who accepts limited-term or substitute employment shall continue to be eligible for regular appointment.

**8. REINSTATEMENT OF FORMER PERMANENT CLASSIFIED EMPLOYEES:** A former permanent employee who resigned in good standing may have his name reinstated to an appropriate eligibility list within thirty-nine (39) months of the last date of paid service, without further examination, and will be certified to vacancies in addition to names from the eligibility list. If the former employee is not employed from the eligibility lists(s) prior to expiration of the thirty-nine (39) month reinstatement period, his name will be removed from the eligibility list.

**9. CONFIDENTIALITY OF ELIGIBILITY LISTS:** The information contained within eligibility lists is confidential, and shall only be released as follows:

A. The public: In the event of appointments having been made or if appointments are pending, the names of eligibles in alphabetical order who are available for appointment shall be available to the public. Examination scores shall not be available to the public.

B. The appointing authority: Only information relating to the top three ranks of available eligibles shall be released. Examination scores shall not be released to the appointing authority.

C. Eligibles: Only information pertaining to an eligible's own scores and current position on the list shall be released to the eligible or his representative.

D. To such other additional persons as specifically ordered by the Personnel Commission.

**10. DUTY OF ELIGIBLES:** Every person who has been placed on any eligibility list or reemployment list shall provide a current telephone number and mailing address. The Commission and the Director, Personnel Services, shall direct all notices necessary in carrying out the provision of these rules to the address provided by the eligible. Whenever such person shall have any change in mailing address, the eligible shall promptly notify the office of the Commission, stating the lists upon which the eligible's name appears, together with the new mailing address and telephone number. Failure or neglect on the part of the eligible to file such information may, at the discretion of the Commission, operate as a waiver of the eligible's order of certification and/or appointment from any eligibility lists.

**CHAPTER VI**  
**CERTIFICATIONS and APPOINTMENTS**

1. **APPOINTMENT AND THE “RULE OF THREE”:** When a vacancy occurs in a regular classified position, the names of the eligibles having the first three (3) ranks highest on the appropriate eligibility list and who are ready and willing to accept appointment will be certified to the appointing authority, except in the case of a reemployment list. When fewer than three (3) ranks of candidates are available for certification, the appointing authority may choose not to appoint any of them and may request a new examination.
2. **TRANSFER REQUESTS:** In addition to the certification of eligibles from the appropriate list, the names of present eligible employees seeking voluntary transfer shall be certified.
3. **ORDER OF CERTIFICATION:** Names shall be certified for appointment from employment lists in the following order:
  - A. Reemployment list (one name)
  - B. Promotional lists (with valid transfer or reinstatement requests)
  - C. Open lists (with valid transfer or reinstatement requests)
  - D. Open/Promotional with Promotional List: As long as three (3) ranks of available eligibles are on the promotional list, all openings shall be filled from that list before utilizing the “open” list. Should fewer than three (3) ranks of eligibles be available on the promotional list, sufficient ranks of eligibles from the “open” list shall be certified, in order of rank, to provide at least three (3) ranks of candidates for each position to be filled.
4. **SELECTIVE CERTIFICATION:** When a position requires the ability to speak, read or write a language in addition to English, or to possess a valid driver’s license, the Director, Personnel Services, may authorize selective certification. Certification and appointment shall then be made from among the highest three (3) ranks of eligibles who meet the requirements.
5. **WAIVERS OF CERTIFICATION:** An eligible may waive certification to specific locations or shifts and to part-time or full-time positions without penalty if such designation of availability is made in advance of certification. An eligible may waive certification by refusing certification via telephone or in writing, provided that refusal of three (3) offers of certification or of appointment to a regular position is cause for removal from the eligibility list. Eligibles may revise or withdraw their waivers in writing.
6. **ABSENCE OF AN ELIGIBILITY LIST:** In the absence of an eligibility list for a class, or if fewer than three (3) ranks of eligibles are available to be certified for a vacant position in a class, the vacant position may be filled as outlined below:
  - A. An employee may receive provisional appointments to the vacant position not to exceed ninety (90) working days or thirty (30) days after three or more ranks of eligibles become available on a new or combined eligibility list for the class, whichever shall occur first.

1. Once having served in a provisional appointment, a ninety (90) calendar day interval shall elapse during which the employee will be ineligible to serve in any full-time provisional capacity.
  2. No person shall be employed in provisional capacities for a total of more than 126 working days in any one fiscal year, except when no one is available on an appropriate eligibility list for a part-time position as defined by the Education Code.
  3. The services of a provisional employee may be terminated at any time at the discretion of the appointing authority.
- B. Certification may be made from an eligibility 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 included substantially all of the duties of the position to be filled, provided that the Director, Personnel Services, determines that the use of the list is in the best interests of the Office of Education and that the necessary skills and knowledge were adequately tested in the examination.
7. **CERTIFICATION TO MULTIPLE VACANCIES:** In the event of multiple authorized vacancies, the Director, Personnel Services, may authorize the simultaneous certification of a number of eligibles or ranks from the eligibility list which exceeds the number of openings by two (2).
  8. **EMERGENCY APPOINTMENTS:** If it should become necessary in time of emergency to fill positions in the classified service to prevent the stoppage of public business, the County Superintendent of Schools, through authorized division heads, may make emergency appointments, may make emergency appointments without reference to eligibility lists for a period not to exceed fifteen (15) days. Time served under such emergency appointments shall be considered as a part of the period permitted under the Education Code and these rules for provisional appointments.
9. **LIMITED-TERM OR SUBSTITUTE APPOINTMENTS:**
- A. Whenever the appointing authority shall require the appointment of a person to a position, the duration of which is not to exceed six (6) months, or, in the case of an appointment in lieu of an absent employee, is not to exceed the authorized absence of the employee, it may submit a request for limited term appointment in which the probable duration of the appointment is stated.
  - B. Selection of limited-term or substitute or extra help employees shall be made in the following order: first, from the appropriate reemployment list; second, from the eligibility list for the class in the order of rank on such lists and the willingness of the candidates to accept such employment; and third, from qualified applicants for that class.
  - C. Compensation: Limited-term, provisional and substitute employees shall be compensated at the hourly rate assigned to the classification in which they are employed.

- D. Termination: Limited-term, provisional, and substitute appointments shall be subject to termination at any time except during an assigned shift. The name of a limited-term employee who was dismissed for cause may be removed from an eligibility list by the Director, Personnel Services. Reinstatement to the eligibility lists may be requested in accordance with provisions of Chapter V, Section 6.
10. **INITIAL REPORTING DATE:** An eligible who has been certified shall be allowed at least two (2) weeks to report for duty after an offer of appointment to a regular position has been made. The appointing authority may allow a period longer than two (2) weeks at its discretion.

**CHAPTER VII  
PROBATIONARY AND PERMANENT STATUS**

**FOR BARGAINING UNIT MEMBERS, PROVISIONS AFFECTING PROBATIONARY AND PERMANENT STATUS SPECIFIED IN THE COLLECTIVE BARGAINING AGREEMENT SHALL TAKE PRECEDENCE OVER THESE RULES.**

1. **PROBATIONARY PERIOD:** All appointments from the eligibility list for original appointment or promotion shall be for a probationary period of six (6) calendar months except that the probationary period for management positions shall be one (1) calendar year. Service in limited-term, provisional or substitute status shall not be credited toward the probationary period. In the event that an employee is granted a leave of absence or is absent on extended sick leave for more than fifteen (15) consecutive days, the period of leave shall not be counted toward completion of the required months of probationary service.
  
2. **EVALUATION DURING THE PROBATIONARY PERIOD:** During the probationary period the employee shall be evaluated to ascertain his/her ability to meet the job performance standards. Performance evaluation shall be conducted as follows:
  - A. Bargaining unit employees: Refer to procedure specified in the employee contract.
  - B. Management and Confidential Employees:
    1. Probationary employees in the above-mentioned categories shall be evaluated at the midpoint and at the end of the probationary period.
    2. At any time, an evaluator may, with department head approval, issue to an employee a completed special evaluation.
  - C. A copy of a completed evaluation form signed by the employee shall be maintained in the employee's personnel file.
  - D. Performance evaluation reports shall be made on forms prescribed by the Personnel Commission.
  
3. **RIGHTS OF PROBATIONARY EMPLOYEES:**
  - A. A probationary employee who resigns in good standing shall, upon request, have his name restored in proper rank to the eligibility list from which the employee was selected. Such action shall not extend the life of the eligibility list or the period of eligibility of the employee.
  - B. Should a probationary employee be laid off without fault or delinquency on his/her part, the employee's name shall be restored to the eligibility list and the time served shall be credited toward the probationary period should the employee be reemployed in the same classification during the eligibility period.
  - C. An employee may be dismissed at any time during the initial probationary period without cause. An employee who is suspended or dismissed during the initial



probationary period, shall be notified in writing by the Director, Personnel Services. There shall be no right of appeal.

D. A permanent employee who is promoted or who moves to a position in a class in which she/he has not previously completed probation shall be considered probationary in that class for the standard probationary period. At any time during this probationary period, the employee may be returned to his/her former class without right of appeal. If no vacancy exists in the employee's former class, she/he has displacement (bumping) rights just as if she/he was laid off.

4. **PERMANENT STATUS:** An employee, after serving the required probationary period in a satisfactory manner, shall be classified as a permanent employee. Permanent status shall not be granted to any employee whose services and/or work related behavior is not satisfactory.

**CHAPTER VIII**  
**DISCIPLINARY ACTION and APPEAL**

1. **CAUSES FOR SUSPENSION, DEMOTION, DISMISSAL:** Permanent employees in the classified service may be suspended (for a period of up to thirty calendar days), demoted or dismissed for any of the following causes:
  - A. Incompetence or inefficiency in the performance of assigned duties.
  - B. Inability to perform assigned tasks due to failure to meet job qualifications (including but not limited to failure to possess required licenses, failure to pass required tests or failure to meet the Office of Education’s insurability requirements).
  - C. Insubordination (including but not limited to refusal to do assigned work or failure to follow work rules as directed).
  - D. Carelessness or negligence in performance of duty or in the care or use of Office of Education property.
  - E. Discourteous, offensive or abusive conduct or language toward other employees, pupils or the public, or any other failure of good conduct tending to injure the public service.
  - F. Dishonesty
  - G. Possession or consumption of alcohol or illegal possession or consumption of a controlled substance while on duty or on a County Office of Education work site.
  - H. Being impaired while on duty due to the consumption of a controlled substance or alcohol.
  - I. Conviction of any felony or misdemeanor involving moral turpitude, immoral conduct, dishonesty, intemperance, addiction to or use of narcotics.
  - J. Political activities engaged in by an employee during his/her assigned hours of employment.
  - K. Arrest for a narcotics offense as defined in Education Code §44010 or a sex offense as defined in Education Code §44011.
  - L. Unexcused absences or tardiness.
  - M. Abuse of illness leave privileges or excessive absenteeism over a prolonged period of time which adversely impacts on the operation of the County Office of Education.
  - N. Repeated violations of the provisions of the Education Code or of policies, rules, regulations or procedures adopted by the County Superintendent of Schools, County Board of Education or the Personnel Commission.
  - O. Physical or mental incapacity to perform duties of the position or class to which assigned with or without reasonable accommodation where appropriate.

- P. Falsifying or omitting any information relevant to the employment decision supplied to the Office of Education including but not limited to information supplied on application forms, employment records, or any other Office of Education records.
- Q. Abandonment of employment; that is, being absent from duty without authorization for five or more consecutive days.
- R. Refusal to report for review of criminal records or for medical examination.

**2. SUSPENSION OF CLASSIFIED EMPLOYEE DUE TO ACCUSATION OF CRIME:**

- A. Whenever an employee is charged with a mandatory leave of absence offense, as defined in Education Code §44940 (a), the employee shall immediately be placed on a compulsory leave of absence for a period of time extending for not more than ten (10) days after the date of entry of the judgment in the proceedings. Such leave shall be in accordance with the provisions of Education Code §44940.5.
- B. Whenever an employee is charged with an optional leave of absence offense, as defined in Education Code §44940 (b), the employee may be placed on a compulsory leave of absence at the sole discretion of the County Superintendent of Schools. Such leave shall be in accordance with the provisions of Education Code §44940.5.
- C. Suspensions conducted under the provisions of Education Code §45304 (b), or §45304 (c) shall be reviewed by the Personnel Commission every ninety (90) calendar days.

**3. SUSPENSION, DEMOTION OR DISMISSAL OF CLASSIFIED EMPLOYEE:**

- A. No employee in the classified service shall be suspended, demoted, dismissed or in any way discriminated against because of his/her political or religious acts, opinions or affiliations, race, creed, color, gender, marital status, sexual orientation, age, national origin, ancestry, physical or mental disability or cancer-related medical condition except as subject to the provisions of these Rules.
- B. Before a permanent employee in the classified service may be suspended, demoted, or dismissed, the employee shall receive a written notice of the nature of the proposed disciplinary action specifying the recommended effective date, cause(s) for the disciplinary action, the charges on which the proposal is based, the employee's right to review and obtain copies of any written materials supporting the charges and the employee's right to respond to the charges specified.
- C. Prior to the proposed disciplinary action, the employee shall have the right to respond either orally or in writing, to examine and obtain copies of all written materials on which the proposed action is based, and to request in writing to meet with the Superintendent or designee within five (5) days of receipt of the notice of the proposed disciplinary action, and to be accompanied by a representative of the employee's choice. Failure of the employee to make a response or request an interview within five (5) days shall constitute a waiver of this provision.

1. In exceptional circumstances (e.g., to protect the welfare or safety of the employee, co-workers, or the public), an employee may be suspended without advance notice. Under such circumstances, the procedure(s) described above shall be carried out as soon as practicable.
- D. After implementation of the above procedures, the County Superintendent of Schools shall notify the Director, Personnel Services, of the disciplinary action, if any. Within ten (10) days of the disciplinary action, the Director, Personnel Services, shall file with the Personnel Commission a written statement of charges and the action taken.
- E. In the case of a permanent employee who is suspended, demoted, or dismissed, the Director, Personnel Services, shall notify the employee by personal service or U.S. certified mail of the employee's rights to appeal the disciplinary action to the Personnel Commission within fourteen (14) calendar days after receipt of the notice of appeal rights.
- F. Dismissal shall cause removal of the employee's name from all current eligibility lists.
- G. Failure to appeal as provided in these rules shall render the action of the County Superintendent of Schools final and conclusive.
4. **INVESTIGATION:** A permanent employee who has not served the full probationary period for a class, and who is demoted to the class from which promoted, may request an investigation by the Commission within ten (10) days after the effective date of the action. The request for the investigation shall state the grounds for the investigation. The Commission shall conduct an investigation confined to the grounds set forth in the charges and in the request for the investigation but shall not be required to follow the procedures for appeals and hearings set forth in these rules. The Commission shall notify the County Superintendent of Schools and the employee in writing of its findings. If the Commission's investigation and findings, however, indicate any discriminatory action, the Commission may order a formal hearing. The decision of the Commission shall be binding on the County Superintendent of Schools.
5. **APPEAL:** A permanent employee who has been suspended, demoted, or dismissed may appeal to the Personnel Commission within fourteen (14) calendar days after receipt of the notice of appeal rights by filing a written appeal to the charges and stating the grounds for appeal which are limited to:
  - A. That the procedures set forth by the Commission Rules and Regulations have not been followed.
  - B. That the action was taken because of political or religious opinions or affiliations, or race, creed, color, gender, marital status, sexual orientation, age, national origin, ancestry, physical or mental disability or cancer-related medical condition.
  - C. That there has been abuse of discretion.
  - D. That the action taken was not in accord with the facts.
  - E. Penalty invoked is excessive.

6. **APPEAL HEARING:** Upon receipt of a written request for an appeal hearing, the Personnel Commission shall determine the date, time, and place of the hearing. The hearing shall be confined to the reasons for action set forth by the Superintendent of Schools in the written charges and to relevant defenses set forth in the appeal. The findings of the Personnel Commission shall be rendered in writing to the employee and the County Superintendent of Schools within ten (10) days after the hearing is closed.

7. **HEARING PROCEDURES:**

- A. The Personnel Commission may conduct hearings of appeals or may appoint a hearing officer to conduct the hearing and report findings and recommendations to the Commission.
- B. Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officer shall be bound by technical rules of evidence. Decisions made by the Commission shall not be invalidated by an informality in the proceedings.
- C. The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. It shall base its findings on the preponderance of evidence.
- D. Each side will be permitted an opening statement (employer first) and closing arguments (employee first). The employer shall first present its witnesses and evidence to sustain its charges and the employee will then present witnesses and evidence in defense.
- E. Each side will be allowed to examine and cross-examine witnesses.
- F. Both the employer and the employee will be allowed to be represented by legal counsel or other designated representative.
- G. The commission may, and shall if requested by the employer or the employee, subpoena witnesses and/or require the production of records or other material evidence.
- H. The Commission or hearing officer may, prior to or during a hearing, grant a continuance.
- I. When the hearing is held by the Commission, whether held in public or closed session, the Commission may deliberate its decision in closed session. No persons other than members of the Commission, its counsel, and its staff shall be permitted to participate in the deliberations. If the Director, Personnel Services, or any staff is not serving exclusively for the Commission and/or was a witness in the proceedings, the Director shall also be barred from the Commission's final deliberations. If its counsel also served as counsel for the employer, counsel shall be barred from the Commission's final deliberations.
- J. The Commission shall render its decision as soon after the conclusion of the hearing as possible and in no event later than fourteen (14) calendar days after the conclusion of all proceedings by the Commission as authorized in Education Code §45312. Its decision shall set forth what charges, if any, are sustained and the reasons therefor.

- K. The Commission may sustain or reject any or all of the charges filed against the employee. It may sustain, reject or modify the proposed disciplinary action against the employee. It may not provide for discipline more stringent than that proposed by the employer.
  - L. The Commission's decision will be filed with the County Superintendent of Schools and the charged employee and will set forth its findings and decision. If a disciplinary action is not sustained, its decision shall set forth the effective date of the action ordered by the Commission.
  - M. The employee or his/her representative may obtain a copy of the transcript of the hearing upon written request and agreement to pay for necessary costs.
8. **LIMITATION ON NUMBER OF HEARINGS:** A suspended, demoted, or dismissed employee shall be entitled to one hearing only before the Personnel Commission for the same reasons on which such employee's suspension, demotion, or dismissal was based.
9. **RESIGNATION:** A regular classified employee who desires to resign in good standing shall submit a written resignation to the appointing authority and should give at least two (2) weeks notice of intention to resign. Employees in management classes shall give four (4) weeks notice. The appointing authority may consent to an earlier resignation. Resignation in good standing does not impair any existing rights to placement an employee may hold on an active eligibility list. Absence from duty without permission for five (5) consecutive days shall be deemed a resignation from the Office of Education and shall officially be recorded as such. If the employee makes a satisfactory explanation of the absence within thirty (30) calendar days, such employee may be restored to the position, or such employee's name may be placed on a reemployment list, at the sole discretion of the County Superintendent of Schools.
10. **DEMOTION, SUSPENSION, AND DISMISSAL OF PERMANENT PROBATIONARY EMPLOYEES:**
- A. An employee who has permanent status in the classified service and who has been promoted to a higher class, may be demoted involuntarily to the employee's former class during the probationary period in the higher class. The employee shall be notified in writing of the action and the charges upon which the action is based and shall have no right of appeal.
  - B. Any proposal and/or action to suspend or dismiss an employee who is probationary in a class, but has permanent status in the classified service is subject to the provisions of Chapter VIII, Section 5 of these Rules.
11. **VOLUNTARY DEMOTION:** A permanent employee may request voluntary demotion to a class with a lower maximum salary rate. Such requests may be granted at the sole discretion of the appointing authority. Voluntary demotion is a privilege available to probationary employees only in cases when they would otherwise be laid off for lack of work or lack of funds.

**CHAPTER IX  
LAYOFF AND REEMPLOYMENT**

**FOR BARGAINING UNIT MEMBERS, PROVISIONS AFFECTING LAYOFF AND REEMPLOYMENT SPECIFIED IN THE COLLECTIVE BARGAINING AGREEMENT SHALL TAKE PRECEDENCE OVER THESE RULES.**

1. **REDUCTION IN FORCE:** Whenever it becomes necessary to reduce the number of classified employees because of lack of work or lack of funds, the procedure shall be as follows:
  - A. 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 higher classes, shall be laid off first. "Length of service" means all hours in paid status as provided in Education Code §45308.
  - B. A regular employee who is laid off and who has previous service in another class shall have the right to displace an employee with less seniority in that class.
  - C. A regular classified employee who will suffer a layoff for lack of work or funds may, in order to avoid layoff, accept a voluntary demotion to a vacant position in a lower class or transfer to an equal class, at the sole discretion of the appointing authority, provided that the employee is qualified to perform the duties thereof.
2. **REEMPLOYMENT OPPORTUNITIES:** The names of regular employees who have been laid off shall be ranked on the reemployment list according to length of service. Employees with the greatest length of service shall be reemployed first. This list shall supersede existing promotional and open eligible lists for the class of positions and shall remain in force for a period of thirty-nine (39) months. A permanent employee who accepts a reassignment involving loss of salary in lieu of layoff shall remain on the reemployment list for an additional twenty-four (24) months.
3. **LIMITED-TERM EMPLOYEES AND LAYOFF:** No regular employee shall be laid off from any position while employees serving under limited-term appointments are retained in positions of the same class in the same organizational unit unless the regular employee declines the limited-term position. A limited-term employee may be laid off at the completion of the employee's assignment without regard to the procedures set forth in these Rules.

**CHAPTER X  
LEAVES OF ABSENCE**

**FOR BARGAINING UNIT MEMBERS, PROVISIONS AFFECTING LEAVES OF ABSENCE SPECIFIED IN THE COLLECTIVE BARGAINING AGREEMENT SHALL TAKE PRECEDENCE OVER THESE RULES.**

**1. VACATION:**

- A. Regular classified employees shall earn vacation at the rates prescribed by the Education Code or the County Superintendent of Schools (if greater) and shall be granted an annual vacation.
  - 1. Vacation shall not be a vested right of employees until the completion of six (6) months of paid service.
  - 2. Regular employees serving in a limited term or provisional status shall continue to earn vacation during such assignments. Vacation shall be earned during any paid leave of absence.
  - 3. Vacation credit may be accumulated to the limit determined by the County Superintendent of Schools, and, unless otherwise provided by these rules or department policy, an employee shall receive payment in lieu of vacation earned above the maximum credit allowed.
- B. Vacation pay shall be at the employee's current rate.
- C. Upon separation from service, an employee shall be paid for accumulated vacation credit at the rate of pay of the employee's last regular assignment.
- D. An employee may be permitted to interrupt or terminate vacation leave in order to begin another type of paid leave without a return to service. Such changes require approval of the employee's immediate management representative.

**2. SICK LEAVE**

- A. A regular (probationary and permanent) classified employee shall earn sick leave in the amount prescribed by the Education Code or the amount granted by the County Superintendent of Schools (if greater). Unused sick leave may be accumulated without limit. Sick leave utilization shall be for absences due to personal illness or injury.
- B. Pay for any day of sick leave shall be the same pay the employee would have received if the employee had worked that day.
- C. At the beginning of each fiscal year, the sick leave "bank" of the employee shall be increased by the number of days of paid sick leave which the employee would normally earn in the ensuing fiscal year. An employee's sick leave "bank" shall be adjusted if a change of assignment alters the amount of sick leave earnable.



- D. In order to receive compensation while on sick leave, the employee must comply with Office of Education procedure requiring and prescribing notice and the manner of proof to the Office of illness or injury.
- E. Additional Sick Leave. Upon exhaustion of all accumulated sick leave credit, an employee who continues to be absent because of illness or accident shall receive fifty percent (50%) of the employee's regular rate of pay for an additional period of one hundred (100) days.
- F. Termination of Sick Leave. An employee may return to duty at any time during the leave provided that the employee is able to resume the assigned duties. The County Superintendent of Schools may require a medical statement authorizing the employee's return to duty.
- G. If at the conclusion of all sick leave and other leaves granted under these rules, the employee is still unable to return to duty, the employee will be placed on a reemployment list for thirty-nine (39) months. Reemployment shall take preference over all applicants except those laid off for lack of work or funds, in which case, the employee will be ranked according to length of service among those laid off.
- H. Any classified employee of any school district or any office of a county superintendent of schools who has been an employee of that district or that office for a period of one calendar year or more and who terminated employment with that district or that office for the sole purpose of accepting a classified position with the County Office of Education and who subsequently, within thirty (30) calendar days of termination of his/her former employment, accepts a classified position shall be credited with all of the earned but unused sick leave which was credited to the employee in the former school district or office.
- I. Sick Leave shall be earned during any paid leave of absence. Regular employees serving in a limited term or provisional status shall continue to earn sick leave during such assignments. Vacation shall be earned during any paid leave of absence.

3. **INDUSTRIAL ACCIDENT AND ILLNESS LEAVE:**

- A. Leaves resulting from an industrial accident or industrial illness shall be granted in accordance with the provisions of Education Code §45192 and Office of Education rules.
- B. An employee in the classified service, who is absent from duty because of an illness or injury defined as an industrial accident or industrial illness under provisions of the Worker's Compensation Insurance law, shall be granted paid industrial accident leave for each such accident or illness while receiving temporary disability benefits from worker's compensation provided that:
  - 1. The employee has probationary or permanent status.
  - 2. In the opinion of the County Superintendent or designated representative, the illness or injury constitutes an industrial accident or illness, or if contested, it is ultimately determined to be work connected.

- C. Paid industrial accident leave shall be for not more than sixty (60) days in any one fiscal year for the same illness or injury.
- D. Paid industrial accident leave shall be reduced by one (1) day for each day of authorized absence regardless of the temporary disability allowance made under worker's compensation. Days absent while on paid industrial accident leave shall not be deducted from the number of days of paid sick leave to which an employee may be entitled.
- E. If the employee is still unable to return to duty after exhausting paid industrial accident leave, the employee shall be placed on paid sick leave if eligible therefor. When sick leave, vacation, compensatory time off or other available paid leave is used in conjunction with temporary disability benefits derived from worker's compensation, it shall be reduced only in that amount necessary to provide a full day's wage or salary when added to the temporary disability benefits.
- F. After all paid sick leave has been exhausted following a paid industrial accident leave, an employee may choose to receive pay from accrued vacation, earned compensatory time or other earned leave to the extent necessary to make up the employee's regular salary when receiving a temporary disability allowance. When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of the person's position, the person shall, if not placed in another position, be placed on a reemployment list for a period of thirty-nine (39) months.
- G. When available, during the thirty-nine (39) month period, the person shall be employed in a vacant position in the class of the person's previous assignment over all other available candidates except for a reemployment list established because of lack of work or lack of funds, in which case the person shall be listed in accordance with appropriate seniority regulations.
- H. An employee returning from such paid or unpaid leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and Personnel Commission Rules.
- I. An employee, who fails to accept an appropriate assignment after being medically approved, shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class, in the employee's former status and time basis, and in assignment areas in which the employee has made him or herself available. Employees removed from a reemployment list under this Rule may appeal the removal to the Personnel Commission.
- J. While an employee is on any paid leave resulting from an industrial accident or industrial illness, the employee's salary paid by the Office of Education shall not, when added to a normal temporary disability allowance award without penalties granted the employee under State Worker's Compensation Insurance laws, exceed the employee's regular salary. A regular employee's salary is computed on the basis of the number of hours and days in the employee's basic daily assignment.

During all paid leaves resulting from an industrial accident or industrial illness, the employee shall endorse to the Office of Education all wage-loss benefit checks received under State Worker's Compensation Insurance laws. The Office of Education shall issue to the employee appropriate warrants for payment of wages, loss of benefits, salary and/or leave benefits and shall deduct normal retirement and other authorized contributions.

Final allowance for permanent industrial disability settlements shall not be subject to remittance to the Office of Education under this rule.

4. **BEREAVEMENT LEAVE:**

- A. Employees in the classified service shall be allowed regular pay for not more than three (3) days when absent because of the death of any member of the employee's immediate family. Bereavement leave with pay shall be extended to a maximum of five (5) days when out-of-state or 350 miles round trip travel from the County Office is necessary in connection with the bereavement.
- B. Member of the immediate family means mother, father, grandmother, grandfather or a grandchild of the employee or of the employee's spouse, or any other person living in the immediate household of the employee and the spouse; or a son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister or sister-in-law of the employee.

5. **PERSONAL NECESSITY:**

- A. A classified employee may elect to use, not more than eight (8) days in any fiscal year, sick leave for personal necessities which fall in the following categories:
  - 1. Bereavement leave which may be necessary beyond that authorized in these rules and law.
  - 2. Accident, involving the employee's person or property, or the person or property of a member of the employee's immediate family.
  - 3. Appearance in any court or before any administrative tribunal as a litigant, party or witness under subpoena or any order made with jurisdiction, and for which no other leave is provided for in these rules.
  - 4. Illness involving a member of the employee's immediate family.
  - 5. Up to four (4) hours per year per child of the employee to visit the child's school.
- B. Immediate family, as used in this section, shall have the same meaning as provided in Section 4B of this chapter.

6. **JUDICIAL AND OFFICIAL APPEARANCE LEAVE**

- A. Judicial and Official Appearance Leave shall be granted for the purposes of regularly called jury duty, appearance as a witness (in court) other than as a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee.

- B. The employee shall receive full pay while on leave provided that the jury service or witness fee for such leave is assigned to, and the subpoena or court certification is filed with, the Office of Education. The jury service fee and witness fees do not include reimbursement for transportation expenses.
  - C. An employee who has received leave of absence under this rule shall be available for work during hours when the employee's presence is not required in court.
7. **ABSENCE FOR EXAMINATION:** Every employee in the classified service shall be permitted to be absent from duty during working hours in order to take any examination for promotion in the Office of Education without deduction of pay or other penalty, provided that the employee gives two days notice to his/her immediate supervisor.
8. **MILITARY LEAVE:** Military leave of absence shall be granted and compensated in accordance with the Military and Veterans Code Sections 389 and 395.
9. **FAMILY AND MEDICAL LEAVE:** The Office of Education shall comply with statutory requirements in granting Family Leave as required under the Family Rights Act of 1991.
10. **LEAVE OF ABSENCE WITHOUT PAY:**
- A. Leave of absence without pay may be granted to a permanent classified employee, upon the written request of the employee and the approval of the County Superintendent of Schools or designated representative, subject to the following restrictions:
    - 1. Leave of absence without pay may be granted for any period not exceeding one year, except that leave of absence for military service shall be granted as provided by the Education Code and the Military and Veterans Code, and leave of absence for service in the Peace Corps, or the Red Cross or Merchant Marine during time of national emergency, may be granted for a period not to exceed twenty-four (24) months.
  - B. The granting of a leave of absence without pay gives to the employee the right to return to the employee's position at the expiration of the leave of absence, provided that the employee is capable of performing the duties. The position may be filled only on a limited-term/substitute basis for the duration of the leave.
  - C. The County Superintendent of Schools may, for good cause, cancel any leave of absence by giving the absent employee due notification.
  - D. An employee may make a written request to the County Superintendent of Schools to return to work prior to the expiration date of the leave. The County Superintendent may approve or reject the request.
  - E. Failure to report for duty within five (5) days after a leave has been canceled or expires shall be considered abandonment of the position and the employee may be terminated by the County Superintendent of Schools. The termination may be appealed to the Personnel Commission in the same manner as any other dismissal for cause. This provision is not applicable to military leave.

- F. Upon return from leave of absence, if an employee cannot be returned to the position occupied at the commencement of the leave, the employee shall have bumping and reemployment rights, in accordance with seniority, in the same manner as if the employee had been laid off for lack of work or lack of funds on the date the leave expires.
  - G. Request for such leave shall be made in accordance with Office of Education procedures.
11. **PERSONAL LEAVE:** A permanent classified employee may request a personal leave of absence for reasons not enumerated elsewhere in these rules, including child care leave. Such personal leave of absence shall be without compensation unless expressly authorized by the Board of Education.
12. **LEAVE TO SERVE IN AN EXEMPT, TEMPORARY OR LIMITED-TERM POSITION:**
- A. Any permanent classified employee who accepts an assignment within the Office of Education to an exempt, temporary or limited-term position shall, during such assignment, be considered for status purposes as serving in the employee's regular position, and such assignment shall not be considered separation from service.

**CHAPTER XI**  
**CLASSIFICATION AND SALARY RECOMMENDATIONS**

1. **CLASSIFICATION PLAN:** The Personnel Commission shall establish and maintain a plan of classification for all positions in the classified service. All positions substantially similar as to the duties performed and the responsibilities exercised by the incumbents of such positions and as to their qualification requirements shall be allocated to the same class. Classes will be placed in series according to general occupational nature. The list of classes shall contain designation of the salary rate or range applicable to each class.
2. **CLASSIFICATION OF POSITIONS:** The County Superintendent of Schools shall prescribe the duties and responsibilities of all positions in the classified service except Personnel Commission staff positions.

The Personnel Commission shall classify each position within the classified service, including assigning a job title and minimum qualifications for entrance into the class, and shall allocate the class to a salary range.

Classification studies shall be conducted in accordance with procedures specified by the Personnel Commission and/or as agreed upon with the exclusive representative. Requests for study may be initiated by the Administration, with the approval of the County Superintendent of Schools, or by employees or employee organizations.

3. **CLASS SPECIFICATIONS:** For each class of positions, as initially established or subsequently approved by the Commission, there shall be established and maintained a class specification which shall include:
  - A. The official class title.
  - B. A job summary indicating the type of duties and responsibilities performed and the placement within the organizational scheme.
  - C. A statement of typical tasks to be performed by persons holding positions allocated to the class.
  - D. A statement of the minimum qualifications for service in the class, which may include skills, knowledge, abilities, education, experience, personal characteristics and physical requirements.
  - E. License or other special requirements for employment or service in the class. Minimum qualifications may never require a teaching, administrative or other credential, nor may they require work experience which essentially would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials.
4. **INTERPRETATION OF CLASS SPECIFICATIONS:** The class specifications and their various parts are declared to have the following force and effect:
  - A. The class titles used in the classification plan are to be used as payroll titles and in connection with any personnel record or transaction.

- B. 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 selection procedures and in the evaluation of the qualifications of candidates seeking appointment to positions allocated to the class, but does not require a particular form or content of selection procedures.
  - C. The definition and typical tasks are descriptive and explanatory only and not restrictive. They indicate 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. The use of a particular expression or illustration as to duties, responsibilities, qualification requirements, or other attributes is typical or descriptive of the class and does not exclude others not mentioned but of similar kind and/or quality as determined by the Personnel Commission.
  - D. In determining the class to which any position shall be allocated, the specification for each class is considered as a whole. Consideration is given, not to isolated clauses, phrases or words, apart from their context and from illustrative information in other parts of the specifications, but to the general duties, responsibilities, specific tasks and qualification requirements as affording a picture of the positions that the class includes.
5. **WORKING OUT OF CLASSIFICATION:** No employee shall work out of classification without management approval. An employee may be required to perform duties inconsistent with those normally assigned to the employee's classification provided that the employee's salary is adjusted upward whenever such duties are required to be performed for a period of more than five (5) working days in a fifteen (15) calendar day period. The salary adjustment for out of class assignment shall be for the entire period the employee is assigned such out of class duties in such amounts as will reasonably reflect the duties required to be performed.
6. **RECLASSIFICATION OF POSITIONS:** The Director, Human Resources, shall be responsible for the ongoing review of duties and responsibilities of existing positions and classifications in accordance with the following guidelines:
- A. Requests for review to consider a change in the classification of a position or group of positions may be initiated by the employee, the appropriate manager/supervisor or the County Office of Education.
  - B. Classification review requests may be submitted during a window period from February 1 through March 1.
  - C. Classification review requests shall be scheduled for completion by the Personnel Commission staff during the 120 calendar days following the close of the window period but no later than June 30.
  - D. Reclassifications authorized by the Personnel Commission shall be effective on July 1 following the window period in which the request was submitted.
7. **EFFECT OF CLASSIFICATION CHANGES ON INCUMBENTS:**
- A. For an incumbent to be reclassified upward with a position which is reclassified, the reclassification must be occasioned by a gradual accretion of duties and not be a sudden

change resulting from reorganization or duty change. The Commission shall determine at the time the classification change occurs whether the change meets this rule.

B. Staffing Reclassified Positions

1. Any position/classification which is changed or created as a result of a reorganization or the assignment of completely new duties, and which is vacant at the time of reclassification, shall be filled through normal procedures as provided in these rules.
2. Incumbents in reclassified positions who have been in the class less than two (2) years will be granted status in the higher class upon passing a qualifying examination for the higher class as determined by the Commission. For the purposes of this section, a qualifying examination is defined as one in which only incumbents within the class may compete. The incumbents must meet the minimum qualification, and the examination is rated as “passing” or “not passing” rather than relatively. Incumbents who are unsuccessful in an examination may be transferred, demoted or, if neither of these, laid off. For the purpose of this rule, employees in positions reclassified to a higher class will be placed on the same step of the new range as the employee was paid on the former range.
3. An incumbent serving in a secretarial position which is reclassified due to the reclassification of his/her immediate supervisor shall be eligible to be reclassified with the position provided that the incumbent has received “meets performance standards” or better overall ratings on each of the last three (3) annual performance evaluations in the class. An incumbent who has been in the class for less than three (3) years may be reclassified with the position provided that the incumbent has received “meets performance standards” or better overall ratings on each of the three (3) most recent performance evaluations received and completes the qualifying examination prescribed in Section 7B2 above.

C. Reclassification Upward. When all of the positions in a class are reclassified to a higher class, the incumbents of the position who have been in the class for two (2) or more years shall be reclassified without examination. When a portion of the positions in a class are reclassified to a higher class, any incumbent who has a continuous employment record of three (3) or more years in the class shall be reclassified without examination.

D. Reclassification Downward. When there is a vacant position in the higher class:

1. The incumbent may elect to transfer to such vacant position or,
2. The incumbent may retain the reclassified position in the lower class. In this event, the incumbent’s salary will be adjusted to a step in the range for the lower class which will not result in a loss of pay. If, however, the incumbent’s salary exceeds the maximum salary for the lower class, the employee will be y-rated; that is, the employee’s salary will remain at its present level until the maximum for the lower class meets or exceeds it. Incumbents granted status under this paragraph shall not acquire reemployment rights to the higher class.



If there is no vacant position in the higher class, the incumbent may:

- a. Elect to retain the reclassified position in the lower class and retain his/her current rate of pay; however, the employee will be entitled to step advancement only to the limits of pay set for the position as reclassified. In such case, the employee shall be placed on a reemployment list for the higher class and be allowed three waivers within eighteen (18) months.
  - b. If the employee does not elect to retain the position in the lower class, the employee shall be laid off.
- E. **Reclassification at the Same Level.** Incumbents of positions reclassified to a class at the same salary level shall be granted status in the new class without further examination.
- F. **Subsequent Reclassification.** An employee who has been reclassified with his/her position shall be ineligible for subsequent reclassification within his/her position for a period of at least three (3) years from the date the position was reclassified.

**8. SALARY RANGE REALLOCATION:**

The Director, Human Resources, shall be responsible for recommending the salary range allocation of new classifications and the ongoing review of the salary range allocation of existing classifications in accordance with the following guidelines:

- A. Salary reviews for support staff classifications will be conducted in accordance with a schedule approved by the Personnel Commission after consultation with bargaining unit exclusive representative and with the SDCOE.
- B. Salary reviews for classified management and confidential classifications will be conducted in accordance with a cycle approved by the Personnel Commission after consultation with the SDCOE.
- C. Salary range reallocations for bargaining unit classifications authorized by the Personnel Commission shall be incorporated into the subsequent year's contract modifications and will take effect on the same date the new contract salary schedule becomes effective.
- D. Salary range reallocations for classified management and confidential classifications authorized by the Personnel Commission shall take effect on July 1 following the close of the window period in which the request was submitted.

- 9. APPEALS FOR CLASSIFICATION/SALARY RANGE ALLOCATION:** An employee and/or employee representative and the County Superintendent (or designee) shall have the opportunity to address the Commission concerning the recommendation of the Commission staff in regard to the classification of the employee's position or the salary allocation of a new or existing classification under study. Such presentation may be orally or in writing or both, and shall be considered at a regular or special meeting of the Commission prior to action by the Personnel Commission on the recommendation.

**CHAPTER XII  
INSERVICE TRANSACTIONS**

**FOR BARGAINING UNIT MEMBERS, PROVISIONS AFFECTING INSERVICE TRANSACTIONS SPECIFIED IN THE COLLECTIVE BARGAINING AGREEMENT SHALL TAKE PRECEDENCE OVER THESE RULES**

**1. TRANSFER:**

- A. A transfer is an employee-initiated movement of a permanent employee to another position in the same classification (or related classification) on the same range of the salary schedule.
- B. A permanent employee may be considered for transfer to a position in a related class on the same range of the salary schedule. Such transfers shall be made only with the approval of the Director, Personnel Services. The Director shall determine whether classes are sufficiently related to permit transfer between them. The Director shall consider similarity of duties, minimum qualifications, examination content, occupational group and promotional field (above and below). At the request of the employee desiring the transfer, the decision of the Personnel Director shall be reviewed by the Personnel Commission. In general, more latitude in transfers is permitted:
  - 1. As the employee's seniority in the classified service increases;
  - 2. When the transfer request is based on reclassification, impending layoff or reasons of health; and
  - 3. When the employee meets the minimum requirements for the class.
- C. Transfers shall not change the employee's salary rate, anniversary date, accumulated illness leave and accumulated vacation credit, or in any other manner reflect adversely upon the employee's rights as provided in law and these rules.
- D. A permanent employee who transfers to a position in a related class on the same salary range in which the employee has not previously completed a probationary period shall be considered probationary in the class for a period of six (6) months or one year if appropriate. At any time during the probationary period the employee may be returned to the former class without right of appeal, unless such action results in layoff, demotion or reduction in assigned time. In the latter cases, the employee will have the same appeal rights as a permanent employee who is demoted or dismissed.
- E. Transfers shall have the following effects on seniority:
  - 1. Within the same class – none
  - 2. From one class to another – the employee shall not receive employee preference point credit in the new class for service in other classes; however, the employee shall retain such credit as seniority in the classified service.

- F. Transfer shall not be used as a device to alter the sequence of impending layoff, although employees whose positions are to be eliminated may transfer to other classes as this rule contemplates.

**2. REASSIGNMENT:**

- A. A reassignment is a management-initiated movement of an employee to another position in the same classification.
- B. An employee may be reassigned, within the employee's position classification, to any location, and at any time, in the best interests of the County Office of Education as determined by the County Superintendent of Schools. Upon request, any employee reassigned shall receive specific written reasons within five (5) days of the reassignment.

**3. DEMOTION:**

- A. A permanent employee may request voluntary demotion to a class with a lower maximum salary rate. Such requests require the approval of the employee's department head and that of the head of the department to which the employee is assigned.
- B. Voluntary demotion is a privilege available to a probationary employee only in cases when the employee would otherwise be laid off for lack of work or lack of funds.
- C. Involuntary demotion is a disciplinary action for cause and is subject to the pertinent rules and procedures.
- D. A permanent employee who is suspended, dismissed, or demoted to other than his former class during a probationary period retains full rights of appeal.

**4. RESTORATION:**

- A. A former permanent employee who resigned in good standing may be reinstated in a vacant position in the employee's former class and status within thirty-nine (39) months of the last date of paid service without further examination. Also, the employee may be reinstated in a vacant position in a lower related class, if qualified, or in limited-term status in the same or lower class. Such actions are discretionary with the appointing authority.
- B. An employee who has taken a voluntary demotion may be restored to a vacant position in the employee's former class or in a vacant position in a related lower class, as determined by the Director, Personnel Services, within thirty-nine (39) months. Except when demotion was chosen in lieu of layoff, restoration is discretionary with the appointing authority.
- C. An employee who has accepted demotion in lieu of layoff for lack of funds has the right to be reemployed, in accordance with seniority, in a vacant position in the former class within thirty-nine (39) months after demotion. Intervening reassignments to other classes shall not abrogate that right. If the employee has not been reemployed in the former class within thirty-nine (39) months, the employee shall be eligible for appointment to a vacant position in that class, without examination, for an additional twenty-four (24) months at the discretion of the appointing authority.

- D. Reinstatement or reemployment of a former employee who voluntarily resigned shall have the following effects:
1. Restoration to the former step in the current salary range for the class, or, if restored to a lower class, to the rate closest to that of the step to which the employee would be assigned if restored in the former class;
  2. If restored to regular status, restoration of accumulated sick leave and seniority as of the date of the separation;
  3. Restoration of former anniversary date, but without step advancement credit for the off-duty period;
  4. Restoration of all rights, benefits and burdens of a permanent employee in the class to which restored.

**5. PERFORMANCE EVALUATION:**

- A. All regular classified employees shall be evaluated by their immediate management representative, at least in accordance with the following schedule:
1. Probationary employees – at midpoint and at the end of the probationary period.
  2. Permanent employees – at least once each year within thirty (30) calendar days of the completion of the evaluation period.
  3. Each immediate management representative under whom the employee has served for sixty (60) days or more during any rating period shall provide a performance evaluation, even though the employee may have left his/her control.
- B. Evaluation Procedures
1. Performance evaluation reports shall be made on forms prescribed by the Commission, and shall be prepared by the employee's immediate management representative. The form shall be reviewed by the head of the section and the administrator of the appropriate division.
  2. The immediate management representative shall present the performance evaluation report to the employee for discussion. The evaluation form shall be signed by the employee to indicate receipt. The employee shall be given a signed copy. When the employee is no longer employed, the evaluation may be delivered by mail.
  3. Performance evaluation reports shall be filed in the employee's personnel file and shall be available for review in connection with promotional examinations and disciplinary actions.
- C. Special Evaluations. At any time, an evaluator may, with the approval of his department head, issue to an employee a special evaluation which shall be made on prescribed forms and shall set forth specific reasons for recognition of outstanding or unsatisfactory service by the employee. They shall be delivered to the employee personally by the employee's

immediate management representative. A copy of such evaluation shall be placed in the employee's official personnel file and shall be available for review in connection with promotional examinations and disciplinary actions.

- D. Management Appraisal (Classified Management Employees). All classified employees shall be evaluated by their immediate management representative in accordance with the following schedule:
1. At midpoint and at the end of the one-year probationary period.
  2. At least once every fiscal year in accordance with the County Office of Education Leadership Action Program timeline.

## 6. SALARY RULES

### A. Initial Salary Placement

1. For new employees in classified support and confidential positions, initial salary placement on the salary schedule is normally Step 1 of the range on the salary schedule appropriate to the job classification. In cases where the new employee's current salary is above Step 1, initial salary placement may be made at a higher step. In this instance, the placement will be at the step that represents the rate next higher than the employee's salary in his/her current regular employment.
2. Request for advanced step placement (placement above the step allowed under section A1. above) may be provided up to the top step upon the recommendation from the appointing authority or the request from the employee.

The advanced initial salary placement request is subject to the approval by the County Superintendent of Schools (or designee) based on the following criteria:

- A. Difficulty experienced in the recruitment of candidates to meet the vacancy needs.
- B. Additional skills or qualifications of the candidate that makes him/her especially well-qualified for the position.
3. All new employees in classified management positions shall be placed on the step of the appropriate salary range based upon an evaluation of previous experience and salary history. Initial placement on the salary schedule shall normally be on the step that represents the rate next higher than the employee's salary in his/her current regular employment. However, the initial placement may be on any step of the appropriate salary range when authorized by the County Superintendent of Schools (or designee).

4. To receive initial placement above Step 1, a new employee shall provide verification of his/her salary information, on or before the date of appointment.

B. Step Advancement on the Salary Schedule

1. Those persons employed, promoted, or reemployed in other than a management classification, who are initially placed on Step 1, will advance to Step 2 upon satisfactory completion of six (6) months of service. Each succeeding step will be attained twelve (12) months from the preceding step. Persons initially placed on any step other than 1 shall remain at that step until the completion of twelve (12) months of service.
  - a. For the purpose of this rule, when the first day of service falls between the first and fifteenth calendar day of the pay period, the appointment shall be considered as effective on the first day of the month. Later appointments shall be considered as effective at the beginning of the next month.
2. Persons who are employed, promoted, transferred, or reemployed to positions designated "management" shall be granted a step advancement for each year of service in classification until the maximum salary for the classification is reached. A year of service shall be defined as service for at least 50 percent (50%) of the days in the assignment year for the position class. Progression between steps shall occur once during a given fiscal year, effective July 1. For the purpose of this rule, "management positions" are those so designated in accordance with Chapter 10.7 (Sections 3540-3546), Division 4 of Title 1 of the Government Code.
3. All employees, transferred to or within the management salary schedule during the fiscal year, shall be allowed any earned service credit toward progressive advancement on the management salary schedule upon completion of a year of service in the combined positions, as such year of service is defined within these rules.

C. Promotional Salary Placement

1. An employee who receives a promotion to a class allocated to a higher salary range shall be placed on the step of the higher salary range that is at least one full step above the employee's salary, exclusive of special pay additives, at the time of promotion, provided that the step permits a minimum of a five percent (5%) increase, but not to exceed the maximum of the range. If a service increment is due the employee at the time of promotion, it shall be credited and applied in the determination of the new salary step.
2. If the promotion is to a classified support staff or confidential position, additional advancement will be at the beginning of the seventh month regardless of step placement. Each succeeding step will be attained twelve (12) months from the preceding step until the maximum for the class is reached. For the purpose of this rule, appointment of an employee to a class with a salary range equal to or below his/her current range shall not be considered a promotion and shall not warrant a salary increase; in such cases, placement will be made on the same rate formerly earned by the employee, not to exceed the maximum of the range.

D. Salary Placement After Leave of Absence

1. Upon return from an unpaid leave of absence, an employee shall be placed on the same step of the range for the class which the employee had achieved prior to the leave, regardless of changes in rate or range applicable to the class, except that step advancement within range shall be granted if the time period required for step advancement has elapsed; and the employee had served in active duty on at least seventy-five percent (75%) of the days in his/her assignment in the required time period prior to the leave; or
2. Credit for step advancement shall accrue during leaves of absence for military service or to serve in limited-term assignments in the Office of Education and during any paid absence, industrial accident and industrial illness leaves.
3. When an employee is restored, after leave of absence, to the salary step occupied prior to commencement of the leave, the employee shall receive credit toward step advancement requirements for service prior to the leave. The employee's increment date shall be adjusted accordingly in order that the employee be granted step advancement after having completed the amount of service required by these rules.

E. Salary Placement When Demoted

1. An employee who accepts voluntary demotion 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 employee shall retain the anniversary date established in the higher class.
2. The order in an involuntary demotion shall specify the step of the schedule at which the employee shall be placed. The employee shall retain the anniversary date established in the higher class.

F. Differential Pay

1. When at least one-half (1/2) of an employee's regularly assigned work shift is between 5:00 p.m. and 4:00 a.m. inclusive, the employee shall receive a shift differential of five percent (5%) in addition to his hourly rate of pay for the entire shift.
2. Notwithstanding Section "1" above, when at least one-half (1/2) of an employee's regularly assigned work shift is between 9:00 p.m. and 6:00 a.m., inclusive, the employee shall receive a shift differential of seven and one-half percent (7-1/2%) in addition to his hourly rate of pay for the entire shift.
3. An employee serving in a position, the job description for which includes written or spoken fluency in a language other than English, shall receive a differential bonus of five percent (5%) of his hourly rate of pay. Any employee who qualified for the differential on January 1, 1984, shall receive a differential bonus of seven and one-half percent (7-1/2%) instead of five percent (5%) so long as service in the position is continuous.

G. Overtime

1. Overtime for non-exempt employees is time suffered or permitted to be worked in excess of eight (8) hours in one day or forty (40) hours in one calendar week. An employee who works authorized overtime shall be paid at a rate equal to one and one-half (1-1/2) times the employee's rate of pay for the overtime worked. Overtime hours shall be compensated at a rate of pay equal to one and one-half (1-1/2) times the regular rate of pay of compensatory time off equal to one and one-half (1-1/2) times the amount of time worked.
  - a. An employee having an average workday of four (4) hours or more during the workweek shall be compensated for any work required to be performed on the sixth (6<sup>th</sup>) and seventh (7<sup>th</sup>) days following the commencement of the workweek at a rate equal to one and one-half (1-1/2) times his/her regular rate of pay.
2. Call-Back Overtime: Call-back overtime is overtime performed by an employee called back after normal working hours to perform a task not previously scheduled. An employee performing call-back overtime shall be compensated for a minimum of not less than two hours at the employee's overtime rate.



H. Holidays

1. All classified employees will be entitled to payment for holidays required by law and/or those authorized by the County Superintendent of Schools, provided that they were in a paid status during any portion of the day immediately preceding or succeeding the holiday.
2. Pay for a holiday shall be the same the employee would have received had the day not been a holiday.
3. Classified employees in non-management job classifications required to work on holidays shall be paid for such work or given compensating time off at the rate of time and one-half the employee's regular rate of pay, in addition to the regular pay received for the holiday.

I. Compensation for Regular Employees Serving in Limited-Term Assignments

1. When a regular employee is given a limited-term appointment in a second class, higher than the regular class, in lieu of all or part of a regular appointment, the employee shall be placed on the step of the higher salary range that is at least one full step above the employee's current salary, exclusive of special pay additives, provided that the step permits a minimum of a five percent (5%) increase, but not to exceed the maximum of the range.
2. Regular employees who are serving in limited-term appointments while retaining regular status in another class shall continue to earn and be granted all rights and benefits of a regular employee.
3. All other limited-term employees shall be granted only those benefits provided by law. No seniority or credit toward completion of probation or any other benefit shall accrue from service in a limited-term appointment, except as provided under Section 2 above.

**6. ASSIGNMENTS OF EMPLOYEES WITH DISABILITIES**

A. When a permanent employee becomes unable to perform the duties of the employee's classification because of illness or injury, as determined by the appointing authority, effort shall be made to place the employee in a position the duties of which are within his/her capabilities. Reassignment, if any, shall be at the discretion of the appointing authority.

B. Reassignments:

1. A handicapped employee's duties in the employee's regular position may be altered in accordance with the handicap. Such changes in duties shall be reported to the Director, Human Resources, who shall determine whether the position requires classification study.
2. A handicapped employee may accept demotion or transfer to a class whose duties are within the employee's capabilities.

3. A handicapped employee may be assigned provisionally to a position in a higher class until the employee can be appointed to the higher class in accordance with the rules and procedures on eligibility and appointments.
4. Effect of Refusal by Employee. A handicapped employee may refuse assignments to other classes without effect on the employee's rights under sick leave provisions of the law and rules. However, there is no obligation for the appointing authority to renew offers of reassignment which have been refused or to make alternative offers.

**CHAPTER XIII**  
**COMPLAINT RESOLUTION PROCEDURE**

1. The adjustment procedure is the medium through which classified employees may seek adjustment of complaints arising out of alleged violations of established rules, policies, or administrative procedures, working conditions, or job relations. Its purpose is to provide, at the administrative level closest to the employee, an opportunity for complete and equitable review of problems affecting the welfare and working conditions of employees.
2. **EXCLUSIONS FROM THE ADJUSTMENT PROCEDURE:** Matters excluded from the adjustment procedure shall be:
  - A. Matters within the jurisdiction of the Personnel Commission and included in the Personnel Commission Rules in effect at the time the events leading to the complaint occurred. Such matters shall be processed through the Director, Personnel Services, to the Personnel Commission. In cases where the Personnel Commission Rules regulate less than the total procedure, the Commission may waive that Rule and thereby provide that the dispute be settled through the adjustment procedure.
  - B. Complaints about the subject matter Office of Education rule or policy, or administrative procedure, rather than the administration of the rule or policy, or procedure. Such suggestions for change should be directed through administrative channels to the Superintendent, Commission, or the administrator who established it.
  - C. Accusatory charges relating to the moral or professional fitness of an employee.
3. **GENERAL PROVISIONS:** The complainant and the employee shall have the right, at each step of the complaint procedure beyond Step 1, to be represented by person or persons of their own choosing. Each party may require the complainant to be present at any formal grievance meeting.

During the pendency of any proceeding and until a final settlement has been reached, all proceedings shall be private and confidential. By mutual consent of the participating parties, exceptions to the foregoing may be permitted. A decision rendered at any step during adjustment procedure becomes final unless appealed within the time specified for the particular step. If a decision is not submitted within the established time limit for that step, an appeal may be taken directly to the next level. Time limits stipulated at each step may be modified by agreement of the parties involved. No reprisal, discrimination, or reduction in status shall be invoked against any employee for having instituted complaint procedures or for having participated as a representative, conferee, or witness. Any employee may serve as a representative in the proceedings without loss of salary, provided that the employee notifies his/her immediate supervisor in advance. All documents, communications, and records used in processing a complaint shall be filed separately from personnel files of the participants.

4. **STEP 1 (INFORMAL REVIEW):** Within twenty (20) days from the occurrence of the event upon which the complaint is based, or within twenty (20) days of the employee's knowledge thereof, the complainant shall provide notification of the problem orally or in writing to his/her supervisor. The supervisor shall arrange a meeting with the employee to discuss the complaint within five (5) days of receipt of the complaint. If the complainant fails to notify the immediate supervisor of the matter within the allotted time, the right to pursue complaint procedures shall have been waived. Within three (3) days of the informal

conference with the complainant, the immediate supervisor shall communicate his/her verbal decision in writing to the employee.

5. **STEP 2:** If the complainant is dissatisfied with the results of Step 1, the employee may within five (5) days of the decision submit a written appeal to the director of the section. The appeal shall contain the complainant's name, position, a clear and concise statement of the conditions and circumstances responsible for instituting the complaint procedures, course of action to date, including a summary of the decision reached at Step 1, and a proposed solution. Within five (5) days after receiving the written request for an appeal, the Section Director shall complete an investigation of the issues including meeting with the complainant. The complainant shall receive the section director's written decision within five (5) days following the conclusion of the investigation.
6. **STEP 3:** If the complainant is dissatisfied with the results of Step 2, the employee may within five (5) days following receipt of the decision appeal in writing to the division administrator. The appeal shall be accompanied by a summary of the course of action to date, including the decision of the section director. Within three (3) days after receiving the written request for an appeal, the division administrator shall complete an investigation of the issues, including meeting with the complainant. The complainant shall receive the division administrator's written decision within five (5) days following the conclusion of the investigation.
7. **STEP 4:** If the complainant is dissatisfied with the decision of the division administrator, the employee may within five (5) days following receipt of the decision, appeal to the Superintendent. Review of the appeal shall consist of a review of proceedings conducted by the division administrator and a meeting with the complainant. Nothing in the foregoing policy shall be interpreted as denying the Superintendent consultation privileges or the right to conduct a limited investigation. Within five (5) days following receipt of the request for a review, the Superintendent shall render a written decision.
8. **STEP 5:** If the complainant is dissatisfied with the decision rendered by the Superintendent, the employee may submit within five (5) days, a written appeal to the Board. Within ten (10) days after receiving the request for appeal, the Board shall conduct a hearing and render a decision. The decision shall be considered final and binding on all parties to the complaint. A copy of the Board's decision shall be distributed to the complainant.

**CHAPTER XIV  
MISCELLANEOUS PROVISIONS**

**1. PAYROLL AUDIT**

- A. The Director, Human Resources, shall maintain an official roster containing names and complete employment records of all employees holding positions under the provisions of the Act.
- B. All payrolls or claims containing the names of any person or persons to be paid for services rendered in positions subject to the provisions of the Act shall be submitted to the Director, Personnel Services, who shall cause such payrolls or claims to be examined to determine whether the employees whose names appear thereon are employed in accordance with the law.
- C. If, upon examination of a payroll or claim, the names, titles, periods for which payments are to be made, and rates of pay of the persons to be paid are all found to be in accordance with the provisions of the Act, and the Rules and Regulations prescribed thereunder and all statutes relating in any manner to employment, certification of that fact shall be made upon such payroll or claim by the Director, Human Resources, or an authorized representative.
- D. If, upon examination of a payroll or service report, it is found that any person named thereon has been employed in violation of any provision of the Act or the Rules and Regulations and, after a public hearing has been held and an order issued by the Commission, notice of such violation shall be made upon such payroll or service report, and such notice shall serve as official notification to the County Superintendent that the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the county for the payment of salary or compensation to such person is unlawful.

**2. ALTERNATE PROCEDURE**

- A. The Director, Human Resources, shall audit all initial assignments and changes of assignments for all classified personnel and, if found to be in accordance with existing law and rules, shall certify the assignment for payment. All changes of assignment, including transfer, change of hours, etc., shall be reported for certification by the Director, Personnel Services. Each payroll following the initial assignment and certification by the Director, Personnel Services, shall bear the certification of the department authorized to submit the payroll that all payments thereon are in accordance with the original certification by the Director, Personnel Services.
- B. The Director, Human Resources, shall make periodic audits of all payrolls, and, if assignments are found not to be in accordance with law and rules, shall withdraw certification and follow Government Code Article 14.1C

**3. BENEFITS FOR PART-TIME EMPLOYEES**

- A. Benefits for persons employed less than full time are to be provided as authorized in Education Code §45136 and §45137 and/or as provided for in the employee contract.

- B. Part-time employees shall be entitled to those health and welfare benefits as authorized under Article 1, Chapter 2, Part 1, Division 2, Title 5, of the Government Code as provided in Article 14.3A, if such benefits are provided full-time employees.

#### **4. POLITICAL ACTIVITY**

- A. Any employee may be disciplined for improper political activity. Improper political activity includes:
  - 1. The use of any Office of Education property, equipment, or facility for any political purpose unless the use thereof is authorized by law for such purposes and the employee has obtained prior required approval.
  - 2. The use of any Office of Education property, equipment, or facility for any political purpose or the performance of any political act during regular hours of duty.
  - 3. Engaging in active campaigning on behalf of any candidate, including him/herself, for public office, whether by speaking, soliciting funds or support, distributing handbills, or otherwise, during his/her assigned hours of employment.
- B. Personal Candidacy: Any employee may be a candidate for any political office for which the employee may file without suffering any loss of employment status in the Office of Education, unless the employee violates the provisions of Government Code Article 14.4A, and except as provided for in Article 14.4C.
- C. Leave of Absence for Political Activity: An employee who files for and/or is elected to a political office may request, and may be granted, an unpaid leave of absence which shall commence not earlier than one month prior to the concerned election and continue until the election processes or the term of office have been completed insofar as the employee's candidacy is concerned.
- D. Intent: It is the Commission's intent and purpose in enacting these rules to allow employees their lawful privilege of political freedom and activity, but to insure that political activities are not engaged in during normal duty hours and normal duty assignments. The Office of Education has a reasonable obligation to make certain that personnel are aware of their political rights and can exercise those rights but, at the same time it must insure that its employees do not wrongfully use their duty hours or Office of Education facilities for political purposes.

#### **5. MEDICAL REVIEW BOARD:**

- A. Any rejection for medical reasons of an eligible or of an employee who has applied for return from leave of absence may be appealed to the Commission.
- B. The Commission may employ outside medical experts to give a medical advisory opinion.
- C. The Commission, based on evidence submitted and the advice of medical experts to the Commission, shall determine whether or not the denial or appointment or return from leave shall be sustained.

5. **VIOLATIONS:** Any person who willfully, or through culpable negligence, violates any of the provisions of Article V, Chapter I, Division 10 of the Education Code commencing at § 45240, is guilty of a misdemeanor. It is also unlawful for any person:
- A. Willfully, by him/herself or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to his/her right of examination, application, or employment under this Article or Commission Rule.
  - B. Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under Article or Commission Rule, or to aid in so doing, or make any false representation concerning the same or the person examined.
  - C. Willfully to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or enduring the prospects or chances of any person examined or to be examined under Education Code Sections or Commission Rules.
7. **TUBERCULOSIS CLEARANCES:** Prior to employment, each person is required to submit adequate proof that the person has undergone a test for tuberculosis and has been found free of active tuberculosis. Thereafter, every employee shall undergo an examination to determine that they are free from active tuberculosis at least once every four (4) years. The Office of Education shall maintain adequate records on each employee which indicate compliance with these rules and the law.
9. **FINGERPRINTING:**
- A. Every new employee shall submit to a criminal records check (fingerprinting) in accordance with prescribed Office of Education procedures, or shall forfeit eligibility for employment. The fingerprinting of new employees shall take place and be cleared prior to employment.
  - B. Review of Criminal Records:
    - 1. All criminal record reports are to be treated as confidential. Any employee charged with receiving and/or reviewing them who divulges information contained therein to an unauthorized person is subject to disciplinary action.
    - 2. The criminal records report from the California Bureau of Criminal Identification and Investigation and/or the Federal Bureau of Investigation will be reviewed together with the person's application form. If there is a criminal record, the appointing authority and the Director, Personnel Services, shall decide whether or not the person should be employed or retained in employment.

If the record discloses no information beyond that supplied by the person on his/her application form, and the person was accepted for examination and/or appointment, they shall be considered employable.
    - 3. If an employee is to be dismissed because of information disclosed on the criminal records report, or if the appointing authority or Director, Personnel Services, desires that an eligible be removed from an eligibility list because of such information, the

Personnel Commission shall be notified of the recommended action and the reasons therefor.

If it approves the recommendation, the Commission shall notify the employee or eligible of the action taken or contemplated and the reasons therefore. The Commission shall provide the person with an opportunity to appeal the decision in writing within ten (10) days of notification and may hold a hearing at its discretion. The decision of the Commission shall be final.