

Morgan Hill Unified School District

THE RULES AND REGULATIONS

OF

THE PERSONNEL COMMISSION

Revised: 01/2019

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RULES AND REGULATIONS OF THE CLASSIFIED SERVICE MORGAN HILL UNIFIED SCHOOL DISTRICT

INTRODUCTION

The Morgan Hill Unified School District merit system is similar to civil service systems that are found in many city, county, and state governments. This local merit system operates with the following philosophical guidelines:

1. Selection of qualified candidates is made solely on the basis of merit and fitness through a process of competitive examination.
2. It removes appointments, either at the beginning level or on a promotional basis, from the arena of politics or personal favoritism.
3. It assures that all concerned receive notice of position vacancies through public notice and announcements which include duty statements and eligibility requirements.
4. District employees are considered wherever possible for promotional opportunities.
5. It provides for a continuing system of classification, ensuring that employees are not normally and continuously required to perform duties outside of those required of the position.
6. When classifying a new position, the Commission establish salary range based on impartial survey. This survey will be based on like pay for like service within the local labor market.
7. It provides the employee the right to an appeal and a formal hearing before a separate body (the Personnel Commission, which is not the employer) when the employee believes that he has been subjected to arbitrary disciplinary action.
8. It assures that if layoffs are required because of lack of work or lack of funds, the only criteria to be used will be seniority within classification (Ed. Code 45308) or date of hire.
9. It provides job protection in a former classification when an employee is promoted and required to serve a probationary period. Should the employee not pass the probationary period in the higher position, he/she returns to a position in his/her former classification.

10. It provides for rules and regulations for the classified service so that each employee knows what the rules are and need not guess or be concerned for arbitrary actions.
11. The system is flexible and permits emergency or provisional appointments without a competitive examination for limited periods when no eligibility list exists. A provisional appointee must take the competitive examination (and place within the top three) if he/she is to obtain a regular appointment.
12. Classified school positions are important to the district educational program The people who fill these positions are important to the educational program of the district.

ARTICLE I - DEFINITION OF TERMS

Understanding of employment relationships is hampered by confusion in the use of words. Many commonly used terms acquire two or more meanings.

Rule 101.0 Words and Phrases

The words and phrases used in these rules are understood to have the following meaning:

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 State Education Code Article 5, Chapter 3, Division 10, and applicable provisions of Chapter 1 and Articles 1 to 4, Chapter 3, Division 10.

ALLOCATION - The official placing of a position in a given class and the assignment of the class title to the position.

ANNIVERSARY DATE - The date upon which an employee is granted an earned salary increment.

APPLICANT - A person who has filed an application to take a Merit System examination.

CANDIDATE - A person who is competing in a Merit System examination.

CERTIFICATION - The submission by the Commission of the names of eligibles from an appropriate eligibility list or from some other source of eligibility to the appointing power or to the department which selects employees prior to approval of the appointing power.

CLASS - A group of positions sufficiently similar in duties and responsibilities that the same description title may be used to designate each position allocated to the class; substantially the same requirements of education, experience, knowledge and ability are demanded of incumbents; substantially the same tests of fitness may be used in choosing qualified appointees; and the same salary range may be applied with equity.

CLASS SPECIFICATION (JOB DESCRIPTION) - A formal statement of the duties and responsibilities of the positions in the class, illustrated by examples of typical tasks, and of the qualification

requirements of the positions in the class.

CLASSIFIED SERVICE - All positions in the District's service to which the Act applies and which are not excepted by the Act. See Article III for exceptions.

COMMISSION - The Personnel Commission established pursuant to the Act for the Morgan Hill Unified School District

DAY - A "day" is a day the District Office is open for business unless further specified in the text of the rule.

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

DISCHARGE or **DISMISSAL** - Separation from service for cause.

DISTRICT - The Morgan Hill Unified School District.

DUAL CERTIFICATION - A special procedure which provides for certification, in specified cases, from an open list while a promotional list exists. See Article V.

ELIGIBLE - A person whose name appears on an eligibility list or is otherwise legally qualified to be appointed.

ELIGIBILITY - A list of the names of persons who have qualified in a competitive examination.

EMERGENCY APPOINTMENT - An appointment for a period not to exceed fifteen (15) working days to prevent the stoppage of public business when persons on eligibility lists are not immediately available.

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

EMPLOYMENT LIST - A list of names from which certification may be made. Includes eligibility lists, re-employment list, and lists of persons who wish to transfer, demote, be reinstated or re-employed after resignation, or be restored after voluntary demotion or reduction to limited-term status.

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

GOVERNING BOARD - The Board of Education of the Morgan Hill Unified School District (synonymous with appointing authority or power).

GROUP - A number of classes related in duties and responsibilities, as set forth in the list of classes promulgated by the Personnel Commission.

LAYOFF- Separation from a permanent position because of lack of work or lack of funds, or because the position has been abolished or reclassified, or because an employee has exhausted all leave privileges after illness or injury.

LIMITED TERM - A term used in Education Code 45286 to designate a position which is:

1. not to exceed six months in duration, or
2. in the case of an absent employee, is not to exceed the authorized absence of said regular employee.

LIMITED TERM EMPLOYEE - A substitute employee who is temporarily serving for a regular employee, or is in a position established for a limited period which is:

1. not to exceed six months in duration, or
2. in the case of an absent employee, is not to exceed the authorized absence of said regular employee.

PERMANENT EMPLOYEE - In reference to District employment status, an employee who has completed his initial probationary period in the classified service.

PERMANENT POSITION - A position established by Morgan Hill Unified School District for a continuing and indefinite or unlimited period of time.

POSITION - A group of duties and responsibilities assigned by Morgan Hill Unified School District Board of Education requiring the full- or part-time employment of one person on a permanent or limited-term basis.

PROBATIONARY PERIOD - The trial period of six months immediately following an original or promotional appointment to a permanent position from an eligibility list.

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

PROMOTIONAL LIST - An eligibility list resulting from a promotional examination limited to qualified employees in the District.

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

PROVISIONAL EMPLOYEE - An employee employed under a provisional appointment.

RE-EMPLOYMENT - Return to duty of a former employee who has been laid off or resigned. Also applies to former employees of the District who are returned to duty for a limited period of time following their retirement(s).

RE-EMPLOYMENT LIST - A list of names (in rank order of seniority) of persons who have been laid off from permanent positions by reason of a lack of work, lack of funds, abolishment of reclassification of positions, exhaustion of illness or accident leave privileges, or other reasons specified in the Rules and Regulations of the Personnel Commission, and who are eligible for re-employment without examination in their former class or classes (within a period of thirty-nine months following the last day of paid status).

REGULAR EMPLOYEE - An employee who has probationary or permanent status.

REGULAR PART-TIME EMPLOYEE - An employee who has probationary or permanent status but works on a regular schedule of less than eight hours per day.

REINSTATEMENT - A re-appointment without examination after resignation to a position in the employee's former class.

RESTORATION - The reinstatement to duty of an employee or former employee with all of the rights, benefits, and burdens held prior to the break in service. This term includes re-employment as well as reinstatement following demotion or dismissal when an appeal is sustained by the Personnel Commission.

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

SENIORITY - Status secured by the length of service (in a classification) to which certain rights attach; including, but not limited to, the calculation of extra points for employees taking promotional examinations, and for determining the order of layoff when positions within a classification are eliminated.

SEPARATION - Act of resignation, dismissal, layoff, retirement, or death.

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

STATUS - The employee's present standing in the classified service, e.g. probationary, permanent. The term "status" can also be applied to "substitute" or "limited term" employees.

SUBSTITUTE EMPLOYEE - A temporary employee occupying a position during the absence of the incumbent.

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

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

TRANSFER - The reassignment of an employee without examination from one position to another in the same class.

UNCLASSIFIED SERVICE - All positions and employees not in the Classified or Certificated Service; i.e., those exempted by law. See Article III.

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

Rule 102.0 Generic Terminology

As used in these rules, the term “her” refers to the feminine as well as the masculine. Singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

ARTICLE II - THE PERSONNEL COMMISSION

PRELIMINARY STATEMENT

The primary obligation of the Personnel Commission is to the public. To implement this obligation, it should do all within its power to recruit, test, and hire applicants for classified positions in such a manner to obtain best possible employees for the district.

The major categories of responsibility of the Personnel Commission are:

1. Recruit in a manner which will obtain the best possible applicants.
2. Qualify applicants for examination.
3. Conduct an examination program which is fair and equitable.
4. To classify all members of the classified service.
5. To prescribe rules and regulations pertaining to the administration of the classified personnel merit system.

AUTHORITY

Rule 201.0 Statutory Authority

201.1 The rules contained herein are established pursuant to the authority of the Personnel Commission under Education Codes Section 45240 et. seq. If judicial review or a change in law invalidates any portion of these rules, such finding or amendment shall not affect the validity of other rules or provisions.

201.2 The rules of the Personnel Commission shall be duplicated and made available to each work location in the District. Copies of the Education Code, Administrative Code, and Title V, shall also be available to employees of the District at the District Office.

ORGANIZATION OF COMMISSION

Rule 202.0 Terms

By law, the term of each Commissioner is for three years and expires at noon, December 1. The term of one commissioner expires each year. On or about September 1 of each year, the Personnel Director shall notify the governing Board of the name and home address of the Commissioner whose term will expire and whether or not he will accept reappointment. The notification shall also list the appointing authority and indicate that the Board must follow the provisions of Education Code Section 45248.

Rule 203.0 Officers

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

Rule 204.0 Quorum and Majority

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

Rule 205.0 Delegation of Duties

The Personnel Commission delegates certain duties to the Personnel Director which are referred to elsewhere in these rules as being performed by the Commission.

MEETINGS

Rule 206.0 Regular Meetings

The Personnel Commission shall meet once each month. The time and place will be announced in the agenda. When regular meeting days are established and the regular meeting date falls on a holiday, the Commission shall meet on the next succeeding business day, unless at a prior regular meeting it designates some other day for its meeting. In case of emergency, the Commission may meet at some other time and/or place, provided that at least 72 hours' notice is given to employees and administrative representatives and posted on the District Office bulletin board. (Gov. Code 54954.2)

Rule 207.0 Adjourned Regular Meeting

The Commission may adjourn any regular or previously adjourned meeting to a time and place specified in the order to adjournment. When so adjourned, the reconvened meeting is a regular meeting for all purposes.

Rule 208.0 Special Meeting

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. Notices must also be given to all those who have filed written requests for such notice. 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 in the District Office. 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 meetings by the Commission. (Gov. Code 54956).

Rule 209.0 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 Rule 210.0 This rule shall not be construed as permitting employees to be absent from duty to attend Commission meeting.

Rule 210.0 Closed Sessions

The Commission may hold closed sessions to consider the employment or dismissal of any employee or to hear complaints or charges brought against such employee, unless such employee requests a public hearing. The Commission shall not consider any matter in closed session relating to an employee unless the employee has been notified of his

right to a public hearing or properly failed to request the same. The Commission may hold closed sessions to consider examination materials as provided in these rules.

Rule 211.0 Agenda and Supporting Data

211.1 Insofar as is possible, at least 72 hours prior to every regular meeting, or 24 hours prior to every special Commission meeting, the agenda shall be posted in all work locations. When practical, supporting data will be furnished in advance. The agenda will also be posted in the District Office and distributed to news media which have requested it.

211.2 Agenda Format - The regular scheduled meeting of the Personnel Commission will follow the agenda format:

- **ADOPT AGENDA**
Adopt current agenda.
- **APPROVAL OF MINUTES**
Approve minutes of previous meeting.
- **INTRODUCTIONS/PRESENTATIONS/RECOGNITION/
ANNOUNCEMENTS**
This is an opportunity for Personnel Commission members and staff to introduce staff members or others and to recognize accomplishments of staff and departments.
- **ITEMS FOR PUBLIC COMMENT AND COMMUNICATION**
This is an opportunity for members of the public to communicate with the Commission on any item not scheduled for action.
- **ITEMS FOR PERSONNEL COMMISSION ACTION**
This section list the items for Commission action.
- **REPORTS/INFORMATION/DISCUSSION**
This section is reserved for topics of discussion by the Commission members and staff.
- **CONSENT ITEMS**
These are routine items requiring little or no separate explanation. They are acted upon in a single motion.
- **ADJOURNMENT**

Rule 212.0 Changes in Rules

- 212.1** All proposals, from any source, to amend, delete, or add to these rules will be considered a “first reading” at the meeting in which they are first presented to the Commission. They will not, unless a critical emergency exists, be acted upon at that meeting.
- 212.2** At the “first reading”, the Commission will set a date for Commission action on the proposal, which date shall be at the next regularly scheduled Commission meeting, not be less than two weeks later. It shall also instruct the Personnel Director to refer the proposal to interested persons or organizations for comment and recommendation.
- 212.3** Insofar as possible, interested parties shall submit their retains 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.

Rule 213.0 Minutes

The Personnel Director 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 his reasons shall be recorded. The minutes shall be written and presented for correction and approval at the next regular meeting. The minutes or true copy thereof shall be open to public inspection.

COMMISSION EMPLOYEES

Rule 214.0 Status of Commission Employees

The Personnel Director and other persons required to carry out the responsibilities of the Commission shall be employees of the Personnel Commission. However, they shall be considered part of the Classified Service, and the rules, procedures, benefits, and burdens pertinent to the Classified Service shall apply to Commission employees, except as the Commission may specifically direct.

Rule 215.0 General Duties of the Personnel Director

- 215.1** The Personnel Director shall:
- Perform all of the duties and carry out all of the functions imposed upon him by law and these rules
 - Act as secretary to the Commission and shall issue and receive all notification on its behalf
 - Direct and supervise the employees of the Commission and conduct administrative transactions consistent with the law and merit system

principles and merit system rules necessary to the proper functioning of the office and staff of the Commission.

215.2 The Personnel Director shall conduct classification, salary and rules studies and shall make such other investigations as directed by the Commission or as he deems necessary to his responsibilities. He may be designated as a hearing officer in accordance with Education Code Section 45312.

215.3 In cases where two or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Personnel Director, subject to review by the Commission.

MISCELLANEOUS PROVISIONS

Rule 216.0 Communications

216.1 Communications and requests shall be in writing. Communications and requests shall be acknowledged and replied to, noting official Commission action when appropriate.

216.2 Individuals or groups who wish to present proposals for action by the Commission shall be encouraged to present them to the Personnel Director for placement on the Commission agenda.

216.3 Any communication, in order to be agendized, must be received at least seven (7) working days prior to the next regular meeting.

Rule 217.0 Budget

217.1 The Personnel Director shall prepare and submit to the Commission a proposed operating budget for the Commission for the ensuing fiscal year. The proposed budget shall be submitted not later than the first Commission meeting in January.

217.2 The Commission shall designate its meeting in February at which a public hearing on its proposed budget will be held. At the time the Commission schedules the public hearing, as required in Education Code Section 45253, it shall direct the Personnel Director to forward a copy of the proposed budget to the Board of Education and notify the Board of the time, date and place of the public hearing. Board and administration representatives shall be invited to attend the public hearing and present their views on the proposed budget.

217.3 Prior to adoption of its budget, the Commission will hear and fully consider all comments and suggestions that may be offered by District

Administration, the Board, or other concerned persons or organizations. Efforts shall be made to resolve any differences that may exist between the Commission and the Board.

217.4 When approved by the Commission, the budget shall then be submitted to the County Superintendent of Schools in accordance with Education Code Section 45253.

Rule 218.0 ANNUAL REPORT

218.1 The Personnel Director shall prepare, as required by Education Code Section 45266, an annual report of Commission activities. When approved by the Commission, the annual report shall be submitted to the Board of Education and is available to all interested parties.

218.2 The report shall be prepared for Commission approval as soon after each fiscal year as possible. The report shall cover Commission activities for the preceding fiscal year.

ARTICLE III - POSITION CLASSIFICATION PLAN

TYPES OF POSITIONS

Rule 301.0 Positions Included

301.1 The Commission shall classify all non-Certificated employees and positions within the jurisdiction of the Governing Board or of the Commission. The employees and positions shall be known as the Classified Service.

301.2 No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed in 302.0 shall be employed outside the Classified Service. (Education Code Section 45256)

Rule 302.0 Positions Exempted

Positions required by law to have certification qualifications, part-time playground positions, full-time day students employed part-time, apprentices, and professional experts employed on a temporary basis for a specific project by the Governing Board or by the Commission when so designated by the Commission, shall be exempt from the Classified Service. (Education Code Section 45256)

Rule 303.0 Consultant (Professional Expert) Assignments

303.1 When a consultant (professional expert) assignment is to be made, the administration shall submit to the Personnel Director a description of the project, its duration, and the duties to be performed. Consultant (professional experts) assignments shall not be made to avoid payment of overtime to any assigned employee, nor shall a limited-term position be filled by a professional expert assignment if the duties and responsibilities fit an existing class for which a re-employment or eligibility list exists. (Education Code Sections 45256, 45260)

303.2 When the person is known who is to be appointed as a consultant (professional expert) his name and data relative to his qualifications shall be submitted to the Personnel Director. In order to be exempted from the Classified Service as a professional expert, an individual must be recognized as such by reputable members of his own profession. Evidence of professional qualifications must be presented to the Commission at the time the written request for temporary appointment is made. Authorization for service as a professional expert shall not exceed

six months. Additional required service shall be submitted to the Commission for approval.

Rule 304.0 Restricted Positions and Employees (Education Code Section 45105)

304.1 If positions properly a part of the Classified Service are specially funded and, as a result of the special funding provisions, employment is restricted to persons in low income groups, from designated impoverished areas, or other criteria which precluded employment through the normal competitive process, the positions shall, in addition to the assigned title, be designated as “Restricted.”

304.2 Persons employed in “Restricted” positions shall be classified employees for all purposes except:

- (a) They may not attain permanent status.
- (b) They shall not be accorded seniority rights.
- (c) They may not serve as provisional employees.
- (d) They are not eligible to compete in promotional examinations in the regular Classified Service.

304.3 Notwithstanding Rule 304.2 above, employees serving in “Restricted” positions may, after completion of six months of satisfactory service, take the next competitive examination that is given for the class in which they are serving. If an employee successfully completes the examination and attains placement on the eligibility list as a result thereof, and regardless of his numerical standing on the eligibility list, he shall be considered a part of the regular Classified Service, even though he may continue to serve in a restricted position, and be accorded full rights, benefits, and burdens of a regular classified employee. Seniority rights shall be counted as of the date of his initial appointment to the restricted position.

Rule 305.0 Limited Term Positions and Employees

305.1 As defined in Rule 101.0, limited-term designates employment in a position for periods not to exceed six months or employment of a substitute during the authorized absence of a permanent employee.

305.2 When the administration deems it necessary to create a position for a period not to exceed six months, the Personnel Commission should be so notified in writing. Such a position must be filled by one of the following: a regular employee, an eligible from a current list, re-employment list, transfer demotion, reinstatement or re-employment (after resignation) or restoration to former class after voluntary demotion.

If no person is available in the above categories, the Personnel Commission shall recommend the best qualified person available from regular applications on file or from local advertising for appointment to the position.

305.3 Substitute employees are not eligible for benefits of the classified service i.e., vacation, sick leave, and insurance. However, they are eligible for and will be paid for holidays falling within their limited term assignments.

305.4 Time served in a limited term position shall be counted for seniority purposes provided:

- (a) employee is serving in a regular class;
- (b) employee was hired from a current eligibility list; and
- (c) change of status from limited term to probationary is without a break in employment.

305.5 Credit toward completion of probation period shall not accrue from service in a limited term appointment.

GENERAL CLASSIFICATION RULES

Rule 306.0 General Nature of Classification Plan

The Personnel Commission shall establish and maintain a plan of classification for all positions in the Classified Service. Classes will be placed in groups according to general occupational nature and, within groups, shall be listed in series by specific occupation.

Rule 307.0 Class Specifications

For each class of positions, there shall be established and maintained a class specification which shall include:

307.1 The official class title.

307.2 Description of basic duties.

307.3 A statement of representative duties to be performed by persons holding positions allocated to the class.

307.4 A statement of the minimum qualification for service in the class. The minimum qualification may include education, experience, knowledge, skills, abilities, working conditions, environmental conditions, job particulars, contacts, employment standards, and personal and physical traits and characteristics.

307.5 License or other special requirements for employment or service in the class.

307.6 A statement showing supervision received and supervision exercised.

Rule 308.0 Interpretation of Class Specifications

308.1 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.

308.2 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.

308.3 Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series and group of classes, in such manner as to maintain a proper gradation in the series in which the class is located and proper differentiation within the group of classes.

308.4 Qualifications commonly required of the incumbents of all or many offices or positions such as good physical condition, freedom from disabling defects, citizenship (see Labor code Section 1940 et. seq. for exemptions), honesty, sobriety, and industry, even though not specifically mentioned in the specifications, are implied in the qualifications requirements.

308.5 The statement of qualification requirements, when considered with other parts of the specification, is to be used as a guide in the announcement and preparation of tests and in the evaluation of the qualifications of candidates seeking appointment to positions allocated to the class, but does not require a particular form or content of a test or testing procedure.

Rule 309.0 Allocation of Positions to Classes

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

Rule 310.0 Change in Duties of Positions

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

Rule 311.0 Working Out of Classification

311.1 When a regular employee in the classified service works in a higher classification for a period of time which exceeds five (5) working days within a fifteen (15) day calendar period, the salary of the employee shall be adjusted upward for the entire period of working out of classification.

311.2 When an employee is required to work out of classification for longer than eight (8) weeks, the fact shall be reported by the Classified Personnel Director to the Personnel Commission at the next scheduled meeting. After review, the Commission shall take such action as necessary based upon the facts. This rule shall not be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.

Rule 312.0 Review of Positions

The Personnel Director shall review the duties and responsibilities of each position at the time of posting. If the Director finds that a position or positions should be reclassified, he shall advise the administration of his findings. If the administration verifies the duties of the position, or if the duties are not revised to fit within the current classification, the Director shall report his findings and recommendations to the Commission. He shall also report his findings in cases where his review indicates that no change in classification is necessary.

Rule 313.0 Creation of New Positions

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

- 313.1** Classify the position and determine whether the position should be allocated to an existing class or to a new class.
- 313.2** When a new class is created, the Personnel Commission shall set forth the minimum qualifications. The minimum qualifications approved by the Commission must relate to the duties assigned to the position by the Board.
- 313.3** Designate the proper salary placement of a new position if one is established.
- 313.4** Notify the Board of Education of its action.

RECLASSIFICATION

Rule 314.0 Request for Study

Request for classification study of existing positions shall be presented to the Personnel Director together with a statement of the reasons for requesting study. Requests for study may be initiated by the administration, with the approval of the Superintendent, or by employee (s) or employee organizations. Requests initiated by the administration shall be accompanied by a statement of the current authorized duties of the position(s) and any prospective changes.

Rule 315.0 Effective Date of Reclassification

Reclassification of a position shall become effective on the date prescribed by the Commission. Effective dates may be set sufficiently in the future to allow examinations to be completed and to take into account additional fiscal constraints.

Rule 316.0 Effects on Incumbents

- 316.1** If an occupied position is reclassified, the incumbent shall be promoted, demoted, transferred to the new class in accordance with regular examination and certification procedures except as indicated below.
- 316.2** For an employee to be reclassified upward with his position, the reclassification must have been occasioned by a gradual accretion of duties and not be a sudden change resulting from reorganization or duty changes by the Board. The commission shall decide at the time the reclassification occurs as to whether the reclassification meets this rule.
- (a) When all of the positions in a class are reclassified upward, those incumbents with three or more years service in the class shall be automatically reclassified with the positions.

- (b) When a portion of the positions in a class are reclassified upwards, those incumbents with three or more years of service in one or more of the positions being reclassified shall be reclassified with their positions(s) provided that there is no more than three salary ranges between the former and the new class. Employees with less than three years in the class, but who have completed their probationary period may be reclassified to the new class by passing a qualifying examination only.

316.3 The Personnel Commission may require a qualifying test prior to granting status under any of the above conditions.

316.4 An employee who has been reclassified upward shall be ineligible to again be reclassified upward until at least three years has elapsed from the last upward reclassification.

316.5 When a position or group of positions is reclassified to a class with an equal or lower wage or salary range, an incumbent shall have the following rights:

- (a) the right to bump the employee in the same class with lowest seniority in the class, provided that the incumbent has greater seniority in the class;
- (b) the right to bump the employee with the least seniority in any equal or lower class in which the incumbent formerly served, provided that he had greater seniority in that class; and
- (c) the right to be demoted or to transfer, with examination, to the class to which his position is reclassified.

The employee may choose to transfer, demote, or exercise bumping rights at his option, and his choice shall not affect his right under rule 317.0 below.

Rule 317.0 Re-employment List for Displaced Incumbents

317.0 A displacement of a regular employee resulting from a reclassification of a position, positions, or class of positions shall be considered a layoff for lack of work, and an appropriate re-employment list will be established in accordance with these rules.

- 317.1** This rule shall be followed in all instances of reclassification, whether it results in upgrading, downgrading, lateral class movement, bumping, or complete displacement of incumbents.
- 317.2** If a displaced employee wishes to remain current on the seniority list in a classification in which they have not held for a period of 10 years, the employee must pass a current pre-employment test for that classification.
- 317.3** Should an employee who is promoted and required to serve a probationary period and does not pass that probationary period in the higher position, he/she is eligible to return to a position in his/her former classification or a vacant position, for which he/she is qualified, within the district.

ARTICLE IV - APPLICATION AND EXAMINATION

APPLICATION FOR EMPLOYMENT

Rule 401.0 Filing of Application

All applications for employment should be made upon official forms furnished by the Commission, filled out as therein directed, and filed on or before the date and time specified.

Rule 402.0 General Qualifications of Applicants

Applicants must possess all requirements that may be specified in the minimum qualifications established for the class. Every applicant must be in all respects mentally and physically competent to perform the duties of the position for which he applies.

Merit system law provides that classified employees be selected on the basis of merit and fitness exclusive of discrimination due to race, color, age, religion, political affiliation, marital status or sex.

Rule 403.0 Elimination of Unfit Applicants, Candidates, and Eligibles

An applicant or candidate may be refused examination, and an eligible may be refused certification or appointment, for any of the following reasons:

- 403.1** Failure to meet the general qualifications of Rule 402.0.
- 403.2** Advocacy to overthrow the government of the United States or the

State of California by force, violence, or other unlawful means.

- 403.3** Conviction either by a plea or nolo contendere, a court decision or a jury verdict to a charge of a sex or narcotics offense as defined in Education Code Sections 44010 or 44011.
- 403.4** Conviction, either by a plea guilty or nolo contendere, a court decision or a jury verdict of a felony or serious crime or a record of one or more convictions which would indicate that the person is a poor employment risk.
- 403.5** Intentionally making a false statement or omitting a statement as to any material fact on the application form.
- 403.6** Practicing any deception or fraud in connection with an examination or to secure employment.
- 403.7** A history of drug/alcohol dependency without acceptable evidence of rehabilitation.
- 403.8** Dismissal from a previous employment for cause if the cause would have subjected the applicant to dismissal by the District.
- 403.9** A record of unsatisfactory service or attendance with this District, even though separation has not occurred.
- 403.10** Unsatisfactory health conditions.
- 403.11** Dishonorable discharge from the armed forces of the United States.
- 403.12** Failure to report for duty after an assignment has been offered and accepted.
- 403.13** Failure, after due notice, to report promptly for review of any of the above reasons for rejection.
- 403.14** Refusal to furnish testimony at a hearing or investigation before the Personnel Commission or Board of Education.

Rule 404.0 Rejection and Appeal From Rejection

Applicants, candidates, and eligibles who are rejected for any of the reasons enumerated in Rule 403.0 shall be notified in writing by the Personnel Director. The notification shall state:

- 404.1 The reason(s) for rejection.
- 404.2 The length of time the individual shall be ineligible to be considered for examination or appointment to a position in the District.
- 404.3 That, within seven (7) calendar days, the individual may appeal to the Personnel Director for administrative review, and that failure to appeal for administrative review makes the rejection final and conclusive. If there has been an administrative review, as provided above, and the rejection is sustained, the individual shall be:
- 404.4 Given a written notice outlining the reason(s) for sustaining the rejection.
- 404.5 Informed of his right to make a written appeal of the rejection and/or the period of disqualification, within seven (7) calendar days, to the Personnel Commission.

405.0 Action When Rejection Is Not Sustained

If a rejection is not sustained, the Personnel Commission shall institute immediate action to ensure the rights of the applicant, candidate, or eligible.

406.0 Applications Not To Be Returned

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

407.0 Applications Name Not Made Public

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

408.0 Veteran's' Preference

408.1 Veteran's preference points shall be added to passing scores in open examinations in the amount prescribed by Education Code Section 45296. At least thirty (30) days of active service in the Army, Navy, Marines, Air Force, or Merchant Marine, or as a nurse on active duty with the Red Cross, between the dates listed below, are required:

Persian Gulf/Desert Storm	August 2, 1990 to April 11, 1991
World War II	December 7, 1941 to December 31,

	1946
Korea	June 27, 1950 to January 31, 1955
Vietnam Conflict	August 4, 1964 to May 7, 1975

Service in the coast Guard between December 7, 1941 and January 1, 1946 is also credited.

408.2 “Disabled veteran” as used in this article means any veteran, as defined in Section 45294, who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the armed forces. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

408.3 In the case of all entrance examinations, veterans with thirty (30) days or more of service who become eligible for appointment by attaining the passing mark established for the examination, shall be allowed an additional credit of five (5) points and disabled veterans shall be allowed an additional credit of ten(10) points, which shall be added to the percentage attained in the examinations by the veterans. Veterans shall be placed on the eligible lists and be eligible for appointment in the order and on the basis of the percentage attained by them in examinations after the credit of five (5) points, or ten (10) points in the case of disabled veterans, is added.

408.4 In order to obtain credit, the applicant shall furnish satisfactory proof of qualifying military service prior to establishment of an eligibility list. No adjustment of rank on the list shall be asked when such proof is presented thereafter.

EXAMINATIONS

Rule 409.0 Examination Barred

No examination announcement may be made and no part of any examination may be held until the Board of Education has properly approved, if a reclassification, or designated, if a new class, the position duties, and the Commission has approved the position classification including the establishment of minimum education and work experience requirements.

Rule 410.0 Promotional Examinations

410.1 Promotional examinations shall, where practicable, as determined by the Commission, be limited to promotional applicants. Promotional examinations shall be restricted to permanent employees of the District

who meet the prescribed qualifications of the class. When no promotional field of competition exists, the Commission shall order an open examination. When the promotional field is less than five (5), a combination open and promotional examination may be given.

410.2 Written notice concerning promotional examinations shall be posted in all work locations of employees who may be affected not later than (5) days prior to the closing date of filing the appropriate promotional examination request.

Rule 411.0 Continuous Examination

411.1 The Commission may establish a process of continuous open examination for classes of positions which cannot be practicably filled by promotional examinations.

Rule 412.0 Notice Of Examination

412.1 Whenever it is necessary to fill existing or anticipated vacancies in the classified service and an appropriate eligibility list does not exist as determined by the Commission, the Commission shall hold an examination to provide eligibles. At least fifteen (15) working days' advance public notice of such examinations shall be given. The notice shall contain the following facts:

- (a) description of the scope of duties and responsibilities of the position and the class;
- (b) minimum qualifications required;
- (c) the salary and other forms of compensation;
- (d) the last date for filing an application; and
- (e) such other information as will assist the employees and the public in fully understanding the nature of the employment and procedures necessary to participate in the examination.

412.2 A copy of the notice of examination shall be posted in all work locations.

412.3 The above does not apply in the case of continuous examinations.

Rule 413.0 Who May Compete

Competitive examinations for positions in the Classified Service shall be open to all applicants who meet the minimum qualifications and who are not rejected as provided

in Rule 402.0, except when examinations are restricted to promotional candidates according to the provisions of Rule 410.0. Present regular employees who wish to compete in open, promotional, or combined open and promotional examinations shall fill out a form and forward it to the Personnel Director. Such forms may be procured from the Personnel Director's office.

Rule 414.0 Admission To Examination

No candidate may be admitted to any examination without proper authorization and identification or other satisfactory evidence of having filed an acceptable application.

Rule 415.0 Character Of Examination

415.1 All examinations will be administered objectively.

415.2 Examinations may be written, oral, practical demonstration of skill and/or ability, or any combination of these. Any test of technical knowledge, manual skill, or physical and mental fitness which, in the judgment of the Personnel Commission, is job related, may be employed.

415.3 Any investigation of education, experience, character, or identity shall first have the consent of the applicant. Failure of the applicant to sign the pre-employment statement on the Morgan Hill Unified School District application for employment form shall halt the processing of such application at that point.

Rule 416.0 Written Examination Procedures

416.1 Competitors in any written test must take the test on the prescribed date.

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

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

416.4 Any competitor in any examination who places any identifying mark upon his test papers (other than the identifying mark prescribed at the time of examination) or makes any attempt to disclose to others the identity of his papers prior to the completion of the examination shall be disqualified.

Rule 417.0 Examination Weighting

The relative weights of the different parts of the examination shall be determined by the Personnel Director. All examination papers shall be prepared and rated under the direction of the Personnel Director or a contracting examining agency.

Rule 418.0 Rating Required

Competitors may be required to attain at least a 70% rating in each part of the examination to qualify for participation in the next succeeding part.

Rule 419.0 Review Of Written Test and Retest

419.1 When the written test papers of all competitors have been rated, each candidate will be notified of passage or failure.

419.2 Any competitor who wishes to review the results of the test may do so by contacting the Personnel Director within twenty-four (24) hours from receipt of the written notice of examination results.

419.3 If a competitor feels the final rating is unjust or an error has made, he/she may appeal to the Personnel Commission. Appeal must be made not later than ten (10) days from the date of notice.

419.4 A competitor who does not review a written examination may not reapply until at least forty-five (45) calendar days have passed from the date of the original examination. If a competitor reviews an examination, he may not reapply until at least ninety (90) calendar days have passed from the date of the examination.

Rule 420.0 Examination Papers and Records

All examination papers submitted by competitors are the property of the District or its examining agency and are confidential records.

Rule 421.0 Oral Examination Procedures

421.1 Competitors in any oral examination must take the test on the prescribed date.

421.2 When oral examination is required, the oral examination board must consist of at least two members.

421.3 Types of oral examinations:

- (a) The Technical Oral Board is specifically required to evaluate the

Candidate's technical knowledge and skills. This oral board must be composed of at least two (2) members who are technically qualified in the occupational area being examined.

- (b) The General Fitness Examination Oral Board must confine its examination to the evaluation of the general fitness of the candidate.

421.4 Personnel Commissioners or school board members, in the district giving the exam, may not serve as oral examiners. District employees who are supervisors for the class being examined may not serve as oral examiners; other district employees may serve.

421.5 Oral examiners will not be provided confidential references on district employees competing in a promotional exam nor shall examiners (entry, open, or promotional) be provided scores achieved by candidates in other parts of the examination.

421.6 All oral examinations will be electronically recorded and all examination data (including tapes etc.) will be retained by the Commission for at least ninety (90) calendar days.

Rule 422.0 Seniority Credit

422.1 In a combination open and promotional examination only, seniority credit shall be added to the final passing scores of promotional candidates in the amount of one-quarter (1/4) point for each year of service, not to exceed a total of five (5) points. Credit shall be granted for time spent in regular status (see definition) in the Classified Service and on leave from the Classified Service while otherwise employed in this District.

422.2 Employees assigned to a ten (10) month working schedule will be credited with one year's service for seniority recognition benefits for each school year employed.

422.3 Employees assigned to a regular working schedule of less than eight (8) hours a day will be credited with full-time employment for seniority recognition benefits.

422.4 Periods of time taken by employees for leaves of absence without pay will not be included in computing total years of service for seniority recognition.

422.5 Credits shall be calculated for units of not less than a half year and fractions of years shall not normally be counted. In a strictly promotional examination, seniority shall be qualifying only.

422.6 In a combination open and promotional examination only, seniority credit shall be added to the final passing scores of promotional sub-candidates in the amount of 1 point if the sub-candidate has worked 20 or more days in the position in which they are being tested.

Rule 423.0 Ties In Examination Scores

When two or more competitors in an examination have the same final examination score, they will be given the same rank.

Rule 424.0 Notice of Final Score

424.1 Each competitor shall be notified of his final score and of his relative standing on the eligibility list, if qualified. The notice shall also indicate that the eligibility list with the final score of each successful candidate is maintained in the Personnel Office for each eligible candidate to review.

Each competitor receiving less than a final qualifying score shall be so notified.

424.2 A competitor may appeal a final rating to the Personnel Director and, if rejected, may appeal to the Commission at any time after notification of his final score, but within ten (10) days after establishment of the eligibility list. The review and protest period on promotional exams must be held prior to any regular appointment being made from the resultant eligibility list. (Exception: authorized continuous examinations.) The Commission may alter the rating if it finds justification for the protest and order the competitor's examination score adjusted accordingly.

ARTICLE V - EMPLOYMENT LISTS

ELIGIBILITY LISTS

Rule 501.0 Establishment and Life of Eligibility Lists

501.1 After an examination, the names of successful competitors shall be arranged on a list in the order of examination score, including additional veteran or seniority points where applicable. Eligibility lists will be furnished to the administration and retained in the Personnel Office.

501.2 After establishment, an eligibility list shall be in effect for one year, unless exhausted, and may be extended for one additional year at the discretion of the Commission. Names of successful competitors may be added to eligibility lists resulting from continuous examinations. Any person whose name is on the eligibility list at the time of its expiration, and who desires to remain on an eligibility list for that class, must file a new application.

Rule 502.0 Re-employment Lists

There shall be established for each class a re-employment list which shall take precedence over all other employment lists in appointment. This list shall contain the names of all permanent Classified Service employees who have been laid off or demoted from any position because of lack of work or lack of funds. Employees who acquire leaves of absence for military reasons and those who are ordered, pursuant to the laws of the United States, to serve in the armed forces, shall take precedence by having their name placed over other names on the re-employment list in any given class.

Rule 503.0 Termination of Eligibility Lists

503.1 An eligibility list is terminated one year from the date of its approval. However, it may be extended for an additional year at the discretion of the Commission.

503.2 An eligibility list is automatically terminated when no eligibles remain on the list.

503.3 An eligibility list may be terminated by the Commission when less than three eligibles are available for appointment to a specific permanent position in a class and after due notice to all eligibles remaining on the list.

503.4 An eligibility list is automatically terminated when, in the second year of its existence, a new list for the class is established.

Rule 504.0 Consolidation of Eligibility Lists

- 504.1** If a new examination for a class is given during the first year of the life of an existing list, the examination shall be sufficiently similar to the previous examination to ensure the comparability of the scores of the eligibles. The new list shall then be merged with the existing list with eligibles ranked in the order of examination score, plus additional points where applicable.
- 504.2** Promotional list shall be merged only with promotional lists, except that where “dual certification” applies, open and promotional lists shall be merged for certification.
- 504.3** When lists are consolidated under this rule, the earlier list shall be terminated one year after its establishment, and those eligibles’ names shall be removed from the consolidated list.

Rule 505.0 Eligibility after Appointment

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

Rule 506.0 Removal of Names from Eligibility List

The name of an eligible may be removed from an eligibility list by action of the Commission for any of the following reasons:

- 506.1** A written request by the eligible for removal.
- 506.2** Failure to respond to a written inquiry regarding availability for employment.
- 506.3** Waiver of three offers of regular appointment.
- 506.4** Any of the causes listed in Article IV, Rule 403.0.

CERTIFICATION FROM EMPLOYMENT LISTS

Rule 507.0 Order of Precedence

Names shall be certified for appointment from employment lists in the following sequence:

- 507.1** Re-employment list (see definition).
- 507.2** Promotional eligibility list (first three ranks).
- 507.3** Open eligibility list (first three ranks).
- 507.4** Appointments may be made from other than the first three ranks on the eligibility list when the ability to speak, read or write a language in addition to English is necessary.

Rule 508.0 Dual Certification

When the same examination is held on an open and promotional basis, if the most recent promotional eligibility list failed to provide sufficient available eligibles to fill all the vacancies occurring during the first year of life of the eligibility list, the Commission may, prior to the examination, authorize dual certification from the resultant eligibility lists. The three names certified shall be those of open and promotional eligibles who have the highest examination scores, including veterans' credit and seniority credit for promotional eligibles.

Rule 509.0 Procedure When Fewer Than Three Names Remain

- 509.1** When fewer than three eligibles are available on the promotional list, sufficient names shall be certified from the open list to allow a choice among three eligibles.
- 509.2** When fewer than three eligibles are available for certification, the available eligibles shall be certified; however, the appointing authority may choose not to appoint any of them and may request a new examination.

Rule 510.0 Other sources of Eligibility

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

Rule 511.0 Procedure of Certification and Appointment

- 511.1** When a position is to be filled, the appointing power shall notify the Personnel Director of that fact and of the date of the anticipated need. The request for certification shall state the class title, hours and location of employment, and other pertinent information as required by the Director.
- 511.2** The Personnel Director shall ascertain the availability of eligibles and shall certify names to the appointing power in accordance with these rules.
- 511.3** The appointing power shall make its selection and shall notify the Director.

Rule 512.0 Waivers of Certification

- 512.1** An eligible may waive certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by notifying the Personnel Director in writing.
- 512.2** Certification of eligibles who have waived shall not be made, provided that eligibles may revise or withdraw their waivers in writing.

Rule 513.0 Certification from Lists for Another Class

If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list for another class at the same or a higher level if the duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled, provided that the Personnel Commission finds that the use of the list is in the best interest of the District and that the necessary skills and knowledge were adequately tested in the examination.

Rule 514.0 Withholding Names from certification

The names of an eligible may be withheld from certification when:

- 514.1** He expresses unwillingness or inability to accept appointment.
- 514.2** He fails to respond within three (3) business days following the mailing of written inquiry regarding availability for permanent employment or request to appear for interview regarding such employment.

- 514.3** He fails to present himself for duty at the time agreed upon after having accepted an appointment.
- 514.4** He cannot be reached in time for appointment when immediate temporary employment is required. (This provision shall apply only to such immediate temporary employment.)
- 514.5** For any reason listed in Article IV, Rule 403.0.

Rule 515.0 Re-Establish Certification

When the name of a person has been withdrawn from an eligibility list or from certification, or has been removed from the list, it may be placed on such list or reactivated thereto by the Personnel Commission under the following circumstances:

- 515.1** When the withholding or removal was because of:
- the waiver or inability of the eligible to accept employment,
 - failure to respond to inquiry as to his availability,
 - to appear for interview
 - to present himself for duty
- and the applicant presents a good and valid reason and certifies to the Personnel Commission that he is now willing and able to accept appointment.
- 515.2** When the withholding or removal was for a reason stated in Article IV, Rule 403.0, and such action was improper or the defect has since been corrected.
- 515.3** Revisions and withdrawals of voluntary waivers shall not require approval by the Commission, but shall be made available for their information.

Rule 516.0 Duties of Eligibles

- 516.1** An eligible who has been certified shall be allowed sufficient time to report for duty after an offer of appointment to a probationary position has been made. If he is unable or unwilling to report by the end of such a stated time, he may be considered to have refused appointment, and the appointing power may request certification of another name from the eligibility list or re-employment list.
- (a) The date of the offer of appointment shall be the date on which the eligible is notified of his selection.

- (b) When appointment is to a limited-term or emergency or substitute position, the eligible must be available on the date specified by the appointing power.

516.2 Every person who has been placed on any eligibility list or re-employment list shall promptly and in writing file with the Personnel Office his correct mailing address and place of residence. This address shall be the place to which the Personnel Director shall direct all notices necessary to carrying out the provision of these rules. Whenever such person shall have any change in mailing address or place of residence, he shall promptly notify the office of the Personnel Director, stating the list or lists upon which his name appears, together with his new mailing address and place of residence. Failure or neglect on the part of any such person to file such information may, at the discretion of the Commission/Personnel Director, operate as a waiver of his order of certification and/or appointment from any such list or lists.

Rule 517.0 Subjects Rendered On Which No Questions Shall Be Asked

No applicant or eligible certified for appointment shall be discriminated against because of his/her political or religious opinions or affiliations, race, color, national origin or ancestry, sex, age, marital status, employee organization membership or non-membership and legal activities related thereto, physical or mental disability. No questions shall be asked relating to these matters during the selection and interview stages of employment (Education Code Sections 45260, 45261, 45293, 45134).

PROVISIONAL APPOINTMENTS

Rule 518.0 Restrictions

518.1 When the Commission certifies that no eligibility list exists for a position in the Classified Service, a new employee may receive provisional appointment which may accumulate to a total of ninety (90) working days. A ninety-calendar day interval shall then elapse during which the person will be ineligible to serve in any full-time provisional capacity.

518.2 No person shall be employed in provisional capacities under a given Governing Board for a total of more than 126 working days in any one fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position as defined in the State Education Code, successive 90-working-day provisional appointments may be made to the part-time position for a total of more than 126 working days in a fiscal year.

Rule 519.0 Terminating Provisional Appointments

The services of a provisional appointee shall be terminated within fifteen (15) calendar days after the date on which an eligibility list has been established, provided that this fifteen-day period does not extend beyond the 90-working day provisional assignment, or a provisional appointment may be terminated at any time at the discretion of the appointing power.

Rule 520.0 Emergency Appointments

520.1 If it should become necessary in time of declared emergency to fill positions in the Classified Service to prevent the stoppage of school business, the Board of Education, through the administration, may make emergency appointments, without reference to eligibility lists, for a period not to exceed fifteen (15) working days.

520.2 When such emergency appointments are made, it shall be the duty of the Board of Education to notify the Personnel Director, in writing, naming the appointees, date of appointment, and nature of duties performed, and giving a statement justifying the emergency nature of such appointments. Time served under such emergency appointments shall be considered as part of the period permitted under the Education Code for provisional appointments.

520.3 Substitute employee appointments are authorized under the provision of emergency appointments except that substitutes are called from various lists and the above stated justifying provisions are not required.

ARTICLE VI - IN-SERVICE STATUS AND TRANSACTIONS

CHANGES IN POSITION AND CLASS

Rule 601.0 Transfer

601.1 The Personnel Commission shall determine whether classes are sufficiently related to permit transfer between them. It shall consider similarity of duties, minimum qualifications, examination content, occupational group, and promotional field (above and below).

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

Rule 602.0 Restoration

602.1 See Education Code Section 45309.

Rule 603.0 Causes for Suspension, Demotion, Dismissal

Persons employed in the Classified Service may be suspended, demoted or dismissed for any of the following causes;

603.1 Incompetency, inefficiency, insubordination, inattention to or dereliction of duty, discourteous treatment of the public or of fellow employees, or any other willful failure of good conduct tending to injure the public service, or any willful and persistent violation of the provisions of the Education code or of rules, regulations or procedures adopted by the Board of Education or the Personnel Commission pursuant to it; provided that specific instances must be set forth as to any of the causes enumerated under this heading.

603.2 Absence from duty without leave, whether voluntary or involuntary, for five (5) consecutive working days shall be deemed an automatic resignation from the service of the District, as of the last date on which the employee worked. If the appointing authority has notified the employee of his automatic resignation, any request for reinstatement must be in writing and filed within fifteen (15) days of the service notice of separation.

- 603.3 Immoral conduct (as defined in Education Code 44010, 44011), dishonesty, theft, willful misuse for personal gain, willful destruction, mishandling, or misuse of district property including district computer/software systems.
- 603.4 Addiction to prescribed drugs, use/possession of a controlled substance other than that prescribed by a licensed physician, the unlawful manufacture, distribution, dispensation of a controlled substance, possession of opened alcoholic beverage containers and/or drinking alcoholic beverages on District property, being intoxicated while on duty.
- 603.5 Political activities engaged in by an employee during his assigned hours of employment.
- 603.6 Conviction of a felony or serious crime by a court of law; a record of one or more convictions of which indicates that the person places the District at risk through continued employment; failure to disclose material facts regarding criminal records.
- 603.7 Other false or misleading information on application forms or examinations and employment records concerning material matters.
- 603.8 Frequent unexcused absence or tardiness.
- 603.9 Illness leave, when habitually taken for trivial indispositions.
- 603.10 Continuing illness of a disabling nature after the exhaustion of illness leave and leave of absence privileges.
- 603.11 Failure to report for review of criminal records or for health examination after due notice.
- 603.12 Advocacy of overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
- 603.13 The discovery or development during an initial probationary period of any physical, emotional and/or mental condition which would have precluded acceptance as an eligible for assignment.

Rule 604.0 Procedure for Disciplinary Action

- 604.1 When formal disciplinary action has been approved by the Governing Board, the action and the charges shall be reported to the Personnel

Director who shall immediately notify the employee and shall report the action to the Commission at its next regular meeting.

- 604.2** Notice to the employee shall include a copy of the charges and a statement of his right to appeal.
- 604.3** Notwithstanding the procedures prescribed above, an employee may be suspended prior to Board approval at the discretion of the Superintendent, subject to later ratification by the Board. Requirements in regard to charges and notifications must be met when the Board ratifies the administrative action.
- 604.4** A regular employee charged with a mandatory leave of absence offense, as defined in subdivision (a) of Section 44940 of the Education Code shall be immediately placed upon a compulsory leave of absence as provided in Section 45304 of the Education Code. A regular employee charged with an optional leave of absence offense, as defined in Subdivision (b) of Section 44940 of the Education Code may be placed upon compulsory leave of absence by the Board in accordance with the provisions of Section 44940.5 of the Education Code. Such leaves of absence will be processed as an involuntary personal leave in accordance with the provision of the rules relative to suspensions. The employee may receive compensation as provided for in Education Code Section 44940. Any leave of absence shall be reviewed by the Personnel Commission every ninety (90) calendar days.
- 604.5** Dismissal shall cause removal of the employee's name from all employment lists.
- 604.6** Failure to appeal, as provided below, shall make the action of the Governing Board final and conclusive.

Rule 605.0 Appeal - Permanent Employees

Under authority in Section 45305 of the Education Code, a permanent employee who has been suspended, demoted or dismissed may appeal to the Personnel Commission within fourteen (14) days after having been furnished with a copy of the written charges by filing a request and basis for appeal. Appeal can be made only on the following grounds:

- 605.1** That the procedures set forth in these rules have not been followed.
- 605.2** That the removal was made because of affiliations, political or religious acts or opinions, race, color, sex, age, or marital status.

605.3 That there has been abuse of discretion.

605.4 That the action was not in accord with the facts.

Rule 606.0 Scheduling of Hearing/Personnel Commission

606.1 When an employee has filed a written answer to the charges and requested a hearing, the Personnel Commission shall be notified at the next regular meeting.

606.2 At the time of notification, the Personnel Commission will schedule a hearing to be held at it's next regularly scheduled meeting.

606.3 At the time the Personnel Commission schedules the hearing, the Commission will make public it's intent to utilize a hearing officer or hear the appeal itself.

Rule 607.0 Hearing Procedure

Under authority in Sections 45311, 45312, and 45313 of the Education Code, 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.

607.1 Hearing shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officer shall be bound by technical rules of evidence. Decisions made by the Commission shall not be invalidated by any informality in the proceedings.

607.2 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.

607.3 Each side will be permitted an opening statement (Board first) and closing arguments (employee first). The Board shall first present its witnesses and evidence to sustain its charges and the employee will then present his witnesses and evidence in defense.

607.4 Each side will be allowed to examine and cross-examine witnesses.

607.5 Both the Board and the employee will be allowed to be represented by legal counsel or other designated representation.

- 607.6** The Commission may, and shall if requested by the Board or the employee, subpoena witnesses and/or require the production of records or other material evidence.
- 607.7** The Commission may, prior to or during a hearing, grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.
- 607.8** The hearing shall be held in closed session unless the employee requests a public session. The Commission may still deliberate its decision in closed session. No person other than members of the Commission, its counsel, and its staff shall be permitted to participate in the deliberations. If the Personnel Director or any staff serves in a dual capacity to both the Board and the Commission, and/or was a witness in the proceedings, he shall also be barred from the Commissions final deliberations.
- 607.9** The Commission shall render its judgment as soon after the conclusion of the hearings as possible and in no event later than ten (10) days. Its decision shall set forth which charges, if any, are sustained and the reasons therefor.
- 607.10** The Commission may sustain or reject any or all of the charges filed against the employee. It may sustain, reject, or modify the disciplinary action invoked against the employee. It may not provide for discipline more stringent than that invoked by the Board.
- 607.11** The Commission's order of judgment will be filed with the Governing Board and delivered to the charged employee, and will set forth its findings and decision. If a dismissal is not sustained, its order shall set forth the effective date the employee is to be restored which may be any time on or after the date of disciplinary action.

ARTICLE VII - WAGE AND SALARY PROVISIONS

APPLICATION OF SALARY SCHEDULE

Rule 701.0 Initial Placement

All new employees shall be appointed at the hiring rate for the class as approved by the Commission. The hiring rate shall be the probationary step of the schedule. Personnel hired in supervisory positions will be advanced to a step which will ensure the supervisor is earning equal to or more than employees supervised. For classes where recruitment efforts have indicated difficulty in recruiting at the first step, an accelerated hiring rate may be recommended by the Commission at any step of the schedule of the class. If an accelerated hiring rate is approved, all current employees in the class shall be advanced to that rate and shall establish a new anniversary date.

Rule 702.0 Placement When Demoted

702.1 In cases where demotion to a lower class is effected due to elimination of position because of reclassification or reorganization action, the Personnel Commission may recommend that demoted employees continue to receive their current salary rather than be reduced in pay. In this event, the Personnel Commission shall order the employee's salary frozen. This action shall be referred to as a "Y" rate.

Rule 703.0 Payroll Audit (State Education code Section 45310)

"No warrant shall be drawn by or on behalf of the Governing Board of any district for the payment of any salary or wage to any employee in the Classified Service unless the assignment bears the certification of the Personnel Director that the person named in the assignment has been employed and assigned pursuant to Article VI.

703.1 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 Personnel Director or his authorized representative.

703.2

If, upon examination of a payroll or service report, it is found that any person named thereon has been employed in violation of any provisions of the Act or the rules and regulations, notice of such violation shall be made upon such payroll or service reports, and such notices shall serve as official notification of the Governing Board and the county offices 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.