

PERSONNEL COMMISSION MEETING
SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION OFFICE, PORTABLE B

AGENDA

December 3, 2014

5:30 P.M

I. CALL TO ORDER

- A. The meeting was called to order at _____.
- B. Pledge of Allegiance
- C. Roll-Call
Commissioner Valerie Dixon, Vice-Chairperson Present_____
Commissioner Michael Salazar, Member Present_____
- D. Administration of Oath of Office for George Bohn, Classified Employee's Appointee, not to exceed sixty (60) days.

II. APPROVAL OF AGENDA

Moved	_____	Seconded	_____
Discussion	_____		
Vote	Dixon_____	Salazar _____	Bohn _____

III. PUBLIC COMMENTS

NOTE:

- The public may address the Commission on any matter pertaining to the Personnel Commission that is not on the agenda. The Commission may not discuss or take action on an issue not on the agenda, except to ask questions or refer matters to staff. The public may address items on the agenda when such items are being considered. (Government Code 45954.3)
- Each speaker may speak only once.
- A five (5) minute time limit will be allotted to each speaker, unless extended by the Chairperson.
- A *Request to Speak* form must be completed before the meeting is called to order and submitted to the Chair in order to speak.

IV. ACTION ITEMS

- A. The commissioners will make nominations and vote for officers for 2015.
1. It is moved that _____ be approved by the commissioners as Chairperson for the 2015 term.

Moved	_____	Seconded	_____
Discussion	_____		
Vote	Dixon_____	Salazar _____	Bohn _____

2. It is moved that _____ be approved by the commissioners as Vice-Chairperson for the 2015 term.

Moved _____ Seconded _____
Discussion
Vote Dixon _____ Salazar _____ Bohn _____

B. The commission will consider ratifying Eligibility List(s). Proposed motions are: It is moved that the commission ratify the eligibility list for:

1. Digital Content Producer (Exam #14-077)
2. Education Assistant III (Severe Impairments)/Bilingual Exam #14-078)
3. Education Assistant III (Spanish) (Exam #14-079)
4. Human Resources Director (Exam #14-087)
5. Marketing Graphic Designer (Exam #14-080)
6. Nutrition Program Manager (Exam #14-082)
7. Nutrition Services Business Manager (Exam #14-083)
8. Nutrition Services Supervisor (Exam #14-084)

Moved _____ Seconded _____
Discussion
Vote Dixon _____ Salazar _____ Bohn _____

C. The commission will consider extending the following Eligibility List(s) for an additional year.

1. Athletic Equipment Attendant (Exam #13-029)

Moved _____ Seconded _____
Discussion
Vote Dixon _____ Salazar _____ Bohn _____

D. The commission will consider approving revisions to the following classification specification(s) as submitted:

1. Account Analyst
2. Instructional Tutor (LH/PH) / Bilingual Instructional Tutor (LH/PH)

Moved _____ Seconded _____
Discussion
Vote Dixon _____ Salazar _____ Bohn _____

E. The commission will consider approving the following recruitment(s):

1. Account Analyst
2. Electrician
3. Food Production Worker
4. Instructional Tutor (LH/PH) / Bilingual Instructional Tutor (LH/PH)
5. Painter
6. Roofer

Moved _____ Seconded _____
Discussion
Vote Dixon _____ Salazar _____ Bohn _____

F. The commission will consider approving the Second Reading to the proposed

reformatting and revisions of the Personnel Commission Rules, as submitted.

Moved _____ Seconded _____
Discussion
Vote Dixon _____ Salazar _____ Bohn _____

G. The commission will consider approving minutes for November 5, 2014 as submitted.
Moved _____ Seconded _____
Discussion
Vote Dixon _____ Salazar _____ Bohn _____

H. The commission will consider approving minutes for November 12, 2014 as submitted.
Moved _____ Seconded _____
Discussion
Vote Dixon _____ Salazar _____ Bohn _____

v. COMMISSIONERS/DIRECTOR COMMENTS

vi. CLOSED SESSION

The commission adjourned into closed session at _____ pursuant to Government Code Section 54957 to discuss:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: Personnel Commission Director
Personnel Analyst

1. PUBLIC EMPLOYMENT RELATIONS BOARD
STATE MEDIATION AND CONCILIATION SERVICE CASE APPEAL
Case Number ARB 14-0177
2. PUBLIC EMPLOYMENT RELATIONS BOARD
STATE MEDIATION AND CONCILIATION SERVICE CASE APPEAL
Case Number ARB 14-0176
3. PUBLIC EMPLOYMENT RELATIONS BOARD
STATE MEDIATION AND CONCILIATION SERVICE CASE APPEAL
Case Number ARB 14-0181
4. PUBLIC EMPLOYMENT RELATIONS BOARD
STATE MEDIATION AND CONCILIATION SERVICE CASE APPEAL
Case Number ARB 14-0182

The commission reconvened into open session at _____ and announced the following action taken into closed session:

vii. ADJOURNMENT

The commission adjourned the meeting at _____.

Certification Record

Exam #	14-077	Exam Title		DIGITAL CONTENT PRODUCER						
Posting Dates		Date Certified	# Days to Certify	Date Terminated	# Eligible	# Ranks	Examination Dates			
Opened	Closed						Written	Assessment/ Performance (OPAC)	Oral	Training & Experience
10/6/2014	10/26/2014	11/21/14	20	12/3/15	7	3	11/5/14	NA	NA	NA
Selection Statistics										
# Applied	# Meeting MQ's	# Took Written	# Passed Written	# Took Oral	# Passed Oral	# Took T&E	# Passed T&E	# Took Assessment/ Performance (OPAC)	# Passed Assessment/ Performance (OPAC)	
36	9	9	7	NA	NA	NA	NA	NA	NA	

I certify that these eligibility lists are based upon examination requirements completed and complied in accord with Article 6, commencing with section 45240 of the California Education Code and the Rules and Regulations of the Personnel Commission.


 Personnel Commission Director

November 21, 2014
 Date

Certification Record

Exam #	14-078	Exam Title		EDUCATION ASSISTANT III (SEVERE IMPAIRMENTS)						
Posting Dates		Date Certified	# Days to Certify	Date Terminated	# Eligible	# Ranks	Examination Dates			
Opened	Closed						Written	Assessment/ Performance (OPAC)	Oral	Training & Experience
10/6/2014	10/26/2014	11/26/14	23	12/3/15	1	1	11/25/14	NA	NA	NA
Selection Statistics										
# Applied	# Meeting MQ's	# took Written	# Passed Written	# Took Oral	# Passed Oral	# Took T&E	# Passed T&E	# Took Assessment/ Performance (OPAC)	# Passed Assessment/ Performance (OPAC)	
54	6	1	1	NA	NA	NA	NA	NA	NA	

I certify that these eligibility lists are based upon examination requirements completed and complied in accord with Article 6, commencing with section 45240 of the California Education Code and the Rules and Regulations of the Personnel Commission.


 Personnel Commission Director

November 26, 2014
 Date

Certification Record

Exam #	14-079	Exam Title		EDUCATION ASSISTANT III (SPANISH)						
Posting Dates		Date Certified	# Days to Certify	Date Terminated	# Eligible	# Ranks	Examination Dates			
Opened	Closed						Written	Assessment/ Performance (OPAC)	Oral	Training & Experience
10/6/2014	10/26/2014	11/26/14	23	12/3/15	9	5	11/25/14	NA	NA	NA
Selection Statistics										
# Applied	# Meeting MQ's	# took Written	# Passed Written	# Took Oral	# Passed Oral	# Took T&E	# Passed T&E	# Took Assessment/ Performance (OPAC)	# Passed Assessment/ Performance (OPAC)	
94	16	9	9	NA	NA	NA	NA	NA	NA	

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 Personnel Commission Director

November 26, 2014
 Date

Certification Record

Exam #	14-087	Exam Title		HUMAN RESOURCES DIRECTOR CLASSIFIED						
Posting Dates		Date Certified	# Days to Certify	Date Terminated	# Eligible	# Ranks	Examination Dates			
Opened	Closed						Written	Assessment/ Performance (OPAC)	Oral	Training & Experience
10/15/2014	11/9/2014	11/26/14	13	12/3/15	4	4	NA	NA	11/24/14	NA
Selection Statistics										
# Applied	# Meeting MQ's	# took Written	# Passed Written	# Took Oral	# Passed Oral	# Took T&E	# Passed T&E	# Took Assessment/ Performance (OPAC)	# Passed Assessment/ Performance (OPAC)	
32	9	NA	NA	8	4	NA	NA	NA	NA	

I certify that these eligibility lists are based upon examination requirements completed and complied in accord with Article 6, commencing with section 45240 of the California Education Code and the Rules and Regulations of the Personnel Commission.


 Personnel Commission Director

November 26, 2014
 Date

Certification Record

Exam #	14-080	Exam Title		MARKETING GRAPHIC DESIGNER						
Posting Dates		Date Certified	# Days to Certify	Date Terminated	# Eligible	# Ranks	Examination Dates			
Opened	Closed						Written	Assessment/ Performance (OPAC)	Oral	Training & Experience
10/6/2014	10/26/2014	11/25/14	22	12/3/15	13	11	11/24/14	NA	NA	NA
Selection Statistics										
# Applied	# Meeting MQ's	# took Written	# Passed Written	# Took Oral	# Passed Oral	# Took T&E	# Passed T&E	# Took Assessment/ Performance (OPAC)	# Passed Assessment/ Performance (OPAC)	
61	22	13	13	NA	NA	NA	NA	NA	NA	

I certify that these eligibility lists are based upon examination requirements completed and complied in accord with Article 6, commencing with section 45240 of the California Education Code and the Rules and Regulations of the Personnel Commission.

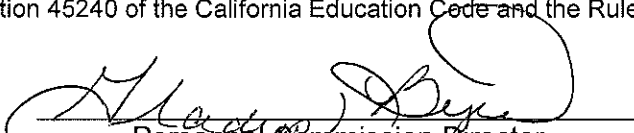

 Personnel Commission Director

November 25, 2014
 Date

Certification Record

Exam #	14-082	Exam Title		NUTRITION PROGRAM MANAGER						
Posting Dates		Date Certified	# Days to Certify	Date Terminated	# Eligible	# Ranks	Examination Dates			
Opened	Closed						Written	Assessment/ Performance (OPAC)	Oral	Training & Experience
10/6/2014	10/26/2014	11/26/14	23	12/3/15	1	1	NA	NA	NA	11/25/14
Selection Statistics										
# Applied	# Meeting MQ's	# took Written	# Passed Written	# Took Oral	# Passed Oral	# Took T&E	# Passed T&E	# Took Assessment/ Performance (OPAC)	# Passed Assessment/ Performance (OPAC)	
18	8	NA	NA	NA	NA	4	1	NA	NA	

I certify that these eligibility lists are based upon examination requirements completed and complied in accord with Article 6, commencing with section 45240 of the California Education Code and the Rules and Regulations of the Personnel Commission.


 Margaret Byrne
 Personnel Commission Director

November 26, 2014

Date

Certification Record

Exam #	14-083	Exam Title		NUTRITION SERVICES BUSINESS MANAGER						
Posting Dates		Date Certified	# Days to Certify	Date Terminated	# Eligible	# Ranks	Examination Dates			
Opened	Closed						Written	Assessment/ Performance (OPAC)	Oral	Training & Experience
10/6/2014	10/26/2014	11/26/14	23	12/3/15	2	2	NA	NA	NA	11/24/14
Selection Statistics										
# Applied	# Meeting MQ's	# took Written	# Passed Written	# Took Oral	# Passed Oral	# Took T&E	# Passed T&E	# Took Assessment/ Performance (OPAC)	# Passed Assessment/ Performance (OPAC)	
24	10	NA	NA	NA	NA	3	2	NA	NA	

I certify that these eligibility lists are based upon examination requirements completed and complied in accord with Article 6, commencing with section 45240 of the California Education Code and the Rules and Regulations of the Personnel Commission.


 Personnel Commission Director

November 26, 2014

Date

Certification Record

Exam #	14-084	Exam Title		NUTRITION SERVICES SUPERVISOR						
Posting Dates		Date Certified	# Days to Certify	Date Terminated	# Eligible	# Ranks	Examination Dates			
Opened	Closed						Written	Assessment/ Performance (OPAC)	Oral	Training & Experience
10/6/2014	10/26/2014	11/26/14	23	12/3/15	5	3	NA	NA	NA	11/24/14
Selection Statistics										
# Applied	# Meeting MQ's	# took Written	# Passed Written	# Took Oral	# Passed Oral	# Took T&E	# Passed T&E	# Took Assessment/ Performance (OPAC)	# Passed Assessment/ Performance (OPAC)	
29	10	NA	NA	NA	NA	9	5	NA	NA	

I certify that these eligibility lists are based upon examination requirements completed and complied in accord with Article 6, commencing with section 45240 of the California Education Code and the Rules and Regulations of the Personnel Commission.


 Personnel Commission Director

November 26, 2014
 Date



San Bernardino City Unified School District Personnel Commission

Classification Specification

Job Code:	0413	Work Year:	12 months	Salary Range:	41
Job Family:				HR/Day:	8 hours
FLSA Status:	Non-Exempt	EEOC Occupational Group:	EEO3-Fiscal Services		

ACCOUNT ANALYST

DEFINITION: JOB SUMMARY:

To perform complex clerical and accounting functions involving the control of a large account; to conduct accounting analyses and prepare financial statements according to prescribed guidelines; and to direct the work of accounting clerical staff.

DISTINGUISHING CHARACTERISTICS:

There are no distinguishing characteristics for this classification.

SUPERVISION:

Receives direction from higher level administrative management staff.

May exercise technical and functional supervision over accounting clerical staff.

EXAMPLES OF DUTIES: ESSENTIAL JOB FUNCTIONS:

Duties may include, but are not limited to, the following:

- Maintains all accounting records for a District-wide program or account.
- Posts receipts and warrants to appropriate journal; balances journals, making distribution to various expense and income accounts and calculates reserves.
- Receive and record revenues.
- Maintains the assigned account general ledger for assigned account and subsidiary ledgers.
- Reconciles ledgers, making appropriate transfers.
- Prepares monthly bank reconciliation.
- Prepares trial balances, balance sheet, and profit and loss statement monthly.
- Prepares a variety of claims for reimbursement for funds from the State; compute sales tax.
- Verifies and balances records submitted by various managers.
- Calculates time sheets for all employees in assigned account; maintains sick leave and vacation records and inputs time sheets to automated on-line payroll system.
- Directs the audit of invoices and preparation of warrants in payment.
- Audits records and prepares audit forms.
- Prepares and authorizes purchase orders.
- Compiles and analyzes information for various reports.
- Performs closing entries at the end of the school year and prepares various financial reports.
- Serves as a resource for establishing and operating assigned accounts.
- Performs related duties as assigned.

EMPLOYMENT STANDARDS:

KNOWLEGES, SKILLS, ABILITIES, AND OTHER CHARACTERISTICS:

- Knowledge of general fiscal and budgetary practices including basic principles of bookkeeping.
- Knowledge of governmental accounting procedures and methods including basic terminology associated with budgeting and accounting transactions.
- Knowledge of applicable Federal, State and local laws, regulations and procedures.
- Knowledge of principles and techniques of budget development and administration.
- Knowledge of principles and procedures of basic record keeping.
- Knowledge of English usage, spelling, grammar and punctuation.
- Knowledge of modern office practices, procedures, methods and equipment.
- Ability to exercise a high degree of clerical accounting skills involved in complex fiscal transactions.
- Ability to audit, tabulate, balance, reconcile and extend data.
- Ability to compile and integrate budget data.
- Ability to prepare detailed financial reports accurately.
- Ability to make arithmetic computations rapidly and accurately.
- Ability to learn, interpret and apply administrative and departmental policies, laws and regulations.
- Ability to analyze situations carefully and adopt effective courses of action.
- Ability to establish and maintain cooperative working relationships with those contacted in the course of work.
- Ability to communicate effectively, both orally and in writing.
- Ability to understand and carry out oral and written directions.

EDUCATION/TRAINING: (~~These are the minimum experience and education/training standards which will be used to admit or reject applicants for examination, as approved on August 27, 1996.~~)

~~Four~~ Two years of increasingly responsible bookkeeping and technical accounting experience preferably in a governmental setting.

AND

High school graduation or the equivalent supplemented by college level course work in bookkeeping.

LICENSES/CERTIFICATES/REGISTRATIONS (At time of appointment and during employment)

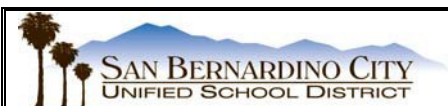
- An appropriate, valid California driver's license.
-

EXPERIENCE, EDUCATION, AND TRAINING: (~~These are the minimum experience and education/training standards which will be used to admit or reject applicants for examination as approved on <DATE>.~~)

WORKING ENVIRONMENT:

Office environment.

Constant interruptions.



San Bernardino City Unified School District Personnel Commission

Classification Specification

Job Code:	0433	Work Year:	9 months	Salary Range:	34A
Job Family:	Instructional Assistance		HR/Day:	6	
FLSA Status:	Non-Exempt		EEOC Occupational Group:	2 – Educational Services	

INSTRUCTIONAL TUTOR – LEARNING HANDICAPPED/PHYSICALLY HANDICAPPED/ BILINGUAL INSTRUCTIONAL TUTOR –LEARNING HANDICAPPED/PHYSICALLY HANDICAPPED

DEFINITION JOB SUMMARY:

To Tutors learning handicapped and/or physically handicapped students on a one-to-one or small-group basis to remedy academic deficiencies to meet goals and objectives of Individual Educational Plans; and to assist in the maintenance and updating of student records and files.

SUPERVISION RECEIVED AND EXERCISED:

Receives general supervision from a Resource Specialist; Exercises no supervision.

Exercises no supervision.

EXAMPLE OF DUTIES ESSENTIAL JOB FUNCTIONS:

Duties may include, but are not limited to, the following:

- Administers diagnostic and achievement tests to pupils.
- Participates in conferences to establish Individual Educational Plans for identified students.
- Tutors students on a one-to-one or small group basis to remedy deficiencies in subject areas disclosed by scores on achievement and/or diagnostic tests of students with the goals and objectives of the Individual Education Plans as guides.
- Compiles instructional materials to help meet the goals and objectives of Individual Education Plans.
- Promotes the well-being of students by helping them develop a positive attitude/self-image and an ability to cooperatively play and interact with other children and adults.
- Communicates with teachers and resource specialists ~~and parents~~ regarding students' progress and needs.
- Develops tutoring schedules consistent with the daily school schedules and special activities.
- Maintains a log and daily records of student attendance, attitude, health performance and progress.
- Explains the purpose and goals of the tutorial program to students, ~~parents~~, and teachers.
- Attends and participates in periodic in-service training sessions.
- Prepares, administers and corrects tests and records results.
- ~~Discusses student progress with parents.~~
- Assists with student safety emergency situations as necessary.
- Assists with student toileting.
- Performs related duties as assigned.

DISTINGUISHING CHARACTERISTICS:

None

EMPLOYMENT STANDARDS

KNOWLEDGE, SKILLS, ABILITIES AND OTHER CHARACTERISTICS:

- Tutoring methods and techniques.
- Subjects related to area of assignment
- Special health needs of handicapped children and the effects on a students' ability and attitude.
- Resource materials and teaching aids.
- Behavior modification techniques.
- Demonstrate proficiency and competence in subjects to be tutored.
- Tutor handicapped students to remedy academic deficiencies.

- Assist students in meeting the goals and objectives of the Individual Educational Plan.

- Plan and organize the details of the work.
- Relate to and work with handicapped children demonstrating bizarre behavior.
- Keep complete and accurate records.
- Work effectively in the absence of supervision.
- Deal with and correct student behavior.
- Establish and maintain cooperative working relationships with those contacted in the course of work.
- Communicate effectively, both orally and in writing.
- Learn and apply District procedures.

EXPERIENCE AND EDUCATION/TRAINING:

~~Some~~ Paid or unpaid experience assisting with the academic instruction of handicapped children is desirable. Additional specialized training in education or a related field is desirable.

-AND-

High school graduation or the equivalent.

-AND-

- Completion of at least 48 semester units at the college level **OR**
- Possession of an Associate's or higher level degree, **OR**
- Pass assessment that demonstrates knowledge of and the ability to assist in teaching reading, writing, and mathematics reading, writing, and mathematics readiness.

LICENSES/CERTIFICATES/REGISTRATIONS: (At time of appointment and during employment)

An appropriate, valid California driver's license.

WORKING ENVIRONMENT:

~~Experience~~ Indoor/outdoor, classroom, or other learning environment.

PHYSICAL ABILITIES:

Hear and speak clearly and distinctly to provide assistance and information related to classroom assignments; see to monitor student conduct during learning activities; manipulate hands and fingers to operate audio-visual, duplicating and educational training equipment; bend at the waist, stoop and kneel to assist students; and stand and walk for extended periods of time.

PHYSICAL LEVEL 3: SUBSTANTIAL

Positions in this physical level may require the following physical demands:

Strength and endurance as required to perform sustained heavy labor; stand, walk, and sit for extended periods of time; lift, carry, move, transfer, and position objects weighing up to 51 pounds; manipulate hands and fingers to operate equipment, tools, and materials relevant to position requirements; maneuver, carry, push, or pull job equipment assigned to the position, such as lifting, positioning, moving and transferring objects; reach overhead, above the shoulders, and horizontally; bend at the waist, kneel, stoop, and crouch; run; climb and descend ladders; crawl in tight spaces; see to monitor work environment and accomplish assigned tasks; hear and speak clearly to exchange information. *AMERICANS WITH DISABILITIES ACT* Persons with certain disabilities may be capable of performing the essential duties of this class with or without reasonable accommodation.

SPECIAL REQUIREMENT:

Some positions in this class require that employees provide their own transportation to various work locations in the District.

~~*Must be presented/available upon offer of employment and maintained throughout employment in this classification.~~

APPOINTMENT: An employee appointed to this class must serve a probationary period of six months during which time an employee must demonstrate at least an overall satisfactory performance. Failure to do so shall result in the employee's termination.

RULES AND REGULATIONS

for the

CLASSIFIED | SERVICE

PERSONNEL COMMISSION

**VALERIA DIXON
MICHAEL SALAZAR
VACANT**

**SAN BERNARDINO CITY UNIFIED SCHOOL
DISTRICT
777 North F Street
San Bernardino, California 92410**

As reformatted and amended December 3, 2014

WELCOME!

The Rules and Regulations contained in this booklet were developed by the Personnel Commission for our employees and govern the terms and conditions of your employment.

Except for matters subject to negotiations under the provisions of Government Code Section(s): 3540 through 3549 inclusive and covered by lawful collective bargaining agreements, these Rules and Regulations are the policies and procedures to be followed as they pertain to the classified service.

Please become familiar with the rules so that you are informed as to their content. Should you need assistance in interpreting the rules, please feel free to contact the Commission's staff.

THE MERIT SYSTEM

The Personnel Commission for the San Bernardino City Unified School District was established in 1978 to administer the Merit System for classified employees. The Merit System is a personnel system of rules and procedures, similar to civil service, which governs classified school personnel. It is based on the principle of employment and promotion on the basis of merit for the purpose of obtaining the highest efficiency and assuring the selection and retention of the best qualified persons. Merit System law provides that classified employees are selected, retained and promoted on the basis of merit and fitness, exclusive of discrimination due to actual or perceived race, color, ethnicity, age, religion, political affiliation, marital status, disability, gender, sexual orientation or national origin.

The Merit System means that an impartial body is responsible for implementing and interpreting Merit System rules and adjudicating appeals on those facets of employment within its purview. The Personnel Commission of the San Bernardino City Unified School District is composed of three Commissioners, appointed for three-year staggered terms. The Commissioners are lay persons who must be known adherents of the merit principle. One member is appointed by the Board of Education, another member is appointed by the classified collective bargaining employee unit and together the two members select the third member. The Personnel Commission does not report directly to the Board or the Superintendent.

The California Education code specifies the responsibilities of Personnel Commissions. To execute the responsibilities, the California Education Code provides that the Personnel Commission classifies positions; recommends salaries; hears appeals of disciplinary and dismissal matters; protests involving examinations selection or appointment procedures; and prescribes rules related to a variety of personnel practices. Authority for Personnel Commission functions are provided in sections 45240 through 45230 of the California Education Code.

With the introduction of collective bargaining (CSEA), functions of the Personnel Commission takes on added significance. The necessity of objective information and classification decisions unaltered by labor or management pressures, protection of the rights of non-represented employees and an independent body which can hear employee appeals in an impartial manner are all vital to the efficient and economic operations of a school or college district and to the benefit of the general public. San Bernardino City Unified School District's has about 4500 non-teaching position, of which approximately 2500 are classified support positions that include, but not limited to: education assistants, library aides, custodians, custodians, office support staff, and other key employees.

The rules found herein are a result of considerable research to satisfy all provisions of the Education Code and related administrative policy. Although the rules are flexibly tailored to the needs of the San Bernardino City Unified School District, we readily recognize that as the rules are applied, there will be need for revision, amendment and addition.

DEFINITIONS

The following terms when used in these rules shall have the meaning indicated below unless the context or prevailing law clearly indicates otherwise.

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

AFFIRMATIVE ACTION: A policy by the Marin County Office of Education avowing non-discrimination in employment while also furthering the employment of certain protected groups.

ALLOCATION: The official placing of a position in a given class by the Personnel Commission and the assignment of the class title to the position.

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

APPEAL: A request for review by an employee relative to an administrative decision of suspension, demotion or dismissal.

APPLICANT: A person who has filed an application for employment or participates in an examination.

APPOINTING AUTHORITY OR POWER: The Board of Education or its designees, or the Personnel Commission when referring to Commission employees and positions.

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

ASSIGNMENT: Placement of an appointee in a position. The position to which an employee is placed.

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

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

BOARD: The Board of Education of the San Bernardino City Unified School District.

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

CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION (CSEA): CSEA Chapter #183 is the exclusive representative for employees in certain designated classifications representing the majority of classified personnel.

CANDIDATE: A person who has competed in one or more portions of a merit system examination.

CAUSE: The grounds for discipline identified within these Rules as being subject to disciplinary action or offenses enumerated in the law.

CERTIFICATED SERVICE: Those persons and positions required by law to possess credentials issued by the State Department of Education for the State of California.

CERTIFICATION: The submission of names of candidates from an appropriate eligibility list established by the Personnel Commission or from some other source of eligibility, to the appointing power or to the department head authorized to make selections subject to the approval of the appointing power.

CLASS: (Sometimes referred to as “Classification.”) A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be assigned by the Personnel Commission to designate each position allocated to the group.

CLASSIFICATION: The action of the Personnel Commission in placing a position into a “Class.” Each position in the classification shall have a designated title, minimum qualifications, and placement on the appropriate salary schedule. Each position in the classification shall have regular minimum number of assigned hours per day, days per week, and months per year as established by the Board of Education.

CLASSIFIED SERVICE: All persons and positions in the District to which the merit system provisions of the Education Code apply and which are not exempted by those provisions.

CLASS SPECIFICATION: A formal statement of duties and responsibilities of the position(s) in the class, illustrated by examples of typical tasks as well as the qualification requirements for employment in the position(s) in the class.

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

COMPLAINT: An employee complaint concerning violations or alleged violations of these rules. This term does not apply to appeals from disciplinary actions, requests for classification study or salary review.

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

CONTINUOUS EXAMINATION(S): A procedure or procedures authorized by the Personnel Commission for the frequent testing of applicants in certain specified classes (or classifications).

DAY: Means a day in which the District Offices are open.

DEMOTION: A change in assignment of an employee from a position in one class to a position in another class which is allocated to a lower maximum salary rate or status with or without the employee’s written voluntary consent.

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

DISCHARGE or DISMISSAL: Separation from the classified service for cause in accordance with the Rules and Regulations of the Personnel Commission.

DISCIPLINARY ACTION: Includes any action whereby an employee is deprived of any classification or any incident of any classification in which he/she has permanence, including dismissal, suspension, demotion, or any reassignment, without his voluntary consent, except a layoff for lack of work or lack of funds.

DISTRICT: The San Bernardino City Unified School District.

DUAL CERTIFICATION: A procedure authorized by the Personnel Commission which provides for simultaneous certification from an open eligibility list and a promotional eligibility list in accordance with examination scores.

DUTIES STATEMENT: A listing of the specific duties assigned to a classification. It is sometimes referred to as a “position description” or “class description.”

ELIGIBILITY LIST: A rank or unranked order list of the names of persons who have qualified in a merit system examination for employment through one of the Personnel Commission’s competitive examination processes.

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

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

EMPLOYEE: A person who is employed by the District.

EMPLOYMENT LIST: A list of names from which certification(s) may be made. The term includes eligibility lists, reemployment lists, as well as lists of individuals who wish to be transferred, voluntarily demoted, reinstated or reemployed after resignation, or those who wish to be reinstated to a former class after voluntary demotion or reduction to limited term status.

EMPLOYEE ORGANIZATION: An organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer, as defined in the Government Code in Sections 3540 et seq.

EMPLOYMENT STATUS: An employee’s present appointment indicating whether employee is probationary, permanent, emergency or temporary (includes limited term and provisional).

EVALUATION: A formal written statement of the quantity and quality of the work performed by a person employed in the District’s classified service. (Also referred to as Performance Evaluation.)

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

EXECUTIVE SECRETARY: A position approved by the Personnel Commission and exempt from specific provisions of these rules in accordance with Education Code Section 45272. Also referred to as an administrative or superintendent's assistant.

EXEMPT CLASSIFIED: Refers to those positions and employees exempt from the regular classified service as provided in Education Code Section(s): 45256b, 45257 and 45258.

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

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

FULL-TIME POSITION: A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis is equal to or greater than eighty-seven and a half percent (87.50%) of the normally assigned time of the majority of employees in the classified service of the District.

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

GRIEVANCE: An employee complaint alleging violation of a written rule or policy, not including appeals of disciplinary action or request for classification study or salary review.

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

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

HEARING OFFICER: A person employed by the Personnel Commission to hear and make recommendations on appeals.

HIRE DATE: Date of original hire as an employee or most recent rehire after a 39 month separation period.

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

IMMEDIATE SUPERVISOR: A person occupying a management position in a higher classification that assigns checks and/or supervises the work of a given employee.

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

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

INTERVIEW: Part of the selection process, for the purpose of evaluating the education, experience, and qualifications of the candidate(s); also known as an "oral interview or oral examination." This term also applies to a meeting between an eligible and an appointing power, or its designated representative, to discuss a potential appointment to a position.

INVESTIGATION: A fact-finding procedure related to an appeal or a complaint.

INVOLUNTARY LEAVE: Leave of absence resulting from a disciplinary action; a suspension.

JOB AUDIT: A personnel job evaluation technique by which a staff analyst may use various combinations of job audit questionnaires, personal interviews, as well as work site observations and conversations, to collect data on the duties, tasks and responsibilities of a position.

JOB TITLE: The title assigned to a classification.

LAYOFF: Separation from a permanent position because of the lack of work, or lack of funds. A layoff shall also include a reduction in hours of employment or assignment to a class lower than that in which the employee has probationary or permanent status, in order to avoid interruption of employment.

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

LIMITED-TERM: A term used in the Education Code to designate employment for periods of time not to exceed six (6) calendar months; or employment of a temporary employee during the authorized absence of a permanent employee.

LIMITED-TERM EMPLOYEE: An employee who is serving as a substitute for a regular employee, or serving in a position established for a limited and specified period of time of six (6) months or less.

LOYALTY OATH: A statement required as mandated for each new employee concerning his support of the United States and California Constitutions.

MANAGEMENT EMPLOYEE: Any employee in a position having significant responsibilities for formulating policies or administering policies.

MERGING: The act of combining two or more eligibility lists, which were established not more than a year apart, in the rank order of the scores of the eligibles.

MERIT SYSTEM: A personnel system in which merit and fitness determines an individual's selection and progress through the classified service.

NEPOTISM: Assignment of close relatives to the same school or office or in a supervisory/subordinate relationship. No employee shall initiate or participate in personnel actions, which include but are not limited to: appointment, transfer, promotion, demotion, lay-off, suspension, termination, re-employment, work assignment, evaluation, hours, payroll reporting, grievance adjustment, or any other personnel action that may affect another district employee who is defined as a relative.

NON-CLASSIFIED SERVICE: All positions and employees not in the classified or certificated service, i.e., those exempted by law. Non-classified employees are at will, subject to termination at any time.

OUT OF CLASS: (Also referred to as Working out of Class") The assignment of additional or new duties to an employee which are not a part of his/her regular position and which require the use of a higher skill. Out of class assignments are compensated only when the assignment exceeds five (5) days

within a 15 calendar day period.

PART-TIME POSITION: A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than eighty-seven and a half percent (87.50%) of the normally assigned time for the majority of employees in the classified service.

PERFORMANCE EVALUATION: A formal written statement of the quantity and quality of the work performed by a person employed in the District's classified service. (Also referred to as Evaluation.)

PERMANENT EMPLOYEE: An employee who has completed an initial probationary period of one hundred thirty (130) days of paid regular services in the classified service (excluding days absent for illness or injury). Classes designated as management or police are required to satisfactorily complete a probationary period of one year.

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

PERSONAL NECESSITY LEAVE: A leave of absence with pay for a limited duration which may be taken for reasons of personal need as specified in the Education Code, Collective Bargaining Agreement, and the Rules and Regulations of the Personnel Commission. Such leave is charged against the employee's earned cumulative sick leave, and is limited to a maximum of seven (7) days per school year.

PERSONNEL COMMISSION: A three-member committee established pursuant to the requirements of "The Merit System Act" to administer the Merit System in the San Bernardino City Unified School District.

PERSONNEL DIRECTOR: The person appointed by the Personnel Commission to act as its designated representative in administering the Merit System under the provisions of law and the Rules and Regulations established by the Personnel Commission.

PERSONNEL COMMISSION STAFF: Those persons appointed by the Personnel Commission to carry out the day-to-day operations of the Personnel Commission.

POSITION: A group of duties and responsibilities assigned by the Board of Education or its designee which requires either full-time or part-time employment of one person on a permanent or limited-term basis.

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

PROBATIONARY PERIOD: A trial period of one hundred thirty (130) days, or one year for classes designated as management or police, (excluding days absent while on leave) following appointment from an appropriate eligibility list.

PROBATIONER: An employee who has not completed the required probationary period.

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

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

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

PROVISIONAL APPOINTMENT: A temporary appointment of a person to a permanent or limited-term position which is made in the absence of an appropriate eligibility list for a period of time not to exceed ninety (90) working days or one hundred twenty-six (126) working days in any one fiscal year except when no one is available on an appropriate eligibility list for a part-time position. Provisional employees are at will, subject to termination at any time.

PROVISIONAL EMPLOYEE: A person employed while the examination process is being conducted to fill a position for less than 90 consecutive days or 126 days per fiscal year.

REALLOCATION: Movement of an entire class from one salary schedule or hourly rate to another salary schedule or hourly rate.

RECLASSIFICATION: The removal of a position or positions from one class and placement into another as a result of a gradual change in class assignment as a result of a change in duties.

REEMPLOYMENT: Return to employment of a former employee who has been laid off because of lack of work or lack of funds. Also applies to former employees of the District who are returned to employment for a limited period of time following their retirement.

REEMPLOYMENT LIST: A list of names, in rank order of seniority, of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, or abolishment of position, or other reason specified in these rules, and who are eligible for reemployment without examination in their former class or classes within a period of thirty-nine (39) months following the date of layoff. Voluntary demotions or voluntary reductions in assigned time taken in lieu of layoff or to remain in their present positions rather than be reassigned shall retain eligibility to be considered for an additional period of up to 24 months.

REGULAR APPOINTMENT: An appointment made from an eligibility list or from some other list of person who are legally qualified, e.g., reemployment or reinstatement, to fill a regular full-time or part-time position vacancy.

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

REGULAR STATUS: Probationary or permanent status in the classified service of the District.

REHIRE DATE: The date of most recent regular employment with the District.

REINSTATEMENT: A reappointment of a former permanent employee, within a period of thirty-nine (39) months following the date of his resignation, without examination, to a position in one of the person's former classes or in a related former class at the discretion of the District.

RESIGNATION: A voluntary statement in writing from an employee requesting to be terminated from employment.

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

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

SALARY RANGE: A series of consecutive salary steps that comprise the rates of pay for a classification. The salary range for classified employees usually consists of six (6) steps. The salary range for managers usually consists of five (5) steps.

SALARY RANGE PLACEMENT: The act of placing a specific classification onto a specified range of the salary schedule or salary matrix.

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

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

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

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

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

SENIOR MANAGEMENT: Positions designated by the Board of Education, which meet the requirements of Section 45108.5 of the Education Code.

SENIORITY: Status secured by length of service in a classification for determining the order of layoff.

SEPARATION: The ending of all status as an employee with the District including resignation, dismissal, layoff, or retirement.

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

STATUS: The employee's present standing in the classified service, (i.e., probationary, permanent, provisional, limited term).

STEP ADVANCEMENT: Movement to a higher step on the salary range for the class as a result of having served the required number of paid days or months in the class during a probationary period, or the preceding twelve (12) months until the maximum step has been achieved.

SUBSTITUTE EMPLOYEE: An employee temporarily filling a permanent position during the absence of an incumbent. Substitute employees are at will, subject to termination at any time.

SUSPENSION: An enforced absence of an employee with or without pay for disciplinary purposes, or pending the outcome of an investigation of charges that have been filed against the employee.

TEMPORARY: Employment on the basis of other than permanent or probationary status, e.g. limited-term or provisional status. Temporary employees are at will, subject to termination at any time.

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

VETERANS' CREDIT: Five (5) points or ten (10) points for persons disabled as the result of military service, for military or related service rendered during the time of war or national emergency, and which are to be added to the final passing score of such person or persons competing in an open examination. Not applicable to permanent or probationary employees.

WAIVER: The voluntary relinquishment by an eligible of a right to be considered for appointment from an employment list to one or more position locations, or for a specified or unlimited period of time not to exceed the limited duration of the employment list.

WORKDAY: That part of a twenty-four (24) hour period during which an employee is scheduled to work in accordance with his/her specific assignment.

WORKING OUT OF CLASS: Assignment of additional or new duties that are not a part of an employee's regular position, that require the use of a higher skill. Working out of class assignments are compensated only when the assignment exceeds five (5) days within a 15 calendar day period.

Y-RATE: A salary step, range and/or rate placement which is different from that to which the employee would otherwise be entitled.

REFERENCE: Education Code Section(s): 45103, 45127, 45194, 45256, 45260, 45261, 45262, 45269, 45270, 45285, 45286, 45287, 45290, 45292, 45294, 45296, 45298, 45301, 45302, 45305, 45307, and 45309

CHAPTER 1 - PRELIMINARY STATEMENT

1.1 Statutory Authorization for These Rules:

Article 6 (Merit System) in Chapter 5 of Part 25 in Division 3 of the California Education Code (commencing with Section 45240) provides the Personnel Commission with the right and responsibility for establishing Rules and Regulations as may be necessary to ensure the efficiency of the service, the selection and retention of employees upon a basis of merit and fitness.

The Rules and Regulations contained herein are established by the Personnel Commission pursuant to its authority under Education Code Section 45260; as well as other provisions of law made applicable to the classified service.

Since the implementation of new rules or amendments to existing rules can impact the Board, the Administration, and the classified employees, the Commission has hereby established the policy of submitting copies of all proposed rules, amendments to, or the deletion of existing rules to the exclusive bargaining representative(s) and the District Superintendent for their review and comments at least fourteen (14) calendar days prior to the first reading by the Personnel Commission.

REFERENCE: Education Code Section(s): 45260
Government Code Section(s): 3543.2

1.2 Interpretation and Application of These Rules:

The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These Rules are to be applied with consideration of their intent. However, specific and applicable provisions of the Rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. In instances where 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 Commission Director, subject to appeal to the Personnel Commission. The Commission is open to responsible suggestions to amend rules, which prove to be unclear, or subject to more than one interpretation. However, no rule amendment or new rule shall have retroactive application.

1.3 Generic Terminology:

As used in these Rules, singular terms shall be construed to include the plural, and the plural terms shall be construed to include the singular.

1.4 Severability:

If a judicial review or a change in law causes any portion of these Rules to become invalid or unenforceable, such finding or amendment shall not affect the validity or the enforceability of the other Rules and Regulations.

1.5 Effective Date:

The Rules and Regulations shall be effective the date approved by the Personnel Commission and

shall not have retroactive effects.

1.6 Printing and Distribution of Rules and Regulations:

The Rules and Regulations of the Personnel Commission shall be printed and distributed to every personnel commissioner and board member of the District. In addition, copies shall be made available in the offices of the Superintendent, each Assistant Superintendent, each work site and one copy in each school. Every certificated and classified administrator/manager shall receive a copy of the Rules. The exclusive representative(s) of the classified employees shall also receive a reasonable number of copies of the Rules. The Rules and Regulations are also available on the District website and the District's email program.

Copies of Article 6 of Chapter 5 of Part 25 of the California Education Code (commencing with Section 45240) shall also be printed and given the same distribution as noted in Section 1.1.5 above.

REFERENCE: Education Code Section(s): 45260

1.7 Subject of Rules:

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

REFERENCE: Education Code Section(s): 45260 and 45261

1.8 Violation of Merit System Laws:

Violation of Merit System laws shall be criminal. Any person who willfully or through culpable negligence violates any of the provisions of Article 6, commencing with Section 45240 of the Education Code is guilty of a misdemeanor.

REFERENCE: Education Code Section(s): 45317

1.9 Other Unlawful Acts:

In addition to the prohibition on unlawful acts outlined in Rule 1.8, it is also unlawful for any person:

1.9.1 Willfully, either alone or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to any right of examination, application, or employment under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission.

1.9.2 Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under the Merit System laws of the

Education Code or the Rules and Regulations of the Personnel Commission, or to aid in doing, or make any false representation concerning the same of the person examined.

- 1.9.3 Willfully to furnish to any person any special or secret information regarding contents of examination for the purpose of either improving or injuring the prospect or chances of any person examined, or to be examined under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission.

REFERENCE: Education Code Section(s): 45317

1.10 Precedence of Negotiated Agreement:

Notwithstanding any rule to the contrary, a provision in an agreement between the District and a classified employees' bargaining unit which has been negotiated with the scope of representation and which is at variance with a rule of the Commission, shall take precedence over the Commission's rules provided the agreement is lawful.

REFERENCE: Government Code Section(s): 3543.2

1.11 Non Discrimination Policy:

No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

REFERENCE: Penal Code Section(s): 422.55

The following is a current copy of the Nondiscriminatory Harassment Policy adopted by the San Bernardino City Unified School District governing board:

Nondiscrimination in Employment

Purpose:

To prevent discriminatory harassment in the work place and educational environment.

Policy Statement

The San Bernardino City Unified School District is committed to providing all employees and students a working and learning environment that is free of discrimination, harassment, intimidation, and bullying in accordance with applicable state and federal laws. This nondiscriminatory working and learning environment is for the benefit of all district employees (non-supervisory, supervisors and management) and students. All employees are expected to fully comply with this policy. Additionally, non-employees who have contact with the district's employees or students during working or educational hours are expected to conduct themselves in accordance with this policy. Absolutely no one is authorized to engage in conduct prohibited by this policy.

In keeping with this commitment to a nondiscriminatory working environment, the district maintains a strict policy prohibiting sexual harassment, discrimination, harassment, intimidation, and bullying or harassment based on age over forty, race or ethnicity, ethnic group identification, color, actual or perceived sex, religion, national origin, ancestry, medical condition (cancer and genetic characteristics)*, marital status, physical or mental disability, sexual orientation, gender**, personal or family genetic information, or family care and medical leave entitlement in accordance with applicable state and federal laws. It is also prohibited to discriminate on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics. This policy prohibits all forms of discriminatory harassment through any means, including nonverbal, verbal (including derogatory comments, slurs, propositions, teasing, jokes or taunts), physical (including gestures, touching, obstructing or otherwise interfering with a person's movement) or visual (including leering, cartoons, drawings, magazines, notes, letters or posters).

This policy prohibits all conduct by which an employee or student because of race or ethnicity, ethnic group identification religion, color, national origin, ancestry, physical disability, mental disability, medical condition (cancer or genetic characteristics)*, marital status, age (40 and above), sex, sexual orientation, gender**, personal or family genetic information, on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics or family care and medical leave entitlement, is subjected to unwelcome, offensive, intimidating, oppressive or otherwise interfering harassment or is subject to any discrimination, harassment, intimidation, or bullying thereof on district property or district/school related activities. This includes discrimination, harassment, intimidation, or bullying based on the actual or perceived characteristics as specified above. This policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the Superintendent of the school district. Students and employees will not be excluded on the basis of actual or perceived sex, sexual orientation, gender, age, ethnic group identification, race or ethnicity, ancestry, national origin, religion, color, mental or physical disability, personal or family genetic information, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics from participation in any educational program, curricular or extracurricular, including all sports and other activities, denied the benefits of participation, or subjected to harassment or other forms of discrimination, harassment, intimidation, or bullying in such programs or employment.

Medical Condition is defined, in accordance with the California Fair Employment and Housing Act, as any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer or genetic characteristics.

Gender is defined as the person's actual sex, or the perception of the person's sex, and includes the perception of the person's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated or stereo typically with that person's assigned sex at birth. The district may require persons to comply with reasonable workplace appearance, grooming, and dress standards consistent with state and federal law, provided that persons are allowed to appear or dress consistently with their gender identity.

"Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property,
2. Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
3. Causing a reasonable pupil to experience substantial interference with his or her academic performance.
4. Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

An electronic act means the transmission of a communication, including, but not limited to, a message, text, sound, or image, or a post on a social network Internet Web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.

A reasonable pupil means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct or a person of his or her age, or for a person of his or her age with his or her exceptional needs.

Sexual Harassment

All of the foregoing apply to complaints of sexual harassment. For the purpose of clarification, prohibited sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal, visual or physical conduct of a sexual nature where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic status or progress;
2. Submission to, or rejection of, such conduct by an individual is used as the basis of employment or educational decisions affecting the individual;
3. Such conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance or creating an intimidating, hostile, or offensive working or educational environment; or
4. Submission to, or rejection of the conduct by the individual regarding benefits and services, honors, programs, or activities available at or through the district or its sites.

Examples of prohibited harassing acts:

1. Unwelcome sexual advances or sexual propositions
2. Kidding, teasing, or joking of a sexual nature or of other protected bases delineated above
3. Graphic commentary about an individual's body, sexual prowess or sexual deficiencies

4. Derogatory or demeaning comments about anyone's gender in general or gender identity or expression, epithets, slurs or jokes about one's race or ethnicity, color, national origin, religious creed, physical or mental disability, age (40 and over), sex, gender identity or expression, sexual orientation, or marital status
5. Leering or staring at someone
6. Unwelcome suggestive or insulting sounds such as whistles, kissing sounds, howling, or sucking noises
7. Touching, patting, pinching, stroking, squeezing, tickling or brushing against another's body
8. Displaying offensive objects, pictures, calendars, cartoons, magazines, videotapes, audio recordings or literature which are sexual in nature
9. Unwelcome use of sexually degrading language or innuendoes
10. Obscene gestures

Consensual sexual relationships:

Romantic or sexual relationship of any employee with elementary or secondary students is clearly prohibited pursuant to state molestation laws concerning adults and children. Romantic or sexual relations between an adult student and faculty member or between a subordinate employee and his/her superior can raise "serious concerns" where there may be a conflict of interest and abuse of power. Such relations may lead to favoritism of a student or subordinate employee with whom the teacher or superior is sexually involved and where such favoritism adversely affects other students and/or employees

1. Unwanted neck or shoulder massage
2. Spreading rumors about a person's sexuality
3. Graffiti about a person's sexuality
4. Letters, notes, telephone calls, e-mail or materials of a sexual nature
5. Stalking a person
6. Attempted or actual sexual assault
7. Making or threatening reprisals after a negative response to sexual advances
8. Impeding or blocking of one's movement
9. Repeatedly asking out a person who is not interested

Enforcement

Disciplinary action up to and including termination will be promptly taken against any employee (nonsupervisory, supervisor or manager) if it becomes known to management that such person has engaged in conduct prohibited by this policy.

No Retaliation

No employee or student shall be retaliated against, in any manner, for reporting conduct which he/she believes to be a violation of this policy, for participating in an investigation of a possible violation of this policy, or for using the district's Complaint Procedure.

Retaliation against anyone reporting or perceived to have reported sexual harassment behavior is prohibited. Any retaliatory conduct shall be considered a serious violation of this policy and shall be independent of whether a complaint of sexual harassment is substantiated. Moreover, encouraging others to engage in retaliatory conduct also violates this policy.

Examples of prohibited retaliation:

1. Unfair grading
2. Unfair evaluation
3. Unfair assignment
4. Public or private ridicule
5. Oral or written threats
6. Intimidation
7. Destruction of property
8. Further harassment

Complaints

Individuals who have been subjected to discriminatory harassment have an obligation to immediately report the incident or incidents to their immediate supervisor or the district's Affirmative Action Director, who is also the district's Title IX Coordinator. Complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, harassment, intimidation, or bullying will be processed in accordance with the district's Uniform Complaint Policy and Procedure and in accordance with the procedures set out in 5 CCR 4600-4687. Copies of the district's complaint procedures shall be available free of charge. The district's Affirmative Action Office shall have available information on the rules and procedures for reporting charges of sexual harassment and pursuing available remedies.

The procedure set forth pursuant to the district's Uniform Complaint Policy and Procedure does not deny the right of any individual to pursue other avenues of remedy under the jurisdiction of any state or federal law.

The confidentiality of the reporting or complaining party will be observed provided it does not interfere with the district's ability to investigate or take corrective action and shall remain confidential, as appropriate.

School personnel who witness acts of discrimination, harassment, intimidation, or bullying based on actual or perceived characteristics, as specified in this policy, are required to take immediate steps to intervene when safe to do so.

Notifications

Pursuant to Educational Code 231.5, a copy of this policy will be displayed in a prominent location in the main administrative building or other areas of the school site or campus. A prominent location is a location or those locations in the main administrative building or other areas where notices regarding the district's rules, regulations, procedures, and standards of conduct are posted including offices, staff lounge and pupil government meeting rooms.

Also, a copy of this policy will be provided to each person employed by the school district at the beginning of the first quarter or semester of the school year, or at the time that a new employee is hired. A copy of the district's written policy on sexual harassment shall appear in any publication of the district that sets forth the comprehensive rules, regulations, procedures and standards of conduct for the district.

Site administrators or immediate supervisors who receive a sexual harassment incident report from any employee, non-employee or the public are required to submit a report to the Affirmative Action Office in order for the Affirmative Action Office to maintain a record of complaints. Also any bullying incident report covered under this policy shall be reported to the Affirmative Action Office to maintain a record of complaints and their resolution.

Training

By January 1, 2006, and every two years thereafter, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All newly hired or promoted supervisory employees shall receive training within six months of their assumption of the supervisory position. (Government Code 12950.1)

The district's training and education program for supervisory employees shall include information and practical guidance regarding the federal and state statutory law on the prohibition against and the prevention and correction of sexual harassment and the remedies available to the victims of sexual harassment in employment. The training shall also include practical examples aimed at instructing supervisors in the prevention of harassment discrimination, harassment, intimidation, or bullying and retaliation. (Government Code 12950.1)

The district's Affirmative Action Director or designee is responsible for ensuring school district compliance with the requirement of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200).

REFERENCE: GAMUT Online : San Bernardino City USD : Nondiscrimination In Employment BP 4030

Sexual Harassment

The San Bernardino City Unified School District is committed to providing all employees and students a working and learning environment that is free of discrimination in accordance with applicable state and federal laws. This nondiscriminatory working and learning environment is for the benefit of all district employees (non-supervisory, supervisors and management) and students. All employees are expected to fully comply with this policy. Additionally, non-employees who have contact with the district's employees or students during working or educational hours are expected to conduct themselves in accordance with this policy. Absolutely no one is authorized to engage in conduct prohibited by this policy.

In keeping with this commitment to a nondiscriminatory working environment, the district maintains a strict policy prohibiting sexual harassment or sexual discrimination. This policy prohibits all forms of discriminatory harassment through any means, including nonverbal, verbal (including derogatory comments, slurs, propositions, teasing, jokes or taunts), physical (including gestures, touching, obstructing or otherwise interfering with a person's movement) or visual (including leering, cartoons, drawings, magazines, notes, letters or posters).

This policy prohibits all conduct by which an employee or student because of sex, sexual orientation, or gender orientation is subjected to unwelcome, offensive, intimidating, oppressive or otherwise interfering harassment or is subject to any discrimination, thereof on district property or district/school related activities. Students and employees will not be excluded on the basis of sex, sexual orientation, or gender from participation in any educational program, curricular or extracurricular, including all sports and other activities, denied the benefits of participation, or subjected to harassment or other forms of discrimination in such programs. This policy also prohibits bullying based on actual or perceived gender and all such acts related to school activity or school attendance of students occurring with a school under the jurisdiction of the Superintendent of the school district.

Gender is defined as the person's actual sex, or the perception of the person's sex, and includes the perception of the person's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with that person's sex at birth. The district may require persons to comply with reasonable workplace appearance, grooming, and dress standards consistent with state and federal law, provided that persons are allowed to appear or dress consistently with their gender identity.

Sexual Harassment

All of the foregoing apply to complaints of sexual harassment. For the purpose of clarification, prohibited sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal, visual or physical conduct of a sexual nature where: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; or (2) submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions effecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with work or educational performance or creating an intimidating, hostile, or offensive working or learning environment.

Examples of prohibited harassing acts:

1. Unwelcome sexual advances or sexual propositions
2. Kidding, teasing, or joking of a sexual nature or of other protected bases delineated above

3. Graphic commentary about an individual's body, sexual prowess or sexual deficiencies
4. Derogatory or demeaning comments about anyone's gender in general or gender identity or expression, epithets, slurs or jokes about one's race or ethnicity, color, national origin, religious creed, physical or mental disability, age (40 and over), sex, gender identity or expression, sexual orientation, or marital status
5. Leering or staring at someone
6. Unwelcome suggestive or insulting sounds such as whistles, kissing sounds, howling, or sucking noises
7. Touching, patting, pinching, stroking, squeezing, tickling or brushing against another's body
8. Displaying offensive objects, pictures, calendars, cartoons, magazines, videotapes, audio recordings or literature which are sexual in nature
9. Unwelcome use of sexually degrading language or innuendoes
10. Obscene gestures

Consensual sexual relationships

Romantic or sexual relationship of any employee with elementary or secondary students is clearly prohibited pursuant to state molestation laws concerning adults and children. Romantic or sexual relations between an adult student and faculty member or between a subordinate employee and his/her superior can raise "serious concerns" where there may be a conflict of interest and abuse of power. Such relations may lead to favoritism of a student or subordinate employee with whom the teacher or superior is sexually involved and where such favoritism adversely affects other students and/or employees.

1. Unwanted neck or shoulder massage
2. Spreading rumors about a person's sexuality
3. Graffiti about a person's sexuality
4. Letters, notes, telephone calls, e-mail or materials of a sexual nature
5. Stalking a person
6. Attempted or actual sexual assault
7. Making or threatening reprisals after a negative response to sexual advances
8. Impeding or blocking of one's movement
9. Repeatedly asking out a person who is not interested

Enforcement

Disciplinary action up to and including termination will be promptly taken against any employee (nonsupervisory, supervisor or manager) if it becomes known to management that such person has engaged in conduct prohibited by this policy.

No Retaliation

No employee or students shall be retaliated against, in any manner, for reporting conduct which he/she believes to be a violation of this policy, for participating in an investigation of a possible violation of this policy, or for using the District's Complaint Procedure.

Retaliation against anyone reporting or perceived to have reported sexual harassment behavior or bullying because of one's gender is prohibited. Any retaliatory conduct shall be considered a serious violation of this policy and shall be independent of whether a complaint of sexual harassment is substantiated. Moreover, encouraging others to engage in retaliatory conduct also violates this policy.

Examples of prohibited retaliation:

- 1 . Unfair grading
2. Unfair evaluation
3. Unfair assignment
4. Public or private ridicule
5. Oral or written threats
6. Intimidation
7. Destruction of property
8. Further harassment

Complaints

Individuals who have been subjected to discriminatory harassment have an obligation to immediately report the incident or incidents to their immediate supervisor or the district's Affirmative Action Director, who is also the district's Title IX Coordinator. The complaint will be processed in accordance with the district's Uniform Complaint Policy and Procedure. School personnel who witness such bullying acts *are* required to take immediate steps to intervene when safe to do so.

The procedure set forth pursuant to the district's Uniform Complaint Policy and Procedure does not deny the right of any individual to pursue other avenues of remedy under the jurisdiction of any state or federal law.

The confidentiality of the reporting or complaining party will be observed provided it does not interfere with the district's ability to investigate or take corrective action and will remain confidential, as appropriate.

Notifications

Pursuant to Educational Code 212.6, a copy of this policy will be displayed in a prominent location in the main administrative building or other areas of the school site. A prominent location is a location where notices regarding the district's rules, regulations, procedures, and standards of conduct are posted.

Also, a copy of this policy will be provided to each person employed by the school district at the beginning of the first quarter or semester of the school year, or at the time that a new employee is hired.

Site administrators or immediate supervisors who receive a sexual harassment incident report from any employee, non-employee or the public are required to submit a report to the Affirmative Action Office in order for the Affirmative Action Office to maintain a record of complaints. Also any report or complaint of bullying based on actual or perceived gender with their resolution will be submitted to the Affirmative Action Office.

REFERENCE: GAMUT Online: San Bernardino City USD: Sexual Harassment BP 4119.11

CHAPTER 2 - THE PERSONNEL COMMISSION

2.1 Organization Of The Commission

2.1.1 Term(s) Of Office And General Selection Procedures:

The Personnel Commission is composed of three individuals who must be registered voters, reside in the San Bernardino City Unified School District, and be “known adherents to the principle of the Merit System.” One (1) member of the Commission is appointed by the Board of Education, one (1) member is appointed by the Board of Education upon the recommendation of the classified employee organization which represents the largest number of the District’s classified employees, and the third member is appointed by the other two (2) members of the Commission after publicly announcing the name of the person they intend to appoint.

2.1.1.1 As used in this chapter, “known adherent to the principle of the Merit System,” with respect to a new appointee, shall mean a person who by the nature of his/her prior public or private service has given evidence that he/she supports the concept of employment, continuance in employment, in-service promotional opportunities, and other related matters on the basis of merit and fitness. As used in this chapter, “known adherent to the principle of the Merit System,” with respect to a candidate for reappointment, shall mean a commissioner who has clearly demonstrated through meeting attendance and actions that he/she does, in fact, support the Merit System and its operation.

2.1.1.2 No member of the governing board of any school district or a county board of education shall be eligible for appointment, reappointment, or continuance as a member of the Commission. During a commissioner’s term of office, a member of the Personnel Commission shall not be an employee of the San Bernardino City Unified School District.

REFERENCE: Education Code Section(s): 45244, 45245, 45246 and 45247

2.1.2 Appointment Procedures:

By law, the term of each commissioner is for three years commencing at noon the first day of December. Terms shall be staggered so that each year the term of one member shall expire on December 1st at noon. Appointments to fill vacancies occurring during a term shall be made for the balance of the original term.

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

2.1.2.1 The Board Of Education's Appointment:

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

2.1.2.2.1 The Classified Employees' Appointment:

By the classified employee organization having authority to nominate the classified employees' appointee to the Commission shall submit to the Board the name of the person it wishes to appoint to the Commission. The Board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee, to be effective on the date on which the vacancy would occur.

2.1.2.2.1 In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on August 14th the year in which the classified employees' appointment is to be made shall be the one authorized to submit the recommended appointment to the Board of Education for action as required by law and these Rules and Regulations.

2.1.2.2.2 In the event that the classified employees have no exclusive representative, the Personnel Commission Director shall solicit nominees from the classified employees. Those qualified nominees accepting the nomination shall be placed on a ballot for a vote by all classified employees of the district. The name of the nominee receiving the greatest number of votes cast in a secret ballot shall be submitted to the Board of Education for appointment to fill the vacancy.

2.1.2.2.3 In the event that a vacancy is created on the

Personnel Commission because of the classified employees' failure to agree upon a nominee, the Board of Education, upon the recommendation of the Personnel Commission Director, may make an emergency appointment for hiring purposes only until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

2.1.2.3 The Commissioners' Appointment:

By September 30th, the appointee of the Board of Education and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint or reappoint. At a Personnel Commission meeting to be held after thirty (30), and within forty-five (45) days of the date the Commission publicly announced its candidate, the Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board of Education the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

2.1.2.3.1 In the event that a vacancy would otherwise exist on the Personnel Commission as of December 1st because of the failure of the Commission to take action on a new appointment, the commissioners' prior appointee shall continue in office and function as a member of the District's Personnel Commission until such time as the commissioners take the necessary action(s) to appoint a qualified successor and that person is prepared to assume the duties and responsibilities of the position.

2.1.2.3.2 If the reason for the lack of appointment is an inability to agree upon a joint appointee, the appointment shall be made by the State Superintendent of Public Instruction if no agreement is reached by December 15th.

REFERENCE: Education Code Section(s): 45245-45248

2.1.3 Filling of Vacancies during Term of Office:

In the event that a vacancy occurs during the term of office of any of the commissioners, a new appointee shall be selected by the original appointing authority to complete the unexpired term in accordance with the procedures noted

below. The Personnel Commission Director shall immediately notify the other commissioners, the Board of Education and the recognized classified employee organization(s) of the name of the commissioner, the effective date of the vacancy, the duration of the unexpired term, the name of the appointing authority, and the procedures to be followed in filling the vacancy.

2.1.3.1 The Board Of Education's Appointment:

Within fifteen (15) days of notification of the vacancy, the Board of Education shall publicly announce the name of the person it intends to appoint to fill the unexpired term. At a Board meeting to be held after thirty (30) and within forty-five (45) days of the date the Board publicly announced its candidate, the Board shall hold a public hearing to provide the public, employees, and the employee organization(s) the opportunity to express their views on the qualifications of the person recommended by the Board of Education for appointment. The board at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

2.1.3.2 The Classified Employee's Appointment:

Within fifteen (15) days of notification of the vacancy, the classified employee organization having authority to nominate the classified employees' appointee to the Commission, shall publicly submit the name of the person it wishes to appoint to the Commission to fill the unexpired term. At a board meeting to be held after thirty (30), and within forty-five (45) days of the date the employees' nominee was submitted to the Board, the Board shall hold a public hearing to provide the public, employees, Board, District Administration, and employee organizations the opportunity to express their views on the qualification of the person nominated by the classified employee organization for appointment. The Board shall appoint the nominee unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee.

2.1.3.2.1 If the Board and the classified employees are unable to agree upon a nominee because the Board has made a legitimate claim as to the lack of the mandated qualifications of the nominee or the classified employee organization has refused to submit a nominee within thirty (30) days of notification of the vacancy, the State Superintendent of Public Instruction shall, within thirty (30) days, make the necessary appointment.

2.1.3.2.2 In the event that the classified employees of the District are represented by one or more

recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on August 15th of the year in which the classified employees' original appointment was made shall be the one authorized to submit the recommended appointment to the Board of Education for action as required by law and these Rules and Regulations.

2.1.3.2.3 In the event that the classified employees have no exclusive representative, the personnel director shall solicit nominees from the classified employees. Those qualified nominees accepting the nomination shall be placed on a ballot for a vote by all classified employees of the District. The name of the nominee receiving the greatest number of votes cast in a secret ballot shall be submitted to the Board of education for appointment to fill the vacancy.

2.1.3.2.4 In the event that the vacancy goes unfilled because of the classified employees' failure to agree upon a nominee, the Board of Education, upon the recommendation of the Personnel Commission Director, may make an emergency appointment for hiring purposes only until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

2.1.3.3 The Commissioners' Appointment:

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

2.1.3.3.1 If the commissioners are unable to agree upon a joint appointment within forty-five (45) days after the notification of the vacancy, the appointment to fill the unexpired term shall be

made by the State Superintendent of Public Instruction.

REFERENCE: Education Code Section(s): 45245-45248 and 45260

2.1.4 Emergency Appointment Of Commissioners:

If there are two (2) vacancies on the Personnel Commission notwithstanding these Rules, the Board of Education at the request of the Personnel Director shall declare that an emergency exists and shall make one interim appointment to fill a vacancy to insure the continuance of the hiring functions of the Personnel Commission. An interim appointment shall terminate on the date of the notification of permanent appointment is received by the appointee.

2.1.4.1 An interim appointee must meet the requirements of Section 45244 of the Education Code and Rule 2.1.1, and be free of the restrictions contained therein.

2.1.4.2 An interim appointment in no event shall be valid for more than sixty (60) calendar days.

REFERENCE: Education Code Section(s): 45244, 45248, 45260 and 45261

2.1.5 Officers:

At its first regularly scheduled meeting in December of each year, the Commission shall elect one (1) of its members to serve as Chairperson and another of its members to serve as Vice-Chairperson for a period of one (1) year or until such time as their successors are duly elected. The commission at this same meeting shall elect the Personnel Commission Director as Secretary to the Personnel Commission.

REFERENCE: Education Code Section(s): 45260 and 45261

2.1.6 Quorum And Majority Vote:

Two (2) members of the Commission shall constitute a quorum for any regular or special meeting of the Personnel Commission. The affirmative vote of at least two (2) members of the Commission is required to carry any motion or action.

2.1.7 Compensation Of Commission Members:

The Board of Education may authorize payment to the members of the Personnel Commission at the rate of fifty dollars (\$50) per meeting, not to exceed two-hundred fifty dollars (\$250) per month. The Board of Education may authorize the members of the Commission to receive the same health insurance plans of the District as provided to members of the Board of Education.

REFERENCE: Education Code Section(s): 45250

2.1.8 Events Causing Vacancy Before Expiration Of Term:

Personnel Commissioners shall be expected to attend all regular and special meetings of the Personnel Commission. If a member is unable to attend a scheduled meeting the member shall contact the Personnel Commission Director to inform the Commission of the expected absence. A member of the Personnel Commission shall be deemed to have vacated the seat of the Commission on the happening of any of the following events before the expiration of the prescribed term:

- 2.1.8.1 The death of the commissioner.
- 2.1.8.2 An adjudication pursuant to a quo warrant proceeding declaring that the commissioner is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the commissioner will not be able to perform the duties of the office for the remainder of the term.
- 2.1.8.3 The commissioner's resignation.
- 2.1.8.4 The commissioner's removal from office by a court of competent jurisdiction.
- 2.1.8.5 The commissioner ceasing to meet all the legal requirements to continue to be a commissioner as outlined in Chapter 2.1.1.
- 2.1.8.6 The commissioner's absence exceeding four (4) total regular meetings in a fiscal year, except when prevented by sickness, or excused absence.
- 2.1.8.7 The commissioner's conviction of a felony or of any offense involving a violation of the official duties of a commissioner as required by these Rules and/or the law. A commissioner shall be deemed to have been convicted under this Rule when trial court judgment is entered.
- 2.1.8.8 The decision of a competent tribunal declaring voids the commissioner's appointment.
- 2.1.8.9 The commissioner's commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict. In this event, the office shall not be deemed vacant until the order of commitment has become final.

REFERENCE: Education Code Section(s): 45244, 45245, 45246 and 45247
Government Code Section(s): 1060 et seq., 1750, 1770, 3000, 3001, 3100 and 3753
Penal Code Section(s): 1026, 1368 et seq.
Welfare and Institutions Code Section(s): 5008, 6300 et seq.

2.1.9 Filling A Vacated Position:

Upon a Personnel Commission position becoming vacant pursuant to Government Code 1770, the Commission shall be required to declare the position

vacancy must be listed as an action item on the official published agenda for said meeting. A copy of the agenda must be delivered in the usual and prescribed manner required by these Rules to the Commissioner being subjected to possible removal. The Commission shall solicit input from the Board of Education and the employee organization(s), if any, prior to the final decision. The Personnel Commission Director shall initiate the necessary legal steps to fill the vacancy as mandated by the Education Code and these Rules and Regulations.

REFERENCE: Education Code Section(s): 45244, 45245, 45246 and 45247
Government Code Section(s): 1060 et seq., 1750, 1770, 3000, 3001, 3100 and 3753
Penal Code Section(s): 1026, 1368 et seq.
Welfare and Institutions Code Section(s): 5008, 6300 et seq.

2.2 Meetings Of The Commission

2.2.1 Regular Meetings:

The Personnel Commission shall meet on the first Wednesday of each month, at 5:30 p.m., in the Community Room of the Board of Education building.

2.2.1.1 At its December meeting the Commissioner's shall adopt a schedule for regular meetings for the following calendar year. Additional regular meetings may be added as necessary provided that the Personnel Commission announces the additional regular meeting at a regular meeting of the Commission and any added regular meeting is at least ten (10) calendar days from the meeting where it was scheduled.

2.2.1.2 When the regular meeting falls on a holiday, the Commission shall meet on the next succeeding business day, unless at a prior meeting another day was designated for the meeting.

2.2.1.3 In cases of emergency, the commission may meet at some other time and/or place, provided that at least seventy-two (72) hour notice is given to representatives of the employee organizations and the District's administration as well as being posted on the Commission's official bulletin board (located at the entrances of the Board of Education district office at 777 North F Street, San Bernardino, CA 92410).

REFERENCE: Education Code Section(s): 45260
Government Code Section(s): 54952-54952.3 and 54956.5

2.2.2 Adjourned Regular Meetings:

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

REFERENCE: Education Code Section(s): 45260

2.2.3 Special Meetings:

Special meetings may be called at any time by the Commission Chairperson or by the written request of any member of the Personnel Commission. Written notice for any such meeting shall be delivered personally or by mail to each member of the Commission. A written notice of such meeting shall also be provided to any of the following persons or organizations if they have filed written requests to be notified of the dates and times of the Commission meetings: each local newspaper of general distribution, radio or television stations, as well as representatives of any recognized employee organization or group, the Board of Education, and the Superintendent of Schools. Such notice must be delivered personally or by mail at least twenty-four (24) hours before the time of such meeting as specified in the notice. A copy of the notice shall also be posted on the Commission's official bulletin board. The meeting notice shall specify the time and place of the special meeting, as well as the business to be transacted, and no other business shall be considered at the meeting.

REFERENCE: Education Code Section(s): 45260
Government Code Section(s): 54956

2.2.4 Public Meetings:

All regular and special meetings of the Commission shall be open to the public, and all persons shall be permitted to attend any of the meetings. This Rule shall not be construed as authorizing employees to be absent from duty for attendance at Personnel Commission meetings, unless they have specific business before the Commission.

2.2.4.1 Individual employees, employee organizations, and other interested parties may submit their written views on any matter before the Commission and will be provided reasonable opportunity to present their views orally. The Commission will consider their comments and recommendations prior to arriving at a course of action.

2.2.4.2 All votes or abstentions to any actions of the Commission during a meeting of the Commission whether in open or authorized closed session shall be recorded in the minutes of the meeting. No secret ballots are permitted.

REFERENCE: Education Code Section(s): 45260
Government Code Section(s): 54952, 54952.3, 54952.5 and 54953

2.2.5 Closed Sessions:

A closed session may be conducted only during a regular or special meeting of the Personnel Commission that has been called with proper notification. Prior to the holding of a closed session, the Commission shall state the general reason(s) for the closed session and may cite the statutory or other legal authority under which the session is being held. In the closed session, the Commission may

consider only those matters covered in its statement of reasons. In the case of a special, an adjourned, or a continued meeting, the statement of reasons shall be made as part of the written meeting notice for such special, adjourned, or continued meeting. In giving the general reason or reasons for holding a closed session, the Commission is not required or authorized to give names or other information which might constitute an invasion of privacy or otherwise unnecessarily divulge protected facts and information for which the closed session is being held.

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

2.2.5.2 The following are legally authorized exceptions to the open meeting requirement:

2.2.5.2.1 Consideration of appointment, employment, dismissal, or evaluation of an employee.

However, any action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of an employee must be reported at a public meeting following the closed session. Such report must include the title of the position and any changes in compensation. The reporting of actions on disciplinary matters may be deferred until the first public meeting following the public meeting following the exhaustion of any administrative remedies.

2.2.5.2.2 Consideration of complaints brought against employees.

The Commission will consider such matters in employees by another person or employee unless such employee (against whom charges or complaints are brought) requests that the matter be considered in a closed session. As a condition of holding a closed session on the complaint, formal charges, or a disciplinary matter, the affected employee shall be given a written notice regarding the matter and his/her right to have the matter heard in closed session rather than an open session; which notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time scheduled to hold the regular or special

Commission meeting. If notice is not given as prescribed, any punitive action taken relative to the employee shall be null and void. During the examination of the complainant or a witness, the Commission may exclude other witnesses even though the hearing is held as part of a public meeting. If a hearing is held in closed session, the Commission may exclude other witnesses as well as the general public while the matter is being investigated. Following the public hearing or closed session, the Commission may deliberate on the matter and reach its decision in closed session.

2.2.5.1.3 Consideration of matters affecting national security.

2.2.5.1.4 Consideration of legal matters coming within the purview of the attorney/client relationship.

The Commission has the right to consider any legal matter(s) within the scope of the attorney/client privilege. This exception, though not expressed in the Brown Act, was found by the California Appellate Court to be implied by the Act (The Sacramento Newspaper Case). According to the Court, "There is a public entitlement to the effective use of legal counsel in civil litigation. Effective aid is impossible if opportunity for confidential legal advice is banned."

2.2.5.2.5 The District's budget, funding priorities and/or available funds are not proper subjects and shall not be matters of a closed session discussion.

2.2.5.2.6 The Commission may hold closed sessions during any regular or special meeting to consider the appointment, employment performance evaluation, dismissal, or the hearing of complaints or charges brought against employees by another person or employee unless such employee requests a public hearing. As a condition of holding a closed session on the complaint, formal charges, or a disciplinary matter, the affected employee shall be given a written notice regarding the matter and the right to have a public hearing rather than a closed session; which notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time scheduled to

hold the regular or special Commission meeting. If notice is not given as prescribed, any punitive action taken relative to the employee shall be null and void. During the examination of a witness, the Commission may exclude other witnesses even though the hearing is held as part of a public meeting. If a hearing is held in closed session, the Commission may exclude other witnesses as well as the general public while the matter is being investigated.

Following the public hearing or closed session, the Commission may deliberate on the matter and reach its decision in a closed session.

- 2.2.5.2.7 A violation of the confidentiality of a closed session by a member of the Personnel Commission constitutes a misdemeanor under the provisions of the Government Code Section(s): 1222 and 1770(h). Repeated violation of the confidentiality of a closed session by a commissioner may be considered grounds for removal from office.

REFERENCE: Education Code Section(s): 35146, 49073, 54957, 54957.1, 54957.2, 54957.6 and 54957.7
Government Code Section(s): 1222, 1770, 3543, 3543.2 and 3549.1

2.2.6 Agenda And Supporting Data:

At least seventy-two (72) hours prior to every regular or special Commission meeting, the agenda shall be provided to the designated representatives of all employee organizations representing classified employees, the Commission members, and the Superintendent of Schools. The agenda(s) will be posted on the Commission's official bulletin board and distributed to the news media having requested it/them. Each item on the agenda shall contain a brief general description of the item.

- 2.2.6.1 When practicable, supporting data for agenda items will be furnished prior to the meeting date.
- 2.2.6.2 Individual employees, employee organizations, and other interested parties may submit their written views on any item on the agenda, except for those matters listed in Personnel Commission Rule 2.2.5, and/or given a reasonable opportunity to present their views orally during the Commission meeting. In reaching its decisions, the Commission has made it a policy to consider all comments and recommendations made in this manner.
- 2.2.6.3 District personnel, representatives of recognized employee organizations, representatives of the Board of Education, District

administrators, or other interested parties may submit items to be placed on a Commission not less than seven (7) calendar days prior to the scheduled Commission meeting at which the item is to be considered.

REFERENCE: Education Code Section(s): 45260

2.2.7 Amendments, Deletions, or Additions to Rules:

All proposals, from any source, to amend, delete, or add to these Rules and Regulations will be considered for a “first reading” at the meeting in which they are first presented to the Personnel Commission. They will not, unless an emergency exists, be acted upon when presented for a “first reading.”

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

2.2.7.2 Insofar as possible, the interested parties shall submit their reactions and/or recommendations to proposed Rule changes in writing on or before the stipulated agenda deadline date (see Personnel Commission Rule 2.2.6). However, those who also want to speak to the item(s) at the Commission meeting will be given that opportunity as provided in Personnel Commission Rule 2.2.6 (Agenda and Supporting Data).

REFERENCE: Education Code Section(s): 45260

2.2.8 Minutes:

The Personnel Commission Director, in his/her capacity as Secretary to the Personnel Commission, shall record in the minutes the time and place of each Personnel Commission meeting, the names of the Commissioners present, all official acts of the Commission, and the votes or abstentions of the Commissioners. When requested by a Commissioner, the Personnel Commission Director shall record that Commissioner’s approval or dissent and any expressed reasons therefore.

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

- 2.2.8.2 The minutes of each Commission meeting or a true copy thereof shall be open and available for public inspection.
- 2.2.8.3 Copies of the Commission's minutes shall be distributed to the designated representatives of all employee organizations representing the District's classified employees, the Commission members, the Board of Education, the Superintendent of Schools, and others who have indicated their interest in such matters.

REFERENCE: Education Code Section(s): 45260

2.3 Commission Employees:

- 2.3.1 The Personnel Commission Director and other persons required to carry out the day-to-day responsibilities of the Personnel Commission shall be selected by the Commission. The Commission shall decide on how those employees will be utilized and determine the assigned time of each employee reporting to the Commission. However, the persons so employed shall be a part of the District's classified service and subject to all of the rules, procedures, benefits, and burdens of any other classified employee serving in the regular service of the district, including representation by the appropriate exclusive representative.

REFERENCE: Education Code Section(s): 45260 and 45264

2.3.2 General Duties Of The Personnel Commission Director:

- 2.3.2.1 The Personnel Commission Director shall perform all of the duties assigned and carry out all of the functions imposed upon this position by law and these Rules and Regulations.
- 2.3.2.2 The Personnel Commission Director shall act as secretary to the Personnel Commission, and shall issue and receive all notifications on its behalf.
- 2.3.2.3 The Personnel Commission Director shall direct and supervise the employees of the Commission, and conduct administrative transactions consistent with the law as well as the proper functioning of the office and staff of the Personnel Commission.
 - 2.3.2.3.1 In cases where two (2) or more rules or regulations appear to be in conflict, or when no rule provides a clear-cut answer to the problem, the matter shall be decided by the Personnel Commission Director subject to appeal to the Personnel Commission.
- 2.3.2.4 Absence Of Director:

In the absence of the personnel director, or at any time that the

Personnel Commission deems it is in the best interest of the principle of merit, the Personnel Commission may designate one of its members to perform some or all of the duties of the personnel director assigned under these Rules and Regulations. The Commissioners must take such action at a regular or special meeting of the Personnel Commission by majority vote.

REFERENCE: Education Code Section(s): 45260-45261, 45266 and 45312

2.4 Communications And Request:

Communications and requests shall, when practicable in the opinion of the Commission, be in writing. Communications and requests shall be acknowledged and replied to, noting official Commission action whenever it is appropriate to do so.

2.4.1 Individuals or groups who wish to present proposals for action by the Commission shall present their requests to the Personnel Commission Director for placement on the Commission agenda. Although the Personnel Commission may, on occasion, designate one of its members to investigate a specific subject or matter, it is against the policy of the Commission to take up or consider any proposals except at open meetings.

2.4.2 Since it is against the policy of the Personnel Commission to take up or consider matters except at open meetings, individuals or groups who seek interviews with particular commissioners regarding matters which may later be placed before the Personnel Commission for consideration, shall be referred to the Commission Office. Such individuals or groups will be asked to put the matter(s) in writing so that they may properly be placed on a Commission agenda.

REFERENCE: Education Code Section(s): 45260

2.5 Personnel Commission Budget:

The Personnel Commission staff shall, prior to the first Commission meeting in April of each year, prepare and submit to the members of the Commission a proposed operating budget for the next ensuing fiscal year.

2.5.1 Public Hearing In May:

After preparation and study, the Commission shall provide for a public hearing on its proposed budget, such hearing to be held not later than May 30th of the year.

REFERENCE: Education Code Section(s): 45253 and 45260

2.5.2 Input Sought:

Prior to the public hearing on its budget, the Personnel Commission shall forward a copy of its proposed budget to the Board of Education indicating the time, date and place of the public hearing, and shall invite the Board and District Administration representatives to attend the meeting and to present their views regarding the proposed budget. The Commission shall fully consider the views

and opinions expressed by the Board and Administration representatives in adopting its budget for the ensuing fiscal year.

REFERENCE: Education Code Section(s): 45253 and 45260

2.5.3 Adopted Budget Forwarded To County Superintendent:

Following its adoption of a proposed budget for the ensuing year, the Commission shall then forward its proposed budget to the San Bernardino County Superintendent of Schools for action.

REFERENCE: Education Code Section(s): 45253 and 45260

2.5.4 County May Hold Public Hearing:

If the Board of Education of the District does not feel that its views as expressed during the Commission's public hearing on the budget have been fully considered by the Personnel Commission in the adoption of the budget, the Board may then forward its concerns to the San Bernardino Superintendent of Schools. The San Bernardino Superintendent of Schools, upon receipt of the Board's objections or concerns, will schedule a public hearing on the budget concerns. The public hearing shall be held within the boundaries of the District.

REFERENCE: Education Code Section(s): 45253 and 45260

2.5.5 Adoption Of Budget By County:

The County Superintendent may reject the Personnel Commission's adopted budget, but may not amend the budget without the approval of the Commission. In the absence of agreement between the Personnel Commission and the County Superintendent of Schools regarding the amount of money to be budgeted for the Commission's operations, the amount of the prior year's budget, adjusted upward for any salary and fringe benefit increases granted to classified employees by the District, shall determine the amount of the new Personnel Commission budget. However, the items of the expenditure within that new budget shall be determined by the Commission.

REFERENCE: Education Code Section(s): 45253 and 45260

2.5.6 Judicial Review And Relief:

If the Commission's adopted budget is rejected by the County Superintendent of Schools, and the Personnel Commission by majority vote feels that the resulting budget does not provide sufficient funds to adequately carry out the functions of The Merit System Act, the Personnel Commission reserves the right to seek judicial review and relief.

REFERENCE: Education Code Section(s): 45253 and 45260

2.6 Personnel Commission Annual Report:

The Personnel Commission Director shall prepare an annual report of the Commission's activities. When approved by the Commission, the annual report shall be submitted to the Board

of Education at a regular Board meeting for its review.

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

REFERENCE: Education Code Section(s): 45266

2.7 Legal Counsel For The Personnel Commission:

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

REFERENCE: Education Code Section(s): 45313

2.8 Staff Training and Development:

The Commission may, with respect to the staff of the Commission, expend funds for their orientation, training, retraining, and development.

REFERENCE: Education Code Section(s): 45380

CHAPTER 3 - CLASSIFICATION OF EMPLOYEES AND POSITIONS

3.1 Personnel Commission Responsibility to Classify Positions:

- 3.1.1 All positions established by the Board which are not exempt from the classified service by law shall be a part of the classified service. All employees serving in classified positions shall be classified employees. The employees and positions shall be known as the Classified Service.
- 3.1.2 No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exemptions established in the law shall be employed outside the classified service.

REFERENCE: Education Code Section(s): 45105, 45208, 45256, and 45258

3.2 Exemption from the Classified Service:

- 3.2.1 Positions and employees exempt from the classified service are:
 - 3.2.1.1 Positions which require certification qualifications.
 - 3.2.1.2 Part-time playground positions.
 - 3.2.1.3 Full-time students employed part-time.
 - 3.2.1.4 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 and which is financed by the state or federal funds.
 - 3.2.1.5 Apprentice positions.
 - 3.2.1.6 Positions established for the employment of professional experts on a temporary basis for a specific project by the Board of Education or the Personnel Commission when so designated by the Commission.

3.3 Part-Time Defined:

A part-time position, for the purpose indicated in the exemption rule, is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis is less than 87 ½ percent of the normally assigned time of the majority of employees in the classified service.

REFERENCE: Education Code Section(s): 45256, 45257, 45258, 45259, and 45263

3.4 Effect of Exemption:

Any position or employee lawfully exempted from the classified service shall be excluded from the benefits and burdens imposed by these rules except as provided by law or the Board of Education.

3.5 Professional Expert Positions:

- 3.5.1 The Board may establish positions for the employment of professional experts for a specific project provided the positions are designated professional expert positions by the Commission. Professional expert positions are exempt from the classified service. The following services are deemed by the Personnel Commission to qualify for professional expert positions:
- 3.5.1.1 Building Inspection Services; Engineering; Auditing; Flagpole Repair; Music Festival Adjudicators; Adult School Speakers; Police Reserves; Consultants; Specialized temporary short-term services in connection with the District's music, dance, fine arts and drama programs; and persons who lecture, speak at or conduct workshops, or training sessions for the District.
- 3.5.2 When a professional expert position is established the administration shall submit to the Commission a description of the project, its duration and the duties to be performed in the position. A position shall not be designated as a professional expert position by the Commission if the duties and responsibilities fit an existing class in the classified service. Professional expert positions may be established for 12 months or less. Additional service of a professional expert shall require the approval of the Commission.
- 3.5.3 When a person is to be appointed to a professional expert position the Board shall be apprised of the qualifications of the appointee.

REFERENCE: Education Code Section(s): 44925, 45103 and 45256
Government Code: 53060

3.6 General Nature of the Classification Plan:

- 3.6.1 The Personnel Commission shall establish and maintain a plan of classification for all positions in the classified service. Classes (or classifications) will be placed in groups according to general occupational nature and, within groups, shall be listed in series, whenever practicable, by specific occupation.
- 3.6.2 The Commission may establish new classes, revise existing classes, and abolish or combine existing classes or class series within the classified service as the needs of the service require.
- 3.6.3 Assignment of Duties: The Board of Education shall prescribe the duties and responsibilities for all positions in the classified service, except for those of the Personnel Commission staff. Minimum qualification requirements shall be subject to approval of the commission.
- 3.6.4 Upon such endorsement, the request shall be forwarded to the Personnel

Commission Office for evaluation and possible revision prior to preparation of a staff recommendation for Commission action.

- 3.6.5 The Board may recommend the minimum educational and work experience requirements for classified positions to the Commission. Minimum qualification requirements shall be subject to approval of the Commission.
- 3.6.6 In approving minimum educational and work experience requirements for classified positions, the Commission shall insure that such requirements reasonably relate to the duties of the position, as established by the Board, and that they will admit an adequate field of competition. No requirements may be approved which unduly or unreasonably restrict the field of competition.

REFERENCE: Education Code Section(s): 45109, 45256, and 45176

3.7 Class Specifications:

- 3.7.1 The Personnel Commission establishes the titles of classes in the classified service to be used in the District's annual budget, personnel records, the rules of the Commission and the Board of Education, and in the official correspondence of the District.
- 3.7.2 The definition of the class, which is a brief statement of the basic duties, responsibilities and purpose of the class.
 - 3.7.2.1 The Commission reserves the right to amend and amplify the description established for each class.
- 3.7.3 Distinguishing characteristics between the class and other classes, when applicable.
- 3.7.4 Supervision received and supervision exercised, when applicable
- 3.7.5 The typical duties listed are descriptive and explanatory only and do not restrict the administration from assigning other duties to any position.
- 3.7.6 A statement of the knowledge and abilities, education, experience, (and substitutions therein); licenses, certifications and registrations; and special requirements determined to be appropriate for assessing fitness for entry into the classification.

REFERENCE: Education Code Section(s): 45276

3.8 Interpretation of Class Specifications:

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

- 3.8.1 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 as determined by the Personnel Commission.

- 3.8.2 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.
- 3.8.3 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.
- 3.8.4 The qualifications listed in each class specification are not necessarily exhaustive and may be amended or supplemented in accordance with current analysis of the work requirements. Qualifications shall be job-related and necessary for the conduct of District business. In addition to the technical knowledge and abilities appropriate to the particular classification, they may include general abilities applicable to most if not all classifications.
- 3.8.5 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 qualification of candidates seeking appointment to positions allocated to the class, but does not require a particular form or content of test or testing procedure.

REFERENCE: Education Code Section(s): 45256, 45261 and 45276

3.9 Allocation of Positions to Classes:

- 3.9.1 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.
- 3.9.2 New positions with duties and responsibilities previously classified by the Commission shall be deemed to be classified and shall be allocated to the appropriate classes.

REFERENCE: Education Code Section(s): 45256, 45261 and 45276

3.10 Changes in Duties of Positions:

Any substantial changes in the duties of existing positions shall be promptly reported in writing by the appointing authority to the Personnel Commission Director, who shall recommend to the Personnel Commission whether the positions should be allocated to

different classes.

3.11 Working Out of Classification:

- 3.11.1 Whenever the appointing authority requires the appointment of a person to a position, the duration of which is not to exceed six (6) months, or, in case of an appointment in lieu of an absent employee, is not to exceed the authorized absence of said employee, the appointing power shall submit a request in which the probable duration of the appointment is stated.
- 3.11.2 Eligibles shall be certified in accordance with their position on the appropriate employment list and their willingness to accept appointment to such position as limited-term employees.
- 3.11.3 Working out of class assignments are designed for temporary situations and shall not be used to place an employee in a long-term or permanent assignment in a higher or different classification.
- 3.11.4 No employee shall be assigned to work out of class beyond the time limits specified in Rule 8.15.8.
 - 3.11.4.1 Notwithstanding these limitations on the duration of these positions, the commission may, based on a declaration of an emergency by the President of the United States or the Governor, authorize an extension that may not exceed one year.
 - 3.11.4.1.1 The duties of the extended position must be related to the emergency.
- 3.11.5 All employees in the classified service shall be assigned to perform the duties of the classification they occupy and any other duties reasonably related to that classification. An employee, nevertheless, may be required to work out of classification (i.e., perform duties inconsistent with those of the classification occupied) for five or fewer workdays within a 15-calendar day period.
 - 3.11.2 In the event that an employee is required or agrees to work out of classification for six or more work days within a 15-calendar day period, that employee's salary shall be adjusted upward for the entire period of out of classification work, in accordance with the terms of the District collective bargaining agreement with the classified employees exclusive representative, or Rule 8.15, whichever applies.

REFERENCE: Education Code Section(s): 45110, 45256, 45286 and 45276

3.12 Creation of New Positions:

- 3.12.1 When the Board creates a new classified position with a title which is included in the Commission's classification plan, the position shall be deemed to be classified and shall have the same duties and qualifications as the class of positions with that title.

- 3.12.2 The establishment of new classifications shall conform to the procedures contained in Rule 3.06.

REFERENCE: Education Code Section(s): 45109 and 45256

3.13 Requests for Reclassification Study:

- 3.13.1 Requests for classification study of existing positions shall be presented to the Personnel Commission Director, together with a statement of the reasons for requesting study between January 1 and March 1. Requests for study may be initiated by the administration, with the approval of the Superintendent or his/her designee or by employees or employee organizations. Requests initiated by the Superintendent or his/her designee shall be accompanied by a statement of the current authorized duties of the position or positions and any prospective changes.
- 3.13.2 Nothing in this rule shall be construed to inhibit or restrict a classified employee's entitlement to out-of-class pay in accordance with provisions of the Education Code, the Personnel Commission rules, or a collective bargaining agreement.
- 3.13.3 Nothing in this rule shall be construed to inhibit or restrict the ability of the Personnel Commission to conduct at will studies of individual positions and whole classifications as part of its classification plan maintenance program.
- 3.13.4 Regardless of the origination of a position study, if upward reclassification is recommended following study of a position, the incumbent employee's qualification for reclassification shall be determined in accordance with the provisions of Personnel Commission Rule 3.14.

REFERENCE: Education Code Section(s): 45256, 45260, 45261 and 45285

3.14 Effective Date of Reclassification:

Reclassification of a position shall become effective on the date prescribed by the Commission.

REFERENCE: Education Code Section(s): 45256, 45260, 45261 and 45285

3.15 Reclassification of Incumbents:

- 3.15.1 For purposes of this rule, upward reclassification is defined as the reallocation by the Personnel Commission of a position from one classification to another with a higher salary range, based on a consideration of the current duties/responsibilities of the position. Studies of positions or classifications, which result in a revised salary relationship involving all the positions in a classification, regardless of whether the classification remains in its job family, and the updating of any aspect of a class specification for currency, shall not be deemed upward reclassifications.

- 3.15.1.1 When all the positions in a class are reclassified

upward, those incumbents with two (2) or more years of service in the class may be reclassified with the positions.

3.15.1.2 When a portion of the positions in a class are reclassified upward, those incumbents with two (2) or more years of continued service in one or more of the positions being reclassified may be reclassified with their positions.

3.15.1.3 For an employee to be reclassified upward with his/her position the classification must have been occasioned by a gradual and substantial accretion of duties and not by a sudden change resulting from a reorganization or the assignment of completely new duties and responsibilities. The Commission shall decide at the time the reclassification occurs to whether the reclassification meets this rule.

3.15.2 Upon a determination by Commission staff that upward reclassification of a position is warranted, the employee occupying such position shall be reclassified with the position when in addition to meeting the requirements the employee provides to the Commission satisfactory evidence that he/she meets all the various entrance requirements indicated in the higher class specification, which would enable an applicant to qualify for admission to an examination for that classification and also assure possession of pertinent skills.

3.15.2.1 Such evidence shall be presented on forms prescribed by the Personnel Commission. The Personnel Commission's judgment of the employee's qualifications shall be final and not appealable.

3.15.3 Upon a determination by the Personnel Commission that an employee does not meet the various entrance requirements of the higher classification, the supervisor of that employee shall be given the opportunity to revise the duties of the affected position to conform to the original (lower) classification and the employee shall be so assigned.

3.15.3.1 If revision of the duties to conform to the original classification is infeasible or impractical, the District shall establish a new position in the higher classification to be filled in accordance with the Education Code and Commission rules, and the position in the lower classification may be abolished. The affected employee shall be notified in writing of his/her rights under the Education Code and any collective bargaining agreement or the Personnel Commission rules, as applicable.

3.15.4 Rules 3.14.2 and 3.15.3 inclusive shall not apply to lateral reclassifications. A lateral reclassification is reclassification of a position from one classification to another of equal salary.

3.15.5 The salary placement of an incumbent who is reclassified upward with his/her position shall be at the salary range for the new class and at the salary step of his/her former class.

- 3.15.6 An employee who has been reclassified upward shall be ineligible to again be reclassified upward until at least two (2) years have elapsed from the last upward reclassification.
- 3.15.7 When a position is reclassified to a class with an equal or lower range, through no fault of the incumbent, the incumbent shall have the following rights:
- 3.15.7.1 To bump the employee in the same class with the lowest seniority in the class provided the incumbent has greater seniority in the class
 - 3.14.7.2 To bump the employee with the least seniority in any equal or lower class in which the incumbent formerly served, provided he/she has greater seniority in that class.
 - 3.15.7.3 To be demoted to the class to which his/her position is reclassified at no loss in salary. In this instance if his/her salary is greater than the maximum salary of the lower class a "Y" rate will be assigned. The "Y" rate will be retained until salary adjustments bring the salary range within the range of his/her class or until he/she is transferred, promoted, or demoted to a position in a different class.
- 3.15.8 The names of all regular classified employees displaced or demoted through the reclassification process shall be placed on the appropriate reemployment lists for a period of 39 months from date of displacement or demotion. In addition, displaced and demoted employees shall have the same bumping rights as described in in this rule.

REFERENCE: Education Code Section(s): 45256, 45260, 45261 and 45285

CHAPTER 4 - APPLICATION AND EXAMINATION

4.1 Filing of Application:

All applications for employment shall be made upon official application forms furnished by the Personnel Commission, filled out as therein directed and filed on or before the date specified and in the office specified in the examination announcement.

4.1.1 Applicants filing for more than one examination must file a separate and complete application for each examination.

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

REFERENCE: Education Code Section(s): 45261

4.2 General Qualifications of Applicants:

Merit System law provides that classified employees be selected on the basis of merit and fitness, exclusive of discrimination due to actual or perceived race, color, ethnicity, age, religion, political affiliation, marital status, disability, gender, sexual orientation or national origin.

4.2.1 It is not required that applicants with the school district be or have declared an intent to become a citizen of the United States, nor is it required that an applicant be a resident of California.

4.2.2 Residency within the District shall not be a condition for filing application or offering employment except in the case of restricted positions, which require specific residency.

4.2.3 Applicants must meet all requirements specified as the minimum qualifications established for the class.

4.2.4 Where college training required, credit will be given only for work completed in recognized colleges and universities listed as accredited institutions.

REFERENCE: Education Code Section(s): 45111, 45134, 45260, 45272, 45275 and 45276
Government Code Section(s): 12921, 12926 and 12940

4.3 Rejection of Applicants, Candidates and Eligibles:

4.3.1 An applicant, candidates, or eligibles may be disqualified from current examinations, eligible lists, and possible from future examinations for any of the following reasons:

4.3.1.1 Failure to meet the general qualifications of Rule 4. 2.

4.3.1.2 Membership in the Communist Party and/or failure to execute the oath of allegiance required by the State of California.

4.3.1.3 Advocacy of overthrow of the government of the United States or the State of California by force, violence or other unlawful means.

- 4.3.1.4 Conviction or pleading guilty or *nolo contendere* (i.e., I do not wish to contest) in court to a charge to a narcotic offense, or charges of moral turpitude, violent felonies, any sex offense, or mistreatment of children.
- 4.3.1.5 Dishonorable discharge for the Armed Forces of the United States.
- 4.3.1.6 Criminal, infamous, dishonest, immoral, or disgraceful conduct according to standards approved by the Commission. The following definitions apply to the words in the preceding paragraph:
- Criminal: Conviction of crime(s) specifically set forth in the Education Code as causes(s) for rejection or termination or a pattern of willful disregard for the law as demonstrated by a history of convictions for misdemeanors, or crimes lesser than those specifically identified in the Education Code, and criminal convictions which indicate poor judgment on the part of the applicant.
- Infamous: Crimes against nature.
- Dishonest: Theft, burglaries, deception, fraud, or acts intended to deprive lawful possession or ownership, or to obscure or confuse facts or issues.
- Immoral: Sex offenses, including those set forth in the Education Code as causes for termination.
- Disgraceful: Drunk, fighting, insulting, slandering, harassing, or unwelcome behavior; conduct involving violent, use or possession of a dangerous or illegal weapon, or making or interfering threats of violence or harmful acts toward a person or property and, including willful acts of pollution or contamination.
- 4.3.1.7 Drug addiction and/or continued use of intoxicating beverages to excess.
- 4.3.1.8 Intentionally making a false statement as to any material fact or practicing any deception or fraud in securing examination, certification, or appointment.
- 4.3.1.9 Unsatisfactory health conditions which clearly indicate that the applicant or candidate would be unable to perform the essential functions of the job with or without reasonable accommodation or would endanger his/her health and safety or the health and safety of others to the extent permitted under federal and state laws.
- 4.3.1.10 Failure to report for duty after an assignment has been offered and accepted, failure to complete employment processing

requirements in the time specified, or failure to give prior notice of the inability to appear for an employment interview which was mutually agreed upon.

- 4.3.1.11 Failure, after due notice, to report promptly for review of any of the above bases for rejection.
 - 4.3.1.12 Violation of the provisions of Ed Code Section 45317.
 - 4.3.1.13 A record of unsatisfactory service with this district or present or previous employers, even though separation has not occurred.
 - 4.3.1.14 A record of an unstable employment history which demonstrates a lack of commitment to serve the needs of the employer.
 - 4.3.1.15 Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the district; or previous dismissal from this district, unless the district waives this subsection.
- 4.3.2 Applicants, candidates, or eligibles who are rejected for any of the reasons shall be notified in writing by Personnel Commission staff. The notice shall state:
- 4.3.2.1 The reason(s) for the rejection.
 - 4.3.2.2 That, within five calendar days, the individual may appeal to the Personnel Commission Director in writing for an administrative review, and that failure to do so makes the rejection final and conclusive.
 - 4.3.2.3 If there has been an administrative review and the rejection is sustained, the individual may pursue the appeal to the Personnel Commission.
 - 4.3.2.3.1 When a rejection is not sustained by the Personnel Commission Director or the Personnel Commission, the Personnel Commission Director shall institute immediate action to ensure the rights of the applicant, candidate, or eligible as though the rejection had not been made. However, appointments made in the interim shall not be disturbed unless they were fraudulently made.

REFERENCE: Education Code Section(s): 45111, 45122, 45123, 45124, 45134, 5260, 45261 and 45303

4.4 Technical Expert Involvement in Review of Employment Applications:

When, in the opinion of the Personnel Commission Director, it is necessary to consult a District technical expert for assistance in determining whether an applicant meets the basic requirements for admission to the examination, the following criteria shall apply:

- 4.4.1 A reasonable effort shall be made to enlist the aid of a technical expert who is not at the first or second level over the position in question and shall make a reasonable effort to avoid technical experts he/she has reason to believe are associates of applicants.
- 4.4.2 In the event that a first- or a second-level supervisor must be used, a second-level supervisor shall be preferred over a first-level supervisor, if practicable.
- 4.4.3 The identity of the applicant shall not be disclosed to the technical expert. Photocopies of the side of the application containing pertinent information shall be made for the technical expert and any information on that copy tending to disclose the applicant's identity shall be blackened out or otherwise removed, unless impractical to do so.

4.5 Application not to be Returned:

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

4.6 Veterans' Credit:

Veteran, as used in this article, means any person who has served in the United States armed forces in time of war, or national emergency declared by the President of the United States of American, and who has been discharged or released under conditions other than dishonorable, proof of which shall be submitted to the Commission at the time of the examination.

4.6.1 Armed forces mean the United States Air Force, Army, Navy, Marine Corps, or Coast Guard.

4.6.2 Veterans' credit points shall be added to passing scores in entrance exams.

4.6.2.1 In the case of all entrance examinations, veterans shall be allowed an additional credit of five points and disabled veterans shall be allowed an additional credit of up to 10 points, which shall be added to the percentages attained in the examinations by the veterans.

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

4.6.3 A veteran must have served at least 30 days of active service during one of the time periods listed below:

World War II: December 7, 1941 to December 31, 1946
Korea War: June 27, 1950 to January 31, 1955

Vietnam War: February 28, 1961 to May 7, 1975
Gulf War: August 2, 1990 to a date yet to be prescribed.

- 4.6.4 In order to obtain credit the applicant shall furnish proof of qualifying military service (i.e., DD214) no later than the date of examination. No adjustment of rank on the list shall be made when such proof is presented thereafter.
- 4.6.5 Veterans shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentages attained by them in examinations after the credit of five points, or ten points in the case of disabled veterans, if added.

REFERENCE: Education Code Section(s): 45294, 45295 and 45296

4. 7 Promotional Examinations:

All examinations shall be offered on a promotional basis and may at the discretion of the Personnel Commission be given simultaneously on an open basis.

- 4.7.1 Promotional exams shall be restricted to permanent classified employees of the district who meet prescribed qualifications.
- 4.7.2 A permanent employee laid off, because of lack of work or funds, shall have the right to participate in promotional examinations for a period of thirty-nine (39) months from effective date of layoff, provided he/she meets the prescribed qualifications.
- 4.7.3 Promotional exams shall be conducted as often as necessary in order to fill vacant positions in the classified service.
- 4.7.4 Recruitment announcements shall be place on the District's employment website.
- 4.7.5 An applicant may request to be notified when the period for filing applications for a specific job classification begins, by completing a job interest notification form. Upon receipt of such notices, Personnel Commission staff shall ensure the applicant is sent notification no later than the first day of the recruitment period. The Personnel Commission shall not be responsible for delays of notification.
- 4.7.6 Eligibles will be notified of hiring interviews as necessity dictates the filling of vacancies. Notifications will be made to an eligible's address, and/or telephone number or by electronic means which are on file.
- 4.7.7 Each applicant whose name is on a current eligibility list is responsible for keeping the District and the Personnel Commission informed of his/her current contact information, including, mailing address, email address, and telephone number.

REFERENCE: Education Code Section(s): 45260, 45261, 45272, 45278, 45280, 45281 and 45298

4. 8 Holding of Examinations:

Whenever it is necessary to fill existing or anticipated vacancies in the classified service and an appropriate eligibility list does not exist, an examination shall be conducted to establish an eligibility list.

4.8.1 At least six (6) working days advance public notice of such examination shall be given, except in instances of internal promotional exams five (5) working days' notice shall be given.

4.8.2.1 The recruitment bulletin shall contain the following information:

4.8.2.1 Title of the job classification.

4.8.2.2 Opening and closing dates of the recruitment (unless testing is continuous).4.8.2.3Whether the eligibility list will be Open and Promotional, Promotional Only, or Dual Certification.

4.8.2.3 Salary information and other forms of compensation, if any.

4.8.2.4 Sufficient information about the duties/responsibilities of the job classification.

4.8.2.5 Number of vacancies to be filled (when such information is known).

4.8.2.6 Minimum experience and education/training requirements, including any substitutions.

4.8.2.7 Licenses, certificates and/or registrations required, if any.

4.8.2.8 Special requirements, if any.

4.8.2.9 Knowledge, skills, and abilities that may be tested in the examination.

4.8.2.10 Proposed parts and weights of the examination, including hybrid examinations such as written/performance and oral/performance. While unusual circumstances may require changes to the original parts and weights, under no circumstances shall substantive changes (such as the holding of an oral or performance in lieu of a scheduled written examination or vice versa) be made unless candidates are notified in advance (minimum three (3) days between notification and the date of examination.

4.8.2.11 Affirmative Action, Title IX and other information conforming to federal, state, and local non-discrimination regulations.

4.8.3.12 Other information deemed appropriate.

REFERENCE: Education Code Section(s): 45272 and 45278

4.9 Notice of Examination:

Competitive examinations for positions in the classified service shall be open to those applicants who meet the minimum qualifications and who are not rejected as provided in Rule 4.3, except that examinations may be restricted to promotional candidates at the discretion of the Personnel Commission Director.

4.9.1 Each applicant whose application has been approved shall be notified a reasonable time in advance of the time, date, and place of the examination and such notice shall be the applicant's authorization to take the examination. No candidate may be admitted to any examination without such authorization or other satisfactory evidence of having filed an acceptable application.

4.9.2 Such examination is deemed to have begun when the assembled candidates for the examination have entered the examination room and the door has been closed.

4.9.2.1 Late candidates for group examinations shall not be admitted to the examination room.

4.9.2.1.1 Lateness for such examinations shall be defined as appearance at the examination room after the examination has begun.

4.9.2.2 Admission to Oral Interviews, Performance Tests, or similar individual exam segments shall be at the time announced on the Oral/Performance Examination notification, unless the process is unavoidably running late, and then admission shall be as soon as possible following the established sequence.

4.9.2.2.1 A candidate who arrives after his/her scheduled time and could have been admitted to that exam segment on time had he/she been present on time, shall lose his/her right to that exam. However, if the Personnel Commission staff can easily arrange to accommodate the individual at a later time during the day, the late candidate may wait and that may be done following these guidelines.

4.9.2.2.2 No other candidate will be displaced from their allotted time or caused to be inconvenienced, unless voluntarily agreed to by that person.

4.9.2.2.3 The panel members are agreeable to work through their lunch/break period or stay later than the scheduled time and this does not work an undue hardship on them.

- 4.9.2.2.4 Another candidate does not show for his/her exam and the late candidate can be scheduled into the no-show candidates time period.

REFERENCE: Education Code Section(s): 45273

4.10 Character of Examinations:

Examinations shall be administered objectively and shall consist of test parts that relate to job performance.

- 4.10.1 Examinations may be written, oral, in the form of a practical (performance) demonstration of skill and ability, qualifications appraisal interview, evaluation of training and experience, in-basket exam, other appropriate assessment elements, or any combination of these.
- 4.10.2 Any investigation of education, experience, character or identity, and test of technical knowledge, manual skill or physical and mental fitness which, in the judgment of the Personnel Commission Director, serves this end may be employed.

REFERENCE: Education Code Section(s): 45273

4.11 Examination Procedures:

- 4.11.1 Competitors in any written test must take the test on the prescribed date.
- 4.11.2 Copies of the questions in a test shall not be made by competitors or other unauthorized persons.
- 4.11.3 Where written tests are required, they shall be so managed that none of the test papers will disclose the name of any competitor until all papers of all competitors in a given examination shall have been marked and rated.
- 4.11.4 Any competitor in any examination who places any identifying mark upon his/her 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/her papers prior to the completion of the examination shall be disqualified.
- 4.11.5 The Commission may designate examinations for specified classes as continuous examinations. When so designated, the examination shall be administered as applicants are available, and applications shall be accepted on every working day. A candidate shall not be entitled to retake a continuous written examination more often than once each ninety days.
- 4.11.6 The parts and weights of the examination shall be determined by the Personnel Commission Director and set forth in the announcement of the examination, subject to the provisions of Rule 4.08. All examination papers shall be prepared and rated under the direction of the Personnel Director.
- 4.11.7 The proceedings of all oral examinations conducted by oral examination boards shall be electronically recorded under the direction of the Personnel

Commission Director.

- 4.11.8 An oral examination board shall not be provided with confidential references on employees of the district who are competing in promotional examinations.
- 4.11.9 Scores achieved by a candidate on other parts of the examination shall not be made available to the oral examination board.
- 4.11.10 Examination records, including any recordings and the rating sheet of each member of the oral board for each candidate shall be retained by the Personnel Commission Director for a period of one year from date of approval or extension of an eligibility list.
- 4.11.11 Competitors in any non-continuous examination shall not be permitted to retake a single-part examination or any part of a multi-part examination within the immediate ninety (90)-day period following. When the number of persons passing such an examination or part of an examination is determined to be insufficient and a new recruitment is held, the passing part or final score on the earlier examination shall be used in scheduling such competitor for the next part of a multi-part examination or in determining appropriate rank on the new list, as the case may be. (The number of service points credited to promotional candidates shall be adjusted, if appropriate.) Tests administered to District employees to re-certify qualifications to perform the duties of the position held, typing, shorthand, or bilingual certification tests are not subject to this rule.

4.12 Rating Required:

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

4.13 Examination Papers:

All examination papers submitted by competitors are the property of the Personnel Commission and are confidential records.

4.14 Oral Examination Boards:

An oral examination board will consist of at least two persons for each examination deemed by the Personnel Commission or by the authority responsible for the administration of classified employee examinations to require an oral examination.

- 4.14.1 Where a structured objective examination is to be administered to the entire field of candidates in an entrance level classification, a single member oral examination board may be utilized.

- 4.14.1.1 A "structured objective examination" means, for this purpose, an examination for which the examiner exercises no discretion in the selection of the questions or in the evaluation of the answers.

4.14.2 An oral examination board shall confine itself to evaluating general fitness for employment in the class unless instructed by the Personnel Commission Director to evaluate technical knowledge and skills.

4.14.2.1 When the oral examination board is directed to evaluate technical knowledge and skills, at least two members of the board shall be technically qualified in the specified occupational areas.

4.14.3 Members of the Board of Education or Personnel Commission shall not serve on an oral examination board

4.14.4 A district employee may serve on an oral examination board if he/she is not at the first or second level of supervision over a vacant position in the class for which the examination is held.

REFERENCE: Education Code Section(s): 45273

4.15 Service Points:

4.15.1 One point per year of service up to a maximum of five points will be added to a passing examination score of a classified employee.

4.15.2 Time spent in less than fulltime work performed while serving as a member of the classified service shall be given full credit for the purpose of assigning service points.

4.16 Ties in Examination Scores:

4.16.1 Applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations.

4.16.2 The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank.

4.17 Notice of Final Score:

Each competitor shall be notified of his/her final score.

4.18 Review of Examination:

4.18.1 Under direct observation and supervision of a member of the staff of the Personnel Commission Director, a candidate may review a keyed copy of an examination question book, provided the review of such material is not contrary to agreements made with the suppliers of test materials.

4.18.1.1 Such review is for the purpose of allowing the candidate to review test items he/she believes to be incorrect or improperly keyed and must be made within three (3) working days following the examination.

- 4.18.1.2 During the review, no notes of any kind shall be taken by the candidate.
- 4.18.2 Under direct observation and supervision of a member of the staff of the Personnel Commission Director a candidate may inspect his/her answer sheet, together with a keyed answer sheet for the purpose of detecting whether any clerical errors or other errors have been made in the scoring.
 - 4.18.2.1 Such an inspection may be made within three (3) working days after the examination, but shall be separate from the review of the keyed examination question book.
 - 4.18.2.2 During the inspection no changes or marks of any kind shall be made by the candidate on his/her answer sheet or the keyed answer sheet.
- 4.18.3 Scores made on oral examinations shall be made available to a candidate upon request to the Personnel Director. Under no circumstances, however, shall the identities of the oral examiners, together with the scores each has assigned, be made known to the candidate.
 - 4.18.3.1 Under direct observation and supervision of a member of the staff of the Personnel Commission Director, a candidate may listen to the recording of his/her oral examination if the request is made within three (3) working days of the examination.
- 4.18.4 A candidate may protest any part of an examination to the Personnel Commission, within five (5) days after completion of the examination.
 - 4.18.4.1 Such protest shall be in writing and shall give specific reasons for disagreement with a keyed answer or content of a test item.
 - 4.18.4.2 If the protest is rejected by the Personnel Commission Director, the candidate may appeal to the Personnel Commission in writing within ten working days after the rejection.
 - 4.18.4.3 The Commission may change the candidate's final rating if it finds justification for the protest.
- 4.18.5 In promotional examinations for classes for which continuous examination procedures have not been authorized, the review and protest period shall be held prior to regular appointment from the list.
- 4.18.6 No change in an eligibility list shall invalidate any appointment which was made prior to the ordered adjustment unless the appointee was fraudulently appointed.
- 4.19 Conversion from Open to Promotional Status:

The name of a current employee whose name appears as an open candidate on an unexpired Open and Promotional eligibility list may be converted to promotional status after successfully completing an initial probationary period and making a written request to the –Personnel Commission Director.

4.19.1 Service points, if applicable, shall be credited upon such conversion; but veterans' credit, if awarded previously, shall be deleted.

4.19.2 Veterans' credit, if awarded previously, shall be deleted.

4.20 Confidentiality of Test Scores:

4.20.1 Test scores shall be considered confidential information and release of information shall be limited to:

4.20.1.1 Only contact information relating to eligibles that have been certified shall be released to the appointing authority.

4.20.1.2 Only information pertaining to an eligible's own scores and current rank on the list shall be released to the eligible or his/her representative.

4.20.1.3 Such other persons as specifically ordered by the Personnel Commission or as required by law.

REFERENCE: Education Code Section(s): 45260, 45261, 45272, and 45274

CHAPTER 5 - ELIGIBILITY AND EMPLOYMENT LISTS

5.1 Eligibility List:

5.1.1 Establishment of Eligibility List:

- 5.1.1.1 After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable.
- 5.1.1.2 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.
- 5.1.1.3 Eligibility list are confidential documents under the sole jurisdiction of the Personnel Commission.
- 5.1.1.4 The only information from an eligibility list that will be released to the District for purposes of conducting hiring interviews will be name and rank.
- 5.1.1.5 In the case of a senior management position pursuant to resolution of the governing board, the list shall be placed in alphabetical order of those who meet the cut-off score.

5.2 Content of Eligibility List:

5.2.1 An eligibility list shall contain:

- 5.2.1.1 The type of eligibility list: open, promotional, open and promotional with the promotional list taking precedence, or dual certification.
- 5.2.1.2 The names of all eligibles in final rank order by total examination scores.
- 5.2.1.3 The adjusted scores of each part of the examination and the weighted total score.
- 5.2.1.4 The date of each part of the examination
- 5.2.1.5 The expiration date indication when the eligibility of named candidates terminates.
- 5.2.1.6 The signature of the Personnel Commission Director or designee specifically attesting to the accuracy of the information on the eligibility list.
- 5.2.1.7 The date the list was ratified or certified by the Personnel Commission.

5.3 Certification of List:

- 5.3.1 All eligibility lists shall be certified before any appointments may be made or before any candidates on the list may be referred for hiring.
 - 5.3.1.1 Certification means that the process that has been followed that results in the list has been conducted in conformance with the Rules and Regulations and Education Code Title 2, Division 3, Part 25, Chapter 5, Article 6 commencing with section 45240 that pertain to examination procedures.
- 5.3.2 The Personnel Commission may withdraw certification at any time during the existence of a list if it finds that the examination process was not conducted in accord with Rules and Regulations or in violation of the Education that pertain to examination procedures.
- 5.3.3 The Personnel Director, when authorized by the Personnel Commission, may certify an eligibility list.
 - 5.3.3.1 In such case, the district may commence the appointment and hiring process, but no candidate can actually start work until the Personnel Commission ratifies the certification at a regular or special meeting of the Personnel Commission.
- 5.3.4 The Personnel Director shall submit eligibility lists for ratification or for certification to the Commission.
- 5.3.5 The decisions of the Personnel Commission to certify or ratify an eligibility list or to withdraw certification are binding on the governing board.
- 5.3.6 Appointments may be made from available eligibles pending final decision on the protest and/or appeal and shall not be changed even though the outcome is in the appellant's favor, unless the Commission has ordered it otherwise for recruitments that are not promotional in nature.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.4 Rule of Three Ranks:

- 5.4.1 Eligibles shall be placed on the eligibility list in rank order according to their score on the examination. The final scores of candidates shall be rounded to the nearest whole percent. All eligibles with the same percentage score shall be placed in the same rank.
 - 5.4.1.1 Certification from the list shall be the first three (3) ranks of eligibles that are ready and willing to accept the positions to be filled.
 - 5.4.1.2 For classes approved for continuous testing, certification shall be made at the time the Personnel Commission Director can first

reasonably certify three (3) ranks of eligibles to the appointing authority.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.5 Types of Eligibility:

Appointments to position shall be made in order of preference from the following lists:

- 5.5.1 Reemployment: A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, voluntarily demoted in lieu of layoff, lost their positions because of abolishment or reclassification of positions, exhaustion of illness or accident leave, or return from military duty under conditions set forth in these rules.
 - 5.5.1.1 These eligibles shall take precedence over all other persons eligible for appointment.
- 5.5.2 Promotional: A list of eligibles resulting from an examination limited to qualified permanent employees only.
- 5.5.3 Promotional and Open Competitive: Promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.
- 5.5.4 Dual Certification: A list of eligibles resulting from an examination open to all qualified applicants.
- 5.5.5 Transfer: Employees who have requested appointment to a vacant position in the same or related classification.
 - 5.5.5.1 Transfers, at the discretion of the District, may be used in lieu of filling a vacancy from another list, but the resulting vacant position shall be filled according to this Chapter.
- 5.5.6 Former employees who have requested reinstatement to a vacant position in a class in which they held permanent status.
 - 5.5.6.1 Reinstatements may be used at the discretion of the District in lieu of filling a vacancy from another list.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.6 Duration of Eligibility Lists:

Eligibility lists are confidential documents under the sole jurisdiction of the Personnel Commission. 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.

- 5.6.1 The eligibility list shall be in effect for one (1) year, unless extended for an additional period of two years or less, at the discretion of the Commission.

- 5.6.2 Open competitive eligibility lists may be established for a period of six (6) months so long as the six (6) month duration of the list is noted in the announcement for the examination.
- 5.6.3 When fewer than three (3) ranks are available, the list shall terminate, except as provided for by these Rules and Regulations.
- 5.6.4 Names of successful competitors may be added to eligibility lists resulting from continuous examinations without approval by the Commission.

REFERENCE: Education Code Section(s): 45256.5, 545260, 45261, 45272, and 45300

5.7 Consolidation of Eligibility Lists:

If a new examination for a class is certified during the life of an existing list, the examination shall be sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles.

- 5.7.1 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.
- 5.7.2 Promotional lists shall be merged only with promotional lists except that where "dual certification" applies; open and promotional lists shall be merged for certification.
 - 5.7.2.1 When lists are consolidated under this rule, the earlier list shall be terminated one (1) year after its establishment and those eligible names shall be removed from the consolidated list, except when the earlier list is extended.
- 5.7.3 When a new recruitment is posted for a position with an existing eligibility list, a candidate who remains on the list may not retake the examination until at least ninety (90) days has elapsed since the candidate took the examination.
- 5.7.4 When an eligibles' name appears in more than one place on the eligibility list, the eligible shall be certified in accordance with the eligible's expiration dates.
- 5.7.5 When list are merged, the candidates on the earlier list who have retained their scores shall be terminated on their originally scheduled expiration date.

REFERENCE: Education Code Section(s): 45260, 45261, 45272, 45291 and 45300

5.8 Reemployment Lists:

There shall be established for each class, as necessary, a reemployment list which shall take precedence over all other employment lists in filling vacant positions.

- 5.8.1 This list shall contain the names of all regular classified employees who have been laid off or demoted from any position because of lack of work or lack of funds, abolishment or reclassification of position, exhaustion of illness or accident leave or return from military duty as set forth herein.

- 5.8.2 The life of the reemployment list shall be thirty-nine (39) months.
- 5.8.3 Employees who take long term limited-term appointments, voluntary demotions, or voluntary reductions in assigned time in lieu of layoff shall retain eligibility for reemployment for an additional period of twenty-four (24) months, provided the same tests of fitness under which they qualified for appointment still apply, as determined by the Personnel Commission.
- 5.8.4 An employee who requires a leave of absence for military duty and those who are ordered, pursuant to the laws of the United States, to serve in any civilian war effort or war industry, shall have their names placed over all other names on the reemployment list in the class which they leave.
- 5.8.5 Employees returning from military leave shall be eligible for reemployment for a period not to exceed six (6) months after discharge.

REFERENCE: Education Code Section(s): 45298
Military and Veterans Codes 395.1 and 395.3

5.9 Termination of Eligibility Lists:

- 5.9.1 An eligibility list is automatically terminated one (1) year from the date of its certification unless extended by the Commission.
- 5.9.2 An eligibility list authorized for a six (6) month period is automatically terminated in six (6) months, unless extended for an additional period up to six (6) months.
- 5.9.3 An eligibility list is automatically terminated when no eligibles remain on the list.
- 5.9.4 An extended eligibility list may be terminated at the discretion of the Commission.
- 5.9.5 An eligibility list may be terminated by the Personnel Director prior to its expiration when no eligible is available for appointment to a specific permanent position in a class or when there are fewer than three (3) eligibles remaining on the list.
- 5.9.5.1 If a list is exhausted for appointments to current vacancies through use and eligibles being unavailable, the Commission may, upon the recommendation of the Personnel Commission Director and after due notice to eligibles who may have made themselves unavailable for appointment, terminate it before the expiration date.
- 5.9.5.2 Candidates on such list shall be notified of the proposed termination.

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

REFERENCE: Education Code Section(s): 45260, 45261 and 45272, and 45300

5.10 Eligibility After Appointment:

An eligibility lists shall be used for fulltime, part-time, regular, and limited-term assignments in the class.

- 5.10.1 An eligible who accepts part-time employment shall continue to be eligible for fulltime employment.

- 5.10.2 An eligible who accepts limited-term employment shall continue to be eligible for regular appointment.

REFERENCE: Education Code Section(s): 45260, 45261, 45272, 45286 and 45300

5.11 Waivers of Certification:

- 5.11.1 An eligible may, without penalty, specify availability for employment to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by filing a definitive statement in the Personnel Commission Office.

- 5.11.1.1 Such specification constitutes a voluntary partial waiver of eligibility for a specific employment list.

- 5.11.1.2 Eligibles may revise or withdraw their unavailability only two (2) times during the existence of the eligibility list.

- 5.11.1.2.1 Such request shall be made in writing to the Personnel Commission Director.

- 5.11.1.2.2 An expression of unwillingness to be considered for any position not covered by the voluntary partial waiver shall constitute a refusal of an offer to interview.

- 5.11.1.4 Eligibles that have made themselves unavailable shall not be referred for hiring consideration.

5.12 Removal of Names from Eligibility List: Reemployment, Reinstatement, Promotional and Open:

- 5.12.1 The names of an eligible may be removed from an eligibility list by the Personnel Commission Director for any of the following reasons:

- 5.12.1.1 A written request by the eligible for removal.

- 5.12.1.2 Failure to respond within five (5) working days from the date of mailing of an inquiry regarding availability for employment.

- 5.12.1.3 Termination of employment for cause (promotional eligibility only).
- 5.12.1.4 There is a record of two (2) refusals to be interviewed for any one eligibility list.
- 5.12.1.5 Refusing an employment offer more than two (2) times after having been properly certified as eligible and available for the appointment.
- 5.12.1.6 There is a record of unsatisfactory results of a reference check or background investigation of the eligible conducted by the District.
- 5.12.1.7 Failure to respond for a scheduled interview after certification without cause or without prior notification of their inability to appear.
- 5.12.1.8 Failure by the eligible to keep their contact information current with Personnel Commission or the District.
- 5.12.1.9 Failure by the eligible present his/her license, registration, certificate, credential, or other documents required for employment in the position.
 - 5.12.1.9.1 The name of any such eligible shall become eligible for certification by the Personnel Commission Director at any time during the life of the eligibility list upon presentation of the required documents.
 - 5.12.1.9.2 The eligibility for appointment to a position vacancy occurs after the date on which the eligible presented the necessary document(s).
- 5.12.10 The eligible is a member of the Board of Education, or a member of the Personnel Commission.
- 5.12.11 Any of the causes listed in Rule 4.03.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.13 Refusal of Hiring Interview:

- 5.13.1 An eligible may refuse two (2) offers to interview for a vacant position.
 - 5.13.1.1 Refusal of a third offer of interview shall be cause for removal from the eligibility lists.

5.13.2 Any expression by an eligible to a hiring authority during an employment interview, that an offer of employment would not be accepted if extended shall also constitute a refusal of an offer to interview.

5.13.3 Cancellation by the eligible of a mutually agreed upon appointment for an employment interview shall also constitute a refusal of an offer to interview.

5.13 Notification to Eligible of Removal from List:

5.13.1 The District shall notify the Personnel Commission Director of the facts and the basis under these Rules and Regulations and state law that serve as the basis for removing the eligible for removal from the list.

5.13.2 The Commission shall notify the eligible of the action and the reasons therefore and shall provide the person with the opportunity to appeal the decision to the Commission within five (5) working days of receipt of notification.

5.13.3 The decision of the Personnel Commission shall be binding on the governing board.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.14 Certification From Employment List:

5.14.1 Appointing Authority:

The appointing authority shall be the Board of Education and its designated managers, except that the Personnel Commission shall be the appointing authority in the case of employees appointed by the Personnel Commission and paid for out of the Personnel Commission budget.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.15 Order of Precedence in Filling Vacancies:

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

5.15.1 Reemployment List:

Persons previously laid off because of lack of work, lack of funds, abolishment or reclassification of position, or exhaustion of medical leave or return from military duty under conditions set forth in these rules shall be assigned to vacant positions in order of seniority.

5.15.2 Voluntary Demotion/Lateral Transfer/Reinstatement:

All qualified persons requesting increase or decrease in hours, voluntary demotion, lateral transfer or reinstatement shall be considered to fill vacant positions in lieu of hiring from an eligibility list.

- 5.15.2.1 Vacant positions shall be filled whenever possible by employees who request transfers
- 5.15.2.2 Except for transfers affected to meet the needs of the district, the decision to fill a position by a transfer shall rest with the selecting authority.
- 5.15.2.3 Permanent classified employees who have voluntarily resigned and request to be reinstated within thirty-nine (39) months after their last day of paid service and without further competitive examination.
 - 5.15.2.3.1 The appointing authority may choose not to appoint from the reinstatement list and may request to interview eligibles from the eligibility list.

5.15.3 Promotional Eligibility List:

When the vacancy is not filled through the alternate procedures provided for by this, the top three (3) ranks on a promotional eligibility list shall be certified.

5.15.4 Open Eligibility List:

When the vacancy cannot be filled from the promotional list, the available eligibles on the open competitive list shall be certified.

- 5.15.1.4.1 When two or more non-mergeable eligibility lists for the same class exist concurrently, promotional candidates on those lists, earlier list first, shall be exhausted before open candidates, earlier list first, are certified for appointment.

5.15.5 Dual Certification:

When dual certification has been authorized for one or more of the eligibility lists and the latest list may not be merged with earlier lists, the following order of precedence shall be followed:

- 5.15.5.1 The earlier promotional or dual certification list shall have precedence as long as promotional eligible remain on the list.
- 5.15.5.2 The later promotional or dual-certification list shall have next precedence as long as promotional eligibles remain on the list.
- 5.15.5.3 When fewer than three available promotional eligibles remain, the earlier open list shall have precedence over a later open list.
 - 5.15.1.5.4 When all promotional eligibles have been removed from the list, through appointment and otherwise, veteran's credit shall be added to

scores of remaining open eligibles and their ranks shall be adjusted accordingly.

- 5.15.6 When two or more non-mergeable eligibility lists for the same class exist concurrently, promotional candidates on those lists, earlier list first, shall be exhausted before open candidates, earlier list first, are certified for appointment.
- 5.15.7 When all promotional eligibles have been removed from the list, through appointment and otherwise, veteran's credit shall be added to scores of remaining open eligibles and their ranks shall be adjusted accordingly.

REFERENCE: Education Code Section(s): 4272, 45284, 45298, 45309, and 45308

5.16 Certification When Fewer Than Three Ranks Remain:

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

REFERENCE: Education Code Section(s): 45260, 45261, 45272 and 45277

5.17 Procedure for Certification of Appointment:

The appointing authority shall be the Board of Education and its designated managers except that the Personnel Commission shall be the appointing authority in the case of employees appointed by the Personnel Commission and paid for out of the Personnel Commission budget.

- 5.17.1 The appointing authority or designee shall make a selection from the persons presented and shall notify the personnel director.
- 5.17.2 If a candidate who was declared eligible for appointment to a position fails to keep an interview appointment or declines the appointment, the appointing authority may fill the vacancy from the remaining eligibles or may request certification of eligibles.
- 5.17.3 The Personnel Commission Director shall ascertain the availability of eligibles and shall certify names to the appointing authority in accordance with these rules.
- 5.17.4 The Personnel Commission Director shall be provided with appropriate documentation at the time of certification of assignments.
- 5.17.5 No warrant shall be drawn on behalf of the Board of Education for payment of any salary to any employee in the classified service unless the assignment bears the certification of the Personnel Commission Director that the person named in

the assignment has been assigned pursuant to the Education Code and the rules of the Personnel Commission.

REFERENCE: Education Code Section(s): 45260, 45261, 45272, 45277 and 45310

5.18 Certification of Additional Eligibles:

If an eligible that has been certified, refuses appointment or fails to respond for an interview, the appointing authority shall notify the Personnel Commission Director. When a request for additional eligibles is made, the Personnel Commission Director shall:

- 5.18.1 Certify additional eligibles as required.
- 5.18.2 Remove the names of eligibles who failed to report for interviews or who refused appointment from the eligibility list.
- 5.18.3 Investigate the matter at his/her discretion to determine that any appointment refusal is in fact voluntary.
- 5.18.4 Request authorization from the Commission to refuse further certification should the investigation determine that refusal of appointment by an eligible is in fact not voluntary.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.19 Failure to Make Appointment:

Should the appointing authority fail to make a selection from the top three (3) ranks of eligibles as certified by the personnel director unless such failure to hire is in accord with these Rules and Regulations, the position may not be filled except as provided by these Rules and Regulations and no further eligibles shall be referred for that position as long as the eligibility list is active unless otherwise provided by these Rules and Regulations.

- 5.19.1 In such case any existing non-permanent appointment to fill the vacancy shall terminate immediately. The personnel director will notify the appointing authority of the requirement to vacate the non-permanent appointment.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.20 Withholding Names from Certification:

- 5.20.1 The name of an eligible may be withheld from certification by the Personnel Commission Director when the eligible:
 - 5.20.1.1 Expresses unwillingness, lack of interest, or inability to be interviewed for employment or be employed, whether by phone, in person, or in writing.
 - 5.20.1.2 Fails to respond within five (5) business days following the mailing of written inquiry regarding availability for permanent employment or request to appear for interview regarding such employment.

- 5.20.1.3 Fails to present the license, registration, certificate or any other credential required.
- 5.20.1.4 Fails to present himself/herself for duty at the time agreed upon after having accepted an appointment.
- 5.20.1. 5 Fails to present the license, registration, certificate or any other credential required.
 - 5.20.1.5.1 The name of any such eligible shall be restored by the Personnel Commission Director for certification when the particular requirement has been met.
- 5.20.1.6 There is a record of unsatisfactory service with this district or present or previous employers, even though separation has not occurred.
- 5.20.2 The names of employees who have been separated from employment in the classified service shall not be certified from promotional or open and promotional eligibility lists for classified classes, effective at the time of separation.
 - 5.20.2.1 If an employee resigns subsequent to certification to the promotional position, that person shall not be appointed to the position on a promotional basis.
 - 5.20.2.1.1 This rule shall not apply to any person placed on a reemployment list.
 - 5.20.2.2 An employee whose name appears on an open and promotional eligibility list and who resigns may make a written request to the Personnel Commission Director that his/her name be placed at the appropriate rank on the open portion of the list.
 - 5.20.2.2.1 The name shall be merged in score order without benefit of seniority credit, but with veteran's credit if applicable, provided that proof of eligibility for veteran's credit is submitted to the Personnel Commission at the time of the request for rank adjustment.
- 5.20.3 Any reason listed provided for these Rules and Regulations or by law.
- 5.20.4 Persons whose names are not certified from promotional only and open and promotional eligibility lists in accordance with this rule shall not have the right of appeal.

REFERENCE: Education Code Section(s): 45260, 45261, 45272 and 45277

5.21 Restoration of Certification:

- 5.21.1 When the name of a person has been withheld from an eligibility list, or from certification, or has been removed from the list, it may be placed on such list or restored by the Personnel Commission Director under the following circumstances:
- 5.21.1.1 When the withholding or removal was because of the waiver or inability of the eligible to accept employment or failure to respond to inquiry as to his/her availability to appear for interview, or to present himself/herself for duty, and the applicant presents a good and valid reason and certifies to the Personnel Commission that he/she is now willing and able to accept appointment.
- 5.21.1.2 When the withholding or removal was for a reason stated in Section 4.03 and such action was improper or the defect has since been corrected.
- 5.21.2 Revisions and withdrawals of voluntary waivers shall not require approval by the Personnel Commission.
- 5.21.3 A former employee reinstated and assigned in accordance with Rule 6.8 shall, upon written request to the Personnel Commission Director, have his/her name restored for certification purposes to its place according to score on any promotional only or open and promotional list which is still current, in which his/her name appeared at the time of separation.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.22 Certification from List For Another Class:

- 5.22.1 If there is no eligibility list for a classification in which a vacancy exists, due to expiration or use and the unavailability of eligibles, the Personnel Commission Director may authorize certification from the current eligibility list of an equal or higher classification, provided the knowledge and abilities or other factors examined in the equal or higher classification encompass those of the classification where the vacancy exists and the certification is made from the first three ranks ready and willing to accept employment.
- 5.22.2 Such authorizations shall be reported to the Commission in their meeting agenda.
- 5.22.3 The name of the person selected from the list of the equal or higher classification shall remain on the list from which selected for certification to vacancies occurring in that classification, for the life of that list, unless withheld or removed in accordance with other provisions of these rules.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.23 Duties of Eligibles:

- 5.23.1 It shall be the duty of every eligible to respond promptly after receiving notice of certification for interview. The eligible will be expected to respond within five (5) working days from the date notification is mailed. Failure to respond within the above stated time may result in removal from the eligibility list.
- 5.23.2 Eligibles are required to keep the Personnel Commission Office informed as to the current home or other contact address, telephone number(s), and email addresses where they can be reached to schedule employment interviews. Failure to keep the Personnel Commission Office informed could result in the eligible being bypassed on the eligibility list as unreachable. In that event, the personnel director shall send a letter inquiring as to continued availability and interest. Failure to respond pursuant to these rules will result in removal from the eligibility list.
- 5.23.3 An eligible who has been selected for a permanent position and is unable or unwilling to report by the end of two (2) full weeks (one (1) full month in the case of management classes may be considered to have refused appointment and the appointing authority may request certification of additional eligibles.
- 5.23.4 The appointing authority may allow a period longer than two (2) weeks at its discretion.
- 5.23.5 The date of the offer of appointment shall be the date on which the eligible is notified by the personnel director of selection.
- 5.23.6 Notification may be made by telephone, registered or certified mail, or electronic means.
- 5.23.7 When appointment is to a limited-term position, the eligible must be available on the date specified by the appointing authority.
- 5.23.8 Every person who has been placed on any eligibility list or reemployment list shall file in writing with the Personnel Commission his/her correct mailing address, place of residence, email address and/or telephone number .
5. 23.8.1 This addresses shall be the place to which all notices shall be sent that are necessary in carrying out the provisions of the act and these rules.
- 5.23.8.2 Whenever such person shall have any change in mailing address or place of residence, email address and/or telephone number, he/she shall notify the Personnel Commission, stating the list or lists upon which his/her name appears, together with his/her mailing address and place of residence, email address and/or telephone number.
- 5.23.8.3 Failure or neglect on the part of any such person to file such information may at the discretion of the Personnel Commission Director operate as a waiver of his/her order of certification and/or appointment from any such list or lists.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

5.24 Selective Certification:

5.24.1 Appointments may be made from other than the first three ranks of applicants on the eligibility list when the district determines and the Personnel Commission concurs that:

5.24.1.1 The need for an ability to speak, read, or write a language in addition to English.

5.24.1.2 A possession of a valid driver's license.

5.24.1.3 The assignment of a person of a particular sex is a requirement of the position to be filled.

5.24.2 Where such a position is to be filled, the appointment shall be made from among the highest three ranks of applicants on the appropriate eligibility list who meet the special requirements and who are ready and willing to accept the position.

5.24.3 If there are insufficient applicants who meet the special requirements, an employee who meets the special requirements may receive provisional appointments which may accumulate to a total of 90 working days.

5.24.3.1 Successive provisional appointments of ninety (90) working days or less each may be made in the absence of an appropriate eligibility list containing applicants who meet the special requirements if the Personnel Commission finds that the requirements of subdivisions (a) and (b) of Section 45288 have been met.

5.24.3.2 These appointments may continue for the period of the provisional appointment, but may not be additionally extended if certification can later be made from an appropriate eligibility list.

5.26 Subjects Regarding Which No Questions Shall be Asked

No questions relating race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person.

REFERENCE: Education Code Section(s): 45260, 45261, 45272 and 45293
Government Code Section(s): 12926 and 12940

5.27 Other Source of Eligibility:

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

5.27.1 When filling any provisional, emergency, or limited term position within the classified service of the District, the appointing authority may be required to appoint from a transfer list provided for by the applicable collective bargaining agreement.

5.27.1.1 If no person or persons apply for transfer from the same job classification as is being temporarily created, then the personnel director may certify transfers from within the same occupational hierarchies, giving priority to the most closely related classification.

5.27.1.2 Only after exhausting these considerations may an appointing authority appoint any other person as a provisional, emergency, or limited term.

5.28 Definition of Non-Permanent Appointees:

5.28.1 A non-permanent employee is a provisional, emergency, or limited term appointment.

5.28.2 “Working out of classification” is a compensation matter only. Everyone designated as “working out of classification” must be designated a provisional, emergency, or limited term appointment as a basis for supporting an “out of classification” designation.

5.28.3 All non-permanent appointments must be designated as a provisional, emergency, or limited term appointment in a specific classification established by the Personnel Commission in order for a pay warrant to issue. Generic terms or generic classifications are prohibited.

REFERENCE: Education Code Section(s): 45260, 45261, 45272, 45286, 45287, 45288, 45299, and 45310

5.29 Termination of Non-Permanent Appointments/Employees:

5.29.1 Non-permanent appointments may be terminated at any time in the discretion of the appointing authority without right of appeal.

5.32.2 Non-permanent appointments shall be terminated by the appointing authority at the conclusion of the non-permanent appointment term.

5.29.3 All non-permanent appointments shall have a termination date of not later than June 30 of each year. Those eligible for non-permanent appointment may be reappointed effective July 1 of each year, subject to approval of the personnel director.

REFERENCE: Education Code Section(s): 45260, 45261, 45272, and 45286

5.30 Provisional Appointments:

Insofar as possible, provisional appointees shall be required to meet the minimum qualifications, for the class to which the appointment is to be made, as stated in the class specification.

- 5.30.1 The appointing authority may make a provisional appointment when the Personnel Commission Director certifies that:
- 5.30.1.1 No eligibility list exists for a class
 - 5.30.1.2 An eligibility list exists, but there is an insufficient number of available eligibles (i.e., less than three(3) ranks) and the appointing authority refuses to appoint an available eligible from a list of less than three (3) ranks.
- 5.30.2 An employee may receive a provisional appointment which may accumulate to a total of ninety (90) working days, after which a ninety (90) calendar day interval shall elapse, during which he/she shall be ineligible to serve in any full-time provisional capacity.
- 5.30.2.1 No person shall be employed in provisional capacities within the District for a total of more than one-hundred-twenty-six (126) working days in any one (1) fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position, as defined in these Rules and Regulations, successive ninety (90) working-day provisional appointments may be made to the part-time position for a total of more than one-hundred-twenty-six (126) working days in any one fiscal year.
 - 5.30.2.2 Notwithstanding the above, the Personnel Commission may extend the ninety (90) working-day provisional appointment for a period not to exceed thirty-six (36) additional working days provided that:
 - 5.30.2.2.1 An examination for the class was completed during the initial ninety (90) working days of the employee's provisional appointment.
 - 5.30.2.2.2 Satisfactory evidence is presented to the Personnel Commission indicating:
 - 5.30.2.2.3 That an adequate recruitment effort has been made, and is being made.
 - 5.30.2.2.4 That extension of the provisional appointment is necessary to carry on vital functions of the District.
 - 5.30.2.2.5 That the position cannot be satisfactorily filled by use of the eligibility or other employment lists or procedures, such as reinstatement, transfer, or other appropriate eligibility lists.

REFERENCE: Education Code Section(s): 45260, 45261 45272, 45286, 45287, 45288, and 45289

5.31 Terminating Provisional Appointments:

- 5.31.1 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 (15) day period does not extend beyond the ninety (90) working day provisional assignment.
- 5.31.2 A provisional appointment may be terminated at any time at the discretion of the appointing power.

REFERENCE: Education Code Section(s): 45260, 45261, 45272, and 45286

5.32 Emergency Appointments

- 5.32.1 If it should become necessary to fill positions in the Classified Service to prevent the stoppage of public business when an actual emergency arises and persons on the eligibility list are not immediately available, or if no appropriate eligibility and/or transfer list is in existence, the Board of Education, through its authorized representative(s), may make emergency appointments.
- 5.32.2 If such an emergency should exist, the Board of Education, or its authorized representatives, may make emergency appointments for a period of not more than fifteen (15) working days.
- 5.32.3 When such emergency appointments are made, it shall be the duty of the Board of Education, or its designated representative to notify the Personnel Director in writing; naming the appointee or appointees, the date(s) of the appointment(s), the nature of the duties to be performed, and reasons justifying the emergency nature of such appointments.
- 5.32.4 An “emergency” must be the result of circumstances beyond the control of the governing board and not due to actions of the governing board or its designees that cannot be remedied by simple action of the governing board.

REFERENCE: Education Code Section(s): 45260, 45261 45272, and 45290

5.33 Limited Term Appointments:

- 5.33.1 A limited term appointment may be made to replace an absent employee, the duration of which is not to exceed the authorized absence of the regular employee; however, it need not coincide with the dates of that absence.
- 5.33.1.1 In addition, a limited term appointment may be made in a lower class related to that of the absent employee if the assigned duties are reduced in level accordingly.
- 5.33.2 The Board of Education may establish positions for the duration of which shall not exceed six (6) months provided the Board of Education establishes the effective dates at a public meeting in accord with the Brown Act.

- 5.33.1.1 Such positions shall be designated "limited-term", and be a part of the classified service and shall be subject to classification by the Personnel Commission.
- 5.33.3 Provisional appointments may be made to limited-term positions.
- 5.33.4 Although such positions are established for a specific limited period of time, they are still subject to review and amendment by the Personnel Commission. Such positions shall be designated "Limited-term."
- 5.33.5 Limited term appointments may not be used as a method to avoid the permanent appointment of a classified employee pursuant to the Rules and the Merit System.
- 5.33.6 Regular employees, who are serving in limited-term positions, while retaining regular status in the same class or in another class, shall continue to earn and be granted all rights and benefits of a regular employee.
- 5.33.7 All other limited-term employees shall be entitled to only those benefits provided by law or granted by the Board of Education.
- 5.33.8 Limited-term appointments shall be subject to termination at any time.

REFERENCE: Education Code Section(s): 45260, 45261 45272, and 45286

5.34 Eligibility For Limited-Term Appointment:

- 5.34.1 Limited-term appointments shall be made in accordance with procedures for regular appointments, except a former employee who resigned in good standing and who accepted a limited-term appointment within thirty-nine (39) months following his/her resignation shall continue to be eligible for limited term appointments in his former classification(s) until the thirty-nine months have expired.
- 5.34.2 A retiree from the District shall be eligible for limited-term appointments in his former classification(s).

REFERENCE: Education Code Section(s): 45260, 45261 45272, and 45286

5.35 Establishment of List of Limited Term Employees:

- 5.35.1 The Personnel Director may establish and maintain list(s) of persons who may be used to fill limited appointments as necessary. The selection of persons to fill such substitute appointments shall be made in the following manner and sequence:
- 5.35.2 Regular part-time classified employees who have requested to be considered for limited term appointments within their classification(s) and are available or can be made available to serve in a limited term appointment provided that an

employee shall not serve more than (19) nineteen consecutive working days within any calendar month if such a limited term appointment results in a longer work day, work week, or work month.

- 5.35.3 Reemployment list(s) for the class.
- 5.35.4 Retired employees who are filling a position in a classification held at the time of retirement
- 5.35.5 The eligibility lists(s) established for the class.
- 5.35.6 The next most appropriate eligibility list(s) that could be used to provide qualified eligible substitutes for positions in that class.

REFERENCE: Education Code Section(s): 45317, 45260, 45261 45272 and 45286

5.36 Removal of Names From Limited Term List(s):

The Personnel Director may remove names from the list(s) of persons eligible to substitute when:

- 5.36.1 There has been a lapse of one (1) full year since the last time the person served in a limited term appointment.
- 5.36.2 The person requests to be removed from the list for limited term appointments. The person may request to be placed on the list at any time in the future provided the list is still valid and the person remains eligible to remain on the list.
- 5.36.3 Removal from a limited term list does not remove the person from their rank order on the permanent list except as otherwise provided in these Rules.

REFERENCE: Education Code Section(s): 45260, 45261 45272 and 45286

CHAPTER 6 - INSERVICE STATUS AND TRANSACTIONS

6.1 Notice to Employee:

At the time of initial employment and upon each change of classification, a classified employee shall be given two (2) copies of his/her class specification and a notice by the Personnel Commission Director.

- 6.1.1 The notice shall also be given to the employee in the event of transfer.
- 6.1.2 The notice shall include the following information:
 - 6.1.2.1 Employee's classification.
 - 6.1.2.2 Work location, starting time and hours per day.
 - 6.1.2.3 Work year by months per year.
 - 6.1.2.4 Reporting time and date and person to report to.
 - 6.1.2.5 Names of supervisor and department head.
 - 6.1.2.6 Type of appointment.
 - 6.1.2.7 Ending date of appointment, if applicable.
 - 6.1.2.8 Status of employee.
 - 6.1.2.9 Salary data which includes: Annual, monthly or pay period, daily, hourly, overtime and differential rate of compensation, whichever are applicable.
 - 6.1.2.10 Any other information that would help the employee understand the conditions under which he/she is employed.
- 6.1.3 The notice shall be prepared in triplicate and signed by the employee.
 - 6.1.3.1 One (1) copy shall be given to the employee.
 - 6.1.3.2 One (1) copy shall be sent to the employee's supervisor.
 - 6.1.3.3 Original signed copy shall be retained in the employee's personnel file.

REFERENCE: Education Code Section(s): 45169

6.2 Duration of Probation:

- 6.2.1 A probationary period of 130 days of paid service in class shall be served by a classified employee before permanency in the classified service is attained.

- 6.2.2 No employee shall retain permanency in a class until he/she has completed a probationary period of 130 days of paid service in the class. This rule is applicable to:
- 6.2.2.1 Employees appointed from eligibility list to fill permanent unrestricted positions in the classified service.
 - 6.2.2.2 Employees promoted to permanent unrestricted positions in the classified service.
 - 6.2.2.3 Employees transferred from one class to another at the same salary range.
- 6.2.3 Employees initially appointed to restricted positions shall attain permanency in class after satisfactory completion of 130 days of paid service and a qualification examination as prescribed in Ed Code 45101.
- 6.2.4 Temporary employees, limited-term, provisional, substitute and emergency employees shall not attain probationary or permanent status with the district and are excluded from the provisions of this rule.
- 6.2.5 An employee who has been promoted shall serve a probationary period of 130 days in the higher class before attaining permanency in that class.
- 6.2.6 Credit toward completion of probation shall be granted only for service in regular positions in the class after appointment from an eligibility list.
- 6.2.5 The probationary period for employees in classes designated by the Personnel Commission as administrative, executive, management, or designated school police classifications shall be determined by the employee's assigned work year:
- 6.2.5.1 The following designated police classes serve a probationary period not to exceed one year:
 - Campus Security Officer I
 - Campus Security Officer II
 - Lead School Police Dispatcher
 - Public Safety Dispatcher
 - School Police Officer
 - School Police Officer Trainee
 - School Security Officer
- 6.2.6 Time spent on limited-term employment, unassigned workdays, sick leave and paid or unpaid leaves of absence shall not count as service for completion of a probationary period.
- 6.2.6.1 All classified employees, with the exception of classified managers, shall be deemed to have served the district on all paid vacation days, legal holidays, holidays appointed by the Governor and holidays declared by the Board of Education.

6.2.6.2 Such time shall be counted toward completion of a probationary period.

REFERENCE: Education Code Section(s): 45101

6.3 Rights of Probationary Employees

6.3.1 A new employee who is suspended or dismissed during his/her initial probationary period shall be notified in writing of the action taken.

6.3.1.1 He/she shall not have the right of appeal.

6.3.2 An employee in the permanent classified service who has not served the time designated by the Commission as probationary for the class may be demoted to the class from which promoted without recourse to an appeal or hearing by the Commission.

6.3.3 A permanent employee who is suspended or dismissed or demoted to other than his/her former class during a probationary period retains full rights of appeal.

REFERENCE: Education Code Section(s): 45301

6.4 Announcement of Vacancies:

6.4.1 Vacant positions in the classified service shall be announced to employees in the same and related classes by written announcement, except when a vacancy can be filled by a transfer to avoid a layoff situation, or when a transfer is necessary for the good of the District.

REFERENCE: Education Code Section(s): 45278

6.5 Transfer:

6.5.1 A transfer is the reassignment of an employee without examination from one position to another position in the same class or to a position in a similar or related class with the same salary range.

6.5.1.1 Such actions are discretionary with the appointing authority.

6.5.1.2 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 her/his rights, as provided in law and these rules.

6.5.2 Transfer Procedures

6.5.2.1 Vacant positions shall be filled whenever possible by employees who request transfers. Except for transfers effected to meet the needs of the district, the decision to fill a position by a transfer shall rest with the selecting authority. (Principal, department head, or supervisor.)

- 6.5.2.2 Transfer requests shall be submitted in writing to the Human Resources Director who shall certify to the selecting authority the names of those who qualify in accordance with these rules.
- 6.5.2.3 The transfer of an employee shall be completed within two weeks of selection for the position or by the last day of work of the incumbent, whichever is later.
- 6.5.2.4 An employee who is probationary in class shall not be eligible for transfer except upon the approval of the Human Resources Director.
- 6.5.2.5 A transfer shall not affect an employee's salary rate, salary increment date, accumulated illness leave or accumulated vacation.

6.5.3 Transfer Within the Same Class

- 6.5.3.1 An employee may be transferred to a position within the same class at his/her request and with the approval of the Human Resources Director.
- 6.5.3.2 An employee may be transferred to a position within the same class to meet the needs of the district; however, such a transfer shall not be made for disciplinary or preferential reasons, or to a position with less hours except through regular layoff or disciplinary procedures.

6.5.4 Transfer to a Related Class

- 6.5.4.1 The Personnel Commission shall determine which classes of positions are related for the purpose of transfer from one class to another, considering such factors as similarity of duties, responsibilities and qualifications.
- 6.5.4.2 An employee may be transferred to a position in a related class at the same salary range at his/her request and with the approval of the Human Resources Director.
- 6.5.4.3 An employee who is transferred to a position in a class in which he/she never completed a probationary period shall be considered probationary in that class.
- 6.5.4.4 Time previously spent in the class shall be counted toward completion of the probationary period.
- 6.5.4.5 At any time during the probationary period an employee may be reassigned to a vacant position, with comparable hours, in his/her former class in which permanency has been established.

- 6.5.6.2.1 Such a reassignment shall be for cause and with the right of appeal.

REFERENCE: Education Code Section(s): 45272, 45278, and 45261

6.6. Additional Hours Within A Classification:

- 6.6.1 Vacancies for classifications with positions with different numbers of hours worked per week, per month, or per year, shall be filled based on seniority within that classification.
- 6.6.1 The employee with the highest seniority shall be given the first opportunity to accept the position with the higher number of assigned time.
- 6.6.2 If that employee refuses the position, then the person with the next highest seniority in that classification shall be afforded the right to accept the position with the greater assigned time.

REFERENCE: Education Code Section(s): 45260, 45261 and 45272

6.7 Demotions, Voluntary and Involuntary

- 6.7.1 A demotion is the reassignment of an employee to a class of positions with a salary range lower than that of his/her previous class.
- 6.7.2 The Personnel Commission shall determine which classes of positions are related for purposes of demotion, voluntary or involuntary.
- 6.7.3 A permanent employee may request to be voluntarily demoted to a lower related class.
 - 6.7.3.1 Requests shall be submitted to the Human Resources Director who shall certify the names of those who qualify to the selecting authority (principal, department head or supervisor).
 - 6.7.3.2 After reassignment to a lower class, completion of a probationary period shall not be required.
- 6.7.4 Permanent and probationary employees may take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present positions rather than be reclassified or reassigned.
 - 6.7.4.1 An employee who takes a voluntary demotion or a voluntary reduction in assigned time in lieu of layoff shall be, at the option of the employee, returned to a position in his or her former class or to a position increased assigned time as vacancies become available, and without limitation of time.
 - 6.7.4.1.1 If there is a valid reemployment list the employee shall be ranked on that list in accordance with his or her proper seniority.

6.7.5 An involuntary demotion is a disciplinary action for cause.

REFERENCE: Education Code Section(s): 45298

6.8 Restorations

6.8.1 A former permanent employee who resigned in good standing may be reinstated to a vacant position in his/her former class and status within thirty-nine (39) months of the last date of paid service.

6.8.1.1 A former permanent employee may be reemployed in a related or in a lower related class, if qualified, or in a limited-term status in the same or related class.

6.8.1.2 If reemployed in a lower class, lower related class, or limited-term assignment, the employee shall be considered to have taken a voluntary demotion and may request reinstatement to his/her higher permanent status.

6.8.1.3 Such actions are discretionary with the appointing authority.

6.8.2. An employee who has taken a voluntary demotion may be restored to a vacant position in his/her former class or to a related or lower related class as determined by the Commission within thirty-nine (39) months.

6.8.2.1 When demotion is chosen, in lieu of layoff, restoration is discretionary with the appointing authority.

6.8.3 An employee who takes a voluntary demotion or a voluntary reduction in assigned time in lieu of layoff shall be, at the option of the employee, returned to a position in his/her former class or to a position with increased assigned time as vacancies become available, and without limitation of time.

6.8.3.1 The names of such employees shall be placed upon, or added to, the appropriate list and be ranked in accordance with their proper seniority.

6.8.4 Reinstatement or reemployment of a former employee shall have the following effects:

6.8.4.1 Restoration to the former step in the current salary range for the class or, if reemployed in a lower class, to the step on the salary range of the lower class that would provide at least a one-step decrease in salary.

6.8.4.2 When restored to permanent status, restoration of accumulated sick leave and seniority.

6.8.4.3 Restoration of former anniversary date, but without step advancement credit for the off-duty period.

6.9 Assignment of Employees with Disabilities

- 6.9.1 When a permanent employee becomes unable to perform the duties of his/her classification because of illness or injury as determined by a medical authority, reasonable effort shall be made to place him/her in a position, the duties of which are within his/her capabilities.
- 6.9.2 Reassignment, if any, shall be at the discretion of the appointing authority, with the approval of the Commission in the cases noted below.
 - 6.9.2.1 An employee with disabilities duties in his/her regular position may be altered in accordance with his/her disability.
 - 6.9.2.2 Such changes in duties shall be informally reported to the Personnel Commission Director who shall determine whether the position requires classification study.
- 6.9.3 An employee with disabilities may accept demotion or transfer to a less demanding class, with the approval of the Commission.
- 6.9.4 An employee with disabilities may be assigned to a position in a higher class with the approval of the Commission, but shall receive no salary benefit from such assignment until he/she can be appointed to a higher class in accordance with the rules and procedures on eligibility and appointments.
- 6.9.5 An employee with disabilities may refuse assignments to other classes without effect on his/her rights under sick-leave provisions of the law and these rules.
 - 6.9.5.1 There is no obligation for the appointing authority to renew offers of reassignment which have been refused or to make alternative offers.

6.10 Performance Evaluations:

- 6.10.1 Performance evaluation reports shall be made on each regular classified employee on forms prescribed by the District. The reports shall be prepared by an employee's immediate supervisor.
- 6.10.2 A regular classified employee shall be evaluated three times during his/her probationary period.
- 6.10.3 A regular classified employee not serving in a probationary status shall be evaluated annually no later than fifteen (15) business days prior to the end of the employee's work year, provided that he/she has served under his/her current immediate supervisor for a period of at least four (4) months.
- 6.10.4 The annual evaluation period shall be July 1 through June 30.

6.10.5 Employees that have worked six years or longer for the District and have maintained satisfactory evaluations for at least the three most recent evaluation periods may be evaluated every two years.

6.10.6 The immediate supervisor shall present the performance evaluation report to and hold a conference with the employee.

6.10.6.1 The employee shall sign the evaluation form to acknowledge seeing and discussing the report.

6.11 Review of Personnel File:

6.11.1 Any employee of the classified service may, upon request, inspect his/her personnel file maintained in the Human Resources office. The file shall not be altered, tampered with, or removed from the Human Resources office by the employee.

6.11.2 Materials in personnel files of employees which may serve as a basis for affecting the status of their employment are to be made available for the inspection of the person involved.

6.11.1.1 Such material is not to include ratings, reports, or records which:

6.11.1.1.1 Were obtained prior to the employment of the person involved;

6.11.1.1.2 Were prepared by identifiable examination committee members;

6.11.1.1.2 Were obtained in connection with a promotional examination.

6.11.3 Every employee shall have the right to inspect such materials upon request, provided that the request is made at a time when such person is not actually required to render services to the employing district.

6.11.4 Information of a derogatory nature, except material that may serve as a basis for affecting the status of employment, shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon.

6.11.4.1 An employee shall have the right to enter and have attached to such derogatory statement his/her own comments thereon.

6.11.4.2 Such review shall take place during normal business hours and the employee shall be released from duty for this purpose without salary reduction.

REFERENCE: Education Code Section(s): 44031

6.12 Seniority, Layoff, Displacement and Reemployment Procedures:

The purpose of this rule is to establish procedures which concern layoff and reemployment rights of classified employees.

- 6.12.1 Classified employees shall be subject to layoff for lack of work or lack of funds.
 - 6.12.1.1 Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service in the classification.
 - 6.12.1.2 The employee who has been employed the shortest time in the class, plus higher classes shall be laid off first.
 - 6.12.1.3 Reemployment shall be in the order of seniority.
- 6.12.2 Prior to issuance of notices of layoff, a seniority list for each class of positions affected shall be prepared by Human Resources and approved by the Assistant Superintendent, Human Resources.
 - 6.12.2.1 Copies of approved seniority lists shall be sent to the Personnel Commission and shall be made available for public review.
- 6.12.3 Seniority shall be determined by length of service in classification.
 - 6.12.3.1 Length of service means the hire date in a classification, plus higher classes.
 - 6.12.3.2 Overtime work shall not be included in computing seniority credits.
- 6.12.4 Time spent on leave without pay shall not be included when computing seniority.
 - 6.12.4.1 In the event an employee returns to work following any other unpaid leave of absence, no further seniority shall be accrued for the time not worked.
 - 6.12.4.2 Time spent on approved leaves of absence with pay, such as sick leave and vacation and time spent on military leave of absence shall count toward seniority.
 - 6.12.4.3 Should an employee voluntarily separate from service, and be subsequently reinstated; only service paid in the class shall count toward seniority accrual.
- 6.12.5 If employees have equal seniority credits, the employee with the longest total service with the district shall be considered senior.
 - 6.10.5.1 If a tie remains it shall be broken by the casting of lots.
- 6.12.6 Seniority credit at time of layoff shall be restored upon reemployment from the reemployment list.

Layoff Procedures:

- 6.13 When classified employees are laid off for lack of work or lack of funds, layoff shall be made in inverse order of seniority in the class in which the layoff occurs.
- 6.13.1 The employee who has been employed the shortest time in class, plus higher classes, shall be considered to have the least seniority and therefore, shall be laid off first.
- 6.13.2 The names of permanent and probationary employees laid off shall be placed upon the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in the order of seniority.
- 6.13.3 No regular employee shall be laid off from any position while an employee serving under a substitute, provisional, emergency, or limited-term appointment is retained in a position in the same class, unless the regular employee declines assignment to the temporary position.
- 6.13.4 A substitute, provisional, emergency or limited term employee may be laid off at the direction of the Board of Education without regard to the procedures set forth in these rules and without reemployment rights.
- 6.13.5 An employee shall be notified in writing by the superintendent or his designated representatives of his/her impending layoff at least sixty (60) days before the effective date of layoff.

6.14 Bumping Rights and Procedures:

- 6.14.1 A permanent classified employee who has received written notice of his/her impending layoff shall have the following bumping (displacement) rights:
- 6.14.1.1 He/she may bump the least senior classified employee in the same class whose working hours are most comparable to his/her own and who has less seniority.
- 6.14.1.2 If he/she has had service in an equal class he/she may bump the classified employee in the equal class who has less seniority and who is the least senior in the class.
- 6.14.1.3 If he/she has had service in a lower class (a class at a lower salary level than his/her present class) he/she may bump the employee in the lower class who has less seniority and who is the least senior in the lower class.
- 6.14.2 Notwithstanding the bumping rights described above:
- 6.14.2.1 The right to bump shall not be allowed if there is a vacant position in the employee's class to which he/she can be assigned.

- 6.14.2.2 An employee may be allowed to transfer to a vacant position in an equal class or demote to a vacant position in a lower class.
- 6.14.3 A permanent employee who will suffer layoff for lack of work or lack of funds despite the exercising of bumping rights shall have the right to demote to a vacant position in a lower class, provided he/she is qualified, as determined by the Personnel Commission.
- 6.14.4 A probationary classified employee shall have bumping rights to an equal or lower class in which permanency has been established.
- 6.14.5 An employee who has demoted in lieu of layoff shall be placed on the step of the salary range of the lower class that is closest to his/her present salary in the class from which he/ she demotes, provided that he/she shall not receive a salary increase thereby.
- 6.14.6 The number of assigned months of work per year shall have no bearing or effect upon bumping rights; i.e., a twelve month employee may bump a ten month employee and vice versa.
- 6.14.7 Provisional, substitute, limited-term and emergency employees shall have no bumping rights.
- 6.15 Reemployment Rights:
- 6.15.1 The names of all regular classified employees (employees who have probationary or permanent status) who are laid off shall be placed on reemployment lists by class and in order of seniority.
- 6.15.2 A reemployment list shall take precedence over an existing eligibility list. Regular employees who are laid off in accordance with these rules shall be eligible for reemployment for a period of 39 months from date of layoff. Permanent employees who have been laid off shall have the right to participate in promotional examinations.
- 6.15.3 Reemployment shall be in order of seniority.
- 6.15.4 An employee who has accepted a transfer to an equal class, a demotion, or a reduction in assigned time in lieu of layoff for lack of work or lack of funds or abolishment or reclassification of his/her position shall be reemployed in accordance with his/her seniority in the former class within sixty-three (63) months after demotion. Intervening reassignments to other classes shall not abrogate that right.
- 6.15.5 A regular employee who has been laid off may be reemployed in a related class at the same or lower salary range within thirty-nine (39) months of layoff, provided the Commission determines that the class from which laid off and the class in which to be reemployed are similar in duties, responsibilities and qualifications. Reemployment under this procedure shall be at the discretion of the appointing authority.

6.16 Resignation:

- 6.16.1 An employee desiring to leave the service of the district may do so without prejudice by submitting written resignation at least two weeks prior to the effective date of the resignation.
- 6.16.1.1 The resignation shall be addressed to the Board and delivered to the Human Resources office.
- 6.16.1.2 The employee shall also give notice of resignation to his/her principal or supervisor on the same date. Less than two weeks' notice will be accepted if approved by the Assistant Superintendent, Human Resources or designee. A copy of such resignation will immediately be filed by the appointing power with the Human Resources Director. A resignation may be withdrawn by the employee at any time prior to acceptance by the Board of Education.
- 6.16.2 A resignation shall be effective at the close of the work day on the date specified by the employee, except that the effective date of resignation shall be the last day of paid service if the employee is in a non-pay status on the date the resignation is to take effect.
- 6.16.3 A resignation of an employee submitted to evade dismissal from the service shall be considered to be with prejudice and such an employee shall not be eligible for reinstatement unless the circumstances of his/her separation shall have been thoroughly investigated and reviewed and the Human Resources Director shall have recommended that the individual be reinstated.

CHAPTER 7 - LEAVE ENTITLEMENT

7.1 Vacation

- 7.1.1 A regular classified employee shall be entitled to an annual vacation at the regular rate of pay at the time the vacation is commenced.
 - 7.1.1.1 If employed five days per week, seven to eight hours per day, or four days per week, ten hours per day, a regular employee shall accrue vacation at the rate of not less than five-sixths of a day per month of service, provided he/she is in a paid status for more than one-half of the working days in the month.
 - 7.1.1.2 For all employees regularly employed for fewer than 35 hours a week, regardless of the number of hours or days worked per month, the vacation credits shall be computed at not less than 0.03846 of an hour of vacation for each hour of paid service not including overtime.
 - 7.1.1.3 Vacation shall be granted at a time most convenient to the district and shall be arranged in advance with the supervisor.
 - 7.1.1.4 An employee may be granted vacation at any time during the school year though not earned at the time the vacation is taken.
 - 7.1.1.5 Fractional days of vacation may be granted. For recordkeeping purposes vacation shall be accrued and taken in one hour units.
 - 7.1.1.6 Earned vacation shall not become a vested right until completion of the initial six months of employment.
 - 7.1.1.7 Vacation allowance is exclusive of regularly assigned days off and legal and Board approved holidays.
 - 7.1.1.8 Vacation shall not be earned while an employee is absent without leave.
 - 7.1.1.9 A minimum of two weeks of vacation per year of employment shall normally be required of each employee.
 - 7.1.1.10 Upon separation from service, an employee shall be entitled to lump sum compensation for all earned and unused vacation except that an employee who has not completed six months of employment in a regular status shall not be entitled to such compensation.
 - 7.1.1.11 If an employee is terminated and had been granted vacation which had not accrued at the time of termination of his/her services, the district shall deduct from the employee's severance check the full amount of salary which was paid for such unearned days of vacation taken.
 - 7.1.1.12 Vacation used in excess of earned credit shall be deducted from salary at the end of the school year or upon termination of employment.

7.1.2 Twelve-month Employees:

7.1.2.1 At the option of a twelve-month employee, unused vacation may be accumulated from year to year at the rate of not more than 5 days per year, and shall be limited to maximum cumulative amount of 25 days.

7.1.2.1.1 If an employee is not permitted by his/her supervisor to take his/her full annual vacation, the amount not taken shall be paid for in cash at the option of the Board of Education.

7.1.2.2 Twelve-month employees who are transferred, promoted, or demoted to 9, 10, or 11 month positions shall be entitled to a lump sum compensation for all earned and unused vacation remaining at the end of the school year.

7.1.3 Nine, Ten, and Eleven-Month Employees:

7.1.3.1 Nine, ten, and eleven-month employees shall be compensated by lump-sum payment for unused vacation remaining to their credit at the end of the school year.

7.2 Interruption or Termination of Vacation Leave:

7.2.1 A permanent classified employee may interrupt or terminate paid vacation leave in order to begin another type paid leave without return to active service provided approval is granted by the Assistant Superintendent, Human Resources.

7.2.2 A permanent classified employee who becomes ill, injured, or quarantined while on paid vacation may request the Assistant Superintendent, Human Resources to change that portion of his/her vacation to sick leave provided:

7.2.2.1 Attendance of a physician was required.

7.2.2.2 Proof of illness, injury or quarantine is furnished by the physician.

7.2.2.3 The employee was incapacitated to perform his/her duties.

7.2.2.4 The employee has sick leave available.

7.3 Sick Leave:

7.3.1 Sick leave is the authorized absence from duty of a classified employee because of illness, injury, exposure to contagious disease or personal necessity.

7.3.1.1 Entitlement to Sick Leave

- 7.3.1.1.1 A regular classified employee shall once a year be credited with a total of not less than 100 working days of paid sick leave, in addition to sick leave to which he/she is entitled.
- 7.3.1.1.2 Sick leave shall be compensated at not less than 50 percent of the employee's regular salary,
- 7.3.1.1.3 Sick leave shall be available after all other sick leave entitlement has been exhausted, but shall not be cumulative from year to year.
- 7.3.1.1.4 Benefits accrued while on paid sick leave shall be the same as the benefits which would have been accrued had the employee worked.

7.3.1.2 Accrual of Sick Leave

- 7.3.1.2.1 Regular classified employees (probationary and permanent) shall accrue sick leave in accordance with the provisions of Ed Code 45191. Fulltime employees shall accrue eight hours of sick leave for each calendar month of service. Part-time employees shall accrue sick leave on a pro rata basis.
- 7.3.1.2.2 Regular classified employees whose work year is extended by the Board of Education shall accrue sick leave for service performed during the extended period.
- 7.3.1.2.3 New classified employees of the district accrue sick leave from the first of the month in which employed, provided their employment commences on or before the 15th. If employment commences on or after the 16th of the month, sick leave is accrued from the first of the following month. Sick leave will be accrued to the end of the month for an employee ending his/her service with the district, provided his/her last day of work is on or after the 16th of the month. Sick leave will be accrued to the end of the previous month if an employee's last day of work is on or before the 15th of the month.
- 7.3.1.2.4 Limited-term employees shall accrue sick leave after 66 consecutive days of service has been performed. The accrual rate shall be the same as that for regular classified employees. If the 66th day of service occurs on or before the 15th day

of the month, sick leave shall be accrued for that month. If the 66th day of service occurs on or after the 16th day of the month, accrual of sick leave shall commence on the first day of the following month.

7.3.1.3 Use of Sick Leave

- 7.3.1.3.1 Sick leave may be used by a classified employee for absence from work because of illness, injury, exposure to a contagious disease, or personal necessity to the extent authorized by this rule, provided the employee has sick leave credits available.
- 7.3.1.3.2 A new employee of the district shall not be eligible to take more than six days of sick leave, or the proportionate amount to which he/she may be entitled under Ed Code Section 45191 until the first calendar month after completion of six months of active service with the district.
- 7.3.1.3.3 Pay for sick leave shall be the same as the pay which would have been received had the employee worked that day. The provisions of Ed Code Section 45137 in addition to Section 45191 apply to sick leave for part-time classified employees.
- 7.3.1.3.4 Classified employees are required to notify their supervisors when they are to be absent for illness. The reasons for the absence must be stated at the time of the notification. If the absence for illness is to be longer than one day, subsequent notification for each day's absence is required unless the duration of the absence can be stated at the time of the notification. If the absence is to be longer than one day, the classified employee shall notify his/her supervisor the day before returning so that substitutes, if employed, may be released.
- 7.3.1.3.5 For an absence of one month or longer because of personal illness, injury or quarantine, a physician's report will be required for each month of absence. This report is in addition to the Report of Absence Form Z-2 required for each absence. The requirement that these reports be submitted monthly during an absence will continue until the employee either returns to duty or until his/her employment is terminated.

The Assistant Superintendent, Human Resources may, at his discretion, require the physician's report at more frequent intervals.

7.3.1.3.6 Sick leave of no more than the amount entitled to per year may be granted in advance of being earned. However, if an employee leaves the service of the district, any overpayment of sick leave will be recovered by the district.

7.3.1.3.7 An employee who is absent on sick leave shall not be entitled to sick leave pay for missed overtime work.

7.3.1.3.8 Classified employees are entitled to be absent from duty when illness or injury prevents them from performing their assigned duties. Credit for such absence for illness or injury is accrued on the basis of one day per month of employment. Pregnancy, miscarriage, childbirth, or recovery there from is a temporary disability for which sick leave may be utilized. The date of commencement of absence from duties because of pregnancy, miscarriage, childbirth or recovery there from shall be determined by the employee and the employee's physician. The date for resumption of duties shall be determined by the employee and the physician. The physician's verification for the commencement of absence from duties and resumption of duties shall be based on the employee's physical ability to perform assigned duties.

REFERENCE: Education Code Section(s): 45137, 45191 and 45196

7.3.1.4 Personal Necessity Absence:

7.3.1.4.1 Any days of leave of absence for illness or injury allowed pursuant to Personnel Commission rules and the Education Code may be used by a probationary or permanent employee, including any of the following:

7.3.1.4.2 Death of a member of his/her immediate family when additional leave is required beyond that provided in Rule 6.13, Ed Code Section 45194 and that provided in addition thereto as a right by the Board of Education.

- 7.3.1.4.3 Accident, involving his/her person or property, or the person or property of a member of his/her immediate family.
- 7.3.1.4.4 Appearance in any court or before an administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.
- 7.3.1.4.5 Such other reasons which may be prescribed by the Board of Education.

On January 28, 1971, the Board of Education approved the following other reasons:

- 7.3.1.4.5.1 Illness in immediate family.
- 7.3.1.4.5.2 Immediate or impending danger to the home of an employee.
- 7.3.1.4.5.3 Specific family responsibilities or obligations which make it imperative for the employee to be absent during working hours.
- 7.3.1.4.5.4 Hazardous conditions such as floods, which make it dangerous for an employee to be absent during working hours.
- 7.3.1.4.5.5 Required absence of a male employee while a spouse is giving birth to a child.
- 7.3.1.4.5.6 Obligations required by virtue of elected or appointed leadership positions in professional-education organizations, youth activities which directly benefit youth, elected officials of city or county government or elected public school board members. Written requests for absences must be received in Human Resources at least one week prior to date of absence and are subject to review and approval by the administrator in charge of personnel.

7.3.1.5 The manner of proof as prescribed by the Board of Education shall be a statement submitted to the Assistant Superintendent, Human Resources, describing the nature of the absence for personal necessity.

7.3.2 No earned sick leave in excess of seven (7) days may be used in any school year for absence for personal necessity.

7.4 Accumulation of Sick Leave

7.4.1 If any employee does not use the full amount of sick leave allowed in any year, the amount not used is allowed to accumulate from year to year without limit.

REFERENCE: Education Code Section(s): 45207

7.5 Transfer of Sick Leave

7.5.1 Any classified employee of any California school district or county superintendent of schools who has been employed for a period of one calendar year or more and who subsequently accepts employment with the San Bernardino City Unified School District within one year of such termination of former employment shall have transferred with him/her the total amount of earned sick leave to which he/she was entitled.

REFERENCE: Education Code Section(s): 45191 and 45202

7.6 Critical Illness in the Family:

7.6.1 A classified employee shall be entitled to a maximum of three days absence per year for critical illness of an immediate family member.

7.6.1.1 Immediate family includes:

Father, mother, sister, brother, daughter, son, wife, husband, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, stepfather, stepmother, grandson, granddaughter, or any relative living in the immediate household of the employee.

7.6.2 A critical illness is defined as one in which the patient's life is in danger and there is a possibility of death.

7.6.3 Certification by a physician that the illness is critical in nature is required on a form provided by the district.

7.6.3.1 This form shall not be required if the illness is followed by death of the family member, within the immediate three (3) days following the critical illness leave request.

- 7.6.4 Any extension of this ruling regarding "family" must be requested of the Assistant Superintendent, Human Resources.

REFERENCE: Education Code Section(s): 45194

7.7 Bereavement Leave

A classified employee is entitled to three days of absence without loss of pay, five (5) days where out-of-state travel is required or in excess of 200 travel miles, for the death of any member of his/her family.

- 7.7.1 "Family" is the same as defined in the section under Critical Illness in the Family.

REFERENCE: Education Code Section(s): 45194

7.8 Extended Illness Absence

- 7.8.1 In the event of an absence of a permanent classified employee because of non-industrial illness or accident which continues beyond all available sick leave, vacation, and any other paid leave of absence benefits, the following procedures shall be followed:

7.8.1.1 The employee's name shall be carried on the district's rolls in an extended illness absence status for a period of no more than one (1) month from the date of his/her paid leave of absence benefits are exhausted.

7.8.1.2 Prior to or at any time during the one (1) month extended illness absence period, verification of the employee's continued illness or injury may be required from the attending physician.

7.8.1.3 The employee may be returned to his/her regularly assigned duties at any time during the one (1) month period upon certification by the attending physician that the employee is physically and mentally able to perform such duties as the school district may require until such time as the employee is able to perform all of his/her regular duties.

7.8.1.4 In the event that the absence of the employee will continue beyond the one (1) month extended illness absence period, it is the employee's responsibility to initiate a request for a leave of absence.

7.8.1.4.1 The request should be accompanied by a recommendation of the attending physician.

7.8.1.4.2 A leave of absence will be limited to one calendar year, unless extended by the Board of Education at the employee's request.

7.8.1.5 If at the conclusion of all leaves of absence the employee is still unable to assume the duties of his/her position, his/her name shall be placed on a reemployment list for a period of 39 months.

REFERENCE: Education Code Section(s): 45195

7.9 Industrial Illness and Accident Leave

7.9.1 Classified employees who have completed their initial probationary period when absent from duty because of industrial illness or accident shall be entitled to Industrial Illness and Accident Leave as set forth in the following conditions and regulations:

7.9.1.1 Any absence which is supported by a doctor's certificate and which is verified by the district's administering agency as qualified for workers' compensation is an absence payable under industrial illness and accident leave.

7.9.1.1.1 During the period of determination by the administering agency the payroll charge will be made to the employee's sick leave account.

7.9.1.1.2 If the claim is approved, an adjustment will then be made restoring to the employee the sick leave previously charged from the first day of absence, and a charge made in lieu thereof to industrial illness and accident leave.

7.9.1.1.3 In the event the employee does not have sick-leave credit, appropriate payroll deductions will be made.

7.9.1.1.4 If the claim is approved, reimbursement will then be made on the first available warrant register.

7.9.1.1.5 Industrial Illness and Accident Leave will commence on the first (1st) day of authorized absence.

7.9.1.2 A maximum of 60 workdays of industrial illness and accident leave is allowable for any one illness or accident, and shall be used in lieu of entitlement to any other paid leave.

7.9.1.1.2 Eligibility for industrial illness or accident leave will continue for only such period as the employee qualifies under the workers' compensation laws.

7.9.1.1.3 An industrial accident or illness leave may overlap into any other fiscal year by no more than the amount of the 60-day leave remaining at the end of the fiscal year in which the injury or illness occurred, provided employment for that fiscal year is approved by the Board of Education.

- 7.9.1.3 Industrial illness and accident leave shall not be accumulative from year to year, nor one accident/illness to another.
- 7.9.1.4 During any period an employee has available for his/her use paid leave benefits, all temporary disability payments due under the workers' compensation laws shall be deducted as tax sheltered amounts from the employee's warrant(s) in accordance with Education Code and IRS regulations.
- 7.9.1.1.1 The District shall monitor the temporary disability benefits to assure proper retirement credit and contributions for Public Employees' Retirement System.
- 7.9.1.5 Should the employee's absence due to an industrial illness or accident extend beyond 60 work days, the employee shall be permitted to use only as much of his/her accumulated sick leave, compensatory time, vacation, or other available leaves.
- 7.9.1.5.1 In no case shall compensation, when added to temporary disability benefits, exceed the rate of compensation to which the employee would otherwise be entitled.
- 7.9.1.6 Upon complying with District medical-release requirements and receiving District authorization to return to work, an employee on Industrial Illness and Accident Leave shall be reinstated in a position in the same class without loss of status or benefits.
- 7.9.1.7 Should the employee's absence extend beyond all entitled paid leaves of absence, he/she shall be placed on an extended-illness leave in an unpaid status for a period of three (3) months from the date all of his/her paid leave of absence benefits are exhausted.
- 7.9.1.8 If an employee is not medically able to assume the duties of his/her position after all industrial illness and accident leave, sick leave, vacation, compensatory time and extended illness absence leave have been exhausted, his/her employment shall be terminated and his/her name shall be placed on a reemployment list for a period of thirty-nine (39) months. When medically released by the district approved doctor for return to duty during the thirty-nine (39) month period, he/she shall be employed in the first (1st) vacant position in the class of his/her previous assignment over all other available candidates, except for those on a reemployment list established because of lack of work or lack of funds. An employee who fails to accept an appropriate assignment shall be removed from the reemployment list.

- 7.9.1.9 An employee receiving benefits as a result of an industrial illness or accident shall, during periods of injury or illness! remain within the state of California unless the Board of Education authorizes travel outside the state.
- 7.9.1.10 For purposes of this rule, the term "duty" refers to all scheduled working days, including legal and Board-declared holidays on which an employee in the classified service is authorized to receive salary payments.
- 7.9.1.11 The term "qualifying for workers' compensation" presupposes that an accident report has been filed according to established procedure and that the administering agency considers the claim valid. In the event of rejection of the claim by the administering agency, industrial accident leave shall not apply.

REFERENCE: Education Code Section(s): 45192

7.11 Jury Duty and Witness Leave

- 7.11.1 Leave of absence for jury service shall be granted to any classified employee who has been officially summoned to jury duty in local, state, or federal court.
- 7.11.2 Leave shall be granted for the period of the jury service.
- 7.11.3 The employee shall receive full pay while on leave provided that the jury service fee for such leave is assigned to and the subpoena or court certification is filed with the district.
- 7.11.4 Request for jury service leave should be made by presenting the official court summons to jury service to the Assistant Superintendent, Human Resources or his/her designee.
- 7.11.5 Leave of absence to serve as a witness in a court case shall be granted an employee when he/she has been served a subpoena to appear as a witness, not as the litigant in the case.
 - 7.11.5.1 The length of the leave granted shall be for the number of days in attendance in court as certified by the clerk or other authorized officer of the court.
 - 7.11.5.2 The employee shall receive full pay during the leave period, provided that the witness fee for such leave is assigned to and the subpoena or court certification is filed with the school district.
 - 7.11.5.3 Request for leave of absence to serve as a witness should be made by presenting the official court summons to the Assistant Superintendent, Human Resources or his/her designee.
- 7.11.6 The jury service fee and witness fee do not include reimbursement for transportation expenses.

7.11.7 An employee who has received leave of absence under this rule shall make himself/herself available for work during hours when his/her presence is not required in court.

7.11.8 Night workers shall be allowed time off from their regular duties on each day jury service is performed. The time off duty per day will be the same amount of time as the jury service performed on that day.

REFERENCE: Education Code Section(s): 44036

7.12 Absence for Examination:

A classified employee, upon giving his/her immediate supervisor adequate notice, shall be eligible to participate in any examination conducted by the San Bernardino City Unified School District without loss of pay, provided the employee has been notified by the Personnel Commission Director that he/she is eligible to participate.

7.13 Military Leave:

7.13.1 Military service leave and rights to reemployment shall be granted in accordance with the Military and Veterans Code.

7.13.2 Time spent in military service shall be included in computations of years of service with the district.

REFERENCE: Education Code Section(s): 44800

7.14 Hazards to Health and Safety:

7.14.1 A classified employee shall be paid his/her regular salary for any period during which his/her place of employment is closed because of quarantine, epidemic or other conditions involving the health or safety of employees, provided that the employee is ready, willing and able to perform his/her customary or other reasonable and suitable duties.

7.15 Personal Business:

7.15.1 An absence for personal business must be signed by the classified employee's principal or department head and approved by the Assistant Superintendent, Human Resources or his/her designee.

7.15.2 Approval to be absent for personal business must be obtained in advance of the intended absence and approval will be dependent upon the needs of the school or department.

7.15.2.1 Occasionally an emergency may occur at a time when it is clearly impossible for the employee to obtain the necessary advance approval from the Assistant Superintendent, Human Resources or his/her designee. In this event, it shall be incumbent upon the employee's direct supervisor to notify the

Assistant Superintendent, Human Resources or his/her designee at the earliest possible time.

7.15.3 An absence for personal business may not be granted for more than seven (7) consecutive working days without approval of the Board of Education.

7.15.4 Absences for personal business that have not been authorized in advance are classed as absences from duty without leave.

7.15.4.1 Salary deductions are made for any absence, due to personal business, at a rate which is the hourly equivalent of the monthly salary.

7.16 Leave of Absence for Study or Retraining:

7.15.1 At the discretion of the Board of Education a leave of absence for study or retraining may be granted.

REFERENCE: Education Code Section(s): 45381

7.17 Leave of Absence Without Pay:

7.17.1 For valid reasons, a request for a leave of absence without pay may be granted to a permanent classified employee.

7.17.1.1 A leave of absence shall not normally exceed one calendar year.

7.17.1.2 A leave of absence shall be subject to the approval from the Assistant Superintendent, Human Resources or his/her designee and the Board.

7.17.2 The failure of an employee to return to work or to report for assignment at the expiration of a leave of absence shall be considered as equivalent to a resignation.

7.17.2.1 A leave of absence may be revoked upon the recommendation of the Assistant Superintendent, Human Resources or his/her designee and approval of the Board.

7.17.3 An application for leave of absence shall indicate the beginning and ending dates of the requested leave and the reasons for the request and shall be submitted to Human Resources at least two weeks prior to the effective date of the leave.

7.17.4 Time spent on personal leave of absence shall not count toward seniority, salary increments, or accumulation of vacation.

7.17.5 If an employee is granted a leave of absence without pay for a period of six months or more, the employee shall have the right to return to a position in his/her classification at the expiration of the leave of absence, provided that he/she is capable of performing the duties of the position.

- 7.17.6 If a personal leave of absence is granted for a period of less than six months, or if a combination of extended illness absence leave and personal leave of absence is for a period of less than six months, the employee shall have a right to return to his/her position at the expiration of the leave of absence, provided that he/she is capable of performing the duties of the position.
- 7.17.7 If a personal leave of absence is granted because of illness or injury, return to duty shall be contingent upon verification by the employee's attending physician that the employee is able to return to work without restrictions.

CHAPTER 8 - WAGE AND SALARY PROVISIONS

8.1 Workday and Workweek

- 8.1.1 A regular workweek shall be forty (40) hours, eight (8) hours per day, during a period of not more than five (5) consecutive days.
 - 8.1.1.1 The District retains the right to extend the regular workweek.
 - 8.1.1.2 These provisions do not restrict the extension of a regular workday or workweek by an authorized administrator when such is necessary to carry on the business of the district.
 - 8.1.1.3 The Board of Education may establish a workday of less than 8 hours or a workweek of less than 40 hours for all or any of its classified positions.
- 8.1.2 The workweek of an employee assigned an average workday of four or more hours shall consist of not more than five consecutive days.
- 8.1.3 The Board of Education may establish a 9-hour-per-day, 80-hour-per-2-week work schedule, provided the establishment of the work schedule has the concurrence of the employee organization, or in the absence of an employee organization, the concurrence of the affected employee.
 - 8.1.3.1 When a 9-hour-per-day, 80- hour-per-2-week work schedule is established, the workweek shall be defined in either of the two ways as follows:
 - 8.1.3.1.1 The workweek shall begin on noon Friday and will end at noon the following Friday, with the employee working nine hours each day except on alternate Thursdays when the employee will work eight hours, and on alternate Fridays when the employee will not work.
 - 8.1.3.1.2 The workweek shall begin at noon on any other day of the week and shall be defined so that no employee will be required to work more than 40 hours during any given workweek.
- 8.1.4 The Board of Education may establish a 10 hour per day, 40 hour, 4 consecutive day workweek for all or certain classes of its employees or for employees within a class when, by reason of the work location and duties actually performed by such employees, their services are not required for a workweek of 5 consecutive days, provided the establishment of such a workweek has the concurrence of the concerned employee, class of employees, or classes of employees as ascertained through the employee organization representing a majority of the concerned employees or class or classes of employees, as determined by a payroll deduction authorization for dues in classified employee organizations on file with

the district on the last day of the month next preceding the date the Board action was taken.

8.1.4.1 Where a board has previously established the workweek of not less than 35 hours, it may require the established workweek to be performed in four consecutive days by any class or classes of employees or by employees within a class, when by reason of the work location and duties actually performed by such employees their services are not required for a workweek of five consecutive days, with the concurrence of employee personnel as provided herein.

8.1.4.2 When a four-day workweek is established, the overtime rate shall be paid for all hours worked in excess of the required workday, which shall not exceed 10 hours. Work performed on the fifth, sixth and seventh days shall be compensated for at a rate equal to 1 1/2 times the regular rate of pay of the employee designated and authorized to perform the work.

8.1.4.3 An employee working an average workday of five hours or less during a workweek shall, for any work required to be performed on the sixth or seventh day following the commencement of his workweek, be compensated for at a rate equal to 1 1/2 times the regular rate of pay of the employee designated and authorized to perform the work.

8.1.5 The Board may establish a 12 hour-per-day, 80-hour-per-2-week work schedule for school police departments, provided the establishment of the work schedule is consented to in a valid collective bargaining agreement.

8.1.4.1 When a 12-hour-per-day, 80-hour-per-2-week work schedule is established, it shall consist of seven work days, six of which shall be 12-hour days, and one of which shall be an eight-hour day.

8.1.4.2 The overtime rate shall be paid for all hours worked in excess of the required workday, at a rate equal to one and one-half times the regular rate of pay for the employee designated and authorized to perform the work.

8.1.4.3 When a 12-hour-per-day, 80-hour-per-2-week work schedule is established, the workweek shall be defined so that no employee will be required to work more than 40 hours during any given workweek.

8.1.6 Nothing in this rule shall preclude the District from establishing a work year for classified management positions prescribing specific numbers of compensable workdays.

REFERENCE: Education Code Section(s): 44048, 45127, 45128, 45131, 45132, 45133, and 45133.5

8.2 Overtime

- 8.2.1 Overtime is ordered and authorized working time in excess of 8 hours of paid service in any one day or in excess of 40 hours of paid service in any calendar week.
 - 8.2.1.1 Paid service includes time during which an employee is excused from work because of holidays, sick leave, vacation, compensatory time off or other paid leave of absences.
 - 8.2.1.2 When a ten-hour workday, four-day workweek has been established by the Board of Education, overtime is ordered and authorized working time in excess of ten hours of a regular working day or in excess of 40 hours of work in a four consecutive day work week.
 - 8.2.1.3 When a 9-hour-per-day, 80-hour-per-2- week work schedule is established, overtime is ordered and authorized working time in excess of the required workday, which shall not exceed nine hours.
- 8.2.2 Only the Superintendent and persons designated by him shall authorize overtime work.
 - 8.2.2.1 No one shall order or authorize overtime unless it is compensable.

REFERENCE: Education Code Section(s): 45128, 45131, 45132, and 45133

8.3 Compensation for Overtime:

- 8.3.1 An employee who works ordered and authorized overtime shall be compensated at a rate at least equal to time and one-half of his/her regular rate of pay. All overtime shall be reported and credited in multiples of fifteen minutes.
- 8.3.2 For the purpose of computing the number of hours worked, time during which the employee is excused from work because of holidays, sick leave, vacation, compensatory time off, or other paid leaves of absence, shall be considered as time worked by the employee.
- 8.3.3 An employee whose average workday is four or more hours and whose workweek is five consecutive days, shall be compensated for any work required to be performed on the sixth or seventh day following commencement of the workweek at a rate equal to one and one-half times the regular rate of pay.
- 8.3.4 An employee whose average workday is less than four hours during a workweek shall be compensated at a rate equal to one and one-half times his/her regular rate

of pay for any work required to be performed on the seventh day following the commencement of his/her workweek.

- 8.3.5 If the Board establishes a workday of less than 8 hours but 7 or more hours and a workweek of less than 40 hours but 35 hours or more for all of its classified positions or for certain classes of classified positions, all time worked in excess of the required workday and workweek shall be deemed to be overtime.

8.3.5.1 Exceptions to this rule are set forth in Ed Code Section 45128.

- 8.3.6 When a four-day workweek is established by the Board, time and one-half shall be paid for all hours worked in excess of the required workday which shall not exceed ten hours and for work performed on the fifth, sixth, or seventh days.

- 8.3.7 An employee working an average workday of five hours or less during a workweek shall be paid time and one-half for any work required to be performed on the sixth or seventh day following the commencement of his/her workweek.

- 8.3.8 Persons designated by the Superintendent may authorize compensatory time off in lieu of paid overtime for work performed, provided the compensatory time off is used within the fiscal year in which it is earned.

- 8.3.9 Compensatory time not used within the fiscal year shall be paid out as overtime.

Reference: Education Code Section(s): 45128, 45131, and 45132

8.4 Classifications Exempt from Overtime Payment

- 8.4.1 Classified employees in classes designated by the Personnel Commission as executive or administrative as set forth in the classification plan and classified salary schedules, shall be exempt from the overtime provisions of the Ed Code and these rules.

8.4.1.1 In exempting executive and administrative classes from overtime provisions, the Personnel Commission certifies that these positions are clearly and reasonably management positions and that the duties, flexibility of hours, salaries, and authority of persons in these classes of positions are of such a nature that they should be set apart from those positions which are subject to overtime provisions.

8.4.1.2 The Commission further certifies that employees serving in such excluded classes of positions will not be unreasonably discriminated against as a result of the exclusion.

Reference: Education Code Section(s): 45127 and 45130

- 8.4.2 A person in an executive or administrative class who is required to work on a holiday or on a holiday approved by the Board, shall be paid, in addition to

his/her regular pay for the holiday, compensation or given compensatory time off at a rate not less than his/her normal rate of pay.

- 8.4.3 The Board of Education may, with the approval of the Personnel Commission, exempt specific classes of positions from compensation for overtime in excess of 8 hours in one day, provided that hours worked in excess of 40 hours in a calendar week shall be compensated on an overtime basis.

- 8.4.3.1 Such exemption shall be applied only to those classes which the Board and the Personnel Commission specifically find to be subject to fluctuations in daily working hours not susceptible to administrative control such as security patrol and recreational classes, but shall not include food service and transportation classes.

8.5 Rest Periods

- 8.5.1 A fifteen minute rest period is to be allowed by school district policy during each four hours of work.

- 8.5.2 Rest periods shall not be cumulative and shall not be used to shorten the working day or lengthen a lunch period.

8.6 Initial Salary Placement

- 8.6.1 Under normal circumstances new classified employees will be hired at the first step of the salary range assigned to their classification.

- 8.6.1.1 Situations may arise, however, in which initial step placement beyond the first step is warranted.

- 8.6.1.2 The affected department or division head shall make such request to the Assistant Superintendent Human Resources who will indicate concurrence or non-occurrence.

- 8.6.1.3 If concurrence is reached, such information will be transmitted to Human Resources staff for processing.

8.7 Differential Pay

- 8.7.1 The governing board may provide differential compensation to those classified employees who perform duties of a distasteful, dangerous, or unique nature when, in the opinion of the board, such compensation is reasonably justified.

- 8.7.1.1 The differential authorized under this rule shall not be considered a part of salary for the purpose of salary allocation upon promotion, demotion, transfer, multiple assignments, or other assignment action.

- 8.7.1.2 The differential authorized under this rule is not available to those employees whose use of foreign language skills, as a part of the regularly assigned duties of their position, has been recognized in the salary allocation of their class.
- 8.7.1.3 The differential authorized under this rule is available to part-time classified employees but will be prorated according to a ratio of the number of hours in their assignment in a certified bilingual position and the number of hours in a full-time assignment of 173.33 hours per pay period.
- 8.7.1.4 A bilingual differential shall be removed from an incumbent upon promotion, demotion, transfer, change of location or position, or other assignment action unless he/she is appointed to a position which has been designated as bilingual in accordance with this rule.
- 8.7.1.5 A person appointed to another position which has been designated as bilingual need not be retested for the same language ability.
- 8.7.2 An employee receiving differential compensation shall not lose such compensation if he/she is temporarily, for 20 working days or less, assigned to a position that is not entitled to such compensation.
- 8.7.2.1 The regular rate of pay for all purposes of an employee assigned to a shift which provides differential compensation shall be the differential rate.

REFERENCE: Education Code Section(s): 45180, 45181, and 45185

8.8 Step Advancement

- 8.8.1 A non-managerial employee who is new to the District or who has been promoted to a higher class shall be advanced to the next succeeding step on the salary schedule, wherever applicable, following completion of a probationary period of service.
 - 8.8.1.1 A probationary period ending on or before the 15th day of the month shall be considered as effective on the first day of that month.
 - 8.8.1.2 A probationary period ending on or after the 16th day of the month shall be considered as effective on the first day of the following month.
 - 8.8.1.3 All succeeding step advancements on the salary range shall be made on an annual basis on either a January 1 or July 1 increment date.
 - 8.8.1.4 A non-managerial employee who has received his/her first step increase in April, May, June, July, August or September shall have a July 1st increment date.

- 8.8.1.5 A non-managerial employee who has received his/her first step increase in October, November, December, January, February or March shall have a January 1st increment date.
- 8.8.1.6 The number of months of service between the first and second step increases varies between a minimum of ten and a maximum of fifteen, when applicable.
- 8.8.2 A managerial employee who is new to the District or who has been promoted to a higher class shall be advanced to the next succeeding step on the salary schedule, wherever applicable, following completion of a probationary period of service.
- 8.8.2.1 A probationary period ending on or before the 15th day of the month shall be considered as effective on the first day of that month.
- 8.8.2.2 A probationary period ending on or after the 16th day of the month shall be considered as effective on the first day of the following month.
- 8.8.2.3 All succeeding step advancements on the salary range shall be made on an annual basis on either a January 1 or July 1 increment date.
- 8.8.2.4 A managerial employee who has received his/her first step increase in April, May, June, July, August or September shall have a July 1st increment date.
- 8.8.2.5 A managerial employee who has received his/her first step increase in October, November, December, January, February or March shall have a January 1st increment date.
- 8.8.2.6 The number of months of service between the first and second step increases varies between a minimum of ten and a maximum of fifteen, when applicable.
- 8.8.3 A part-time employee becoming fulltime in the same class will be given full credit for each year of service in determining the annual increment.
- 8.9 Promotions
- 8.9.1 When an employee is promoted, that employee's salary placement shall be at the lowest step on the higher range which provides a minimum of four percent increase over that employee's base salary prior to promotion.
- 8.9.2 Situations may arise, however, in which step placement beyond that step is warranted.
- 8.9.3 The affected classified or certificated department or division head shall make such request to the Assistant Superintendent, Human Resources, who will indicate concurrence or non-concurrence.
- 8.9.4 Any longevity increment(s) to which entitled shall then be added.

- 8.9.4.1 If no such step exists, salary placement shall be at the last step on the higher range prior to the addition of longevity and/or confidential increments, if applicable.

8.10 Upward Reclassification

- 8.10.1 When an employee is reclassified along with his/her position to a higher classification, that employee's salary placement shall be at the same step on the higher range that it is on the lower range, prior to the addition of longevity and/or confidential increments, if applicable.

8.11 Placement after Leave of Absence

- 8.11.1 Unless a leave of absence taken under these rules or law provides that the break inservice will be disregarded, the employee upon return from a leave of absence will resume his/her step placement and advancement on the salary range as if the leave had not been taken.

- 8.11.1.1 Unpaid leave time will not be counted for step advancement purposes.

8.12 Placement Upon Demotion

- 8.12.1 When an employee with permanence in a higher classification takes a voluntary demotion, that employee's salary placement shall be at the highest step in the lower range which does not exceed that employee's salary in the higher range.

- 8.12.2 When an employee who has permanence in a higher classification and who is the recipient of one or more longevity increases takes a voluntary demotion, that employee's salary placement shall be at the highest step in the lower range which does not exceed that employee's current base salary.

- 8.12.2.1 Any longevity or other increment to which entitled shall be added to the base salary at the lower range.

- 8.12.3 When an employee who has not achieved permanence in a higher classification takes a voluntary demotion, that employee's salary placement in the lower range shall be at the highest step previously attained in the lower classification.

- 8.12.4 When an employee who has not achieved permanence in a higher classification and who is the recipient of one or more longevity increases takes a voluntary demotion, that employee's salary placement in the lower range shall be at the highest step previously attained in the lower classification but any longevity or other increment to which entitled shall be added to that salary.

- 8.12.5 The Personnel Commission's order in an involuntary demotion shall specify the step of the schedule at which the employee shall be placed.

8.12.5.1 Step advancement shall be in accordance with Rule 8.8.

8.13 Downward Reclassification:

8.13.1 When an employee's position is reallocated to a classification with a lower maximum salary, that employee's salary placement shall be at the lowest step on the lower salary range which equals or exceeds that employee's current salary.

8.13.1.1 If no such step exists on the lower range, that employee's current salary shall remain unchanged (i.e., "Y rated") until such a step appears on the lower range.

8.14 Downward Salary Relationship Adjustments

8.14.1 A downward salary relationship adjustment is one in which the salary range of an existing classification is changed to another range having a lower maximum salary and in which all positions in that classification are affected.

8.14.1.1 When a downward salary relationship adjustment occurs, salary placement of the affected employees shall conform to Personnel Commission Rule 8.13 (Downward Reclassification).

8.15 Salary Placement When Working out of Classification

8.15.1 When a regular classified employee is required to work out of classification in a higher non-managerial classification for six or more days within a 15- calendar-day period, that employee's salary shall be placed at the lowest step on the higher range which provides a minimum increase of four percent over current base salary, for the entire period the employee is required to work out of class.

8.15.1.1 If no such step exists on the higher range, that employee's salary placement shall be at the last step of the higher range.

8.15.1.2 Any longevity or other increments to which entitled shall then be added.

8.15.2 When a regular classified employee is required to work out of classification in a higher classification which is a member of the managerial group for six or more days within a 15-calendar-day period, that employee's salary shall be placed at the same step on the salary range which is three full ranges higher than that employee's current base salary.

8.15.2.1 Such upward adjustment shall be for the entire period the employee is required to work out of classification.

8.15.3 When a confidential employee is required to work out of classification in a higher non-managerial classification for six or more days within a 15- calendar-day period, that employee's salary shall be placed at the lowest step on the higher

range which provides a minimum increase of four percent over current base salary, for the entire period the employee is required to work out of class.

8.14.3.1 If no such step exists on the higher range, that employee's salary placement shall be at the last step of the higher range.

8.15.3.2 Any longevity or other increments to which entitled shall then be added.

8.15.4 When a confidential employee is required to work out of classification in a higher classification which is a member of the managerial group for six or more days within a 15-calendar-day period, that employee's salary shall be placed at the same step on the salary range which is three full ranges higher than that employee's current base salary.

8.15.4.1 Such upward adjustment shall be for the entire period the employee is required to work out of classification.

8.15.5 When an employee occupying a position compensated at a salary range on the District Management Salary Schedule is required or agrees to work out of class in a classification set at a higher range on the District Management Salary Schedule for six or more days within a 15-calendar day period, that employee shall be compensated at the lowest step in the higher range which assures a five percent increase in base salary for the entire period the employee works out of class.

8.15.5.1 If no such step exists, that employee will be compensated at the highest (or last) step of the higher salary range.

8.15.6 Requests for salary advancement shall be reported to Human Resources within ten working days of the assignment of higher level duties.

8.15.7 Assignments under this subsection shall in no way be interpreted as a promotion or reclassification. The employee's anniversary date, benefit accrual, and other employment status shall not change.

8.15.8 Approval for the assignment under this subsection shall not exceed one hundred twenty-six (126) working days in one fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position.

REFERENCE: Education Code Section(s): 45110, 45276, 45287, and 45310

8.16 Longevity Increments:

8.16.1 Classified employees covered by a collective bargaining contract and confidential employees shall be paid longevity increments in the following manner:

- 8.16.1.2 One-half (1/2) range increases shall be added to base salary at 10 (ten), 15 (fifteen), 20 (twenty), 25 (twenty five), and 30 (thirty) years of service (excluding breaks in service and leaves of absence), effective the nearest January 1 or July 1 depending on the hire date.

8.17 Confidential Employee Increment

A one-half (1/2) range (i.e., approximately two percent) increase shall be added to the base salary of a regular classified employee upon assignment to a position designated confidential.

REFERENCE: Government Code Section(s): 3540.1(c)

8.18 Holidays

- 8.18.1 All probationary or permanent employees shall be entitled to the following paid holidays provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday and provided they are in an employed status with the district on the holiday:

January 1; the third Monday in January, known as "Dr. Martin Luther King Jr. Day"; February 12 known as "Lincoln Day"; the third Monday in February known as "Washington Day"; the last Monday in May known as "Memorial Day"; July 4; the first Monday in September known as "Labor Day"; November 11 known as "Veteran's Day"; that Thursday in November proclaimed by the President as "Thanksgiving Day" and the day following; December 24, 25 and 31; every day appointed by the President or the Governor of this state as a public fast, Thanksgiving or holiday, or any day declared a holiday by the board for probationary or permanent classified employees.

- 8.18.2 Regular employees of the district who are not normally assigned to duty during the school holidays of December 25 and January 1 shall be paid for those two holidays provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.
- 8.18.3 When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be a holiday in lieu of the day observed.
- 8.18.4 When a holiday herein listed falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed.
- 8.18.5 When a permanent or probationary classified employee is required to work on any of said holidays, he/she shall be paid compensation or given compensating time off for such work in addition to the regular pay received for the holiday.

- 8.18.6 In those cases where two consecutive holidays fall on Saturday and Sunday or on some combination of either of those two days, scheduling of the holidays shall be in accord with applicable provisions of the District's collective bargaining agreement with non-managerial classified employees.
- 8.18.7 The provisions of Article 3 commencing with Ed Code Section 37220 shall not be construed to in any way limit the provisions of this section, nor shall anything in this section be construed to prohibit the Board of Education from providing holiday pay for employees who have not been in paid status on the days specified herein.
- 8.18.8 Prior to July 1 of any school year, the Board of Education may designate other days during such year as the holidays to which permanent or probationary classified employees are entitled in lieu of the holidays on February 12 known as "Lincoln Day", the third Monday in February known as "Washington Day", the last Monday in May known as "Memorial Day", November 11 known as "Veterans' Day" provided that such designated days will provide for at least a three-day weekend.
- 8.18.8.1 Probationary or permanent classified employees shall be required to work on the regular holiday for which another day is designated pursuant to this section.
- 8.18.8.2 For work of eight hours or less or ten hours or less, if a ten-hour workday has been authorized, probationary or permanent classified employees shall be paid compensation at their regular rate of pay.
- 8.18.9 If any probationary or permanent classified employee would be entitled to a regular paid holiday but would not be in a paid status during any portion of the working day immediately preceding or succeeding the day so designated in lieu of such holiday and therefore would not be entitled to the regular holiday, he/she shall be entitled to the regular holiday.
- 8.18.9.1 If he/she is required to work on such holiday, he/she shall be paid compensation at the rate of time and one-half of his/her regular rate of pay in addition to the regular pay received for the holiday.
- 8.18.10 If the district requires any probationary or permanent classified employee to work a workweek other than Monday through Friday, or if such a permanent or probationary classified employee consents to a workweek including Saturday or Sunday or both and as a result thereof the employee loses a holiday to which he/she would otherwise be entitled, the district shall provide a substitute holiday for such employee, or provide compensation in the amount to which the employee would have been entitled had the holiday fallen within his/her normal work schedule.

- 8.18.11 If the Board of Education does not designate September 9, known as "Admission Day" as a paid holiday for probationary or permanent classified employees, the school district shall provide a substitute holiday for such employees.
- 8.18.12 The provisions shall not be construed to in any way limit nor prohibit the Board of Education from providing holiday pay for employees who have not been in paid status on the days specified herein.

Reference: Education Code Section(s): 37220, 44048, 45203, 45205, 45206.5 and 45230

8.19 Salary Relationship Establishment and Revision

- 8.19.1 Salary relationships have two aspects.
- 819.1.1 The amount of salary differential between classifications within an occupational cluster, group, or family.
- 8.19.1.2 The amount of salary differential between occupational clusters, groups or families, each with its own benchmark classification.
- 8.19.2 Personnel Commission staff shall prepare recommendations to establish salary relationships for new classifications or to revise existing salary relationships within occupational clusters, groups, or families, arising in the course of the Commission's exercising its statutory classification and salary relationship functions.
- 8.19.2.1 Due consideration shall be given to the views of District and bargaining unit spokespersons to the Commission.
- 8.19.3 Changes to existing classified manager or bargaining unit salary relationships may be initiated by the District but shall conform to the following procedure:
- 8.19.3.1 Classified or certificated department heads shall forward in writing to the Human Resources Director their requests for changes affecting an entire class of positions.
- 8.19.3.2 The Human Resources shall evaluate such requests and notify the requestor of concurrence or non-occurrence. If and when concurrence is reached, the matter shall be forwarded to the Assistant Superintendent, Human Resources for endorsement.
- 8.19.3.3 Upon the endorsement of the Assistant Superintendent, Human Resources, the request shall be forwarded to the Personnel Commission office for evaluation and possible revision prior to preparation of a staff recommendation for Commission action.
- 8.19.3.4 Subject to any effective date indicated in the Commission action approving an upward revision, salary step placement of the employees in the affected class(es) shall be to the lowest step on

the higher salary range which equals or exceeds current base salary (i.e., prior to the addition of longevity and other increments and stipends, if applicable).

CHAPTER 9 - GRIEVANCE PROCEDURES

9.1 Grievance Procedure - General Procedures for Classified Employees

- 9.1.1 The purpose of the grievance procedures is to provide regular classified employees with an expeditious, orderly and effective means by which complaints about matters growing out of their employment with the District can be resolved without reprisals.
 - 9.1.1.2 Most grievances arise from instances of misunderstandings, or from problems that should be settled promptly and satisfactorily on an informal basis at the supervisory level before they become formal grievances. The prompt settlement of these problems is in the interest of sound employee-management relations. To this end, the practice of friendly discussions of problems between employees and their supervisors is encouraged and directed.
- 9.1.2 The supervisor must maintain an atmosphere in which the employee can speak freely. Complaints shall be given careful and unprejudiced consideration.
- 9.1.3 Fair and prompt handling by the supervisor should result in the satisfactory settlement of most problems and complaints.
- 9.1.4 It is expected that grievances will be resolved at the lowest supervisory level possible provided that the remedy sought does not violate law, regulation, or policy.

9.2 Definition and Terms:

- 9.2.1 A grievance is a formal written allegation by a classified employee that he/she has been adversely affected by misapplication or incorrect interpretation of a specific District rule, policy, or administrative procedure.
- 9.2.2 Matters Excluded from the Grievance Procedure:
 - 9.2.2.1 Matters specifically reserved for action or review by the Personnel Commission under Personnel Commission rules in effect at the time the events leading to the grievance occurred.
 - 9.2.2.1.1 Such matters shall be processed through normal channels by the Personnel Commission.
 - 9.2.2.2 Accusatory charges relating to the moral or professional fitness of an employee.

9.2.2.3 Complaints about the subject matter of a rule, policy or administrative procedure, rather than the administration of the District rule, policy, or procedure. An employee with such a complaint should direct his/her suggestions for change through administrative channels to the body or official who established it.

9.2.2.4 Matters for which a specific method or review is provided by law, by the Rules and Regulations of the District, or by administrative procedure of the District.

9.2.3 Grievant may be any classified employee of the District or the Association who files a grievance under these procedures.

9.2.4 The "immediate supervisor" is the lowest level administrator having jurisdiction over the grievant who has been designated to adjust grievances.

9.2.5 A "day" is any day in which the central administrative offices of the District are 11 open for business.

9.3 Responsibility of Employee

9.3.1 An employee having a grievance has the responsibility to initiate the grievance procedure as promptly as possible, but within 15 working days of the occurrence or incident provoking the complaint. Failure to initiate the formal grievance procedure within the 15 day time limit renders inoperative the procedures established under this rule.

9.3.2 The employee is responsible for obtaining representation (if the person so desires) such as a fellow employee, legal counsel or an employee organization, at any step as determined by the aggrieved employee. The employee shall bear any costs of representation

9.4 Responsibilities of Unit Supervisor

9.4.1 It shall be the responsibility of the unit supervisor (principal or division head) to hear an aggrieved employee, seek out all of the facts in the case and resolve the problem as soon as it is possible to do so.

9.4.2 It shall be the responsibility of the unit supervisor (principal or division head) to request assistance in the resolution of problems as needed.

9.4.3 It shall be the responsibility of the unit supervisor (principal or division head) to communicate decisions and supporting reasons to the aggrieved employee in writing.

9.5 Steps in Procedure to Adjust a Grievance

9.5.1 Informal Procedure:

- 9.5.1.1 In order to promote harmonious relationships, open communications, and provide for immediate solutions, every effort shall be made to resolve problems as promptly as possible at the first level of supervision through informal procedures.
- 9.5.1.2 An informal grievance, written or oral, shall be submitted to the unit supervisor by the aggrieved employee or his/her representative within fifteen working days of the act or condition from which the grievance originates.
- 9.5.1.3 Informal discussion between the employee and the unit supervisor shall take place no later than five working days after request for a conference by the aggrieved employee in an attempt to resolve the problem. The employee must be in attendance, but may present the case through a representative of the person's own choosing.
- 9.5.1.4 The unit supervisor may call higher and lower level supervisors into the discussion.
- 9.5.1.5 Supervisors shall treat all grievances in a confidential manner exercising dignity and respect, and review the facts of the grievance with thoroughness and complete objectivity.
- 9.5.1.6 The unit supervisor shall communicate the decision and supporting reason to the employee in writing within three working days after conclusion of informal discussion.

9.5.2 Formal Procedure:

- 9.5.2.1 Administrative Review
 - 9.5.2.1.1 Failing to resolve the grievance through informal procedure, and if the employee desires to pursue the matter further, the employee shall submit a written complaint to the Superintendent or Superintendent's designee, within five working days after receipt of the informal decision and request a review of the grievance by the Superintendent.
 - 9.5.2.1.2 The written request for a review of a grievance shall include:

- (1) A clear statement of the complaint.
- (2) The act or condition on which the complaint is based.
- (3) The course of action taken in attempting to resolve the complaint under the informal procedure including decisions rendered.
- (4) The reasons why the decisions are being appealed.
- (5) The persons involved in the complaint.
- (6) Copies of documents considered appropriate to the complaint.
- (7) What redress or corrective action is sought by the grievant.
- (8) Name of grievant's representative, if any.

9.5.2.1.2 The Superintendent, or Superintendent's designee, shall hold a conference with all interested parties within five working days of receipt of request, unless there is mutual agreement that more time be allowed. The Superintendent, or his designee, shall within five working days after completion of administrative review, render a written decision and shall notify all interested parties.

9.5.3.1 Formal Hearing:

9.5.3.1.1 If the employee is not satisfied with the decision of the Superintendent and desires to pursue the matter further, the employee shall within five days after receipt of the Superintendent's decision, submit a written request to the Superintendent for a hearing before a hearing officer. The request shall include the reasons why the Superintendent's decision is being appealed.

9.5.3.1.2 The Superintendent or his designee, shall make arrangements for the selection of a hearing officer. The hearing officer may be selected jointly by the employee and the Superintendent or their designated representatives. If a hearing officer is not agreed upon jointly within five working days after the request for a

hearing, the services of a hearing officer from the State of California's Office of Administrative Procedure, or other agency approved by the Board of Education shall be requested by the Superintendent.

9.5.3.1.2 All fees for the services of a hearing officer shall constitute a legal charge against the general (appropriate) funds of the District.

9.5.3.1.4 After selection, the hearing officer shall convene a hearing at the earliest practicable date. The hearing officer shall establish the hearing procedures and may direct the attendance of any District employee at the hearing without loss of salary to the employee.

9.5.3.1.5 The District shall provide the hearing officer with all necessary technical and clerical staff assistance in preparing for and conducting the hearing and in preparing the findings.

9.5.3.1.6 The hearing shall be conducted in accordance with fundamental rules of fairness and due process. Only those having a legitimate interest in the problems at issue, as determined by the hearing officer, shall be admitted to the hearing.

9.5.3.1.7 The hearing officer shall render written findings, conclusions, and recommendations within ten working days of the termination of the hearing. The findings, conclusions, and recommendations shall be sent to the parties concerned and to the Superintendent for implementation.

9.5.4 Board of Education Review:

9.5.4.1.1 If the employee or Superintendent is dissatisfied with the recommendations submitted by the hearing officer, the employee may submit a written appeal to the Board of Education within five working days after receipt of the findings, conclusions, and recommendations.

9.5.4.1.2 The Board may establish its own procedures concerning the matter on appeal. The Board may review the records of the hearing, including the findings, conclusions, and recommendations or conduct its own hearing or investigation of the appeal.

9.5.4.1.3 When the Board has reached a decision, it shall notify the individuals involved and the Superintendent. The Superintendent shall implement the decision.

9.5.4.1.4 The decision of the board shall be final and conclusive.

CHAPTER 10 - PROCEDURES FOR DISCIPLINARY ACTION, APPEAL AND HEARINGS

10.1 General Provisions On Disciplinary Actions:

10.1.1 Disciplinary Policy:

- 10.1.1.1 Each employee shall receive fair and impartial treatment during any disciplinary action, regardless of the employee's position, assignment, or status protected by law, Rule, or Board Policy.
- 10.1.1.2 The District shall apply generally accepted principles of just cause and due process when disciplinary action is taken. Just cause and due process includes, but is not limited to:
 - 10.1.1.2.1 Adequate notice to the employee of the Rules and Regulations to be followed.
 - 10.1.1.2.2 Adequate notice of penalties to be invoked for violations of Rules and Regulations.
 - 10.1.1.2.3 An investigation for fair and honest reasons, regulated by good faith on the part of the District that are not arbitrary or capricious, unrelated to business needs or goals, or pretextual.
 - 10.1.1.2.4 A reasoned conclusion supported by a preponderance of evidence gathered through an adequate investigation that includes notice of the claimed misconduct and a chance for the employee to respond.
- 10.1.1.3 Adherence to all due process rights that is afforded the employee by law, by case decision, by a collective bargaining agreement that applies to the employee, and by the Rules and Regulations of the Personnel Commission
- 10.1.1.4 A regular classified employee shall be subject to disciplinary action only for cause as prescribed by these Rules and Regulations and only pursuant to the procedures outlined herein.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

10.1.2 Definition Of Discipline:

- 10.1.2.1 Disciplinary action includes any action whereby a permanent classified employee is deprived of any classification or any incident of any classification, including dismissal, suspension, demotion, or any reassignment that causes a reduction in pay without the employee's voluntary written consent, except a layoff for lack of work or lack of funds or due to mental or physical incapacity to perform work with or without reasonable accommodation.

10.1.2.2 A voluntary reassignment of a regular employee by the governing board due to illness or injury is not disciplinary action.

10.1.2.3 A suspension may be for a period not to exceed thirty (30) days.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45279

10.1.3 Prohibited Acts:

A classified employee shall not be suspended, demoted, dismissed, subjected to any form of disciplinary action on a status or condition that is prohibited by a collective bargaining agreement that applies to the employee, Personnel Commission Rule, by Board Policy, by state law, or by Federal Law.

REFERENCE: Education Code Section(s): 45260, 45261, 45302 and 45305; Government Code Section(s): 12926, 12650 and 12653

10.1.4 Dismissal Of Exempt Classified Employees:

A substitute, limited-term, provisional, or other temporary classified employee may be released at any time during his/her assignment without regard to procedures set forth in this chapter.

REFERENCE: Education Code Section(s): 45260, 45261, 45302 and 45305

10.1.5 Cause For Disciplinary Action:

The following causes shall be grounds for disciplinary action:

10.1.5.1 Incompetency or inefficiency: The continuing inability or unwillingness to perform the regularly assigned duties and responsibilities of the position.

10.1.5.2 Insubordination: knowingly refusing to perform lawful and reasonably assigned duties or refusing to perform those duties in accordance with established or prescribed procedures; any willful or persistent violation of the Education Code, or Personnel Commission Rules and Regulations, or the procedures adopted by the District or a department when such procedures are made known to the employee in writing.

10.1.5.3 Any willful or persistent violation of the Education Code, or Personnel Commission Rules and Regulations, or the procedures adopted by the District or a department when such procedures are made known to the employees in writing.

10.1.5.4 Knowingly falsifying or withholding any material information supplied to the District, including but not limited to, information required on application forms and employment records, or other official documents of the District.

- 10.1.5.5 Use or possession of alcoholic beverages on District property, or appearing for work under the effects of alcohol. "On District property" shall also include District vehicles.
- 10.1.5.6 The use of or possession of illegal controlled substance, or restricted dangerous drugs as defined in Section 11032 of the Health and Welfare Code, being under the effects of illegal or restricted dangerous drugs during hours of employment, upon any district property, or in any district vehicle, other than that prescribed by a state licensed physician.
- 10.1.5.7 Convicted of a sex offense as defined in Education Code Section 44010. Conviction of such offense shall result in dismissal.
- 10.1.5.8 Convicted of a narcotics offense as defined in Education Code Section 44011. Conviction of such offense shall result in dismissal.
- 10.1.5.9 Engaging in political activities during assigned hours of duty. "Engaging in political activities" shall be defined to include door-to-door campaigning; placing campaign literature in/on vehicles on District facilities, parking lots, or adjacent streets, telephone solicitation or contacts; use of District time or materials for reproduction of campaign literature or materials; and, engaging fellow employees, students, or others in a discussion or debate regarding any candidate for public office or ballot measure except as provided for by law. "During assigned working hours" shall be defined to include any and all time an employee is scheduled to be at his/her work site and/or engaged in District business and for which the employee is compensated by the District; including paid rest break.
- 10.1.5.10 Conviction of a felony or a crime involving moral turpitude. A plea, verdict, or finding of guilty or a conviction following a plea of nolo contendere, is deemed to be a conviction.
- 10.1.5.11 Discourteous, abusive, or threatening treatment of the public, employees, or students, including discriminatory harassment; or malicious engagement in reprisals by managers or supervisors against employees, applicants, candidates, or eligibles who file a written complaint pursuant to Government Code Section(s): 53297 regarding gross mismanagement or a significant waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
- 10.1.5.12 Repeated unexcused absence or tardiness, abuse of leave privileges or absence without notification.
- 10.1.5.13 Abandonment of Position-Absence of three (3) consecutive working days without notification or permission (and failure to notify the District of a valid or acceptable reason for absence).

- 10.1.5.14 Failure to return to work or notify the District within three (3) consecutive working days following an authorized leave of absence without notification or permission except in the case of an emergency.
- 10.1.5.15 The uninsurability of an employee to drive a District vehicle or cancellation or suspension of a license when such is a requirement of the employee's position. Upon notification or confirmation by the District's insurance carrier of insurability or notice of the lack of an active driving license, discipline under this section shall be handled in the following manner:
 - 10.1.5.15.1 The District shall attempt to reassign the employee within the same class or to a vacant position in a related class with the approval of the Personnel Commission not requiring operation of a motor vehicle.
 - 10.1.5.15.2 If reassignment is not possible, then the employee may be demoted, pursuant to these Rules and Regulations.
 - 10.1.5.15.3 If a position does not exist for a demotion to be accomplished, then the employee may be dismissed, pursuant to these Rules and Regulations.
 - 10.1.5.15.4 Theft, willful misuse for personal gain, willful destruction, unauthorized use or mishandling of District, employee, or student body property.
- 10.1.5.16 Conduct that is discriminatory in nature that violates a collective bargaining agreement that applies to the employee, Personnel Commission Rule, Board Policy, State law, or Federal law.
- 10.1.5.17 Failure to obey a lawfully issued subpoena issued by the Personnel Commission and duly served, or any refusal to furnish testimony or documents, other than self-incriminating, at a hearing or investigation before the Personnel Commission or Board of Education.
- 10.1.5.18 Advocacy of the overthrow of the federal, state, or local government by force, violence, or other unlawful means.
- 10.1.5.19 Membership in the Communist Party.
- 10.1.5.20 Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service

in exchange for granting any special treatment to another employee or to any member of the public.

- 10.1.5.21 Carrying out a physical attack or assault upon a student, a member of the public, another District employee, or a District official, except in self-defense (as supported by facts and other information submitted).
- 10.1.5.22 Defrauding the District by collecting sick leave or industrial accident/illness leave pay while working elsewhere for pay during his/her normal scheduled work assignment with the District.
- 10.1.5.23 Failure to submit to involuntary drug testing requirements for classifications requiring a commercial driver's license or designated as safety-sensitive by state or federal courts.

REFERENCE: Education Code Section(s): 212.5, 230, 44010, 44011, 45123, 45260, 45261, 45302, 45303 and 45304;
Government Code Section(s): 1028, 12940 et seq.; Penal Code Section 261;
Health and Safety Code Section(s): 11054, 11056, 11355-11361, 11363-11368, 11377-11382 and 11550

10.1.6 Limits On Disciplinary Action:

No disciplinary action shall be taken against an employee for any cause if:

- 10.1.6.1.1 It is a prohibited act related to discipline as defined by these Rules, by statute, or by case decision.
- 10.1.6.1.2 The employee's due process rights were violated unless disciplinary action or an alternate remedy for that violation of due process rights is otherwise permitted by law.
- 10.1.6.1.3 The disciplinary action conflicts with the provisions of the employee's collective bargaining agreement.
- 10.1.6.1.4 It occurred prior to the employee becoming permanent
- 10.1.6.1.5 The misconduct occurred more than one year prior to the date of the Notice of Proposed Disciplinary Action unless such cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee knew he/she should have disclosed the facts to the District or the District could be reasonably assumed to know or should have known about the acts upon which the discipline is based. Lack of due diligence by the District does not serve as a basis or extending the time limit.
 - 10.1.6.1.5.1 This does not preclude consideration of events or circumstances beyond one year for the purpose of supporting the degree of disciplinary action or in establishing that progressive discipline had been used by the District.

10.1.6.1.5.2 In the case of disciplinary action based on a criminal prosecution, the one year limitation on acts for which disciplinary action can be imposed commences on the date of final judgment, regardless of when the acts resulting in final judgment occurred.

10.1.6.1.5.3 In the case of acts that are subject to criminal investigation, regardless of whether or not there is a prosecution, the one year limit on the imposition of disciplinary action is tolled if the District halts its investigation into disciplinary action during the time that a criminal investigation is pending.

10.1.6.2 The District has the burden of establishing by a preponderance of evidence the tolling of the time limit.

REFERENCE: EDUCATION CODE SECTION(S): 45260, 45261 and 45302

10.1.7 Progressive Discipline:

10.1.7.1 Prior to imposing disciplinary action against a Classified Employee that affects any loss of compensation, the District shall follow the principles of progressive discipline, except in cases where the safety of District employees, students or the public was involved, or in cases of theft or intentional damage to District property or violations of the law.

10.1.7.2 Step One-Oral Warning: Prior to any formal disciplinary action, the Classified Employee shall be orally notified by his/her immediate supervisor that a deficiency in ~~his~~-his/her job performance has been observed. The supervisor or designee shall discuss the deficiency with the affected Classified Employee in an informal meeting and suggest ways in which the Classified Employee may improve ~~his~~-his/her job performance. The supervisor shall then review the Classified Employee's performance after a period of not less than twenty (20) working days from the date of the informal meeting at which time the supervisor or designee may proceed to Step Two (2) of this procedure if the performance of the Classified Employee has not improved.

10.1.7.3 Step Two-Written Warning: If after Step One (1) herein above has been applied and the Classified Employee has not improved in his/her job performance, the Classified Employee's immediate supervisor, or designee, shall prepare a written warning letter and shall send such letter to the affected Classified Employee. The warning letter shall outline those specific areas and/or incidents of the Classified Employee's deficient performance and suggestions and direction for improvement. The warning letter shall not include any incidents or deficiencies, which were not discussed at the Step One (1) level herein above. The warning letter shall not be placed into the affected Classified Employee's personnel file.

10.1.7.4 Step Three-Letter of Reprimand: If it is noted after Step Two (2) herein above has been applied, that the Classified Employee has not improved in his/her job performance, the Classified Employee's immediate supervisor, or designee, shall prepare a written letter or reprimand and shall send such letter to the affected Classified Employee. The letter of reprimand shall outline those specific areas and/or incidents of the Classified Employee's deficient performance and suggestions and direction for improvement. The letter of reprimand shall not include any incidents or deficiencies, which were not discussed at the Step One (1) level herein above. The letter of reprimand shall not be placed into the affected Classified Employee's personnel file until he/she has been given ten (10) working days to respond.

10.1.7.5 Step Four- Suspension: If it is noted after Step Three (3) herein above has been applied, that the Classified Employee has not improved in his his/her job performance, the Classified Employee's immediate supervisor, or designee, may make a recommendation to the Superintendent that the Classified Employee's deficient job performance warrants a suspension with or without pay for a period not to exceed ten (10) working days, as deemed appropriate.

10.1.7.6 Step Five- Further Action: No less than thirty (30) days after Step Four (4) herein above has been applied, and if it is noted that the Classified Employee has not improved in his/her job performance and being that all the above procedures have been followed, the District Superintendent may make recommendation to the Governing Board that further disciplinary action be taken against the Classified Employee which may include any of the following: demotion, suspension, reduction in hours or class, transfer or reassignment, written reprimand, or termination, as deemed appropriate. A notice of disciplinary action, if any is to be taken, shall be prepared and shall be subject to the disciplinary notice procedures contained in the Chapter.

10.1.8 Progressive Discipline-Suspension:

An employee may be terminated, or suspended not to exceed thirty (30) assigned working days without pay. The proposed length of suspension shall reasonably relate to the seriousness of the alleged offense and the step or process involving progressive discipline.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

10.1.9 Progressive Discipline - Final Step:

The employee may be subjected to more severe disciplinary action, including demotion or termination.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

10.1.10 Immediate Suspension With Or Without Pay:

10.1.10.1 If an employee presents any matters related to the health, safety and well-being of the employee, students, fellow employees, or District property, the Superintendent or his/her designee may suspend the employee immediately *without* pay pending the initiation and completion of disciplinary action procedures. The Superintendent may end the suspension with pay to the employee or take action to suspend without pay in accordance with law and these rules.

10.1.10.2 An employee may be immediately suspended with or without pay if charged with the Personnel Commission of any sex offense or narcotics offense. The suspension shall continue for not more than ten days after the date of the entry of the court judgment. Any employee so suspended may receive compensation as provided for by law.

REFERENCE: Education Code Section(s): 44010, 44011, 45122.1, 45123, 45124, 45302, 45303 and 45304
Penal Code Section(s): 261
Health and Safety Code Section(s): 11054, 11056.

10.1.11 Permanent Employee In Probationary Promotional Position:

10.1.11.1 A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is demoted to his/her former class, does not have the right to appeal such demotion.

10.1.11.2 A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is subjected to disciplinary action that would result in the separation of the employee from the permanent classified service shall have full appeal rights as if the employee had completed permanency in his/her present class.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45305

10.1.12 Burden Of Proof:

The burden of proof in disciplinary hearings is the District's. The standard is a preponderance of the evidence.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.2 Notice Of Proposed Disciplinary Action:

10.2.1 No Discipline Without Notice:

No disciplinary action may be taken against a permanent classified employee until the employee has received a Notice of Proposed Disciplinary Action and the employee has had an opportunity to respond to the charges except as otherwise permitted by this chapter.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.2.2 Contents Of Notice Of Proposed Discipline:

The Notice of Proposed Disciplinary Action shall contain in ordinary and concise language the following:

- 10.2.2.1 The nature of the proposed action (suspension, demotion, dismissal, etc.).
- 10.2.2.2 The specific causes for the disciplinary action and specific sections of these Rules or procedures that the employee is accused of violating.
- 10.2.2.3 The specific acts or omissions which establish the causes for disciplinary action, including times, dates, and locations, in ordinary and concise language.
- 10.2.2.4 The proposed effective date(s) of the disciplinary action.
- 10.2.2.5 The employee's rights to see and obtain copies of all evidence and documentation used to support the District's case against the employee unless all such copies and documentation are provided with the notice.
- 10.2.2.6 The employee's right to representation.
- 10.2.2.7 The employee's right to respond to the charges before the Superintendent or designee to dispute the charges and/or proposed action.
- 10.2.2.8 The employee's right to a reasonable amount of time to respond to the charges and to prepare a response during regular working hours if necessary.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.2.3 Notice Shall Use Readily Understood Language:

- 10.2.3.1 The charges outlined in the Notice of Proposed Disciplinary Action shall be written so that the employees will know the exact complaint(s) and charge(s) against him/her, such that the employee can respond to them.
- 10.2.3.2 A Notice of Proposed Disciplinary Action stating only causes for discipline without citing the facts or evidence upon which the causes are based shall be insufficient for such purpose.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.2.4 Appeal Form Shall Accompany Disciplinary Notice:

An employee response form shall accompany the Notice of Proposed Disciplinary Action which shall explain the procedure for filing responses to the charges.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.2.5 Notice Shall Be In Writing And Served On Employee:

10.2.5.1 The Notice of Disciplinary Action shall be in writing and served in person or by Certified Mail "Return Receipt Requested" to the employee.

10.2.5.2 This requirement will be deemed to have been met if the Notice of Disciplinary Action is sent Certified Mail to the last known home address on file in the Human Resources Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules.

10.2.5.3 For purposes of this Rule, if a notice is mailed, the official date of receipt shall be the date that the employee receives the notice as evidenced by the return receipt showing delivery to the address on the envelope.

10.2.5.4 The date on the return receipt showing deliver shall be deemed to be the official date of notification and the date that time requirements commence for the employee to respond.

10.2.5.5 The employee may establish by a preponderance of the evidence that notice was not actually received as indicated by the return receipt.

10.2.5.6 The District may establish by the preponderance of the evidence that the employee willfully evaded receipt of the notice, willfully failed to respond to notices by the postal service, or willfully failed to retrieve delivered mail.

10.2.5.7 If the notice is personally served on the employee in lieu of service by mail, the employee shall sign a written acknowledgement that he/she received the notice in person. If the employee refuses to sign such an acknowledgement, the person serving notice and one witness to the service may verify the service and the space provided for the employee's acknowledgement shall contain the notation "refused to sign."

10.2.5.8 All other notifications to the employee pursuant to this Chapter shall conform to this Rule.

10.3 Skelly Hearing

10.3.1 Action If Appeal Is Not Filed:

- 10.3.1.1 The employee does not waive his/her right to an appeal of the disciplinary action to the Personnel Commission if he/she he does not respond to or participate in a *Skelly* hearing.
- 10.3.1.2 Regardless of the decision of the Personnel Commission regarding the disciplinary action taken, the Personnel Commission may take remedial action for violations of the *Skelly* hearing process.
- 10.3.1.3 The remedy is limited to ordering back pay and benefits from the date of the violation until the final decision of the Personnel Commission is rendered.
- 10.3.1.4 The disciplinary action may not be rejected or modified due solely or primarily to a finding of a *Skelly* hearing process violation.

10.4 Notice Of Board Action And Of Right To Appeal:

10.4.1 Contents Of Notice And Governing Board Procedure:

Notification of disciplinary action to be taken or approved by the governing board based on the final recommendation of the Superintendent or designee that contains any modifications to the facts or the nature of the discipline shall contain statements in ordinary and concise language of:

- 10.4.1.1 The nature of the disciplinary action taken (suspension, demotion, dismissal, etc.).
- 10.4.1.2 The specific causes and sections of these Rules that the employee is accused of violating and upon which the disciplinary action is based.
- 10.4.1.3 The specific charges, a description of the chargeable action(s) or omissions, including times, dates, locations in ordinary and concise language.
- 10.4.1.4 A copy of any investigative records, documents, interview summaries, or other evidence that was used to support any of the alleged factual findings.
- 10.4.1.5 The effective date(s) of the disciplinary action.
- 10.4.1.6 The employee's right to representation.

- 10.4.1.7 The date and time that the Governing Board will meet to act on the recommendation of disciplinary action and whether or not the matter will be acted on in closed or open session. Such notice must be served on the employee at least 72 hours before the governing board is to act on the matter.
- 10.4.1.8 A notice to the employee that if the matter is scheduled for a closed session discussion and action the right of the employee has a right to have the action of the governing board held in open session delivered at least 24 hours before the meeting. Such notice shall be in writing prominently emphasized in bold and underlined text.
- 10.4.1.9 The governing board may not consider any facts or statements in support of the disciplinary action that is not contained in the notice to the employee unless the governing board decides to reject the recommendation in total and order that a new investigation be conducted. Any new investigation cannot result in a disciplinary action that is greater than that proposed in the original notice to the employee when the matter was submitted to the governing board.
- 10.4.1.10 Should the governing board act on a proposed disciplinary action in closed session without the employee having been served with at least a 24 notice of the right to have the matter heard in open session, the disciplinary action shall be void and upon appeal to the Personnel Commission the Personnel Commission shall overturn the disciplinary action upon a showing by the preponderance of the evidence that such 24 hour notice as not given.

Reference: Education Code Section(s): 45260 and 45261; Government Code Section(s): 54957

10.4.2 Notice Of Governing Board Action:

The governing board shall notify the personnel director of the action taken by the governing board within five (5) working days in accord with the following:

- 10.4.2.1 The complete record that served as the basis for the governing board action will be forwarded to the personnel director with any modifications to the disciplinary action taken or any decision by the governing board to delete or modify any of the facts upon which the disciplinary action was taken.
- 10.4.2.2 A copy of the action taken by the Board of Education certified by the governing board that the notice of action taken is accurate and recording the votes of the governing board members.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.4.3 Notice to Employee:

The personnel director will serve on the employee the documents received from the governing board within five (5) business days and the Post-Skelly Notice that includes:

- 10.4.3.1 The employee's right to appeal the disciplinary action to the Personnel Commission within fourteen (14) working days after receiving the Post-Skelly Notice, and the right to have such a hearing within the timelines specified in these Rules.
- 10.4.3.2 A notice that the Personnel Commission may sustain, reject, or modify the disciplinary action taken against the employee; and that the Personnel Commission may not provide for discipline more stringent than that invoked by the Board of Education.
- 10.4.3.3 The employee's right to request the Personnel Commission to issue subpoenas for witnesses or other material evidence.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.4.4 Appeal Form Shall Accompany Post Skelly Disciplinary Notice:

- 10.4.4.1 An appeal form shall accompany the Post-Skelly Notice which shall explain the procedure for hearing and the signing and filing of which shall constitute a demand for hearing and a denial of all charges.
- 10.4.4.2 The appeal form shall be submitted to the Personnel Commission Office by the deadline noted in the Post-Skelly Notice.
- 10.4.4.3 The employee shall include in the appeal his/her current mailing and residency address at which the employee may be contacted.
- 10.4.4.4 The appeal notice filed by the employee shall also contain the name of his/her legal counsel or representative and the address and telephone number of such counsel or representative.
- 10.4.4.5 The employee shall indicate the reasons for the appeal. Appeals can be made only on the following grounds:
 - 10.4.4.5.1 That the procedures set forth in these Rules and Regulations have not been followed.
 - 10.4.4.5.2 That the action taken was not in accord with the facts.
 - 10.4.4.5.3 That the penalty invoked by the District was excessive.
 - 10.4.4.5.4 That the action should be found to be invalid due to violation of the substantive due process rights of the employee.

10.4.4.5.5 That the disciplinary action was taken in retaliation for protected activities engaged in by the employee or because the disciplinary action was taken based on prohibited discrimination of a protected status.

10.4.4.5.6 The Notice of Disciplinary Action shall be in writing and served in person or by Certified Mail Return Receipt Requested to the employee. Service by mail shall be in accord with the procedures in this Chapter.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.4.5 Action If Appeal Is Not Filed:

If the employee does not respond and request a Personnel Commission Appeal Hearing within the fourteen (14) calendar days outlined in the Notice of Disciplinary Action, the action of the Board of Education shall be final and conclusive, and no further appeal rights shall be allowed.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5 Appeal Hearing Procedure:

10.5.1 Appeal Hearing Before Personnel Commission:

If the employee submits an appeal notice to the Personnel Commission Office within fourteen (14) calendar days after receipt of the Notice of Disciplinary Action, the employee shall have a right to have an Appeal Hearing before the Personnel Commission.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.2 Hearing Officer Designated By The Commission:

10.5.2.1 At the next meeting of the Personnel Commission, following receipt of the appeal from the employee, the Personnel Commission shall assign a hearing officer if it decides not to hear the appeal itself.

10.5.2.2 The Personnel Commission may appoint one of its members to serve as a hearing officer or may employ a hearing officer of its choosing.

10.5.2.3 At any time after a hearing officer is appointed, the Personnel Commission may remove any or all authority of the hearing officer to conduct the appeal and complete the hearing itself or may appoint another hearing officer to conduct the rest of the hearing in the event the hearing officer cannot, or is unable to comply with his/her duties.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.3 Notification Of Hearing To Employee:

- 10.5.3.1 The personnel director shall notify the District and the Personnel Commission upon receipt or lack of receipt of an appeal notice, and shall coordinate the scheduling of the Personnel Commission Appeal Hearing if a timely appeal is filed.
- 10.5.3.2 The personnel director shall notify the employee in writing of the time, date, place, and contact information for the hearing officer of the Personnel Commission Appeal Hearing.
- 10.5.3.3 A notice of the time and place of hearing or the contact information for the hearing officer shall be given or mailed to each of the parties not less than ten (10) working days prior to the hearing. The ten day notice of hearing may be waived by the agreement of the parties and the employee.
- 10.5.3.4 Notification shall be either in person or sent by Certified Mail Return Receipt Requested in accord with the notification procedures in this Chapter.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.4 General Conduct of Hearing:

- 10.5.4.1 At this full evidentiary hearing, the employee shall have the right to present all evidence and testimony on his/her behalf, to examine all evidence submitted by the District, hear testimony of the supervisor(s) who initiated the action, and examine and cross-examine all witnesses giving testimony.
- 10.5.4.2 All hearings shall be in closed session, unless the appealing employee requests an open hearing in his/her appeal notice.
- 10.5.4.3 All hearings shall be conducted pursuant to this chapter.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.5 Right To Representation:

The employee may, at his/her option, be represented by legal counsel, union representation, or any other person designated by the employee.

10.5.6 Prehearing Conference:

Prior to the Personnel Commission's formal hearing, the hearing officer may hold a pre- hearing conference with the Board's representative and the appellant's representative or the appellant if the appellant is representing himself or herself. Such pre-hearing conference shall include but not be limited to submission of witness lists, documents required for submission into evidence, and determination

as to length of time necessary for the hearing.

10.5.7 Subpoenas:

- 10.5.7.1 The personnel director or its hearing officer may issue subpoenas on behalf of either party, the hearing officer, or the Personnel Commission.
- 10.5.7.2 Subpoenas shall be delivered to the requesting party for service.
- 10.5.7.3 Requests for subpoenas shall be filed with the Personnel Commission Office at least five (5) working days prior to the date of the hearing.
- 10.5.7.4 The District shall be responsible for service of subpoenas on behalf of all current employees subpoenaed by the employee unless the employee makes other arrangements for service.
- 10.5.7.5 Subpoenas not served by any of the above processes may be served in accord with the California Code of Civil Procedure.
- 10.5.7.6 Subpoenas may be served by certified mail, return receipt requested.

REFERENCE: Education Code Section(s): 45260, 45261, 45305, 45306 and 45307
Code of Civil Procedure Section(s): 1985-1997
Government Code Section(s): 11450.05-11450.50

10.5.8 Witnesses:

A list of witness to be called by each party and a list of persons authorized to attend the hearing shall be submitted to the Personnel Commission Office at least five (5) working days prior to the date of the hearing. This will allow time to secure the release of employee witnesses prior to the hearing.

REFERENCE: Education Code Section(s): 45260, 45261, 45305, 45306 and 45307

10.5.9 Time And Place Of Hearing:

The personnel director shall determine the date, time, and place of the appeal hearing. The appeal hearing shall be held within the boundaries of the District.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.10 All Hearings Shall Be Recorded:

- 10.5.10.1 All hearings conducted pursuant to this Chapter shall be electronically recorded in such a manner that a verbatim written transcript can be produced if necessary.
- 10.5.10.2 Either party may request that the hearing be recorded by a court reporter in lieu of an electronic recoding. The party making the

request shall bear the cost and make arrangements for the court reporter to be present at the hearing. If both parties make such a request, the cost shall be equally shared by the parties unless they agree otherwise.

- 10.5.10.3 The Personnel Commission may also elect to have the hearing recorded by a court reporter at its discretion in lieu of an electronic recoding.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.11 Oral Evidence By Oath Only:

Oral evidence shall be taken only on oath or affirmation.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.12 Ability To Examine Evidence:

Each party shall have the following rights as it relates to examination of witnesses and evidence:

- 10.5.12.1 To call and examine witnesses.
- 10.5.12.2 To introduce exhibits.
- 10.5.12.3 To cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination(s).
- 10.5.12.4 To attempt to impeach any witness regardless of which party first called the witness to testify.
- 10.5.12.5 To rebut all evidence presented by the opposing party.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.13 Admission Of Evidence:

- 10.5.13.1 The hearing need not be conducted according to the technical rules relating to evidence and the examination of witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious business; regardless of the existence of any common law or statutory rule which might cause the evidence to be objected to or ruled out if presented in a criminal or civil procedure before a court of law.
- 10.5.13.2 Hearsay evidence may be used for the purpose of explaining or providing supplemental evidence, but shall not be sufficient in and of itself to support a finding by the Personnel Commission or its hearing officer unless it would be admissible over objection in

a civil action in a court of law

- 10.5.13.3 The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence may be excluded.
- 10.5.13.4 The employee shall be required to attend the hearing, even if the employee's designated representative appears on his/her behalf. If the employee fails to appear without just cause, the employee will be deemed to have forfeited his/her rights to further appeal and the Personnel Commission shall allow the Board of Education's disciplinary action to stand.
- 10.5.13.5 The employee may be called by either party to give evidence under oath. If the employee refuses to testify if called by the governing board, the hearing shall be terminated and the action of the governing board shall be upheld to the extent permitted by law.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.14 Granting Of Continuance:

The Personnel Commission or its hearing officer may grant a continuance for reason(s) believed to be sufficient or important to reaching a fair and proper conclusion.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.15 Ruling On Objections:

The Personnel Commission or its hearing officer shall rule on all objections raised by either party.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.16 Findings Based On Preponderance Of Evidence:

The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented. The findings of the Personnel Commission or hearing officer shall be based upon the preponderance of evidence.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.17 Order Of Presentation Of Evidence:

Each side will be permitted an opening statement, District's representative first and closing arguments, appellant or his/her representative last. The District shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or his/her representative will present his/her witnesses and evidence in defense.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.18 Examination Of Witnesses:

- 10.5.18.1 Each side will be allowed to examine and cross-examine witnesses.
- 10.5.18.2 The Personnel Commission or its hearing officer may, at its discretion, exclude witnesses not under examination from the hearing except for the appellant, District representative, the Personnel Director, and their respective counsels or designated representatives.
- 10.5.18.3 The employee may be called by either party to give evidence under oath. If the employee refuses to testify if called by the governing board, the hearing shall be terminated and the action of the governing board shall be upheld to the extent permitted by law.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.19 Sworn Affidavits:

- 10.5.19.1 Where possible, all witnesses shall give testimony orally at the hearing. However, if in the opinion of the Personnel Commission or its hearing officer, a witness has good and sufficient reason for being unable to be present, written testimony may be accepted under the following conditions:
- 10.5.19.2 Such evidence shall be submitted by sworn affidavit of the witness. The affidavit shall be confined to a statement of facts bearing on the case and within the knowledge of the witness, and shall not contain any conclusions of the witness, except that a witness who qualifies as an expert may express his/her opinion based upon the facts, which he/she has recited.
- 10.5.19.3 Copies of all such affidavits shall be filed with the Personnel Commission Office or the hearing officer at least five (5) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.
- 10.5.19.4 Either party, upon request, may require the attendance of the witness who has given the sworn affidavit for purposes of cross-examination. A continuance may be necessary in order to secure the attendance of the witness.
- 10.5.19.5 The Personnel Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.20 Deliberation And Findings Of Hearing Officer:

- 10.5.20.1 The hearing officer or the Personnel Commission if it is hearing the appeal, shall deliberate on the evidence presented prepares findings and recommendations in closed session.
- 10.5.20.2 The hearing officer shall prepare a report that contains findings of fact and, conclusions, and recommendations in a written report.
- 10.5.20.3 The hearing officer shall complete ~~his~~ his/her written report to the Personnel Commission as soon as possible after conclusion of the hearing.
- 10.5.20.4 If the hearing officer cannot complete his/her report within forty-five (45) days of the conclusion of the hearing, he/she shall notify the personnel director that he/she is unable to do so, provide an estimated date that it will be finished.
- 10.5.20.5 The Personnel Director will place a status report on the agenda for the next meeting of the Personnel Commission.
- 10.5.20.6 The hearing officer shall forward the report and all exhibits to the personnel director when he has completed the report.
- 10.5.20.7 The report of the hearing officer is advisory only and is not binding on the Personnel Commission.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.21 Duties Of Personnel Director:

The Personnel Director, upon receipt of the hearing officer's written recommendations and findings of fact, shall notify the appellant, his/her representative, and the District's representative of the receipt of the hearing officer's decision within five (5) working days of receipt and provide a copy if so requested.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.5.22 Written Response To The Hearing Officer's Report:

- 10.5.22.1 If either representative believes that the Personnel Commission should give further consideration to the decision after it has received a hearing officer's report, he/she may submit a written response to the Personnel Commission with a copy to the opposing representative.
- 10.5.22.2 Such responses shall be submitted to the personnel director and served on the other party. within ten (10) days from being

notified that the hearing officer's report has been filed

- 10.5.22.3 Responses shall be on standard numbered legal pleading paper not to exceed ten (10) pages.
- 10.5.22.4 Objections are not intended to re-litigate the hearing but to provide an opportunity for the parties to express their opinions about the final report of the hearing officer.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.6 Action By Personnel Commission:

10.6.1 Deliberation Of Personnel Commission:

- 10.6.1.1 The Personnel Commission shall deliberate its decision(s) in closed session.
- 10.6.1.2 Only members of the Personnel Commission, its legal counsel, and the Personnel Director shall be permitted to be present during the Personnel Commission's deliberations in closed session.
- 10.6.1.3 If the *Personnel Director* was the administrator initiating the disciplinary action, or if the *Personnel Director* acted on behalf of the Board of Education in the presentation of the case at any level of the appeal process, or if the Director served as the *Skelly* hearing officer or participated in the *Skelly* Hearing decision he/she shall not attend any closed sessions of the Personnel Commission involving the appeal.

REFERENCE: Education Code Section(s): 45260, 45261, 45266 and 45305;
Government Code Section(s): 54957

10.6.2 Decision Of Personnel Commission:

- 10.6.2.1 The Personnel Commission shall render its *decision* as soon after the conclusion of the hearing as possible.
- 10.6.2.2 The Personnel Commission may adopt the hearing officer's report without modification. In such case, the hearing officer's report shall be the written report of the Personnel Commission except as the Personnel Commission may wish to supplement it.
- 10.6.2.3 The Personnel Commission may amend the findings of fact or the recommendations of the hearing office after reviewing the transcript of the hearing or after conducting a supplemental hearing or investigation as the Personnel Commission may order. The supplemental hearing or investigation may consist of the Personnel Commission drafting amendments and giving the parties and their representatives an opportunity to respond to the Personnel Commission's amendments.

- 10.6.2.4 The Personnel Commission may reject the hearing officer's findings and recommendations and may:
 - 10.6.2.4.1 Return the report to the original hearing officer with specific instructions to take appropriate action in accord with those instructions.
 - 10.6.2.4.2 Require the original hearing officer or a new hearing officer to conduct a new hearing.
 - 10.6.2.4.3 Take other action as it deems necessary to resolve the issues that the Personnel Commission has identified.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.6.3 Decision Shall Include Consideration Of Just Settlement:

Following its determination of the facts and findings relative to the disciplinary action imposed upon the employee, the Personnel Commission shall consider such other matters as it deems necessary and proper to effect a just settlement of the appeal, including but not limited to the following:

- 10.6.3.1 Grant compensation, benefits, and other earnings that the employee would have earned for the period that he/she would have worked based on the final decision of the Personnel Commission.
- 10.6.3.2 Grant seniority credit for any or all off-duty time pending restoration or reinstatement.
- 10.6.3.3 Expunge from the employee's personnel file and record any causes or charges not sustained by the Personnel Commission.
- 10.6.3.4 Award compensation to the Appellant for all or part of the legitimate expenses incurred in the pursuit of the appeal. Such compensation may not be awarded:
 - 10.6.3.4.1 If the parties agree to a final action in writing before the Personnel Commission renders a final decision, unless that agreement provides for such compensation.
 - 10.6.3.4.2 If the District is ultimately sustained in all of the disciplinary action that is imposed regardless of factual findings that the Personnel Commission ultimately sustains.
- 10.6.3.5 The extent to which the District did not comply with an employee's due process rights, if violation of those rights resulted in charges, factual findings, or discipline being dismissed

or modified may be a factor to consider in awarding compensation or the amount of compensation to be awarded.

10.6.3.6 The Personnel Commission may designate a hearing officer to make a recommendation to the Personnel Commission concerning awarding such compensation, including but not limited to the following:

10.3.6.1 What proportion of the appeal should be compensated under this Rule, if any.

10.3.6.2 What specific compensation should be covered, if any.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45307

10.6.4 Commission's Written Report Of Decision:

10.6.4.1 The Personnel Commission shall issue a report on its final decision or action taken.

10.6.4.2 The written report may consist of the hearing officer's report if adopted as submitted, or may have portions of the hearing officer's report adopted by reference if the decision is to amend the report.

10.6.4.3 If the disciplinary action is not sustained, the Personnel Commission's order shall set forth the effective date that the employee is to be restored or reinstated to his/her former position and/or status; such date to be set forth at any time on or after the date that the disciplinary action was invoked and such other action that the Personnel Commission may order to achieve a just settlement.

10.6.4.4 Copies of the Personnel Commission's decision(s) shall be delivered to the parties personally or transmitted to them by Certified Mail Return Receipt Requested. The requirement for notification of the employee will be deemed to have been met if the decision is sent, Certified Mail, to the last known home address on file in the Human Resources Office.

10.6.4.5 If the Personnel Commission either sustains a suspension or modifies a dismissal, or other disciplinary action, to a suspension, such days of suspension shall be served on working days in which the employee is normally assigned.

10.6.4.6 The Personnel Commission may not invoke more stringent discipline against the employee than that invoked by the Board of Education.

REFERENCE: Education Code Section(s): 45260, 45261 and 45302

10.6.5 Board Shall Comply With Commission Decision:

- 10.6.5.1 Upon receipt for the Personnel Commission's written decision the Board of Education shall forthwith comply with the provisions thereof. When the Board of Education has fully complied with the Personnel Commission's decision, it shall so notify the Personnel Commission in writing within 30 calendar days.
- 10.6.5.2 If the Board of Education fails and/or refuses to fully comply with the Personnel Commission's written decision(s) and order(s) as required by these Rules and Regulations and legal statutes within 30 calendar days, the Personnel Commission shall seek action to ensure compliance.

REFERENCE: Education Code Section(s): 45260, 45261, 45302 and 45307

10.7 Personnel Commission Procedures:

10.7.1 Disqualification of Hearing Officer or Commissioner:

- 10.7.1.1. A hearing officer, the Personnel Director, or Personnel Commission member shall voluntarily disqualify himself/herself and withdraw from any appeal in which he/she cannot accord a fair and impartial hearing or consideration, or for which a conflict of interest may exist.
- 10.7.1.2 Any party may request the disqualification of any hearing officer, the personnel director, or Personnel Commission member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.
- 10.7.1.3 If the Personnel Commission determines that there are sufficient grounds for disqualification, it may elect to disqualify the hearing officer, personnel director or Personnel Commission member.
- 10.7.1.4 Where the disqualification request concerns a Personnel Commission member, the issue shall be determined by the other members of the Personnel Commission. However, no Personnel Commission member shall withdraw voluntarily or be subject to disqualification if his/her disqualification would prevent the existence of a quorum qualified to act in that particular appeal.
- 10.7.1.5 The Personnel Director shall not advise or make recommendations to the Personnel Commission if he/she is the party who brought the action against the employee.

REFERENCE: Education Code Section(s): 45260, 45261, 45266 and 45302

10.7.2 Counsel For The Personnel Commission:

- 10.7.2.1 The Personnel Commission may seek and appoint legal counsel as part of its appeal and investigatory hearing duties.
- 10.7.2.2 There is always a conflict of interest for any counsel employed by the governing board to represent the Personnel Commission in any disciplinary matter on appeal before the Personnel Commission.
- 10.7.2.3 The personnel director shall be responsible for seeking a written declaration of conflict from counsel to the governing board at the time that the employee files his/her appeal.
- 10.7.2.4 If the counsel for the governing board fails or refuses to declare of a conflict in a disciplinary appeal matter, the Personnel Commission will complete its duties without benefit of counsel.

REFERENCE: Education Code Section(s): 45260, 45261, 45302 and 45313

10.7.3 Action Delegated To Personnel Director:

In the event that the Personnel Director is not able to carry out the duties delegated in this or assigned in this Chapter to the personnel director, the Personnel Commission may delegate any or all such duties to any Personnel Commissioner.

REFERENCE: Education Code Section(s): 45260, 45261, 45310, 45311, and 45312.

10.7.4 Removing A Matter From The Hearing Officer:

The Personnel Commission may remove a matter in whole or in part from the hearing officer upon its own motion to return the matter to the Personnel Commission or upon acting on a motion to do so filed by either or both parties *in the event the hearing officer cannot, or is unable to carry out his/her duties.*

REFERENCE: Education Code Section(s): 45260, 45261, 45310, 45311, and 45312

10.8 Hearings And Investigations Regarding Compliance With The Merit System:

10.8.1 Employee Appointed In Violation Of Rules Or Education Code:

- 10.8.1.1 The Personnel Commission may hold a public hearing whenever it has received information that classified employees were appointed to a position or to an assignment in violation of the Rules and Regulations or in violation of the Education Code Title 2, Division 3, Part 25, Chapter 5, Article 6 commencing with section 45240 that pertain to examination procedures.
- 10.8.1.2 The matter will first be placed on an agenda at a regular or special meeting of the Personnel Commission and there shall be supporting rationale for the Personnel Commission to make a decision as to whether or not a public hearing is warranted or if

further investigation is appropriate.

- 10.8.1.3 The Personnel Commission may appoint one of its members, may appoint the *Personnel Director*, or may employ by contract, as professional experts, or otherwise anyone to serve as an investigating or hearing officer for the investigation or hearing and to make findings and recommendations to the Personnel Commission.
- 10.8.1.4 Whether or not the Personnel Commission acts to hold a hearing or to investigate further, the concerned employee(s) shall be given notice of the available facts and permitted to provide evidence to show by a preponderance of the evidence that the employee has been appointed in accord with the Rules and Regulations or in violation of the Education Code Title 2, Division 3, Part 25, Chapter 5, Article 6 commencing with section 45240 that pertain to examination procedures.
- 10.8.1.5 If a hearing or investigation was ordered to be conducted before a decision was made to hold a public hearing, the investigation or hearing report shall be submitted to the Personnel Commission with findings and recommendations. The Personnel Commission shall act on the report at regular or special meeting before a public hearing is held.
- 10.8.1.6 When the Personnel Commission orders a public hearing the employee(s) shall be notified of the date, time, and location of the public hearing and shall be informed that he/she may attend the hearing, speak on his/her behalf, and have a representative represent his/her interests. Notification for this purpose may be made to the employee's district email, or by personal notice at least 7 days, or by written letter placed into the U.S. Mail with adequate postage attached thereto, and mailed to his/her business or home address at least 15 days before the date of the public hearing.
- 10.8.1.7 At the public hearing, anyone may speak to the matter on the agenda.
- 10.8.1.8 Following the public hearing, the Personnel Commission will determine if the preponderance of the evidence indicates that the employee was appointed or assigned in violation of the examination procedures under the Rules and Regulations or in violation of the Education Code Title 2, Division 3, Part 25, Chapter 5, Article 6 commencing with section 45240 that pertain to examination procedures.
- 10.8.1.9 If the Personnel Commission finds by a preponderance of the evidence that the employee has been appointed or assigned in violation of the examination procedures under the Rules and Regulations or in violation of the Education Code Title 2,

Division 3, Part 25, Chapter 5, Article 6 commencing with section 45240 that pertain to examination procedures the Personnel Commission shall order that a pay warrant shall no longer be issued to that employee in that assignment or for that appointment effective the next day following the hearing.

10.8.1.10 The Personnel Director or the Personnel Commission Chair shall notify the Superintendent, the chief business official, and the members of the governing board of this finding an action in writing.

10.8.1.11 The decision finding that the appointment violated Rules and Regulations or in violation of the Education Code Title 2, Division 3, Part 25, Chapter 5, Article 6 commencing with section 45240 that pertain to examination procedures and that no further pay warrant shall issue shall not be subject to review by the governing board.

10.8.1.12 When the governing board has fully complied with the Personnel Commission's decision it shall notify the Personnel Commission in writing within 30 calendar days from notice of the Personnel Commission's Action.

REFERENCE: Education Code Section(s): 45260, 45261, 45310, 45311, and 45312

10.8.2 Action Delegated To Personnel Director:

In the event that the Personnel Director is not able to carry out the duties delegated in this or assigned in this Chapter to the Personnel Director, the Personnel Commission may delegate any or all such duties to any Personnel Commissioner.

REFERENCE: Education Code Section(s): 45260, 45261, 45310, 45311, and 45312.

10.8.3 Scope of Hearings:

10.8.3.1 Hearings may be held by the Personnel Commission on any subject to which its authority may extend as described in Education Code Title 2, Division 3, Part 25, Chapter 5, Article 6 commencing with section 45240.

10.8.3.2 The Personnel Commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this Rule.

10.8.3.3 The Personnel Commission may appoint itself as a body, appoint one of its members, or may appoint one the Personnel Director, or to serve as the hearing or investigating officer in lieu of employing others.

REFERENCE: Education Code Section(s): 45260, 45261, 45310, 45311, and 45312.

10.8.4 Inspection of Records of Governing Board:

- 10.8.4.1 The Personnel Commission may at will inspect any records of the governing board that may be necessary to satisfy itself that the procedures prescribed by the Personnel Commission have been complied with.
- 10.8.4.2 Any expert or other person who has been appointed as a hearing or investigating officer may act on behalf of the Personnel Commission in inspecting any records of the governing board
- 10.8.4.3 The Personnel Director may inspect any records of the governing board under this section as part of assisting and advising the Personnel Commission on issues and facts that are necessary to the Personnel Commissioner's acting on the principle of merit.

REFERENCE: Education Code Section(s): 45260, 45261, 45266, 45310, 45311, and 45312

10.8.5 Subpoenas and Testimony Under Oath:

The Personnel Commission, or any person appointed or authorized by the Personnel Commission to hold a hearing or conduct an investigation concerning compliance with the merit system is authorized to:

- 10.8.5.1 Require the attendance of witnesses in the manner provided for in this Chapter for subpoenas pertaining to appeals of disciplinary actions.
- 10.8.5.2 Require the production of records or information pertinent to the investigation in the manner provided for in this Chapter for subpoenas pertaining to appeals of disciplinary actions.
- 10.8.5.3 Cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.
- 10.8.5.4 Administer oaths.

REFERENCE: Education Code Section(s): 45260, 45261, 45305, 45306 and 45307
Code of Civil Procedure Section(s): 1985 -1997
Government Code Section(s): 11450.05 -11450.50

10.8.6 Employment of Experts:

- 10.8.6.1 The Personnel Commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives.
- 10.8.6.2 The Personnel Commission's decision to employ hearing officers, professional experts, or other representatives is binding on the governing board both as to the decision to employ such hearing officers and the choice of the hearing officer or representative so employed by the Personnel Commission.

- 10.8.6.3 The Personnel Commission's action to employ hearing officers, professional experts, and other representatives takes effect immediately upon action by the Personnel Commission or at such date that is set by the Personnel Commission.
- 10.8.6.4 The governing board shall not delay, obstruct, or interfere in any manner with the Personnel Commission's action to employ hearing officers, professional experts, and other representatives or in their payment for services rendered in accord with those approved by the Personnel Commission.

REFERENCE: Education Code Section(s): 45260, 45261, 45266, 45310, 45311, and 45312

CHAPTER 11 - STRIKES AND POLITICAL ACTIVITIES

11.1 Strikes and Other Concerted Labor Activities:

- 11.1.1 Section 3549 of Article 10 of Chapter 10.7 of Division 4 of Title 1 of the Government Code provides in part as follows: "The enactment of this chapter shall not be construed as making the provisions of Section 923 of the Labor Code applicable to public school employees." Notwithstanding Section 3549, the California Supreme Court in County Sanitation District No. 2 v. Los Angeles County Employees Association held that public employees have a qualified right to strike. A strike may be protected if the applicable collective bargaining agreement has expired, if statutory impasse procedures have been completed, and if no court order enjoining the strike has been issued.
- 11.1.2 Any employee or groups of employees, either by their own initiative or through an employee organization, who leave their duty assignment or refuse to perform or fail to report to duty as a result of an unlawful strike or other unlawful concerted labor activities may be considered as having abandoned their positions and, if dismissed, shall not be eligible for reinstatement or subsequent employment with the District. The Board may bring charges against any employee or employees for abandonment of position and other causes for disciplinary action set forth in Personnel Commission Rule 6.25.
- 11.1.3 Any classified employee who absents himself from duty for any reason during the period of an unlawful strike, sit-down, slow-down, or other unlawful concerted activities shall be required to provide proper evidence that the absence was lawful and in no way an effort on the employee's part to further the unlawful strike or concerted activity.
- 11.1.4 Any rule which permits personal or illness absences without evidence of necessity is suspended and void during any attempted unlawful strike or other unlawful concerted labor activity against the District.

11.2 Political Activity:

11.2.1 Political Activity Freedom:

Every classified employee may, during off-duty hours, participate in any political activity not specifically prohibited by relevant provisions of the Education Code.

11.2.2 Cause for Disciplinary Action:

A classified employee may be disciplined for engaging in political activity that involves:

- 11.2.2.1 The use of any District property, equipment, or facility for any political purpose unless the use thereof is authorized by law for

such purposes and the employee has obtained prior required approval.

11.2.2.3 The use of any District property, equipment, or facility for any political purpose or the performance of any political act during regular hours of duty.

11.2.2.4 Active campaigning on behalf of any candidate, including himself/herself, for public office whether by speaking, soliciting funds or support, distributing handbills, or otherwise, during his/her assigned hours of employment.

11.2.2.5 Attempting to gain any advancement or privilege through political activity prohibited by law or District rules.

11.2.3 Personal Candidacy:

Any employee may be a candidate for any political office for which he/she may file without suffering any loss of employment status in the District unless he/she violates the provisions of Cause for Disciplinary Action.

11.2.4 Leave of Absence:

An employee who files for a political office may request and shall 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 have been completed insofar as his/her candidacy is concerned. Such leave is required if the employee is a candidate for election to the Board of Education.

11.2.5 Intent:

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

CHAPTER 12 - MISCELLANEOUS PROVISIONS

12.1 Physical Examinations:

12.1.1 Every person being initially employed by the District, whether in a regular position, as a substitute, relief, limited-term, provisional or other type of employee, shall comply with the provisions of Ed Code Section 49406 (Examination for tuberculosis).

12.1.2 Prior to employment, each person shall submit a written certification from the examining physician that he/she was found free from active tuberculosis.

12.1.2.1 The examination must have been conducted within a 60 day period preceding the date of employment.

12.2 After Employment:

12.2.1 Every employee shall undergo an examination to determine that he/she is free from active tuberculosis at least once every four years after employment and shall submit written certification from the examining physician.

12.2.2 Records of the results of skin tests, x-ray examinations, and related matters shall be maintained by the Classified Human Resources Office.

12.2.3 When the examination is conducted at a district-approved medical facility, the cost of such examination shall be borne by the District.

12.3 Positive Skin Tests:

12.3.1 A positive intradermal tuberculin test shall be followed by an x-ray of the lungs taken by a competent and qualified x-ray technician and interpreted by a licensed physician and surgeon.

12.3.2 The need for follow-up care shall be determined by appropriate medical personnel.

12.4 Transferring School Employees:

12.4.1 A person transferring employment from another school district to the San Bernardino City Unified School District shall be deemed to meet the requirements of Ed Code Section 49046 if the person can produce a certificate showing that he/she was examined within the past four years and was found to be free of communicable tuberculosis.

12.4.2 A person transferring employment from a private or parochial school to the San Bernardino City Unified School District shall be deemed to meet the requirements of Ed Code Section 49046 if that person can produce a certificate as provided for in Section 121525 of the Health and Safety Code showing he/she

was examined within the past four years and was found to be free of communicable tuberculosis.

- 12.4.3 Persons to whom a conditional offer of employment has been made, including all candidates for employment in safety-sensitive positions or positions requiring a commercial driver's license, shall be subject to testing for illegal drugs in accordance with current District Procedures and Policies and a collective bargaining agreement. Employee's in positions requiring a commercial driver's license shall also be subject to the random and post-accident drug tests set forth in District Procedures and Policies and a collective bargaining agreement.

12.5 Fingerprinting:

- 12.5.1 A. No person shall be employed in a classified position until it is determined from any arrest and conviction information provided by the State Department of Justice that the person is eligible for employment.

12.5.1.1 The District shall provide the means whereby fingerprint identification may be completed and may charge the applicant a fee sufficient for costs incurred in processing the application.

12.5.1.2 All criminal record reports are confidential.

12.5.1.2.1 Any employee having responsibility for receiving, transmitting, and/or reviewing such reports, who divulges information contained therein to an unauthorized person is subject to disciplinary action.

12.5.1.3 An employee with a break in service exceeding one year shall be fingerprinted prior to reemployment in the same manner as if he/she were a candidate for initial employment.

12.5.1.4 Any person who willfully or through culpable negligence violates any of the merit system provisions of the Education Code (i.e., Article 6) is guilty of a misdemeanor. It is also unlawful for any person:

12.5.1.4.1 Willfully by himself/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 Article 6 or Commission rules.

12.5.1.4.2 Willfully and falsely to mark, grade, estimate or report upon the examination or proper standing of any person examined or certified under

Article 6 or Commission rule, or to aid in so doing, or make any false representation concerning the same or the person examined.

12.5.1.4.3 Willfully to furnish to any person any special or confidential information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under Article 6 or Commission rule.

12.6 Reporting Names and Addresses:

12.6.1 Each employee shall when initially employed file his/her name, address, and telephone number on forms provided by the district.

12.6.2 Each employee shall report any change in name, address, or telephone number on forms available in the Human Resources Classified office.

12.6.3 An employee who maintains an unlisted telephone number and/or post office box number shall provide the District with his/her telephone number and/or home address for use in emergencies.

12.6 Conflict of Interest:

12.6.1 All employees assigned to the Human Resources Division and the Personnel Commission office shall promptly notify their supervisor in writing when they first become aware that a family member is at any stage of the employment or promotion process to a district position.

12.6.1.1 Stage include but are not limited to: filing an application, screening applications, notifying applicants, developing/assembling test material, administering tests, reporting test scores, preparing eligibility lists, scheduling employment interviews, and making offers of employment.

12.6.2.2 This rule contemplates that situations may occur where oral notification may precede written notification.

12.7. Nepotism:

12.7.1 The purpose of this Rule is, in general, to preclude the assignment of close relatives or cohabitants in the same organizational unit.

12.7.2 In order to forestall possible conflicts of interest and ensure the orderly conduct of District business, it is recognized that organizational units with the District may adopt more restrictive regulations as appropriate.

- 12.7.3 All administrators responsible for the assignment of employees shall endeavor to avoid the assignment of close relatives or cohabitants to work in situations where conflicts of interest could arise.
- 12.7.3.1 In no case will an assignment be allowed that will establish a supervisor/subordinate relationship at the first or second level of supervision between two employees who are close relatives or cohabitants.
- 12.7.4 If, for the good of the District, an assignment of close relatives or cohabitants within the same organizational unit is to be made, the assignment must first be reviewed and approved by the Assistant Superintendent, Human Resources.
- 12.7.4.1 If a supervisory relationship would be established by the assignment, administrative approval must be withheld.
- 12.7.5 For the purpose of this Rule, "close relatives" is defined as spouse, brother, sister, parent, child, or grandchild; and "cohabitants" is defined as persons living together.
- 12.7.6 District employees and applicants must disclose to Human Resources – Classified any relationship which may be covered by this rule prior to appointment to a position or upon change to a relationship status as covered above.

PHYSICAL DEMANDS:

Dexterity of hands and fingers to operate a computer keyboard.

Hearing and speaking to exchange information in person and on the telephone.

Sitting or standing for extended periods of time.

Seeing to read a variety of materials.

Bending at the waist, kneeling or crouching to file materials.

PHYSICAL LEVEL 3: SUBSTANTIAL

Positions in this this physical level may require the following physical demands:

SPECIAL REQUIREMENTS:

- There are no special requirements for this classification.

APPOINTMENT:

- Persons appointed to this position must successfully compete a 6 month (or 130 working days of paid service) probation period prior to permanent appointment.

PERSONNEL COMMISSION MEETING
SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION OFFICE

MINUTES

November 5, 2014

I. CALL TO ORDER

A. The meeting was called to order at 5:33 p.m. by Commissioner Dixon.

B. Roll-Call

1. Commissioner Gino Barabani, Chair -- Absent
2. Commissioner Valeria Dixon, Vice-Chair
3. Commissioner Michael Salazar, Member

C. Pledge of Allegiance

II. APPROVAL OF AGENDA

A motion was made by Vice-Chair Ms. Dixon, and seconded by Commissioner Mr. Salazar to approve the agenda.

The motion unanimously carried.

III. PUBLIC COMMENTS

Adam Sinner, district employee requested to the commissioners to consider his application for Mobile Maintenance Teams Supervisor which was rejected and allow him the opportunity to take the examination.

Ms. Dixon replied by saying the commission will take his request into consideration.

IV. ACTION ITEMS

A. Approval of Salary Adjustments for the following list:

It was moved by Vice-Chair Ms. Dixon and seconded by Commissioner Mr. Salazar to approve the salary adjustments for the following list.

1. Workers' Compensation Clerk from 38A to 36A
2. Workers' Compensation Technician from 36A to 38A

Ms. Hoch mentioned that there is no one holding the position for Workers' Compensation Clerk but there is one person holding the Workers' Compensation Technician position.

The motion carried the vote was unanimous with all members present participating in the vote.

B. RATIFYING ELIGIBILITY LIST(S)

It was moved by Vice-Chair Ms. Dixon and seconded by Commissioner Mr. Salazar to approve the following eligibility list.

1. Locksmith (Exam #14-057)
2. Maintenance Trades Helper (Exam #14-071)
3. Electrical and Electronics Supervisor (Exam #14-054)
4. Mobile Maintenance Teams Supervisor (Exam 14-076)
5. Roofer (Exam #14-059)

It was moved by Mr. Salazar and seconded by Ms. Dixon to remove the item four (4) Mobile Maintenance Teams Supervisor, to be considered for a special meeting. The vote was unanimous with all members present participating in the vote.

The motion carried to approve eligibility list(s) number 1, 2, 3, and 5. The vote was unanimous with all members present in the vote.

C. EXTENSION OF ELIGIBILITY LIST(S)

It was moved by Vice-Chair Ms. Dixon and seconded by Commissioner Mr. Salazar to approve the extension of following eligibility list(s) for an additional year as submitted.

- A. Attendance Technician/Bilingual Attendance Technician
(Exam #14-015)
- B. Groundsworker (Exam#13-028)
- C. Lead Electrician (Exam #13-006)

The motion carried. The vote was unanimous with all members present participating in the vote.

D. REVISIONS TO CLASSIFICATION SPECIFICATION(S).

It was moved by Vice-Chair Ms. Dixon and seconded by Commissioner Mr. Salazar to approve the revisions to classification Specification(s) as submitted.

- A. Human Resources Specialist (PC)
- B. Multimedia Manager
- C. Nutrition Services Manager I
- D. Nutrition Services Manager II

The motion carried. The vote was unanimous with all members present to participate in the vote.

E. RECRUITMENTS

It was moved by Vice-Chair Ms. Dixon and seconded by Commissioner Mr. Salazar to open the following recruitment list(s).

- A. Campus Security Officer I
- B. Education Interpreter III
- C. Human Resources Specialist (PC)
- D. Instructional Tutor (LH/PH/Bilingual Instructional Tutor (LH/PH)
- E. Machinist
- F. Multimedia Manager
- G. Nutrition Services Manager I
- H. Nutrition Services Manager II
- I. Bilingual Secretary II
- J. Secretary III/Bilingual Secretary III

The motion carried. The vote was unanimous with all members present participating in the vote.

- F. The commission received the first reading for classified Personnel Commission Rules for all chapter(s). Ms. Byrd mentioned that she will be meeting with Carl Greenwood, CSEA president and Karen Hoch, HR Interim Director to review and make changes. Updates will be submitted for commission to approve at the next meeting.

G. APPROVAL OF THE MINUTES

A motion was made by Ms. Dixon, and seconded by Mr. Salazar to accept and approve the meeting minutes as submitted for October 1, 2014.

The motion unanimously carried. The vote was unanimous with all members present participating in the vote.

H. APPROVAL OF THE MINUTES

The motion was made by Ms. Dixon, and seconded by Mr. Salazar to accept and approve the meeting minutes as submitted for October 9, 2014.

The motion was unanimously carried. The vote was unanimous with all members present participating in the vote.

V. COMMISSIONER'S AND DIRECTOR'S COMMENTS:

Ms. Byrd shared with the commissioner's that herself and Irma visited Long Beach Personnel Commission Department on October 16, 2014. Unfortunately they missed the meeting; they arrived at 8:30 a.m. They met with commission and staff; there was a lot of inside of how the commission runs. The Commissioners are appointed by the State Superintendent. Commission does everything that pertains to classified, except discipline or grievance. It was a very interesting meeting.

Ms. Dixon congratulated Irma Garcia on her new promotion as Personnel Analyst and adjourned the meeting at 5:52 p.m.

VI. CLOSED SESSION

The commission adjourned into closed session at 5:52 p.m. for:

Pursuant to Government Code Section 54957 to discuss:

PUBLIC EMPLOYEE APPOINTMENT

Title: Personnel Commission Director (Provisional)

The commission reconvened into open session at 7:30 p.m. and announced the following action taken in closed session.

Ms. Dixon There was no action taken on closed session.

VII. ADJOURNMENT

The commission adjourned the meeting at 7:30 p.m.

**SPECIAL PERSONNEL COMMISSION MEETING
SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION OFFICE**

MINUTES

November 12, 2014

I. CALL TO ORDER

A. The meeting was called to order at 12:02 p.m. by Commissioner Dixon.

B. Roll-Call

1. Commissioner Gino Barabani, Chair -- Absent
2. Commissioner Valeria Dixon, Vice-Chair
3. Commissioner Michael Salazar, Member

C. Pledge of Allegiance

II. APPROVAL OF AGENDA

A motion was made by Vice-Chair Ms. Dixon, and seconded by Commissioner Mr. Salazar to approve the agenda.

The motion unanimously carried.

III. PUBLIC COMMENTS

None

IV. ACTION ITEMS

A. RATIFYING ELIGIBILITY LIST:

It was moved by Vice-Chair Ms. Dixon and seconded by Commissioner Mr. Salazar to approve the following eligibility list for:

1. Mobile Maintenance Teams Supervisor (Exam #14-076)

The motion carried the vote was unanimous with all members present participating in the vote.

V. COMMISSIONER'S AND DIRECTOR'S COMMENTS:

None

VII. ADJOURNMENT

The commission adjourned the meeting at 12:04 p.m.