

Hayward Unified School District



PERSONNEL COMMISSION RULES

Classified Employees



Personnel Commission

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THE MERIT SYSTEM

The Personnel Commission, as a separate agency authorized by the State to be responsible for certain personnel matters affecting Classified School Employees, has approved the enclosed Rules and Regulations consistent with its jurisdictional authority as described in the Education Code. Merit System Law (Education Code provisions in Division Four, Chapter Five, Article 6) provides that Classified Employees are selected, retained, and promoted on the basis of merit and fitness exclusive of discrimination due to race, color, age, religion, political affiliation, marital status, sex or handicap. 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.

Through administration of the Classified Merit System, the Commission shall strive for:

- Equal treatment for all classified personnel.
- Protection of individual rights as well as the rights of the Classified Service, pursuant to rules and regulations adopted for the Classified Service.
- Maintenance of harmonious relationships with the governing board.

The Commission shall have jurisdiction over and the responsibility over the following activities:

- Establishment of the general policy governing the administration of a comprehensive Merit System.
- Appointment of the Executive Director of Classified Human Resources and staff.
- Development and adoption of an annual budget.
- Development and maintenance of the District's Classification Plan, Examination Plan, Recruitment and Selection Plan, Assignment Plan, and Compensation Plan.
- Development of the procedures for the hearing of Classified Personnel appeals.
- Review of District Classified Personnel Operations.

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 Hayward Unified School District, we readily recognize that as the Rules are applied, there will be need for revision, amendment, and addition.

The Rules have been: 1) scrutinized by employees and employee representatives; 2) reviewed by the County Counsel; 3) approved by the Personnel Commission, and 4) have received the concurrence of the Board of Education, with the aforementioned qualifications in mind. The Personnel Commission is always open to responsible recommendations and encourages employee participation in all aspects of the Commission's endeavors.

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CHAPTER 1

DEFINITIONS AND PRELIMINARY STATEMENT

1.1 Definitions

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

ACT or THE ACT: The Act shall mean those sections of the Education Code of the State of California applying the merit system to classified employees in certain school districts. It shall include all of the provisions of Article 6, Chapter 5, Division 4.

ADMINISTRATIVE CLASS: One of the classes meeting the criteria under the Fair Labor Standards Act which exempt incumbents from receiving payment or compensating time off for overtime.

ALLOCATION: The placement of a class on a salary range or rate.

ANNIVERSARY DATE: The date upon which an employee is granted an earned salary increment. The anniversary date shall be the first of the month in which the employee completes six months of satisfactory service, or if the completion of the probationary period falls after the 15th of the month, the anniversary date shall be the first of the following month.

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

APPLICANT: A person who has filed an application to take a merit-system examination.

APPOINTING AUTHORITY or POWER: The Board of Education of the Hayward Unified School District.

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

BREAK IN SERVICE: Severance of an individual's employment relationship with the District. The break in service may be canceled by subsequent re-employment or reinstatement within 39 months.

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

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

CERTIFICATED SERVICE: All positions and employees required by law to possess credentials issued by the State Department of Education.

CERTIFICATION: The submission by the Commission of the names of eligible candidates from an appropriate eligibility list or from some other source of eligibility to the appointing power who will select an eligible.

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

CLASS SPECIFICATION: A formal statement of the duties and responsibilities of the positions in the class as illustrated by examples of typical tasks and qualification requirements of the positions in the class.

CLASSIFICATION: The act of placing a position in a class.

CLASSIFIED SERVICE: All positions in the District's service to which the Act applies and which are not an excepted by the Act.

COMMISSION: See Personnel Commission (used interchangeably in these rules).

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

DIFFERENTIAL: Salary allowance in addition to that basic rate or schedule based on additional skills, responsibilities or night work; or means a reduction in the number of hours required to be actually worked. Also, the size of the interval between salary schedules, salary ranges, rates of related classes.

DISCHARGE or DISMISSAL: Separation from service for cause in accordance with Personnel Commission rules; requires action by the Board of Education.

DISTRICT: The Hayward Unified School District.

DUAL CERTIFICATION: A special procedure which provides for' certification in specified cases, from an open list while a promotional list exists.

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

ELIGIBILITY LIST: A rank order list of the names of persons who have qualified in a merit system competitive examination.

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

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

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

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

FISCAL YEAR: July 1 to June 30.

GOVERNING BOARD: The Board of Education of the Hayward Unified School District. (Synonymous with appointing authority or power.)

GRIEVANCE: An employee complaint concerning rules of the Commission or policies of the Board, not including appeals of disciplinary actions or requests 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: Formal review in the presence of the parties involved, of evidence in connection with an action affecting an employee, concerning which the employee has filed an appeal.

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

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

LEAVE OF ABSENCE: An approved absence from duty, with or without pay, for a prescribed period of time from a class, with the right to return after the expiration of the period.

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

LIMITED-TERM EMPLOYEE: An employee who is serving as a substitute for an absent employee or in a position established for a period of six months or less. The employee may have been selected from an eligibility list or may be serving under a provisional appointment.

MERIT SYSTEM: A personnel system in which merit and fitness govern each individual’s selection and progress in the service. (Synonymous with Civil Service)

OPEN EXAMINATION: An examination which is not restricted to persons who are current permanent employees of the District; i.e. may be taken by any person otherwise qualified.

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

PERMANENT EMPLOYEE: In reference to district employment status, an employee who has completed a probationary period of 130 days in a class in the classified service. (260 days required for management classes.) An employee must complete a probationary period in a class in order to attain permanent status in the classified service.

PERSONNEL COMMISSION: That three-member Body empowered by Education Code Sections commencing at 45240 to prescribe and amend such rules as may be necessary to

insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall be binding upon the Governing Board.

POSITION: A group of duties and responsibilities assigned by competent authority requiring the full or part-time employment of one person.

PROBATIONARY PERIOD: The trial period of 130 working days (or 260 days for employees in management classes) of paid service in a class as established by the Personnel Commission pursuant to Education Code Section 45301, immediately following an original or promotional appointment to a permanent position.

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

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

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

PROVISIONAL APPOINTMENT: A temporary appointment made in the absence of an appropriate eligibility list, not to exceed 90 working days except in specified circumstances. (See Education Code Sections 45287 and 45289.)

PROVISIONAL EMPLOYEE: A person employed under a provisional appointment.

RECLASSIFICATION: The removal of a position or positions from one class and placement into another, usually based on a change in duties, responsibilities, or class concept.

RE-EMPLOYMENT: Reappointment to duty of an employee who has been laid off.

RE-EMPLOYMENT LIST: A list of names of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, or abolishment or reclassification of position, or other reason specified in these rules, and who are eligible for re-employment without examination in their former class for a period of 39 months, arranged in order of their right to re-employment.

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

REINSTATEMENT: A reappointment, after resignation and within 39 months, in regular or limited-term status, without examination, to a position in the employee's former class, or in a lower related class with restoration of employee benefits.

RESIGNATION: A voluntary statement, preferably in writing, from an employee requesting to be terminated from one or more assignments, or a separation from service.

RESTORATION: Includes "re-employment" (see above). The reassignment to duty of an employee to the same class and status held when he/she resigned. Also, the reassignment of an employee who had been demoted to his/her former class or to a related class or, after reduction to limited-term status, to permanent status.

RESTRICTED EMPLOYEE: A person employed in a position properly designated by the Appointing Authority as "restricted" (Education Code 45105) shall be a classified employee

for all purposes except that tenure for such a position shall not be considered in computing service required for bumping privileges, or other related seniority benefits incompatible with the temporary or contractual nature of a given program, position, or assignment. Notwithstanding the above, after completion of a six-month probationary period a “restricted” employee may qualify by examination for regular classified status according to the provisions of Education Code 45105.

RULE OF THREE RANKS: The scope of choice available to an appointing power in making a selection from an eligibility list refers to selection from among those eligibles having any of the three highest scores who are ready and willing to be appointed² to a specific position.

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

SALARY RANGE: A series of consecutive salary steps that comprise the rates of pay for a classification. A salary range normally consists of five salary steps.

SALARY RATE: A specific amount of money paid for a specified period of service; i.e. dollars per hour or month.

SALARY STEP: A specific location in a salary range, not the dollar amount. (Note: The salary range applicable to a class may change without affecting the step placement rights of employees.)

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

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

STATUS: Tenure which is acquired in a classification by reason of examination, certification from eligibility lists, election or appointment by the appointing power, and the successful completion of the probationary period.

SUBSTITUTE EMPLOYEE: An employee occupying a permanent position during the absence of the incumbent.

SUSPENSION: Temporary removal of an employee from a position without pay.

TEMPORARY: Employment on a basis other than permanent or probationary, i.e., in limited-term or provisional status for cause, or indefinite removal preliminary to investigation of charges in accordance with Education Code 45304.

TRANSFER: 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 and when the same examination is given.

UNCLASSIFIED SERVICE: All positions and employees not in the classified or certificated service; i.e., those exempted by law.

UNSATISFACTORY SERVICE: The performance of assigned duties in a manner which is detrimental to the good of the service or the failure to perform them, or the performance of actions while on duty which are detrimental to the good of the service.

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

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

1.2 Preliminary Statement

A. Statutory Authority for Rules

The rules contained herein are established pursuant to the authority of the Personnel Commission under Article 6 (commencing with Section 45240) of Chapter 5, Division 4, of the Education Code, and other provisions of the Education Code applicable to school districts that have adopted the merit system.

B. Interpretation and Application of Rules

1. The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration of their intent; however, specific, applicable provisions of the rules shall not be waived or ignored because of the special circumstances of particular cases. Notwithstanding the foregoing, specific provisions of certain rules may be suspended or amended when such proceedings are necessary to continue the business of the district during a concerted labor action. The Commission is open to responsible suggestions to amend the rules with prospective application; however, no rule amendment or new rule shall be applied retroactively.
2. If the subject matter and procedure in a rule is within the scope of representation, as defined in Government Code Section 3543.2, a rule shall be applicable as follows:
 - a. If a collective bargaining contract contains the subject matter and procedure, the rule shall not apply to employees in the unit.
 - b. If a rule prescribes a procedure and a contract does not, the rule shall apply to employees in the unit.

C. Generic Terminology

Singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

D. Judicial Review

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

1.3 Enforcement of Merit System Law

- A. The Commission shall enforce the provisions of the Education Code and of these Rules. To that end, it may in accordance with the Education Code hold hearings, conduct investigations, administer oaths, subpoena witnesses, and require the inspection of records or information pertinent to investigation. The Commission may, in accordance

with the Education Code, authorize a hearing officer or other representative to conduct any hearing or investigation which the Commission is authorized to conduct.

- B. The Commission may instruct such representative to present findings or recommendations. The Commission may accept, reject, or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or Commission may order.

1.4 Additions, Deletions, or Amendments

- A. All proposals, from any source, to amend, delete, or add to these rules will be considered a “first reading” at the meeting in which they are first presented to the Commission. They will not, unless a critical emergency exists, be acted upon at that meeting. In case of an emergency the Commission will state the nature of the emergency requiring earlier action.
- B. No rule or amendment shall be adopted by the Commission until the exclusive bargaining representative(s) for classified employees and the public school employer have been given reasonable notice of the proposal.
- C. At the “first reading” the Commission will set a date for Commission action on the proposal, which date shall not be less than two weeks later. It shall also instruct the Executive Director of Classified Human Resources to refer the proposal to interested persons or organizations for comment and recommendation.
- D. Insofar as possible, interested parties shall submit their reactions to proposals in writing on or before the stipulated agenda deadline date and shall have the right to present reactions to the Commission orally at the appropriate Commission meeting.
- E. In the event of a concerted labor action, new rules, or amendments to existing rules, established or amended for the specific purpose of insuring the continuance of District business during such event shall go into effect upon approval by the Personnel Commission, subject to ratification by the Board of Education of those provisions which require the Board's concurrence.
- F. Rules of the Personnel Commission requiring the expenditure of Board of Education funds shall be submitted to the Board of Education for concurrence before they become effective.

1.5 Suspension of Rule Provisions

- A. If the Personnel Commission has been advised by the Board of Education or the Superintendent that an actual or imminent concerted labor action has disrupted, or is about to disrupt, the business of the District, any Commission rule, or the specific provisions of any rule, may be suspended or amended by the Commission for such period of time as determined by the Commission, providing such suspensions or amendments do not conflict with specific provisions of law or existing collective bargaining agreements. Any such suspension or amendment will be limited, insofar as practicable, to classes,

organizations or units of employees of the District who are involved in, or affected by, a concerted labor action.

- B. When the Personnel Commission has suspended or amended rules under the provisions of Paragraph A above, it may immediately adopt such emergency rules and amendments to existing rules as it may deem necessary to be applicable during the period of suspension or amendment of regular rules, or until such time as determined by the Commission.

1.6 Distribution of Rules

The rules of the Commission and copies of the Merit System Law (commencing with Education Code Section 45240) shall be made available to each permanent worksite where employees report and shall be distributed to school libraries for loan to employees.

LEGAL REFERENCES

Education Code

45240 - 45320 Merit System

45260 Power of Personnel Commission to Prescribe and Amend Rules

Government Code

3543.2 Scope of Representation

CHAPTER 2

THE PERSONNEL COMMISSION

2.1 Establishment of Commission and Merit System

The Hayward Unified School District has been a Merit System district since 1942 when the Hayward Elementary School District became a Merit System district. Hayward Union High School District became a Merit System district in 1957 and La Vista Elementary School District in 1962. These three districts unified with Mt. Eden Elementary School District July 1, 1963. The new Hayward Unified School District was established as a Merit System District.

2.2 Appointment of Commissioners

Members of the Personnel Commission are appointed by the State Superintendent of Public Instruction, unless a majority of classified employees vote to adopt section 45249(a)(1) of the Education Code. The process for appointment/recruitment of Commissioners is outlined in Education Code 45249 and through the office of the State Superintendent of Public Education. **Exhibit A** reflects information from both the Education Code and the office of the State Superintendent of Public Instruction and will guide the Commissions in further recruitments. (Education Code 45249)

[Revised: 9-26-02, 4-17-13]

2.3. Terms of Commissioners

By law, the term of each Commissioner is for three years and expires at noon, December 1. The term of one Commissioner expires each year. By September 30 of each year the Executive Director of Classified Human Resources shall notify the Governing Board of the name and home address of the Commissioner whose term will expire and whether or not he/she will accept reappointment. The notification shall also list the appointing authority and indicate that the Board must follow the provisions of Education Code Sections 45246 and 45249. [Revised 03/20/2013]

2.4 Officers of the Commission

- A. The officers of the Commission shall be the Chair and Vice-Chair.
- B. The Commission shall annually elect one of its members to serve as Chair in January or the next month following the seating of a full Commission. [Revised: 9-26-02]
- C. At the same time and in the same manner, the Commission shall elect one of its members to serve as Vice-Chair.
- D. The Chair shall be the presiding officer at all regular and special meetings of the Commission. In the event of the absence of the Chair, the Vice-Chair shall preside.
 1. The duties of the Chair shall be:

- (a) review proposed agenda with Executive Director of Classified Human Resources before posting deadlines.
- (b) review any other items that have been requested by commissioners or members of the public that have been submitted to be placed on the agenda.
- (c) call a special meeting at the request of a quorum of commissioners.
- (d) sign documents for the Commission.
- (e) share all communications directed to the Commission.
- (f) call all regular and special meetings to order.
 - (1) announce all business to come before the Commission in its proper order;
 - (2) enforce Commission policies relating to the order of business and conduct of meetings;
 - (3) recognize persons who desire to speak and protect the speaker who has the floor from disturbance or interference; notify the speaker of any time limits;
 - (4) put motions to a vote, and state clearly the results of the vote;
 - (5) call recesses where appropriate at meetings;
 - (6) rule on parliamentary procedure.

[Created: 5/23/02]

2.5 Quorum

Two members shall constitute a quorum for any regular or special meeting of the Commission and the affirmative vote of two members shall be required to make any motion of the Commission effective.

2.6 Rules of Order of the Commission

The Personnel Commission shall be guided by Robert's Rules of Order.

2.7 Regular Meetings

- A. In May of each year, the Personnel Commission shall establish its regular meeting calendar for the upcoming school year (July – June). The regular meetings shall be held monthly. [Revised 5-19-10]
- B. The Commission may meet some other time, date and/or place as may be ordered by the Commission. Provided that at least 24 hours notice is given to all Commissioners, Administration, and employee representatives and posted on the Commission's official bulletin board. (Government Code Sections 54950 to 54961)

2.8 Special Meetings

Special meetings may be called at any time by the Chairperson and shall be called upon the request of any two members. Notice shall be delivered personally or by mail to each member of the commission. Notice must also be given to each of the following who have filed written requests for such notice: each local newspaper of general circulation, radio or television station, and recognized employee or other organizations. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. A copy of the notice shall be posted on the Commission's official bulletin board. The

order shall specify the time and place of the special meeting and the business to be transacted. (Government Code 54956) [Revised: 9-26-02]

2.9 Public Meetings

- A. All regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meetings of the Commission, except as provided in Rule 2.10. This rule shall not be construed as permitting employees to be absent from duty to attend Commission meetings, unless employees are authorized to do so.
- B. 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.

2.10 Closed Session

Closed sessions may be held in accordance with the provisions of Government Code Section 54957 to consider the employment or dismissal of an employee or employees or to hear complaints or charges brought against employees. Also, closed sessions may be held in accordance with the provisions of Government Code Section 54957.6. The Personnel Commission shall also, in compliance with Government Code Section 54957.1, publicly report at the meeting during which the closed session is held or at its next meeting, any action taken in closed session and the roll call vote thereon. [Revised: 9-26-02]

2.11 Prohibition of Commissioners Gathering Privately

Individuals or groups who seek interviews with particular Commissioners as to matters which may later be placed before the Personnel Commission for decision shall be referred to the Commission staff office with the explanation that it is against the policy of the Commission to take up such matters except at open meetings with the majority of the Commission present.

2.12 Agenda and Supporting Data

- A. All agenda items for the next succeeding regular Personnel Commission meeting must be received by the Executive Director of Classified Human Resources with a letter of transmittal attached fourteen (14) days prior to the date of the regularly scheduled meeting.
- B. All requests for investigation of personnel problems related to alleged violations of Merit System Law or Personnel Commission Rules brought before the Commission or the Commission staff shall be made in writing and shall include specific pertinent facts.

2.13 Minutes

The Executive Director of Classified Human Resources or designee shall record in the minutes the time and place of each meeting, the names of the Commissioners present, all official acts of the Commission, and the votes of the Commissioners. When requested by him/her, a Commissioner's dissent or approval and his/her reasons shall be recorded. The

minutes shall be written and presented for correction and approval at the next regular meeting. The minutes or a true copy thereof shall be open to public inspection. Copies of the official minutes shall be distributed to recognized employee organization representatives who have requested them. [Revised: 9-26-02]

2.14 Compensation of Members of Personnel Commission

Each Commissioner shall receive the sum of \$50.00 for each meeting attended in any one month, including regular, adjourned, or special meetings, but not to exceed a total of \$250.00 a month. (Education Code Section 45250) [Revised: 9-26-02]

2.15 Status of Commission Employees

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

2.16 General Duties of the Executive Director of Classified Human Resources

- A. The Executive Director of Classified Human Resources shall perform all of the duties and carry out all of the functions imposed upon him/her by law and these rules. He/she shall act as secretary to the Commission, shall be free of prejudice or bias in order to insure the impartiality of the Commission, and shall issue and receive all notifications on its behalf. He/she shall direct and supervise the employees of the Commission and conduct administrative transactions consistent with the law and rules and necessary to the proper functioning of the office and staff of the Commission. (Education Code Section 45266)
- B. The Executive Director of Classified Human Resources shall conduct classification, salary, and rules studies and shall make such other investigations as directed by the Commission or as he/she deems necessary to his/her responsibilities.
- C. In cases where two or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Executive Director of Classified Human Resources, subject to appeal to the Commission.
- D. The Executive Director of Classified Human Resources shall keep such records as are necessary for transactions and reference and for making reports showing administrative actions, including: records of all examinations, eligible lists, records and files of employment history of each employee, history of each position, classification plan, and correspondence.

2.17 Budget

- A. The Executive Director of Classified Human Resources shall prepare and submit to the Commission a proposed operating budget for the Commission for the next ensuing fiscal

year. The budget shall be submitted not later than the first Commission meeting in March.

- B. The Commission shall designate one of its meetings in May at which a public hearing on its proposed budget will be held. At the time the Commission schedules the public hearing, as required in Education Code 45253, it shall direct the Executive Director of Classified Human Resources to forward a copy of the proposed budget to the County Superintendent and notify the Governing Board of the time, date, and place of the public hearing. Board and administration representatives shall be invited to attend the public hearing and present their views on the proposed budget.
- C. Prior to adoption of its budget, the Commission will hear and fully consider all comments and suggestions that may be offered by the administration, the Governing Board or other concerned persons or organizations. Efforts shall be made to resolve any differences that may exist between the Commission and Governing Board.
- D. When approved by the Commission, the budget shall then be submitted to the County Superintendent of Schools in accordance with Education Code Section 45253.

2.18 Annual Report

- A. The Executive Director of Classified Human Resources shall prepare, as required by Education Code Section 45266, an annual report of Commission activities. When approved by the Commission, the annual report shall be submitted to the Superintendent/Board of Education.
- B. The report shall be prepared for Commission approval as soon after each fiscal year as possible and no later than a meeting in November. The report shall cover Commission activities for the preceding fiscal year. [Revised: 9-26-02]

2.19 Counsel for the Commission

The counsel of the Governing Board shall aid and represent the Commission in all legal matters, and if he refuses, or a conflict of interest occurs, the Commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the district. (Education Code Section 45313)

Exhibit A

Recruitment and Appointment of Personnel Commissioners (Merit Rule – Chapter 2: 2.2)

Following is information detailing the process and rules for appointment and/or reappointment of a Personnel Commissioner to the Hayward Unified School District Personnel Commission:

- A. Each December 1, one seat on the Personnel Commission is up for appointment/reappointment in accordance with Education Code 45249.

HUSD is a “pre-1965” Merit System. Education Code 45249 assigns responsibility for the appointment of Commissioners to the Personnel Commissions established prior to September 17, 1965 as follows: In a school district that has already adopted this article on September 17, 1965, members of the Personnel Commission shall be appointed by the State Superintendent of Public Instruction (SPI) who shall consider the recommendations of the classified employees, the Governing Board and other interested parties.

- B. Merit Rule 2.3 states that the Executive Director will notify the Governing Board by September 30 of the opening and whether or not the incumbent wishes to seek reappointment. The guidelines established by the SPI state that in the instance of reappointment, if a well-qualified Personnel Commissioner is available for reappointment and the Governing Board wishes to recommend reappointment, a recruitment process need not be initiated. The Governing Board should make a public announcement of the intention to recommend reappointment of the Commissioner at a Board meeting held no later than September 30. The final appointment which includes recommendations from the classified employees, is made by the SPI.
1. After receiving recommendations from the classified employees and the Governing Board of a district, the SPI shall appoint a Personnel Commissioner. (*Ed Code 45249 (c) and (d) only*).
 2. In those instances where the governing Board and the classified employees recommend the same nominee, the SPI shall appoint the jointly recommended nominee.
 3. In those instances where either the Governing Board or the classified employees fail to recommend a nominee, the SPI shall appoint the nominee recommended by the recommending party.
 4. In those instances where the Governing Board and the classified employees do not recommend the same nominee, the SPI shall review the qualifications of the nominees and the recommendations of the classified employees, Governing Board, and other interested parties. After this review, the SPI shall take one of the following actions (except when the SPI finds that exceptional circumstances exist):
 - a. If the SPI determines that the qualifications of the top nominees of both the Governing Board and the classified employees are relatively equivalent, the SPI shall appoint pursuant to *Ed Code 45249 (a)(3)(A) & (B)*. In other words, the SPI will alternate appointments between the nominee of the classified employees and the nominee of the Governing Board (in those instances where

- the Governing Board and the classified employees do not recommend the same nominee), beginning with the nominee of the classified employees.
- b. If the SPI determines that one nominee is significantly more qualified than other nominees, the SPI shall appoint that nominee.
 - c. If the SPI is unable to determine the qualifications of one or more nominees based on the submitted information, the SPI shall undertake steps to gather additional information. These steps may include an interview of the nominees.
- C. In cases where the Governing Board may choose not to reappoint the incumbent in September, or if the incumbent does not seek reappointment, the recruitment shall be automatically opened.
- D. The recruitment of a Personnel Commissioner shall include:
1. Prepare a recruitment brochure which lists the qualifications required, the recruitment period, the application forms and general information about the district and the responsibilities of the Personnel Commission.
 2. Post the opening – including the information brochure and applications – on both the Personnel Commission web page and the general HUSD home page.
 3. Mail announcement brochure to all HUSD school sites.
 4. Mail announcement brochure to interested agencies from a list approved by the Personnel Commission. (Note, the list shall be reviewed by the Personnel Commission prior to each recruitment to ensure current information and interest).
 5. Post announcement in local newspaper
- E. All applicants must complete all application paperwork (both SPI and HUSD applications), meet minimum qualifications and submit all documents to the Personnel Commission office located on Level 3, 24411 Amador Street, Hayward, California by the close of business on the closing date posted. Applications received late or incomplete will not be considered.
- F. For open recruitments, the candidate(s) will be interviewed by a joint panel consisting of a majority of the Governing Board, a representative from AEOTE, a representative from SEIU Para unit, a representative from SEIU Safeco unit, and a classified representative from ACSA. Both the collective classified employee groups and the Governing Board shall have one vote (Classified = 1 vote and Board = 1 vote).
- G. The Executive Director shall send the final packet of the successful candidate to the SPI which shall include:
1. Copy of the successful candidate's application materials.
 2. Letter(s) of reference from the classified employee group(s) and other interested parties.
 3. Copy of Board agenda and minutes recording approval of recommendation.
- H. The SPI will respond with a letter of appointment or a letter requesting additional information within 30 days.

- I. Following the appointment, the new or reappointed Personnel Commissioner shall be sworn in at the next regular meeting of the Personnel Commission.
- J. In the case where no qualified applications are received or there is a delay that prohibits the swearing in of the new Commissioner by December 1, “A Commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed, but for no more that 90 calendar days.” (*Ed Code 45246(g).*)

LEGAL REFERENCES

Education Code

- 45244 Qualifications for Membership on Personnel Commission
- 45246 Announcement of Recommended Appointees; Public Meeting of Governing Board
- 45247 Terms of Office
- 45249 Procedure in School District Adopting Provisions on Effective Date of this Section
- 45250 Compensation of Members of Personnel Commission
- 45252 Office Accommodation of Personnel Commission
- 45253 Annual Budget of Personnel Commission
- 45255 Expenditure of Funds for Staff Training
- 45313 Attorney for the Commission

CHAPTER 3

POSITION CLASSIFICATION PLAN

3.1 Positions Included in the Classified Service

The position classification plan shall include the classes adopted by the Commission, as described and defined in the class specifications and interpreted in these rules, the allocation of positions to classes, and the provisions for administration as provided in these rules.

3.2 Positions Exempt From The Classified Service

- A. The Commission shall classify all employees and positions within the jurisdiction of the Board of Education or of the Commission, except those which are exempt from the classified service, as specified in this rule or provisions of the Education Code.
- B. All requests for positions exempt from the classified service shall be subject to appropriate evidence of action or agreement by the Board of Education as required by law.
- C. Education Code Section 45256 specifies that the following are exempt from the classified service:
 1. Positions which require certification qualifications.
 2. Full-time students employed part-time.
 3. Part-time students employed part-time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 of Division 4 of this title and which is financed by state or federal funds.
 4. Apprentice positions.
 5. Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the Commission when so designated by the Commission.

3.3 Employment of Professional Expert

- A. When a professional expert assignment is to be made, the administration shall submit to the Executive Director of Classified Human Resources, a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to the assigned employee, nor shall a limited-term position be filled by a professional expert assignment if the duties and responsibilities fit an existing class for which a re-employment or eligibility list exists.
- B. When the person is known who is to be appointed as a professional expert, name and data relative to the expert's qualification shall be submitted to the Executive Director of Classified Human Resources. In order to be exempted from the classified service as a

professional expert, an individual must be recognized as such by reputable members of his/her own profession. Evidence of professional qualifications must be presented to the Commission at the time the written request for temporary appointment is made. Authorization for service as a professional expert shall not exceed six months. Additional required service shall be submitted to the Commission for approval.

3.4 Employment of Community Representatives or Consultant Positions

- A. In addition to the exemptions authorized in Education Code Section 45256, there shall be exempt from the classified service, positions established for the employment of community representatives in advisory or consulting capacities for not more than ninety working days in a fiscal year, provided that:
1. The authorized duties are not those normally assigned to a class of positions in the classified service,
 2. The authorized duties are approved by the Personnel Commission in advance of employment, and
 3. A regular classified employee of the school district shall not receive a concurrent appointment to such a position.

3.5 “Restricted” Positions in the Classified Service

- A. Positions not requiring certification qualifications created by a governing board of a school district under the Manpower Development and Training Act of 1962, the Economic Opportunity Act of 1964, the Elementary and Secondary Education Act of 1965, or Section 11300 or Section 13650 of the Welfare and Institutions Code, any future federal or state legislative enactment, or any other special funding, and which are not a part of the regular school program shall be considered “restricted” as established by Section 45105 or Section 45256 of this code.
- B. Persons employed in such positions shall be classified employees and shall enjoy all of the rights, burdens and benefits accorded other classified employees. Their selection and retention shall be made on the same basis as that of persons selected for positions that are a part of the regular school program.

3.6 Establishment of Positions/Assignment of Duties

- A. Governing Boards shall fix and prescribe the duties to be performed by all persons in the classified service and other positions not requiring certification qualifications of the school district, except those persons employed as a part of a Personnel Commission staff as provided in Article 6 (commencing with Section 45240) of this chapter.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

- B. The Governing Board shall fix the duties of all positions a part of the classified service as required by Section 45109. The Board may recommend the minimum educational and

work experience requirements for classified positions to the personnel commission. Minimum qualification requirements shall be subject to approval of the commission.

3.7 Classification Plan

- A. The classification plan shall consist of classes placed in groups according to general occupational nature and listed in a series by specific occupation.
- B. The Commission shall classify all employees/positions in the classified service with due advance notice to all interested parties.

3.8 Definition of Class

- A. A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be used to designate each position allocated to the class; substantially the same requirements of education, experience, knowledge, and ability are demanded of incumbents; substantially the same tests of appointees; and the same fitness may be used in choosing qualified appointees; and the same salary range may be applied with equity.
- B. The Commission shall adopt a position classification plan and may create new classes and abolish, divide, or combine existing classes within the classification plan as the needs of the classified service require.

3.9 Class Specifications

- A. For each class established by the Commission, the Executive Director of Classified Human Resources shall cause to be maintained in the office of the Commission, in suitable form, official class specifications as approved by the Commission, including:
 - 1. The official class title.
 - 2. Unit designation.
 - 3. The basic function of the class summarizing the duties and responsibilities.
 - 4. Distinguishing characteristics, when possible, giving the positions to be included and excluded from each class.
 - 5. A statement of the desirable qualifications for determining the skills, knowledge, abilities, licenses or certificates, and physical traits or characteristics.
 - 6. Examples of essential duties to be performed in positions allocated to the class.
[Revised: 9-26-02]
 - 7. The date the class specification was adopted and revised.
- B. The Commission may secure the assistance of any competent agency or person outside the District to prepare or assist such class specifications.

3.10 Interpretation of Class Specifications

- A. Class specifications and their various parts are hereby declared to have the following force and effect:

1. The class titles used in the classification plan are to be used as payroll titles and in connection with any personnel record or transaction.
2. Class specifications are descriptive and explanatory only. They are not restrictive. The Board of Education through its supervisory and administrative staff assigns essential duties and responsibilities to each position except for those in the Personnel Commission. The Personnel Commission classifies those duties and responsibilities that the District has assigned and decides what minimum qualifications are needed to perform the duties and responsibilities. Those duties that are deemed essential form the basis for subsequent examinations. [Revised: 9-26-02]
3. In determining the class to which any position shall be allocated, the specification for each class is considered in its entirety and in its relation to others in the classification plan, and consideration shall be given to essential duties, the responsibilities and the qualifications required in relation to other classes. [Revised: 9-26-02]
4. Education and experience represent desirable recruitment qualifications. The education and experience outlined in the class specifications are to serve as guidelines, not as absolutes, for admittance to the examination, process for a particular class. [Revised: 9-26-02]
5. The following personal qualification requirements apply to all classes even though not specifically mentioned in the specification: good health and freedom from disabling defects and communicable diseases, good physical condition and agility and strength commensurate with the duties of the class; citizenship (see Labor Code), integrity, sobriety, industry, initiative, resourcefulness, dependability, good judgment, good moral character and reputation, loyalty, ability to work cooperatively with others, and willingness and ability to assume the responsibilities and to conform to the conditions of work characteristics of the particular employment. [Revised: 9-26-02]

3.11 Classification of New Positions

- A. When a new position is established, the Administrator shall submit a written statement of the duties to be performed and the responsibilities to be assigned to the Executive Director of Classified Human Resources for review.
- B. The Executive Director of Classified Human Resources shall study the information and shall determine whether the position shall be allocated to an existing class, or whether a new classification shall be created.
- C. If a new classification is required, the Executive Director of Classified Human Resources shall submit recommendations as to class specification and an appropriate salary range to the Commission for approval. All positions substantially similar as to duties performed, and responsibilities exercised, and as to qualifications required, shall be allocated to the same class.

3.12 Work Out-of-Classification

- A. When an employee is required to work out-of-classification, the fact shall be reported in writing by the Supervisor to the Executive Director of Classified Human Resources.
- B. When an employee shall be required to perform duties which are not fixed and prescribed for the position by the class specification, or which do not reasonably relate to those fixed for the position, for any period of time, the salary shall be adjusted upward for the entire period. If this assignment is in a higher class, the salary adjustment shall be that step of the higher class which is next above the employee's regular salary or the minimum of the class, whichever salary is greater. If the assignment is in an equivalent class, the payment of a 5% differential will be made.

3.13 Changes in Duties of Positions

- A. Any changes in the duties of existing positions shall be promptly reported in writing by supervisors, through proper channels, to the Executive Director of Classified Human Resources who shall then consider such changes to determine whether or not the position should be allocated to a different class or remain as currently allocated.
- B. If the Executive Director of Classified Human Resources finds that a position should be reclassified, such data shall be presented to the Commission for action including class specification, proposed class salary, proposed hierarchy placement, and a determination regarding "gradual accretion", if relevant. The effective date of the reclassification shall be the date determined by the Commission.

3.14 Effect of Classification Changes on Incumbents

- A. Whenever, as a result of the creation, division, combination, alteration, or abolishment of classes of positions, the allocation of individual positions affects the incumbents of such positions, the Commission shall determine the status of the employees affected in accordance with the following procedures:
 - 1. When all positions in a given class are reallocated to a higher class or responsibility level, the incumbents of the positions who have been in the class for two* or more years may be granted status in the higher class, as provided in Section 45285 of the Act, without competitive examination. An incumbent of a position for less than two* years must secure status in the higher class by passing a competitive or qualifying examination unless his/her present class or the examination s/he took to qualify for the present appointment encompassed the higher class duties, responsibilities or qualifications in which event status may be granted without further examination.
[Revised: 9-25-03]

The basis for reclassification of the position must be a gradual accretion of duties and not a sudden change occasioned by a re-organization or the assignment of completely new duties and responsibilities. An employee who has been reclassified with his/her position shall be ineligible for subsequent reclassification with his/her position for a period of at least two* years from the initial action. [Revised: 9-25-03]

2. When a portion of the positions within a class are reallocated to a higher class or responsibility level, an incumbent who has a continuous employment record of *two** or more years in one or more of the positions being reallocated, may secure status in the higher class by passing a competitive or qualifying examination. An incumbent of a reallocated position for less than the two*-year period referred to above must secure status by competitive examination. [Revised: 9-25-03]

In either case, however, if the present class of the incumbent or the examination s/he passed to qualify for the present appointment encompassed the higher class in duties, responsibilities or qualifications, s/he may be granted status in the higher class without further examination.

3. A qualifying examination under this rule is defined as one in which only incumbents of reallocated positions may compete. They must meet the minimum qualifications, and the examination is rated as “passing” or “not passing” rather than relatively. The Commission shall determine those instances when equity and the good of the service require the holding of such examinations.

Whenever practical, the qualifying examination will be a performance exam related to the higher-level position in which qualification is necessary. Any other type of examination will be determined by the Personnel Commission. [Created: 5-1-03]

4. In the event of reallocation of a position to a lower class, the incumbent of such reallocated position shall be transferred to another position in his/her previous class if such position is available anywhere in the classified service. If such position is not available, the incumbent’s name shall be placed on the re-employment list for the class or for comparable or lower classes if s/he so requests, in accordance with his/her length of service as computed for layoffs.
5. Incumbents of positions reallocated to a class of the same level shall be granted status in the new class without further examination.

* Conforms to change in Education Code, Section 45285 [Revised: 9-25-03]

3.15 Review of Positions

- A. The Executive Director of Classified Human Resources or staff member shall study individual positions as necessary to determine proper classification. All positions should be reviewed on a three-year cycle. The District or employee may request a classification study by submitting a position description along with reasons for the study.

LEGAL REFERENCES

Education Code

45104	Positions Not Requiring Certification Qualifications
45105	Positions Under Various Acts Not Requiring Certification; Qualification; Classifications
45107.1	Classified Service
45108	“Restricted Positions”
45109	Fixing of Duties
45110	Inconsistent Duties; Compensation
45112	Staff Assistants or Field Representatives
45240	Personnel Commission and Director
45256	Establishment of Classified Service; Positions Exempted
45258	Positions Established for the Employment of Community Representatives in Advisory or Consulting Capacities Exempt from Classified, Service
45259	“Restricted” Employees Classification
45263	Powers and Duties of Personnel Commission Regarding Apprenticeships
45267	Provisions Applicable to Non-Certificated personnel Apply as Well to School District With Merit System
45285	Reclassification

CHAPTER 4

RECRUITMENT BULLETINS AND APPLICATIONS

4.1 Vacant Positions and Recruitment

- A. Prior to recruitment, the administration shall notify the Executive Director of Classified Human Resources promptly of a vacant position and anticipated vacancies. Notification should be made on the appropriate form, giving location, hours, work year, etc. Whenever possible, eligible lists should be developed prior to the position becoming vacant.

4.2 Pre-Examination Information

- A. The Executive Director of Classified Human Resources shall ensure that each examination is job related and properly tests the relative fitness of the candidates.
- B. The development of recruitment bulletins shall be based on such data as anticipated vacancies; review of previous examination administrations; statement of any changes which have occurred in the class; summary of the examination plan including recruitment program, examination outlines, etc.

4.3 Competitive Basis for Examinations

A. Continuous Examinations

1. When there is a shortage of eligible candidates to fill vacancies in the service in any class, the Executive Director of Classified Human Resources may authorize recruitment by continuous examination.
2. All qualified applicants who have applications on file at the beginning of a continuous examination process for a class shall be notified.
3. The continuous examination shall be promulgated under similar conditions and techniques as previous examinations for the same class and resulting eligibility lists may be merged with previous lists for the class in the relative order of merit of the eligible candidate.
4. Termination of continuous examination procedures for any class may be effected by action of the Executive Director of Classified Human Resources.

B. Promotional Examinations

1. The Executive Director of Classified Human Resources, as the needs of the service may require and subject to approval by the Commission, may announce and hold promotional examinations, which shall be limited to District employees with permanent status in appropriate classes designated by the Executive Director.

2. Applicants for promotional examination must meet the established minimum qualifications for the class and their last service report shall have been satisfactory grade or higher. Any probationary, limited-term, or provisional appointee who immediately preceding his/her current appointment held permanent status in an eligible class shall be deemed to meet the requirement of permanent status for eligibility to compete in a promotional examination. The serving of a probationary period shall not, of itself, prevent an employee who meets the requirements of this rule from having his name certified from an eligibility list.
3. Examinations may be announced as both open-competitive and promotional if, in the judgment of the Executive Director of Classified Human Resources, an insufficient applicant pool may be available if the examination were announced on a promotional-only basis. [Revised: 9-26-02]
4. Employees who have not completed the initial probationary period in the classified service may compete in promotional examinations, but will not be considered a promotional candidate unless their probationary period is completed by the date the eligibility list is ratified by the Personnel Commission.

4.4 Compliance With Equal Employment Opportunity Commission (EEOC) Guidelines

- A. All examinations will be in compliance with Equal Employment Opportunity Commission guidelines.

4.5 Recruitment Bulletins

- A. It shall be the responsibility of the Executive Director of Classified Human Resources to publicize each examination for appointments to the classified service to the end that the best available person(s) shall be attracted to the service of the District. [Revised 9-15-2010]
- B. All examinations shall be announced and applications will be accepted no less than five (5) working days in advance of each examination. The recruitment bulletin shall contain the following as set by the Executive Director of Classified Human Resources. [Revised 9-15-2010]
 1. Class Title
 2. Salary range and any salary differentials
 3. Description of essential functions [Revised: 9-26-02]
 4. Normal assignment for the majority of employees in the class expressed in hours per day and months per year
 5. Minimum qualifications
 6. General summary of the skills, knowledge, abilities and traits to be examined in each test and the relative weights of each test
 7. Last date to file an application and place to file the application
 8. Information regarding licenses, language skills, etc.

9. Veteran's points allowance, if entry examination
 10. Competitive basis for the examination
 11. Appointment information such as fingerprinting, tuberculosis tests, physical examinations, oath of allegiance, length of probationary period
- C. Minimum qualifications shall relate to the duties of the class and should admit an adequate field of competition. It is desirable to specify a date certain as to when these minimum qualifications must be met.
 - D. No candidate shall be required to become a resident of the District unless required under special programs.
 - E. A candidate shall not be required to possess a license, certification or credential unless the possession of such is required by statute or class specification. [Revised: 9-26-02]

4.6 Recruitment Program

- A. Recruitment bulletins shall be distributed widely throughout the District and in other potential recruitment areas. Other recruitment efforts may be by publication in daily newspapers in the area or by special aggressive, imaginative efforts where appropriate.
- B. Notices of promotional examinations shall be widely distributed in all schools and other facilities of the District to assure that eligible employees of the District will become aware of promotional opportunities.

4.7 Notification Cards

- A. The Executive Director of Classified Human Resources shall maintain a job interest card system which will allow a person to file his/her name and address to be notified of an examination when it is open for filing.

4.8 Filing of Applications

- A. All applications must be completed as directed upon official application forms of the Hayward Unified School District Personnel Commission. Applications must be filed with the Personnel Commission in accordance with instructions contained in the examination announcement and by the date filing is actually closed. Applicants taking more than one examination shall be required to file a separate and complete application for each examination. [Revised: 9-26-02]
- B. Questions regarding ethnic/sex data shall be on a separate attachment or tear-off portion of the application, and the completion of such questions shall be voluntary. [Revised: 9-26-02]
- C. All applicants must inform Human Resources, in writing, of any changes of name, address and telephone number.

4.9 General Qualifications of Applicants

- A. All applicants must be United States citizens or be legally authorized to work in the United States possessing appropriate work permit cards.

- B. All applicants must meet the minimum qualifications and be mentally and physically able to perform the duties of the position for which they are applying. Disabled persons shall be given equal employment opportunity and reasonable accommodation shall be made. [Revised: 9-26-02]
- C. No questions relating to political or religious opinions or affiliations, race, color, national origin or ancestry, marital status, gender, age, sexual orientation or disability shall be asked of any applicant, or any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefore. [Revised: 9-26-02]

4.10 Disqualification of Unfit Applicants, Candidates, and Eligibles

- A. The Executive Director of Classified Human Resources may refuse to examine an applicant or after examination may withhold from certification from an eligibility list the name of an applicant for any of the following reasons:
1. Failure to meet the general qualifications as listed in 4.9 may be grounds for disqualification.
 2. Refusal to take or sign the Oath of Allegiance shall be grounds for disqualification.
 3. Advocacy of overthrow of the Government of the United States (or the State of California) by force, violence or unlawful means shall be grounds for disqualification.
 4. Conviction for any of the following are grounds for disqualification: crime involving moral turpitude or sex offense and some narcotics offenses as outlined in Sections 45304, 44010, 44011 or a serious or violent felony as defined by the Penal Code. Other convictions may be grounds for disqualification, such as mistreatment of children or misdemeanors of a serious nature. [Revised: 9-26-02]
 5. Intentionally making a false statement as to any material fact or practicing any deception or fraud in certification or appointment or in securing eligibility to take the examination.
 6. A person's conviction record will be evaluated on the following basis: nature, seriousness and circumstances of the offense and how recent the offense; number of convictions; relationship of the offense to the position applied for; evidence of rehabilitation and maturing including the employment record with respect to job responsibility and duration; truthfulness in admitting the offenses.
 7. Evidence of the habitual use of intoxicating beverages or drugs while on duty/or affecting person's ability to perform work may disqualify a person.
 8. Dismissal or resignation to avoid dismissal for cause which indicates poor performance in the type of work sought may disqualify a person.
 9. Separation from the Hayward Unified School District because of incompetence or inefficiency.
 10. A person may be disqualified for unsatisfactory health if it could impact on successful performance of the job duties. Written proof of such conditions or disability must be submitted by a physician after a medical examination paid for by the District.

11. A person may be disqualified for failure to report for duty after accepting an employment offer or for not being available to report for interview or work.
 12. A person may be disqualified for serious or numerous traffic violations or loss of driving privileges when driving is part of the duties of the class. [Revised: 9-26-02]
 13. A person may be disqualified for failure, after due notice, to report promptly for review of any of the above bases for rejection.
 14. Refusal to furnish proper testimony relevant to a hearing before the Commission or the Governing Board.
 15. Other reasons deemed sufficient by the Commission.
- B. The Executive Director may limit the number of candidates who may take an open examination to a reasonable number of the most qualified applicants as those qualifications relate to the District's needs. No limitation shall be placed on the number of approved candidates who may take a promotional examination.

4.11 Application Forms are Property of the District

- A. All applications and examination papers are confidential records of the Commission and will not be returned to the applicants except that the Commission may permit the appointing power or representative to inspect applications of persons being considered for appointment.
- B. The names of the applicants in any examination shall be confidential.

4.12 Notice of Approved Application

- A. Examinations for positions in the classified service shall be open to all applicants who meet the requirements of the Act, these rules, and the class specifications. Each applicant whose application has been approved shall be notified a reasonable time in advance of the time 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.

4.13 Examination For Business Manager

- A. When an examination is made for the position of Business Manager or position which has the staff responsibility of chief business official for the District, such examination shall be made on an open and promotional basis in accordance with section 45280 of the Education Code. [Revised: 9-26-02]

LEGAL REFERENCES

Education Code

- 45111 Prohibition Against Requiring Classified Employees To Reside Within District
- 45122 Physical Examinations
- 45123 Employment After Conviction of Sex Offense Or Controlled Substance; Rehabilitated Controlled Substance Offender
- 45124 Employment of Sexual Psychopath
- 45261 Subjects of Rules
- 45272 Vacancies in Classified Service; Promotional Applicants
- 45276 Educational and Work Experience Requirements for Classified Positions
- 45277 Appointments From Eligibility Lists Where Another Language or Driver's License Is Required
- 45278 Written Notice Regarding Tests, Vacancies, and Transfer Opportunities
- 45280 Examination For Business Manager
- 45281 Competition Through Promotional Examination
- 45282 Examination For Certain Positions
- 45284 Conditions For Certification For Employment From Open Competitive Eligibility List Before Exhaustion Of Promotional Eligibility List
- 45291 Combinations of Successive Eligibility Lists
- 45292 Right To Provide Continuous Examinations
- 45296 Additional Credits For Veterans' Entrance Examinations
- 45298 Re-employment And Promotional Examination Preference Of Persons Laid Off; Voluntary Demotions Or Reduction In Time
- 45300 Duration Of Eligible Lists

CHAPTER 5

EXAMINATIONS

5.1 Purpose and Character of Examinations

- A. The purpose of an examination is to provide equal opportunity for all qualified candidates to demonstrate their relative fitness in relationship to the skills, knowledge, abilities and traits required for the class. All promotional candidates who have at least the minimum qualifications shall be admitted to the written examination or oral examination if no written is given.
- B. All examinations shall consist of at least two separate parts. These parts shall be a combination of any of the following: written tests, oral interviews, either for technical knowledge or for personal characteristics, performance tests, physical agility tests, weighted application forms or any tests of skill and ability, technical knowledge, manual skill or physical and mental fitness which in the judgment of the Executive Director of Classified Human Resources, after consultation with the appropriate supervisor, are relevant to the work to be performed.
- C. It is the intent of the Commission that the most appropriate method of testing be used which is both job related and which has the least adverse impact, with due consideration for factors of time and cost of administration.

5.2 Written Test Preparation and Administration

- A. The best possible examinations should be developed which will provide proper coverage of subjects at an appropriate level of difficulty and therefore extensive use of all possible facilities, experts, and materials are recommended. Extensive use should be made of the supervisory review in the pre-examination planning. [Revised: 11-28-2012]
- B. The Executive Director of Classified Human Resources shall prepare or cause to be prepared the written examination questions. The assistance of any competent person or agency may be used. To ensure current and relevant examinations, examinations will be renewed no less than once every two years or once every year based on frequency of recruitment as approved by the Executive Director of Classified Human Resources
 - 1. Candidates who do not receive passing scores may retake a written examination after six months.
 - 2. Except in the case of regulatory changes as required by law, written examination scores expire after one year from the date the examination was taken. Within one year of an examination, candidates may elect to retain written examination scores or retake an examination in order to obtain a higher score. If a candidate selects the highest score for retention it will remain valid one year from the date the test was taken.

3. The candidate must have achieved placement onto an active eligibility list before the examination expires in order to retain the score after one year.
 4. The retention of examination scores only applies to written examinations and does not include supplemental or oral examination scores. [Revised: 11-28-2012]
- C. Examinations, whether prepared within the District or secured from outside sources, shall, after their preparation, be securely sealed. This seal shall not be broken until the beginning of the examination and then only in the presence of the competitors and by an authorized agent of the Commission.
 - D. All competitors in any written examination must take the examination on the prescribed date and under the same or similar conditions.
 - E. All necessary explanations will be made to the whole group, and no questions will be explained to any individual competitor. Examiners are forbidden to explain the meaning of or to make remarks relating to any question that may assist in its solution. In cases where a written test is being administered to relatively large numbers of minority group persons, the Executive Director of Classified Human Resources may attempt to secure the services of examiners who are of the same cultural and ethnic background as the minority group candidates.
 - F. Communication between competitors during the examination is strictly forbidden, and competitors are forbidden to receive aid from one another or to use any unauthorized help in any form. Before the commencement of an examination, competitors will be required to hand to the examiner any printed or written material in their possession that might serve to aid them in the examination, unless such material is expressly permitted as part of the examination process. Evidence of copying or collusion by a competitor may result in the cancellation of that candidate's examination papers and the debarment of the competitor from future examinations. Copies of questions in the examination shall not be made or taken from the examination room.
 - G. Written examinations shall be so managed that none of the written examination papers shall disclose the name of any competitor until all examination papers of all competitors in a given examination shall have been marked and rated.
 - H. Candidates in any written testing process shall not reveal their identity. Any competitor in any examination who places any identifying mark upon his/her examination papers (other than the identifying mark prescribed at the time of the examination), or who makes any attempt to disclose to others the identity of his/her papers prior to the completion of the examination may be deprived of all benefits under such examination.

5.3 Employee Development Appraisal

- A. In promotional examinations, the development and fitness of a competitor for performance of the duties of a promotional class may be rated by supervisors who know the competitor's work and his/her development. Such rating shall be known as Employee Development Appraisal. The Commission shall establish procedures and standards for

such ratings. Supervisors who prepare such ratings shall be in a higher class than that of the competitor.

- B. Whenever Employee Development Appraisal is being used, a divisional review committee shall be established consisting of not less than three members appointed by the Executive Director of Classified Human Resources upon nomination of the appointing power. The divisional review committee shall review all appraisal reports to insure uniform application of standards, completeness and accuracy of information, and to evaluate the basis judgments made. The review committee shall, after its review, transmit a single rating for each competitor to the Executive Director of Classified Human Resources.
1. Employee Development Appraisal may be used in a promotional examination upon request of the appointing power and approval of the Commission.
 2. In filing such requests with the Executive Director of Classified Human Resources, the appointing power shall indicate that an announcement of this intent has been made to the potentially eligible employees
 3. Employee Development Appraisal shall be made on a competitive basis in that each competitor shall be rated on the probability of his satisfactory performance in the promotional class and in relation to the probability of satisfactory performance by the other competitors.
 4. Ratings shall be expressed in percentages with 70 per cent being the minimum qualifying rating.
 5. Within ten days after the notice of the results of the examination has been mailed to him/her, a competitor whose Employee Development Appraisal rating was not qualifying, may request the Executive Director of Classified Human Resources to revise the ratings on the grounds that it was a result of irregularity, bias, fraud, or failure to follow the prescribed rating standards. Requests shall be in writing, shall state the grounds and specifically the facts or information upon which the request is based:
 - a. Within ten days from the date such request is filed, the Executive Director shall either sustain the rating or, if he/she finds that there was irregularity, bias, fraud, or failure to following the prescribed rating standards in the making of rating, he/she shall give the competitor a rating of 70 percent. The competitor shall be notified in writing of the decision of the Executive Director and a copy of the request and decision shall be sent to the Personnel Commission. Within ten days after he/she is notified by the Executive Director that his/her request has been denied or within ten days after the end of 30 days from the filing of his/her initial request, providing he/she has not received a decision, the employee may appeal to the Commission to review his/her rating on the grounds that the rating was a result of irregularity, bias, fraud, or failure to follow the prescribed rating standards. The appeal must be in writing and accompanied by a copy of the request made to the Executive Director.
 - b. No appeal to the Commission shall be considered unless the employee shall have first exhausted the remedy as herein specified.

- c. If the Commission grants the appeal, it may give the competitor a rating of 70 percent, except that if the Commission finds that the rating was the result of fraud, it may give competitor such passing rating as it may decide.

5.4 Notice of Tests

- A. It is hereby required that whenever such persons shall make or have any change in his/her mailing address or place of residence, he/she shall promptly notify the office of the Commission, stating the list or lists upon which his/her name appears together with the new mailing address. Failure or neglect on the part of any such person to file such information with regard to his/her address or with regard to any change thereof may at the discretion of the Commission operate as a waiver of his/her order of certification and/or appointment from any such list or lists.
- B. Examinations for positions in the classified service shall be open to all applicants who meet the requirements of the Act, these rules, and the class specifications. Each applicant whose application has been approved shall be notified a reasonable time in advance of the time 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.

5.5 Use and Selection of Interview Raters

- A. In any examination the education, experience and personal qualifications of competitors may be rated after a qualifications appraisal interview and such investigations as may be necessary.
- B. The interview shall be conducted and the ratings made by a board of two or more members. The board must include the Executive Director of Classified Human Resources or his/her representative, and may include one or more persons from the District or another governmental agency or private business who are familiar with and competent in the work of the class for which the examination is being held. In selecting oral board members and in determining the interview site and setting, the Executive Director of Classified Human Resources may give consideration to the racial, cultural, and ethnic background of the candidates.
- C. The Executive Director of Classified Human Resources shall determine the number of interviewers required to conduct each qualifications appraisal interview and shall select and appoint such interviewers. Members of the Governing Board or Personnel Commission shall not serve on an oral examination board. Any 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.
- D. Unless specifically directed to evaluate candidate's technical knowledge and skills, the oral examination board shall confine itself to evaluating general fitness for employment in the class. When the oral examination board is directed to evaluate technical knowledge and skills, at least two members of the board shall be technically qualified in the specified occupational area.

- E. Scores achieved by the candidate on other parts of the examination shall not be made available to the oral examination board. (Education Code 45273)
- F. The proceedings of all oral examinations shall be electronically recorded. Recordings and the rating sheet of each member of the oral board for each candidate shall be retained for 90 days after establishment of an eligibility list. (Education Code 45274)
- G. Qualifications appraisal interviews for an examination shall be conducted by the same qualifications appraisal board, but if one or more members of the board is not present during all or part of the proceedings, the board may nevertheless proceed.
- H. If, in the course of an examination, a competitor appears for interview and that competitor is related by blood, by adoption, or is or was related by marriage to any interviewer, it shall be the duty of the interviewer and the competitor to reveal such relationship and the Commission representative shall record such information on the rating sheet of the competitor. Whenever an interviewer is related to a competitor, such interviewer shall be disqualified for the interview with that particular competitor and shall not be present during the interview or during any discussion about or rating of the competitor.
- I. The panel shall be briefed regarding the essential duties of the class; skills, knowledge, abilities and traits; examination process; knowledge and abilities to be covered in the panel and use of the interview sheet; interviewing techniques, and scoring methods. A supervisor may be invited to participate in a briefing to provide the panel with job-related information and organizational structure under the supervision of the examiner in charge.
- J. All questions must be job related. No questions shall be asked relating to political or religious opinions, union affiliation, race, color, national origin, ancestry, sex, marital status or disabilities.

5.6 Computing Final Scores

- A. All examination papers shall be marked and graded under the direction of the Executive Director of Classified Human Resources or the authorized person or agency outside the District employed for this purpose.
- B. Competitors may be required to attain a designated final rating in all parts of the examination in order to qualify, or the lowest qualifying mark may be the final score of the lowest candidate chosen to be placed on the eligible list.
- C. Written examinations may be given on either a pass-fail or a ranked basis. The qualifying pass point on written examinations may be an actual score or an adjusted score based on the difficulty of the examination, the quality of the competition, and the needs of the service. The determination of minimum qualifying pass point on written examinations shall be made before any examination papers are identified. [Revised: 9-26-02]
- D. When a competitor is disqualified by a member of the qualifications appraisal board, the panelist shall make a record of the reasons for such rating on a rating sheet and this shall be signed by the member.

If the qualifications appraisal board assigns a rating below seventy percent, the competitor shall be disqualified. [Revised: 9-26-02]

- E. A permanent employee of the district who attains a passing score on a promotional examination shall be given a preferential promotion credit of five points which shall be added to his/her total score. [Revised: 9-26-02]

5.7 Notice of Results

As soon as the rating of an examination has been scored and the eligibility list established, each candidate shall be notified by mail of the results of his/her examination. A copy of the eligibility list shall be posted at a convenient location in Human Resources accessible to all classified employees.

5.8 Protest Period

- A. When notification of examination results is sent to each candidate, the candidate shall also be notified of the test results review day when the candidate's examination results may be inspected. Such review day shall be within five working days after the date of the examination. A qualified representative of the Personnel Commission staff shall be available to explain the scores and ratings.
- B. If a candidate wishes to protest any part of an examination, he/she must submit the protest in writing to the Executive Director of Classified Human Resources not later than five working days after the examination. [Revised: 9-26-02]
 - 1. Such protest shall give reasons upon which the complaint is based, state specifically wherein errors have occurred, and state the remedy to which the candidate believes he/she is entitled.
 - 2. The Executive Director of Classified Human Resources shall review and answer all protests of any examination part and shall make any necessary corrections, provided that such corrections are applied uniformly to all candidates. Any candidate who remains dissatisfied may appeal to the Personnel Commission within five days after notice of the decision of the Executive Director of Classified Human Resources was mailed or given to the candidate.
 - 3. An appellant's written claim that extenuating circumstances prevented filing a protest or the appeal within the time limit may be considered, and a reasonable extension may be granted by the Commission.
 - 4. Upon appeal to the Personnel Commission, the appellant may request to review his/her personal interview rating documents and the tape recording of the interview. Such request by the appellant or his/her representative shall be granted as soon as practicable, and the review shall be conducted by a Personnel Commission staff member.
- C. The Classified Personnel office shall attempt to obtain a dated receipt as evidence that the notice of the Executive Director of Classified Human Resources' decision was received by the individual. Where personal delivery is impracticable, the intent to obtain the signature of the individual shall be considered as having been carried out if a registered

or certified letter, return receipt requested, has been mailed to the individual at his last-known address.

- D. Errors shall be corrected when discovered, regardless of lapse of time after the establishment of an eligibility list. Changes in eligibility lists resulting from corrections of errors shall be reported in the same manner as the original lists.
- E. An appointment made in good faith from an employment list believed to be correct at the time of appointment shall not be invalidated if an error is later discovered in the grading of the examination papers or in the processing of the applications. However, the Executive Director of Classified Human Resources shall notify the appointing power in writing if the corrected grade of an appointee is found to be below the passing score for that examination.

5.9 Adoption and Duration of Eligibility Lists

- A. After an examination for any class is completed, the names of successful candidates shall be arranged on the list in the order of their qualifying grades. The eligibility list thus created shall become effective upon approval by the Commission Secretary (pending final approval by the Commission.)
- B. The length of time during which such test shall remain in force may be 6 months to one year unless an extension of time not to exceed two years is authorized by the Executive Director of Classified Human Resources. [Revised: 9-26-02]
- C. The Executive Director shall be allowed to approve such eligibility lists subject to ratification by the Commission.
- D. Any person whose name is on the eligibility list at the time of its expiration and who desires to remain on an eligibility list for that class must file a new application.
- E. For Director Level or above; eligibility lists with fewer than three ranks shall only become effective with approval of the Personnel Commission at a Regular or Special Meeting. [Revised: 01-20-16]

5.10 Confidentiality and Retention of Examination Records

- A. Candidates' examination records including answer and rating sheets, etc., shall be retained for three years.
- B. Examination records including tests, affirmative action data, eligibility lists, etc., shall be retained for a minimum of three years.
- C. Examination records shall not be available to people including supervisors for any purpose and shall be considered confidential.

5.11 Availability/Interest Cards

Whenever examinations are not open for filing of applications, individuals may submit job availability/interest cards to Human Resources. These cards will be kept on file and mailed to the individual to notify him/her when the examination filing period is open.

LEGAL REFERENCES**Education Code**

- 44031 Personnel File Contents and Inspection
- 45261 Subjects Of Rules
- 45272 Vacancies In Classified Service; Promotional Applicants
- 45273 Examinations; Examination Boards; Membership, Recordings
- 45274 Retention And Availability Of Examination Records; Review And Protests
- 45280 Examination For Business Manager
- 45282 Examination For Certain Positions
- 45291 Right To Provide Continuous Examinations
- 45293 Questions To Be Asked Candidates; No Discrimination In Appointment

- 45296 Additional Credits For Veterans' Entrance Examinations
- 45300 Duration Of Eligible Lists
- 45317 Violation Of Article A Misdemeanor: Other Unlawful Acts

CHAPTER 6

EMPLOYMENT LISTS

6.1 Use of Eligibility Lists

- A. Whenever a position is to be filled the appointing power shall notify the Executive Director of Classified Human Resources in advance of the date of the anticipated need and make written request for certification on the form prescribed by the Executive Director of Classified Human Resources, stating the classification, tenure and location of the position.
- B. An eligible name shall not be removed from the eligibility list if he/she accepts a limited-term appointment.
- C. An eligibility list shall be used for full-time, part-time, regular, and limited-term assignments in a class.

6.2 Certification From Employment Lists

- A. In filling vacancies in District employment, certification shall be in the following order of preference: [Revised 09-10-14]
 - 1. Re-employment List: Laid-off employees or employees returning from medical layoff in the classification shall be placed in vacancies based on seniority. (Education Code Sections 45308, 45309 and 45195)
 - 2. Promotional Eligibility List: The first three ranks plus reinstatement, voluntary demotion and transfers. (Education Code Section 45272) [Revised: 10-17-02]
 - 3. Open Eligibility List: The first three ranks plus reinstatement, voluntary demotion and transfers. (Education Code Section 45272) [Revised: 10-17-02]
- B. If there are less than three (3) ranks on the eligibility list, the appointing power has a choice of interviewing from the eligibility list or calling for an examination.
- C. If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list for another class (at the same or a higher salary level) if the duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled; provided that the Executive Director of Classified Human Resources and the Personnel Commission agree that the use of the list is in the best interest of the District and that the necessary skills and knowledge were adequately tested in the examination.
- D. If a position requires proficiency in a foreign language in addition to Basic English language skills, certification may be limited to those eligible who successfully pass the examination for that foreign language skill.
- E. The appointing authority or a representative of the appointing authority shall, within fourteen (14) calendar days of the interview, make a selection from the candidates presented and shall notify the Executive Director of Classified Human Resources who shall see that the necessary employment procedures are carried out. If the appointing

authority has a valid reason for the delay, he/she must communicate and receive approval from the Executive Director of Classified Human Resources. [Revised: 3-15-06]

Should the appointing authority fail to make a selection from the top three ranks of eligible candidates as certified by the Executive Director of Classified Human Resources, the Executive Director may at his/her discretion mandate that the position be vacated (if there is a temporary person assigned to fill the vacancy), and remain vacant until such time as the eligibility list for that class expires. [Revised: 3-15-06]

REFERENCE: Ed. Code Sections 45260, 45261, and 45272.

6.3 Waiver of Certification

- A. An eligible may waive appointment to a regular position, but after three such waivers the eligible name shall be removed from the employment list for that class and shall not be eligible for further certification from that list. In extraordinary cases where waivers are caused by circumstances beyond the control of the eligible, the Executive Director of Classified Human Resources may restore the eligible to the list on satisfactory explanation of the reason for the waiver.
- B. Whenever an eligible has been certified to the appointing power and such eligible waives appointment, the Executive Director of Classified Human Resources shall certify the next highest eligible. If the appointing power has at the same time more than one vacancy in the same class, there shall, if possible, be certified the top three ranks and one rank per vacancy in addition thereto. The appointing power shall fill the first vacancy by the selection of one of the highest eligible certified. Every succeeding vacancy shall be filled in like manner by selection in turn from the highest remaining names. [Revised: 12-15-11]

6.4 Removal of Name

- A. If an eligible is certified from the same list three separate times and is passed over by the appointing power on all three certifications in favor of other eligible certified, his/her name may be permanently removed from the list by the Executive Director of Classified Human Resources upon receiving written statement from the appointing power as to why the eligible was not appointed. The eligible will be informed by the Executive Director of Classified Human Resources of the reasons for removal from the list.
- B. When an eligible is appointed to a permanent position, his/her name shall be removed from the eligible list for that class. [Revised: 10-17-02]

6.5 Duties of Eligible

- A. It shall be the duty of every eligible to respond promptly after receiving the notice of certification. When the eligible resides in the District, three days after date a notice has been mailed shall be deemed a reasonable time in which to respond. If the eligible resides outside the District, a reasonable time in which to respond shall be three days plus the normal time required for the communication to be transmitted by mail to the eligible place of residence and for his/her answer to be returned by mail.

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- B. In the event an eligible is notified in writing or electronically with the consent of the applicant, of the certification, he/she shall appear before the appointing power for interview or reach the appointing power with some form of communication within 24 hours after sending the notice. [Revised: 10-17-02]
 - C. Failure of an eligible to respond within the above stated times will be deemed an automatic waiver of certification and the Executive Director of Classified Human Resources may certify an additional name in lieu of the name of such eligible.
 - D. An eligible may at any time have his/her name temporarily withdrawn from the eligibility list and placed upon the inactive list by giving in writing reasons satisfactory to the Executive Director of Classified Human Resources. The eligible name may be restored to the list in the discretion of the Executive Director of Classified Human Resources upon written application of the eligible during the period of eligibility.
 - E. Every person who has been placed on any eligibility list or re-employment list shall promptly and in writing file with the Commission a correct mailing address to which the Executive Director of Classified Human Resources shall direct all notices. It is required that whenever any change in mailing address occurs, the eligible shall promptly notify the office of the Commission, stating the name of list or lists. Failure or neglect on the part of any such person to file a change of address or with regard to any change thereof may at the discretion of the Executive Director of Classified Human Resources operate as a waiver.

LEGAL REFERENCES

Education Code

- 45195 Reemployment Preference
- 45275 Retention And Availability Of Examination Records; Review And Protests
- 45277 Appointments From Eligibility Lists Where Another Language Or Driver's License Is Required
- 45280 Examination For Business Manager
- 45282 Examination For Certain Positions
- 45284 Conditions For Certification For Employment From Open Competitive Eligibility List Before Exhaustion Of Promotional Eligibility List
- 45286 Limited-Term Employees
- 45293 Questions To Be Asked Candidates; No Discrimination In Appointment
- 45300 Duration of Eligible Lists
- 45308 Order of Layoff; Length of Service; Reemployment
- 45309 Reinstatement of Permanent Classified Employees After Resignation

CHAPTER 7**EMPLOYMENT STATUS AND TRANSACTIONS****7.1 Transfers**

- A. Transfers of permanent classified employees between divisions or organizational units may be made between positions in the same class or between positions of different classes having substantially similar duties, responsibilities, and qualifications, the same salary range, and when a similar examination has been given.
 - 1. Probationary employees may request transfer to a vacant position providing more assigned hours (FTE) at the same location with the consent of the site/department administrator and receiving supervisor of the vacancy. Employees requesting transfer under this section shall be certified in accordance with Personnel Commission Rule 6.2 Certification from Employment Lists and Education Code Section 45272. [Revised: 09-16-15]
- B. The Executive Director of Classified Human Resources shall maintain a transfer list of all permanent classified employees who request assistance in obtaining transfers, and shall be of such assistance as may be possible in effecting the transfers.
 - 1. Request for transfer by an employee shall be made in writing to the Executive Director of Classified Human Resources on a Request for Transfer form. Transfer requests will be maintained for the current fiscal year and then returned to sender. [Revised: 11-21-02]
 - 2. When an appropriate vacancy occurs, selection for appointment shall be made from the first three senior applicants on the Transfer List. Seniority is defined in Personnel Commission Rule 9.1.B.
- C. Administrative transfers within a department or between departments shall be requested by the administrative supervisor on the Request for Personnel form, indicating the reason for the transfer.
 - 1. Reasons for any transfer which is not voluntary shall first be discussed with the employee by his/her immediate supervisor. If more than one vacancy exists, the employee shall be given the opportunity to express the employee's preference.

7.2 Demotion

- A. A movement of an employee from a position in one class to a position in a class with a lower salary range shall be deemed a demotion.
- B. Any classified employee may, for disciplinary purposes, be subject to temporary or permanent demotion with reduction in salary for reasonable cause. (Causes for disciplinary actions are set forth in Chapter 10.)
- C. Any permanent employee may request a voluntary demotion to a lower related classification from the Executive Director of Classified Human Resources, stating the reasons therefore in writing. Upon approval by the appointing authority, the request may

be granted by the Executive Director of Classified Human Resources, subject to ratification by the Commission, if there is a vacancy in the classification and the employee meets the minimum qualifications. Should the employee wish to return to the former classification, s/he would have to request a reinstatement. Reinstatement may be granted by the District provided a vacancy exists. If the person requests a reinstatement, and the request is approved by the District, and the person had not completed a probationary period in the higher class, the entire probationary period in the higher class must be repeated. (Chapter 9 outlines the rights of employees who have taken voluntary demotions in lieu of layoff.) [Revised: 11-21-02]

- D. Involuntary demotion is a disciplinary action for cause and is subject to the pertinent rules and procedures in Chapter 10.

7.3 Reinstatement and Re-employment

- A. A former permanent employee who resigned in good standing may be reinstated in a vacant position in his former class and status within 39 months of the last date of paid service. Also, the employee may be reinstated in a lower related class, if qualified, or in limited-term status in the same or lower class. Such actions are discretionary with the appointing authority.

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

- B. Reinstatement is not a right but is a privilege to be granted only on recommendation of the appointing power and approval of the Board.
- C. An employee who has taken a voluntary demotion in lieu of layoff may be re-employed in his/her former class or in a related lower class, as determined by the Commission, within 63 months, provided that the same tests of fitness under which he/she qualified for appointment to the class shall still apply and is consistent with Education Code Section 45309.
- D. The Commission office may maintain a file containing the names of former employees who have requested reinstatement and whose previous records are such that reinstatement could be recommended when vacancies occur. The determination as to which name shall be recommended for any vacancy is solely the prerogative of the appointing power and no obligation exists on the appointing power's part to fill such vacancy by reinstatement if it is preferred to fill it by some other legal method of appointment.
- E. Reinstatement or re-employment of a former employee shall have the following effects:
1. Restoration to the former step in the current salary range for the class, or, if restored in lower class, to the rate closest to that of the step to which he would be assigned if he were restored in his former class.
 2. If restored to permanent status, accumulated leave and seniority are restored as of the date of the separation. To determine the anniversary date of the separation for salary

- adjustments, actual months worked prior to resignation shall be counted and added to months needed to complete the year (12 months).
3. Restoration of all rights, benefits and burdens of a permanent employee in the class to which restored. (Education Code Section 45309)
- F. A permanent classified employee who accepts a position under provisional or limited-term appointment in another class shall have the right to reinstatement to his/her former permanent position in the classified service upon termination of the provisional or limited-term appointment.
- G. A permanent classified employee who accepts a position in the Certificated service of the district shall have the right to request reinstatement without examination to a vacant position in his/her former permanent position, or in a lower related class, upon termination of the certificated appointment. [Revised: 09-10-14]

7.4 Limited-Term Employment

- A. Limited-term positions are subject to classification by the Personnel Commission except that the Executive Director of Classified Human Resources may classify them subject to later ratification if the good of the service demands expeditious action. The appointing authority may establish positions the duration of which is six months or less; such positions shall be designated limited-term. Extensions beyond six months must be approved by the Commission.
- B. A substitute assignment may be made not to exceed in duration the authorized absence of the regular employee. Also, a substitute assignment may be made in a lower class related to that of the absent employee if the assigned duties are reduced in level accordingly.
- C. The Personnel Commission shall classify all limited-term positions in the same manner as stated in Chapter 3, Classification.
- D. A permanent employee who accepts a limited-term assignment shall be allowed to return to his/her former position at the expiration of such service.

7.5 Eligibility for Limited-Term Employment

- A. In the absence of an appropriate eligibility list, provisional appointments may be made to limited-term positions and substitute assignments subject to the provisions of Rule 7.8.

7.6 Compensation for Limited-Term Employees

- A. Former regular employees who are reinstated as limited-term employees within 39 months after resignation shall be paid in accordance with Rule 7.3.E. The salary step so determined shall be applicable to all future limited-term appointments of that employee in that class until he/she loses eligibility for such appointments. [Revised: 11-21-02]
- B. All other limited-term employees shall be paid from the substitute salary schedule for the appropriate classification. [Revised: 11-21-02]

- C. Regular employees who are serving in a limited-term appointment in their same classification, retain regular status, and continue to earn and be granted all rights and benefits of regular employees, except that time spent in the limited-term position does not count toward the completion of the probationary period or seniority in that classification. [Revised: 11-21-02]
- D. Regular employees who are serving in a limited-term appointment in a different classification retain regular status in the class from which they came. Time spent in such limited-term position does not count toward completion of a probationary period or seniority in the classification. [Revised: 11-21-02]

7.7 Termination of Limited-Term Employees

- A. Limited-term appointments shall be subject to termination at any time except during an assigned shift.
- B. Limited-term employees may be dismissed with or without cause. The Executive Director of Classified Human Resources may remove the employee's name from the special list for limited-term appointments, if investigation supports such action. [Revised: 11-21-02]

7.8 Provisional Assignments

- A. When no eligibility list exists for a position in the Classified Service, a new employee may receive provisional appointment which may accumulate to a total of 90 working days per Education Code Section 45289. [Revised: 11-21-02]
- B. A provisional appointee must meet the minimum qualifications prescribed for the class. The appointing power shall have the appointee submit the qualifications in writing for review and approval by the Executive Director of Classified Human Resources.
- C. The services of a provisional appointee who has failed to qualify for a position in the class shall be terminated within fifteen calendar days after the date on which an eligibility list has been established, provided this fifteen day period does not extend beyond the 90-day provisional assignment.
- D. The Personnel Commission may authorize the extension of a provisional employee's assignment for a period not to exceed 36 working days provided the following requirements are met:
 - 1. An examination for the class was completed during the first 90 working days of provisional assignment.
 - 2. Evidence satisfactory to the Personnel Commission is presented indicating:
 - a. That an adequate recruitment effort has been and is being made.
 - b. That extension of the provisional assignment is necessary to carry on vital functions of the District.
 - c. That the position cannot be satisfactorily filled by use of other employment lists or procedures. [Education Code Section 45288]

- E. No person shall be employed in a full-time provisional capacity for a total of more than 126 working days in any one fiscal year.
- F. A provisional appointment may be terminated at any time at the discretion of the appointing authority.

7.9 Emergency Appointments

- A. When eligible employees are not immediately available and in order to prevent the stoppage of public business, the appointing power may make an emergency appointment of not more than 15 working days. When such emergency appointment is made, it shall be the duty of the appointing power to notify the Executive Director of Classified Human Resources in writing who shall pass on the sufficiency of the reasons and the compliance with the provisions of this rule before any salary can be paid. The time served under emergency appointment shall be considered as part of the period permitted for provisional appointments.

7.10 Employment of PERS Retirees

- A. Any person receiving a retirement allowance from the Public Employees Retirement System may be employed for up to 960 hours in any fiscal year whenever other eligible retirees are not available and the retiree's skills or knowledge are needed, or during an emergency to prevent the stoppage of public business. [Revised: 11-21-02]
- B. The retired person must certify that he/she understands he/she is restricted to 960 hours in any fiscal year and continuance in employment is discretionary. [Revised: 11-21-02]
- C. For the purposes of this rule "working day" shall mean any day for which pay is received regardless of the number of hours worked. (Government Code Section 21229)

7.11 Leaves of Absence Procedures

- A. The granting of a leave of absence without pay gives a permanent employee the definite and absolute right to return to his/her classification at the expiration of the leave of absence or before with the concurrence of the appointing power. A physical examination may be required before the employee returns to work. [Revised: 11-21-02]
- B. Leave of absence without pay may be granted to a classified employee upon the written request of the employee, the recommendation of the appointing power, and the approval of the Administration. An employee shall not be entitled to a leave of absence as a matter of right except as mandated by State or federal law. Upon request for a leave of absence signed by the employee and stating the reason for the leave, the appointing power may either approve or disapprove the request except as mandated by State or federal law. [Revised: 11-21-02]
- C. In an emergency situation, a leave of absence without pay may be granted to a probationary employee. The period of probation shall be increased by the total time of such absence.
- D. Leave of absence without pay may be granted for any period not exceeding six months but may be extended for six months with approval. Leaves granted to any probationary

employee shall extend the duration of the probationary period at the rate of one day for each day absent. [Revised: 11-21-02]

- E. An employee who fails to return from a leave of absence within three working days after the expiration of an authorized leave shall be deemed to be absent without leave. Absence without leave shall be deemed an automatic resignation.
- F. Leaves of absence without pay for permanent employees for more than thirty (30) days shall not be counted as District service time for purposes of seniority except as mandated by State or federal law. [Revised: 11-21-02]

7.12 Sick Leave

- A. Sick leave is defined as the necessary absence from duty of the employee for illness or injury; exposure to contagious disease; medical examination or treatment by a licensed practitioner.

- B. **Sick Leave Entitlement**

Permanent full-year employees shall be entitled to sick leave without loss of salary at the rate of twelve days per year. Sick leave shall accumulate as follows:

1. Permanent annual employees shall have 12 days of sick leave credited annually to their record at the beginning of the fiscal year as of July 1. Any unused portion shall be accumulated year after year and kept on deposit for future use.
 2. Permanent employees employed less than twelve months annually shall have sick leave days credited annually to their record at the beginning of the fiscal year on a pro-rated basis: For example, an employee scheduled to work ten months will be credited with ten days of sick leave. Any unused portion shall accumulate year after year and be kept on deposit for future use.
 3. Probationary employees may earn sick leave at the rate of one day per calendar month or the duration of their probationary period. Sick leave may be used, as accumulated. The use of sick leave shall result in an extension of the probationary period at the rate of one day's extension for each day of sick leave used.
 4. Emergency and limited-term employees will not earn sick leave credit unless they are subsequently appointed into permanent positions without break in service.
 5. For any illness an acceptable written statement may be required from the employee's physician or health advisor after five (5) workdays. This statement must verify that the employee was unable to work due to illness and must be submitted to the Payroll Department before the employee is credited with pay for the absence. A release from the physician or health advisor shall be required before the employee returns to work from sick leave involving major surgery or illness. [Revised: 11-21-02]
- C. Unlimited accumulations shall be allowed in all sick leave benefits. However, the cumulative aspect of sick leave from year-to-year is based on accrual at the rate of one

day's sick leave per whole month employment. At least half the number of working days in the calendar month must be worked to earn sick leave for that month.

7.13 Personal Necessity Leave

- A. A maximum of seven (7) days of accumulated sick leave may be used in any fiscal year for Personal Necessity Leave. [Education Code Section 45207] [Revised: 11-21-02]
- B. Personal Necessity Leave shall be limited to circumstances that are serious in nature and that the employee cannot reasonably be expected to disregard, and that necessitates immediate attention, and cannot be taken care of after work hours or on weekends.
- C. An employee shall request personal necessity leave request at least three (3) days prior to taking the leave. The immediate supervisor will verify the request for necessity leave and will make the appropriate recommendation for leave. The District Office shall review the recommendation and make a final determination.
- D. The employee shall not be required to secure advance permission for leave taken for (1) death or serious illness of a member of his/her immediate family, (2) an accident involving his/her person or property, or the person or property of a member of his/her immediate family, or (3) if the reason for the leave became known at such a time that it would preclude the employee from complying with "C" above.

7.14 Critical Illness or Injury in Family

An employee may be granted leave up to 3 days each year with full pay when critical illness or injury happens to a member of his/her immediate family. Members of the immediate family means mother, father, mother-in-law, father-in-law, spouse, son, daughter, stepchild, brother, brother-in-law, sister, sister-in-law, grandfather or grandmother of the employee and the spouse, son-in-law, daughter-in-law, grandchild, or any relative living in the same household as the employee. A physician or medical advisor must provide a statement of need for the presence of the employee, stating the nature of the critical illness or injury before such leave is granted. ("Critical illness" means serious operation or death imminent.) Additional accommodations may be made at the discretion of the Superintendent.

7.15 Industrial Accident or Illness Leave

- A. Classified employees are entitled to leave for occupational accident or illness as follows:
 - 1. Allowable leave shall be for 60 days in any one fiscal year for the same accident.
 - 2. Allowable leave shall not be accumulative from year to year.
 - 3. Industrial accident or illness leave will commence on the first day of absence.
 - 4. Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this State, exceed the normal wage for the day.
 - 5. Industrial accident leave will be reduced by one day for each day of authorized absence regardless of a compensation award made under workers' compensation.

6. When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.
- B. After all such allowable leave has been used, the employee then receives his/her regular accumulative sick leave, vacation, and any other accumulated leave. (Education Code Section 45192)

7.16 Bereavement Leave

In addition to full-paid sick leave, an employee shall be granted three consecutive working days bereavement leave, or five consecutive working days if travel beyond a 500 mile radius is required, in the event of the death of a member of his/her immediate family. The following relatives shall be considered as members of the immediate family: mother, father, step-mother, step-father, mother-in-law, father-in-law, spouse, son, daughter, step-child, brother, brother-in-law, sister, sister-in-law, grandfather or grandmother of employee or spouse, son-in-law, daughter-in-law, grandchild, or any relative residing in the same household as the employee at the time of death. [Education Code Section 45194] [Revised: 11-21-02]

7.17 Jury Duty/Court Witness Leave

- A. All classified employees shall be granted a jury duty leave of absence with pay by the division head or designated representative when necessarily absent from work because of a call for jury duty as provided in Education Code Section 44037.
- B. Any classified employee receiving a call for jury duty shall notify his/her immediate supervisor as soon as possible after receipt of a letter directing appearance for qualification for jury duty service and/or jury summons.
- C. Subject to the possibility of making reasonable travel arrangements, the employee shall be available to the district for work during the balance of his/her normal working day or week when not required to be in court or elsewhere for jury duty. If the employee's regular assignment is to other than the day shift, the employee shall be absent from duty the same number of hours served as a juror. For example, if an employee working a 7½ hours night shift serves five hours as a juror, the employee shall only be required to work that number of hours which added to five equals the total shift.
- D. The employee shall attach to the time card a certificate from the clerk of the court or authorized officer which indicates the dates of necessary attendance or service for the court.
- E. The employee will collect any jury fees and remit them to the Business Services Department, except the following fees which may be retained by the employee:
 1. Any mileage fee.
 2. Jury fees earned on holidays, during vacation, or on any days an employee is not required to report to duty.

- F. An employee shall receive his/her regular pay less any amount received for witness fees, exclusive of travel expense.
- G. Unit employees appearing in court as litigants shall be allowed personal necessity leave.
- H. If absence is occasioned by an official order from another government jurisdiction, which has not been brought about through misconduct or connivance on the part of the employee, payment or salary shall be made for any necessary absence of one day or less.

7.18 Military Leave

Military leave of absence shall be granted and compensated in accordance with Military and Veterans Code Sections 389 and 395 and applicable federal law. The term “military” as used in this rule is defined as including Army, Navy, Marine, Air Force, Coast Guard or other armed service of the United States or as may be otherwise defined by law. Employees ordered to active duty shall include a copy of their orders with their timecard which covers the period of absence. [Revised: 11-21-02]

7.19 Work-Related Absences

A. Examinations and Other Employment Procedures

Any permanent classified employee, upon giving the immediate supervisor two days' notice, shall be permitted to take any examination and to participate in other employment procedures of the District during working hours, without loss of pay or other penalty.

If less than two days' notice is given by an employee, permission to participate without loss of pay is subject to approval by the immediate supervisor.

B. Epidemics and Emergencies

A permanent classified employee shall be paid his/her regular salary for any period during which he/she is unable to work due to quarantine, epidemic, or other conditions involving the health or safety of pupils or employees. To be eligible for such pay the employee must be ready, able, and willing to perform his/her customary or other reasonable duties. The appointing power during this period shall endeavor to assign the employee to work elsewhere.

C. Employees with Limited-Term Status Only

In the absence of action by the Board of Education, none of the privileges granted for absence in response to court subpoena, attendance at hearings, or absences because of epidemics and emergencies shall apply to employees with limited-term status, unless the limited-term assignment is a summer assignment which is given to a regular employee whose regular assignment is on other than a 12-month assignment basis.

7.20 Maternity Leave

A. Pregnancy leave shall be granted by the District subject to the following conditions:

1. A pregnant employee may continue to work as long as her health will permit as certified by her doctor, or other proof acceptable to the District and so long as she can

- carry out her essential duties and responsibilities. However, a pregnant employee must, no later than the third month of pregnancy, file a statement from her physician or District-approved medical advisor indicating the estimated date of delivery, that the female employee is in good health, and that in the physician's judgment the employee can carry on her essential duties and responsibilities without danger to herself or her child. [Revised: 11-21-02]
2. The use of sick leave for pregnancy-related disability shall be treated the same as any other disability for which sick leave is granted. In order to use sick leave for pregnancy disability the employee must have been actually rendering paid service to the District immediately prior to the disability.
- B. A pregnant employee who wishes to take a personal leave to prepare for childbirth and is physically able to render service to the District may request such a leave, without pay, for a time mutually agreeable to the employee and the District.

7.21 Child Care Leave

- A. Child care leave may be granted to any employee upon request for a period of up to one school year. Leave shall be without pay or credit toward service and shall not be considered as personal illness.
- B. An employee on child care leave of a definite duration of more than 30 days may return to duty prior to the expiration of the leave.
- C. This leave provision may be utilized for adoptions.

7.22 Vacation

A. Scheduling of Vacation

1. Vacation may, with the approval of the immediate supervisor, be taken at any time during the school year. The employee shall be allowed to take all of the earned vacation in one unbroken period if it is the employee's wish to do so and the length of the vacation period will cause no problem within the department/program as determined by the supervisor.
 2. A vacation request form should be completed and submitted to the immediate supervisor as far in advance of the vacation date as possible, but no later than two working days prior to the effective date. Approval must be received from the supervisor prior to starting any vacation leave. Under unusual circumstances, the immediate supervisor may permit a modification of these requirements.
 3. Vacation leave may not be taken in units of less than one hour.
- B. Upon separation from service, the employee shall be entitled to lump-sum compensation for all earned and unused vacation, except that employees who have not completed six months of employment in regular status shall not be entitled to such compensation.
- C. If a District-approved holiday falls within a scheduled vacation period, one additional day shall be granted for each such holiday.

- D. Days of personal necessity chargeable to sick leave may not be used in conjunction with earned vacation simply to extend the vacation period, but may be applied when circumstances are so serious in nature that the employee cannot reasonably be expected to disregard their immediate attention.

7.23 Probationary Period

- A. Appointments from open competitive eligibility lists or promotional eligibility lists shall be for a probationary period of up to six months or 130 working days of paid service for non-management positions, whichever is longer. Transfers and appointments to positions in classes designated by the Commission as executive or administrative, the probationary period shall be up to one year. This probationary period shall not include time served under emergency, provisional or limited-term appointment but shall date from the beginning of service in a permanent position after appointment from a valid eligibility list or from the effective date of the transfer. No employee shall attain permanent status in the classified service until he has completed a probationary period in a class. (Education Code Section 45301) [Revised: 11-21-02]

In the event a provisional appointment of an employee, who has previously established permanency within the classified service, to a promotional position exceeds ninety (90) days and the employee who is serving in the provisional position is selected for the position, the step on the salary range on which the employee will be placed shall be reviewed and designated by the Assistant Superintendent of Employee Services with approval by the Personnel Commission.

- B. Classifications which will require incumbents to serve an extended probationary period shall be those classes designated as supervisory, executive, or administrative. [Revised: 3-21-18]
- C. In the case of employees engaged on a daily basis, the probationary period shall be deemed satisfied if the employee works an average of twenty days or more for each month of the probationary period regardless of the number of calendar months over which such service extends.
- D. A probationary employee assigned on a part-time, regular basis shall complete his probationary period upon serving six months of such part-time service and will acquire permanent service thereby.
- E. The rights of appeal from disciplinary action prior to attainment of permanent status in the classified service shall be in accordance with Education Code Section 45305.
- F. A probationary employee may be terminated at any time during the probationary period from a class in which he/she is currently serving. [Revised: 11-21-02]
- G. A permanent employee who has vacated his/her position to accept a promotion and, who is rejected during the probationary period, shall be reinstated to his/her former classification. The person displaced by such reinstatement shall be reassigned to a vacant position in the same class if such exists, or restored to his/her former position if not. If no prior position was held by the displaced employee, s/he will be terminated, and his/her

name restored to the eligibility list from which appointed. Other employees displaced by such reinstatement shall have similar rights. [Revised: 11-21-02]

7.24 Resignation

- A. When an employee desires to resign, the employee shall go to the Personnel Office and complete the resignation forms.
- B. A resignation relates only to the specific position from which the employee resigns and does not impair his/her rights to other ranks which he/she may hold on eligibility lists, except that an employee who resigns shall have his/her name removed from promotional eligibility lists. A resignation may be withdrawn, by the employee, at any time prior to acceptance by the Board of Education or its designee. [Revised: 11-21-02]
- C. An employee resigning must give the administration two weeks notice in writing.
- D. An employee resigning after six months and after permanent status has been granted is entitled to all accrued vacation leave.

7.25 Transfer of Sick Leave from Another District

Any classified employee of any school district or county superintendent of schools' office or community college in California who has been employed for a period of one calendar year or more, whose employment is terminated for reasons other than action initiated by the employer for cause, and who subsequently accepts employment with the District within one year of such termination of the former employment, shall have transferred to the District the total amount of earned sick leave to which he/she is entitled under Education Code Sections 45191 and 45202. This transfer shall be in the same manner as is provided for certificated employees. [Revised: 11-21-02]

LEGAL REFERENCES

Education Code:

- 44037 Unlawful To Encourage Exemption From Jury Duty
- 45192 Industrial Accident & Illness Leaves
- 45193 Leave of Absence for Pregnancy
- 45191 Leave of Absence for Illness or Injury
- 45194 Bereavement Leave of Absence
- 45196 Salary Deduction During Sick Leave
- 45197 Annual Vacations
- 45202 Transfer of Earned Leave of Absence for Illness or Injury
- 45207 Personal Necessity
- 45260 Power of Personnel Commission to Prescribe and Amend Rules
- 45272 Vacancies in Classified Service; Promotional Applicants
- 45286 Limited-Term Employees
- 45287 Provisional Appointments
- 45288 Provisional Assignment; Extension
- 45289 Successive Provisional Appointments
- 45290 Emergency Appointments
- 45301 Probationary Period for Entry into Permanent Classified Service
- 45302 Demotion and Removal from Permanent Classified Service
- 45305 Appeal by Employee From Suspension, Demotion or Dismissal
- 45309 Reinstatement of Permanent Non-Certificated Employees After Resignation Government Code:
- 21229 Reinstatement of Retired Person

CHAPTER 8
PERFORMANCE EVALUATION

(For non-represented employees—others, see contract.)

8.1 When Evaluations Are To Be Made

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

- A. Probationary employees -- at the end of the second, fourth, and fifth months of service for classified employees except management which shall be evaluated at the end of the fourth, eighth, and tenth months of service, respectively. [Revised: 11-21-02]
- B. Permanent employees -- at least once each year in January and at any time more than 60 working days later if the employee leaves the control of that supervisor.
- C. Substitute or limited-term employees -- may be evaluated by the supervisor who has supervised the work on an "as needed" basis.

8.2 Who Makes Evaluations

Each immediate supervisor for whom the employee has served 60 working days or more during any rating period shall provide a performance evaluation, even though the employee may have left the supervisor's control.

8.3 Procedure To Be Followed

- A. Performance evaluations shall be made on forms prescribed by the Commission for unrepresented employees. Each employee is to be evaluated by his/her immediate supervisor. The immediate supervisor is defined as the person of higher classification who assigns, checks, and supervises more of the work of the employee than any other person in the section, crew, or office. The form shall be reviewed by the next higher supervisor if the "need for improvement" is noted, by the department head. [Revised: 11-21-02]
- B. The immediate supervisor shall present the performance evaluation to the employee and shall discuss it with the employee. The evaluation form shall be signed by the employee to indicate receipt, and the employee shall be given a signed copy. By signing the performance evaluation, the employee is confirming that the evaluation has been read and discussed with the supervisor. The employee's signature does not indicate agreement or disagreement with the evaluation. If knowing this, the employee does not wish to sign, the supervisor should so state at the bottom of the page and submit the evaluation to Human Resources for placement in the employee's personnel file. If the employee wishes to respond to the evaluation, written comments may be submitted within 10 working days

to Human Resources. Both evaluation and comments will be filed in the employee's personnel file.

- C. Performance evaluations shall be available for review in connection with promotional examinations and disciplinary actions. The employee may review his/her personnel file by making an appointment with the Executive Director of Classified Human Resources.
- D. If the summary evaluation of a permanent employee is marked "needs to improve" or "unsatisfactory", the employee and the supervisor will work out a plan of action for improvement with dates set for specific counseling, assistance, and follow-up evaluations.
- E. The employee shall have the right to attach a written response to each evaluation document prepared as a part of this procedure.

8.4 Special Evaluations

- A. At any time, a supervisor may issue to an employee a Notice of Commendation or a Notice of Unsatisfactory Service. Such notices shall be made on prescribed forms and shall set forth specific reasons for recognition of outstanding or unsatisfactory service by the employee. They shall be given to the employee personally by the immediate supervisor whenever practicable. A copy of such notice shall be placed in the employee's personnel file and shall be available for review in connection with promotional examinations.
- B. At any time, a supervisor may prepare and present a performance evaluation to an employee whose performance is in the "needs to improve" or "unsatisfactory" overall category.
- C. If the summary evaluation of a Permanent employee is marked "needs to improve" or "unsatisfactory," the employee and the supervisor will work out a plan of action for improvement with dates set for specific counseling, assistance, and follow-up evaluations.
- D. The employee shall have the right to attach a written response to each evaluation document prepared, as a part of this procedure.

LEGAL REFERENCES

Education Codes:

45261 Subjects of Rules

CHAPTER 9**LAYOFF****9.1 General Procedures Regarding Layoff**

- A. When classified employees are laid off for lack of work or lack of funds, the order of layoff within the class shall be determined by the length of service (seniority as defined herein). The employee who has been employed the shortest time in the class will be laid off first. All service in that classification plus higher classifications, shall count as seniority within the classification according to seniority lists approved by the Personnel Commission. Seniority is determined by date of hire or promotion to the existing classification in which the employee holds seniority. (EC §45308) [Revised 4/27/2010].
- B. Probationary and permanent employees shall be notified in writing sixty (60) calendar days prior to the effective date of layoff, and the notice shall contain the reason. (AB 290, AB 1908, EC§45117). [Revised: 12/18/03; 4/27/2010; 10/10/2012]
- C. Employees in classified positions which are eliminated at the end of the school year shall be given written notice on or before April 29th. (EC§45117). [Revised: 12/18/03; 4/27/2010; 10/10/2012; 03/13/2017]
- D. The names of permanent and probationary employees thus laid off shall be placed upon the re-employment list for the class from which they were laid off. Names on the re-employment list shall be in the relative order of seniority.
- E. An employee on a layoff list may decline three offers of re-employment in the former class and status. After the third refusal, no additional offers need be made, and the employee shall be considered unavailable.
- F. Refusal of an offer of limited-term employment shall not affect the standing of any employee on a layoff list.
- G. If a laid off employee elects to exercise his/her bumping rights, he/she must notify the Director of Classified Human Resources in writing of such election within ten (10) calendar days of the date of notice of the layoff.
- H. An employee who bumps to a lower classification shall be placed on the step in the salary range for the classification that is closest to their current salary. [Revised 4/27/2010].
- I. A limited-term employee may be laid off at the completion of the assignment without regard to the procedure set forth in this rule.
- J. Employees on layoff lists shall be eligible to compete in promotional examinations for which they qualify. (EC§45298).

9.1.1 Layoff Definitions

As used in this rule, the following terms shall mean:

- A. Permanent: "Permanent" as used in the phrase "permanent employee" includes tenure in the classification in which the employee passed the required probationary period. (EC§45101(b)).
- B. Layoff: "Layoff for lack of funds or layoff for lack of work" includes any reduction in hours of employment or assignment to a class or grade lower than that in which the employee has "permanent status" (see 9.1.1A). (EC§45101(g)).
- C. Bumping: "Bumping" shall be defined as the displacement of a junior unit member by a more senior unit member to avoid the layoff, or reduction in hours, of the senior unit member.
- D. Reemployment list: The list of names of person arranged in order of their right to be reassigned to work, who have been laid off from permanent positions by reason of
 - lack of work
 - lack of funds
 - abolishment or reclassification of position, or who take a voluntary demotion or voluntary reduction in assigned time in lieu of layoff
 - or other reasons specified in Personnel Commission Rules who are eligible for reemployment without examination in their former class
- E. Rights Restored: Upon permanent re-employment, all rights acquired by an employee prior to separation from the service shall be restored.
- F. Seniority: The totals of previous service as determined by date of hire and/or date of promotion in the class from which layoff occurs plus the time of service in higher classes in which the employee once held permanent status. (AEOTE Contract Article 12.G; SEIU Para Unit Contract Article 21.H; SEIU M&O Unit Contract Article 22.G; EC 45308).

9.1.2 Layoff Resolution by the Board of Education and Notice to Employees

- A. Before any layoff notice can be issued, the Board shall adopt a resolution outlining the specific numbers (FTEs) and kinds of positions to be eliminated or reduced. The layoff resolution shall be signed by the Clerk of the Board, a copy shall be attached to each layoff notice.
- B. No regular employee shall be laid off from any position while an employee serving under limited-term or provisional appointment is retained in positions in the same class unless the regular employee declines the limited-term or provisional

assignment. (EC§45117 (c) (1)).

The District shall notify the affected classified employees in writing a minimum of sixty (60) calendar days prior to the date of any layoff for lack of work or funds. The notice to the affected employee shall specify the reason for the layoff and be personally delivered or be delivered by certified mail to the last known home address of the employee on file in the Classified 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. For purpose of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt. [AB 1908 Revised: 10/10/2012]

C. A notice of layoff shall contain the following items:

- The reason for the layoff
- The name and classification of the employee designed for layoff
- The employee's displacement rights, if any
- The employee's reemployment rights
- The right to an exit interview with the Executive Director of Classified Human Resources, during working hours, with the option of a representative from the applicable union (if applicable to the position) present
- A statement that the employee may have a right to unemployment insurance
- A statement that the employee has a right to continue insurance at his or her own expense (COBRA)

9.1.3 Advance Notification to Exclusive Representative

If any of the impacted positions are represented by an exclusive collective bargaining representative, the District Administration and the exclusive representative shall meet and confer in advance of layoff notices being sent out to review the proposed layoff. A copy of each layoff notice will be sent to the exclusive representative.

9.1.4 Seniority Lists

- A. Seniority lists shall be prepared or updated for each class as necessary. When each list is initially established, it shall be approved by the Executive Director of Classified Human Resources and certified by the Personnel Commission before it is used.
- B. When a seniority list is initially established or updated the proposed list shall be made available to the employee(s) for review during a five (5) working day period before it is certified.

-
- C. During the prescribed review period, an employee who believes that an error has been made on his/her seniority computation shall notify the Executive Director of Classified Human Resources, who shall review the computations together with any additional information provided by the employee and shall determine if a re-computation is appropriate.
- D. Seniority lists that are maintained will be available for inspection in the Classified Human Resources Office.
- E. Ties in seniority shall be broken according to the following order:
- The employee with the longest total service in the district shall be accorded the greater seniority.
 - The employee with the greater seniority in the higher class shall be accorded the greater seniority.
 - If two (2) or more employees continue to be tied, the Executive Director of Classified Human Resources shall provide for the employees to draw lots to break the tie.
- F. When reclassification results either in the merger of two (2) or more classes into a newly created class and the abolishment of the previous class, or the separation of a class into two (2) or more newly created classes, seniority rights of regular employees who are reclassified with their positions shall be computed from the date the employee first began regular service in the former class(es).
- G. When an individual employee is reclassified from his or her position to an already existing class as a result of a gradual accretion of duties, seniority shall be computed from the effective date the position is reclassified.
- H. When a class is retitled and the old class title abolished, the new class shall begin seniority on the date of hire in the previous class.
- I. When employees(s) are reclassified as a result of an organizational classification study, seniority shall be computed from the date the employee first began regular service in the former class.

9.2 Rights of Employee Laid Off for Lack of Work or Funds

In addition to the procedures and rights prescribed in 9.1, permanent employees in the classified service shall have the following rights:

- A. Bumping: A permanent employee in the classified service who is laid off, and who has had previous service in an equal or lower classification shall have the right to transfer/demote into positions in the following order:
- A vacant position in an equal or lower classification having the same or greater number of work hours
 - A position in an equal or lower classification held by the person with the least seniority and the same number of work hours per day

- An employee who is to be or has been laid off may request Personnel Commission approval to be placed in a vacant position in an equal or lower classification in which the employee has not served in probationary or permanent status, provided the employee possesses the minimum qualifications and skills for the classification. Upon approval of the placement into a vacant position in the equal or lower classification the employee shall serve a probationary period in the new classification. The placement into a vacant position shall not cause the layoff or demotion of an employee with more seniority in the requested class. The Personnel Commission will consider the recommendation of the supervisor of the position and the qualifications of the employee for the position prior to approving such request [Revised 6/24/2009]
- B. For purposes of “bumping” into an equal or lower class, seniority shall be defined as the total of the previous service - as determined by date of hire and/or date of promotion -, in the class from which layoff occurs, and higher classes in which the employee held permanent status
- C. Permanent employees displaced by bumping shall have bumping rights as noted in 9.2, A and B, above
- D. In all cases where employees elect to exercise their bumping rights and accept demotion in lieu of layoff, their names shall be placed on the re-employment list for the classes from which they were laid off in accordance with the Education Code [Revised: 11-21-02]

9.3 Limited Term Positions

A limited-term employee may be laid off at the completion of the assignment without regard to the procedure set forth in this rule.

9.4 Eligibility to Compete in Promotional Examinations

Employees on layoff lists shall be eligible to compete in promotional examinations for which they qualify.

LEGAL REFERENCES

Education Code

45101	Definitions
45114	Procedures, Reemployment
45115	Reinstatement from Retirement
45117	Actual and existing financial inability to pay salaries,
45261	Subject of Rules
45298	Re-employment and Promotional Examinations Preference of Persons Laid Off, Voluntary Demotions or Reductions in Time
45408	Order of Layoff and Re-employment; Length of Service
45308	Order of Layoff and Reemployment; Length of Service

i Unit Member refers to a probationary or permanent employee member of one of the Collective Bargaining Units.

[Updated and Approved by Personnel Commission: April 27, 2010]

CHAPTER 10**DISCIPLINARY ACTION AND APPEAL****10.1 Causes For Disciplinary Actions**

A. Actions subject to discipline:

In addition to those prescribed in Education Code Section 45123, 45124, and 45303, or other governmental statutes, the following are causes for disciplinary action:

1. Incompetence.
2. Inefficiency.
3. Insubordination or willful disobedience.
4. Inattention to or dereliction of duty.
5. Discourteous, abusive, or threatening treatment of the public, employees, or students, including sexual harassment, or any violation of Government Code Section 12940, Paragraph (i).
6. Any willful or persistent violation of the provisions of the Education Code or of written rules, regulations, or procedures adopted or established by the Board of Education, the Personnel Commission, or the administration.
7. Work-related dishonesty, including examination deception or fraud.
8. Appearing for work under the effects of alcohol or drugs or using alcohol or drugs illegally while on duty.
9. Immoral conduct.
10. Engaging in political activities during assigned duty hours.
11. Conviction by a court of competent jurisdiction of a felony or of a crime involving moral turpitude (for example, sex offense or narcotics convictions). A plea, verdict, or finding of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of these rules. The record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Commission may inquire into the circumstances surrounding the commission of the crime in order to determine if the conviction is of an offense involving moral turpitude.
12. One or more criminal convictions where the nature of the crime is such that it would indicate that the employee is a poor employment risk for the particular job which he/she holds with the District.
13. Failure to disclose material facts or the making of any false or misleading statement on any application, examination form or other official document of the District.
14. Frequent unexcused absence or tardiness.

15. Abuse of leave privileges by habitual use of illness leave for trivial indispositions, or by absence so frequent that, over an extended period of time, the efficiency of the service is impaired.
 16. Failure to report upon reasonable notice for review of criminal records.
 17. Failure to report upon reasonable notice for health examination.
 18. Absence without leave, or abandonment of position. Any employee who fails to report for duty for three consecutive working days without permission from the supervisor shall be deemed absent without leave; or fails to return from a leave of absence within three working days after the expiration of an authorized leave shall be deemed to have abandoned the position. Such absences without leave shall be deemed an automatic resignation.
 19. Failure to progress adequately in a training program which is required for the classification.
 20. Active participation by a management or confidential employee in the affairs of an employee organization which is an exclusive representative. "Active participation" shall include holding office in the organization, working for the organization in the capacity of an employee or volunteer, participating in activities designed to increase membership in the organization, and serving on committees established for the purpose of developing, reviewing, or approving the collective bargaining position of the organization or reviewing or approving proposals presented by the Board of Education.
 21. Willful or persistent violation of, or failure to enforce, regulations or procedures pertaining to health and safety.
 22. Unauthorized use of District or student body property.
 23. Any other failure of good conduct tending to injure the public service.
 24. Failure to maintain a license, permit or certification as required by Federal or State Law, statute, rule or regulation, may be grounds for disciplinary action.
- B. Substitute, Provisional, Limited-Term Employees:

Any substitute, provisional or limited-term employee may be dismissed from such status in accordance with Rule 4.10, Disqualification of Unfit Applicants, Candidates, Eligibles.

10.2 Procedures For Disciplinary Actions

Statement of Intent: The purpose of this Commission rule is to provide orderly procedures in processing disciplinary actions. The procedures listed provide protections and guidelines for both the District and the employee within established law and personnel practice. In most cases, discipline should be viewed as a positive experience, used to modify behavior, rather than penalize an employee; therefore, discipline should be progressive. The employee should be informed of the work standards required and warned of offenses prior to the imposition of discipline.

DEFINITIONS:

1. DAYS - Calendars days unless otherwise designated.
2. DISABILITY - Includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.
3. DISCHARGE OR DISMISSAL - Separation from service for cause.
4. DISCIPLINARY ACTION - Suspension, involuntary demotion, of an employee for cause.
5. INVOLUNTARY ACTION - Reduction of an employee or dismissal from a higher class to a lower class or salary increment for cause as a disciplinary measure.
6. NOTICE OF UNSATISFACTORY SERVICE - A form or letter used as a written reprimand. It has the following uses:
 - a. To notify the employee of unsatisfactory service when a written reprimand is needed. Such use is optional at supervisory discretion.
 - b. To notify the employee of the causes and charges for impending disciplinary actions when they are based on unsatisfactory service.
7. RECEIPT - When service is by mail, receipt shall be interpreted to mean the acceptance of the registered or certified document by or on behalf of the addressee, as evidenced by a signature on the return receipt. Notification by the United States Postal Service to the effect that delivery cannot be made at the home of record shall be deemed to meet the requirement of "receipt" as used in these rules.
8. SUSPENSION - Temporary removal of an employee from a position for cause without pay, or indefinite removal preliminary to investigation of charges pursuant to the provisions of the Education Code Section 45304.
9. UNSATISFACTORY SERVICE - The performance of assigned duties in a manner which is detrimental to the good of the service, or the failure to perform them, or the performance of actions while on duty which are detrimental to the good of the service.
 - A. No employee in the classified service shall be suspended, demoted, dismissed, or in any way discriminated against because of political, religious acts, opinions or affiliations, race, color, sex, sexual orientation, national origin or ancestry, disability, military veteran or non-veteran status or marital status except as subject to the provisions of these Rules.
 - B. Before a permanent employee in the classified service may be suspended, demoted, or dismissed, the following procedures must be followed:
 1. The employee must receive a written notice of the proposed action specifying:
 - a. the recommended effective date
 - b. the charge/s on which the proposed action is based

- c. the date action will be presented to the Board of Education for consideration employee's right to respond to the charge/s specified.

[Revised: 11-21-02]

2. Delivery of Written Notice

- a. The notice shall be delivered to the employee personally if practicable, and the employee shall be requested to sign it as acknowledgement of receipt.
- b. When personal delivery of the notice is impracticable, the notice shall be sent to the employee's last known address by registered or certified mail with return receipt requested.
- c. If an employee refuses to sign a notice which is personally delivered, the notice may be presented by the witness.

[Revised: 11-21-02]

3. Employee's Rights

- a. The employee shall have the right to respond either orally or in writing.
- b. The employee shall have the right to examine and obtain copies of all written materials on which the proposed action is based.
- c. The employee shall have the right to request in writing a meeting with the Superintendent or designee within five working days of receipt of the notice.
- d. The employee shall have the right to representation at such meeting.
- e. Failure of the employee to make a response or request a meeting within five working days shall constitute a waiver of this provision.

[Revised: 11-21-02]

4. Action by the Board of Education

- a. After action is taken by the Board, the Superintendent or designee shall notify the employee and the Executive Director of Classified Human Resources of the Board action.
- b. The Executive Director of Classified Human Resources shall immediately notify the employee in writing of the Board action, effective date, and appeal rights.

[Revised: 11-21-02]

- C. Dismissal shall cause removal of the employee's name from all current eligibility lists.
- D. Failure to appeal as provided in Commission Rule shall make the action of the Board of Education final and conclusive.

- E. In exceptional circumstances (e.g., to protect the safety of co-workers or students) an immediate suspension with or without pay may be made without advance notice in accordance with Education Code Section 44940. [Revised: 11-21-02]
- F. Suspension without pay shall not exceed the limitations (30 days) in accordance with Education Code Section 45304. [Revised: 11-21-02]

10.3 Suspension For Specific Offenses Processed As Involuntary Leave

A regular employee charged with the commission of any sex offense defined in Section 44010 or narcotics offense defined in Section 44011 of the Education Code, Sections 11357 to 11361, inclusive, 11363, 11364, or 11377 to 11382, inclusive, Insofar as such sections relate to, any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056 or any controlled substances in subdivision (d) of Section 11054, except paragraphs (10), (11), (12) and (17) of such subdivision, of the Health and Safety Code; or a serious or violent felony as defined in the Penal Code, Sections 667.5(c) and 1192.7(c), by complaint, information, or indictment filed in a court of competent jurisdiction may be suspended as provided for in the second paragraph of Section 45304 of the Education Code. An employee who is so suspended has no right to appeal the suspension to the Commission and, therefore, has no right to a hearing. Such a suspension will be processed as an involuntary personal leave in accordance with the provisions of this rule relative to suspensions. The employee may receive compensation as provided for in Section 45304 of the Education Code. [Revised: 11-21-02]

10.4 Appeal to Disciplinary Action

- A. After being furnished with a written copy of the charges, a permanent employee who has been suspended, demoted, or dismissed may appeal to the Personnel Commission within 14 days by filing a written answer to such charges. Appeal may be made only on the following grounds:
 - 1. That the procedure set forth in these rules has not been followed.
 - 2. That the disciplinary action was taken because of the employee's affiliations, political or religious acts or opinions, race, sex, sexual orientation, disabilities, color, national origin, marital status, age, ancestry, or medical condition. [Revised: 11-21-02]
 - 3. That there has been abuse of discretion.
 - 4. That the action taken was not in accord with the facts.

10.5 Hearing Procedure

- A. The Personnel Commission may conduct hearings of appeals or may appoint a hearing officer to conduct the hearing and report findings and recommendations to the Commission. In the event of an appeal by an employee of the Personnel Commission, a hearing officer shall be appointed.
- B. Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officer shall be bound by technical rules of

evidence. Decisions made by the Commission shall not be invalidated by any informality in the proceedings.

- C. The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. It shall base its findings on the preponderance of evidence.
- D. Each side will be permitted an opening statement. The Board shall first present its witnesses and evidence to sustain its charges and the employee will then present witnesses and evidence in defense. Each side may then present a closing statement.
- E. Each side will be allowed to examine and cross-examine witnesses.
- F. Both the Board and the employee will be allowed to be represented by legal counsel or other designated representative.
- G. The Commission may, and shall if requested by the Board or the employee- - and pertinent to the proceedings - - subpoena witnesses and/or require the production of records or other material evidence. The response timeframe and procedures are outlined below:

1. Prehearing Conference

- a) The Executive Director of Classified Human Resources and representatives who will present the case to the Personnel Commission are required to meet for a prehearing conference.
- b) The purpose of the prehearing conference is to review matters in preparation for the hearing, and if possible resolve any matters or motions.
- c) Exhibits, witness list, narrative statements and subpoena requests must be exchanged no less than fifteen (15) days before the prehearing conference.
- d) Exhibits not presented fifteen (15) days in advance of the prehearing conference or additional witnesses not identified will not be allowed at the hearing unless it can be shown that despite using due diligence, the exhibit or witness could not have been identified earlier.
- e) The parties will use the prehearing conference to work out stipulations regarding exhibits and matters which are not in dispute.
- f) The parties shall meet with the Executive Director of Classified Human Resources or Hearing Officer for the prehearing conference.

2. Subpoena Requests:

- a) The date and time each witness is requested to appear should be provided with the request for subpoenas.
- b) The party shall provide all necessary witness fees to the Executive Director of Classified Human Resources concurrently with its witness list.

3. Exhibits Required:

- a) Parties are directed to provide sufficient copies of the material for each Commissioner, the hearing officer (if applicable), opposing counsel, and the Executive Director of Classified Human Resources.

- b) Any documents or other exhibits which were part of the record during the administrative review process or are normal District records may be entered by stipulation.
- 4. Notification and Correspondence:**
- a) All correspondence and notification from this office will be addressed to the Assistant Superintendent of Human Resources as the District's representative.
- b) It is the representative of the employee's responsibility to notify the employee of scheduled meetings.
- c) Failure to appear at the prehearing conference or failure to provide required documents to proceed with the hearing on the scheduled date(s) may result in forfeiture of the appeal.
- H. The Commission may, prior to or during a hearing, grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.
- I. Whether the hearing is held in an open or closed session, the Commission, after it concludes the hearing, may deliberate its decision in closed session. No persons other than members of the Commission, its counsel, and its staff shall be permitted to participate in the deliberations. If its counsel also served as counsel for the Board, he/she shall be barred from the Commission's final deliberations. The accused employee may waive rights to an open hearing.
- J. The Commission may sustain or reject any or all of the charges filed against the employee. It may sustain, reject, or modify the disciplinary action invoked against the employee. It may not provide for discipline more stringent than that invoked by the Board. If the Commission employs a hearing officer, the Commission may instruct such authorized representative to present findings or recommendations. The Commission may accept, reject or amend any of the findings recommendations of its hearing officer. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript or recording of the hearing or investigation or upon the results of such supplementary hearing or investigation as the Commission may order. Should the appellant fail to appear at the time and place of the hearing, the appeal shall be considered withdrawn. [Education Code Section 45312]
- K. The Commission shall render its judgment as soon after the conclusion of the hearing as practicable. The decision shall be filed by the Commission as a public record and given or mailed simultaneously to each party within 14 days of the filing. The decision shall set forth which charges, if any, are sustained and the reasons therefore. If a disciplinary action is not sustained its order shall set forth the effective date of the action ordered by the Commission. [Revised: 10/10/2012]

LEGAL REFERENCES

Education Code:

- 44010 Sex Offense
- 44940 Mandatory Leave of Absence Offense
- 45122.1 Serious and Violent Felonies
- 45125 Fingerprint Records
- 45304 Written Charges for Suspension, Demotion, or Dismissal; Provisions for Suspension Pending Determination of Sex Offense or Narcotics Offense
- 45305 Appeal by Employee
- 45306 Investigation and Hearing on Appeal
- 45307 Reinstatement and Employee Compensation; Determination of Terms and Conditions; Notification
- 45311 Powers of Commission in Conducting Hearings, and Inspect in Records of Governing Board
- 45312 Hearings or Investigation by Hearing Officer

Government Code:

- 12926 Definitions Regarding Unlawful Practices

Health & Safety Code: Controlled Substances Convictions

- 11054 Controlled Substance; Opiates
- 11357-11361 Marijuana
- 11363 Peyote
- 11364 Paraphernalia
- 11377-11382 Prescription Drugs

Penal Code:

- 667.5(c) and 1192.7(c) Violent and Serious Felonies

CHAPTER 11**WAGE AND SALARY PROVISIONS****11.1 Determination of Salary Schedules**

- A. The Executive Director of Classified Human Resources shall prepare recommendations for the allocation of classes to salary schedules for approval by the Commission. These recommendations shall take into account the following factors:
1. Wages and salaries paid by other governmental agencies which may be in competition with the district in the labor market.
 2. Wages and salaries paid for similar work in private industry in the recruitment area.
 3. The principle of “like pay for like work” within the classified service.
 4. Appropriate differentials between related classes to reflect differences in duties and responsibilities, as established in the classification plan.
 5. Such other information as the commission may require.
- B. Salary Studies
1. A salary study shall be made;
 - a. Whenever a new class is created;
 - b. When directed by the Commission.
 2. Employees, employee representatives, or the administration may request a salary study of a class or classes by directing a written communication to the Commission and setting forth the reasons for the study.
 3. Data obtained in a salary study shall be made available to interested parties, including employee organization representatives. The Executive Director of Classified Human Resources shall submit Commission recommendations for salary placement to the Superintendent or designee who may meet and confer with employee organization representatives. An effort shall be made to resolve all differences. Before changes are submitted to the Board, they shall be reviewed.
- C. Appeal of Salary Recommendations
1. An employee or his/her representative may appeal the recommendation of the Executive Director of Classified Human Resources in regard to the salary of the employee’s class. The employee shall have the opportunity to present his/her case in writing and orally at a regular meeting of the Commission. The administration shall have the same privilege.
 2. If the Superintendent/Board of Education desires reconsideration of salary recommendations, the recommendations may be returned to the Commission, which shall reconsider them at its next meeting. After reconsideration, the Commission will advise the Superintendent/Board of Education of its findings and reasons therefore.

11.2 Salary on Employment

- A. The basic pay plan consists of the salary ranges and the assignment of classes to such ranges as provided in the salary schedules. Each employee shall be paid within the range for his/her class, according to the following provisions, unless otherwise provided in the salary schedules.
- B. The first step in each range is the minimum rate and shall normally be the hiring rate for the class. In cases where it is difficult to secure qualified personnel or a person of unusual qualifications is engaged, the Commission may approve appointment at a step above minimum.
- C. The Superintendent may appoint management personnel at the most appropriate salary step based upon superior qualifications of the individual. [Revised: 11-21-02]

11.3 Anniversary Dates

- A. Employees shall have an annual anniversary date which shall be determined as follows:
 - 1. New employees will become permanent employees after successful completion of a probationary period. The completion date of probationary status shall then be established as the anniversary date for subsequent salary step adjustments.
 - 2. Salary adjustments shall be made as follows: When the completion of probation date occurs on the 1st through the 15th of the month, the anniversary date is the 1st of the month; if the first day of work is the 16th through the end of the month, the anniversary date is the 1st day of the following month. The original employment date shall be used for the purpose of establishing vacation allocation.
- B. Employees who are promoted are probationary in the new position and a new anniversary date is established on date of probationary completion in the same manner as when initially hired. [Revised: 11-21-02]
- C. The Governing Board of the District may withhold such merit salary adjustment for all employees within a class on an annual basis when such action becomes necessary in order to serve the best interests of the District.
- D. The anniversary date for determining the amount of longevity pay due an employee who has reached a longevity step shall be the first of the month if this period of service is completed before the fifteenth of the month. The years of continuous service shall be calculated from the date of probationary employment. Periods of temporary employment shall not be counted toward longevity pay entitlement.

11.4 Salary Range Changes

- A. Unless otherwise provided by special resolution of the Commission, whenever the salary range for a class is changed, the salary of each incumbent in the class on the date the range change was effective shall be adjusted to the step in the revised range that corresponds to the step the employee was receiving in the former range and the employee shall retain the same anniversary date.

- B. When salary range changes become effective the same date as the employee's anniversary date for merit salary adjustment, the employee shall first receive any merit salary adjustment to which the employee is entitled and then receive the corresponding step adjustment.
- C. When salary range changes become effective the same date as an employee's promotion, the salary adjustments shall be made in such order that an employee shall gain the maximum benefit from the adjustments.

11.5 Salary After Position Reallocation

- A. When the Commission divides a class into two or more separate classes or consolidates two or more classes into a single class and grants status to incumbents, salary eligibility shall be determined as follows:
 - 1. If the salary range of the new class to which an employee's position is allocated is the same or one or more ranges higher at the maximum than the employee's class, the employee shall receive the same step in the new range and shall retain his/her anniversary date. [Revised: 11-21-02]
 - 2. If the salary range of the new class to which the position is allocated is one or more steps lower at the maximum, the employee shall continue to receive the same amount the employee received in the former class but not to exceed the maximum step of the range in the new class, unless by special resolution of the Commission a rate above the maximum is authorized and approved by the Board of Education. The employee shall retain his/her anniversary date.

11.6 Compensation Above Maximum

Whenever authorization is made for a salary rate above the maximum step in a salary range change, this over-the-maximum rate will be discontinued when:

- 1. the employee receiving the rate moves to a class with a maximum including his/her rate or
- 2. separates from the service or
- 3. refuses appointment to a higher class without good reason
- 4. whenever the salary range for the class is increased so that it encompasses the employee's present rate, in which event the rate will be adjusted to the nearest higher amount in the new range.

11.7 Rate on Movement to Class With a Lower Salary Range

An employee who moves to a class with a lower salary range shall normally be placed on the corresponding step in the lower salary range (e.g. 12-C to 10-C). If recommended by the appointing power and approved by the Commission, such employee may receive a higher step in the lower range (e.g. 12-C to 10-E). In exceptional cases the employee may receive a rate above the maximum of the lower range; but the higher step (or rate) shall

not result in the employee receiving a higher amount in the lower range than formerly received in the higher range.

11.8 Rate on Movement to Class With a Higher Salary Range

- A. An employee who is promoted shall have his/her salary raised to the lowest step of the new salary range which shall provide a minimum of a 5% increase. However, in no case shall the increased salary be more than the top step of the new range. [Revised: 11-21-02]
- B. A promoted employee shall be considered probationary in the new position. The employee shall be advanced to the next salary step following satisfactory completion of the probationary period. Additional salary advances shall be effective annually thereafter. [Revised: 11-21-02]
- C. Any employee, who on the anniversary date moves to a class with a higher salary range, shall first receive any merit salary adjustment to which entitled and then his/her step adjustment under this rule.

11.9 Rate on Movement to Class with Same Salary Range

- A. An employee who moves to a class with the same salary range on the same salary schedule shall be advanced to the next salary step effective on the first work day of the new classification. However, in no case shall the increased salary be more than the top step of the range.
- B. An employee who moves laterally to a classification in which the employee does not have permanency, shall be considered probationary in the new classification. The employee shall be advanced to the next salary step following satisfactory completion of the probationary period. Additional salary advances shall be made effective annually thereafter. [Revised: 06-21-17]

11.10 Rate On Reinstatement After Permanent Separation

Upon the recommendation of the appointing power and approval of the Board or designee, a former employee who re-enters the service within 39 months shall receive the same salary and step placement, provided that the reinstatement is to the same class. [Revised: 11-21-02]

11.11 Rate On Appointment From Re-employment List

A person who is appointed from a re-employment list to a position in the person's former class or a comparable class shall receive a salary not less than the same step in the salary range as formerly received.

11.12 Rate on Voluntary Demotion

- A. An employee granted a voluntary demotion in accordance with these rules shall be placed upon the same step of the salary range of the lower class that the employee held in the former class. If at a later time and upon approval of the Commission the employee is

reinstated to his/her former class the salary placement should be the same as for any other promotion.

11.13 Differential Pay

A. The Commission shall, insofar as it is possible to do so, determine the practices relating to morning and night-shift salary differentials in private industry in the recruitment area and shall consider the advisability of providing comparable salary differentials subject to collective bargaining contracts for represented classes. [Revised: 11-21-02]

1. Differential For Night Work.

a. All employees, except for employees in the classes of Security and Protective Series, whose regular working time requires them to work one-half or more of their time between the hours of 5:00 p.m., and midnight shall include in their regular working day of eight hours, one-half hour for their evening meal. When any of the regular working hours of an employee with the exception of employees in the classes of Security and Protective Series, fall between midnight and 6:00 a.m., the employee shall receive premium pay at the rate of ten percent (10%) above his/her regular salary step for those hours worked between midnight and 6:00 a.m.

b. Whenever an assignment is to be made for 20 days or more to duties with differential compensation attached, the assignment shall be made on the basis of seniority among those employees within the appropriate class who request such an assignment.

No employee assigned to work a shift entitled to differential compensation shall be demoted in class or grade as a result of such an assignment.

c. Persons assigned to night work on a continuous basis who are nevertheless ordered to temporary daytime work for periods of 20 working days or less each, shall suffer no reduction in compensation by reason of the change.

d. Unless the regular working hours fall after midnight, all employees shall receive time and one-half for each hour they work beyond midnight.

e. Overtime work performed on night shifts shall be compensated at the regular overtime rate.

2. Differential For Hazardous Work

a. The Board may provide differential compensation to those employees who perform duties of a distasteful, dangerous, or unique nature when, in the opinion of the Board, such compensation is reasonably justified. Such differentials shall be based upon findings and recommendations of the Personnel Commission and shall not be applied in a manner contrary to the principle of like pay for like service.

3. Differential For Split Shift Work

a. Part-time employees who are required to work a broken shift shall be paid for actual hours worked, plus an extra hour per day as compensation for the broken

shift. For this purpose a “broken shift” is defined as a schedule providing one break of one hour or more, or two or more breaks during a normal working day.

11.14 Working Out-Of-Class Pay

- A. When an employee shall be required to perform duties which are not fixed and prescribed for the position by the Class Specification or which do not reasonably relate to those fixed for the position, for any period of time, the employee’s salary shall be adjusted upward for the entire period. If this assignment is in a higher class, the salary adjustment shall be that step of the higher class which is next above his/her regular salary, or the minimum of the class, whichever salary is greater. If the assignment is in a class at the same salary range, the payment of a 5% differential will be made. [Revised: 11-21-02]
- B. When a permanent employee works out of class in another classification that is represented by a different bargaining unit, the employee’s compensation and benefits shall continue in effect from the original unit during the temporary period of time in which the employee is working out of class. [Created: 12-19-02]

11.15 Work Periods And Overtime

- A. The maximum number of hours of regular employment of an employee is eight hours a day and 40 hours a week unless a flexible work schedule has been created pursuant to Education Code Sections 45132 or 45133. However, the appointing power may employ persons for lesser periods of time and may through authorized administrators, order and authorize employees to work in excess of eight hours in one day or 40 hours in one week. [Revised: 11-21-02]
- B. Overtime Defined
 - 1. Overtime is ordered and authorized working time in excess of eight hours in one day, 40 hours in one week unless a flexible work schedule has been created pursuant to Education Code Sections 45132 or 45133, or on the sixth or seventh day in any workweek. No one shall order or authorize overtime unless it is compensable as provided below. Overtime of less than 15 minutes shall not be credited; all overtime shall be reported and credited in multiples of 15 minutes of working time. [Revised: 11-21-02]
 - 2. In determining the eligibility of an employee to receive the prescribed overtime rate, the number of hours “worked” by an employee shall include, in addition to actual hours worked, time during which the employee is excused from (and is paid for) holidays, sick leave, vacation, compensating time off, or any other paid leave of absence.
- C. Compensation For Overtime
 - 1. Overtime for classified employees will be allowed only with the prior approval of the supervisor.
 - 2. Overtime, including more than eight hours per day or forty hours per week unless a flexible work schedule has been created pursuant to Education Code Sections 45132

- or 45133, Saturdays, Sundays, and holidays, will be paid at the rate of time and one-half. [Revised: 11-21-02]
3. When it is mutually agreed between the supervisor and employee, an employee may report to work later in the shift prior to a work-late situation.
 4. In the event any employee is requested to return to extra duty after the regular work day, the employee shall be compensated at the regular overtime rate.
 5. In any event, no employee shall be paid for less than two (2) hours penalty time.
 6. Overtime in excess of eight hours of continuous overtime is paid at double-time rate.
 7. Employees working a split shift shall receive one hour travel time to compensate for the trip from work to work between the two parts of his/her day. Therefore, a part-time employee shall add to his or her one hour travel time, seven hours of duty before receiving overtime pay. Travel time will be paid only between the two work periods in a split shift day.
 8. If an employee works more than 48 hours in six days and then works the seventh day, the employee shall receive double the regular rate of pay for all hours worked on the seventh day.

D. Compensating Time Off

Time-and-one-half will be paid or compensatory time off will be given, for all work performed and counted as overtime. In case of lack of funds, the Governing Board may authorize compensating time off at the rate of time-and-one-half. Compensating time off must be given within a period of 30 days from the time earned, or the overtime earned will be paid.

E. Classifications Exempt From Overtime

The Commission may specify certain positions or classes of positions as supervisory, administrative, or executive and exclude the employees serving in such positions from the overtime provisions.

Current positions exempt from overtime are those which have been declared Classified Management in accordance with the provisions of the Fair Labor Standards Act.

11.16 Substitute Salary Rates

- A. Substitute employees who are not permanent employees of the District shall be paid at Step A of the range for the classification in effect at the time of their actual work minus the amount expressed as an hourly rate attributable to the value of benefits when they were added to the salary schedule multiplied by the cost of living adjustment for each respective bargaining unit. This rule incorporates past practice since the benefit amount has been included in the salary schedule. The salary schedule shall be recalculated by Human Resources whenever the value of the benefit amount changes or the range established for the classification changes, or the hourly rates on each range established for the classification change, or both. Substitute rates will be adjusted to the first full pay period after formal Board of Education ratification and initial payment to permanent employees. [Revised: 7/1/02]

- B. Permanent employees of the District that act as substitutes in lower level classifications in their job family will be paid at their current range and step. [Revised: 3/14/12]
- C. If a permanent employee acts as a substitute in a lower or higher level classification outside of their job family, s/he will be paid Step A of the range for the class in which they are substituting. [Revised: 3/14/12]
- D. Retired District employees shall be paid the salary range and top step of the classification in which they are substituting. [Revised: 11-21-02]

LEGAL REFERENCES

Education Code

- 45128 Overtime
- 45129 Compensation Time Off
- 45130 Exclusion from Overtime Provisions
- 45131 Overtime: Length of Workday
- 45132 Four-Consecutive-Day-Workweek
- 45133 Nine-Hour-Per-Day; 80-Hour-Per2-Week-Work-Schedule
- 45162 Salary of Employees Not Requiring Certification Qualifications
- 45180 Definitions - Differential Compensation
- 45181 Determination Of Practices In Private Industry
- 45182 Differential Compensation For Certain Duties
- 45183 Basis For Assignment Of Duties
- 45184 Demotion Prohibited
- 45185 Temporary Assignment
- 45203 Paid Holidays
- 45204 Exclusive Weekend Or Holiday Employment
- 45205 Holiday In Lieu Of Specified Holiday
- 45206 Substitute Holiday
- 45206.5 Substitute Holiday For Admission Day
- 45260 Power Of Personnel Commission To Prescribe And Amend Rules
- 45267 Provisions Applicable To Non-certificated Personnel As Well As To School Districts With Merit System
- 45268 Salary Schedule For The Classified Service

CHAPTER 12

*COMPLAINT PROCEDURE

12.1 General Provisions

The purpose of this rule is to establish an orderly process through which regular classified employees may receive timely consideration of their complaints. Although specific steps and time limits are set forth in the procedure, it is recognized that the settlement of complaints may require that the procedure be altered in certain situations. It is also the intent of this chapter to emphasize the need for employee complaints to be submitted through established channels and for resolution of complaints at the lowest possible level. Employees may utilize this chapter of the Rules to seek adjustment of complaints arising in the following areas:

- A. Established Commission Rules and Regulations.
- B. Established provisions of the Education Code on matters within the scope of the Personnel Commission's authority.
- C. Administrative Procedures. Complaints against other employees on matters within the scope of the Personnel Commission's authority.

12.2. Exclusions

- A. An alleged violation of any collective bargaining agreement shall be adjudicated using that agreement's grievance procedure.
- B. An alleged violation of the disciplinary action section of these rules and regulations if formal disciplinary action has been initiated shall be adjudicated through the disciplinary action appeal process contained in Chapter 10.
- C. Complaints about the subject matter of a rule, regulation, policy, law, or administrative procedure or Education Code. Any employee with such a complaint should direct his suggestions for change through administrative channels to the responsible authority per Education Code.

12.3. Approval of Executive Director of Classified Human Resources

- A. If any settlement of any complaint covered by these procedures is reached without the involvement of the Commission or Executive Director of Classified Human Resources, the Executive Director of Classified Human Resources shall be informed of all proceedings, receive copies of all communications submitted in the case, and be notified of the proposed settlement and have an opportunity to comment on it prior to finalization.

All settlements of any complaint covered by these procedures must be approved by the Executive Director of Classified Human Resources under the following circumstances:

1. When the complaint involves any Personnel Commission rule or regulation.
2. When the complaint involves any Personnel Commission employee.
3. When the complaint involves any alleged violation of the Merit System Article of the Education Code within the purview of the Personnel Commission.
4. When the complaint involves any matter touching upon the authority of the Personnel Commission or the Merit System.

12.4. Time Limits

- A. It is important that complaints be resolved as quickly as possible, therefore, the times indicated at each level shall be considered as minimums. Time limits may be extended by mutual agreement of both parties.
- B. A complaint must be filed at the first step of this procedure within twenty (20) working days of the occurrence of the violation or infraction, or within twenty (20) working days of when the complaining party could reasonable have known of the occurrence of the act or omission giving rise to the complaint.
- C. A complainant is defined as a regular employee or employees, filing a complaint involving one or more of the subjects covered by Rule 12.1.

12.5. Employee Representation

Any regular employee may have an independent representative or employee organization representing his/her interests at any level of this complaint procedure.

12.6. No Reprisals

No reprisals of any kind shall be taken by the District against the complainant or any representative of the complainant by reason of his bringing a complaint or participating in a complaint.

12.7 Release Time

The complainant and/or his/her representative shall be provided reasonable release time, without loss of compensation, to attend complaint conferences or hearings but no release time shall be allowed for preparation of the presentation.

12.8 Records

All records pertaining to complaints filed under this rule shall be maintained by the Executive Director of Classified Human Resources in the Personnel Commission Office.

All complaint records shall be maintained separately from the complainant's and/or his representative's personnel files.

12.9 Resolution Procedure

- A. An employee shall be encouraged and supported to meet with the immediate supervisor to discuss the potential complaint. It is recognized that every attempt and resource should be utilized to bring closure to a complaint presented to the immediate supervisor at this oral step. The immediate supervisor shall expedite the process by attempting to schedule a meeting within two (2) working days of the employee's request. The Executive Director of Classified Human Resources may be included at this step by request of the employee and/or immediate supervisor. The immediate supervisor shall reduce the complaint to writing and include the agreed upon resolution. If the parties were unable to resolve the matter, the parties will individually write their understanding of the complaint which shall be a clear, concise statement of the complaint, including the rule or procedure allegedly violated, attachment of all relevant documentation and a statement of the specific remedy and submit it to the next step. This document must be signed by the employee and the immediate supervisor. This should take place within five (5) working days after a conference on the matter. The parties may mutually agree to accelerate the process and move directly to a Personnel Commission Ruling. If there is not agreement to accelerate, the parties shall submit the complaint to the Site Administrator for further attempts at resolution.
- B. The documentation and materials required for submission at this step shall be presented to the appropriate administrator within two (2) working days after signature above. The administrator shall schedule a meeting with the employee and immediate supervisor within five (5) days after the receipt of materials not to exceed ten (10) days. The parties are encouraged to include the Executive Director of Classified Human Resources and a representative of the exclusive bargaining unit at this step. The administrator shall hold the meeting to include all interested parties and to promote an atmosphere of resolution. All resources should be utilized to bring closure to the complaint at this step. The administrator within five (5) working days will write the response to include the previous documentation and resolution. If the resolution is satisfactory to both parties, the report is submitted to the Executive Director of Classified Human Resources for approval and filing.
- C. Within five (5) days after the receipt of the documentation and after unsatisfactory resolution, the Executive Director of Classified Human Resources will schedule a meeting of the interested parties to include a representative of the exclusive bargaining unit. At this meeting a complete review of the attempted resolution shall be given orally by the interested parties. The Executive Director of Classified Human Resources will be specific in referencing rules and intent in offering a resolution to the complaint. A resolution will be reduced to writing by the Executive Director of Classified Human Resources and distributed to the employee, immediate supervisor, administrator and commissioners. This resolution will be distributed within five (5) working days of the meeting on this matter. If legal counsel is sought or necessary, the time line may be extended. If the employee is not satisfied with the resolution as formulated by the Executive Director of Classified Human Resources, the employee may submit the

complaint to include all documentation and written correspondence, to date, to the Personnel Commission. The employee must also submit the desired resolution with the employee's signature and the signature of appropriate exclusive bargaining unit representative within five (5) working days of the receipt of the Executive Director of Classified Human Resources' decision. The representative's signature does not imply agreement but signifies that a conference was held and that the representative has knowledge that the complaint has been submitted to the Commission.

- D. The Commission shall schedule an open session unless provisions of the Brown Act permit and/or require a closed session of the Personnel Commission. All written and oral evidence will be presented at this time. The Commission shall render a decision within ten (10) working days.
- E. The official body hearing the complaint shall consider such other matters as it deems necessary and proper to effect a just settlement of the complaint, including, but not limited to:
 - 1. Compensation of the employee for all or part of the legitimate expenses incurred in pursuit of the appeal. If such a finding is made, the expenses ordered paid by the official body having heard the complaints shall be a legitimate and legal draw upon the general fund of the District and the Board of Trustees.
 - 2. All causes of charges that are not sustained by the official body hearing the complaint shall be expunged from the employee's personnel file and/or record.

* [Chapter 12 – Created: 11-21-02]

**HAYWARD UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION**

COMPLAINT FORM FOR COMMISSION RULE VIOLATIONS

Date: _____
Employee(s) Involved: _____

Supervisor: _____ Representative: _____

Complaint: _____

Remedy Sought: _____

Alleged Violation of: _____

Filed Within Time Limits: _____

Facts Investigated: _____

Response to Complaint: _____

Action Taken: _____

Follow Up: _____

Employee Signature/Date

Supervisor Signature/Date

APPENDIX A

LEGAL REFERENCES

Education Code

- 45240 - 45320 Merit System
- 45380 - 45387 Retraining and Study
 - 41020 Requirement for Annual Audit
 - 44010 Sex Offense
 - 44031 Personnel File Contents and Inspection
 - 44037 Unlawful To Encourage Exemption From Jury Duty
 - 45104 Positions Not Requiring Certification Qualifications
 - 45105 Positions Under Various Acts Not Requiring Certification; Qualification; Classifications
- 45107.1 Classified Service
- 45108 "Restricted Positions"
- 45109 Fixing of Duties
- 45110 Inconsistent Duties; Compensation
- 45111 Prohibition Against Requiring Classified Employees To Reside Within District
- 45112 Staff Assistants or Field Representatives
- 45122 Physical Examinations
- 45123 Employment After Conviction of Sex Offense Or Controlled Substance; Rehabilitated Controlled Substance Offender
- 45124 Employment of Sexual Psychopath
- 45125 Use of Personal Identification Cards to Ascertain Conviction of Crime
- 45128 Overtime
- 45129 Compensation Time Off
- 45130 Exclusion from Overtime Provisions
- 45131 Overtime: Length of Workday
- 45162 Salary of Employees Not Requiring Certification Qualifications
- 45180 Definitions - Differential Compensation
- 45181 Determination Of Practices In Private Industry
- 45182 Differential Compensation For Certain Duties
- 45183 Basis For Assignment Of Duties
- 45184 Demotion Prohibited
- 45185 Temporary Assignment
- 45192 Industrial Accident & Illness Leaves
- 45193 Leave of Absence for Pregnancy
- 45196 Salary Deduction During Sick Leave
- 45197 Annual Vacations

Education Code (cont.)

- 45203 Paid Holidays
- 45204 Exclusive Weekend Or Holiday Employment
- 45205 Holiday In Lieu Of Specified Holiday
- 45206 Substitute Holiday
- 45206.5 Substitute Holiday For Admission Day
- 45240 Personnel Commission and Director
- 45244 Qualifications for Membership on Personnel Commission
- 45246 Announcement of Recommended Appointees; Public Meeting of Governing Board
- 45247 Terms of Office
- 45249 Procedure in School District Adopting Provisions on Effective Date of this Section
- 45250 Compensation of Members of Personnel Commission
- 45252 Office Accommodation of Personnel Commission
- 45253 Annual Budget of Personnel Commission
- 45255 Expenditure of Funds for Staff Training
- 45256 Establishment of Classified Service; Positions Exempted
- 45258 Positions Established for the Employment of Community Representatives in Advisory or Consulting Capacities Exempt from Classified, Service
- 45259 "Restricted" Employees Classification
- 45260 Power of Personnel Commission to Prescribe and Amend Rules
- 45261 Subjects of Rules
- 45263 Powers and Duties of Personnel Commission Regarding Apprenticeships
- 45267 Provisions Applicable to Non-certificated Personnel as Well as to School Districts With Merit System
- 45268 Salary Schedule For The Classified Service
- 45272 Vacancies in Classified Service; Promotional Applicants
- 45273 Examinations; Examination Boards; Membership, Recordings
- 45274 Retention and Availability of Examination Records; Review and Protests
- 45275 Retention And Availability Of Examination Records; Review And Protests
- 45276 Educational and Work Experience Requirements for Classified Positions
- 45277 Appointments From Eligibility Lists Where Another Language or Driver's License is Required
- 45278 Written Notice Regarding Tests, Vacancies, and Transfer Opportunities
- 45280 Examination For Business Manager
- 45281 Competition Through Promotional Examination
- 45282 Examination For Certain Positions
- 45284 Conditions For Certification For Employment From Open Competitive Eligibility List Before Exhaustion of Promotional Eligibility List
- 45285 Reclassification
- 45286 Limited-Term Employees
- 45287 Provisional Appointments

Education Code (cont.)

- 45288 Provisional Assignment; Extension
- 45289 Successive Provisional Appointments
- 45290 Emergency Appointments
- 45291 Combinations of Successive Eligibility Lists
- 45291 Right To Provide Continuous Examinations
- 45292 Right To Provide Continuous Examinations
- 45293 Questions To Be Asked Candidates; No Discrimination In Appointment
- 45296 Additional Credits For Veterans' Entrance Examinations
- 45298 Re-employment and Promotional Examinations Preference of Persons Laid Off; Voluntary Demotions or Reductions in Time
- 45300 Duration of Eligible Lists
- 45301 Probationary Period for Entry Into Permanent Classified Service
- 45302 Demotion and Removal From Permanent Classified Service
- 45304 Written Charges for Suspension, Demotion, or Dismissal; Provisions for Suspension Pending Determination of Sex Offense or Narcotics Offense
- 45306 Investigation and Hearing on Appeal
- 45307 Reinstatement and Employee Compensation; Determination of Terms and Conditions; Notification
- 45308 Order of Layoff and Re-employment; Length of Service
- 45309 Reinstatement of Permanent Non-Certificated Employees After Resignation
- 45310 Certification for Payment; Appointments in Violation of Article or Rules
- 45311 Powers of Commission in Conducting Hearings, and Inspect in Records of Governing Board
- 45312 Hearings or Investigation by Hearing Officer
- 45317 Violation of Article A Misdemeanor; Other Unlawful Acts

Government Code

- 3540 - 3449.3 Meeting and Negotiating in Public Educational Employment.
- 3543.2 Scope of Representation
- 6250 - 6259 Inspection of Public Records
- 12926 Definitions Regarding Unlawful Practices
- 21150 Reinstatement of Retired Person

Health & Safety Code: Controlled Substances Convictions

- 11054 Controlled Substances; Opiates
- 11357 - 11361 Marijuana
- 11363 Peyote
- 11364 Paraphernalia
- 11377 - 11382 Prescription Drugs

Penal Code: Violent and Serious Felonies

- 667.(c) & Violent and Serious Felonies
- 1192.7 (c)