

**PERSONNEL COMMISSION
RULES AND REGULATIONS**

**for the
CLASSIFIED SERVICE**

PERSONNEL COMMISSIONERS

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THE MERIT SYSTEM

The Rules and Regulations contained in this booklet were developed by the Personnel Commission for our employees and govern the terms and conditions of your employment. Except for matters subject to negotiations under the provisions of Government Code Section(s): 3540 through 3549 inclusive and covered by lawful collective bargaining agreements, these Rules and Regulations are the policies and procedures to be followed as they pertain to the Classified Service. Please become familiar with the Rules so that you are informed as to their content. Should you need assistance in interpreting the Rules, please feel free to contact the Personnel Commission's staff.

The Personnel Commission for the San Bernardino City Unified School District was established in 1967 to administer the Merit System for classified employees. The Merit System is a personnel system of rules and procedures, similar to civil service, which governs classified school personnel. It is based on the principle of employment and promotion on the basis of merit for the purpose of obtaining the highest efficiency and assuring the selection and retention of the best qualified persons. Merit System law provides that classified employees are selected, retained, and promoted on the basis of merit and fitness, exclusive of discrimination due to actual or perceived race, color, ethnicity, age, religion, political affiliation, marital status, disability, gender, sexual orientation, or national origin.

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

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

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

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

San Bernardino City USD | BP 4119.11 Personnel

Sexual Harassment

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

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

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

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

Sexual Harassment

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

Examples of prohibited harassing acts:

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

Consensual sexual relationships

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

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

Enforcement

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

No Retaliation

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

Retaliation against anyone reporting or perceived to have reported sexual harassment behavior or bullying because of one's gender is prohibited. Any retaliatory conduct shall be considered a serious violation of this

policy and shall be independent of whether a complaint of sexual harassment is substantiated. Moreover, encouraging others to engage in retaliatory conduct also violates this policy.

Examples of prohibited retaliation:

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

Complaints

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

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

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

Notifications

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

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

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

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex and bullying

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees
1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation
7288.0 Sexual harassment training and education

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026
Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275
Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257
Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989
Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998
Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>
Equal Employment Opportunity Commission: <http://www.eeoc.gov>
U.S. Department of Education, Office for Civil Rights:
<http://www.ed.gov/about/offices/list/ocr/index.html>

Policy SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT

adopted: October 16, 2007 San Bernardino, California
revised: March 18, 2014

DEFINITIONS

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

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

AFFIRMATIVE ACTION: A policy by the San Bernardino City Unified School District avowing non-discrimination in employment while also furthering the employment of certain protected groups.

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

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

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

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

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

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

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

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

BASIC RATE OF PAY: Defined as the amount listed on the Classified Salary Schedule for each salary range.

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

BOARD: The Board of Education of the San Bernardino City Unified School District. (Also referred to as “Board of Trustees”.)

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

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

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

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

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

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

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

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

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

CLASSIFIED CONSULTANT: An individual hired for a specific situation to perform work that is unique, special, and is outside the realm of those duties assigned to regular classified employees (i.e., not commonly found in the labor market). These individuals will normally possess greater education/experience than required of a regular classified employee.

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

CLASSIFY: "To classify" shall include, but not limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies, and preparing written class specifications.

COMMISSION: The three-member (3) Personnel Commission established pursuant to the requirements of "The Act" to govern the Merit System and oversee the personnel management function related to the Classified Service, and to oversee the actions of the appointing authority in carrying out the requirements of the California Education Code and the Rules and Regulations of the Personnel Commission of the San Bernardino City Unified School District. (See "Personnel Commission")

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

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

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

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

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

DIFFERENTIAL or DIFFERENTIAL PAY: A salary allowance in addition to the basic salary rate or schedule, based upon additional skills, responsibilities (including confidential positions), or specifically scheduled work hours.

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

DISCIPLINARY ACTION: Includes any action whereby an employee is deprived of any classification or any incident of any classification in which they have permanence; including dismissal, suspension, demotion, or any reassignment, without their voluntary consent, except a layoff for lack of work or lack of funds.

DISTRICT: The San Bernardino City Unified School District.

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

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

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

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

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

EMPLOYEE: A person who is employed by the District.

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

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

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

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

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

EXECUTIVE SECRETARY: A position approved by the Personnel Commission and exempt from specific provisions of these Rules in accordance with California Education Code Section 45272. (Also referred to as an "Administrative Assistant" or "Superintendent's Assistant".)

EXEMPT CLASSIFIED: Refers to those positions and employees exempt from the regular Classified Service as provided in California Code Section(s): 45256b, and 45258.

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

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

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

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

GRADUAL ACCRETION: For purposes of these guidelines, two (2) or more years of regular service shall be interpreted to mean assignment for at least two (2) complete years within the assignment basis of the class or position.

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

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

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

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

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

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

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

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

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

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

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

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

JOB ANALYSIS: A systematic study of positions in a class to determine which, and to what degree, primary duties and tasks are essential to the job and to define and link those skills, knowledge, abilities, and other characteristics which are necessary to successfully perform them.

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

JOB TITLE: The title assigned to a classification.

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

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

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

LIMITED TERM: A term used in the California Education Code and these Rules to designate employment for periods of time not to exceed six (6) months; or employment of a temporary employee to substitute for the authorized absence of a regular employee, or provisional appointment to a regular position.

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

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

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

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

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

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

NEPOTISM: Assignment of close relatives to the same school or office or in a supervisory/subordinate relationship.

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

OCCUPATIONAL HIERARCHY: Related jobs in an occupational group with shared knowledge, skills, abilities, and other characteristics.

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

OUT OF CLASS: (Also referred to as "Working Out of Class") The assignment of additional or new duties to an employee which are not a part of their regular position and which require the use of a higher skill. Out of class assignments are compensated only when the assignment exceeds five (5) days within a fifteen (15) calendar day period.

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

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

PERMANENT EMPLOYEE: An employee who has completed an initial probationary period of six (6) months or one-hundred thirty (130) days of paid service, whichever is longer, in the Classified Service (excluding days absent for illness or injury). Classes designated as management or police are required to satisfactorily complete a probationary period of one (1) year.

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

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

PERSONNEL COMMISSION: A three-member (3) committee established pursuant to the requirements of "The Merit System Act" as in the Education Code Sections 45220-45320 to administer the Merit System in the San Bernardino City Unified School District including establishment of rules and regulations to govern the Classified Service and the oversight of the actions of the Board of Education and/or administration in carrying out the requirements of "The Merit System Act" and the Rules and Regulations of the Personnel Commission. The Personnel Commission Department is the administrative staff of the Personnel Commission.

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

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

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

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

POSITION TRANSFER: The relocation of an employee between job sites or between departments at the same job site, within the same classification.

PROBATIONARY PERIOD: A trial period following appointment to a regular position from an appropriate eligibility list. Probation is the last state of the selection procedure in determining employee competency.

PROBATIONARY EMPLOYEE: A person serving a trial performance period of six (6) months or one-hundred thirty (130) days of paid service, whichever is longer, or one (1) year for management employees, following appointment to a regular position. A probationary period must be served in each classification before permanent status is granted.

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

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

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

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

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

PROVISIONAL EMPLOYEE: A person employed temporarily while the examination process is being conducted to fill a position for less than ninety (90) work days or one-hundred twenty-six (126) work days per fiscal year.

RANGE: A series of consecutive salary steps that comprise the rate of pay for a class.

RANK: A position on the eligibility list wherein the eligibles final score (including seniority and/or preferential credit points) on the examination have been included and rounded to the nearest whole number (percent). All eligibles with the same score are accorded the same rank on the list.

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

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

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

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

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

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

REGULAR STATUS: Probationary or permanent status in the Classified Service of the District.

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

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

REORGANIZATION: The restructuring of the job duties of a position to the extent that a different classification(s) is created. If there is not an incumbent performing the newly created work, then the previously classified position shall be eliminated and a new classified position shall be established and an appropriate recruitment shall be conducted.

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

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

RESTRICTED POSITIONS: Specifically funded classes, positions, and employment where completion is limited to persons in lower income groups, from designated impoverished areas; or persons who have mental, physical, or developmental disabilities; or and who meet other limitations as defined in the California Education Code which restrict the privileges of all citizens to compete for employment. Person in such positions shall be classified employees for all purposes except as related to obtaining permanency, seniority credits, and promotional eligibility.

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

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

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

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

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

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

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

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

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

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

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

SERIES: A number of classes closely related into an occupational hierarchy and arranged in a list in order to indicate levels in a group. The occupational hierarchies established by the Personnel Commission are composed of various series of classes.

SHALL AND WILL: These verbs indicate that the action is mandatory.

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

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

SUBJECT MATTER EXPERT: An individual who, because of the level of education, experience, and/or training gained, is recognized as being very knowledgeable in a field or occupation and is called upon to provide information for job analysis or examination development purposes.

SUBSTITUTE EMPLOYEE: A person who is temporarily occupying a regular position during the absence of an incumbent, may also be referred to as a "limited term employee".

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

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

TERMINATION: The ending of an incumbent's assignment or appointment.

TRANSFER: The reassignment of an employee, to another school or department, without examination from one position to another within the class having the same salary range; or to a position in a similar or related class (as determined by the Personnel Commission) having the same salary range. (Rev. 6/6/19)

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

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

WORKDAY: That part of a twenty-four (24) hour period during which an employee is scheduled to work in accordance with their specific assignment. (Also referred to as “working day” and “work day”.)

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

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

REFERENCE: Education Code Section(s): 45103, 45127, 45194, 45256, 45259, 45260, 45261, 45262, 45269, 45270, 45285, 45286, 45287, 45290, 45292, 45294, 45296, 45298, 45301, 45302, 45305, 45307, and 45309

Revised: 07/12/2018

CHAPTER 1 – RULE MAKING AUTHORITY

1.1 APPLICATION OF RULES:

1.1.1 Statutory Authorization for These Rules:

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

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

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

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

1.1.2 Interpretation and Application of These Rules:

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

REFERENCE: Education Code Section(s): 45260

1.1.3 Generic Terminology:

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

REFERENCE: Education Code Section(s): 73-74 and 45260

1.1.4 Severability:

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

REFERENCE: Education Code Section(s): 45260

1.1.5 Printing and Distribution of Rules and Regulations:

The Rules and Regulations of the Personnel Commission shall be printed and distributed to every Personnel Commissioner and Board of Education members of the District. In addition, copies shall be made available in the offices of the Superintendent, each Assistant Superintendent, each work site, and one copy in each school. Every certificated and classified administrator/manager shall receive a copy of the Rules. The exclusive representative(s) of the classified employees shall also receive a reasonable number of copies of the Rules. The Rules and Regulations are also available on the District's website and the District's email program. Copies of Article 6 of Chapter 5 of Part 25 of the Education Code (commencing with Section 45240) shall also be printed and given the same distribution.

REFERENCE: Education Code Section(s): 45260, 45261, and 45262

1.1.6 Subject of Rules:

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

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

1.1.7 Effective Date:

The Rules and Regulations shall be effective the date approved by the Personnel Commission and shall not have retroactive effects.

1.1.8 Violation of Merit System Laws:

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

REFERENCE: Education Code Section(s): 45317

1.1.9 Other Unlawful Acts:

In addition to the prohibition on unlawful acts outlined in Rule 1.1.8, it is also unlawful for any person:

- 1.1.9.1 Willfully, either alone or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to any right of examination, application, or employment under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission.
- 1.1.9.2 Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission, or to aid in doing, or make any false representation concerning the same of the person examined.
- 1.1.9.3 Willfully to furnish to any person any special or secret information regarding contents of examination for the purpose of either improving or injuring the prospect or chances of any person examined, or to be examined under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission.

REFERENCE: Education Code Section(s): 45317

1.2 PRECEDENCE OF NEGOTIATED AGREEMENT:

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

REFERENCE: Government Code Section(s): 3543.2

CHAPTER 2 - THE PERSONNEL COMMISSION

2.1 ORGANIZATION OF THE COMMISSION:

2.1.1 Term(s) of Office and General Selection Procedures:

The Personnel Commission is composed of three (3) individuals who must be registered voters, reside in the San Bernardino City Unified School District, and be “known adherents to the principle of the Merit System.” One (1) member of the Personnel Commission is appointed by the Board of Education, one (1) member is appointed by the Board of Education upon the recommendation of the classified employee organization which represents the largest number of the District’s classified employees, and the third member is appointed by the other two (2) members of the Personnel Commission after publicly announcing the name of the person they intend to appoint.

2.1.1.1 As used in this Chapter, “known adherent to the principle of the Merit System,” with respect to a new appointee, shall mean a person who by the nature of their prior public or private service has given evidence that they support the concept of employment, continuance in employment, inservice promotional opportunities, and other related matters on the basis of merit and fitness.

2.1.1.2 As used in this Chapter, “known adherent to the principle of the Merit System,” with respect to a candidate for reappointment, shall mean a Personnel Commissioner who has clearly demonstrated through meeting attendance and actions that they do, in fact, support the Merit System and its operation.

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

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

2.1.2 Appointment Procedures:

By law, the term of each Personnel Commissioner is for three (3) years, commencing at noon the first day of December. Terms shall be staggered so that each year the term of one member shall expire on December 1st at noon. Appointments to fill vacancies occurring during a term shall be made for the balance of the original term.

2.1.3 Specific Appointment Procedures:

On or about September 1st of each year, the Personnel Director shall notify the Board of Education and the recognized classified employee organization(s) of the

name and home address of the Personnel Commissioner whose term will be expiring and whether or not that Personnel Commissioner will accept reappointment for another three-year (3) term. The notification will also provide the name of the appointing authority, and the procedures to be followed in filling the upcoming vacancy.

2.1.3.1 The Board of Education's Appointment:

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

2.1.3.2 The Classified Employees' Appointment:

By November 1st, the classified employee organization having authority to nominate the classified employees' appointee to the Personnel Commission shall publicly submit the name of the person it wishes to appoint to the Personnel Commission. At a Board meeting to be held after thirty (30) and within forth-five (45) days of the date the employees' nominee was submitted to the Board, the Board of Education shall hold a public hearing to provide the public, employees, Board of Education, District Administration, and the employee organizations the opportunity to express their views on the qualifications of the person nominated by the classified employee organization for appointment. The Board of Education shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board of Education shall then appoint the new nominee, to be effective on the date on which the vacancy would occur.

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

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

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

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

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

2.1.3.3 The Commissioners' Appointment:

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

2.1.3.3.1 In the event that a vacancy would otherwise exist on the Personnel Commission as of December 1st because of the failure of the Personnel Commission to take action on a new appointment, the Personnel Commissioners'

prior appointee, shall continue in office and function as a member of the District's Personnel Commission until such time as the Personnel Commissioners take the necessary action(s) to appoint a qualified successor and that person is prepared to assume the duties and responsibilities of the position.

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

REFERENCE: Education Code Section(s): 45245- 45248
Government Code Section(s): 1302

2.1.4 Filling of Vacancies During Term of Office:

In the event that a vacancy occurs during the term of office of any of the Personnel Commissioners, a new appointee shall be selected by the original appointing authority to complete the unexpired term in accordance with the procedures noted below. The Personnel Director shall immediately notify the other Personnel Commissioners, the Board of Education, and the recognized classified employee organization(s) of the name of the Personnel Commissioner, the effective date of the vacancy, the duration of the unexpired term, the name of the appointing authority, and the procedures to be followed in filling the vacancy.

2.1.4.1 The Board of Education's Appointment:

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

2.1.4.2 The Classified Employee's Appointment:

Within fifteen (15) days of notification of the vacancy, the classified employee organization having authority to nominate the classified employees' appointee to the Personnel Commission, shall publicly submit the name of the person it wishes to appoint to the Personnel Commission to fill the unexpired term. At a Board meeting to be held after thirty (30) and within forty-five

(45) days of the date the employees' nominee was submitted to the Board of Education, the Board of Education shall hold a public hearing to provide public, employees, Board of Education, District Administration, and employee organizations the opportunity to express their views on the qualification of the person nominated by the classified employee organization for appointment. The Board of Education shall appoint the nominee unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board of Education shall then appoint the new nominee.

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

2.1.4.2.2 In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the district's classified staff on September 1st of the year in which the classified employees' original appointment was made shall be the one authorized to submit the recommended appointment to the Board of Education for action as required by law and these Rules and Regulations.

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

2.1.4.2.4 In the event that the vacancy goes unfilled because of the classified employees' failure to agree upon a nominee, the Board of Education, upon the recommendation of the Personnel Director may make an emergency appointment

only until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

2.1.4.3 The Personnel Commissioner's Appointment:

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

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

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

2.1.5 Emergency Appointment of Personnel Commissioners:

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

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

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

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

2.1.6 Officers:

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

REFERENCE: Education Code Section(s): 45247, 45260, and 45261

2.1.7 Quorum and Majority Vote:

Two (2) members of the Personnel Commission shall constitute a quorum for any regular or special meeting of the Personnel Commission.

2.1.7.1 Before calling a meeting to order, the Personnel Commission Chairperson must be sure a quorum is present. If a quorum cannot be obtained, the Personnel Commission Chairperson must call the meeting to order, announce the absence of a quorum, and entertain a motion to adjourn or to fix the time in which to adjourn, recess, or take measures to obtain a quorum.

2.1.7.2 With the exception of two (2) abstentions, a majority vote of the full Personnel Commission (2 of 3) shall be required to approve, deny, or table a motion.

2.1.7.3 Personnel Commissioners are expected to vote on all matters presented for action. An absent Personnel Commissioner or an abstention shall have the same effect as a “no” vote. A “tie” vote shall have the same effect as a failed motion. In the event of an “aye” vote and a “nay” vote, and an abstention, the motion shall have the same effect as a failed motion.

2.1.7.4 A Personnel Commissioner may abstain from a vote in the case of conflict of interest, personal involvement in the issue (e.g., issues involving a friend or relative), or absence from a prior meeting for the approval of its minutes. For an abstention, the Personnel Commissioner shall be present to differentiate from absence and to approve the subsequent minutes but shall not participate in the discussion or voting of the action. In the event two (2) Personnel Commissioners abstain, a motion may carry or fail with the single vote of the remaining Personnel Commissioner without the motion being seconded. In the event of an absent Personnel Commissioner and an abstention, the motion shall be carried over to a future meeting.

2.1.7.5 Personnel Commission meeting minutes shall reflect each Personnel Commissioner’s vote (“aye” or “nay”) on an action. In the case of an abstention, the general reason shall be recorded in the meeting minutes.

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

2.1.8 Compensation of Commission Members:

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

REFERENCE: Education Code Section(s): 45250

2.1.9 Events Causing Vacancy Before Expiration of Term:

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

- 2.1.9.1 The death of the Personnel Commissioner.
- 2.1.9.2 An adjudication pursuant to a quo warrant proceeding declaring that the Personnel Commissioner is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the Commissioner will not be able to perform the duties of the office for the remainder of the term.
- 2.1.9.3 The Personnel Commissioner's resignation.
- 2.1.9.4 The Commissioner's removal from office by a court of competent jurisdiction.
- 2.1.9.5 The Personnel Commissioner's ceasing to meet all the legal requirements to continue to be a Personnel Commissioner as outlined in Rule 2.1.1.
- 2.1.9.6 The Personnel Commissioner's absence exceeding four (4) total regular meetings in a fiscal year, except when prevented by sickness, or excused absence.
- 2.1.9.7 The Personnel Commissioner's conviction of a felony or of any offense involving a violation of the official duties of a Personnel Commissioner as required by these Rules and/or the law. A Personnel Commissioner shall be deemed to have been convicted under this Rule when trial court judgment is entered.
- 2.1.9.8 The decision of a competent tribunal declaring voids the Personnel Commissioner's appointment.

2.1.9.9 The Personnel Commissioner's commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict. In this event, the office shall not be deemed vacant until the order of commitment has become final.

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

2.1.10 Filling A Vacated Position:

Upon a Personnel Commission position becoming vacant pursuant to Government Code 1770, the Personnel Commission shall be required to declare the position vacancy must be listed as an action item on the official published agenda for said meeting. A copy of the agenda must be delivered in the usual and prescribed manner required by these Rules to the Personnel Commissioner being subjected to possible removal. The Personnel Commission shall solicit input from the Board of Education and the employee organization(s), if any, prior to the final decision. The Personnel Director shall initiate the necessary legal steps to fill the vacancy as mandated by the Education Code and these Rules and Regulations.

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

2.1.11 Removal of Personnel Commissioner for Cause by Personnel Commission:

Unless one of the causes for vacating a Personnel Commissioner's position is ordered by a court of competent jurisdiction, the Personnel Commission shall be required to declare the position vacant pursuant to this Rule. The Personnel Commission may declare a position vacant pursuant to Rule 2.1.9 only by majority vote of the Personnel Commission. Such action must be taken at a regular or special meeting of the Personnel Commission, and the proposed declaration of vacancy must be listed as an action item on the official published agenda for said meeting. A copy of the agenda must be delivered in the usual and prescribed manner required by these Rules to the Personnel Commissioner being subjected to possible removal (except in cases of a decedent). The Personnel Commission shall solicit input from the Board of Education and the employee organizations(s), if any, prior to the final vote. If the majority of the Personnel Commissioners votes to declare a seat vacant, the Personnel Commission shall direct the Personnel Director to so inform the removed Personnel Commissioner in writing. The Personnel Director shall initiate the necessary legal steps to fill the vacancy as mandated by the Education Code and these Rules and Regulations.

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

2.2 MEETINGS OF THE COMMISSION:

2.2.1 Regular Meetings:

The Personnel Commission shall regularly meet on a date and time determined by the Personnel Commission of the San Bernardino City Unified School District and shall be held in the Personnel Commission office, 1525 W. Highland Ave., San Bernardino, CA 92411, or other location as deemed appropriate by the Personnel Commission. Whenever the regularly scheduled meeting date happens to fall on a holiday, the Personnel Commission shall meet on the next succeeding business day, unless the Personnel Commission, at the prior regular meeting, takes an action to designate some other day for its meeting. (Rev. 8/4/2022)

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

2.2.1.2 In cases of emergency, the Personnel Commission may meet at some other time and/or place, provided that at least twenty-four (24) hour notice is given to representatives of the employee organizations and the District's administration as well as being posted on the Personnel Commission's official bulletin board.

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

2.2.2 Adjourned Regular Meetings:

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

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

2.2.3 Special Meetings:

Special meetings may be called at any time by the Personnel Commission Chairperson or by the written request of any member of the Personnel Commission. Written notice for any such meeting shall be delivered personally or by mail to each member of the Personnel Commission. A written notice of such meeting shall also be provided to any of the following persons or organizations if they have filed written requests to be notified of the dates and times of the Personnel Commission meetings: each local newspaper of general distribution,

radio or television stations, as well as representatives of any recognized employee organization or group, the Board of Education, and the Superintendent of Schools. Such notice must be delivered personally or by mail at least twenty-four (24) hours before the time of such meeting as specified in the notice. A copy of the notice shall also be posted on the Personnel Commission's official bulletin board. The meeting notice shall specify the time and place of the special meeting, as well as the business to be transacted, and no other business shall be considered at the meeting.

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

2.2.4 Public Meetings:

All regular and special meetings of the Personnel Commission shall be open to the public, and all persons shall be permitted to attend any of the meetings, except as provided for in Rule 2.2.5. This Rule shall not be construed as authorizing employees to be absent from duty for attendance at Personnel Commission meetings, unless they have specific business before the Personnel Commission.

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

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

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

2.2.5 Closed Sessions:

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

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

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

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

2.2.5.2.2 Consideration of complaints brought against employees.

The Personnel Commission will consider such matters in employees by another person or employee unless such employee (against whom charges, or complaints are brought) requests that the matter be considered in a closed session. As a condition of holding a closed session on the complaint, formal charges, or a disciplinary matter, the affected employee shall be given a written notice regarding the matter and their right to have the matter heard in a closed session rather than an open session; which notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time scheduled to hold the regular or special Personnel Commission meeting. If notice is not given as prescribed, any punitive action taken relative to the employee shall be null and void. During the examination of the complainant or a witness, the Personnel Commission may exclude other witnesses even though the hearing is held as part of a public meeting. If a hearing is held in closed session, the Personnel Commission may exclude other witnesses as well as the general public while the matter is being investigated. Following the public hearing or closed session, the

Personnel Commission may deliberate on the matter and reach its decision in closed session.

2.2.5.2.3 Consideration of matters affecting national security.

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

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

2.2.5.2.5 Discussions relative to negotiations, conciliation, mediation, or other matters affecting classified employee labor relations as provided for in Government Code Section 2500 et seq. a meeting on this item may only be held if the Personnel Commission has a representative involved in the negotiating process. If the Personnel Commission has no representative and is not conducting negotiations itself, it cannot hold a closed session relative to discussing matters within the scope of negotiations.

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

2.2.5.3 The Personnel Commission may hold closed sessions during any regular or special meeting to consider the appointment, employment performance evaluation, dismissal, or the hearing of complaints or charges brought against employees by another person or employee unless such employee requests a public hearing. As a condition of holding a closed session on the complaint, formal charges, or a disciplinary matter, the affected employee shall be given a written notice regarding the matter and the right to have a public hearing rather than a closed session; which notice shall be delivered to the employee personally or by mail at least twenty- four (24) hours before the time scheduled to hold the regular or special Personnel Commission meeting. If notice is not given as prescribed, any punitive action taken relative to the employee shall be null and void. During the examination of

a witness, the Personnel Commission may exclude other witnesses even though the hearing is held as part of a public meeting. If a hearing is held in closed session, the Personnel Commission may exclude other witnesses as well as the general public while the matter is being investigated. Following the public hearing or closed session, the Personnel Commission may deliberate on the matter and reach its decision in a closed session.

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

REFERENCE: Education Code Section(s): 35146, 49073, 54957, 54957.1, 54957.2, 54957.6, and 54957.7
Government Code Section(s): 1222, 1770, 2500, 3543, 3543.2, and 3549.1

2.2.6 Agenda and Supporting Data:

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

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

2.2.6.2 Individual employees, employee organizations, and other interested parties may submit their written views on any item on the agenda, except for those matters listed in Rule 2.2.5, and/or given a reasonable opportunity to present their views orally during the Personnel Commission meeting. In reaching its decisions, the Personnel Commission has made it a policy to consider all comments and recommendations made in this manner.

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

REFERENCE: Education Code Section(s): 45260

2.2.7 Amendment, Deletion, or Addition to Rules:

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

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

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

REFERENCE: Education Code Section(s): 45260

2.2.8 Minutes:

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

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

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

2.2.8.3 Copies of the Personnel Commission’s minutes shall be distributed to the designated representatives of all employee organizations representing the District’s classified employees, the Personnel Commission members, the Board of Education, the

Superintendent of Schools, and others who have indicated their interest in such matters.

REFERENCE: Education Code Section(s): 45260

Revised: 10/04/2018

2.3 PERSONNEL COMMISSION EMPLOYEES:

2.3.1 Status of Personnel Commission Employees:

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

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

2.3.2 General Duties of the Personnel Director:

The Personnel Director shall perform all of the duties assigned and carry out all of the functions imposed upon this position by law and these Rules and Regulations. The Personnel Director shall act as Secretary to the Personnel Commission and shall issue and receive all notifications on its behalf. The Personnel Director shall direct and supervise the employees of the Personnel Commission and conduct administrative transactions consistent with the law as well as the proper functioning of the office and staff of the Personnel Commission.

2.3.2.1 In cases where two (2) or more Rules or Regulations appear to be in conflict, or when no Rule provides a clear-cut answer to the problem, the matter shall be decided by the Personnel Director subject to appeal to the Personnel Commission.

2.3.2.2 Under agreement with the Board of Education, the Personnel Director may also perform Board of Education related functions of administering the classified personnel management program and shall serve as the advisor to the Superintendent of Schools or designee, and the Board of Education on classified matters.

2.3.2.3 In the absence of the Personnel Director, or at any time that the Personnel Commission deems it is in the best interest of the principle of merit, the Personnel Commission may designate one of its members to perform some or all of the duties of the Personnel Director assigned under these Rules and Regulations.

The Personnel Commissioners must take such action at a regular or special meeting of the Personnel Commission by majority vote.

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

2.4 COMMUNICATIONS AND REQUEST:

Communications:

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

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

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

REFERENCE: Education Code Section(s): 45260

2.5 PERSONNEL COMMISSION BUDGET:

2.5.1 Budget:

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

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

2.5.2 Public Hearing in May:

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

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

2.5.3 Input Sought:

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

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

2.5.4 Adopted Budget Forwarded to County Superintendent:

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

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

2.5.5 County May Hold Public Hearing:

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

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

2.5.6 Adoption of Budget by County:

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

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

2.5.7 Judicial Review and Relief:

If the Personnel Commission's adopted budget is rejected by the County Superintendent of Schools, and the Personnel Commission by majority vote feels that the resulting budget does not provide sufficient funds to adequately carry out

the functions of The Merit System Act, the Personnel Commission reserves the right to seek judicial review and relief.

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

2.6 PERSONNEL COMMISSION ANNUAL REPORT:

Annual Report:

The Personnel Director shall prepare an annual report of the Personnel Commission's activities. When approved by the Personnel Commission, the annual report shall be submitted to the Board of Education at a regular Board meeting for its review.

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

REFERENCE: Education Code Section(s): 45266

2.7 POWER TO CONDUCT HEARINGS:

Pursuant to applicable provisions of the Education Code, the Personnel Commission may conduct hearings, subpoena witnesses, require the production of records or information pertinent to investigation, and may administer oaths. It may, at will, inspect any records of the Governing Board that may be necessary to satisfy itself that the procedures prescribed by the Personnel Commission have been complied with. Hearings may be held by the Personnel Commission on any subject to which its authority may extend as described in the Education Code.

REFERENCE: Education Code Section(s): 45311

2.8 LEGAL COUNSEL FOR THE PERSONNEL COMMISSION:

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

REFERENCE: Education Code Section(s): 45313

2.9 **STAFF TRAINING AND DEVELOPMENT:**

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

REFERENCE: Education Code Section(s): 45380

2.10 **OFFICE ACCOMMODATION OF PERSONNEL COMMISSION:**

The Board of Education shall provide the Commission with suitable office accommodations.

REFERENCE: Education Code Section(s): 45252

CHAPTER 3 - CLASSIFICATION OF EMPLOYEES AND POSITIONS

3.1 THE CLASSIFIED SERVICE:

3.1.1 Personnel Commission Responsibility to Classify Positions:

- 3.1.1.1 All positions established by the Board of Education which are not exempt from the Classified Service by law shall be a part of the Classified Service of the District. All employees serving in the District’s classified positions shall be classified school employees. The employees and positions shall be known as the Classified Service.
- 3.1.1.2 No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exemptions established in the law shall be employed outside the Classified Service.
- 3.1.1.3 “To classify” shall include, but not limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies, and preparing written class specifications.

REFERENCE: Education Code Section(s): 44065, 44066, 44068, 44069, 44069, 45100, 45103, 45104, 45105, 45105.1, 45108, 45109, 45208, 45241, 45256, 45256.5, 45258, and 45269

3.1.2 Exemption from the Classified Service:

Positions required by law to have certification qualifications, full-time day students employed part-time, part-time students employed part-time in any college work-study program or in a legally authorized work experience program conducted by a community college district, apprentices, community representatives (as provided by law), and professional experts employed on a temporary basis for a specific project by the Board of Education or by the Personnel Commission shall be exempt from the Classified Service. (Rev. 4/16/19)

REFERENCE: Education Code Section(s): 44065, 44066, 44068, 44069, 45103, 45204, 45205, 45205.1, 45106, 45108, 45256, 45256.5, 45257, 45258, 45259, 51760, 51760.3, and 51765

3.1.3 Part-Time Defined:

A part-time position, for the purpose indicated in the exemption rule, is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis is less than eighty-seven and a half percent (87.5%) of the normally assigned time for the majority of employees in the Classified Service.

REFERENCE: Education Code Section(s): 45256, 45257, 45258, 45259, 45260, and 45263

3.1.4 Effect of Exemption:

Any position or employee lawfully exempted from the Classified Service shall be excluded from the benefits and burdens imposed by these Rules and Regulations, except as otherwise provided by law, the Board of Education, or these Rules and Regulations.

REFERENCE: Education Code Section(s): 44065, 45103, 45105.1, 45106, 45256, 45257, 45258, and 45260

3.1.5 Professional Expert Positions:

Whenever the use of a professional expert assignment is being contemplated, the administration shall submit to the Personnel Director a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to employee so assigned, nor shall a limited-term position be filled by the assignment of a professional expert if the duties and responsibilities to be performed by the person fit an existing class for which a reemployment or an eligibility list exist.

3.1.5.1 When the person is known who is to be employed as a professional expert, the person's name as well as the data relative to their qualifications shall be submitted to the Personnel Director.

3.1.5.2 In order to be exempted from the Classified Service as a professional expert, an individual must be recognized as such by reputable members of their own profession. Evidence of professional qualifications must be presented to the Personnel Commission at the time that the written request for such temporary appointment is made.

3.1.5.3 The duration of the authorization for a person to serve as a professional expert shall be determined by the Personnel Commission, based upon the request of the Board of Education. However, authorization for service as a professional expert shall not exceed twelve (12) months. Additional services of a professional expert shall require the approval of the Personnel Commission.

REFERENCE: Education Code Section(s): 44925, 45103, 45256, and 45260
Government Code Section(s): 53060

3.1.6 Restricted Classification and Positions:

Restricted positions are positions limited to persons who are either mentally, physically, or developmentally disabled. Restricted positions shall be subject to the following:

3.1.6.1 Considered part of the Classified Service but in addition to the regular class title indicate "restricted".

3.1.6.2 Not subject to Section 45272 and 45273 of the Education Code.

- 3.1.6.3 Shall not acquire permanent status or seniority credits.
- 3.1.6.4 Shall not be eligible for promotion into the regular classified service until they have complied with subdivision (C) of Section 45105 of the Education Code.
- 3.1.6.5 After completion of six (6) months of paid, satisfactory service in a "restricted" position, a person working in such a position may take such regular examination for the class (unrestricted) as is required for all other persons.
 - 3.1.6.5.1 If the incumbent of a "restricted" position qualified in such an examination, regardless of ranking or place on the eligibility list, the incumbent shall be accorded the full rights, benefits, and burdens of any other classified employee serving in the regular Classified Service.
 - 3.1.6.5.1.1 In such case, seniority for purposes of layoff or promotion shall be computed from the original date of employment in the "restricted" position and shall continue even though the incumbent continues to serve in a "restricted" position.
 - 3.1.6.5.1.2 A probationary period shall not be required unless the incumbent qualified for a class on a higher salary schedule.

REFERENCE: Education Code Section(s): 45105, 45256, 45259, 45260, and 45261

3.1.7 Employment of College Students Under Certain Programs:

Full-time students employed part-time and part-time students employed part-time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Education Code Sections 51760-51770, and which is financed by State or Federal funds, shall not be part of the Classified Service. The District may employ such students pursuant to the Education Code. Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

REFERENCE: Education Code Section(s): 45105, 45256, 45259, 45260, 45261, and 51760-51770

Revised: 07/12/2018

3.2 GENERAL CLASSIFICATION RULES:

3.2.1 Assignment of Duties:

The Board of Education shall prescribe the duties and responsibilities for all positions in the Classified Service, except for those of the Personnel Commission staff. When the duties being performed by an employee are found to be inconsistent with the duties officially assigned to a specific position, the Personnel Director shall report the facts to the responsible administrator in order that appropriate action may be taken.

REFERENCE: Education Code Section(s): 45100, 45104, 45105, 45105.1, 45109, 45240 45241, 45264, and 45266

3.2.2 General Nature of the Classification Plan:

The Personnel Commission shall classify all employees and positions within the jurisdiction of the Board of Education or the Personnel Commission, except those positions which the Personnel Commission determines are exempt from the Classified Service pursuant to Rule 3.1.2.

3.2.2.1 The Personnel Commission shall establish and maintain a classification plan for all positions in the Classified Service. Classes shall be placed in groups according to general occupational nature; including the salary rate or range applicable for each class. The Personnel Commission shall decide, when it orders an examination, whether the examination shall be open, promotional, or a combination thereof.

3.2.2.2 The Personnel Commission may create new classes and abolish, divide, or combine existing classes within the classification plan as the needs of the Classified Service require as determined by the Personnel Commission. For purpose of this Rule, classification shall include, but not be limited to:

3.2.2.2.1 Allocation of all positions to appropriate classes.

3.2.2.2.2 Arrangement of classes into occupational hierarchies (job families).

3.2.2.2.3 Determination of reasonable percentage relationship between classes within the occupational hierarchies.

3.2.2.2.4 Determination of reasonable percentage relationship between occupational hierarchies.

3.2.2.2.5 Preparation of written class specifications.

REFERENCE: Education Code Section(s): 45100, 45104, 45105, 45105.1, 45109, 45241, and 45256

3.2.3 Class Specifications:

For each classification or class of positions in the Classified Service, as initially established or subsequently altered by the Personnel Commission, the Personnel Commission shall establish and maintain a class specification, which shall include:

- 3.2.3.1 The official class title, which should be as descriptive as possible of the duties performed and in concert with prevailing titles.
 - 3.2.3.1.1 The Personnel Commission establishes the titles of classes in the Classified Service to be used in the District's annual budget, personnel records, the Rules of the Personnel Commission and the Board of Education, and in the official correspondence of the District.
- 3.2.3.2 A definition of the class, indicating the type of duties and responsibilities, as assigned by the District, and placement within the organizational scheme.
 - 3.2.3.2.1 The Personnel Commission reserves the right to amend and amplify the description established for each class.
- 3.2.3.3 Supervision received, and supervision exercised, when applicable.
- 3.2.3.4 Distinguishing characteristics between the class and other classes, when applicable.
- 3.2.3.5 A statement of the example of duties and essential functions to be performed by persons holding positions allotted to the class. The Personnel Commission shall develop this statement from the list of duties presented by the Board of Education.
 - 3.2.3.5.1 The typical duties listed are descriptive and explanatory only and do not restrict the administration from assigning other job-related duties to any position.
- 3.2.3.6 A statement of the knowledge, skills, abilities, and other characteristics.
- 3.2.3.7 A statement of the minimum education, experience, and substitutions therein.
- 3.2.3.8 A statement about any additional qualifications considered to be so desirable that any person applying for employment who possesses such qualifications may be given additional credit in the evaluation of their qualifications, even though such additional qualifications were not listed as a prerequisite.

- 3.2.3.9 A statement about any license, certificates, or other special requirements for employment or service in the particular class.
- 3.2.3.10 A statement about any physical requirements required of positions in the class, and work conditions.
- 3.2.3.11 A statement of the physical demands and work environments.
- 3.2.3.12 For purposes of the American with Disabilities Act, identification of essential functions to be performed by all incumbents.

REFERENCE: Education Code Section(s): 45104, 45109, 45256, 45260, 45261, 45273, 45276, 45277, and 45285

3.2.4 Interpretation of Class Specifications:

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

- 3.2.4.1 The definition and typical tasks are descriptive and explanatory only and not restrictive. They indicate the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities, and qualification requirements, and do not prescribe what these details shall be in respect to any position.
- 3.2.4.2 The use of a particular expression or illustration as to duties, responsibilities, qualification requirements or other attributes is typical or descriptive of the class and does not exclude others not mentioned but of similar kind and/or quality as determined by the Personnel Commission.
- 3.2.4.3 The specification for each class is considered as a whole in determining the class to which any position shall be allocated, giving consideration not to isolated clauses, phrases or words, but to the general duties, responsibilities, specific tasks, and qualification requirements as affording a picture of the positions that the class includes.
- 3.2.4.4 Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series and group of classes, in such manner as to maintain a proper gradation in the series in which the class is located and proper differentiation within the group of classes.
- 3.2.4.5 The following qualification requirements apply to all classes even though not necessarily specifically mentioned in the specification:
 - 3.2.4.5.1 Good health and freedom from work related disabling defects and communicable diseases; good physical condition and agility and strength commensurate with the duties of the class; integrity; sobriety; industriousness; initiative;

resourcefulness; dependability; good judgment; good moral character and reputation; loyalty; ability to work cooperatively with others; and willingness and ability to assume the responsibilities and to conform to the conditions of work characteristics of the particular position.

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

REFERENCE: Education Code Section(s): 45256, 45260, 45261, 45273, 45276, 45276, 45277, 45285, and 45285.5

3.2.5 Creation of New Positions:

When the Board of Education or Personnel Commission creates a new position in the Classified Service it shall submit, in writing, the duties officially assigned to the position to the Personnel Director. The Board of Education may recommend minimum educational and work experience requirements for the position. The Personnel Director shall present recommendations to the Personnel Commission for action. The Personnel Commission shall:

- 3.2.5.1 Determine if the new position will be a part of the Classified Service or be exempt under Rule 3.1.2.
- 3.2.5.2 Classify the position and determine whether the position should be allocated to an existing class or whether a new class should be established.
- 3.2.5.3 If a new class is recommended, the Personnel Director or designee shall set forth a proposed class specification. The qualifications approved by the Personnel Commission must reasonably relate to the duties assigned to the position by the Board of Education and they will admit an adequate field of competition; and no requirements may be approved which unduly or unreasonably restrict the field of competition.
- 3.2.5.4 The Personnel Commission shall designate the proper salary placement on the appropriate classified salary schedule.
- 3.2.5.5 The Personnel Director shall notify the Board of Education of the Personnel Commission's action.

REFERENCE: Education Code Section(s): 45104, 45105, 45109, 45241, and 45256

3.2.6 Allocation of Positions to Classes:

All positions substantially similar as to the duties performed and the responsibilities exercised by the incumbents of such positions and as to their qualification requirements shall be allocated to the same class.

REFERENCE: Education Code Section(s): 45256, 45260, 45261, 45273, 45276, 45285, and 45285.5

3.2.7 Changes in Duties of Positions:

Any substantial changes in the duties of existing positions shall be promptly reported in writing by the appointing authority or designated representative to the Personnel Director, who shall conduct a review to determine whether the positions should be allocated to a new or different class. Should a change in classification be warranted or necessary, the Personnel Director shall submit recommendations to the Personnel Commission for action.

REFERENCE: Education Code Section(s): 45256, 45260, 45273, 45276, 45276, 45277, 45285, and 45285.5

3.2.8 Working Out of Classification:

All employees in the Classified Service shall be assigned to perform the duties approved by the Board of Education and classified by the Personnel Commission for the class to which the employee is assigned. Classified employees shall not be required to perform duties and responsibilities which are not fixed and prescribed for their position for any period of time which exceeds five (5) work days within a fifteen (15) calendar day period, except as provided by this Rule.

3.2.8.1 When a regular employee in the Classified Service is required or agrees to work in a higher classification for a period of time which exceeds five (5) work days within a fifteen (15) day calendar period, the salary of the employee shall be adjusted upward for the entire period of working out of classification.

3.2.8.2 If the employee is required to perform the duties of an existing class, the employee shall be adjusted upward for the entire period of out of classification work, in accordance with the terms of the collective bargaining agreement with the classified employee's exclusive representative or Personnel Commission Rule, 17.3.5, whichever applies.

3.2.8.3 If the employee is required to perform duties which are not allocated to an existing class or there is a dispute over whether higher level duties are being performed, the assignment shall be reported to the Personnel Director in writing so that a review may be conducted to determine the appropriate pay differential for the temporary assignment

3.2.8.4 Request for differential working out of classification pay shall be submitted to the Personnel Director as soon as possible. Whenever the appointing authority requires the appointment of an employee

to a vacant position such appointment shall not exceed nine hundred sixty (960) hours in a fiscal year; or, in the case of an appointment in lieu of an absent employee, the assignment shall not exceed the authorized absence of said employee.

- 3.2.8.4.1 No employee shall be assigned to work out of class beyond the time limits specified in these Rules.
- 3.2.8.5 A claim for differential working out of classification pay may be submitted by an employee, the supervisor, or an administrator. The Personnel Director will notify the District upon receipt of an employee submitted claim.
- 3.2.8.6 A claim for differential working out of classification pay must contain a list of the assigned duties.
- 3.2.8.7 The Personnel Director shall review the duties assigned to the position and shall determine if the assigned duties are at a higher level and shall recommend an appropriate pay differential consistent with these Rules to the Personnel Commission.
- 3.2.8.8 If the review by the Personnel Director determines that the assigned duties are not at a higher level, the Personnel Director shall notify the employee and the appropriate administrator and present the finding to the Personnel Commission at the next regular meeting of the Personnel Commission.
 - 3.2.8.8.1 Before the Personnel Commission approves or rejects a pay differential, it shall give reasonable notice of its proposed action to the District and allow the District and/or the employee an opportunity to respond.
- 3.2.8.9 Working out of classification assignments are designed for temporary situations and shall not be used to place an employee in a long term or permanent assignment in a higher or different classification.
- 3.2.8.10 All hours worked out of classification, except overtime, shall be credited as seniority in the regular classification of the employee.
- 3.2.8.11 Probationary employees may not work out of class.
- 3.2.8.12 Notwithstanding these limitations on the duration of these positions, the Personnel Commission may, based on a declaration of an emergency by the President of the United States or the Governor, authorize an extension that may not exceed one (1)

year. The duties of the extended position must be related to the emergency.

REFERENCE: Education Code Section(s): 45110, 45256, 45260, 45276, 45260, 45285, 45285.5, and 45286

3.2.9 Positions Requiring a Special Language, Skill, or License:

The Board of Education may request that the Personnel Commission designate certain positions within a class or classes to require the holder of the position to possess a special language, skill, or license. The District must clearly set forth valid reasons for requesting such special requirements. The duties of the position must be the same as those for all other positions within the classification, except for the special requirement(s).

3.2.9.1 An announcement calling for an examination for a class with position(s) containing special requirements will contain appropriate information and will indicate that successful candidates possessing the special requirement will be given preference over other successful candidates, but only as to those specific positions.

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

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

3.2.9.4 Layoffs in classifications with positions established pursuant to this Rule shall be conducted pursuant to Chapter 20.

REFERENCE: Education Code Section(s): 45104, 45241, 45256, and 45277

Revised: 07/12/2018

3.3 SENIOR MANAGEMENT EXEMPTIONS:

3.3.1 The Board of Education may adopt a resolution designating up to five (5) positions as senior management of the Classified Service. The decision of the Board of Education to designate a position senior management is not negotiable but is subject to review by the Public Employment Relations Board (PERB). The Board of Education may apply to the State Board of Education to waive the provision of Section 45108 of the Education Code for the purpose of expanding the number and type of senior management positions. If the Personnel Commission does not agree with the Board of Education request for additional senior management positions,

the Personnel Commission shall have the right to file a waiver protest with the State Board of Education.

3.3.1.1 Positions designated senior management must conform to either of the following two (2) definitions in order to be legally declared senior management of the Classified Service:

3.3.1.1.1 An employee in the highest position in a principal district program area, as determined by the Board of Education, which does not require certification qualifications, and which has district-wide responsibility for formulating policies or administering the program area.

3.3.1.1.2 An employee who acts as the fiscal advisor to the Superintendent of Schools.

3.3.1.2 No position funded in whole or in part by the Personnel Commission shall be made a part of the senior management of the Classified Service by the Board of Education without the concurrence of the Personnel Commission.

3.3.1.3 Employees whose positions are designated as senior management of the Classified Service shall be a part of the Classified Service, and shall be afforded all rights, benefits, and burdens of other classified employees, except that they shall be exempt from all provisions relating to obtaining permanent status in a senior management position.

REFERENCE: Education Code Section(s): 45108.7 45256.5, 45260, and 45261

3.3.2 Filling Senior Management Positions:

Positions in the senior management of the Classified Service shall be filled using the Rules and Regulations of the Personnel Commission except as noted below:

3.3.2.1 The position shall be filled from an unranked eligibility list of eligible persons who have demonstrated managerial ability, who have been found qualified for the position as specified by the Superintendent of Schools and determined by the Personnel Commission.

3.3.2.2 The appointing authority shall have the right to interview all eligible candidates certified by the Personnel Commission from the unranked list.

REFERENCE: Education Code Section(s): 45256.5, 45260, and 45261

3.3.3 Abolishment of Senior Management Positions:

The Board of Education may adopt a resolution abolishing any or all positions of the senior management of the Classified Service. An employee occupying a senior management position abolished by the action shall become a member of the Classified or Certificated Service in a position to which they would otherwise be entitled if the employee had not been a member of the senior management of the Classified Service.

3.3.3.1 If the employee in the senior management of the Classified Service had been a member of the regular Classified or Certificated Service, they shall be entitled to a position which is the same as, or similar to, the position to which they held rights outside of the senior management of the Classified Service.

REFERENCE: Education Code Section(s): 45104.5, 45260, and 45261

3.3.4 Notification of Reassignment or Dismissal:

Notice of reassignment or dismissal from a position in the senior management of the Classified Service shall be provided in accordance with the following provisions:

3.3.4.1 The senior management employee may be given a contract of employment stating specific term of employment which shall not exceed three (3) years duration from the effective date of the contract.

3.3.4.2 The Board of Education, with the consent of the employee concerned, may at any time terminate, effective on the next succeeding first (1st) day of July, the term of employment of, and any contract of employment with, a member of the senior management of the Classified Service; and reelect or reemploy the employee, on those terms and conditions as may be mutually agreed upon by the Board of Education and the employee, for a new term to commence on the effective date of the termination of the existing term of employment and contract. No contract of employment shall violate any provisions of the Education Code or these Rules and Regulations except as expressly allowed by statute.

3.3.4.3 In the event the Board of Education determines that an employee in the senior management of the Classified Service is not to be reelected or reemployed as such upon the expiration of the employee's term, they shall be given written notice thereof by the Board of Education at least forty-five (45) calendar days in advance of the expiration of the employee's term.

3.3.4.4 In the event the Board of Education fails to reelect or reemploy an employee as a member of the senior management of the Classified Service and the written notice required in this Chapter has not

been given, the employee shall be deemed reelected for a term of the same length as the one just completed, and under the same terms and conditions of employment, including compensation.

3.3.4.5 The notice not to reelect or reemploy an employee who is a member of the senior management of the Classified Service shall be in writing and served in person or by certified mail (Return Receipt Requested) to the employee. This requirement will be deemed to have been met if the Notice Not to Reelect or Reemploy is sent certified mail to the last known home address on file in the Human Resources department.

3.3.4.5.1 Failure of the employee to retrieve delivered mail or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. The responsibility for keeping the District informed of a home address is the requirement of the employee.

3.3.4.5.2 For purpose of this Rule, if a notice is mailed, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: Education Code Section(s): 35031, 45256.5, 45260, and 45161

3.4 EXECUTIVE SECRETARY EXEMPTION:

Upon the request of a majority of the members of the Board of Education, the Personnel Commission may exempt one (1) or more executive secretarial positions from specific provision of the Education Code and these Rules and Regulations.

3.4.1 The Personnel Commission shall have the power to grant or not grant such a request. The granting of waivers by the Personnel Commission shall be considered only if the Personnel Commission determines that it is in the best interest of the District, and not detrimental to the philosophy, intent, and purpose of the Merit System. If a waiver is granted, it shall only be done pursuant to these Rules.

3.4.2 Positions designated as executive secretary by the Personnel Commission and thus exempt under provision of this Rule shall be limited to executive secretarial positions reporting directly to members of the Board of Education, the District Superintendent, or not more than five (5) principal deputies of the District Superintendent, or all of these positions.

3.4.3 Positions declared by the Personnel Commission as executive secretary for purpose of this Rule shall be filled from an unranked eligibility list developed by the Personnel Commission and arrived at by competitive examination(s) as determined by the Personnel Commission.

- 3.4.4 The Personnel Commission shall determine the minimum qualifications for the position designated executive secretary, taking particular note of the qualifications necessary to perform successfully at this level, and that the final eligibility list shall be unranked.
- 3.4.5 The appointing authority shall have the right to interview all eligible candidates certified by the Personnel Commission from an unranked list.
- 3.4.6 Any person employed in an exempt executive secretarial position shall continue to be afforded all the rights, benefits, and burdens of any other classified employee serving in the regular Classified Service of the District, except that the employee shall not attain permanent status in the executive secretarial position.

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

3.5 CONFIDENTIAL POSITIONS:

The Board of Education pursuant to Government Code Section 3540.1 may designate certain positions confidential. Employees filling positions designated confidential must, in the course of their regular duties, have regular access to, or possess information relating to, the District's confidential employer-employee relations positions and proposals, or contribute significantly to the development of management positions. The Board of Education's determination to make a position "confidential" is subject to review by the Personnel Commission. The Personnel Commission does not have the right to overturn the Board of Education's designation of a position as confidential but has the right to inform the Board of Education of its position regarding classification and relationships.

REFERENCE: Education Code Section(s): 45104, 45105, 45105.1, 45109, 45241, 45256, and 45277
Government Code Section(s): 3540.1

3.6 REVIEW OF POSITIONS:

The Personnel Director, or staff, shall periodically review the duties and responsibilities of positions as necessary to determine their proper classification. If the Personnel Director finds that a position or positions should be reclassified, the Personnel Director shall advise the District of the findings. If the District verifies the duties of the position or if the duties of the position are not revised to fit within the current classification, the Personnel Director shall report the findings and recommendations to the Personnel Commission. The Personnel Director shall also report the findings in cases where the review indicates that no change in classification is necessary.

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

3.7

RECLASSIFICATION/REVIEW PROCEDURE:

3.7.1 Reclassification/Review Policy:

The Personnel Commission shall maintain a system whereby the Personnel Director shall review or have reviewed the responsibilities of positions as necessary to determine their proper classification.

3.7.1.1 The only basis for reclassification of a position shall be the gradual and substantial accretion of duties and not by a sudden change resulting from a reorganization or the assignment of completely new duties and responsibilities. Determination as to gradual accretion will be made by the Personnel Director. The Personnel Commission's decision shall be final and not appealable.

3.7.1.2 Definition of Gradual Accretion: For purposes of these guidelines, two (2) or more years of regular service shall be interpreted to mean assignment for at least two (2) complete years within the assignment basis of the class or position.

3.7.1.2.1 Determination as to gradual accretion will be based on an analysis of data to be supplied by the employee(s) affected, their exclusive representative, the employee's supervisor, as well as Personnel Commission staff, based on the following guideline factors:

3.7.1.2.1.1 The exact or approximate date the incumbent began the performance of the newly acquired duties and responsibilities.

3.7.1.2.1.2 The nature and scope of each identified change in duties and responsibilities.

3.7.1.2.1.3 The conditions which led to the association of the added duties and responsibilities with the subject position(s).

3.7.1.2.1.4 Evidence of the employee's performance of the added duties and responsibilities.

3.7.1.3 Classification reviews for unusual needs or priorities may be authorized as determined by a reclassification study of an existing position. The request shall be presented on a Request for Reclassification Study forms approved by the Personnel

Commission and shall be submitted to the Personnel Director, together with a statement setting forth the reasons for the request. These requests may be initiated by an employee, District Administration, recognized employee organization, or the Personnel Commission or its staff.

3.7.1.3.1 Requests initiated by an employee or an employee organization shall include a listing of duties and a statement indicating the reasons the employee feels a reclassification is justified.

3.7.1.3.2 Requests initiated by the District Administration shall include the above information as well as a statement by the employee's supervisor verifying the authorized duties of the position.

3.7.1.4 Request for classification reviews or changes to the classification of positions shall be submitted in writing on forms provided by the Personnel Commission together with a statement of the reasons for the requested study between January 1 and March 1.

3.7.1.5 The determination of how the study would be done and who would do it shall be determined by the Personnel Commission. Studies may be conducted by the Personnel Director, or designated staff, outside consultants, or a combination of these individuals.

3.7.1.6 The cost to conduct the studies shall be included in the annual operation budget of the Personnel Commission.

REFERENCE: Education Code Section(s): 45256, 45260, 45268, 45268, 45285, and 45285.5

3.7.2 Effective Date of Reclassification:

Reclassification of a position or positions shall become effective on the date prescribed by the Personnel Commission but shall not have retroactive effect. Changes in classification and salary resulting from the permanent reclassification of a position shall be effective no later than whichever of the following dates is applicable:

3.7.2.1 The first (1st) of the month following the Personnel Commission approval of the reclassification, provided the employee is eligible to be reclassified with the position without examination as specified in these Rules.

3.7.2.2 The first (1st) of the month following the date on which the employee becomes fully qualified for the position by successfully completing all parts of the selection procedure.

REFERENCE: Education Code Section(s): 45256, 45260, 45261, 45268, 45285, and 45285.5

3.7.3 Notification of Reclassification:

Notification of a recommendation for the classification or reclassification of a position or employee shall be given to the employee(s) affected, their exclusive representation, the employee's supervisor, and the District Administration before the classification proposal is adopted.

REFERENCE: Education Code Section(s): 45256, 45260, 45261, 45268, 45285, and 45285.5

3.7.4 Reclassification of a Vacant Position:

If a reclassification occurs to a vacant position, the position shall be filled through normal selection procedures.

REFERENCE: Education Code Section(s): 45256, 45260, 45268, 45285, and 45285.5

3.7.5 Effects of Reclassification on Incumbent(s):

Whenever a position or entire classes of positions are reclassified the rights of incumbents will be determined in accordance with these Rules and Regulations.

3.7.5.1 Upon a determination by Personnel Commission that upward reclassification of a position is warranted, the employee occupying such position(s) shall be reclassified with the position when the employee provides to the Personnel Commission satisfactory evidence that they meet all the various entrance requirements for the classification and also assure possession of pertinent skills.

3.7.5.1.1 The employee may be required to take a qualifying examination. If the employee achieves a passing score, no further competitive examination is required. If the employee has their name on an appropriate eligibility list established within the last two (2) years of the effective date of the reclassification, the action may be effected without further competitive examination.

3.7.5.1.2 Failure to successfully meet the requirements shall mean that the employee will be laid off from lack of work. The employee may exercise any seniority of bumping rights as provided in the Education Code or these Rules and Regulations.

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

3.7.5.2.1 If revision of the duties to conform to the original classification is infeasible or impractical, the District shall establish a new position in the higher classification to be filled in accordance with the Education Code and Personnel Commission Rules, and the position in the lower classification may be abolished.

3.7.5.3 In individual classification studies when an employee is reclassified to an existing higher class or a new class based on the accretion of duties or a sudden reorganization and the assignment of new duties, the Personnel Commission may determine that reclassification without further competitive examination is in the best interest of the District and the employee. The studies should demonstrate that the employee meets the important standards of the class (training, experience, knowledge, abilities, and special requirements).

3.7.5.3.1 Factors that will be considered in making the determination are Personnel Commission staff's judgement and recommendation and consistency with merit system principles.

3.7.5.4 When the classification of a position is changed, and such change is not based upon gradual accretion but by a sudden change occasioned by a reorganization or the assignment of completely new duties and responsibilities it may be newly classified by the Personnel Commission, including the establishment of a new class.

3.7.5.5 An employee who has been reclassified shall not serve a subsequent probationary period. (Rev. 5/7/20)

3.7.6 Reclassification Upward:

When all of the positions in a class are reclassified to a higher class, the incumbents of the positions who have been in the class for two (2) or more years may be reclassified by the Personnel Commission with their positions.

3.7.6.1 When one (1) or more within a class, but not all of the positions within the class are reclassified upward, the incumbent(s) in the position who has a continuous employment record of two (2) or more years in one (1) or more of the positions being reclassified may be reclassified by the Personnel Commission with the position.

3.7.6.2 In order for an incumbent to be reclassified with the position, the basis for the reclassification of the position must be the gradual accretion of duties and not a sudden change occasioned by reorganization or the assignment of completely new duties and responsibilities. Determination as to the gradual accretion of

duties will be on the basis of the guidelines provided by the Rules and Regulations of the Personnel Commission.

- 3.7.6.3 An employee who has been reclassified with their position shall be ineligible for subsequent reclassification with their position for a period of at least two (2) years from the date of the prior reclassification action.
- 3.7.6.4 Those incumbents not able to be reclassified with their positions shall have an opportunity to compete in the Personnel Commission's selection process for promotion into the higher class.
- 3.7.6.5 The salary placement of an incumbent who is reclassified upward with their position shall be at the salary range for the new class and at the salary step of the former class.

3.7.7 Reclassification Equal or Lower:

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

- 3.7.7.1 The right to bump a less senior employee in the same class pursuant to bumping procedures outlined in the layoff provision of these Rules.
- 3.7.7.2 The right to bump a less senior employee in an equal or lower class in which the incumbent formerly served, pursuant to bumping procedures outlined in the layoff provisions of these Rules.
- 3.7.7.3 The right to be demoted or to transfer without examination to the class to which their position is reclassified.
- 3.7.7.4 The employee may choose to transfer, demote, or exercise bumping rights at the employee's option, and their choice shall not affect the employee's right under Rule 3.7.8.
- 3.7.7.5 When a regular classified employee is demoted to a position at a lower salary range due to displacement or abolishment of a position by reclassification, the employee's salary shall be Y rated if the salary is greater than the maximum salary of the lower class. The Y rated shall terminate on the earlier of these dates:
 - 3.7.7.5.1 The effective date of an annual salary increase which results in the Y rate falling within the salary range of the class to which the position was reclassified.

- 3.7.7.5.2 The date an equal vacancy exists in the same class from which the employee was Y rated. If the employee does not accept the vacancy but elects to remain in their present position, the Y rate shall terminate.

REFERENCE: Education Code Section(s): 45256, 45260, 45268, 45285, 45285, and 45285.1

3.7.8 Seniority on Upward Reclassification:

- 3.7.8.1 When a position is reclassified to a class with a higher salary range, incumbents reclassified with their positions shall have their seniority begin with the effective date of the reclassification. (Rev. 6/11/20)
- 3.7.8.2 When a position is reclassified to a class with a higher salary range, incumbents reclassified with their positions, shall be credited with all hours in paid service from their prior class, providing the prior class is concurrently abolished. (Rev. 6/11/20)
- 3.7.8.3 When a position is reclassified to a class with a higher salary range, incumbents who must pass a promotional examination, shall be reclassified effective the day after passing the examination and their seniority shall begin on that date. (Rev. 6/11/20)

3.7.9 Seniority on Downward Reclassification

When a position is reclassified to a class with a lower salary range, incumbents accepting demotion shall have their hours in paid service credited to the lower class. (Rev. 6/11/20)

3.7.10 Effect of Classification Changes

If a position is reclassified or has its title changed as a result of a reorganization, and no change in compensation occurs as a result, incumbents affected shall be credited with all hours in paid service in the previous classification. (Rev. 6/11/20)

3.7.11 Effect on Reemployment and Eligibility Lists:

The reclassification of all positions in a class automatically reclassifies the mandatory reemployment list (if any) for that class. The Personnel Commission shall also review the appropriateness of the current eligibility list for the class to determine whether or not it should be reclassified. Salary reallocations of classes shall have no effect on lists unless a specific finding to the contrary is made by the Personnel Commission.

REFERENCE: Education Code Section(s): 45256, 45260, 45268, and 45285

Revised: 07/12/2018

CHAPTER 4 - APPLICATION FOR EMPLOYMENT

4.1 APPLICATION:

Filing of Application:

All applications for employment shall be submitted on the official forms provided by the Personnel Commission, either on-line or on paper as determined by the Personnel Commission. The application shall be filled out as therein directed and filed on or before the date and time as specified on the examination announcement.

- 4.1.1 Applicants filing for more than one (1) examination must file a separate and complete application for each examination.
- 4.1.2 The names of the applicants in any examination shall not be made public.
- 4.1.3 For affirmative action and Federal and State reporting purposes, questions regarding ethnicity, sex, gender, age, and handicapped condition shall be placed on a separate or separable attachment to the application. Answers to such questions shall be voluntary, and no other information shall be requested relative to race, religious creed, color, national origin, ancestry, disability condition, medical condition, marital status, sex, or age prior to employment.

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

4.2 GENERAL QUALIFICATIONS OF APPLICANTS:

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

- 4.2.1 Every qualified applicant shall have an opportunity to seek, obtain, and hold permanent employment without discrimination because of race, religious creed, color, national origin, ancestry, handicapped condition, medical condition (as defined in Government Code Section 12926), employee organization membership or non-membership and legal activities related thereto, marital status, sex, or age.
- 4.2.2 Applicants must be permanent residents of the United States or must otherwise prove their right to work. It is not required that applicants be or have declared an intent to become a citizen of the United States, nor is it required that an applicant be a resident of California or a resident of the District as condition for filing application or offering employment except in the case of restricted positions, which require specific residency.
- 4.2.3 Applicants must meet all requirements specified as the minimum qualifications established for the class.

- 4.2.4 Where college training required, credit will be given only for work completed in recognized colleges and universities listed as accredited institutions.
- 4.2.5 No maximum age limit shall be set as a condition for initial or continued employment in the District.
- 4.2.6 Applicants with disabilities shall be given equal employment opportunity and reasonable accommodation for employment.

REFERENCE: Education Code Section(s): 45111, 45122, 45123, 45124, 45134, 45260, 45272, 45275, and 45276
 Government Code Section(s): 12921, 12926, and 12940
 Labor Code Section(s): 2805

4.3 DISQUALIFICATION OF APPLICANTS, CANDIDATES, AND ELIGIBLES:

4.3.1 Causes for Rejection:

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

- 4.3.1.1 Failure to meet the general qualifications of Rule 4.2.
- 4.3.1.2 Failure to execute the oath of allegiance required by the State of California.
- 4.3.1.3 Advocacy of overthrow of the Government of the United States or the State of California by force, violence or other unlawful means.
- 4.3.1.4 Conviction or pleading guilty or nolo contendere (i.e., I do not wish to contest) in court to a charge to a narcotic offense, or charges of moral turpitude, violent felonies, any sex offense, or mistreatment of children.
- 4.3.1.5 Dishonorable discharge for the Armed Forces of the United States.
- 4.3.1.6 Criminal, infamous, dishonest, immoral, or disgraceful conduct according to standards approved by the Personnel Commission. The following definitions apply to the words in the preceding paragraph:

Criminal: Conviction of crime(s) specifically set forth in the Education Code as causes(s) for rejection or termination or a pattern of willful disregard for the law as demonstrated by a history of convictions for misdemeanors, or crimes lesser than those specifically identified in the Education Code, and criminal

convictions which indicate poor judgment on the part of the applicant.

- Infamous: Crimes against nature.
- Dishonest: Theft, burglaries, deception, fraud, or acts intended to deprive lawful possession or ownership, or to obscure or confuse facts or issues.
- Immoral: Sex offenses, including those set forth in the Education Code as causes for termination.
- Disgraceful: Drunk, fighting, insulting, slandering, harassing, or unwelcome behavior; conduct involving violent, use or possession of a dangerous or illegal weapon, or making or interfering threats of violence or harmful acts toward a person or property and, including willful acts of pollution or contamination.

4.3.1.6.1 Conviction records will be evaluated on the following basis:

Nature, seriousness, and circumstance of the offense(s); age of the person at the time and recency of the offense; number of convictions; relationship of the offense to the position applied for; evidence of rehabilitation and maturing including the employment record with respect to job responsibility and duration; truthfulness in admitting to the offense(s); person's attitude; and the duties of the class.

4.3.1.7 Presently continuing to serve a judicially imposed sentence including a probationary period for a conviction, unless the District waives this subsection.

4.3.1.8 A history of drug addiction without acceptable evidence of rehabilitation.

4.3.1.9 Intentionally making a false statement as to any material fact or practicing any deception or fraud in securing examination, certification, or appointment.

4.3.1.10 Obtaining or attempting to obtain either directly or indirectly, privileged information regarding test questions or examination content.

- 4.3.1.11 Practicing any deception or fraud in connection with the employment application or in securing examination, certification, or appointment.
- 4.3.1.12 Failure to provide all required materials or to completely disclose all relevant employment information required at time of employment application, such as supplemental applications for employment, conviction information and court documents, as specified on the job application, job announcement flyer and/or bulletin.
- 4.3.1.13 Failure to complete employment processing requirements in the time specified, or failure to give prior notice of the inability to appear for an employment interview which was mutually agreed upon.
- 4.3.1.14 Failure to report for duty after an assignment has been offered and accepted.
- 4.3.1.15 Attempting to or making contact with any member of the Board of Education or the Personnel Commission with the intent to attempt to favorably influence the recruitment, examination, and/or selection process in any way. Exempted from the restriction would be any protest and/or petition of the recruitment/examination/selection process to the Personnel Commission as a whole by any candidate through the established protest and/or petition process.
- 4.3.1.16 A record of unsatisfactory service within the District as evidenced by a disciplinary action, a work improvement notice, or unsatisfactory job performance notice, or a resignation in lieu of dismissal.
- 4.3.1.17 A record of an unstable employment history which demonstrates a lack of commitment to serve the needs of the employer.
- 4.3.1.18 Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District; or previous dismissal from this District, unless the district waives this subsection.
- 4.3.1.19 A failure to meet the District's safe driving record standard or a pattern of willful disregard for the law as demonstrated by a history of traffic offenses, including, but not limited to, license suspensions, driving without a valid license, or without insurance, and other traffic offenses.
- 4.3.1.20 A record of discourteous treatment of, or illegal, unwelcome, or inappropriate conduct or behavior toward the public, children, or of fellow workers, or any other willful failure of good conduct, which, if it has occurred while serving as an employee of the

- District, could be considered as tending to injure the public service.
- 4.3.1.21 Unsatisfactory health conditions which clearly indicate that the applicant or candidate would be unable to perform the essential duties of the job or would endanger their health and safety or the health and safety of others.
 - 4.3.1.22 Refusal to sign loyalty oath.
 - 4.3.1.23 Refusal to furnish testimony, other than self-incrimination, at a hearing or investigation before the Personnel Commission or the Board of Education.
 - 4.3.1.24 Failure, after due notice, to report promptly for review of any of reasons for rejection contained in this section, or to complete, expand upon, or provide documentation or details necessary for employment processing.
 - 4.3.1.25 Conviction of drug use and/or use of intoxicating beverages to excess, or sale, possession for sale, or transportation of controlled substances, dangerous drugs or narcotics, including marijuana, or the possession or use of narcotics other than marijuana.
 - 4.3.1.26 There is a record of unsatisfactory results of a reference check or background investigation of the eligible conducted by the District.
 - 4.3.1.27 General conduct detrimental to the good order and discipline of the Classified Service as demonstrated by recent and/or job-related infractions of any of the causes for rejection outlined in this Rule.

REFERENCE: Education Code Section(s): 45111, 45122, 45123, 45124, 45134, 45260, 45261, and 45303

4.3.2 Appeal from Disqualification:

Applicants, candidates, and/or eligibles disqualified based on Rule 4.3 shall be notified in writing, by Personnel Commission staff, indicating the reason(s) for disqualification and advising the individual that an appeal for disqualification may be made to the Personnel Director within five (5) work days from receipt of notification.

- 4.3.2.1 The individual appealing a disqualification may conditionally be permitted to take the examination pending a decision on the appeal.
- 4.3.2.2 Upon receipt of an appeal, the Personnel Director shall investigate the matter and render a decision. If the decision is in favor of the appellant, notice shall be given, and all rights provided as though the disqualification had not occurred. If the decision is to deny the

appeal, the appellant may appeal to the Personnel Commission within five (5) work days after being notified.

- 4.3.2.3 Upon receipt of an appeal of the Personnel Director's decision, the Personnel Commission shall consider all evidence pertaining to the appeal and shall issue a written decision within five (5) work days. If the Personnel Commission rejects the disqualification, the applicant shall be given rights as though the disqualification had not occurred. The decision of the Personnel Commission is final and binding on all parties.
- 4.3.2.4 If an eligibility list has been established, appointments may be made from available eligibles pending final decision on the appeal. Appointments made from an eligibility list while an appeal is pending shall not be invalidated, even when the outcome is in the appellant's favor, unless ordered otherwise by the Personnel Commission, and shall not be changed unless such appointment was fraudulently made.
- 4.3.2.5 For purpose of this Rule, if a notice is mailed, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt. The failure to receive such notice shall not invalidate this procedure if, in fact, the notice was placed in the mail and postage paid, or if electronic mail is confirmed.

REFERENCE: Education Code Section(s): 45111, 45122, 45123, 45124, 45134, 45260, 45261, and 45303

4.3.3 Submitting Proof of Veteran's Credit:

Applicants shall be informed that all open applicants may obtain veteran's preference points. Applicants bear the responsibility of furnishing official documentation (i.e., DD 214) as proof of qualifying military service and disability, if applicable, no later than the date of examination. No adjustment of rank on the list shall be made when such proof is presented thereafter.

- 4.3.3.1 Failure to submit form DD214 by the date of the examination shall result in no veteran's credits being considered or added to any passing score.

4.3.4 Applicant's Names Not to Be Made Public:

The name of applicants or unsuccessful candidates in any of the District's selection process shall not be made public.

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

Revised: 07/12/2018

4.4 EXAMINATION AFTER REJECTION OR DEMOTION:

An employee with permanent status in a class who has been demoted from a higher class during probation, in accordance with Rule 9.4, or who has been demoted after attaining status in a

higher class, in accordance with Rule 19.1 shall not be admitted to an examination for the class from which demotion occurred for one (1) year after the effective date of demotion.

4.5 TECHNICAL EXPERT INVOLVEMENT IN REVIEW OF EMPLOYMENT APPLICATIONS:

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

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

4.6 APPLICATION NOT TO BE RETURNED:

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

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

CHAPTER 5 – RECRUITMENT AND EXAMINATIONS

5.1 RECRUITMENT:

5.1.1 Announcement of Vacancies:

Transfer opportunities in the Classified Service shall be posted to employees in the same and related classes by written notification for at least five (5) work days prior to beginning the selection process for filling a vacant position, except when a vacancy can be filled by a transfer to avoid a layoff situation, or when a transfer is necessary for the good of the District.

REFERENCE: Education Code Section(s): 45260, 45261, and 45278

5.1.2 Announcement of Examination:

The Personnel Commission shall direct and administer the holding of examinations for the purpose of filling vacancies or creating eligibility lists for the Classified Service. Vacant positions in the Classified Service shall be announced to employees in the same and related classes by written announcement, except when a vacancy can be filled by a transfer to avoid a layoff situation, or when a transfer is necessary for the good of the District.

5.1.2.1 No examination announcement may be made, and no part of an examination may be held for a new position until the Board of Education has authorized the position duties and the Personnel Commission has properly classified the position classification; including the establishment of minimum qualifications.

5.1.2.2 Whenever it is necessary to fill existing or anticipated vacancies in the Classified Service and an appropriate eligibility list does not exist (as determined by the Personnel Commission), the Personnel Commission shall announce each examination on an Employment Opportunity Bulletin which shall be distributed to all employees work sites and community locations for at least fifteen (15) work days.

5.1.2.2.1 The notices may be mailed by U.S. Postal Service or electronically to a classified employee who will not be reporting at their work location during periods when such employee will not be required to work, such as winter break, spring break, summer recess, vacations, and other paid or unpaid leaves of absences, and when the employee has previously requested notification in writing. However, the failure of an employee to receive such notice shall not invalidate any procedure if, in fact, the notice was placed in the mail and postage paid, or if electronic mail is confirmed. For purpose of this Rule, if a notice is

mailed, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt.

- 5.1.2.3 The Personnel Director shall determine the appropriateness of placing advertisements in newspapers, trades and business journals, or other media. The Personnel Director shall make every effort to notify community agencies and to ensure that organizations dealing with women, minorities, and disabled persons are notified of each examination.

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

5.1.3 The Employment Opportunity Bulletin Shall Contain the Following Information:

- 5.1.3.1 Title of the job classification.
- 5.1.3.2 Opening and closing dates of the recruitment (unless continuous).
- 5.1.3.3 Whether the eligibility list will be Open only, Open and Promotional, Promotional Only, or Dual Certification.
- 5.1.3.4 Salary information and other forms of compensation, if any.
- 5.1.3.5 Sufficient information about the duties/responsibilities of the job classification.
- 5.1.3.6 Number of vacancies to be filled (when such information is known).
- 5.1.3.7 Minimum experience and education/training requirements, including any substitutions.
- 5.1.3.8 Licenses, certificates and/or registrations required, if any.
- 5.1.3.9 Special requirements, if any.
- 5.1.3.10 Proposed parts and weights of examination, including hybrid examinations such as written/performance and oral/performance.
 - 5.1.3.10.1 While unusual changes to the original parts and weights, under no circumstances shall substantive changes; such as the holding of oral or performance in lieu of a scheduled written examination or vice versa, be made unless candidates are notified in advance (minimum three (3) days) between notification and the date of examination.

- 5.1.3.11 Affirmative Action, Title IX and other information conforming to Federal, State, and local non-discrimination regulations.
- 5.1.3.12 Other information deemed appropriate.

REFERENCE: Education Code Section(s): 45109, 45260, 45261, 45272, and 45278

5.2 EXAMINATION:

5.2.1 Determination of Examination:

The Personnel Commission shall determine the standards of proficiency to be required for each examination and determine the test parts and weights as they relate to successful job performance required at entry. These shall be administered objectively in a technically acceptable manner, as determined by the Personnel Director. Examinations may be administered as follows:

- 5.2.1.1 Open Competitive
- 5.2.1.2 Promotional
- 5.2.1.3 Promotional and Open Competitive with Promotional list taking precedence
- 5.2.1.4 Dual Certification (Merged Promotional and Open Competitive)
- 5.2.1.5 Continuous

REFERENCE: Education Code Section(s): 45109, 45260, 45261, 45272, and 45278

5.2.2 Open Competitive:

The entry level classification with the Classified Service of the District shall always have an open competitive examination and veterans' preference points shall be allowed as specified in this chapter. These examinations shall be open to all qualified applicants.

- 5.2.2.1 Entry level positions are defined as the classes lowest on the salary schedule for the class series or occupational hierarchies.

5.2.3 Promotional:

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

- 5.2.3.1 Promotional examinations shall be restricted to permanent employees of the District and former employees on valid reemployment lists who meet the qualifications of the class.

- 5.2.3.2 A permanent employee laid off, because of lack of work or lack of funds, shall have the right to participate in promotional examinations for a period of thirty-nine (39) months from effective date of layoff, provided they meet the prescribed qualifications.
- 5.2.3.3 Promotional examinations shall be conducted as often as necessary in order to fill vacant positions in the Classified Service.
- 5.2.3.4 Performance evaluations and employee development appraisals prepared by the immediate supervisor and reviewed by the employee may be considered in evaluating an employee's general fitness for promotion.

REFERENCE: Education Code Section(s): 45103, 45260, 45261, 45272, and 45284

5.2.4 Promotional and Open Competitive:

Where an adequate field of promotional applicants does not exist or there is doubt as to its adequacy, the Personnel Director may advertise the examination among employees and the general public.

- 5.2.4.1 Applicants shall be considered as a group in determining passing scores on the examination.
- 5.2.4.2 The examination procedure shall result in a promotional and an open eligibility list. The promotional eligibility list shall take precedence when certifying eligibles. When the promotional eligibility list does not contain sufficient ranks of eligibles (defined as having lower than three (3) eligible and willing employees), certification of additional ranks shall then be made from the open list.

REFERENCE: Education Code Section(s): 45103, 45260, 45261, and 45272

5.2.5 Dual Certification (Merged):

Upon the recommendation of the Personnel Director, the Personnel Commission may authorize the holding of an examination under merged promotional and open competitive procedures. The resulting eligibility list shall consist of promotional and open competitive eligibles on one (1) merged list. Veteran's credit will not be allowed; however, seniority credit for promotional candidates will be allowed.

- 5.2.5.1 The earlier promotional or dual certification (merged) list shall have precedence as long as promotional eligibles remain on the list.
- 5.2.5.2 The later promotional or dual certification list shall have next precedence as long as promotional eligibles remain on the list.

- 5.2.5.3 When fewer than three (3) available promotional eligibles remain, the earlier open list shall have precedence over a later open list.
- 5.2.5.4 When all promotional eligibles have been removed from the list through appointment and otherwise, Veteran's credit shall be added to scores of remaining open eligibles and their ranks shall be adjusted accordingly.
- 5.2.5.5 When two or more non-mergeable eligibility lists for the same class exist concurrently, promotional candidates on those lists, earlier list first, shall be exhausted before open candidates, earlier list first are certified for appointment.
- 5.2.5.6 When all promotional eligibles have been removed from the list, through appointment and otherwise, veteran's credit shall be added to scores of remaining open eligibles and their ranks shall be adjusted accordingly.

REFERENCE: Education Code Section(s): 45272 and 45284

5.2.6 Continuous Examinations:

The Personnel Commission may designate examinations for specified classes as continuous examinations. Applications shall be accepted every work day and examinations shall be given as the needs arises.

- 5.2.6.1 If a qualifications appraisal interview is required, the interview panel may consist of two (2) persons who may be employees of the District or the Personnel Commission, as designated by the Personnel Director.

REFERENCE: Education Code Section(s): 45273 and 45292

5.2.7 Character of Examinations:

Examination shall be conducted by the Personnel Commission. Examinations shall be administered objectively and shall consist of test parts that relate to job performance.

- 5.2.7.1 The Personnel Director shall ensure that personnel selection procedures are based on the principles of merit and comply with Federal and State regulations and professional standards and are planned, designed, constructed, and administered in an efficient cost effective manner.
- 5.2.7.2 All examinations, including individual test parts, shall be based on an analysis of the job. They should reliably assess those critical skills, knowledge, abilities and traits required to perform successfully the primary functions of the job at the entry level. Personnel Commission staff may consult with subject matter

experts and office staff to aid in determining the relative weight of test parts.

5.2.7.3 Examinations may be written, oral, in the form of a practical (performance) demonstration of skill and ability, qualifications appraisal interview, evaluation of training and experience, in-basket exam, other appropriate assessment elements, or any combination of these.

5.2.7.4 Any investigation of education, experience, character or identity, and test of technical knowledge, manual skill or physical and mental fitness which, in the judgment of the Personnel Director, serves this end may be employed.

5.2.7.5 Paraprofessionals (instructional aides, instructional tutors, instructional assistants, etc.) are required to demonstrate proficiency in basic reading, writing, and mathematics skills up to or exceeding that required for high school seniors. Individuals who work with special education students who do not provide instructional support do not have to meet these requirements.

5.2.7.5.1 All paraprofessional positions shall be assigned the basic title of “instructional aide” or other appropriate title designated. To provide for differences in responsibilities and duties, additions to the basic title may be assigned.

5.2.7.6 Other test as determined by the Personnel Commission.

REFERENCE: Education Code Section(s): 45260 and 45273

5.2.8 Scoring and Weight of Tests:

All examination parts shall be prepared under the direction of the Personnel Director who shall determine passing scores and weight relative percentage weights to each part. The procedure for setting percentage weights shall be impartial.

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

5.2.9 Qualifications Appraisal Interview Examinations:

A qualifications appraisal examination may be a structured examination board, an oral examination board, or a performance examination board. If the examination requires the use of a qualifications appraisal interview panel, the Personnel Director shall assure that the following rules are followed:

5.2.9.1 The panel shall consist of at least two (2) persons.

5.2.9.2 An employee of the District or the Personnel Commission may serve on an interview panel if the employee is not at the first or

second level of supervision over a vacant position in the class for which the examination is being held.

- 5.2.9.3 Unless specifically directed to evaluate candidates' technical knowledge and skills, the interview panel shall confine itself to evaluating general fitness for employment in the class.
- 5.2.9.4 When the interview panel is directed to evaluate technical knowledge and skills, at least two (2) members of the panel shall be technically qualified in the specified occupational area under examination.
- 5.2.9.5 Interviews shall be electronically recorded and filed in the Personnel Commission office.
- 5.2.9.6 Scores achieved by the candidate on other parts of the examination shall not be made available to the interview panel.
- 5.2.9.7 In no case will an oral or performance examination board be provided with confidential reference on employees of the District who are competing in examinations.
- 5.2.9.8 In interview panel examinations, ratings shall be made independently by each interviewer either before or after discussion with other interviews. Ratings shall be made on forms prescribed by the Personnel Director which shall be signed by the interviewer and be delivered to the Personnel Director or representative. All final markings shall be made in pen. When a competitor is disqualified by a member of the qualifications appraisal interview board, the interviewer shall make a record of the reason(s) on the rating sheet.
- 5.2.9.9 The rating of the several members of the qualifications appraisal interview board shall be averaged to determine each candidate's final rating. If the majority of the rating panel gives a candidate a passing score but the final averaged score is below passing the candidate shall be given a final rating of passing. If the majority of the rating panel gives a candidate a score below passing but the final averaged score is above passing the candidate shall be disqualified regardless of the fact that their average rating may be passing. If the panel consists of only two (2) raters, the final score shall be the average of the two (2) raters.
- 5.2.9.10 Members of the Board of Education or Personnel Commission shall not serve on an interview panel.

5.2.10 Evaluation of Training and Experience:

If a part of the examination is an evaluation of the applicant's training and experience, the evaluation shall be individually and independently conducted by at least two (2) panel members. The scores of all applicants shall be listed in rank order. The Personnel Director determines and weighs the passing scores of the training and experience evaluation.

REFERENCE: Education Code Section(s): 45260 and 45273

5.2.11 Notice of Examination:

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

5.2.11.1 Late candidates for group examinations shall not be admitted to the examination room. Lateness for such examinations shall be defined as appearance at the examination room after the assembled candidates for the examination have entered the examination room and the door has been closed.

5.2.11.2 Admission to oral interviews, performance tests, or similar individual examination segments shall be at the time announced on the examination notification, unless the process is unavoidably running late, and then admission shall be as soon as possible following the established sequence.

5.2.11.2.1 A candidate who arrives after their scheduled time and could have been admitted to that exam segment on time had they been present on time, shall lose their right to that exam; however, if the Personnel Commission staff can easily arrange to accommodate the individual at a later time during the day, the late candidate may wait and that may be done following these guidelines.

5.2.11.2.2 No other candidate will be displaced from their allotted time or caused to be inconvenienced, unless voluntarily agreed to by that person. The following are exceptions:

5.2.11.2.2.1 If another candidate does not show for the exam and the late candidate can be scheduled into the no-show candidate's time period.

5.2.11.2.2.2 The panel members may be in agreement to work through their lunch/break period or stay later than the scheduled time and this does not work an undue hardship on them.

REFERENCE: Education Code Section(s): 45273

5.2.12 Examination Procedures:

Competitors in any written test must take the test on the prescribed date, unless approved by the Personnel Director.

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

5.2.12.2 Where written tests are required, they shall be so managed that none of the test papers will disclose the name of any competitor until all papers of all competitors in a given examination shall have been marked and rated. The only exception to this Rule shall be if the Personnel Commission maintains a computerized and automated test scoring system which will automatically and accurately score the exams of all competitors, and which has built-in safeguards to ensure that an individual's examination score cannot be falsely altered.

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

5.2.12.4 The parts and weights of the examination shall be determined by the Personnel Director and set forth in the announcement of the examination. All examination papers shall be prepared and rated under the direction of the Personnel Director.

REFERENCE: Education Code Section(s): 45273

5.2.13 Rating Required:

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

REFERENCE: Education Code Section(s): 45260, 45261, and 45273

5.2.14 Service Points:

Seniority credit shall be added to the final passing score of the candidate who have permanency with the District or who are on a valid reemployment list. Seniority credit rights shall be considered as having been lost when the services of an employee have been terminated for a period of thirty-nine (39) months or more.

5.2.14.1 Regular classified employees shall be given one (1) point per year of service up to a maximum of five (5) service points added to a passing examination score.

5.2.14.2 Time spent in less than full-time work performed while serving as a member of the Classified Service shall be given full credit for the purpose of assigning service points.

5.2.15 Veteran's Preference:

Veteran, as defined in this Rule, means any person who has served at least thirty (30) days of active duty in the United States Armed Forces: Air Force, Army, Navy, Marine Corps, National Guard, or Coast Guard in time of war or national emergency declared by the President of the United States of America, and who has been discharged or released under conditions other than dishonorable; proof of which shall be submitted to the Personnel Commission at the time of the examination. Generally, the time of war or national emergency is considered to be between the dates listed below:

World War II:	December 7, 1941 to December 31, 1946
Korean Conflict:	June 27, 1950 to January 31, 1955
Vietnam Era:	February 28, 1961 to May 7, 1975
Persian Gulf War:	August 2, 1990 to a date yet to be prescribed.

5.2.15.1 Veterans, except for disabled veterans, shall have an additional five (5) points added to their final score in the entry level examinations if they are on an open or open/promotional eligibility list.

5.2.15.2 Disabled veterans shall have an additional ten (10) points added to their final score in entry level examinations if they are on an open or open/promotional eligibility list. A disabled veteran is an individual classified by the United States Veterans Administration to be ten percent (10%) or more disabled as a result of service in the Armed Forces of the United States.

5.2.15.2.1 Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

5.2.15.3 Veterans shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentages

attained by them in examinations after the credit of five (5) points or ten (10) points in the case of disabled veterans, if added.

REFERENCE: Education Code Section(s): 45260, 45261, 45294, 45295, and 45296

5.2.16 Ties in Examination Scores:

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

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

REFERENCE: Education Code Section(s): 45272

5.2.17 Notice of Final Score:

Each candidate who qualifies, shall be notified by the Personnel Commission staff within fifteen (15) work days after completion of the examination of their standing on the eligibility list. Candidates who do not qualify shall be notified within fifteen (15) work days after completion of the examination.

5.2.18 Conversion from Open to Promotional Status:

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

5.2.18.1 Service points, if applicable, shall be credited upon such conversion; but veteran's credits, if awarded previously, shall be deleted.

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

5.2.19 Violation of These Examination Rules/Law:

Whenever the Personnel Commission, after an investigation and/or a public inquiry, finds that any appointment has been made in violation of the Education Code provisions of the Merit System, or these Rules as they apply to examination procedure, the Personnel Commission may order that no salary warrant shall thereafter be drawn to the employee so appointed, for services rendered after the date of said order. Any violation of the Merit System sections of the Education Code or the Rules and Regulations of the Personnel Commission as they apply to examination procedure shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

REFERENCE: Education Code Section(s): 45260, 45261, 45310, and 45311

5.3 REVIEW AND PROTEST OF EXAMINATIONS:

5.3.1 Retention of All Examination Records:

Examination records, including test answer sheets, tape recordings of interviews and the rating sheets of each member of an oral interview panel shall be retained by the Personnel Commission office for a period of one (1) year.

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

5.3.2 Examination Records Shall Be Confidential:

Records, such as test material which has been rented, leased or obtained under a contract, identifiable ratings of oral panel members and confidential references of previous employers shall not be available for review.

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

5.3.3 Availability for Review:

Remaining examination records, such as papers, tapes, and scores of the candidate or eligible shall be available for review only by the candidate or eligible or the candidate's representative. The candidate or eligible or representative may not review the records of another person.

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

5.3.4 Notification of Results and Right of Review:

Notification of test results shall be provided to candidates as soon as practicable following administration of the test. Candidates shall have the right to review examination records, except records not available for review as set forth in Rules 5.3.2 and 5.3.3 above. The right to review test segments shall terminate at the end of the fifth (5th) work day following notification. No candidate may remove or copy information from the examination materials.

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

5.3.5 Request for Reconsideration (Protest):

Any candidate may submit a request for reconsideration (protest) within the review period, set forth in Rule 5.3.4 above, setting forth the basis for the protest in detail and stating the remedy sought. Failure to file a request for reconsideration (protest) with the Personnel Director within the review period shall constitute a waiver of the right to protest that portion of the selection process. However, the filing of the petition shall not stop or otherwise delay the selection (examination) process unless so ordered by the Personnel Commission.

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

5.3.6 Personnel Director Shall Investigate All Protests:

Upon receipt of a request for reconsideration (protest), the Personnel Director shall thoroughly investigate the matters. The Personnel Director may allow more than one (1) answer to a question or may disqualify a question if the circumstances warrant. If any change is made in any test result, the test papers of all candidates will be reviewed and re-scored accordingly. The Personnel Director shall issue a written decision within five (5) work days to the candidate in person, by U.S. Postal Service, or by electronic mail. The written decision shall also advise the candidate of their right to request that the protest be filed with the Personnel Commission. The requirement will be deemed to have been met if the decision of the Personnel Director is sent to the last known address on file. Failure of the candidate to retrieve delivered mail or respond to notifications by the U.S. Postal Service shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. The responsibility for keeping the Personnel Commission informed of an address is the requirement of the candidate. For purpose of this Rule, if a notice is mailed, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt. Should the Personnel Director deny the relief sought by the candidate, the candidate may request that the protest be filed with the Personnel Commission within five (5) work days after being notified of the decision of the Personnel Director. All correspondence mailed to the candidate shall also be mailed to each Personnel Commissioner.

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

5.3.7 Action on Petition for Reconsideration (Protest) by the Personnel Commission:

Upon receipt of a request for reconsideration (protest), the Personnel Commission shall conduct an investigation/inquiry into the allegations and issue a written decision within ten (10) work days. The decision of the Personnel Commission shall be served in person on the candidate by electronic email or mailed to the candidate by certified mail (Return Receipt Requested) to the last known address on file in the Personnel Commission office. For purpose of this Rule, if a notice is mailed, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt, or if electronic mail is confirmed. The decision of the Personnel Commission shall be final and binding on all parties.

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

5.3.8 Confidentiality of List and Test Scores:

Eligibility list and test scores shall be considered confidential information and release of information shall be limited to:

- 5.3.8.1 Only contact information relating to eligibles that have been certified shall be released to the appointing authority.
- 5.3.8.2 Only information pertaining to an eligible's own scores and current rank on the list shall be released to the eligible or their representative.

5.3.8.3 Such other person as specifically ordered by the Personnel Commission or as required by law.

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

5.3.9 Examination Papers:

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

5.3.9.1 Records, such as test material, which has been rented, leased, or obtained under a contract identifiable ratings of oral panel members, and confidential references of previous employers shall not be available for review.

CHAPTER 6 – ELIGIBILITY FOR EMPLOYMENT

6.1 ELIGIBILITY LIST:

6.1.1 Establishment of Eligibility List:

After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable. The completed list constitutes an eligibility list for that class after approval by the Personnel Commission.

6.1.1.1 Unless specifically authorized in these Rules, all appointments to positions in the Classified Service shall be made from eligibles whose names appear on eligibility lists. The Personnel Director shall be responsible for establishing eligibility lists as a result of examinations authorized by these Rules.

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

6.1.2 Content of Eligibility List:

An eligibility list shall contain:

6.1.2.1 The type of eligibility list: open, promotional, open and promotional with the promotional list taking precedence, or dual certification (merged promotional and open competitive).

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

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

6.1.2.4 The date of each part of the examination.

6.1.2.5 The expiration date indicating when the eligibility of named candidates terminates.

6.1.2.6 The signature of the Personnel Director or designee specifically attesting to the accuracy of the information on the eligibility list.

6.1.2.7 The date the list was ratified by the Personnel Commission.

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

6.1.3 Certification of Lists:

All eligibility lists shall be certified by the Personnel Director or designee and ratified by the Personnel Commission before any appointments may be made.

- 6.1.3.1 The Personnel Director shall submit eligibility lists for ratification and approval by the Personnel Commission subsequent to the certification of eligibles from the list. Appointments may be made from available eligibles pending the final decision on a protest and shall not be changed even if the outcome is in the candidate's favor, unless the Personnel Commission has ordered it otherwise.
- 6.1.3.2 Certification means that the process that has been followed that results in the list has been conducted in conformance with the Rules and Regulations and Education Code Title 2, Division 3, Part 25, Chapter 5, Article 6 commencing with section 45240 that pertain to examination procedures.
- 6.1.3.3 The Personnel Commission may withdraw certification at any time during the existence of a list if it finds that the examination process was not conducted in accord with Rules and Regulations or in violation of the Education Code that pertain to examination procedures.
- 6.1.3.4 The decision of the Personnel Commission to certify or ratify an eligibility list or to withdraw certification is binding on the Governing Board.

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

6.1.4 Types of Eligibility:

Appointments to positions shall be made from:

6.1.4.1 Eligibility List: (In order of preference):

6.1.4.1.1 Reemployment: A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, voluntarily demoted in lieu of layoff, lost their positions because of abolishment or reclassification of positions, exhaustion of illness or accident leave, or return from military duty under conditions set forth in these Rules. These eligibles shall take precedence over all other persons eligible for appointment. Employees laid off from permanent positions because of lack of work or lack of funds shall have precedence over exhaustion of illness or accident leave employees.

6.1.4.1.2 Promotional: A list of eligibles resulting from an examination limited to qualified permanent employees and qualified laid off employees who have passed all testing and are named on the eligibility list only.

6.1.4.1.3 Promotional and Open Competitive: Separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.

6.1.4.1.4 Dual Certification (Merged Promotional and Open Competitive): A list of eligibles resulting from a single examination including seniority credit and/or veteran's points, if applicable.

6.1.4.1.5 Open Competitive: A list of eligibles resulting from an examination open to all qualified applicants.

6.1.4.2 Request: Other methods of filling positions including:

6.1.4.2.1 Transfer: Employees who have requested appointment to a vacant position in the same or related classification. (See Chapter 11) Transfers, at the discretion of the District, may be used in lieu of filling a vacancy from another list, but the resulting vacant position shall be filled according to this Chapter.

6.1.4.2.2 Reinstatement: Former employees who have requested reinstatement to a vacant position in a class in which they held permanent status. Reinstatements may be used at the discretion of the District in lieu of filling a vacancy from another list. (See Chapter 11)

6.1.4.2.3 Demotion: Employees who have requested assignment to a vacant position in a lower class. (See Chapter 11)

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

6.1.5 Duration of Eligibility Lists:

An eligibility list shall be in effect for one (1) year, unless exhausted, and may be extended for an additional period of two (2) years or less at the discretion of the Personnel Commission. Names of additional successful competitors may be added to an eligibility list by the Personnel Director.

6.1.5.1 The Personnel Commission may approve the establishment of an open competitive eligibility lists for a period of six (6) months as long as the six (6) month duration of the list is noted in the announcement for the examination.

6.1.5.2 When fewer than three (3) ranks of eligibles are available, the available eligibles may be certified. However, the appointing

authority may choose not to appoint any of them and may request additional eligibles.

- 6.1.5.3 Unless the Personnel Director determines otherwise, an extended eligibility list shall automatically expire upon the promulgation of a new eligibility list and not be merged with a new list.

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

6.1.6 Merger of Eligibility Lists:

If a new examination for a class is given during the first (1st) year of the life of an existing list, the examination shall be sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles. The new list shall then be merged with the existing list with eligibles ranked in the order of examination score, plus additional points where applicable. Promotional lists shall be merged only with promotional lists except that where "dual certification" applies; open and promotional lists shall be merged for certification.

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

- 6.1.6.2 All candidates on an eligibility list which is terminated shall be notified at the time a new examination is scheduled for the class. Notification is not required when an examination list expires.

- 6.1.6.3 When lists are merged, the candidates on the earlier list who have retained their scores shall be terminated on their originally scheduled expiration date. When an eligibles' name appears in more than one place on the merged eligibility list, the eligible shall be certified in accordance with the eligible's expiration dates.

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

6.1.7 Reemployment Lists:

There shall be established for each class, as necessary, a reemployment list which shall take precedence over all other employment lists in filling vacant positions. This list shall contain the names of all regular classified employees who have been laid off or demoted from any position because of lack of work or lack of funds, abolishment or reclassification of position, exhaustion of illness or accident leave or return from military duty as set forth herein.

- 6.1.7.1 An employee who requires a leave of absence for military duty and those who are ordered, pursuant to the laws of the United States, to serve in any civilian war effort or war industry, shall have their names placed over all other names on the reemployment list in the class which they leave.

6.1.7.1.1 The duration of the reemployment list for persons laid off shall be thirty-nine (39) months. Employees returning from military leave shall be eligible for reemployment for a period not to exceed six (6) months after discharge.

6.1.7.1.2 Employees who take long term limited-term appointments, voluntary demotions, or voluntary reductions in assigned time in lieu of layoff shall retain eligibility for reemployment for an additional period of twenty-four (24) months, provided the same tests of fitness under which they qualified for appointment still apply, as determined by the Personnel Commission.

REFERENCE: Education Code Section(s): 45298
Military and Veterans Codes Section(s): 396.1 and 395.3

6.1.8 Termination of Eligibility Lists:

An eligibility list is automatically terminated one (1) year from the date of its ratification unless extended by the Commission, except an eligibility list established under Rule 6.1.5.1 shall terminate six (6) months from the date of approval, unless extended for an additional period up to six (6) months.

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

6.1.8.2 An eligibility list may be terminated by the Personnel Director prior to its expiration when no eligible is available for appointment to a specific permanent position in a class or when there are fewer than three (3) eligibles remaining on the list. Candidates on such list shall be notified of the proposed termination.

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

6.1.9 Eligibility After Appointment:

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

REFERENCE: Education Code Section(s): 45260, 45261, 45278, 45286, and 45300

6.1.10 Waivers of Certification:

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

- 6.1.10.1 Certification of eligibles who have made themselves unavailable shall not be made, provided that eligibles may revise or withdraw their unavailability.
- 6.1.10.2 An available eligible may waive certification only two (2) times without penalty. When a third (3rd) waiver is made the eligible will be informed that the eligible is being removed from the eligibility list per Rule 6.1.11.4.

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

6.1.11 Removal of Names from Eligibility Lists: Reemployment, Reinstatement, Promotional and Open:

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

- 6.1.11.1 A written request by the eligible for removal.
- 6.1.11.2 Failure to respond within five (5) work days from the date of mailing of an inquiry regarding availability for employment.
- 6.1.11.3 Termination of employment for cause (promotional eligibility only).
- 6.1.11.4 There is a record of three (3) waivers of certification during the life of the eligibility list, except that waivers relating to part-time or limited-term appointment should not be counted, for purpose of this Rule.
- 6.1.11.5 There is a record of three (3) refusals of an offer to interview for a vacant position.
 - 6.1.11.5.1 Cancellation by the eligible of a mutually agreed upon appointment for an employment interview shall also constitute a refusal of an offer to interview.
- 6.1.11.6 A record of two (2) refusals to be employed, after having been properly certified as eligible and available for the appointment.
 - 6.1.11.6.1 Any expression by an eligible to a hiring authority during an employment interview, that an offer of employment would not be accepted, if extended, shall constitute a refusal of an offer of employment.
- 6.1.11.7 Failure to respond for a scheduled interview after certification without cause or without prior notification of their inability to appear.

6.1.11.8 Failure by the eligible to keep their contact information current with Personnel Commission.

6.1.11.9 Any of the causes listed in Rule 4.2.

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

6.1.12 Notification to Eligible of Removal from List:

The Personnel Director shall notify the eligible of the action and the reasons thereof and shall provide the person with the opportunity to petition to the Personnel Commission for a review of the decision within five (5) work days of receipt of notification. The decision of the Personnel Commission shall be final. For purpose of this Rule, if a notice is mailed or electronically sent, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt.

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

Revised: 10/04/2018

6.2 CERTIFICATION FROM EMPLOYMENT LISTS:

6.2.1 Appointing Authority:

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

6.2.2 Order of Precedence in Filling Vacancies:

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

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

6.2.2.2 Voluntary Demotion / Transfer/Reinstatement / Change of Assignment: All qualified persons requesting increase or decrease in hours, voluntary demotion, transfer or reinstatement shall be certified in addition to eligibles from eligibility lists established by competitive examination.

6.2.2.3 Promotional Eligibility List: When the vacancy is not filled through the procedures listed above, the top three (3) ranks of available eligibles and all reemployment list employees shall be certified.

6.2.2.4 Open Competitive Eligibility List: When the vacancy cannot be filled from the promotional list, available eligibles on the open competitive list shall be certified.

6.2.2.5 When two (2) or more non-mergeable eligibility lists for the same class exist concurrently, promotional candidates on those lists, earlier list first shall be exhausted before open candidates, earlier list first are certified for appointment.

REFERENCE: Education Code Section(s): 45272

6.2.3 Rule of Three Ranks:

Eligibles shall be placed on the eligibility list in rank order according to their score on the examination. The final scores of candidates shall be rounded to the nearest whole percent. All eligibles with the same percentage score shall be placed in the same rank. Certification from the list shall be the first three (3) ranks of eligibles that are ready and willing to accept the positions to be filled. Eligible reemployment list employees shall have precedence over new applicants.

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

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

6.2.4 Certification and Appointment from Eligibility List:

When a vacant or new position is to be filled, the appointing authority shall notify the Personnel Director of the anticipated need. The employment request shall include the class title, hours, months, location, and other pertinent information required to fill the position.

6.2.4.1 When an establishment or a vacancy occurs a personnel requisition shall be completed.

6.2.4.2 The Personnel Director shall determine the availability of eligibles and shall certify the names of all eligibles who are ready and willing to accept the position. Certification of eligibles shall be in accordance with Rules 6.2.2 and 6.2.3.

6.2.4.3 The administrator conducting the interview shall, within three (3) work days of the interview, make a selection from the eligibles presented and shall notify the Personnel Director, who shall see that the necessary employment procedures are carried out.

6.2.4.4 If a candidate who was certified eligible for appointment to a position fails to keep an interview appointment or declines the appointment, the appointing authority may fill the vacancy from

the remaining eligibles or may request certification of eligibles in accordance with Rule 6.2.6.

6.2.4.5 In the event that there is more than one (1) authorized position in the class to be filled, the Personnel Director may certify additional ranks of eligibles, beyond the top three (3); however, appointments shall be made among the first three (3) ranks of eligibles on the list who are ready and willing to accept a position.

6.2.4.6 The names of employees who have been separated from employment in the Classified Service shall not be certified from promotional or open and promotional eligibility lists for classified classes, effective at the time of separation.

6.2.4.6.1 An employee whose name appears on an open and promotional eligibility list and who resigns may make a written request to the Personnel Director that their name be placed at the appropriate rank on the open portion of the list. The name shall be merged in score order without benefit of seniority credit, but with veteran's credit if applicable, provided that proof of eligibility for veteran's credit is submitted to the Personnel Commission at the time of the request for rank adjustment.

6.2.4.6.2 If an employee resigns subsequent to certification to the promotional position, that person shall not be appointed to the position on a promotional basis.

6.2.4.7 Persons whose names are not certified from promotional only and open and promotional eligibility lists in accordance with this Rule shall not have the right of appeal.

6.2.4.8 No warrant shall be drawn on behalf of the Board of Education for payment of any salary to any employee in the Classified Service unless the assignment bears the certification of the Personnel Director that the person named in the assignment has been assigned pursuant to the Education Code and the Rules of the Personnel Commission.

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

6.2.5 Certification When Fewer Than Three Ranks Remain:

When fewer than three (3) ranks of eligibles are available on the promotional list, sufficient ranks shall be certified from the open list to allow a choice among three (3) ranks of eligibles.

- 6.2.5.1 When fewer than three (3) ranks of eligibles are available for certification, the available ranks may be certified; however, the appointing authority may choose not to appoint any of them and may request a new examination.

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

6.2.6 Certification of Additional Eligibles:

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

- 6.2.6.1 Certify additional eligibles as required.
- 6.2.6.2 Remove the names of eligibles who failed to report for interviews or who refused appointment from the eligibility list.
- 6.2.6.3 Investigate the matter at their discretion to determine that any appointment refusal is in fact voluntary.
- 6.2.6.4 Request authorization from the Personnel Commission to refuse further certification should the investigation determine that refusal of appointment by an eligible is in fact not voluntary.

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

6.2.7 Withholding Names from Certification:

The name of an eligible may be withheld from certification by the Personnel Director when the eligible:

- 6.2.7.1 Expresses unwillingness, lack of interest, or inability to be interviewed for employment or be employed, whether by phone, in person, or in writing.
- 6.2.7.2 Fails to respond within five (5) work days following the mailing of written inquiry regarding availability for permanent employment or request to appear for interview regarding such employment. For purpose of this Rule, if a notice is mailed or electronically sent, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt.
- 6.2.7.3 Cannot be reached in time for appointment when immediate temporary employment is required.
- 6.2.7.4 Fails to present the license, registration, certificate or any other credential required.

6.2.7.5 Any reason listed in Rule 4.2.

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

6.2.8 Failure to Make Appointment:

Should the appointing authority fail to make a selection from the top three (3) ranks of eligible as certified by the Personnel Director, the Personnel Commission shall direct that the position be vacated (if there is a temporary person assigned to fill the vacancy), and remain vacant until such time as a selection is made from the eligibles originally certified or until the eligibility list for that class expires. Vacant shall mean that no person in any employment status may fill that position.

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

6.2.9 Restoration to Eligibility List:

When the Personnel Director has withheld a candidate or eligible from placement on, or certification from the eligibility list, the Personnel Director may subsequently approve placement on, or restoration to the list, subject to ratification by the Personnel Commission, under the following circumstances:

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

6.2.9.2 When the withholding or removal was for a reason stated in Rule 4.2 and such action was improper or the defect has since been corrected.

6.2.9.3 A former employee reinstated and assigned in accordance with Rule 11.3 shall, upon written request to the Personnel Director, have their name restored for certification purposes to its place according to score on any promotional only or open and promotional list which is still current, in which their name appeared at the time of separation.

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

6.2.10 Certification from List for Another Class:

If there is no eligibility list for a classification in which a vacancy exists the Personnel Director may authorize certification from the current eligibility list of an equal or higher classification, provided the knowledge and abilities or other factors examined in the equal or higher classification encompass those of the classification where the vacancy exists and the certification is made from the first three (3) ranks ready and willing to accept employment, subject to approval by the Personnel Commission that the use of the list is in the best interest of the District.

- 6.2.10.1 The name of the person selected from the list of the equal or higher classification shall remain on the list from which selected for certification to vacancies occurring in that classification, for the life of that list, unless withheld or removed in accordance with other provisions of these Rules.

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

6.2.11 Duties of Eligibles:

It shall be the duty of every eligible to respond promptly after receiving notice of certification for interview. The eligible will be expected to respond within five (5) work days from the date notification is mailed. Failure to respond within the above stated time may result in removal from the eligibility list. For purpose of this Rule, if a notice is mailed or sent electronically, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt.

- 6.2.11.1 Eligibles are required to keep the Personnel Commission office informed as to the current home or other contact address, telephone number(s), and email addresses where they can be reached to schedule employment interviews. Failure to keep the Personnel Commission office informed could result in the eligible being bypassed on the eligibility list as unreachable. In that event, the Personnel Director shall send a letter inquiring as to continued availability and interest. Failure to respond pursuant to these Rules will result in removal from the eligibility list.

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

6.2.11.2.1 The date of the offer of appointment shall be the date on which the eligible is notified by the Personnel Director of selection.

6.2.11.2.2 The appointing authority may allow a period longer than two (2) weeks at its discretion.

6.2.11.2.3 Notification may be made by telephone, registered or certified mail, or electronic means.

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

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

6.2.12 Selective Certification:

If a position within a classification requires a special skill, license, or language requirement, pursuant to Rule 3.2.9, the Personnel Director shall determine which eligibles possess the required skills, licenses, or language and shall certify the names of the first three (3) ranks of eligibles who meet the special requirements. If there are insufficient eligibles who meet the special requirements and who are ready and willing to accept the position, a provisional appointment may be made, pending completion of a recruitment and examination process to fill the position.

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

CHAPTER 7 – APPOINTMENT TO CLASSIFIED POSITIONS

7.1 PROCEDURE FOR APPOINTMENT:

7.1.1 Procedures for Selection:

The appointing authority shall interview the top three (3) ranks of eligibles from appropriate employment or eligibility lists. A selection shall be required when sufficient eligibles are certified for a given vacancy to total three (3) ranks of eligibles.

7.1.1.1 When two (2) or fewer ranks can be certified, and/or only eligibles for position transfer, voluntary demotion, reinstatement, and lateral transfer can be certified, the decision to make a selection shall be at the discretion of the appointing authority.

7.1.1.1.1 Job related employee information; including, but not limited to:

Attendance records, interviews of current or previous supervisors, performance evaluations, and employee development appraisals prepared by the immediate supervisor and reviewed by the employee, may be considered by a hiring authority when evaluating an employee.

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

7.1.2 Appointments:

Upon selection, each person to be employed or promoted shall be given an offer of employment. The offer shall include the work location, time and date to report for duty and the salary at time of hire. Eligibles not selected shall be notified of their status within ten (10) work days. Appointment to the position shall be subject to the Personnel Director certifying that the employee was hired pursuant to these Rules and ratification by the Board of Education as the employer.

7.1.2.1 The prospective employee shall be allowed two (2) weeks to report for duty after an offer of employment to a permanent position has been made, or one (1) month in the case of management classes. The date to report may be extended or reduced by mutual agreement. Should the prospective employee be unable or unwilling to report for duty within the required period, the appointing authority may request additional ranks be certified.

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

7.1.3 Discrimination Prohibited:

No applicant or eligible certified for appointment shall be discriminated against because of their political or religious opinions or affiliations, race, color, national origin or ancestry, gender, marital status, employee organization membership or legal activities related thereto, physical or mental disability. No questions shall be asked relating to these matters during the selection or employment process.

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

7.1.4 Nepotism:

The Personnel Commission's Rule governing the employment of immediate family in classified positions is in the District's best interest to avoid conflicts of interest between work related and family related obligations to reduce favoritism or even the appearance of favoritism to ensure the appropriate administration of contacts with vendors; and to prevent family conflicts from affecting the workplace.

7.1.4.1 District managers, supervisors, administrators, and other public officials shall make every effort to prevent hiring situations which may be considered nepotism. This includes the advocacy of hiring or promoting a relative, whether or not that relative is in the direct line of supervision of that person. Advocating, for the purpose of this Rule, shall mean using one's official capacity to exhort, encourage, recommend, or demand the hiring of a relative.

7.1.4.2 No person shall be appointed, transferred, assigned to or remain at a work location in any position which directly supervised by a supervisor or administrator who is a member of the employee's immediate family.

7.1.4.3 For purpose of this Rule, immediate family or relative shall include:

Father, mother, sister, brother, daughter, son, wife, husband, registered domestic partner, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, stepfather, stepmother, grandson, granddaughter, aunt, uncle, niece, nephew, or cousin or any person residing in the household of the employee.

REFERENCE: Education Code Section(s): 45260 and 45261
Government Code Section 1091.5

7.2 **PROVISIONAL APPOINTMENTS:**

7.2.1 **Reasons for Provisional Appointment:**

The appointing authority may make a provisional appointment when the Personnel Director certifies that:

7.2.1.1 No eligibility list exists for a class.

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

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

7.2.2 **Length of Provisional Appointment:**

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

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

7.2.3 **Extension of Provisional Appointment:**

The Personnel Commission may extend the ninety (90) work day provisional appointment for a period not to exceed thirty-six (36) additional work days provided:

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

7.2.3.2 Satisfactory evidence is presented indicating:

7.2.3.2.1 Adequate recruitment effort has been and is being made;

7.2.3.2.2 Extension of this provisional assignment is necessary to carry on vital functions of the District, or;

7.2.3.2.3 The position cannot be satisfactorily filled by use of other employment lists or procedures.

REFERENCE: Education Code Sections 45260, 45261, 45287, 45288, and 45289

7.2.4 Successive Ninety Day Appointments:

In the absence of an appropriate eligibility list, successive ninety (90) work day appointments may be made to a position for a period exceeding the one hundred twenty-six (126) work day limitation when:

- 7.2.4.1 Continuous examination procedures have been authorized by the Personnel Commission, or;
- 7.2.4.2 The position is less than twenty (20) hours per week.
- 7.2.4.3 Such appointment shall continue only until certification from an appropriate list can be made.

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

7.2.5 Qualifications of Provisional Appointees:

Insofar as possible, provisional appointees must meet the qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be made by the Personnel Director prior to appointment.

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

7.2.6 Status of Provisional Employees:

To be eligible for appointment to a regular position, the provisional appointee must qualify by competitive examination for a place on the eligibility list.

- 7.2.6.1 Time served in a provisional status shall not be counted as credit toward permanency or completion of the probationary period for the class in which the provisional appointee is made.

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

7.2.7 Terminating Provisional Appointments:

The services of a provisional appointee shall be terminated within fifteen (15) work days after the date on which certification for interview from an eligibility list has been made, provided that this fifteen (15) day period does not extend beyond the ninety (90) work day provisional assignment. A provisional appointment may be terminated at any time at the discretion of the appointing authority.

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

7.3 SPECIAL APPOINTMENTS:

7.3.1 Emergency Appointments:

If it should become necessary, in time of declared emergency, to fill positions in the Classified Service to prevent the stoppage of public business when an actual

emergency arises and persons on the eligibility list are not immediately available, or if no appropriate eligibility and/or transfer list is in existence, the Board of Education, through its authorized representative(s), may make emergency appointments for a period not to exceed fifteen (15) work days. The Personnel Director shall comply with the request, if appropriate.

7.3.1.1 When such emergency appointments are to be made by the Personnel Director, it shall be the duty of the Board of Education, or its designated representative, to notify the Personnel Director in writing; naming the appointee or appointees, the date(s) of the appointment(s), the nature of the duties to be performed, and reasons justifying the emergency nature of such appointments.

7.3.1.2 An “emergency” must be the result of circumstances beyond the control of the Governing Board and not due to actions of the Governing Board or its designees that cannot be remedied by simple action of the Governing Board.

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

7.3.2 Conditional Appointment:

Temporary appointments in an existing class, not to exceed thirty (30) days, may be made in lieu of an appointment to fill a new position pending the classification of the new position by the Personnel Commission. Salary shall be determined by the Personnel Director, subject to ratification by the Personnel Commission.

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

7.3.3 Summer and Other Recess Period Assignments:

The Board of Education may establish temporary positions during the recess period between the regular school year, or during other recess periods during the school year. These positions shall be offered to regular employees of the District not regularly employed during these periods.

7.3.3.1 Appointments shall be made among qualified employees working in other classifications, and finally among qualified persons not currently employed by the District.

7.3.3.2 Each classified employee whose regular assignment is nine (9), ten (10), or eleven (11) months each year shall, for services required to be performed during the summer or any other recess period, be paid in the regular classification on a pro-rata basis the regular step on the appropriate salary range schedule. Each shall receive on a pro-rata basis the regular fringe benefits and seniority which are applicable to that classification during the regular academic year.

7.3.3.3 Should the assignment be in other than the employee's regular classification, the employee shall be considered a limited-term

appointee, and all applicable rules related to working out of classification shall apply.

REFERENCE: Education Code Section(s): 45102, 45160, and 45261,

7.4 LIMITED TERM AND SUBSTITUTE APPOINTMENTS:

7.4.1 Position Defined:

Positions established to perform duties which are not expected to exceed six (6) months shall be designated limited-term positions.

7.4.1.1 Positions established to replace temporarily absent employees shall be designated substitute positions.

REFERENCE: Education Code Section(s): 45260, 45261, and 45286-45290

7.4.2 Procedure for Establishing of Limited-Term/Substitute Positions:

When a limited-term position is established, the appointing authority shall designate the number of hours, starting date, and length of the assignment.

7.4.2.1 A limited-term appointment may not exceed six (6) months. A substitute assignment may not exceed the duration of the absence of a regular employee; however, it need not coincide with the dates of the absence.

7.4.2.1.1 The assignment may be in the same class as that of the absent employee or the duties may be reduced in level and the appointment may be made from a lower class.

7.4.2.2 Establishment of limited-term positions shall be subject to classification approval by the Personnel Director, and ratification by the Personnel Commission and the Board of Education. Limited-term positions shall be subject to classification by the Personnel Director and ratification by the Personnel Commission.

7.4.2.2.1 Limited-term appointments may not be used as a method to avoid the permanent appointment of a classified employee pursuant to the Rules and the Merit System.

REFERENCE: Education Code Section(s): 45260, 45261, and 45286-45290

7.4.3 Eligibility for Appointment:

Limited-term and substitute appointments shall be made from eligibility lists and employment lists, whenever possible. Limited-term appointments shall end at the end of each fiscal year.

- 7.4.3.1 Regular employees, who are serving in limited-term positions, while retaining regular status in the same class or in another class, shall continue to earn and be granted all rights and benefits of a regular employee. All other limited-term employees shall be entitled to only those benefits provided by law or granted by the Board of Education.
- 7.4.3.2 Regular part-time classified employees who have requested to be considered for limited-term appointments within their classification(s) and are available or can be made available to serve in a limited-term appointment provided that an employee shall not serve more than nineteen (19) consecutive work days within any calendar month if such a limited-term appointment results in a longer work day, work week, or work month.
- 7.4.3.3 If an eligible is appointed from an eligibility list to a limited-term or substitute position, the individual may continue to be eligible for limited-term or substitute appointments after the eligibility list has expired.
 - 7.4.3.3.1 A former employee, who has resigned in good standing and has accepted a limited-term appointment within thirty-nine (39) months after resignation, may have the same privilege of continued eligibility in accordance with this Rule.
 - 7.4.3.3.2 A retiree from the District shall be eligible for limited-term appointments in former classifications, without limitation.
- 7.4.3.4 The Personnel Director is authorized to certify provisional appointments to limited-term positions when no eligible is available to accept a substitute or limited-term position.

REFERENCE: Education Code Section(s): 45260, 45261, 45272, and 45286-45290

7.4.4 Compensation for Limited-Term/Substitute Assignment:

When a regular employee is appointed to a limited-term position, the rate of pay shall be the rate of the higher class which is next above their regular rate, if any, and which will provide at least a four percent (4%) salary increase, but not greater than the highest rate for the class.

- 7.4.4.1 Former employees who accept a limited-term or substitute assignment in their previous classification, within thirty-nine (39) months after resignation, shall be placed on the same step and range (including longevity, if applicable) that they previously held at the time of resignation. Former employees who accept a limited-term or substitute assignment to positions in other classifications shall be placed on the first step of the salary range for that class (including longevity, if applicable).

7.4.4.2 All other limited-term employees shall be paid at the hiring rate for regular appointments in the classification.

REFERENCE: Education Code Section(s): 45260, 45261, 45286-45290, and 45309

7.4.5 Rights and Benefits During Limited-Term Assignment:

Regular employees serving in limited-term assignments while retaining regular status in another class shall continue to earn and be granted all rights and benefits of a regular employee.

7.4.5.1 No credit towards completion of probation shall accrue for service in a limited-term or substitute assignment.

REFERENCE: Education Code Section(s): 45260, 45261, 45286-45290, and 45309

7.4.6 Termination of Limited-Term Assignments:

A limited-term or substitute appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority. The appointing authority shall immediately notify the Personnel Director when a limited-term assignment is being terminated.

7.4.6.1 A limited-term or substitute employee may be dismissed at the discretion of the District. When the appointing authority dismisses the employee, the Personnel Director shall be notified in writing of the dismissal. The Personnel Director may investigate the matter and may remove that person's name from all employment lists.

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

7.4.7 Removal of Names from Limited-Term List(s):

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

7.4.7.1.1 There has been a lapse of one (1) full year since the last time the person served in a limited-term or substitute appointment.

7.4.7.1.2 The person requests to be removed from the list for limited-term appointments. The person may request to be placed on the list at any time in the future provided the list is still valid and the person remains eligible to remain on the list.

7.4.7.2 Removal from a limited-term list does not remove the person from their rank order on the permanent list except as otherwise provided in these Rules.

REFERENCE: Education Code Section(s): 45260, 45261, 45286-45290, and 45309

7.4.8 Non-Permanent Appointees:

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

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

7.4.8.2 Employees assignments designated as “working out of classification” are provisional, emergency, or limited-term appointments.

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

7.4.9 Termination of Non-Permanent Appointments/Employees:

All non-permanent appointments shall have a termination date of not later than June 30th of the fiscal or school year in which the appointment is made. Limited-term appointments, if otherwise permitted by Rule or statute, may be reappointed in the next school or fiscal year.

Revised: 10/04/2018

7.5 EMPLOYMENT OF PUBLIC EMPLOYEES’ RETIREMENT SYSTEM (PERS) RETIREES AND VOLUNTEERS:

7.5.1 General Policy on Retirees:

Any person receiving a retirement allowance from the Public Employees’ Retirement System (PERS) may be employed up to nine hundred sixty (960) hours per fiscal year. The retired person must be informed that employment is restricted to nine hundred sixty (960) hours in any fiscal year with the District and continuance in employment is at the discretion of the District.

REFERENCE: Education Code Section(s): 45135
Government Code Section(s): 21220 and 21224

7.5.2 Compensation of Retirees:

A retired employee under authority of this Rule shall be entitled only to the appropriate salary earned including overtime compensation.

7.5.2.1 Retired employees appointed to positions in their former or equal classification shall be placed on the same step and range that they previously held at the time of retirement. Retired employees

appointed to positions in any other classification shall be placed on the first step of the salary range of the class. (Rev. 8/4/2022)

REFERENCE: Education Code Section(s): 45135

7.5.3 Assignment:

A retired person employed under this Rule is not subject to reinstatement to PERS nor does the compensation period provide for retirement allowance adjustment.

7.5.3.1 The appointing authority shall certify to the Personnel Director that a retired person employed under this Rule meets the provisions of this Rule and the calendar year employment will not exceed nine hundred sixty (960) hours.

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

Revised: 10/04/2018

7.6 USE OF VOLUNTEERS AND/OR NON-CLASSIFIED EMPLOYEES:

Volunteers and/or non-classified staff may be used to perform work previously performed by classified staff, if that use is in compliance with the law.

7.6.1 As determined by the Board of Education, from time to time it may become necessary to eliminate or reduce the number of classified positions and/or their work hours or days, and/or their duties. The purpose of this section is to set forth the policy position of the Personnel Commission concerning the use of volunteers and/or non-classified employees who may be used to perform work that had previously been assigned to classified personnel who were laid off or had their work days or hours reduced.

7.6.2 The District has the authority to reduce or eliminate services and classified positions, as well as the work hours or workdays assigned to those positions. If a position has been eliminated or reduced, the work assigned to that position shall not then be assigned to a volunteer or non-classified employee, except as permitted by law. The District has the responsibility to ensure that work is assigned appropriately within a classification and that volunteers or non-classified staff are not used unlawfully to perform work previously done by classified employees who have been laid off or had their work assignment reduced.

7.6.3 If an employee believes that a volunteer and/or non-classified employee is being used unlawfully to perform work that was previously assigned to one or more classified employees, they may file a complaint in accordance with the procedures set forth in Chapter 18 herein and within the time limits provided herein. In addition to meeting the requirements set forth in Chapter 18, the employee shall clearly set forth the duties being performed by the volunteer and/or non-classified person which the employee believes were previously assigned to one or more classified.

- 7.6.4 If an employee does not agree with the Personnel Director's findings the employee may appeal to the Personnel Commission. The appeal shall be in writing and shall set forth the reason(s) why the employee thinks the Personnel Director's findings are in error. An employee may also speak to the Personnel Commission at one of its scheduled meetings, but this shall not negate the requirement for the filing of a complaint.
- 7.6.5 This section is a statement of the policy position of the Personnel Commission with respect to the matters covered in this policy. Nothing in this section is intended to interfere with, expand, contract, or otherwise modify the authority, rights, obligations, or duties of the Personnel Commission, the District, any exclusive representative, or any employee.

REFERENCE: Education Code Section(s): 35021, 45114, 45115, 45117, 45298, 45308, and 45349.
Government Code Section(s): 3540

7.7 CONFLICT OF INTEREST:

All employees assigned to the Human Resources division and the Personnel Commission office shall promptly notify their supervisor in writing when they first become aware that a family member is at any stage of the employment or promotion process to a District position.

- 7.7.1 Stage include but are not limited to: filling an application, screening applications, notifying applicants, developing/assembling test material, administering tests, reporting test scores, preparing eligibility lists, scheduling employment interviews, and making offers of employment.
- 7.7.2 This Rule contemplates that situations may occur where oral notification may precede written notification.

CHAPTER 8 - EMPLOYEE CLEARANCE

8.1 HEALTH EXAMINATIONS:

8.1.1 Tuberculosis (TB) Examinations:

No applicant shall be initially employed by the District, or employed under contract, in a classified or certificated position unless they have submitted to a tuberculosis risk assessment within the past sixty (60) days and, if tuberculosis risk factors are identified, has submitted to an intradermal or other approved tuberculosis examination to determine that they are free of infectious tuberculosis. If the results of the examination are positive, the applicant shall obtain an x-ray of the lungs. At the applicant's discretion they may choose to submit to the examination instead of the risk assessment.

8.1.1.1 Prior to employment, an applicant shall submit a written certification from an authorized health provider stating that they were assessed and/or examined and found free from infectious tuberculosis.

8.1.1.2 An applicant who was previously employed in another school district or private or parochial school shall be deemed to have fulfilled the tuberculosis testing requirement if they produce a certificate showing that they were found to be free of infectious tuberculosis within sixty (60) days of initial hire or if their previous employer verifies that there was a certificate on file showing that the applicant is free from infectious tuberculosis.

8.1.1.3 Thereafter, each District employee who was found free of infectious tuberculosis shall undergo a tuberculosis risk assessment and an examination whenever risk factors are identified, at least once every four (4) years or more often when required by the Board of Education upon recommendation of the county health officer. However, once an employee has a documented positive test for tuberculosis infection followed by an x-ray, they shall no longer be required to submit to the tuberculosis risk assessment but shall be referred to the county health officer within thirty (30) days of the examination to determine the need for follow-up care.

8.1.1.4 The cost of the pre-employment tuberculosis risk assessment and/or examination shall be paid by the applicant, unless the Board of Education has determined that the District will reimburse an applicant who is subsequently hired by the District. The District shall reimburse the employee for the cost, if any, of subsequent tuberculosis risk assessments and examinations. The District may provide for the risk assessment and examination or may establish a reasonable fee for the examination that is reimbursable to the employee.

8.1.1.5 The District shall maintain adequate records on each employee which indicate compliance with this Rule.

8.1.1.6 The following applicants or employees shall be exempted from the requirement to submit to a tuberculosis risk assessment and/or examination:

8.1.1.6.1 An applicant or employee who files an affidavit stating that they adhere to the faith or teachings of a well-recognized religious sect, denomination, or organization and, in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion and that, to the best of their knowledge and belief, they are free from infectious tuberculosis.

8.1.1.6.1.1 Such an exemption shall be allowed only if the Board of Education determines by resolution, after a hearing, that the health of students would not be jeopardized. If at any time there is probable cause to believe that the applicant or employee is afflicted with infectious tuberculosis, they may be excluded from service until the Board of Education is satisfied that they are not afflicted.

8.1.1.6.1.2 The District may exempt, for a period not to exceed sixty (60) days following termination of a pregnancy, a pregnant employee from the requirement that a positive intradermal tuberculin test be followed by an x-ray of the lungs.

8.1.1.7 The District reserves the right to designate a particular clinic or hospital where the test will be administered.

REFERENCE: Education Code Section(s): 45122, 45260, 45261, and 49406
Health and Safety Code Section(s): 121525 and 121555
Administrative Code, Title 5, Section(s): 5505
Assembly Bill (AB) 1667, effective January 1, 2015

8.1.2 Medical Examination:

Individuals appointed to a position in the Classified Service, or as a substitute, limited-term, temporary, provisional, or exempt employee may be required to pass

a job related physical examination prior to initial appointment at the discretion of the District.

8.1.2.1 The determination of the kind and extent of the examination shall be determined by the Personnel Commission. The examination shall be administered by a physician chosen by the District. Cost associated with this physical shall be borne by the District.

8.1.2.2 Promotional eligibles who have been offered employment in a classification possessing different physical requirements may be required to undergo a medical examination as determined by the Personnel Commission. The examination will be administered after the initial offer of employment but prior to actual finalization of the appointment.

8.1.2.3 The District's physician shall determine the ability of the applicant, candidate, or eligible to perform the prescribed duties of the class in which they shall be employed and shall notify the personnel administrator of the medical findings.

8.1.2.3.1 If the District's physician proposes to disqualify the individual, the doctor shall provide the personnel administrator with a statement describing the specific condition and the limitations that have resulted in the individual's disqualification.

8.1.2.3.2 In consultation with the District's physician, the Personnel Director shall make a determination if reasonable accommodation can be made for the individual. If the determination is that reasonable accommodation can be made, the appointment shall be made. If the determination is that reasonable accommodation is not possible, the individual will be so notified by the personnel administrator and informed of appeal rights to the Personnel Commission.

8.1.2.4 Persons to whom a conditional offer of employment has been made, including all candidates for employment in safety sensitive positions or positions requiring a commercial driver license, shall be subject to testing for illegal drugs in accordance with current District procedures and policies and a collective bargaining agreement. Employee's in positions requiring a commercial driver license shall also be subject to the random and post-accident drug tests set forth in District procedures and policies and a collective bargaining agreement.

REFERENCE: Education Code Section(s): 45122, 45260, 45261, and 49406

8.1.3 Return to Work and Unscheduled Examinations:

- 8.1.3.1 An employee may be required to undergo a physical examination at any time there is deemed to be reasonable cause by District Administration, subject to review by the Personnel Director.
- 8.1.3.2 Every employee returning from illness/injury leave of absence will be required to submit medical evidence to verify sufficient recovery to return to the employee's regularly assigned duties, without restrictions.

REFERENCE: Education Code Section(s): 45122, 45260, and 45261

8.1.4 Petition to the Personnel Commission:

An eligible or an employee who has been on leave of absence rejected for medical reasons may petition to the Personnel Commission.

- 8.1.4.1 The filing and processing of the petition shall be governed by the procedure set forth in Rule 4.3.2.
- 8.1.4.2 The District may employ outside medical experts to give a medical advisory opinion.
- 8.1.4.3 The Personnel Commission, based on evidence submitted and the advice of medical experts to the Personnel Commission, shall determine whether or not the denial of appointment or return from leave shall be sustained. The decision of the Personnel Commission shall be final and binding on all parties.

REFERENCE: Education Code Section(s): 45122, 45260, and 45261

8.2 CRIMINAL RECORDS:

8.2.1 Fingerprinting:

Every new employee shall submit to a criminal record check in accordance with prescribed procedures or shall forfeit eligibility for employment. The District will notify the applicant where and when to report for fingerprinting, which shall take place prior to employment. Fingerprinting and clearance of criminal records must be completed before the first day of employment.

- 8.2.1.1 An employee with a break in service shall be fingerprinted prior to reemployment in the same manner as if they were a candidate for initial employment.
- 8.2.1.2 The cost of fingerprinting may be borne by the District.

REFERENCE: Education Code Section(s): 45125

8.2.2 Review of Criminal Records:

All criminal record reports are to be treated as confidential. Any employee having responsibility for receiving, transmitting, and/or reviewing such reports, who divulges information contained therein to an unauthorized person is subject to disciplinary action.

8.2.2.1 A criminal records report from the California Bureau of Criminal Identification and Investigation and/or the Federal Bureau of Investigation shall be reviewed with the person's application by the Personnel Director or designee; the Assistant Superintendent, Human Resources or designee.

8.2.2.1.1 If there is a criminal record which was undisclosed and not reviewed prior to employment, the Personnel Director or designee; the Assistant Superintendent, Human Resources or designee may decide whether or not the person should be employed.

8.2.2.1.2 The Personnel Director or designee; the Assistant Superintendent, Human Resources or designee, shall review criminal records and shall disqualify an applicant that has been convicted of any sex offenses, controlled substance offenses, violent felony offenses, serious felonies, or sexual psychopath offenses.

8.2.2.1.3 The Personnel Director may disqualify an applicant's participation in a selection process for possessing a criminal conviction where there is a direct relationship between the offense and the responsibilities of the employment sought. In demonstrating whether an exclusion based on criminal history is job related and consistent with business necessity, an individual assessment of the following factors will be considered:

8.2.2.1.3.1 The nature and gravity of the offense or conduct with reference to the harm caused by the crime.

8.2.2.1.3.2 The time that has passed since the offense or conduct and/or completion of sentence.

8.2.2.1.3.3 The nature of the job sought, including, the position's essential functions, the circumstances under which the

work is performed, and the location where the job duties are performed.

8.2.2.2 If an eligible candidate or employee is dismissed because of information obtained on the criminal records report, they shall be removed from all eligibility lists.

8.2.2.2.1 The Personnel Director shall notify the candidate or eligible of the action taken and the reasons and shall provide the candidate or eligible with an opportunity to appeal the decision in writing within five (5) days of notification. If an appeal is filed, the Personnel Director shall follow the procedures outlined in Rule 4.3 – Disqualification of Applicants, Candidates, and Eligibles.

8.2.2.2.2 The decision of the Personnel Commission shall be binding on all parties.

REFERENCE: Education Code Section(s): 45125, 45125.1, 42125.5, 45126, 45260, and 45261
Penal Code(s): 667.5 and 1192.7
Welfare and Institution Code(s): 6300 et seq.

8.2.3 Existing Employees – Convictions:

If a criminal record is received on an employee subsequent to employment, the Assistant Superintendent, Human Resources, or designee shall decide if the employee shall be dismissed pursuant to Rule 8.2.2. or on the basis of other applicable laws, policies, and regulations. Any action to terminate an employee shall be implemented in conformance with Chapter 19 of these Rules.

8.2.3.1 If an employee is dismissed because of information disclosed on the criminal records report, the employee shall be removed from all eligibility lists.

8.2.3.2 The Personnel Director shall notify the eligible or employee of action taken and the reason therefore and shall provide the person with an opportunity to appeal the decision in writing, within five (5) work days of the date of the notification. If an appeal is filed, the Personnel Commission shall conduct an appeal hearing using the procedures set forth in these Rules. The decision of the Personnel Commission shall be final and binding on all parties.

REFERENCE: Education Code Section(s): 45125, 45125.1, 42125.5, 45126, 45260, and 45261

Revised: 10/04/2018

8.3 **PRE-EMPLOYMENT REQUIREMENTS:**

8.3.1 **Income Tax Withholding Forms:**

New employees shall submit the W-4 form for both State and Federal tax to the District at the time of employment.

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

8.3.2 **Public Employees Retirement System (PERS) Application:**

New employees shall submit a completed retirement application form for the Public Employees Retirement System (PERS) to the District at the time of employment. This Rule shall apply only to those employees entitled to retirement benefits.

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

8.3.3 **Social Security Number:**

New employees shall submit their social security number to the District at time of employment.

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

8.3.4 **Loyalty Oath:**

All new employees must take and subscribe to an oath or affirmation of loyalty as required by Article XX, Section 3 of the California State Constitution and the Education Code. Refusal to sign the loyalty oath shall cause the initial employment offer to be withdrawn.

REFERENCE: Education Code Section(s): 7000-7006 and 45160
California State Constitution, Article XX, Section 3

8.3.5 **Verification of Right to Work Status:**

All individuals are required to provide proof of their right to work in the United States and for the District.

8.3.5.1 No individual shall be allowed to be placed in paid status without having on file sufficient documentation as required by Federal law as to that individual's right to work for the District.

8.3.5.2 No proof will be required until after an initial offer of employment has been made. Every individual will be required to provide verification as required in this Rule.

8.3.5.3 An individual unable to provide verification of their right to work in this country and for the District pursuant to this Rule,

shall have their name removed from the eligibility list(s), and shall not be placed on the payroll of the District.

8.3.6 Requirement to Notify District of any Status Change:

8.3.6.1 Employees shall notify the District whenever their status changes, such as new address, new telephone number, marital status (for health and welfare benefits), increase or decrease in the number of dependents (health and welfare benefits and tax purposes), name of person(s) to notify in case of emergency, etc.

8.3.6.2 An employee who maintains an unlisted telephone number and/or post office box number shall provide the District with their telephone number and/or home address for use in emergencies.

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

8.3.7 Filing of Required License or Certificates:

Some classifications may require the employee to possess certain licenses and/or certificates. Every new employee must file copies of all licenses and/or certificates required as a condition of employment with the District. As these licenses and/or certificates are renewed, copies must also be filed in the District within ten (10) work days of receipt by the employee.

REFERENCE: Education Code Section(s): 45160 and 45261

8.3.8 Required Training or Inservicing of Employees:

Any classified employee who is required by the District to attend training/inservice sessions or otherwise engage in training of any kind in order to continue employment shall receive their regular rate of pay (or overtime rate of pay if required by these Rules) and be reimbursed for registration fees and supplies authorized and purchased for the training.

REFERENCE: Education Code Section(s): 45160 and 45261

CHAPTER 9 – EMPLOYMENT STATUS

9.1 EMPLOYMENT ASSIGNMENTS:

9.1.1 Certification of Assignments:

The Personnel Director shall certify that all persons appointed to a position in the Classified Service are appointed in accordance with these Rules and Regulations.

9.1.1.1 All changes of status for classified employees shall be in accordance with these Rules and Regulations.

9.1.2 Payroll Certification:

No person shall be appointed to a position in the Classified Service unless the assignment order is certified by the Personnel Director. The Personnel Director shall certify that the assignment has been made in accordance with these Rules.

9.1.2.1 The Personnel Director shall make a periodic review of the classified payroll roster; the roster shall include names, titles, periods for which payments are to be made, and rates of pay. If, upon review of a payroll report, it is found that any person named thereon has been employed in violation of any provision of the Merit System Act or these Rules and Regulations, notice of such violation shall be reported to the District and the Personnel Commission.

9.1.2.2 Whenever the Personnel Commission, after a public hearing, finds that any appointment has been made in violation of Rules and Regulations of the Personnel Commission as they apply to examination procedures, the Personnel Commission may order that no salary warrant thereafter be drawn to the employee so appointed for services rendered after said order.

9.1.2.3 Any violation of this article or the Rules and Regulations of the Personnel Commission as they apply to examination procedures shall constitute grounds for dismissal of the employee or employees guilty of such violations.

REFERENCE: Education Code Section(s): 45169, 45260, 45261, 45310, and 45311

9.2 EMPLOYEE ASSIGNMENT:

9.2.1 Assignment Data:

At the time of initial employment and upon each change in classification thereafter, each classified employee shall be furnished:

- 9.2.1.1 The employee's classification specification.
- 9.2.1.2 Notice of salary data which shall include:

Work location, starting time and hours per day; work year by months per year; reporting time and date and person to report to; names of supervisor and department head; type of appointment; ending date of appointment, if applicable; status of employee; salary data which includes: annual, monthly or pay period, daily, hourly, overtime and differential rate of compensation, whichever are applicable; any other information that would help the employee understand the conditions under which they are employed.
- 9.2.1.3 The notice shall be prepared in triplicate and signed by the employee: one (1) copy shall be given to the employee; one (1) copy shall be sent to the employee's supervisor; original signed copy shall be retained in the employee's personnel file.
- 9.2.1.4 The notice shall also be given to the employee in the event of a location transfer, increase or decrease in hours, or position change.
- 9.2.1.5 The notice of assignment shall be certified by the Personnel Director.

REFERENCE: Education Code Section(s): 45169, 45260, and 45261

9.2.2 Change of Assignment:

The District shall have the right to assign and reassign daily hours of work and shifts consistent with any negotiated labor agreement to meet the operational needs of the District. Written notice of a change in working hours shall be provided to an employee ten (10) work days prior to the effective date of the change unless an emergency situation exists, or the employee requests the change.

REFERENCE: Education Code Section(s): 45241

9.3 ORIENTATION OF NEW EMPLOYEE:

Each employee shall be advised by their immediate supervisor of the information relating to the employee's position, including but not limited to specific duty hours, break times, lunch period, work rules, department regulations, procedures for reporting absences, payroll reporting and the terms, conditions and procedures for performance evaluation.

REFERENCE: Education Code Section(s): 45301

9.4 **PROBATION STATUS:**

9.4.1 **Initial Probationary Period:**

The initial probationary period is the last part of the selection process. Consequently, persons appointed from eligibility lists must successfully complete their probationary period in order for them to be considered both permanent and selected. Employees may be released at any time during their probationary period without cause. Until the successful completion of their initial probationary period, persons shall serve at the pleasure of their appointing authority.

9.4.1.1 A new employee appointed from an eligibility list shall serve an initial probationary period of six (6) months or one hundred thirty (130) days of paid service, whichever is longer, in the Classified Service, excluding days absent for illness or injury. An employee who has been promoted or demoted shall serve a probationary period of six (6) months or one hundred thirty (130) days of paid service, whichever is longer, in the new class before attaining permanency in that class.

9.4.1.2 The probationary period before attaining permanency for those classes designated by the Personnel Commission as management classifications shall be one (1) year in the class, excluding unpaid leaves of absences.

9.4.1.3 The probationary period before attaining permanency for those classifications designated by the Personnel Commission as school police classes shall be as follows:

9.4.1.3.1 The probationary period for the following shall be two hundred forty-eight (248) days, excluding unpaid leave of absence:

- Lead Public Safety Dispatcher
- Public Safety Dispatcher
- School Police Officer
- School Police Officer Trainee

9.4.1.3.2 The probationary day for school police classes shall be based on a regular workday of eight (8) hours per day.

REFERENCE: Education Code Section(s): 45301

Revised: 01/11/2024

9.4.2 **Completion of Initial Probation:**

Each probationary classified employee shall be evaluated three (3) times during the probationary period.

- 9.4.2.1 The probationary period shall not include time served under substitute, limited-term, temporary, provisional or emergency appointment.
- 9.4.2.2 An employee who satisfactorily completes the probationary period in accordance with these Rules shall be deemed to be part of the permanent Classified Service.
- 9.4.2.3 An employee who accepts a position in another classification before attaining permanency in the Classified Service, must serve a probationary period of six (6) months or one hundred thirty (130) days of paid service, whichever is longer, in the new classification before attaining permanency with the District.
 - 9.4.2.3.1 A permanent employee who has been promoted, demoted, or transferred from a related class on the same salary range shall serve a probationary period of six (6) months or one hundred thirty (130) days of paid service, whichever is longer, in the new class before attaining permanency in that class.
- 9.4.2.4 Credit toward completion of probation shall be granted only for service in regular positions in the class after appointment from an appropriate eligibility list and shall include all approved vacation and paid holidays.
- 9.4.2.5 Credit toward completion of probation shall not include any sick leave or other paid or unpaid leave of absence, including personal necessity leave, industrial illness or accident leave, military leave with or without pay, jury duty or any time worked in other capacities, as follows:
 - Overtime; temporary service in another classification; subbing off track; working in "extra help" assignments; service in "limited-term" or other temporary assignments.

REFERENCE: Education Code Section(s): 45301

9.4.3 Subsequent Probation for Permanent Employees:

A permanent classified employee who has been promoted, laterally transferred to a related class, assigned to a lower unrelated class, or reorganization under these Rules shall serve a new probationary period in that class before attaining permanency in the class. (Rev. 5/7/20)

- 9.4.3.1 A permanent classified employee who has been promoted, reclassified to a higher class, laterally transferred to a related class, assigned to a lower unrelated class, or reorganization under these Rules may be involuntarily demoted or returned to their former

class due to unsatisfactory work performance. The employee shall not have the right to appeal unless the demotion results in separation from the Classified Service or is based on discrimination.

9.4.3.2 A permanent classified employee in probationary status shall retain all rights to appeal a discipline for cause or a probationary disqualification that results in the termination of employment.

9.4.3.3 Suspension of a permanent classified employee serving a probationary period in a new class shall constitute a disciplinary action and the employee shall retain the right to appeal.

REFERENCE: Education Code Section(s): 45256, 45260, 45261, 45269, 45270, 45272, 45281, 45301, 45302, and 45305

9.4.4 Rights of Probationary Employees:

A new employee who resigns in good standing during the initial probationary period shall, upon request, have their name restored in proper rank to the eligibility list. Such action shall not extend the life of either the eligibility list or the period of eligibility of the resigning employee. If such employee is subsequently rehired, they shall commence a new probationary period.

9.4.4.1 A new employee who is suspended or dismissed during their initial probationary period shall be notified in writing of the action taken. They shall not have the right of appeal.

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

9.4.4.3 An employee who has attained permanent status in the Classified Service, and who has been promoted to a higher classification, accepted voluntary demotion through the transfer process, or voluntarily transferred from a related class on the same salary range who does not successfully complete a six (6) month probationary period in the new classification, may be returned during the probationary period to a position in their former class which is equivalent to the one held prior to the promotion. If a vacant position does not exist, the employee shall displace the least senior employee, by hours in class, in the classification formerly held with the same number of hours per day and months per year. The person so placed back in a former classification during probation shall be notified in writing of the action taken.

9.4.4.4 Should the work for which a probationary employee has been appointed prove temporary instead of permanent as certified, and should such person be laid off without fault or delinquency on their part before completion of the probationary period, the person's name shall be restored to the eligibility list and the time served in the defunct position shall be credited toward completion

of the probationary period in any subsequent position to which appointed in the same class.

REFERENCE: Education Code Sections(s) 45250, 45261, 45269, 45270, 45272, 35281, 45301, 45302, and 45305

9.4.5 Dismissal of Probationary Employee:

A probationary employee may be dismissed without cause at any time during the probationary period, with subsequent approval and ratified by the Board of Education.

9.4.5.1 Notification of dismissal in writing shall be served on the probationary employee and a copy filed in the Personnel Commission.

9.4.5.2 An employee serving their initial probationary period does not have the right of appeal to the Personnel Commission.

9.4.5.3 A permanent employee who is serving a probationary period in a higher classification may be demoted to the class from which promoted without recourse to an appeal or hearing by the Personnel Commission; provided that such demotion does not result in separation of the employee from the permanent Classified Service.

9.4.5.4 Any classified employee (probationary or permanent) dismissed from employment with cause shall be removed from all eligibility lists and may not take examinations thereafter without the specific consent of the Board of Education.

REFERENCE: Education Code Section(s): 45256, 45260, 45261, 45269, 45270, 45272, 45281, 45301, 45302, and 45305

Revised: 10/04/2018

9.5 PERMANENCY:

9.5.1 Permanent Status:

Upon successful completion of the prescribed initial probationary period outlined in Rule 9.4.1, a classified employee shall be deemed to be a part of the permanent Classified Service.

9.5.2 Rights of Permanent Employees in Probationary Status:

An employee who has a permanent status in the Classified Service and who has been promoted to a higher class or involuntarily transferred, may be demoted involuntarily during the probationary period to their former class. The employee shall be notified in writing of the action. The employee shall not have the right to appeal.

9.5.2.1 A permanent employee who is suspended, dismissed, or demoted to other than their former class of employment shall, during their new probationary period, retain full rights of appeal of a permanent position.

9.5.3 Rights of Permanent Employees:

Every permanent classified employee shall be entitled to all rights, benefits and burdens conferred by law, Personnel Commission Rules, Board policy or labor agreement for classified employees including a vested right to their position. A permanent classified employee may only be removed for cause or due to layoff.

REFERENCE: Education Code Section(s): 45301

Revised: 07/12/2018

CHAPTER 10 – HOURS OF EMPLOYMENT AND OVERTIME

10.1 WORK SCHEDULES:

10.1.1 Workweek:

The workweek for a full-time classified employee shall be forty (40) hours, consisting of five (5) consecutive days of eight (8) hours per day. These Rules shall not be construed to restrict the extension of a regular workday or workweek on an overtime basis when such is necessary to carry on the business of the District.

10.1.1.1 When the District determines that a classified employee is to be assigned a workweek which includes Saturday or Sunday, the District shall notify the employee in writing. Classified employees shall not be required to work Saturday or Sunday, if they certify in writing that the assignment conflicts with religious beliefs or practices.

10.1.1.2 The workweek of an employee assigned an average workday of four (4) or more hours shall consist of not more than five (5) consecutive days.

10.1.1.3 Where the Board of Education has previously established the workweek of not less than thirty-five (35) hours, it may require the established workweek to be performed in four (4) consecutive days by any class or classes of employees or by employees within a class, when by reason of the work location and duties actually performed by such employees their services are not required for a workweek of five (5) consecutive days, with the concurrence of employee personnel as provided herein.

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

REFERENCE: Education Code Section(s): 45127 and 45132

10.1.2 Workday:

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

10.1.2.1 The Board of Education may establish a workday of less than eight (8) hours or a workweek of less than forty (40) hours for all or any of its classified positions.

REFERENCE: Education Code Section(s): 45127, 45132, 45260, and 45261

10.1.3 Nine Hour, Eighty Hour Per Two Week Schedule:

The Board of Education may establish a nine (9) hour-per-day, eighty (80) hours per two (2) week work schedule, provided the establishment of the work schedule has the concurrence of the employee organization, or in the absence of an employee organization, the concurrence of the affected employee. When a nine (9) hour per day, eighty (80) hours per two (2) week work schedule is established, the workweek shall be defined in either of the two (2) ways as follows:

10.1.3.1 The workweek shall begin at noon Friday and will end at noon the following Friday, with the employee working nine (9) hours each day except on alternate Thursdays when the employee will work eight (8) hours, and on alternate Fridays when the employee will not work.

10.1.3.2 The workweek shall begin at noon on any other day of the week and shall be defined so that no employee will be required to work more than forty (40) hours during any given workweek.

REFERENCE: Education Code Section(s): 45127 and 45132

10.1.4 Ten Hour, Forty Hour Per Week Schedule:

The Board of Education may establish a ten (10) hour per day, forty (40) hours, four (4) consecutive day workweek for all or certain classes of its employees or for employees within a class when, by reason of the work location and duties actually performed by such employees, their services are not required for a workweek of five (5) consecutive days, provided the establishment of such a workweek has the concurrence of the concerned employee, class of employees, or classes of employees as ascertained through the employee organization representing a majority of the concerned employees or class or classes of employees, as determined by a payroll deduction authorization for dues in classified employee organizations on file with the District on the last day of the month next preceding the date the Board action was taken.

REFERENCE: Education Code Section(s): 45127 and 45132

10.1.5 Twelve Hour, Eighty Hour Per Two Week Schedule:

The Board of Education may establish a twelve (12) hour per day, eighty (80) hours per two (2) week work schedule for the school police department, provided the establishment of the work schedule is consented to in a valid collective bargaining agreement.

10.1.5.1 When a twelve (12) hour per day, eighty (80) hour per two (2) week work schedule is established, it shall consist of seven (7) work days, six (6) of which shall be twelve (12) hour days, and one (1) of which shall be an eight (8) hour day.

REFERENCE: Education Code Section(s): 45127 and 45132

10.1.6 Adjustment of Assigned Time:

10.1.6.1 Any classified employee who with the permission or at the direction of their supervisor, works an average of thirty (30) minutes or more per day in excess of their regular part-time assignment for a period of twenty (20) or more consecutive work days shall have their regular assignment adjusted upward to reflect the longer hours, effective at the beginning of the next pay period.

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

REFERENCE: Education Code Section(s): 45137, 45260, and 45261

10.1.7 Decrease in Assigned Time:

A District initiated decrease in the assigned hours per day, hours per week, days per year or months per year of a classified employee shall be considered a layoff for lack of work or lack of funds. All District initiated decreases in assigned time shall be in accordance with the layoff procedures in these Rules.

REFERENCE: Education Code Section(s): 45260, 45261, and 45308

10.1.8 Benefits for Assignments of Less Than Eight Hours/Twelve Months:

All employees assigned less than eight (8) hours per day and/or less than twelve (12) months per year shall be entitled to sick leave and all other benefits conferred by law on classified employees. These employees shall also be entitled to all leaves and benefits granted by the Board of Education to a majority of the regular full-time classified employees. These benefits shall be provided on at least a prorated basis.

REFERENCE: Education Code Section(s): 45132, 45260, and 45261

10.1.9 Meal Period:

All employees assigned to work more than six (6) consecutive hours per day shall be provided an unpaid, uninterrupted meal period of at least thirty (30) minutes, except that when an assignment of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of the District and employee. For full-time employees, the meal period shall be provided at or about the midpoint of the work shift.

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

10.1.10 Rest Period:

Each employee shall be allowed a fifteen (15) minute rest period during any four (4) hour work period, which is not interrupted by a meal period or similar break. Such rest period must be taken at the assigned work site, unless prior approval has been obtained from the immediate supervisor.

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

10.1.10.2 Employees shall be granted rest periods which, insofar as practicable, shall be in the middle of each work period, but scheduled no later than prior to the last hour of the employee's work day.

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

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

10.1.11 Split Shift Assignments:

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

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

10.1.12 Additional Hours and/or Months within a Classification:

Consideration shall be offered to an employee based upon, but not limited to seniority, job performance, and qualifications. (Rev. 6/6/19)

10.1.12.1 When additional hours are assigned to a part-time position on a permanent basis first consideration shall be offered to the most senior part-time employee in the same class at that site. If the senior employee declines the assignment it shall be offered to the remaining employees in the class at the site in descending order of seniority. (Rev. 6/6/19)

10.1.12.1.1 If the employees at the site decline the assignment, consideration shall be given to the remaining employees in the class through the transfer process pursuant to Chapter 11. (Rev. 6/6/19)

10.1.12.1.1.1 Employees must request additional hours by submitting a Request for Transfer/Reassignment form to the Personnel Commission office. (Rev. 6/6/19)

10.1.12.1.1.2 All qualified employees requesting additional hours and/or months shall be certified in addition to eligibles from eligibility lists established by competitive examination. (Rev. 6/6/19)

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

10.2 OVERTIME:

10.2.1 Compensation for Overtime:

All overtime hours as defined in this Rule shall be compensated at the rate of pay equal to time and a half (1.5) the regular rate of pay of the employee for all hours worked in an overtime status. Overtime is defined to include any time worked in excess of eight (8) hours in any one day or on any one shift, or in excess of forty (40) hours in any calendar week, whether such hours are worked prior to the commencement of a regularly assigned starting time or subsequent to the assigned quitting time. Only the Superintendent or designee shall authorize overtime work. No one shall order or authorize overtime unless it is compensable.

10.2.1.1 For employees who are assigned to work an average of four (4) hours per day during the regular workweek, all hours worked beyond the workweek of five (5) consecutive days shall be compensated at the overtime rate commencing on the sixth (6th) and seventh (7th) day of work. For employees who are assigned to work an average of less than four (4) hours per day during the regular workweek, all hours worked beyond eight (8) hours on the sixth (6th) day shall be compensated at the overtime rate, and all hours worked on the seventh (7th) day shall be compensated at the overtime rate.

10.2.1.2 All hours worked by an employee on any holiday designated by these Rules, the law, or the Board of Education shall be compensated at the overtime rate of pay in addition to regular pay received for the holiday. This provision shall apply to employees excluded from other overtime provisions of these Rules.

10.2.1.3 Paid service includes time during which an employee is excused from work because of holidays, sick leave, vacation, compensatory time off or other paid leave of absence.

- 10.2.1.4 When a twelve (12) hour per day, eighty (80) hour per two (2) week work schedule has been established by the Board of Education, the workweek shall be defined so that no employee will be required to work more than forty (40) hours during any given workweek.
- 10.2.1.5 When a ten (10) hour workday, four (4) day workweek has been established by the Board of Education, overtime is ordered and authorized working time in excess of ten (10) hours of a regular work day or in excess of forty (40) hours of work in a four (4) consecutive day work week.
- 10.2.1.6 When a nine (9) hour per day, eighty (80) hour per two (2) week work schedule has been established by the Board of Education, overtime is ordered and authorized working time in excess of the required workday, which shall not exceed nine (9) hours.
- 10.2.1.7 The regular rate of pay for overtime purposes shall be the employee's hourly rate of pay, plus any differential rate, premium rate, or longevity rate paid on an hourly basis.

REFERENCE: Education Code Section(s): 45128, 45131, 45132, 45133, 45260, and 45261

10.2.2 Classifications Exempt from Overtime Payment:

Classified employees in classes designated by the Personnel Commission as executive or administrative as set forth in the classification plan and classified salary schedules, shall be exempt from the overtime provisions of the Education Code and these Rules. To be exempt from overtime, positions or classes of positions must clearly and reasonably be management positions.

- 10.2.2.1 In exempting executive and administrative classes from overtime provisions, the Personnel Commission certifies that these positions are clearly and reasonably management positions and that the duties, flexibility of hours, salaries, and authority of persons in these classes of positions are of such a nature that they should be set apart from those positions which are subject to overtime provisions. The Personnel Commission further certifies that employees serving in such excluded classes of positions will not be unreasonably discriminated against as a result of the exclusion.
- 10.2.2.2 A person in an executive or administrative class who is required to work on a holiday or on a holiday approved by the Board of Education, shall be paid, in addition to their regular pay for the holiday, compensation or given compensatory time off at a rate not less than their normal rate of pay.
- 10.2.2.3 The Board of Education may, with the approval of the Personnel Commission, exempt specific classes of positions from compensation for overtime in excess of eight (8) hours in one (1)

day, provided that hours worked in excess of forty (40) hours in a calendar week shall be compensated on an overtime basis. Such exemption shall be applied only to those classes in which the Board of Education and the Personnel Commission specifically find to be subject to fluctuations in daily working hours not susceptible to administrative control such as security patrol and recreational classes but shall not include food service and transportation classes.

REFERENCE: Education Code Section(s): 45130, 45260, and 45261

10.2.3 Compensatory Time Off:

By mutual agreement of the employee and supervisor, overtime may be compensated as compensatory time off.

10.2.3.1 A record of compensatory time worked and taken shall be maintained in the department.

10.2.3.2 Compensatory time may be taken in lieu of any other authorized leave.

10.2.3.3 Compensatory leave shall be approved by the immediate supervisor before it is taken.

10.2.3.4 An employee shall use earned compensatory time within the twelve (12) calendar months following the date on which the time was earned.

10.2.3.5 Compensatory time is earned at the regular or overtime rate as established in these Rules. It may be taken in units of quarter (.25) hour or more, with the approval of the immediate supervisor.

REFERENCE: Education Code Section(s): 45128 and 45129

10.2.4 Assignment of Overtime:

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

10.2.4.1 Special skills and/or training required to perform the work.

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

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

10.2.5 Call Back Time:

Whenever an employee is called to work by their supervisor or designee on a day which is not a regularly scheduled work day, the employee shall receive a

minimum of two (2) hours pay or pay for the hours worked at the appropriate salary rate, whichever is greater.

10.2.6 Call in Time:

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

REFERENCE: Education Code Sections(s) 45250, 45261, 45269, 45270, 45272, 35281, 45301, 45302, and 45305

CHAPTER 11 – TRANSFER

11.1 TRANSFER:

11.1.1 Definition of Vacancy:

For purpose of this Rule, a vacancy shall occur when a new position is created, or an existing position becomes vacant.

11.1.1.1 Definition of Transfer:

The reassignment of an employee, to another school or department, without examination from one position to another within the class having the same salary range; or to a position in a similar or related class (as determined by the Personnel Commission) having the same salary range. (Rev. 6/6/19)

11.1.1.1.1 A lateral transfer is the transfer of an employee to a position in a similar or related class (as determined by the Personnel Commission) with the same salary range.

11.1.1.1.2 A position transfer is the relocation of an employee between job sites or between departments at the same job site, within the same classification. (Rev. 6/6/19)

11.1.1.1.3 Transfers shall not change the employee's salary rate, anniversary date, accumulated illness leave and accumulated vacation credit, or in any other manner reflect adversely upon their rights, as provided in law and these Rules.

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

11.1.2 Voluntary Transfer:

Transfer requests may be granted at any time, subject to the availability of positions and the qualification of the applicant. Employees who have requested a transfer shall be given first consideration for a transfer based upon, but not limited to seniority, job performance, qualifications, and the needs of the District.

11.1.2.1 Denial of a Transfer: The Personnel Commission shall give the employee official notification of the disposition of the application to transfer and upon written request of the unit member, the appropriate District manager will provide feedback to the employee.

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

11.1.3 Administrative Assignment (Involuntary Transfer):

The Superintendent or designee retains the right in accordance with these Rules to transfer staff at any time such assignment is in the best interest of the District. The employee must be given a forty-eight (48) hour notice prior to the transfer. The employee shall be provided an official copy of the transfer notice within five (5) work days.

11.1.3.1 Conference to Discuss Involuntary Transfer:

An employee who has been involuntarily transferred may, within five (5) work days after receiving written notification, request and shall be granted a conference with the appropriate administrator to discuss the administrative reassignment. An employee may also request a written rationale for the administrative assignment. A copy of the written rationale shall become part of the employee's personnel file.

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

11.1.4 Lateral Transfer:

An employee may request voluntary transfer or be administratively assigned from their position to another position in a related class. The determination of whether classes are sufficiently related to permit transfer between them shall be made by the Personnel Director. The following factors to be considered in determining whether classes are sufficiently related are: duties, minimum qualifications, and examination content.

11.1.4.1 The extent to which two classes are comparable may depend on additional factors deemed appropriate by the Personnel Commission.

11.1.4.2 A permanent employee who laterally transfers to a position in a comparable class in which they have not previously completed a probationary period shall be considered probationary in that class for a period of six (6) months or one hundred thirty (130) days of paid service, whichever is longer. At any time during the probationary period, the employee may be returned (transferred) to their former class without right of appeal unless such action results in layoff, demotion, or reduction in assigned time. In the latter cases, the employee will have the same appeal rights as a permanent employee who is demoted or dismissed.

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

11.1.5 Periods for Lateral Transfer:

A permanent employee who transfers to a position from a class in which the employee has not previously completed a probationary period shall be considered probationary in the new class for the standard probationary period in Rule 9.4.1.

At any time during this probationary period, the employee may return (transferred) to their former class without the right to appeal.

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

11.1.6 No Adverse Effect from Transfer:

A transfer shall not change the employee's range and step placement on the salary schedule, salary increment date, accumulated leave and vacation credit, or otherwise adversely affect the employee's rights as provided in these Rules.

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

11.1.7 Seniority Credit:

Transfers shall have no adverse impact upon the employee's seniority.

11.1.7.1 There shall be no effect upon seniority when both positions are in the same class.

11.1.7.2 When the transfer is to a position in another class, seniority in the new class shall commence with the employee's first day of paid service in the new class. The employee shall retain seniority in the former class as well, as total seniority with the District.

11.1.8 Submission for Request for Transfer:

An employee may request a transfer to a vacant position by submitting a Request for Transfer/Reassignment form to the Personnel Commission office. Consideration shall be given to all properly submitted request for transfer. Transfer requests will be held on file for transfer consideration until the following June 30.
(Rev. 6/6/19)

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

11.1.9 Certification of Names to Interview:

The Personnel Director shall maintain a transfer and reinstatement list. Whenever the appointing authority request an eligibility list to fill an existing vacancy in a classification, the Personnel Director shall also submit the appropriate transfer and reinstatement list (if any). The appointing authority may fill a vacant position by either a selection from the transfer and reinstatement list or eligibility list.

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

11.1.10 Employee Right to File a Complaint:

An employee may file a complaint pursuant to Chapter 18 if the employee believes that procedure for transfer has not been followed in accordance with these Rules. The complaint procedure shall not be available to challenge the right to transfer or deny a transfer in accordance with these Rules.

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

Revised: 10/04/2018

11.2 DEMOTIONS:

11.2.1 Voluntary Demotion:

A permanent employee may request a voluntary demotion to a vacant position in a class with a lower salary rate, provided that the employee has previously achieved permanent status in that class, or the Personnel Director has determined that the classes are sufficiently related to permit a demotion based on similar duties, minimum qualifications, examination content and other related factors and the request for demotion is to a related class in the same occupational group. All demotion requests shall require the approval of the Personnel Director. Demotion requests shall be certified for a vacant position in addition to all other eligibles for interview.

11.2.1.1 A permanent employee may take a voluntary demotion to remain in a current position rather than being reassigned.

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

11.2.1.3 A voluntary demotion is available to a probationary employee, who does not hold permanent status in the District, only in lieu of layoff and according to this Rule.

11.2.1.4 An employee who demotes to a class where permanent status has not been held shall complete the appropriate probationary period in the new class.

11.2.1.5 Salary placement for employees who demote to a class with a lower maximum salary rate shall be in accordance with Rule 17.2.10.

REFERENCE: Education Code Section(s): 45272

11.2.2 Involuntary Demotion:

Involuntary demotion is a disciplinary action for cause and is subject to the disciplinary procedures in these Rules.

11.2.2.1 A permanent employee who has been promoted to a higher class or transferred to a new class may be involuntarily returned to the former class, during the probationary period without the right to appeal, pursuant to these Rules.

11.2.2.2 Salary placement upon involuntary demotion shall be in accordance with Rule 17.2.10.

REFERENCE: Education Code Section(s): 45302 and 45304

11.3 RESTORATION/REINSTATEMENT:

11.3.1 Restoration of Former Employee:

A former permanent employee who resigns in good standing may be reinstated to a vacant position in their former class and status within thirty-nine (39) months of the last date of paid service. In addition, the former employee may be reemployed to a vacant position in a lower related class, if qualified, as determined and approved by the Personnel Commission or in a limited-term status in the same or lower class. Such employment actions are discretionary with the appointing authority.

REFERENCE: Education Code Section(s): 45260, 45261, and 45309

11.3.2 Restoration of Current Employee to Former Class:

An employee who takes a voluntary demotion may be restored to a vacant position in their former class or to a vacant position in a related lower class as determined and approved by the Personnel Commission within thirty-nine (39) months after demotion. Except for demotion(s) in lieu of layoff, which are covered by the layoff provisions of these Rules, restoration is discretionary with the appointing authority.

REFERENCE: Education Code Section(s): 45260, 45261, and 45309

11.3.3 Effects of Reinstatement:

Reinstatements or reemployment of a current employee or the reinstatement of a former employee shall have the following effects:

11.3.3.1 A former employee reinstated to a position in a former class shall be placed at the same salary step as when the person left the District, and on the current salary range for the classification. If reinstated in a lower related class, the employee is placed at the rate closest that of the step to which they would be assigned if reinstated to their former class.

11.3.3.2 A current employee being reinstated to a former higher class would be placed at the salary range of the higher class and then to the step required in these Rules if the employee was receiving a promotion.

- 11.3.3.3 A reinstated former employee would receive restoration of accumulated sick leave and seniority as of the date of separation.
- 11.3.3.4 A reinstated former employee receives restoration of the former anniversary date, deducting time away from the District and without step advancement credit for the break in service.
- 11.3.3.5 A reinstated former employee would receive restoration of any longevity steps granted prior to resigning, without longevity step advancement credit for the break in service.

REFERENCE: Education Code Section(s): 45260, 45261, and 45309

11.3.4 Clearance of Restored Employee:

Employees who are reemployed or restored after a break in employment shall be required to undergo the same employee clearance as a new employee (i.e., fingerprinting, drug testing, and tuberculosis clearance).

REFERENCE: Education Code Section(s): 45260, 45261, and 45309

11.3.5 Assignment of Employees with Disabilities:

When a permanent employee becomes unable to perform the duties of the classification because of illness or injury as determined by a medical authority, reasonable effort shall be made to place the employee in a position in which the essential duties can be performed with or without reasonable accommodations. Reassignment, if any, shall be at the discretion of the appointing authority, with the approval of the Personnel Commission in the cases noted below:

11.3.5.1 Accommodation:

- 11.3.5.1.1 An employee with disabilities in the regular position may be altered in accordance with their disability. Such changes in duties shall be informally reported to the Personnel Director who shall determine whether the position requires a classification study.
- 11.3.5.1.2 An employee with disabilities may accept demotion or transfer to a less demanding class, with the approval of the Personnel Commission.
- 11.3.5.1.3 An employee with disabilities may be assigned to a position in a higher class with the approval of the Personnel Commission but shall receive no salary benefit from such assignment until they can be appointed to a higher class in accordance with the Rules and procedures on eligibility and appointment.

11.3.5.2 Effect of Refusal by Employee:

An employee with disabilities may refuse assignments to other classes without affecting rights under sick leave provisions of the law and these Rules. However, there is no obligation for the appointing authority to renew offers of reassignment which have been refused or to make alternative offers.

CHAPTER 12 – PERSONNEL FILES

12.1 PERSONNEL FILES:

12.1.1 Maintenance of File:

Personnel files shall be maintained by the Human Resources department.

12.1.2 Inspection of Personnel File by Employee:

All personnel information concerning an employee is confidential. An employee shall have the right to inspect their personnel file upon request provided that the request is made at a time when the employee is not actually required to render services to the District. An employee shall have access to all material in their personnel file, except that such materials subject to inspection shall not include confidential ratings, reports, or records which were:

12.1.2.1 Obtained prior to the employment of the person involved.

12.1.2.2 Prepared by identifiable examination committee members.

12.1.2.3 Obtained in connection with a promotional examination.

REFERENCE: Education Code Section(s): 45260, 45261, and 44031
Government Code Section(s): 6254
Labor Code Section (s): 1198.5

12.1.3 Inspection of Personnel File by Others:

Only those persons with a “need to know” or “right to know” may access an employee’s personnel file. An employee may authorize inspection of the personnel file by another person if written permission is provided.

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

12.1.4 Signature/Date Required:

Written material placed in an employee’s personnel file shall be signed and dated by the person originating the document (see Rule 13.1.9).

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

12.1.5 Derogatory Information:

Information of a derogatory nature, except material referred to in Rules 12.1.2.1, 12.1.2.2, and 12.1.2.3 shall not be entered or filed, unless and until the employee is given notice and an opportunity to review and comment thereon. Such review shall take place during normal business hours and the employee shall be released from duty for this purpose without salary reduction. An employee shall have the

right to enter, and have attached to such derogatory statement, their own comments thereon.

REFERENCE: Education Code Section(s): 44032, 45260, and 45261

12.1.6 Removal of Derogatory Material:

If the Personnel Commission sustains a grievance, the Personnel Commission shall recommend to the District that the derogatory material be removed from the employee's personnel file. At the point that the grievance is not sustained by the Personnel Commission or the time period for filing a grievance related to derogatory information has passed without the filing of a grievance, the derogatory material shall be considered a Class 1 Permanent Record and shall not be removed.

REFERENCE: Education Code Section(s): 45260 and 45261
Labor Code Section (s): 1198.5

12.1.7 Personnel File Log:

The Human Resources department shall maintain a log indicating the persons who have examined a personnel file as well as the date such examinations were made. Such log shall be made available to the employee or the employee's representative (with written permission). Employees who need access to personnel files in the normal course of their duties shall not be required to log the use of the file.

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

CHAPTER 13 – PERFORMANCE EVALUATIONS

13.1 GENERAL POLICY:

13.1.1 Policy Statement:

The immediate supervisor(s) have the responsibility for evaluating each employee assigned to their department. The employee performance evaluation report serves as an important tool for both supervisor and employee to ensure efficient work performance. Performance evaluations are designed and intended to provide an objective determination of employee skills, abilities, and work behavior. Unsatisfactory evaluations require an explanation of unsatisfactory performance and specific suggestions for improvement.

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

13.1.2 Administration of Performance Evaluation System:

The District shall administer a performance evaluation for all classified employees. The District shall be responsible for ensuring that evaluations are properly completed, submitted and placed in the employee's personnel file. The evaluation(s) shall be available for administrative review in connection with promotional examination and disciplinary actions.

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

13.1.3 When Evaluations are to be Made:

All regular classified employees shall be evaluated by their immediate supervisor(s) in accordance with the following schedule:

13.1.3.1 All probationary employees shall be evaluated not less frequent than three (3) times during the probationary period.

13.1.3.1.1 Promoted and reclassified regular and management employees shall be evaluated during their probationary period in accordance with the above schedule.

13.1.3.2 All permanent classified employees shall be evaluated not less than once every two (2) years after receiving permanency in the assignment not less than fifteen (15) workdays prior to the end of the employee's work year. The evaluation period shall be July 1 through June 30.

13.1.3.2.1 Employees that have worked in the same classification for three (3) years or longer and have maintained satisfactory evaluations for at least the three (3) most recent evaluation periods may be evaluated every two (2) years.

13.1.3.3 In case of unsatisfactory work performance an employee may be given a special evaluation at any time during employment, if deemed necessary by the immediate supervisor(s).

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

13.1.4 Evaluation Rater:

Each employee is to be evaluated by their immediate supervisor(s). The immediate supervisor is an employee in a higher classification, designated as supervisor or management who assigns, checks, and supervised the majority of the employee's work. In cases where an employee is assigned to more than one (1) department, site and/or classification, the employee shall receive a joint evaluation.

13.1.4.1 Designated supervisory employee shall rate and sign the formal evaluation form. Supervisors may receive input from employees having lead function over the employee to be evaluated.

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

13.1.5 Evaluation Forms:

Performance evaluations shall be made on forms prescribed by the District.

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

13.1.6 Evaluation Meeting:

In completing the performance evaluation form, the supervisor shall have a conference with the employee. The meeting shall be scheduled by the supervisor to allow time for a discussion with the employee.

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

13.1.7 Recommendations for Improvement:

Any below standard evaluations shall include recommendations for improvement and provisions for assisting the employee in implementing any recommendation made.

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

13.1.8 Signature on Form:

The completed evaluation form shall be signed by the evaluator and the employee being evaluated. The employee's signature indicates that the evaluation has been seen, discussed with the employee, and a copy has been received. The employee's signature shall not be construed to mean that the employee necessarily agrees with the content of the evaluation.

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

13.1.9 Distribution of Evaluation:

The completed evaluation form shall be distributed as follows:

- 13.1.9.1 The original shall be sent to the Human Resources department for inclusion in the employee's personnel file.
- 13.1.9.2 One (1) copy shall be given to the employee being evaluated.
- 13.1.9.3 One (1) copy is retained by the evaluator.

REFERENCE: Education Code Section(s): 44031, 45260, and 45261

13.1.10 Derogatory Information:

Employees shall be provided with copies of derogatory written material ten (10) workdays before it is placed in the employee's personnel file. The employee shall be given an opportunity during normal working hours and without loss of pay to initial and date the material and to prepare a written response to such material. The written response shall be attached to the material and placed in the personnel file.

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

13.1.11 Appeal Process:

An employee may use the grievance process in these Rules only on the grounds that the evaluation procedures have been violated in the preparation or completion of the performance evaluation form.

REFERENCE: Education Code Section(s): 44031, 45260, and 45261

CHAPTER 14 – VACATIONS

14.1 VACATION:

The subject of this Rule is within the scope of representation under Section 3543.2 of the Government Code. If an agreement on this subject is in effect between the District and an exclusive representative of employees in a recognized bargaining unit, the agreement shall supersede the provisions of this Rule as they apply to employees in that unit.

14.1.1 Regular and Confidential Employees:

Permanent regular and confidential classified employee shall earn paid vacation benefits while on paid status, on a fiscal year basis, July 1 through June 30. The Board of Education provides that an employee earns vacation according to the following schedule:

Years of Service	Days of Vacation	Monthly Accrual
1 through 2	10	.83
3 through 4	12	1.00
5 through 11	15	1.23
12 through 17	17	1.42
18	18	1.50
19	19	1.58
20	20	1.67
22	22	1.83
25	25	2.08

14.1.2 Crediting Vacation to Employee's Account:

At the beginning of each fiscal year, employees may be granted, in advance, the number of vacation days expected to be earned that fiscal year.

14.1.2.1 If employed five (5) days per week, seven (7) to eight (8) hours per day, or four (4) days per week, ten (10) hours per day, a regular classified employee shall accrue vacation at the rate of not less than five-sixths (.833) of a day per month of service, provided they are in paid status for more than one half (.5) of the working month.

14.1.2.2 For all employees regularly employed for fewer than thirty-five (35) hours a week, regardless of the number of hours or days worked per month, the vacation credit shall be computed at not less than 0.03846 of an hour of vacation for each hour of paid service, excluding overtime.

14.1.3 Vacation Rate of Pay:

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

14.1.4 Granting of Vacation:

Vacation shall be granted at a time most convenient to the District and shall be arranged in advance with the supervisor.

14.1.4.1 An employee may be granted vacation at any time during the school year though not earned at the time the vacation is taken.

14.1.4.2 Fractional days of vacation may be granted. For recordkeeping purposes vacation shall be accrued and taken in quarter (.25) hour units.

14.1.4.3 Earned vacation shall not become a vested right until completion of the initial six (6) months of employment.

14.1.4.4 Vacation allowance is exclusive of regularly assigned days off and legal and Board approved holidays.

14.1.4.5 Vacation shall not be earned while an employee is absent without leave.

14.1.5 Part-Time Employees:

Regular employees working less than a full eight (8) hour day shall earn vacation benefits in direct proportion to full-time employees.

14.1.6 Vacation Credit for Partial Month:

An employee in paid status for fifty percent (50%) or more of the month shall receive vacation credit for that month.

14.1.7 Vacation Earned in Paid Status:

Vacation is earned at all times a regular employee is in paid status. Including paid holidays and all paid leave of absence, excluding overtime. Vacation allowance is exclusive of regularly assigned days off and legal and Board approved holidays. Vacation credit shall not be earned while an employee is absent without leave.

14.1.8 Probationary Employees Vacation Rights:

Probationary employees shall not have a right to use earned vacation until the completion of six (6) months of employment.

14.1.9 Vacation Scheduling:

An employee shall take vacation at a time convenient to both the employee and the supervisor. The employee shall be allowed to take all earned vacation in an unbroken period, if it is the employee's wish to do so.

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

14.1.10 Unearned Vacation Upon Termination:

When a classified employee terminates and has been granted vacation which was not yet earned at the time of termination of the employee's services, the District shall deduct from the employee's final check the full amount of salary which was paid for such unearned days of vacation taken.

14.1.11 Earned Vacation Upon Termination:

Upon separation from service, employees shall be entitled to lump sum compensation for all earned and unused vacation, at their regular rate of pay, except if the employee has not completed six (6) months of employment in a regular status shall not be entitled to such compensation.

14.1.12 Vacation Carryover:

A regular classified employee may carry over more than fifteen (15) days, but not to exceed a total accumulation of twenty-five (25) days.

14.1.13 Holidays and Vacation:

When a paid holiday falls within a scheduled vacation, the employee shall be paid for the holiday and shall not be charged vacation.

14.1.14 Interruption of Vacation:

Regular employees may interrupt or terminate vacation leave to begin another type of paid leave, without a return to active service, provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption or termination of vacation.

14.1.15 Denial Request to Take Vacation:

If a nine (9), ten (10), or eleven (11) month employee was denied vacation leave, the employee shall have their vacation leave balance paid, in excess of the fifteen (15) days allowed to carry over at the end of the school year upon request. If a twelve (12) month employee was denied vacation leave, the District shall pay for all of the employee's accumulated vacation in excess of the twenty-five (25) days carryover limit.

REFERENCE: Education Code Section(s): 45190, 45197, 45260, and 45261
Government Code Section(s): 3543.2

CHAPTER 15 – LEAVE OF ABSENCE

15.1 GENERAL PROVISIONS:

15.1.1 Definition of Leave of Absence:

A leave of absence is an authorization for a regular employee to be absent from duty for a specific period of time for an approved purpose.

15.1.2 Right to Position Upon Return:

An employee granted a paid or unpaid leave of absence for thirty (30) days or less has the right to return to the position held at the time the leave was granted without loss of privileges or benefits. Upon return of an unpaid leave over thirty (30) days, the employee will be placed either in the former position, a position in the same classification, or in a related position with the same salary range.

15.1.3 Authorized Leave is not a Break in Service:

Industrial accident/illness leave, other paid leave, military leave, and unpaid illness leave shall not constitute a break in service.

15.1.4 Cancellation of Voluntary Leaves:

The Board of Education may cancel any voluntary leave of absence to the extent consistent with Federal and State laws for good cause by giving the absent employee due notice. Due notification shall allow sufficient time for the employee to return to work.

15.1.5 Failure to Report for Duty After Leave Expires:

Failure to report for duty within three (3) work days after a leave expires or has been cancelled shall be considered abandonment of position and the employee will be terminated to the extent permitted under Federal and State laws. Such termination shall be considered as termination for cause and treated in the same manner as any other disciplinary action.

15.1.6 Order of Available Leaves for Illness or Injury:

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

15.1.6.1 Industrial accident and illness leave (if applicable).

15.1.6.2 Accrued and advanced sick leave.

15.1.6.3 Accrued or credited vacation days by request of employee.

15.1.6.4 Extended illness leave at fifty percent (50%) of regular pay. Sick leave donations are paid concurrently with extended illness leave.

15.1.6.5 Accrued or credited vacation days can be used in conjunction with extended illness leave.

15.1.7 Leaves Not Granted as a Matter of Right:

An employee shall not be entitled to a leave of absence as a matter of right. Upon request for a leave of absence signed by the employee and stating the reason for the leave, the appointing authority may approve or disapprove the request.

15.1.8 Verification of Leave:

The District shall have the right to require verification of all leaves requested and taken by an employee.

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

15.2 SICK LEAVE:

15.2.1 Definition of Sick Leave:

Sick leave is the authorized absence from duty of a regular classified employee when the absence is due to:

15.2.1.1 Physical or mental inability to perform the usual and customary duties of the position due to illness, injury, or for legally established quarantine.

15.2.1.2 A visit to a licensed physician, dentist, medical practitioner, psychologist, or other therapist for examination, treatment, consultation, or therapy.

15.2.2 Number of Sick Leave Days Per Year:

Every regular classified employee shall earn one (1) day of sick leave per full month of paid status to a maximum of twelve (12) days per year.

15.2.2.1 New classified employees of the District accrue sick leave from the first (1st) of the month which employed, provided their employment commences on or before the fifteenth (15th) of the month. If employment commences on or after the sixteenth (16th) of the month, sick leave is accrued from the first (1st) of the following month.

15.2.2.2 Sick leave will be accrued to the end of the previous month if an employee's last day of work is on or before the fifteenth (15th) of the month. Sick leave will be accrued to the end of the month for an employee ending employment on or after the sixteenth (16th) of the month.

15.2.2.3 Employees assigned to a work year for less than twelve (12) months or less than forty (40) hours per week shall accrue sick leave credit pro-rated in the portion the number of months compared to twelve (12) and the number of hours worked per week compared to forty (40).

15.2.2.4 Sick leave is not earned for overtime or during any period of leave of absence without pay.

15.2.3 Pay Rate for Sick Leave:

Pay for sick leave shall be the same pay the employee would have received had they worked that day.

15.2.3.1 Authorized paid holidays occurring during the period in which an employee is on paid sick leave shall not be counted as sick leave.

15.2.3.2 An employee who is on sick leave may not continue to receive income from the District if they accept other employment.

15.2.4 Carryover of Sick Leave:

Sick leave accrued, but not used, shall carry over from one (1) fiscal year to another, with no limit on accumulation.

15.2.5 Probationary Employees' Use of Sick Leave:

New probationary employees shall not be eligible to take more than six (6) days of paid sick leave or proportionate amount to which they may be entitled during their initial probationary period. This Rule shall not apply to those regular classified employees who have previously completed a probationary period in the District.

15.2.6 Sick Leave Given in Advance at Start of Fiscal Year:

At the beginning of each fiscal year, the sick leave account of the employee shall be increased by the number of days of paid sick leave which would normally be earned in the ensuing fiscal year.

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

15.2.7 Notification of Absence:

Classified employees are required to notify their supervisors when they are to be absent for illness. The reasons for the absence must be stated at the time of the notification. If the absence for illness is to be longer than one (1) day, subsequent notification for each day's absence is required unless the duration of the absence can be stated at the time of the notification. If the absence is to be longer than one

(1) day, the classified employee shall notify their supervisor the day before returning so that substitutes, if employed, may be released.

15.2.8 Notification of Absence Exceeding One Month:

For an absence of one (1) month or longer because of personal illness, injury or quarantine, a physician's report will be required for each month of absence. The requirement that these reports be submitted monthly during an absence will continue until the employee either returns to duty or until their employment is terminated. The Assistant Superintendent, Human Resources or designee may, at their discretion, require the physician's report at more frequent intervals.

15.2.9 Notification of Return to Work:

In order to allow the District the opportunity to make arrangements for the return of an absent employee, the employee shall notify their immediate supervisor of their pending return as soon as possible, but not later than 3:00 p.m. the work day preceding the employee's return. If an employee fails to notify their immediate supervisor and a substitute has been assigned to work the day the employee returns, the employee may be sent home for the day without pay.

15.2.10 Doctor's Note May Be Required:

The Superintendent or designee may require the employee to submit a statement from a state-licensed physician verifying the nature and/or duration of the illness. In addition, the District may send an employee to a District appointed physician for examination at the District's expense. If a Doctor's statement is required, the employee shall submit the Doctor's statement to the Human Resources office.

15.2.11 Doctor's Release After Hospitalization or Extended Illness:

An employee returning from surgery, illness requiring hospitalization or extended illness regardless of the duration of the absence may be required to provide medical verification of fitness to fully perform all the duties of their assigned position. Extended illness is more than ten (10) days.

15.2.12 Submission of Doctor's Notes:

Doctor's reports and/or clearances to return to work shall be submitted to the Human Resources office.

15.2.13 General District Right to Require Medical Exam:

The District shall have the right to have an employee examined by a state-licensed physician, at district's expense, whenever there is a question as to the employee's physical, mental, or emotional ability to perform the duties and/or responsibilities of their position; regardless of whether or not the employee has claimed or received paid benefits under the provisions of these Rules and Regulations.

15.2.14 No Sick Leave Payoff When Employee Leaves:

If an employee leaves the employment of the District, accumulated unused sick leave will not be credited to the employee's final payment. Upon retirement, the unused accumulated illness leave of an employee who is a member of PERS will be credited by PERS at the rate 0.004 years of service for each unused day of earned sick leave.

REFERENCE: Education Code Section(s): 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45196.5, 45200, 45203, 45260, and 45261

15.3 EXTENDED SICK LEAVE:

15.3.1 Extended Sick Leave:

All regular classified employees who have exhausted all accrued and advanced sick leave shall receive extended sick leave benefits subject to the following conditions:

- 15.3.1.1 At the beginning of each fiscal year, employees will be credited with one hundred (100) workdays of extended sick leave. Extended sick leave shall be paid at fifty percent (50%) of the employee's regular rate of pay. The one hundred (100) day period shall commence with the first day of extended absence. During this period, full pay shall be given for accumulated sick leave, vacation, compensatory time, and holidays.
- 15.3.1.2 Extended benefits shall be limited to one hundred (100) days in each fiscal year. At the beginning of a fiscal year, one hundred (100) days shall be credited to the employee's account, whether or not the employee is currently drawing benefits subject to this Rule.
- 15.3.1.3 These one hundred (100) days shall be exclusive and in addition to all other paid and compensable leave, such as vacation, industrial accident/illness leave, and holidays.
- 15.3.1.4 Benefits provided under this section may not be accumulated from year to year.
- 15.3.1.5 After exhaustion of all paid leave, a permanent employee may be placed on unpaid leave upon request and with the approval of the Board of Education.

REFERENCE: Education Code Section(s): 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45195.6, 45196, 45200, 45203, 45297, 45260, and 45261

15.3.2 Use After Exhaustion of All Other Paid Leave:

After entitlement to all regular sick leave, vacation, and other paid time available has been exhausted, an employee who is still absent from employment shall begin to draw on the employee's extended leave entitlement pursuant to Rule 15.3.1.

15.3.3 Use Extends into Next Fiscal Year:

In the event that the entitlement to extended sick leave is not exhausted at the end of the present fiscal year, and the employee continues to be sick or disabled, the employee shall be entitled to receive the new regular and extended sick leave benefits available for that fiscal year. Extended sick leave is not cumulative.

15.3.4 Verification of Illness:

All Rules governing verification of illness absences outlined in Rule 15.2 shall also apply to any absences taken under this Rule.

15.3.5 Absence Notification:

All Rules governing absence notification outlined in Rule 15.2 shall also apply to any absences taken under this Rule.

REFERENCE: Education Code Section(s): 45136, 45137, 45190, 45191, 45193, 45195, 45195, 45195.6, 45200, 45203, 45297, 45260, and 45261

15.4 INDUSTRIAL ILLNESS AND ACCIDENT LEAVE:

15.4.1 Sixty Days of Full Paid Leave:

All regular and permanent classified employees or regular management classified employees who have completed their probationary period shall be entitled to this leave. An eligible classified employee who is absent from duty from causes which are District related industrial accident, injury, or illness shall be entitled to not more than sixty (60) work days in any one (1) fiscal year for each industrial injury, accident, or illness. If the full sixty (60) work days will overlap into the next fiscal year, the employee shall be entitled only to the amount remaining at the end of the fiscal year in which the accident, injury, or illness occurred. Such leave is not cumulative and may be taken only during those periods when the employee would normally have been in a paid status.

15.4.2 Reporting of Injury:

In the case of an industrial accident or injury, the employee must report the incident to their supervisor the same day, whenever possible. All injuries not reported the same day require justification for the delay. When an employee is absent from duty due to an industrial accident or illness, they shall notify their supervisor within the first day of absence that the injury is industrial.

15.4.2.1 The supervisor shall complete the District's Industrial Accident/Illness Report and send it as soon as possible to the Workers' Compensation department.

15.4.3 Leave Commences on First Day:

An industrial accident or illness leave shall commence on the first day of absence and shall be reduced by one (1) day for each day of authorized absence.

15.4.4 Workers' Compensation Check Endorsed to District:

During all paid leaves resulting from an industrial accident or illness, the employee shall endorse to the District any temporary disability indemnity checks received on account of their industrial accident or illness. The District shall issue to the employee appropriate warrants for payment of wages, loss of benefits, salary and/or leave benefits and shall deduct normal retirement and other authorized contributions.

15.4.5 Use of Sick Leave after Exhaustion of Sixty (60) Days:

Upon exhaustion of the industrial accident/illness leave, the employee shall be entitled to use sick leave provided in Rule 15.2. This leave shall commence on the date of termination of the industrial leave of absence. Provided the employee continues to receive temporary disability indemnity, the employee may elect to take as much of accumulated sick leave which when added to their temporary disability indemnity (Workers' Compensation check), will result in a payment to the employee of not more than their full salary.

15.4.6 Use of Other Leaves after Exhaustion of Sick Leave:

After all accumulated sick leave has been exhausted, an employee will then use accrued compensatory time, accrued vacation and then the employee will be placed on extended illness leave. If no compensatory time or vacation credit is available or has been exhausted, the employee may then begin to use the extended illness leave provided in Rule 15.3. The use of leaves outlined in this section shall be governed by the coordinated use of temporary disability benefits outlined in Rule 15.4.4.

15.4.7 Employee Must Remain in the State of California:

An employee receiving benefits under the provisions of this Rule shall, during the period of the leave, remain within the State of California unless out-of-state travel is authorized by the Board of Education.

15.4.8 Twelve Month Unpaid Leave Due to Industrial Injury:

A permanent classified employee, who has exhausted all paid leaves and who continues to be absent due to industrial injury may be granted a twelve (12) month unpaid leave of absence upon recommendation of the Superintendent, and approval of the Board of Education. This leave may be extended for one (1) additional twelve (12) month period.

15.4.9 Placement on Reemployment List at Exhaustion of Leaves:

When all available paid or unpaid leaves of absence have been exhausted, and if the employee is still not medically able to assume the duties of their position, they shall, if not voluntarily placed in another position, be separated from the district. However, their name will be placed on a reemployment list for a period of thirty-nine (39) months. When the employee is medically able to return to work during this thirty-nine (39) month period, they shall be employed in a vacant position in

the class of their previous assignment over all other candidates, except for a reemployment list established because of a layoff for lack of work or lack of funds, in which case they shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a reemployment list, as provided herein, and who has been medically released for return to duty, and who fails to accept an appropriate assignment shall be dismissed. An appropriate assignment for purpose of this Rule shall be defined as a position in the previous class having the same or greater number of assigned hours per day, days per week, and months per year, and on the same approximate shift.

15.4.10 Action upon Exhaustion of Leaves of Absence for Employees Eligible for Disability Retirement:

When all available paid or unpaid leaves of absence have been exhausted, and if the employee is still not medically able to assume the duties of their position, the District shall apply for disability retirement on behalf of the employee in accordance with California Government Code Section 21153. The employee shall remain employed while the Public Employees Retirement System (PERS) determines whether the employee qualifies for disability retirement. If PERS retires the employee, their employment is ended at the time of retirement. At that time, the District, pursuant to the Education Code, will place the employee on a thirty-nine (39) month reemployment list. If during the thirty-nine (39) month period following the effective date of the disability retirement, the employee is medically able to return to work during this thirty-nine (39) month period, they shall be employed in a vacant position in the class of their previous assignment over all other candidates, except for a reemployment list established because of a layoff for lack of work or lack of funds, in which case they shall be listed in accordance with appropriate seniority regulations. However, to be reemployed, the employee would have to seek reinstatement from retirement from PERS. If such reinstatement is granted, the employee can exercise their rights to return to work in a vacant position in their class. An employee who has been placed on a reemployment list, as provided herein, and who has been medically released for return to duty, and who fails to accept an appropriate assignment, shall be dismissed. An appropriate assignment for purpose of this Rule shall be defined as a position in the previous class having the same or greater number of assigned hours per day, days per week, and months per year, and on the same approximate shift.

15.4.11 Abolishment of Previous Classification:

If the employee's class has been abolished during their absence, and the employee has been released to return, the employee shall be placed in a vacant position in a comparable class for which the employee is qualified as determined by the Personnel Director and approved by the Personnel Commission.

REFERENCE: Education Code Section(s): 45190 and 45192

15.4.12 Return to Service After Industrial Leave:

An employee shall be permitted to return to service after an industrial accident or illness leave only upon presentation of a release from a District appointed

physician. This release must certify that the employee is able to return to their position without restrictions or limitations. If the medical release limits the work activities of the employee, the District shall determine if a reasonable accommodation can be made. An employee who is medically released to return to work and who fails to accept an appropriate assignment shall be dismissed.

REFERENCE: Education Code Section(s): 45192
Government Code Section(s): 21153

15.4.13 Absences Not Considered a Break in Service:

Any leave under this Rule, either paid or unpaid, shall not be considered a break in service and the employee, while on such leaves, shall continue to accrue seniority credit.

REFERENCE: Education Code Section(s): 45190, 45192, 45260, and 45261

15.5 TRANSFER OF SICK LEAVE FROM ANOTHER DISTRICT:

Any classified employee of another school district, county superintendent of schools office, community college, or other public school agency deemed a school District by California law, who has been employed for a period of one (1) calendar year or more who was not terminated for cause, who accepts employment with the District within one (1) calendar year from the date of employment with the other district, shall be allowed to transfer their accumulated sick leave to the San Bernardino City Unified School District. The newly hired employee shall request Human Resources to secure the sick leave information from the former district and submit it to payroll for inclusion in the employee's sick leave account.

REFERENCE: Education Code Section(s): 45202, 45261, and 45196

15.6 UNPAID ILLNESS ABSENCE:

An employee who has been placed on paid or unpaid sick leave may return to duty at any time during the leave, provided that they are able to resume the assigned duties. If the leave has been for more than thirty (30) work days, an employee may return to work with a physician's release, provided that the employee has notified the District of their return at least one (1) work day in advance.

15.6.1 Unpaid Illness Leave:

If at the conclusion of all sick leave and additional leave granted under these Rules, the employee is still unable to resume the duties of the position, the following steps must be taken:

15.6.1.1 The employee must make a request for a leave of absence without pay because of illness. This must be supported by a statement from the attending physician.

- 15.6.1.2 The request will be submitted to the Board of Education for its approval. Upon receipt, the Board will do one or more of the following:
- 15.6.1.2.1 Approve the grant of leave of absence without pay for a period not to exceed one (1) year, or;
 - 15.6.1.2.2 Deny the request for the leave of absence without pay, and
 - 15.6.1.2.3 Order the employee dismissed from the Classified Service because of being unable to perform the duties of their position.
- 15.6.1.3. If the employee is dismissed by the Board of Education, the employee will then be placed on a reemployment list for a period of thirty-nine (39) months in the same manner as though they were laid off for lack of work or lack of funds.
- 15.6.1.4 If the employee fails to request a leave of absence, the dismissal procedures shall be followed as outlined above in Rule 15.6.1.3.

15.6.2 Right to Return to Class:

The granting of an unpaid leave of absence under this Rule shall guarantee the employee the right to return to their former classification and to a position with the same basic assigned number of hours and months of employment, with the same approximate assigned shift.

REFERENCE: Education Code Section(s): 45136, 45137, 45190, 45191, 45193, 45195, 45195.6, 45196, 45196.5, 45200, 45203, 45260, and 45261

15.7 BEREAVEMENT LEAVE:

15.7.1 Four to Seven Days of Paid Leave:

In the event of the death of a member of the immediate family, a classified employee is entitled to four (4) days of absence without loss of pay, seven (7) days where travel is required or in excess of 200 travel miles, for the death of any member of the family. Additional days of absence beyond those described herein may be provided under the terms of Personal Necessity Leave provisions contained in Rule 15.8. Employees granted bereavement leave under this Rule shall suffer no deduction from their salary, nor shall such leave be deducted from leave granted by other sections of these Rules or the Education Code.

15.7.2 Definition of Immediate Family:

Members of the immediate family as used in this section means: Father, mother, sister, brother, daughter, son, wife, husband, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law,

stepfather, stepmother, grandson, granddaughter, aunt, uncle, cousin, niece and nephew, or any person living in the immediate household of the employee.

REFERENCE: Education Code Section(s): Education Code Section(s): 45194, 45195, 45260, and 45261

15.8 **PERSONAL NECESSITY LEAVE:**

15.8.1 Use Up to Seven Days:

A probationary or permanent employee may, at their election, use any days of absence for illness or injury earned pursuant to Education Code Section 45191 in cases of personal necessity, including any of the following:

- 15.8.1.1 Death of a member of their immediate family when additional leave is required beyond that provided in Rule 15.7.
- 15.8.1.2 Death other than immediate family member.
- 15.8.1.3 Unforeseen crisis involving their person or property, or the person or property of a member of their immediate family, as defined in Rule 15.7.2, of such a nature that the immediate presence of the employee is required during their work day.
- 15.8.1.4 Appearance in any court or before an administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.
- 15.8.1.5 Illness in immediate family, including pregnancy of spouse, as defined in Rule 15.7.2, of such a nature that the presence of the employee is required during their work day.
- 15.8.1.6 Immediate or impending danger to the home of an employee.
- 15.8.1.7 Specific family responsibilities or obligations which make it imperative for the employee to be absent during work hours.
- 15.8.1.8 Hazardous conditions such as floods, which make it dangerous for an employee to be absent during work hours.
- 15.8.1.9 Required absence of an employee during the birth of a child.
- 15.8.1.10 Obligations required by virtue of elected or appointed leadership positions in professional education organizations, youth activities which directly benefit youth, elected officials of city or county government or elected public school board members. Written requests for absences must be received in Human Resources at least one (1) week prior to date of absence and are subject to review and approval by the Assistant Superintendent, Human Resources, or designee.

- 15.8.1.11 Such other reasons which may be prescribed by the Board of Education.
- 15.8.2 The manner of proof as prescribed by the Board of Education shall be a statement submitted to the Assistant Superintendent, Human Resources, or designee, describing the nature of the absence for personal necessity.
- 15.8.3 No earned sick leave in excess of seven (7) days may be used in any school year for absence for personal necessity.
- 15.8.4 Notification of Leave Usage:

Classified employees desiring to use such leave shall submit their request at least three (3) work days in advance of the anticipated absence, except in emergencies or unexpected events. In such cases, the general reason for the personal necessity shall be clearly stated on the Classified Application for Leave request form.
- 15.8.5 Personal Necessity Not Cumulative:

Personal necessity leave is not cumulative. Employees are limited to each fiscal year to the amount of usage outlined in this Chapter.

REFERENCE: Education Code Section(s): Education Code Section(s): 45191, 45194, 45260, and 45261

15.9 PERSONAL NECESSITY FOR PERSONAL BUSINESS:

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

- 15.9.1 Occasionally an emergency may occur at a time when it is clearly impossible for the employee to obtain the necessary advance approval from the Assistant Superintendent, Human Resources, or designee. The employee's direct supervisor shall notify the Assistant Superintendent, Human Resources, or designee at the earliest possible time.
- 15.9.2 An absence for personal business may not be granted for more than seven (7) consecutive work days.
- 15.9.3 Personal business leave may not be used for:
 - 15.9.3.1 Recreation.
 - 15.9.3.2 Engaging in other employment, either direct or indirect.
 - 15.9.3.3 Employee organizational activity.
 - 15.9.3.4 Work stoppage.
 - 15.9.3.5 Strike or other concerted activity directed against the District.

15.9.3.6 Any illegal activity.

REFERENCE: Education Code Section(s): 45207, 45260, and 45261

15.10 PREGNANCY LEAVE:

15.10.1 Entitlement to all Sick Leave Benefits:

Regular female classified employees who must be absent from their duties because of pregnancy or convalescence following childbirth shall be entitled to utilize all regular and extended sick leave benefits to which they may be entitled under these Rules. Absence due to maternity that is not medically required can be granted pursuant to Rule 15.16 and Federal and State law.

15.10.2 Sick Leave During Medically Certified Absence:

Paid leave, including regular sick leave and extended sick leave, may be used for the period of absence medically certified by the employee's attending physician.

15.10.3 Certification of Last Day Able to Work:

Prior to the eighth (8th) month of pregnancy, the employee shall furnish the District a medical certificate stating the last date on which they will be able to work, according to a verification of their disability. In addition, the District may require that the employee be examined by a District appointed physician to confirm the employee's ability to return to work.

15.10.4 Release to Return to Work:

Prior to returning to work, the employee must present to the District a release to return to work, with or without limitations, from the treating physician.

REFERENCE: Education Code Section(s): 45193, 45260, and 45261

15.11 JURY DUTY AND WITNESS LEAVE:

15.11.1 Leave of Absence for Jury Duty:

Regular classified employees who are called to serve on a jury shall be absent from duty without loss of pay. Any compensation, excluding reimbursement for meals, mileage, and parking allowances received by an employee as a member of a jury shall be remitted to the District.

15.11.2 Notification of Jury Duty:

Any request for jury duty leave shall be submitted in writing to the department/site administrator with a copy of the official subpoena attached.

15.11.3 Return from Jury Duty:

An employee shall return to work from jury duty if the employee can do so and complete at least two (2) hours work during the employee's regular assigned hours, allowing for travel and a thirty (30) minute meal period if the normal meal period was not provided by the court. In no event shall an employee be expected to put in more time, when combining jury duty hours (including travel time) and regular work hours, than their regular number of assigned hours. The exception to this Rule would be if the District required the employee to work additional hours beyond the employee's regular number of assigned hours per day and compensated the employee for the additional hours at their regular, overtime rate, or compensatory time, as appropriately determined by these Rules and Regulations.

15.11.4 Witness Leave of Absence:

A leave of absence to respond to an official order from another government jurisdiction for reasons not brought about through the connivance or misconduct of the employee may be granted to all regular classified employees without loss of pay. Any compensation, excluding reimbursement for meals, mileage, and parking allowances received by an employee as a member of a jury shall be remitted to the District.

15.11.5 Return from Witness Leave:

An employee shall return to work from witness leave if the employee can do so and complete at least two (2) hours work during their regular assigned hours, allowing for travel and a thirty (30) minute meal period if the normal meal period was not provided by the court or other governmental agency. In no event shall an employee be expected to put in more time, when combining witness duty hours including travel time and regular work hours, than their regular number of assigned hours. The exception to the Rule would be if the District required the employee to work additional hours beyond their regular number of assigned hours per day and compensated the employee for the additional hours at their regular, overtime rate, compensatory time, as appropriately determined by these Rules and Regulations.

15.11.6 Notification of Witness Leave:

Any request for witness leave shall be submitted in writing to the department/site administrator with a copy of the official subpoena attached.

REFERENCE: Education Code Section(s): 44036, 44037, 46260, and 45261

15.12 MILITARY LEAVE:

15.12.1 All Regular Employees Granted Military Leave:

Regular classified employees under official order, who are called to active duty or enlisted in the Armed Services of the United States of America, including the Coast Guard, shall be granted military leave of absence pursuant to Federal and State laws.

15.12.2 Reserve Service:

Regular classified employees who are members of an authorized reserve corps, and who must be temporarily absent due to active duty training or exercises, shall be granted temporary military leave of absence. A temporary military leave shall not exceed six (6) months.

15.12.3 Thirty Days Leave with Pay:

Regular classified employees shall be granted full pay and other benefits for the first thirty (30) calendar days of military leave; however, such paid leave time shall be limited to a maximum of thirty (30) days in any fiscal year in accordance with California Military and Veterans Code. No other benefits shall be provided during any unpaid portion of the leave.

15.12.3.1 Classified employees who are in an “inactive duty” status who participate in weekend, day or evening military activities are not covered by the provisions of this Rule; therefore, not entitled to any components provided by this Rule.

15.12.4 Official Orders Must Be Submitted:

In order for a paid leave of absence to be granted the employee must submit a Classified Application for Leave request form and attach official orders to active duty or reserve duty to the Human Resources office. The orders must contain the date that the employee is required to report for active service or active reserve duty and the projected duration of such service.

15.12.5 Return from Military Leave:

Upon return from military leave, the employee shall be reinstated to their same regular position or an equal position in the same class.

15.12.5.1 Employees on military leave shall be granted salary advancement and shall continue to accrue seniority for purposes of layoff. Time spent in military service shall be included in computations of years of service with the District.

REFERENCE: Education Code Section(s): 44800, 45190, 45260, and 45261
California Military and Veterans Code Section(s): 389, 395, 395.01-395.05, and 395.1-395.4

15.13 LEAVE TO SERVE IN EXEMPT/TEMPORARY/LIMITED-TERM ASSIGNMENT:

15.13.1 Leave to Serve in Exempt/Temporary/Limited-Term Position:

Any permanent classified employee who accepts an assignment within the District to an exempt, temporary, or limited-term position shall, during such assignment, be considered as serving in their regular position, and such assignment shall not be considered to be a separation from service.

15.13.2 Voluntary Return to Regular Position:

Such employee may, with the approval of the appointing authority, voluntarily return to their regular position or to a position in the class of their permanent status prior to the completion of service in the exempt, temporary, or limited-term assignment. Failure to complete the required service in the exempt, temporary, or limited-term, unless approved as specified herein, could constitute abandonment of position and may be grounds for disciplinary action.

REFERENCE: Education Code Section(s): 44800, 45190, 45260, and 45261

15.14 RELEASE TIME FOR DISTRICT PERSONNEL RELATED ACTIVITIES:

15.14.1 Release Time to Take District Examination:

A regular classified employee shall be eligible to participate in any District examination conducted by the Personnel Commission during the employee's regular work hours, without loss of pay or other penalty, provided the employee has been notified by the Personnel Director that they are eligible to participate. The employee shall provide their supervisor or manager with notice of the need to release time at least two (2) days prior to the date of the examination.

15.14.2 Release Time for District Interview:

A regular classified employee shall be provided with release time to participate in interviews for District promotion or transfer during their regular work hours without deduction of pay or other penalty. The employee shall provide their supervisor with notice of the need for release time as soon as possible after notification by the Personnel Commission office of the interview time.

15.14.3 Attendance at District Board/Personnel Commission Meetings:

A classified employee of the District shall be provided with release time without deduction of pay or other penalty in order to attend any Board of Education or Personnel Commission meeting at which a recommendation or action is being considered which would affect the employee's status, classification of salary. The employee shall provide their supervisor with notice of the need for release time at least twenty-four (24) hours prior to the scheduled meeting. The employee shall be notified at least two (2) hours prior to the scheduled meeting.

15.15 LEAVE OF ABSENCE WITHOUT PAY:

15.15.1 When Granted:

Leaves of absence without pay may be granted to a permanent classified employee upon written request of the employee, and the approval of the District, subject to the restrictions and conditions outlined in this Rule and pursuant to Rules 15.1.7 and 15.1.8. Such leave may be approved provided that such absence will not, in the sole judgement of the District, disrupt the operation of the District, and

provided that where necessary, a satisfactory substitute is available. Requests for unpaid leave of absence for personal reasons for more than ten (10) days must be submitted to the Board of Education for approval.

15.15.2 Length of Leave:

A leave of absence shall not normally exceed one (1) calendar year. For valid reasons, a request for a leave of absence without pay may be granted to a permanent classified employee.

15.15.3 Reasons:

A leave of absence without pay may be granted to an employee provided they meet the requirements set forth in this Rule, and for:

15.15.3.1 An employee who desires to attend an educational institution or to enter training to improve quality of service.

15.15.3.2 Reasons enumerated in this Chapter.

15.15.3.3 Reasons deemed satisfactory to the District.

15.15.4 Right to Return:

The granting of a leave of absence without pay gives the employee the right to return to their position or to an equal position in the same classification at the expiration of the leave of absence, or before as outlined in Rule 15.1.2 with the concurrence of the appointing authority and/or in conformance with procedures contained in this Chapter, if such a position still exists.

15.15.5 Cancellation of Leave Without Pay:

The District may, for good cause, cancel an approved leave of absence by giving the employee due notice.

15.15.6 Vacancy Due to Leave Without Pay:

When a leave without pay for three (3) months or less is granted, it shall be understood that the vacancy thus caused may be filled for the duration of the leave only, and the position must be held open for the employee who is on leave.

15.15.7 Report of Reinstatement:

Report of the employee's return to work at or before the expiration of a leave of absence without pay shall be made to the District prior to the employee returning. The Board of Education may approve or reject the request. Human Resources will notify an employee, who has been filling the position temporarily, of their end of assignment.

15.15.8 Failure to Return:

Failure to report for duty within three (3) work days after the deadline for returning from a leave shall be considered abandonment of position and subject to employee disciplinary action, up to and including termination from employment, pursuant to Rule 15.1.5.

15.15.9 Unpaid Leave of Five Days or Less:

An unpaid leave may be granted by Assistant Superintendent, Human Resources, or designee for a period of five (5) work days or less. The unpaid leave must be requested on a Classified Application for Leave form and reported on the employee's time report.

15.15.10 Counting Time for Seniority or Salary Adjustment:

Time spent on leave of absence without pay of over five (5) work days shall not count towards seniority except in the areas of military leave, illness leave, and industrial accident/illness leave. Time spent on leave of absence without pay shall not count towards step increases. Before an employee receives a salary adjustment the employee must serve the required service time.

REFERENCE: Education Code Section(s): 45122, 45136, 45137, 45190, 45193, 45295, 45196.5, 5198, 45299, 45260, and 45261

15.16 FAMILY MEDICAL LEAVE ACT AND CALIFORNIA FAMILY RIGHTS ACT (FMLA, CFRA):

All regular classified employees are entitled to leave in compliance with State and Federal law to care for an immediate family member with a serious health condition; the employee's own serious health condition, or a qualifying exigency relating to an immediate family member's active duty status, or notification of an impending call or order to active duty status in support of a contingency operation.

15.16.1 FMLA leave will be available for qualifying employees to care for a family member who is an injured service member and is undergoing medical treatment, recuperation, or therapy, is an outpatient of a military medical facility or care unit, for a serious injury or illness incurred in the line of duty during active duty. The qualifying employee may be the spouse, son, daughter, parent or next of kin of the service member of the Armed Forces, National Guard or Reserves.

15.16.2 FMLA leave will be available for qualifying employees who are family members of active duty National Guard and Reserves members for any qualifying exigency arising out of the fact that the family member is on active duty or called to active duty status in support of a contingency operation.

15.16.3 FMLA leave may be taken intermittently whenever medically necessary to care for a serious ill immediate family member, or because the employee is seriously ill and unable to work on a regular basis.

- 15.16.3.1 Leave for this purpose shall be granted without pay, unless the employee has paid leave available, in which case the FMLA leave will run concurrently with paid leave.
- 15.16.3.2 Employees will be required to use available paid leave before taking unpaid FMLA leave, except when the leave is due to pregnancy. In case of pregnancy related leave, the employee may opt out of using vacation and compensatory leave time concurrently.
- 15.16.3.3 The Assistant Superintendent, Human Resources or designee, may approve the use of intermittent leave for birth or placement for adoption or foster care. Intermittent leave means taking leave in blocks of time or reducing the normal weekly or daily work schedule.
- 15.16.4 Employees covered by paid health benefits will continue coverage while on FMLA/CFRA. Employees required to pay a portion of their insurance premiums will be required to continue paying their portion in order to continue health benefits.
- 15.16.5 Leaves taken under FMLA/CFRA shall not be considered as a break in service for seniority or longevity purposes.
- 15.16.6 Length of Leave:
- Family leave shall be granted for up to twelve (12) workweeks of unpaid leave during a twelve (12) month period (measured forward from the date of the employee's first FMLA/CFRA leave usage) for one or more of the following reasons:
- 15.16.6.1 The birth and care of the newborn child of the employee, or the placement with the employee of a child for adoption or foster care.
- 15.16.6.1.1 Leave for birth or placement for adoption or foster care must conclude within twelve (12) months of the birth or placement.
- 15.16.6.1.2 Employees taking leave under CFRA for the purpose of baby bonding will be required to use available vacation and compensatory time concurrently.
- 15.16.6.2 Up to twenty-six (26) workweeks per twelve (12) month period of FMLA leave may be taken to care for an immediate family member or "next of kin" who sustained a serious illness or injury in the line of active duty and is a covered service member.
- 15.16.6.3 Child Bonding Leave of twelve (12) weeks for the birth, adoption, or placement of a foster child. The leave runs concurrently with parental leave under CFRA. Employee must exhaust sick leave to

receive differential pay. Rate of pay is a fifty percent (50%) pay rule under which an employee receives at least fifty percent (50%) of salary.

15.16.6.3.1 An employee who has been granted Child Bonding Leave may return early from the leave, with at least a ten (10) work day notice to the Human Resources office.

REFERENCE: Education Code Section(s): 45193, 45260, and 45261

15.16.7 Definition of Child or Parent:

15.16.7.1 Child – The biological, adopted or foster child, a stepchild, a legal ward, or a child of an employee in loco parentis who is either under eighteen (18) years of age or over eighteen (18) years of age and incapable of self-care because of a mental or physical disability.

15.16.7.2 Parent – The biological, foster, or adoptive parent, a step parent, or a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

15.16.8 Serious Health Condition:

A serious health condition means an illness, injury, impairment, or physical or mental condition which involves either of the following:

15.16.8.1 Inpatient care in a hospital, hospice, or residential health care facility.

15.16.8.2 Outpatient continuing treatment or continuing supervision by a health care provider.

15.16.9 Health Care Provider:

An individual who has been determined by the United States Secretary of Labor to be capable of providing health care services under the Family and Medical Leave Act of 1993.

15.16.10 Doctor's Certification Required:

A request by an employee for Family Care Medical Leave must be supported by a written certification from a state licensed health care provider as defined under the Family Care Medical Leave Law.

15.16.10.1 If the employee is requesting the leave for their own serious medical condition the certification must include the date on which the health condition commenced, the duration, and a statement that due to the serious health condition, the employee is unable to perform the functions of their position.

- 15.16.10.2 If the leave is to care for a child, parent, spouse or registered domestic partner with a serious health condition, the certification must include the date on which the health condition commenced, the duration, an estimate of the time that the health provider believes the employee needs to care for the individual and a statement that the serious health condition warrants the need of the employee to provide care for the child, parent, spouse or registered domestic partner.
- 15.16.10.3 Additional leave beyond the period stated in the certification requires the employee to obtain recertification in accordance with Rules 15.16.5 and 15.16.7

15.16.11 Other Paid Leaves to Run Concurrent:

An employee eligible under this section shall be required to substitute any accrued paid leave including sick leave, vacation and differential for any part of the twelve (12) work week period.

15.16.12 Intermittent or Reduced Schedule Leave:

Leaves taken under the section may be taken on an intermittent or reduced schedule basis. However, it must be taken in complete days at a time unless agreed otherwise between the District and employee. Intermittent or reduced schedule leave shall not result in a reduction of the total amount of family care and medical leave to which the employee is entitled pursuant to State and Federal law. Leave taken because of the birth of a child or placement of a child with the employee, shall not be taken intermittently or on a reduced schedule leave unless expressly agreed to by the District and the employee.

15.16.13 Alternative Position:

If an employee requests intermittent leave, or a reduced schedule leave, the District may require the employee to transfer temporarily to an available alternative position. The alternative position must be one which the employee is qualified, which has equivalent pay and benefits, and better accommodates the recurring periods of leave than the employee's regular position.

15.16.14 Health Benefits:

During the period of family care and medical leave the District shall maintain and pay for coverage for current health and welfare benefits for a maximum of twelve (12) work weeks. The District may recover the premium that is paid as required by the provision for maintaining coverage for the employee under the group health plan if both of the following conditions occur:

- 15.16.14.1 The employee fails to return from leave after the period of leave to which the employee is entitled has expired.
- 15.16.14.2 The employee failure to return from leave is for a reason other than the continuation, recurrence, or onset of a serious health

condition that entitles the employee to family care and medical leave or other circumstances beyond the control of the employee.

15.16.15 Total Leave if Both Parents Are Employees:

If both parents are employed by the District, the District shall not be required to grant leave in connection with the birth, adoption, or foster care of a child that would allow the parents family care and medical leave totaling more than a cumulative total of twelve (12) work weeks within a school year (July 1 through June 30).

15.16.16 Leave Does Not Run Concurrent with Pregnancy Disability:

An eligible employee may take a pregnancy disability leave of up to four (4) months and a family care and medical leave of up to twelve (12) work weeks, for a combination of four (4) months plus twelve (12) weeks (approximately seven (7) months).

15.16.17 Industrial Accident or Illness Disability to Run Concurrent:

Leave taken under the industrial accident or illness disability runs concurrently with family care and medical leave. An eligible employee may take a combined industrial accident or illness disability and family care and medical leave for a maximum total of twelve (12) work weeks in a school year (July 1 through June 30).

REFERENCE: Education Code Section(s): 45127, 45136, 45137, and 45190
Government Code Section(s): 12945.2

15.17 ABSENCE DUE TO EPIDEMICS OR EMERGENCIES:

An employee shall be paid their regular salary for any period during which the employee's place of employment is closed because of quarantine, epidemics, or other conditions involving the health or safety of employees provided that the employee is ready, able and willing to perform their customary or other reasonable and suitable duties. During this period, the District shall endeavor to assign the employee to work elsewhere.

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

15.18 CATASTROPHIC LEAVE:

A permanent classified employee is eligible to receive donated sick leave when a non-industrial catastrophic illness, surgery, or injury incapacitates them.

15.18.1 In order to be eligible to receive donated sick leave, the employee must meet the following requirements:

15.18.1.1 The employee must be absent from work due to a verified non-industrial catastrophic illness, surgery, or injury.

- 15.18.1.2 The employee's must have exhausted all paid benefits, including sick leave, vacation, and compensatory time.
- 15.18.1.2 The employee must complete an application for solicitation of sick leave and submit to the Human Resources department.
- 15.18.1.3 The employee must provide a physician's statement to Human Resources that includes the nature of the illness, surgery, or injury of the employee or family member and the probable length of absence from work.
- 15.18.1.4 Catastrophic leave shall not exceed thirty (30) consecutive work days.
- 15.18.1.5 While on catastrophic leave, the employee shall not continue to earn additional sick leave, long-term sick leave, or vacation benefits.
- 15.18.2 Employee Donations:
 - 15.18.2.1 Classified employees may make an irrevocable contribution, in eight (8) hour increments, not to exceed a maximum contribution of twenty-four (24) hours to an employee eligible for catastrophic leave.
 - 15.18.2.2 Donations will be credited to the recipient in the order received. Donated sick leave not used by the recipient will be returned to the individual donors.
 - 15.18.2.3 Donated sick leave will be paid at the recipient's hourly rate regardless of the donor's hourly rate of pay.

15.19 CRITICAL ILLNESS IN THE FAMILY:

A classified employee shall be entitled to a maximum of three (3) days absence per year for critical illness of an immediate family member. A critical illness is defined as one in which the patient's life is in danger and there is a possibility of death.

15.19.1 Immediate family includes:

Father, mother, sister, brother, daughter, son, wife, husband, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, stepfather, stepmother, grandson, granddaughter, aunt, uncle, cousin, niece and nephew, or any person living in the immediate household of the employee.

- 15.19.1.1 An employee may request approval from the Assistant Superintendent, Human Resources, or designee for leave to be used in relation to a person that is not designated as immediate family.

- 15.19.1.2 Certification by a physician that the illness is critical in nature is required on a form provided by the District. This form shall not be required if the illness is followed by death of the family member, within the immediate three (3) days following the critical illness leave request.

REFERENCE: Education Code Section(s): 45122, 45136, 45137, 45190, 45191, 45193, 45194, 45195, 45195.6, 45200, 45203, 45297, 45260, and 45261, and 45196

15.20 HAZARDS TO HEALTH AND SAFETY:

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

15.21 LEAVE OF ABSENCE FOR STUDY OR RETRAINING:

An unpaid leave of absence for study or retraining may be granted to any employee at the discretion of the Board of Education.

- 15.21.1 Such leave may be taken in separate six (6) month periods or in any other appropriate periods rather than a continuous one (1) year period provided the separate periods of leave shall be commenced and completed within a three (3) year period. Any period of service by the individual intervening between the authorized separate periods shall comprise a part of the service required for a subsequent leave for study or retraining purposes.
- 15.21.2 No more than one (1) study leave of absence shall be granted in each three (3) year period.
- 15.21.3 The District may prescribe standards of service which shall entitle the classified employee to the leave of absence.
- 15.21.4 The classified employee may not earn vacation pay, sick leave, holiday pay, seniority hours, or other benefits while on such leave.

REFERENCE: Education Code Section(s): 45381

CHAPTER 16 – HOLIDAYS

16.1 HOLIDAYS:

16.1.1 Holidays for Classified Employees:

All regular classified employees shall be entitled to the following paid holidays which occur during their assigned work year, subject to eligibility provisions of this Rule:

January 1; the third Monday in January, known as "Dr. Martin Luther King Jr. Day"; February 12 known as "Lincoln Day"; the third Monday in February known as "Washington Day"; the last Monday in May known as "Memorial Day"; July 4; the first Monday in September known as "Labor Day"; November 11 known as "Veteran's Day"; that Thursday in November proclaimed by the President as "Thanksgiving Day" and the day following; December 24, 25 and 31.

16.1.1.1 When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be a holiday in lieu of the day observed. When a holiday herein listed falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. In those cases, where two (2) consecutive holidays fall on Saturday and Sunday or on some combination of either of those two (2) days, scheduling of the holidays shall be in accord with applicable provisions of the District's collective bargaining agreement with non-managerial classified employees.

16.1.1.2 The Board of Education does not designate September 9, known as "Admission Day" as a paid holiday for probationary or permanent classified employees, the school district shall provide a substitute holiday for such employees.

16.1.1.3 Prior to July 1 of any school year, the Board of Education may designate other days during such year as the holidays to which permanent or probationary classified employees are entitled in lieu of the holidays on February 12 known as "Lincoln Day", the third Monday in February known as "Washington Day", the last Monday in May known as "Memorial Day", November 11 known as "Veterans' Day" provided that such designated days will provide for at least a three (3) day weekend.

REFERENCE: Education Code Section(s): 37220, 45203, 45205, 45206.5, 45230, 45260, and 45261

16.1.2 President/Governor/Board Declared Holiday:

In addition to the holidays listed in this Rule, regular classified employees shall be entitled to a paid holiday for any day approved by the President of the United States or the Governor of the State of California as a public fast, Thanksgiving or holiday, or any day declared a holiday by the Board of Education for probationary or permanent classified employees.

16.1.3 Holiday Pay:

A regular employee shall receive full pay for those holidays listed in Section 45203 of the Education Code or for those days designated as holidays in lieu of the regular holidays in accordance with Section 45205 or Section 45206.5 of the Education Code and for days declared to be holidays by the Board of Education under the following conditions:

16.1.3.1 A regular classified employee will be entitled to pay for authorized holidays, provided the employee was in a paid status during any portion of the day immediately preceding or succeeding the holiday.

16.1.3.2 A regular classified employee who is not normally assigned to duty during those days designated by the legislature and/or the Board of Education as holidays shall be paid for those holidays provided the employee was in paid status during any portion of the working days of their normal assignment immediately preceding or succeeding the holiday period. The provisions of Article 3 commencing with Education Code Section 37220 shall not be construed to in any way limit the provisions of this section, nor shall anything in this section be construed to prohibit the Board of Education from providing holiday pay for employees who have not been in paid status on the days specified herein.

16.1.3.3 The provisions shall not be construed to in any way limit nor prohibit the Board of Education from providing holiday pay for employees who have not been in paid status on the days specified herein.

16.1.4 Pay for Working on a Holiday:

When a permanent or probationary classified employee is required to work on any of said holidays, they shall be paid compensation or given compensating time off for such work in addition to the regular pay received for the holiday.

16.1.4.1 Probationary or permanent classified employees shall be required to work on the regular holiday for which another day is designated pursuant to this section.

16.1.4.2 For work of eight (8) hours or less or ten (10) hours or less, if a ten (10) hour workday has been authorized, probationary or permanent classified employees shall be paid compensation at their regular rate of pay.

16.1.4.3 If any probationary or permanent classified employee would be entitled to a regular paid holiday but would not be in a paid status during any portion of the work day immediately preceding or succeeding the day so designated in lieu of such holiday and therefore would not be entitled to the regular holiday.

16.1.4.4 If the employee is required to work on such holiday, they shall be paid compensation at the rate of time and one-half (.5) of their regular rate of pay in addition to the regular pay received for the holiday.

16.1.5 Holiday Eligibility:

A regular classified employee shall be entitled to paid holidays under this Rule, provided they are in paid status during any portion of their scheduled work day either immediately preceding or succeeding the holiday.

16.1.5.1 A regular classified employee who is not normally assigned to work during student recess periods within the regular school term shall be paid for any holiday that falls within the recess, provided they were in paid status during any portion of their scheduled work day either immediately preceding or succeeding the recess period.

16.1.5.2 Regular employees of the district who are not normally assigned to duty during the school holidays of December 25 and January 1 shall be paid for those two holidays provided that they were in a paid status during any portion of the work day of their normal assignment immediately preceding or succeeding the holiday period.

16.1.6 Holidays for Employees with Non-Traditional Work Weeks:

A regular classified employee assigned to a work week other than Monday through Friday (i.e., Tuesday through Saturday) shall be provided a substitute holiday when the regular holiday falls on a day on which the employee is not normally assigned to work.

16.1.6.1 If the Board of Education requires any probationary or permanent classified employee to work a workweek other than Monday through Friday, or if such a permanent or probationary classified employee consents to a workweek including Saturday or Sunday or both and as a result thereof the employee loses a holiday to which they would otherwise be entitled, the District shall provide a substitute holiday for such employee, or provide compensation in the amount to which the employee would have been entitled had the holiday fallen within their normal work schedule.

REFERENCE: Education Code Section(s): 37220, 45203, 45205, 45206.5, 45230, 45260, and 45261

16.1.7 Holiday Occurring During Vacation:

When a holiday occurs during an employee's vacation or a paid leave of absence, except military leave, the holiday shall be paid as holiday, and not charged against vacation or leave benefits.

REFERENCE: Education Code Section(s): 37220, 45203, 45205, 45206, 45206.5, 45230, 45260, and 45261

CHAPTER 17 - WAGE AND SALARY PROVISIONS

17.1 DETERMINATION OF SALARY SCHEDULES/PAY RATES:

For bargaining unit members, salaries are the subject of collective bargaining contract provisions. When the collective bargaining contract is silent, these Rules prevail. For classified management, administrative, and confidential the following applies:

17.1.1 Fixing Annual Salary Schedules:

The Education Code authorized the Board of Education to fix the annual salary schedule for all classified employees and other employees not requiring certification qualifications employed by the District unless otherwise prescribed by law.

17.1.1.1 The fixing of annual salaries means that the Board of Education shall adopt a salary schedule or matrix with specific dollar amounts for each range and step.

17.1.1.2 The Education Code requires the Board of Education, no later than the date prescribed for approval of the publication budget of every year, to fix the salary schedule for the ensuing school year for all classified employees. Any action taken by the Board of Education must be in compliance with the Personnel Commission's Rules and Regulations.

REFERENCE: Education Code Section(s): 45160, 45260, 45261, 45262, and 45267

17.1.2 Board May Increase Salary Schedule:

The Board of Education may increase the salaries of classified employees at any time during the school year and may adopt increases and/or decreases resulting from the classification, reclassification, or reallocation of positions as approved by the Personnel Commission.

REFERENCE: Education Code Section(s): 45241, 45260, and 45261

17.1.3 Board Must Employ/Pay in Accordance with Merit System:

The Board of Education shall employ, pay, and otherwise control the services of classified employees in accordance with the provisions of Title 2, Division 3, Part 25, Chapter 5, Article 6 of the State of California Education Code and these Rules.

REFERENCE: Education Code Section(s): 45241, 45260, and 5261

17.1.4 Personnel Commission Shall Recommend Salary Schedules:

The Personnel Director shall prepare recommendations for allocation of classes to salary ranges for approval by the Personnel Commission. The salary schedule(s) approved by the Personnel Commission shall be presented to the Board of

Education. The Personnel Commission's recommended salary schedule may take into account the following:

- 17.1.4.1 Wages, salaries and benefits paid for by the school district and other governmental agencies which may be in competition with the District in the labor market.
- 17.1.4.2 Wages, salaries and benefits paid for similar work in private industry and business in the recruitment area.
- 17.1.4.3 The principle of like pay for like work within the Classified Service.
- 17.1.4.4 Appropriate differentials between related classes to reflect differences in duties and responsibilities, as established in the classification plan.
- 17.1.4.5 Such other information as the Personnel Commission may require.

REFERENCE: Education Code Section(s): 45256, 45260, 45261, and 45268

17.1.5 Board's Action on Salary Recommendations:

The Board of Education may approve, amend, or reject the salary schedule recommendation of the Personnel Commission, but shall not alter the percentage relationship between classes as established by the Personnel Commission until the Personnel Commission is first given the right to comment on the changes.

REFERENCE: Education Code Section(s): 45256, 45260, 45261, and 45268

17.1.6 Personnel Commission Shall Determine Salary Range Placement:

The Personnel Commission shall set reasonable relationships between the various classifications. The Personnel Commission may make modifications to the relationships as part of its statutory obligations after the District Administration and any exclusive bargaining agent that represents impacted employees have an opportunity to comment on the modifications.

REFERENCE: Education Code Section(s): 45260, 45261, and 45162

17.2 APPLICATION OF SALARY SCHEDULE:

17.2.1 Initial Salary Placement:

All new regular classified employees shall be paid in accordance with the salary range established for the class to which assigned. The hiring rate will normally be at the first (1st) step of the salary range; however, a new employee may be provided with advanced step placement based upon such factors as:

- 17.2.1.1 Additional qualifying experience beyond that required for entry into the class.

- 17.2.1.2 Additional education at the college level when related to the position, beyond the established educational requirements for entry into the class.
- 17.2.1.3 Difficulty experienced in the recruitment of candidates to meet the vacancy needed in the class.
- 17.2.1.4 Additional skills or qualifications of the candidate that make them especially qualified for the position.
- 17.2.1.5 Evidence of currently receiving a salary greater than the first step of the salary for the classification.
- 17.2.1.6 Management may be provided with advanced step placement as determined by the Personnel Commission and District based on the following:
 - 17.2.1.6.1 Difficulty experienced in the recruitment of candidates to meet the vacancy needs in the class.
 - 17.2.1.6.2 The additional skills or qualifications of the candidate that make them especially qualified for the position.
 - 17.2.1.6.3 Additional qualifying experience beyond that required for entry into the class.
- 17.2.1.7 Any candidate requesting advanced step placement must submit a request to the Personnel Commission prior to initial employment.

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

17.2.2 Evaluation of Step Placement:

The Personnel Director shall evaluate the qualifications of all candidates recommended for employment into the Classified Service in accordance with the provision with Rule 17.2.1. When a candidate requests advancement step placement in accordance with Rule 17.2.1.7, the Personnel Director shall evaluate information provided by the candidate and supervisor and make a recommendation to the Personnel Commission regarding appropriate salary placement. The Personnel Commission may accept, amend, or reject the Personnel Director's recommendation. The decision of the Personnel Commission shall be final.

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

17.2.3 Salary Placement of Temporary Employees:

Salary placement of temporary, substitute, emergency, provisional, and limited-term employees shall be at step one (1) or its hourly rate equivalent, of the appropriate range, except that former district employees may be placed on the step attained prior to separation.

- 17.2.3.1 Classified employees and retirees working in temporary, substitute or limited-term assignments shall be compensated pursuant to Rule 7.5.

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

17.2.4 Step Advancement:

When a probationary or permanent employee accepts a regular position on the first step of the salary range the employee shall be advanced to the next succeeding step on the salary schedule following completion of a probationary period

- 17.2.4.1 A probationary period ending on or before the fifteenth (15th) day of the month shall be considered as effective on the first (1st) day of that month. A probationary period ending on or after the sixteenth (16th) day of the month shall be considered as effective on the first (1st) day of the following month. All succeeding step advancements on the salary range shall be made on an annual basis on either a January 1 or July 1 increment date.

- 17.2.4.2 An employee who has received the first step increase in April, May, June, July, August, or September shall have a July 1st increment date. An employee who has received their first step increase in October, November, December, January, February, or March shall have a January 1st increment date.

- 17.2.4.3 The number of months of service between the first (1st) and second (2nd) step increases varies between a minimum of ten (10) months and a maximum of fifteen (15) months, when applicable.

- 17.2.4.4 A part-time employee becoming full-time in the same class will be given full credit for each year of service in determining the annual increment.

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

17.2.5 “Y” Rating Incumbents - Downward Reclassification:

By special resolution of the Personnel Commission, the effects of downward range adjustments may be mitigated by a policy of "Y" rating the impacted incumbent's current hourly salary until the new lower salary range or hourly range catches up to the incumbent's salary. The impact of this policy would mean that an incumbent so "Y" rated would receive no general cost of living or normally entitled salary step increase until their old higher hourly rate was matched and/or exceeded by the new lower hourly rate.

- 17.2.5.1 Whenever the Personnel Commission gives authorization to "Y" rate an incumbent, the rate will be discontinued when the employee receiving the rate is promoted or separates from the service. It will also be discontinued whenever the salary range for the class is increased so that it encompasses the employee's

present rate, in which event the employee's salary rate will be adjusted to the nearest highest amount in the new range.

- 17.2.5.2 When an employee's position is reallocated to a classification with a lower maximum salary, that employee's salary placement shall be at the lowest step on the lower salary range which equals or exceeds that employee's current salary. If no such step exists on the lower range, that employee's current salary shall remain unchanged (i.e., "Y" rated").

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

17.2.6 Downward Salary Relationship Adjustments:

A downward salary relationship adjustment is one in which the salary range of an existing classification is changed to another range having a lower maximum salary and in which all positions in that classification are affected.

- 17.2.6.1 When a downward salary relationship adjustment occurs, salary placement of the affected employees shall conform to Personnel Commission Rules.

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

17.2.7 Promotional Salary Rate:

A promotion shall result in an employee advancing to that step on the salary range for the class which provides at least a four percent (4%) increase in pay above the rate the employee is receiving in the regular (promotional or permanent) class from which promoted, but not more than the maximum of the new class to which promoted. (Rev. 5/7/20)

- 17.2.7.1 In determining the salary placement for a regular classified or confidential employee who is promoting to higher level regular classified position, salary placement shall be at the first step on the higher range which provides a minimum of at least a 4% increase over that employee's base salary prior to promotion. Any additional longevity and/or other stipend increments shall then be added, if applicable. (Rev. 5/7/20)

- 17.2.7.2 In determining the salary placement for a classified or confidential employee who is promoted from a regular classified position to a management classified position, salary placement shall be at the first step on the higher range which provides a minimum of at least a 5% increase over the employee's annual salary, prior to promotion. Any additional longevity and/or other stipend increments shall then be added, if applicable. (Rev. 5/7/20)

- 17.2.7.3 In determining the salary for a management classified employee who is promoted to a higher level management position, salary placement shall be at the first step on the higher range which provides a minimum of at least a 5% increase over the employee's

annual salary, prior to promotion. Any additional longevity and/or other stipend increments shall then be added, if applicable. (Rev. 5/7/20)

17.2.7.4 If not such steps exists, salary placement shall be at the last step on the higher range prior to the addition of longevity and/or other stipend increments, if applicable. (Rev. 5/7/20)

17.2.8 Upward Reclassification:

When an employee is reclassified along with their position to a higher classification, that employee's salary placement shall be at the same step on the higher range that it is on the lower range, prior to the addition of longevity and/or confidential increments, if applicable.

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

17.2.9 Placement after Unpaid Leave of Absence:

Upon return from an unpaid leave of absence, an employee shall be placed on the same step of the range for the class which achieved prior to taking the leave, including any change(s) in rate or range applicable to the employee's class; except that step advancement within the range shall be granted under the following conditions:

17.2.9.1 When the employee's paid status credit since returning combined with any previous service time earned prior to the unpaid leave but after the last anniversary date increase, add up to the equivalent of one (1) years' service credit for purposes of step advancement.

17.2.9.2 Unpaid leave time will not be counted for step advancement purposes.

17.2.9.3 Credit for step advancement shall accrue during leaves of absence for military service, to serve limited-term positions within the District, and any paid leaves of absence (e.g. illness, vacation, industrial accident/illness, etc.).

REFERENCE: Education Code Section(s): 45260, 45261, and 45309

17.2.10 Salary Placement Upon Demotion:

When an employee with permanence in a higher classification takes a voluntary demotion, that employee's salary placement shall be at the highest step in the lower range which does not exceed that employee's salary in the higher range.

17.2.10.1 When an employee who has permanence in a higher classification and who is the recipient of one (1) or more longevity increases takes a voluntary demotion, that employee's salary placement shall be at the highest step in the lower range which does not exceed that employee's current base salary. Any longevity or

other increment to which entitled shall be added to the base salary at the lower range.

17.2.10.2 When an employee who has not achieved permanence in a higher classification takes a voluntary demotion, that employee's salary placement in the lower range shall be at the highest step previously attained in the lower classification.

17.2.10.3 When an employee who has not achieved permanence in a higher classification and who is the recipient of one or more longevity increases takes a voluntary demotion, that employee's salary placement in the lower range shall be at the highest step previously attained in the lower classification. Any longevity or other increments to which entitled shall be added to the base salary at the lower range.

17.2.10.3.1 The Personnel Commission's order in an involuntary demotion shall specify the step of the schedule at which the employee shall be placed.

17.2.10.3.2 Step advancement shall be in accordance with Rule 17.2.4.

REFERENCE: Education Code Section(s): 45260, 45261, and 45309

17.2.11 Salary Placement Upon Failing Probationary Period:

An employee who is demoted to their former class during the probationary period shall be placed on the step of the former range and retain the former anniversary date they held prior to promotion.

REFERENCE: Education Code Section(s): 45260, 45261, and 45309

17.2.12 Placement When Reemployed or Reinstated:

When an employee is reemployed or reinstated following a resignation, layoff, or other separation from employment, the employee shall be placed on the same step of the range for the class which they had achieved prior to the separation, including any change(s) in rate or range applicable to the employee's class; except that step advancement within the range shall be granted upon the following conditions:

17.2.12.1 When the employee's paid status credit is combined with any previous service time earned prior to the employment separation, but after the last anniversary date increase; adds up to the equivalent of one (1) year's service credit, the employee is eligible for step advancement in accordance with Rule 17.2.4.

REFERENCE: Education Code Section(s): 45260, 45261, and 45309

17.2.13 Summer/Recess Period Salary Placement:

A classified employee shall for services performed during summer or any other recess period, receive on prorata basis not less than the compensation and benefits which are applicable to the classification during the regular academic year for the position filled.

REFERENCE: Education Code Section(s): 45260, 45261, and 45309

17.3 DIFFERENTIAL/LONGEVITY COMPENSATION:

17.3.1 Differential Compensation:

The Board of Education may provide differential compensation to those classified employees who perform duties of a distasteful, dangerous, or unique nature when, in the opinion of the Board of Education, such compensation is reasonably justified. In a merit system district, 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. Employees shall receive compensation for differential pay in accordance with the negotiated agreements with the bargaining units.

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

- 17.3.1.2 The differential authorized under this Rule is not available to those employees whose use of foreign language skills, as a part of the regularly assigned duties of their position, has been recognized in the salary allocation of their class.
- 17.3.1.3 The differential authorized under this Rule is available to part-time classified employees but will be prorated according to a ratio of the number of hours in their assignment in a certified bilingual position and the number of hours in a full-time assignment of 173.33 hours per pay period.
- 17.3.1.3.1 The Personnel Director may initiate or accept an employee's or supervisor's request to study a position to determine the need for bilingual proficiency. The study will determine the need to speak a second language. The Personnel Director shall determine the examination procedures and qualifications of the examinees.
- 17.3.1.3.2 A bilingual differential shall be removed from an incumbent upon promotion, demotion, transfer, change of location or position, or other assignment action unless the employee is appointed to a position which has been designated as bilingual in accordance with this Rule. A person appointed to another position which has been designated as bilingual need not be retested for the same language ability.
- 17.3.1.4 An employee receiving differential compensation shall not lose such compensation if the employee is temporarily, for twenty (20) work days or less, assigned to a position that is not entitled to such compensation.
- 17.3.1.5 The regular rate of pay for all purposes of an employee assigned to a shift which provides differential compensation shall be the differential rate.
- 17.3.1.6 The effective date of the change in salary shall be no sooner than the date of certification of qualification to perform.
- 17.3.1.7 The authorized stipend shall remain in effect until withdrawn by the supervisor, or after an audit of the position by the Personnel Commission's staff indicates that the proficiency is not being used to a significant extent.

REFERENCE: Education Code Section(s): 45180, 45181, 45182, 45184, 45185, 45400, 45403, 45260, and 45261

17.3.2 Placement When Assigned Substitute/Temporary Position:

Regular probationary or permanent employees of the District who substitute in a higher classification shall be compensated for working out of classification as required by Rule 3.2.8.

REFERENCE: Education Code Section(s): 45110, 45256, 45260, 45261, 45268, 45285, and 45285.5

17.3.3 Longevity Increments:

Classified employees covered by a collective bargaining contract and confidential employees shall be paid longevity increments in the following manner:

17.3.3.1 Employees who have completed ten (10) years of service shall receive a three and one-half percent (3.5%) increase over their base salary, effective upon the employee's eleventh (11th) anniversary.

17.3.3.2 Employees who have completed fifteen (15) years of service shall receive an additional three and one-half percent (3.5%) increase over their base salary, effective upon the employee's sixteenth (16th) anniversary.

17.3.3.3 Employees who have completed twenty (20) years of service shall receive an additional three and one-half percent (3.5%) increase over their base salary, effective upon the employee's twenty-first (21st) anniversary.

17.3.3.4 Employees who have completed twenty-five (25) years of service shall receive an additional three and one-half percent (3.5%) increase over their base salary, effective upon the employee's twenty-sixth (26th) anniversary.

17.3.3.5 Employees who have completed thirty (30) years of service shall receive an additional three and one-half percent (3.5%) increase over their base salary, effective upon the employee's thirty-first (31st) anniversary.

17.3.3.6 Employees who have completed thirty-five (35) years of service shall receive an additional three and one-half percent (3.5%) increase over their base salary, effective upon the employee's thirty-sixth (36th) anniversary.

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

Revised: 01/11/2024

17.3.4 Computing of Regular Pay:

When computing the regular pay for a classified employee, the calculation shall be in the following order:

- 17.3.4.1 The employee's appropriate salary range and step shall be considered the employee's base salary.
- 17.3.4.2 Added to the base salary shall be any longevity the employee may be entitled, pursuant to Rule 17.3.3.
- 17.3.4.3 Added to the calculation arrived in Rule 17.3.4.2, shall be any confidential differential the employee may be entitled.
- 17.3.4.4 Added to the calculation arrived in Rule 17.3.4.3, shall be any additional differential the employee may be entitled to, pursuant to Rule 17.3.1.

REFERENCE: Education Code Section(s): 45180, 45186, 45260, and 45261

17.3.5 Salary Placement When Working out of Classification:

An employee may be required to perform work which is not reasonably related to their required or normal duties provided that in such case, an employee who performs duties in a higher classification shall receive as payment an upward adjusted salary for each day worked outside of their normal position as follows:

- 17.3.5.1 When a regular classified employee is required to work out of classification in a higher non-managerial classification for six (6) or more days within a fifteen (15) calendar day period, that employee's salary shall be placed at the lowest step on the higher range which provides a minimum increase of four percent (4%) over current base salary for the entire period the employee is required to work out of classification. If no such step exists on the higher range, that employee's salary placement shall be at the last step of the higher range. Any longevity or other increments to which entitled shall then be added.
- 17.3.5.2 When a regular classified employee is required to work out of classification in a higher classification which is a member of the managerial group for six (6) or more days within a fifteen (15) calendar day period, that employee's salary shall be placed at the same step on the salary range which is three (3) full ranges higher than that employee's current base salary. Such upward adjustment shall be for the entire period the employee is required to work out of classification.
- 17.3.5.3 When a confidential employee is required to work out of classification in a higher non managerial classification for six (6) or more days within a fifteen (15) calendar day period, that employee's salary shall be placed at the lowest step on the higher range which provides a minimum increase of four percent (4%) over current base salary, for the entire period the employee is required to work out of class. If no such step exists on the higher range, that employee's salary placement shall be at the last step of

the higher range. Any longevity or other increments to which entitled shall then be added.

17.3.5.4 When a confidential employee is required to work out of classification in a higher classification which is a member of the managerial group for six (6) or more days within a fifteen (15) calendar day period, that employee's salary shall be placed at the same step on the salary range which is three (3) full ranges higher than that employee's current base salary. Such upward adjustment shall be for the entire period the employee is required to work out of classification.

17.3.5.5 When an employee occupying a position compensated at a salary range on the District Management Salary Schedule is required to work out of classification in a classification set at a higher range on the District Management Salary Schedule for six (6) or more days within a fifteen (15) calendar day period, that employee shall be compensated at the lowest step in the higher range which assures a five percent (5%) increase in base salary for the entire period the employee works out of classification. If no such step exists, that employee will be compensated at the highest (or last) step of the higher salary range.

REFERENCE: Education Code Section(s): 45110, 45256, 45260, 45285, and 45285.5

17.3.6 Confidential Employee Increment:

A three percent (3%) increase shall be added to the base salary of a regular classified employee upon assignment to a position designated confidential.

REFERENCE: Government Code Section(s): 3540.1(c)

Revised: 10/9/2024

17.3.7 Salary Relationship Establishment and Revision:

Salary relationships have two aspects: The amount of salary differential between classifications within an occupational cluster, group, or family, and the amount of salary differential between occupational clusters, groups or families, each with its own benchmark classification.

17.3.7.1 Personnel Commission staff shall prepare recommendations to establish salary relationships for new classifications or to revise existing salary relationships within occupational clusters, groups, or families, arising in the course of the Commission's exercising its statutory classification and salary relationship functions. Due consideration shall be given to the views of District and bargaining unit spokespersons to the Personnel Commission.

17.3.7.2 Changes to existing classified manager or bargaining unit salary relationships may be requested by the District but shall conform to the following procedure:

- 17.3.7.2.1 Classified or certificated department heads shall forward, in writing, to Personnel Director their requests for changes affecting an entire class of positions.
- 17.3.7.2.2 Personnel Director shall evaluate such requests and notify the requestor of concurrence or non-concurrence. If, and when, concurrence is reached, the matter shall be forwarded to the Assistant Superintendent, Human Resources and the exclusive bargaining unit representative for endorsement.
- 17.3.7.2.3 Upon the endorsement the recommendation shall be submitted to the Personnel Commission office for evaluation and possible revision prior to preparation of a staff recommendation for Personnel Commission action.
- 17.3.7.2.4 Subject to any effective date indicated in the Personnel Commission action approving an upward revision, salary step placement of the employees in the affected class(es) shall be to the lowest step on the higher salary range which equals or exceeds current base salary (i.e., prior to the addition of longevity and other increments and stipends, if applicable).

Revised: 10/04/2018

CHAPTER 18 - GRIEVANCE PROCEDURES

18.1 GRIEVANCE PROCEDURE - GENERAL PROCEDURES FOR CLASSIFIED EMPLOYEES:

18.1.1 Purpose of Complaint Procedure:

The purpose of the grievance procedures is to provide regular classified employees with an expeditious, orderly and effective means by which complaints about matters growing out of their employment with the District can be resolved without reprisals. Employees may utilize this Chapter to seek adjustment of complaints arising in the following areas:

18.1.1.1 Established Personnel Commission Rules and Regulations.

18.1.1.2 Established provision of the Education Code.

18.1.1.3 Definition and Terms:

18.1.1.3.1 A grievance is a formal written allegation by a classified employee that they have been adversely affected by misapplication or incorrect interpretation of a specific District rule, policy, or administrative procedure.

18.1.1.3.2 A complaint is defined as an applicant, candidate, employee, employees, or employee organization filing a complaint involving one of the subjects set forth in this Chapter.

18.1.1.3.3 Grievant may be any classified employee of the District or the association who files a grievance under these procedures.

18.1.1.3.4 The "immediate supervisor" is the lowest level administrator having jurisdiction over the grievant who has been designated to adjust grievance.

18.1.1.3.5 A "day" is any day in which the central administrative offices of the District are open for business.

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

18.1.2 Matters Excluded from the Grievance Procedure:

There are certain subjects and matters that are not covered by this complaint procedure:

- 18.1.2.1 An alleged violation of any provision of a collective bargaining agreement shall be adjudicated in accordance with grievance procedure set forth in the collective bargaining agreement.
- 18.1.2.2 An alleged violation of the disciplinary action section of these Rules and Regulations, if formal disciplinary action has been initiated, shall be adjudicated through the disciplinary action appeal process set forth in Chapter 19 herein.
- 18.1.2.3 An alleged violation of District policies.
- 18.1.2.4 Complaints related to the subject matter of a Rule, regulation policy, law, or administrative procedure of the Personnel Commission. Any employee with such a complaint should submit their suggestions for change to the Personnel Director for consideration by the Personnel Commission.
- 18.1.2.5 Accusatory charges relating to the moral or professional fitness of an employee (classified or certificated) of the District shall be adjudicated in accordance with the procedures set forth in Board policy 1312.3.

REFERENCE: Education Code Section(s): 45260 and 45261
Government Code Sections(s): 3540 et seq.

18.1.3 Employee Relations Assistance:

The Grievance Complaint form shall be available in the Employee Relations office, which shall be utilized for all written complaints governed by this Chapter. The Employee Relations office staff will be available to provide assistance in completing the complaint form, in obtaining available information, and in the settlement of the issues.

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

18.1.4 Approval by Employee Relations Director:

If any settlement at Level One (1) or Level (2) of any complaint covered by these procedures is reached without the involvement of the Employee Relations Director or the Personnel Director, Employee Relations shall be informed of all proceedings, received 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, when the complaint involves any of the following:

- 18.1.4.1 Personnel Commission Rules and Regulations.
- 18.1.4.2 Personnel Commission administrative procedure(s).
- 18.1.4.3 Personnel Commission employee(s).

18.1.4.4 Alleged violation of the Education Code.

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

18.1.5 Complaint Time Limits Shall Be Considered Maximums:

It is important that complaints be resolved as quickly as possible, therefore, the times indicated at each level shall be considered as maximums. Time limits may be extended by mutual agreement.

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

18.1.6 Responsibility of Employee:

An employee having a grievance has the responsibility to initiate the grievance procedure as promptly as possible, but within fifteen (15) work days of the occurrence or incident provoking the complaint.

18.1.6.1 Failure to initiate the formal grievance procedure within the fifteen (15) day time limit renders inoperative the procedures established under this Rule.

18.1.6.2 The employee is responsible for obtaining representation (if the person so desires) such as a fellow employee, legal counsel, or an employee organization at any step as determined by the aggrieved employee.

18.1.6.3 The employee shall bear any cost of representation.

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

18.1.7 Responsibilities of Unit Supervisor:

Most grievances arise from instances of misunderstandings, or from problems that should be settled promptly and satisfactorily on an informal basis at the supervisory level before they become formal grievances. The prompt settlement of these problems is in the interest of sound employee-management relations. The practice of friendly discussions of problems between employees and their supervisors is encouraged and directed.

18.1.7.1 The supervisor must maintain an atmosphere in which the employee can speak freely.

18.1.7.2 Complaints shall be given careful and unprejudiced consideration.

18.1.7.3 Fair and prompt handling by the supervisor should result in the satisfactory settlement of most problems and complaints.

18.1.7.4 It is expected that grievances will be resolved at the lowest supervisory level possible provided that the remedy sought does not violate law, regulation, or policy.

- 18.1.7.5 It shall be the responsibility of the supervisor (principal or division head) to hear an aggrieved employee, seek out all of the facts in the case and resolve the problem as soon as it is possible to do so.
- 18.1.7.6 It shall be the responsibility of the supervisor (principal or division head) to request assistance in the resolution of problems as needed.
- 18.1.7.7 It shall be the responsibility of the supervisor (principal or division head) to communicate decisions and supporting reasons to the aggrieved employee in writing.

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

18.1.8 Employee Representative:

Any employee may have an employee organization represent their interests at any level of this complaint procedure.

REFERENCE: Education Code Section(s): 45260 and 45261
Government Code Sections(s): 3540 et seq.

18.1.9 No Reprisals for Filing of Complaint:

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

REFERENCE: Education Code Section(s): 45260 and 45261
Government Code Sections(s): 3540 et seq.

18.1.10 Reasonable Release Time:

The Complainant and/or their representative shall be provided reasonable release time, without loss of compensation, to attend conferences or hearings described in this Chapter.

REFERENCE: Education Code Section(s): 45260 and 45261
Government Code Sections(s): 3540 et seq.

18.1.11 Maintenance of Complaint Files:

Records pertaining to complaints filed under this Chapter shall be maintained in the Employee Relations department. All complaint records shall be maintained separately from the Complainant and/or their representative's personnel file.

REFERENCE: Education Code Section(s): 45260 and 45261
Government Code Sections(s): 3540 et seq.

18.1.12 Steps in Procedure to Adjust a Grievance:

In order to promote harmonious relationships, open communications, and provide for immediate solutions, every effort shall be made to resolve problems as promptly as possible at the first level of supervision through informal procedures.

18.1.12.1 Level One - Informal Procedure:

The Complainant shall meet with the immediate supervisor to discuss the potential complaint in an attempt to resolve it informally.

18.1.12.1.1 An informal grievance, written or oral, shall be submitted to the unit supervisor by the aggrieved employee or their representative within ten (10) work days of the act or condition from which the grievance originates.

18.1.12.1.2 Informal discussion between the employee and the unit supervisor shall take place no later than five (5) work days after request for a conference by the aggrieved employee in an attempt to resolve the problem.

18.1.12.1.3 The employee must be in attendance but may present the case through a representative of the person's own choosing.

18.1.12.1.4 The unit supervisor may call higher and lower level supervisors into the discussion.

18.1.12.1.5 Supervisors shall treat all grievances in a confidential manner exercising dignity and respect and review the facts of the grievance with thoroughness and complete objectivity.

18.1.12.1.6 The unit supervisor shall communicate the decision and supporting reason to the employee in writing within three (3) work days after conclusion of informal discussion.

18.1.12.1.7 The immediate supervisor shall attempt to hold a conference within ten (10) work days of the verbal request by the employee for an informal conference.

18.1.12.1.8 The immediate supervisor shall consider the facts and submit a written decision with supporting reasons within five (5) work days after the informal conference.

18.1.12.2 Level Two - Formal Written Grievance Procedure:

Failing to resolve the grievance through informal procedure, and if the employee desires to pursue the matter further, the employee shall submit a written complaint to the Superintendent or Superintendent's designee, within ten (10) work days after conclusion of the informal step and Level One (1) decision and request a review of the grievance by the Superintendent.

18.1.12.2.1 The written grievance shall be a clear, concise statement of the grievance, including the rule, regulation, policy, or procedure allegedly violated, attachment of all relevant evidence and documentation (including previous level grievance correspondence), and a statement of the specific remedy sought.

18.1.12.2.2 The Superintendent, or Superintendent's designee, shall hold a conference with all interested parties within ten (10) work days of receipt of request, unless there is mutual agreement that more time be allowed. The Superintendent, or Superintendent's designee, shall within ten (10) work days after completion of administrative review, render a written decision and shall notify all interested parties.

18.1.12.3 Level Three - Formal Written Grievance Procedure:

If the complaint is not satisfactorily resolved at Level Two (2) a written Level Three (3) complaint may then be submitted to the appropriate highest level administrator within fifteen (15) work days of receipt of the Level Two (2) decision, or if the Superintendent or Superintendent's designee has failed to respond, within ten (10) work days after the Level Two (2) response deadline.

18.1.12.3.1 The written grievance shall be a clear, concise statement of the grievance, including the rule, regulation, policy, or procedure allegedly violated, attachment of all relevant evidence and documentation (including previous Level One (1) and Level Two (2) complaint correspondence, the reason why the response from the Level Two (2) Superintendent or Superintendent's designee was unsatisfactory, and a statement of the specific remedy sought.

18.1.12.3.2 The administrator shall hold a conference with all interested parties regarding the complaint within ten (10) work days of receipt of the grievance.

18.1.12.3.3 The administrator shall submit a written response to the grievant within ten (10) work days following the conference.

18.1.12.4 Level Four – Personnel Commission:

If the complaint is not satisfactorily resolved by the Level Three (3) administrator, a written Level Four (4) complaint may be submitted in writing to the Personnel Commission within ten (10) work days of receipt of Level Three (3) decision, or if the Level Three (3) administrator failed to respond, within ten (10) work days after the Level Three (3) deadline.

18.1.12.4.1 The written Level Four (4) complaint shall contain a clear, concise statement of the complaint, including the rule, regulation, or Education Code Section allegedly violated, attachment of all relevant evidence and documentation including previous Level One (1), Level Two (2), and Level Three (3) complaint correspondence, the reason why the response from the Level Three (3) administrator was unsatisfactory, and a statement of the specific remedy sought.

18.1.12.4.2 If a timely complaint is filed, the Personnel Commission shall hold a complaint investigation/inquiry to hear witnesses, take evidence, and permit the submission of oral and written arguments in the case.

18.1.12.4.3 The investigation/inquiry shall be held in open session, unless provisions of the Brown Act permit and/or require a closed session of the Personnel Commission.

18.1.12.4.4 The deliberations of the Personnel Commission that are necessary to make the final decision and ruling shall be held in closed session.

18.1.12.4.5 Within a reasonable time after receiving the record, the Personnel Commission shall render a decision on the matter.

18.1.12.4.6 The Personnel Director shall notify the complainant of the decision of the Personnel Commission within five (5) work days following receipt of the decision of the Personnel

Commission. The decision of the Personnel Commission shall be final and binding on all parties.

REFERENCE: Education Code Section(s): 45260 and 45261
Government Code Sections(s): 3540 et seq.

CHAPTER 19 - PROCEDURES FOR DISCIPLINARY ACTION, APPEAL AND HEARINGS

19.1 GENERAL PROVISIONS ON DISCIPLINARY ACTION:

19.1.1 Disciplinary Action Only Pursuant to This Rule:

A regular classified employee shall be subject to disciplinary action only for cause as prescribed by these Rules and Regulations, and only pursuant to the procedure outlined herein.

19.1.1.1 Each employee shall receive fair and impartial treatment during any disciplinary action, regardless of the employee's position, assignment, or status protected by law, Rule, or Board Policy.

19.1.1.2 The District shall apply generally accepted principles of just cause and due process when disciplinary action is taken. Just cause and due process includes, but is not limited to:

19.1.1.2.1 Notice to the employee of the Rules and Regulations to be followed.

19.1.1.2.2 Adequate notice of penalties to be invoked for violations of Rules and Regulations.

19.1.1.2.3 An investigation for fair and honest reasons, regulated by good faith on the part of the District that are not arbitrary or capricious, unrelated to business needs or goals, or perpetual.

19.1.1.2.4 A reasoned conclusion supported by a preponderance of evidence gathered through an adequate investigation that includes notice of the claimed misconduct and a chance for the employee to respond.

19.1.1.2.5 Adherence to all due process rights that is afforded the employee by law, by case decision, by a collective bargaining agreement that applies to the employee, and by the Rules and Regulations of the Personnel Commission.

19.1.1.2.6 A regular classified employee shall be subject to disciplinary action only for cause as prescribed by these Rules and Regulations and only pursuant to the procedures outlined herein.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, 46303, 45304, 45305, 45306, and 45407

19.1.2 Definition of Discipline:

Disciplinary action includes any action whereby a permanent classified employee is deprived of any classification or any incident of any classification, including dismissal, suspension, demotion, or any reassignment that causes a reduction in pay without the employee's voluntary written consent, except a layoff for lack of work or lack of funds or due to mental or physical incapacity to perform work with or without reasonable accommodation.

19.1.2.1 A voluntary reassignment of a regular employee by the Board of Education due to illness or injury is not disciplinary action.

19.1.2.2 Layoff or reduction in hours due to a lack of funds or lack of work is not a disciplinary action.

19.1.2.3 Reassignment of a regular employee by the Board of Education because of illness or injury is not a disciplinary action.

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

19.1.3 Prohibited Acts Related to Discipline:

A classified employee shall not be suspended, demoted, dismissed, subjected to any form of disciplinary action as a form of sexual harassment or in any way discriminated against because of the employee's affiliations, race, color, national origin, age, marital status, sex, sexual orientation, disabling condition, ancestry, whistle blowing, employee organization membership or non-membership and legal activities related thereto, medical condition as defined in the Government Code, false claim action or religious or political beliefs or acts, except as legally provided in these Rules or as mandated by law.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45305
Government Code Section(s): 12926, 12650 and 12653

19.1.4 Dismissal of Exempt Classified Employees:

A substitute, limited-term, provisional, or other temporary classified employee may be released at any time without regard to procedures set forth in this Chapter.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45305

19.1.5 Cause for Disciplinary Action:

The following causes shall be grounds for disciplinary action:

19.1.5.1 Incompetency or inefficiency: The continuing inability or unwillingness to perform the regularly assigned duties and responsibilities of the position.

19.1.5.2 Insubordination: Knowingly refusing to perform lawful and reasonably assigned duties or refusing to perform those duties in accordance with established or prescribed procedures;

challenging, resisting, defying or demonstrating contempt toward a designated supervisor or other school district official having authority to issue directions and instructions to the employee by the nature of their position.

- 19.1.5.3 Any willful or persistent violation of the Education Code, or Personnel Commission Rules and Regulations, or the procedures adopted by the District or a department when such procedures are made known to the employees in writing.
- 19.1.5.4 Knowingly falsifying or withholding any material information supplied to the District, including but not limited to information required on application forms and employment records or other official documents of the District.
- 19.1.5.5 Use or possession of alcoholic beverages on District property or appearing for work under the effects of alcohol. "On District property" shall also include District vehicles.
- 19.1.5.6 The use of or possession of illegal controlled substance, or restricted dangerous drugs as defined in Section 11032 of the Health and Welfare Code, being under the effects of illegal or restricted dangerous drugs during hours of employment, upon any district property, or in any district vehicle, other than that prescribed by a state licensed physician.
- 19.1.5.7 Convicted of a sex offense as defined in Education Code Section 44010. Conviction of such offense shall result in dismissal.
- 19.1.5.8 Convicted of a narcotics offense as defined in Education Code Section 44011. Conviction of such offense shall result in dismissal.
- 19.1.5.9 Conviction of a violent or serious felony. A violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code. Conviction of a violent or serious felony shall result in automatic dismissal without the procedures required herein, including the right to appeal.
- 19.1.5.10 Engaging in political activities during assigned hours of duty. "Engaging in political activities" shall be defined to include door-to-door campaigning; placing campaign literature in/on vehicles on District facilities, parking lots, or adjacent streets, telephone solicitation or contacts; use of District time or materials for reproduction of campaign literature or materials; and, engaging fellow employees, students, or others in a discussion or debate regarding any candidate for public office or ballot measure except as provided for by law. "During assigned working hours" shall be defined to include any and all time an employee is scheduled to be at their work site and/or engaged in District business and for

which the employee is compensated by the District; including paid rest break.

- 19.1.5.11 Conviction of a crime involving moral turpitude or a record of more than one (1) minor offense indicating that the person is a poor employment risk or unfit to associate with children. A plea, verdict, or finding of guilty or a conviction following a plea of nolo contendere, is deemed to be a conviction.
- 19.1.5.12 Conviction of a felony or misdemeanor or a record of one (1) or more misdemeanors which conviction indicates that the person is a poor employment risk for the particular job which the employee holds in the District. A plea, verdict, or finding of guilty, or a conviction following a plea of nolo contendere is to be deemed a conviction within the meaning of these Rules.
- 19.1.5.13 Arrest and/or being formally charged with a sex offense as defined in Education Code Section 44010. Conviction of such offense shall result in automatic dismissal without the procedures required herein, including the right to appeal.
- 19.1.5.14 Arrest and/or being formally charged with a controlled substance offense as defined in Education Code Section 44011. Conviction of such offense shall result in automatic dismissal without the procedures required herein, including the right to appeal.
- 19.1.5.15 Failure to report for a review of criminal records or for a health examination after due notice.
- 19.1.5.16 Discourteous, abusive, or threatening treatment of the public, employees, or students, including discriminatory harassment; or malicious engagement in reprisals by managers or supervisors against employees, applicants, candidates, or eligibles who file a written complaint pursuant to Government Code Section(s): 53297 regarding gross mismanagement or a significant waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. Threatening, abusive, demeaning and/or hostile verbal conduct toward a student, member of the public or another District employee, which has the purpose or effect of negatively impacting the individual's academic or work performance, interferes with the individual's ability to participate or receive the benefits of public programs or services, or may contribute toward creation of an intimidating, hostile or offensive work or educational environment.
- 19.1.5.17 Ethnic, racist, religious, or sexual harassment of another (sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone within the work setting).

- 19.1.5.18 Repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification.
- 19.1.5.19 Abandonment of Position: Absence of three (3) consecutive work days without notification or permission (and failure to notify the District of a valid or acceptable reason for absence).
- 19.1.5.20 Failure to return to work or notify the District within three (3) consecutive work days following an authorized leave of absence without notification or permission except in the case of an emergency.
- 19.1.5.21 Inattention to or Dereliction of Duty: A pattern of continued neglect or dereliction in the performance of assigned duties and responsibilities.
- 19.1.5.22 Leaving the job to which assigned during work hours without proper permission from the appropriate supervisor.
- 19.1.5.23 The insurability of an employee to drive a District vehicle or cancellation or suspension of a license when such is a requirement of the employee's position. Upon notification or confirmation by the District's insurance carrier of insurability or notice of the lack of an active driving license, discipline under this section shall be handled in the following manner:
- 19.1.5.23.1 The District shall attempt to reassign the employee within the same class or to a vacant position in a related class with the approval of the Personnel Commission not requiring operation of a motor vehicle.
- 19.1.5.23.2 If reassignment is not possible then the employee may be demoted pursuant to these Rules and Regulations.
- 19.1.5.23.3 If a position does not exist for a demotion to be accomplished then the employee may be dismissed pursuant to these Rules and Regulations.
- 19.1.5.23.4 Theft, willful misuse for personal gain, willful destruction, unauthorized use or mishandling of District, employee, or student body property.
- 19.1.5.24 Conduct that is discriminatory in nature that violates a collective bargaining agreement that applies to the employee, Personnel Commission Rule, Board Policy, State law, or Federal law.
- 19.1.5.25 Failure to obey a lawfully issued subpoena issued by the Personnel Commission and duly served, or any refusal to furnish testimony

or documents, other than self-incriminating, at a hearing or investigation before the Personnel Commission or Board of Education.

- 19.1.5.26 Advocacy of the overthrow of the Federal, State, or local government by force, violence, or other unlawful means.
- 19.1.5.27 Membership in the Communist Party.
- 19.1.5.28 Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
- 19.1.5.29 Carrying out a physical attack or assault upon a student, a member of the public, another District employee, or a District official, except in self-defense (as supported by facts and other information submitted).
- 19.1.5.30 Defrauding the District by collecting sick leave or industrial accident/illness leave pay while working elsewhere for pay during their normal scheduled work assignment with the District.
- 19.1.5.31 For designated safety sensitive positions failure to submit to a required drug test or a positive drug test result obtained pursuant to Federal and/or State law.
- 19.1.5.32 For designated safety sensitive positions engaging in conduct prohibited by Federal and/or State law, including, drinking alcohol within four (4) hours of performing safety sensitive duty, being in possession of alcohol (open or closed) while on duty, having a breath alcohol concentration of .04 or greater, on more than one (1) occasion of having a breath alcohol concentration of .02 to .0399 as determined by an evidential breath test, or refusal to take an evidential breath test.
- 19.1.5.33 Failure to obtain any job related license or certificate or complete required job related training after employment.
- 19.1.5.34 Any other cause deemed appropriate by the Board of Education or Personnel Commission.

REFERENCE: Education Code Section(s): 212.5, 230, 44010, 44011, 45123, 45260, 45261, 45302, 45303, and 45304;
Government Code Section(s): 1028, 12940, and 53297 et seq.
Penal Code Section(s) 261, 667.5, and 1192.7
Health and Safety Code Section(s): 11032, 11054, 11056, 11355-11361, 11363-11368, 11377-11382, and 11550

19.1.6 Limits on Disciplinary Action:

No disciplinary action shall be taken against an employee for any cause if:

- 19.1.6.1 It is a prohibited act related to discipline as defined by these Rules, by statute, or by case decision.
- 19.1.6.2 The employee's due process rights were violated unless disciplinary action or an alternate remedy for that violation of due process rights is otherwise permitted by law.
- 19.1.6.3 The disciplinary action conflicts with the provisions of the employee's collective bargaining agreement.
- 19.1.6.4 It occurred prior to the employee becoming permanent.
- 19.1.6.5 The misconduct occurred more than one (1) year prior to the date of the Notice of Proposed Disciplinary Action unless such cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee knew they should have disclosed the facts to the District or the District could be reasonably assumed to know or should have known about the acts upon which the discipline is based.
 - 19.1.6.5.1 Lack of due diligence by the District does not serve as a basis for extending the time limit.
 - 19.1.6.5.2 This does not preclude consideration of events or circumstances beyond one (1) year for the purpose of supporting the degree of disciplinary action or in establishing that progressive discipline had been used by the District.
 - 19.1.6.5.3 In this case of disciplinary action based on a criminal prosecution, the one (1) year limitation on acts for which disciplinary action can be imposed commences on the date of final judgment, regardless of when the acts resulting in final judgment occurred.
 - 19.1.6.5.4 In the case of acts that are subject to criminal investigation, regardless of whether or not there is a prosecution, the one (1) year limit on the imposition of disciplinary action is tolled if the District halts its investigation into disciplinary action during the time that a criminal investigation is pending.

19.1.6.6 The District has the burden of establishing by a preponderance of evidence the tolling of the time limit.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.1.7 Progressive Discipline:

Except in situations where an immediate suspension is justified under provisions of these Rules, an employee whose work performance or conduct is of such character as to incur discipline shall first be specifically warned in writing by the immediate supervisor. Such written warning shall state the Rule violated, the acts or omissions in violation, a recommended performance improvement plan developed in conjunction with the employee, and a reasonable time period during which the employee's performance will be reviewed for improvement or attainment of goals. The supervisor shall allow a reasonable period of time to permit the employee the opportunity to correct the deficiency without incurring further disciplinary action. For any of the causes for disciplinary action listed in Rule 19.1.5, Causes for Disciplinary Action, any employee may be suspended for not more than thirty (30) days or may be demoted or dismissed.

19.1.7.1 Progressive discipline is the application of corrective measures by increasingly progressive degrees with actions that fit the nature of the problem, designed to motivate an employee to change substandard performance or conduct.

19.1.7.1.1 The Personnel Commission shall consider whether or not progressive discipline has been used in determining whether a specific penalty is appropriate for the severity of the offense.

19.1.7.1.2 Prior to imposing disciplinary action against a classified employee that affects any loss of compensation, the District shall follow the principles of progressive discipline, except in cases where the safety of District employees, students or the public was involved, or in cases of theft or intentional damage to District property or violations of the law.

19.1.7.2 Step One - Oral Warning:

Prior to any formal disciplinary action, the classified employee shall be orally notified by their immediate supervisor that a deficiency in their job performance has been observed.

19.1.7.2.1 The supervisor or designee shall discuss the deficiency with the affected classified employee in an informal meeting and suggest ways in which the classified employee may improve their job performance.

19.1.7.2.2 The supervisor shall then review the classified employee's performance after a period of not less than twenty (20) work days from the date of the informal meeting at which time the supervisor or designee may proceed to Step Two (2) of this procedure if the performance of the classified employee has not improved.

19.1.7.3 Step Two - Written Warning:

If after Step One (1) herein above has been applied and the classified employee has not improved in their job performance, the classified employee's immediate supervisor, or designee, shall prepare a written warning letter and shall send such letter to the affected classified employee.

19.1.7.3.1 The warning letter shall outline those specific areas and/or incidents of the classified employee's deficient performance and suggestions and direction for improvement.

19.1.7.3.2 The warning letter shall not include any incidents or deficiencies, which were not discussed at the Step One (1) level herein above.

19.1.7.3.3 The warning letter shall not be placed into the affected classified employee's personnel file.

19.1.7.4 Step Three - Letter of Reprimand:

If it is noted after Step Two (2) herein above has been applied, that the classified employee has not improved in their job performance, the classified employee's immediate supervisor, or designee, shall prepare a written letter or reprimand and shall send such letter to the affected classified employee.

19.1.7.4.1 The letter of reprimand shall outline those specific areas and/or incidents of the classified employee's deficient performance and suggestions and direction for improvement.

19.1.7.4.2 The letter of reprimand shall not include any incidents or deficiencies, which were not discussed at the Step One (1) level herein above.

19.1.7.4.3 The letter of reprimand shall not be placed into the affected classified employee's personnel file until they have been given ten (10) work days to respond.

19.1.7.5 Step Four - Suspension:

If it is noted after Step Three (3) herein above has been applied, that the classified employee has not improved in their job performance, the classified employee's immediate supervisor, or designee, may make a recommendation to the Superintendent that the classified employee's deficient job performance warrants a suspension with or without pay for a period not to exceed ten (10) work days, as deemed appropriate.

19.1.7.6 Step Five - Further Action:

No less than thirty (30) days after Step Four (4) herein above has been applied, and if it is noted that the classified employee has not improved in their job performance and being that all the above procedures have been followed, the District Superintendent may make recommendation to the Governing Board of Education that further disciplinary action be taken against the classified employee which may include any of the following: demotion, suspension, reduction in hours or class, transfer or reassignment, written reprimand, or termination, as deemed appropriate.

19.1.7.6.1 A notice of disciplinary action, if any is to be taken, shall be prepared and shall be subject to the disciplinary notice procedures contained in this Chapter.

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

19.1.7.7 Progressive Discipline - Suspension:

After written warning, if the employee continues to violate a cause treated in Rule 19.1.5 above, then the employee may be dismissed, or suspended for up to thirty (30) days without pay. The proposed length of suspension shall reasonably relate to the seriousness of the alleged offense.

19.1.7.7.1 An alternative to a part or all of a suspension may be the employee's participation in an approved employee treatment program. An agreement to such a program shall be in writing and stipulated sanctions if the employee does not fulfill the requirement of the agreement.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.1.7.8 Progressive Discipline - Final Step:

If behavior warranting action under this Chapter continues, the employee may be subjected to more severe disciplinary action, including demotion or termination.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.1.7.9 Demotion or Dismissal:

If cause exists, an employee may be subjected to other forms of disciplinary action including demotion or dismissal.

19.1.7.10 Compulsory Leave of Absence:

An employee may be immediately suspended with or without pay if charged with the Personnel Commission of any sex offense or narcotics offense referred to in Education Code Sections 44010, 44011, and 45301, and the compulsory leave of absence shall continue for not more than ten (10) days after the date of the entry of the court judgement. The compulsory leave of absence may extend beyond such ten (10) work day period if the Board of Education gives notice within such ten (10) work day period that it will dismiss the employee thirty (30) work days after the service of the notice, unless the employee demands a hearing. An employee on a compulsory leave of absence shall continue to be paid their regular salary during the period of absence if the employee furnishes the District a suitable bond, or other security acceptable by the Board of Education, as a guarantee that the employee will repay the District the amount of salary as paid to them during the period of compulsory leave of absence. In case the employee is convicted of such charges, or the employee does not return to service after such period of absence the employee shall repay the District the full amount of salary paid during such period of compulsory leave of absence. If the judgement determines the employee is not guilty of such charges, or if the complaint, information, or indictment is dismissed, the District shall reimburse the employee for the cost of the bond; or, if the employee has not elected to furnish such bond, the District shall pay to the employee their full compensation during the period of the compulsory leave of absence, provided the employee returns to service after such period of time.

REFERENCE: Education Code Section(s): 44010, 44011, 44940.5, 45122.1, 45260, 45261, 45301, 45302, 45303, and 45304
Penal Code Section(s): 261
Health and Safety Code Section(s): 11054, 11056, 11357-11361, 11363-11364, and 11377-11382

19.1.7.11 Immediate Suspension with or Without Pay:

If an employee presents any matters related to the health, safety and well-being of the employee, students, fellow employees, or District property, the Superintendent or designee may suspend the

employee immediately without pay pending the initiation and completion of disciplinary action procedures. The Superintendent may end the suspension with pay to the employee or take action to suspend without pay in accordance with law and these Rules.

19.1.7.11.1 An employee may be immediately suspended with or without pay if charged with the Personnel Commission of any sex offense or narcotics offense. The suspension shall continue for not more than ten (10) days after the date of the entry of the court judgment. Any employee so suspended may receive compensation as provided for by law.

REFERENCE: Education Code Section(s): 44010, 44011, 45122.1, 45123, 45124, 45260, 45261, 45302, 45303, 45304, and 45305
Penal Code Section(s): 261
Health and Safety Code Section(s): 11054 and 11056

19.1.7.12 Permanent Employee in Probationary Promotional Position:

A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is demoted to their former class, does not have the right to appeal such demotion.

19.1.7.12.1 A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is subjected to disciplinary action that would result in the separation of the employee from the permanent Classified Service shall have full appeal rights as if the employee had completed permanency in their present class.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45305

19.1.7.13 Burden of Proof:

The burden of proof in disciplinary hearings is the District's and proceedings and any rule, regulation, policy, practice, or procedure to the contrary shall be void. The standard is a preponderance of the evidence.

19.1.7.14 Application to Employees of the Personnel Commission:

For the purposes of this section "the Personnel Commission" shall replace "the Board of Education" and "the District" and "the Personnel Director" shall replace "the Superintendent" for individuals employed by the Personnel Commission. For Personnel Commission employees the appeal of disciplinary action imposed by the Personnel Commission shall be before a

Hearing Officer and the decision of the Hearing Officer shall be the final disposition of the appeal. The Personnel Commission shall adopt and abide by the decision of the Hearing Officer.

19.1.7.15 Health and Benefits Maintained Until Appeal Concluded:

A classified employee who is subjected to a disciplinary action (as provided in these Rules and Regulations), who is receiving health insurance coverage and would otherwise lose those benefits, shall continue to receive such coverage until the timeliness for filing an appeal has passed or, in the event that the employee files a timely appeal, until all appeal processes contained in these Rules and Regulations have been exhausted.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.2 NOTICE OF PROPOSED DISCIPLINARY ACTION:

19.2.1 No Discipline Without Notice:

No disciplinary action may be taken against a permanent classified employee until a “Notice of Proposed Disciplinary Action” has been delivered to the employee and the employee has had an opportunity to respond to the charges either orally or in writing except as otherwise permitted by this Chapter.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.2.2 Contents of Notice of Proposed Discipline:

The Notice of Proposed Disciplinary Action shall contain statements in ordinary and concise language of the following:

- 19.2.2.1 The nature of the proposed action (suspension, demotion, dismissal, etc.).
- 19.2.2.2 The specific causes for the disciplinary action and specific sections of these Rules that the employee is accused of violating and upon which the disciplinary action is based.
- 19.2.2.3 The specific charges, a description of the chargeable action(s) or omission(s) which establish the causes for disciplinary action, including times, dates, and locations, in ordinary and concise language.
- 19.2.2.4 The proposed effective date(s) of the disciplinary action.
- 19.2.2.5 The employee’s rights to see and obtain copies of all evidence and documentation used to support the District’s case against the employee unless all such copies and documentation are provided with the notice.

- 19.2.2.6 The employee's right to representation.
- 19.2.2.7 The date that the disciplinary action will be acted on by the Board of Education.
- 19.2.2.8 The employee's right to request that the action before the Board of Education be held in open session, if applicable.
- 19.2.2.9 The employee's right to a Skelly hearing not sooner than five (5) work days as provided for in these Rules and by law prior to the Board of Education acting on the discipline.
- 19.2.2.10 A notice that the employee may forfeit the right to a Skelly hearing if the employee fails to respond within the time limits specified, and information on how to exercise the right to the Skelly hearing.

REFERENCE: Education Code Section(s): 45260, 45261, and 45305

19.2.3 Notice Shall Use Readily Understood Language:

The charges outlined in the Notice of Proposed Disciplinary Action shall be written so clearly that the employees will know the exact complaint(s) and charge(s) against them, such that the employee can respond to them. A Notice of Proposed Disciplinary Action stating only causes for discipline without citing the facts or evidence upon which the causes are based shall be insufficient for such purpose.

REFERENCE: Education Code Section(s): 45116, 45260, 45261, and 45302

19.2.4 Appeal Form Shall Accompany Disciplinary Notice:

An employee response form shall accompany the Notice of Proposed Disciplinary Action which shall explain the procedure for filing responses to the charges. The form shall be submitted to the District's Employee Relations office by the deadline noted in the Notice of Proposed Disciplinary Action.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.2.5 Disciplinary Notice Sent to Personnel Director:

The Notice of Proposed Disciplinary Action shall be delivered to the Personnel Commission office. The Employee Relations office shall have the responsibility to ensure that the Notice of Proposed Disciplinary Action is delivered to the employee pursuant to these Rules.

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

19.2.6 Notice Shall be in Writing and Served on Employee:

- 19.2.6.1 The Notice of Disciplinary Action shall be in writing and served in person or by certified mail (Return Receipt Requested) to the employee. For purpose of this Rule, if a notice is mailed, the

official date of receipt shall be the second (2nd) work day following the postmark date of the notice.

19.2.6.2 This requirement will be deemed to have been met if the Notice of Disciplinary Action is sent certified mail to the last known home address on file in the Human Resources office. Failure of the employee to retrieve delivered mail or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purpose of this Rule, if a notice is mailed, the official date of receipt shall be the second (2nd) work day following the postmark date of the notice.

19.2.6.3 If the notice is personally served on the employee in lieu of service by mail, the employee shall sign a written acknowledgement that they received the notice in person.

19.2.6.3.1 If the employee refuses to sign such an acknowledgement, the person serving notice and one (1) witness to the service may verify the service and the space provided for the employee's acknowledgement shall contain the notation "refused to sign."

19.2.6.3.2 All other notifications to the employee pursuant to this Chapter shall conform to this Rule.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.3 SKELLY HEARING:

19.3.1 Action if Appeal is not Filed:

If the employee does not respond to the charges within the ten (10) work day period outlined in the Notice of Proposed Disciplinary Action, the Superintendent or designee may recommend to the Board of Education that the proposed disciplinary action be approved. The Board of Education shall have the power to accept, lessen, or reject the recommendation of the Superintendent. The Board of Education shall not provide for a penalty or disciplinary action more severe than that recommended by the Superintendent.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.3.2 Skelly Hearing Before Superintendent:

If the employee submits a request to respond to the charges within ten (10) work days after receipt of the Notice of Proposed Disciplinary Action, the employee shall have a right to meet with the Superintendent or designee, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the appeal process. The employee shall be allowed to respond to the charges prior to

the Superintendent's recommendation of disciplinary action to the Board of Education.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.3.3 Notification of Skelly Hearing to Employee:

The Employee Relations office shall notify the Superintendent, or designee upon receipt or lack of receipt of a request for a Skelly hearing and shall coordinate the scheduling of the Skelly hearing. The Employee Relations office shall notify the employee in writing of the date, time, and place of the Skelly hearing before the Superintendent. Notification shall be delivered either in person or sent by certified mail (Return Receipt Requested). This requirement will be deemed to have been met if the notification of the Preliminary Appeal Hearing is sent certified mail to the last known home address on file in the Human Resources office. Failure of the employee to retrieve delivered mail or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purpose of this Rule, if a notice is mailed, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.3.4 Designee for Superintendent:

If the Superintendent is unable or unwilling to serve as the preliminary appeal-hearing officer, the Superintendent may assign a designee. That designee shall be an administrator who has the authority and authorization to accept, modify, or rescind the proposed disciplinary action. The administrator may not be a party to the proposed action, either as the supervisor initiating proposed disciplinary action, or as a witness.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.3.5 Employee Shall Have Opportunity to Respond to Charges:

The employee shall have the opportunity to respond to all charges. The Skelly hearing is not an evidentiary hearing. The employee will not be allowed to call or examine witnesses.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.3.6 Right to Representation:

The employee may be represented by legal counsel, union representative, or any other person designated by the employee. If the employee fails to appear, the Superintendent may recommend action to the Board of Education.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.4 **SKELLY HEARING DECISION NOTICE:**

19.4.1 **Superintendent or Designee’s Decision:**

19.4.1.1 The Superintendent or designee shall issue a written decision within five (5) work days after the conclusion of the Skelly hearing, to either implement the proposed disciplinary action, to modify the proposed disciplinary action, or to rescind and halt the proposed disciplinary action. The Superintendent or designee shall not act to provide for a penalty or disciplinary action more severe than that recommended in the Notice of Proposed Disciplinary Action. The written decision of the Superintendent or designee shall be filed with the Personnel Commission. The Employee Relations office shall be responsible for notification of the employee as to the findings of the Superintendent, pursuant to Rule 19.5.

19.4.1.2 If the employee requests a hearing with the Superintendent or designee and at that hearing the employee and the Superintendent agree on an alternative course of action pursuant to Rule 19.1.7.7.1, this agreement shall be in writing. If the agreed alternative action requires Board of Education action, the Superintendent shall recommend to the Board of Education that the alternative action be approved. The Board of Education’s decision to accept or reject the alternative action shall be final.

19.4.1.3 An unpaid suspension may be implement (notwithstanding Rule 19.1.7.11) after the employee has either waived their right to a Skelly hearing or after the Superintendent, or designee, renders a decision.

19.4.1.4 The Superintendent’s or designee’s decision shall be communicated to the Board of Education.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.5 **CONTENTS OF NOTICE OF DISCIPLINARY ACTION:**

The Notification of Disciplinary Action, which is the notification that disciplinary action has been approved by the Board of Education, shall contain statements in ordinary and concise language of the following:

19.5.1 The nature of the disciplinary action taken (suspension, demotion, dismissal, etc.).

19.5.2 The specific causes and sections of these Rules that the employee is accused of violating and upon which the disciplinary action is based.

19.5.3 The specific charges, a description of the chargeable action(s) or omission(s), including times, dates, locations in ordinary and concise language.

- 19.5.4 A copy of any investigative records, documents, interview summaries, or other evidence that was used to support any of the alleged factual findings.
- 19.5.5 The effective date(s) of the disciplinary action.
- 19.5.6 The employee's right to representation.
- 19.5.7 A copy of the action taken by the Board of Education.
- 19.5.8 The employee's right to appeal the disciplinary action to the Personnel Commission within fourteen (14) work days of service of the Notice of Disciplinary Action, and the right to have such a hearing within the timelines specified in these Rules.
- 19.5.9 A notice that the Personnel Commission may sustain, reject, or modify the disciplinary action taken against the employee; and that the Personnel Commission may not provide for discipline more stringent than that invoked by the Board of Education.
- 19.5.10 The employee's right to request the Personnel Commission to issue subpoenas for witnesses or other material evidence.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.6 APPEAL FORM SHALL ACCOMPANY DISCIPLINARY NOTICE:

An appeal form shall accompany the Notice of Disciplinary Action which shall explain the procedure for hearing and the signing and filing of which shall constitute a demand for hearing and a denial of all charges.

- 19.6.1 The appeal form shall be submitted to the Personnel Commission office by the deadline noted in the Notice of Disciplinary Action.
- 19.6.2 The employee shall include in the appeal their current mailing and residency address at which the employee may be contacted, in the event that additional correspondence or notices need to be sent to the employee.
- 19.6.3 The appeal notice filed by the employee shall also contain the name of their legal counsel or representative and the address and telephone number of such counsel or representative.
- 19.6.4 The employee shall attach to the appeal form the reasons for the appeal. Appeals can be made only on the following grounds:
 - 19.6.4.1 That the procedure set forth in these Rules and Regulations have not been followed.
 - 19.6.4.2 That the action taken was not in accord with the facts.
 - 19.6.4.3 That the penalty invoked by the District was excessive.

- 19.6.4.4 That the action should be found to be invalid due to violation of the substantive due process rights of the employee.
- 19.6.4.5 That the disciplinary action was taken in retaliation for protected activities engaged in by the employee or because the disciplinary action was taken based on prohibited discrimination of a protected status.

19.7 NOTICE SHALL BE IN WRITING AND SERVICED ON EMPLOYEE:

The Notice of Disciplinary Action shall be in writing and served in person or by certified mail (Return Receipt Requested) to the employee. This requirement will be deemed to have been met if the Notice of Disciplinary Action is sent certified mail to the last known home address on file in the Human Resources office. Failure of the employee to retrieve delivered mail or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purpose of this Rule, if a notice is mailed, the official date of receipt shall be the second (2nd) work day following the postmark date of the notice.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.8 ACTION IF APPEAL IS NOT FILED:

If the employee does not respond and request a Personnel Commission Appeal Hearing within the fourteen (14) calendar days outlined in the Notice of Disciplinary Action, the action of the Board of Education shall be final and conclusive, and no further appeal rights shall be allowed.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.9 NOTIFICATION TO PERSONNEL COMMISSION:

The Superintendent or designee shall notify the Personnel Commission of the Board of Education's decision relative to the disciplinary action. The Personnel Commission shall notify the employee in writing of the results of the Board of Education's action.

- 19.9.1 If the action of the Board of Education was to reject all disciplinary action, the Personnel Commission shall notify the employee in writing within five (5) work days after notification of the Board's decision.
- 19.9.2 If the decision of the Board of Education were to continue or modify the proposed disciplinary action, the Personnel Commission shall notify the employee in writing within five (5) work days after the notification of the Board's decision. Such notification shall be in the form of a Notice of Disciplinary Action.

19.10 APPEAL HEARING BEFORE PERSONNEL COMMISSION:

If the employee submits an appeal notice to the Personnel Commission office within fourteen (14) calendar days after receipt of the Notice of Disciplinary Action, the employee shall have a right to have an Appeal Hearing before the Personnel Commission.

19.10.1 The Appeal Hearing shall be held within reasonable days of receipt of the employee's appeal notice by the Personnel Commission office. The Personnel Commission may agree to a thirty (30) work day extension for good cause.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.11 APPOINTMENT OF HEARING OFFICER:

The Personnel Commission may authorize a hearing officer to conduct any hearing or investigation for which the Personnel Commission itself is authorized by the Education Code and/or these Rules to conduct, including disciplinary action.

19.11.1 Any such hearing officer conducting such hearing or investigation may administer oaths, subpoena, and require the attendance of witnesses and the production of books or papers, and cause the deposition of witnesses to be taken in the manner prescribed by law for like dispositions in civil cases in the Superior Court of this State.

19.11.2 The Personnel Commission may accept, reject, or amend any of the findings or recommendations of the hearing officer. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation, or upon the results of such supplementary hearings or investigations as the Personnel Commission may order.

19.11.3 The Personnel Commission may employ, by contract or professional experts, or otherwise, any such hearing officer, and may adopt and amend such Rules and procedures as may be necessary to effectuate this section of the Rules.

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

19.12 NOTIFICATION OF HEARING TO EMPLOYEE:

The Personnel Director shall notify the District and the Personnel Commission upon receipt or lack of receipt of an appeal notice and shall coordinate the scheduling of the Personnel Commission Appeal Hearing if a timely appeal is filed.

19.12.1 The Personnel Director shall notify the employee in writing within fifteen (15) work days of the timely filing of an appeal notice, of the date, time, and place of the Appeal Hearing before the Personnel Commission.

19.12.1.1 A notice of the date, time, and place of hearing shall be given or mailed to each of the parties not less than ten (10) work days prior to the hearing. The ten (10) day notice of hearing may be waived by agreement of the parties.

19.12.1.2 The notification shall be either in person or by certified mail (Return Receipt Requested) to the employee. This requirement will be deemed to have been met if the Notice of Disciplinary Action is sent certified mail to the last known home address on file in the Human Resources office. Failure of the employee to retrieve delivered mail or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purpose of this Rule, if a notice is mailed, the

official date of receipt shall be the second (2nd) work day following the postmark date of the notice.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.13 GENERAL CONDUCT OF PERSONNEL COMMISSION APPEAL HEARING:

At this full evidentiary hearing, the employee shall have the right to present all evidence and testimony on their behalf, to examine all evidence submitted by the District, hear testimony of the supervisor(s) who initiated the action, and examine and cross-examine all witnesses giving testimony.

19.13.1 All hearings shall be in closed session, unless the appealing employee requests an open hearing in their appeal notice. The Personnel Commission will provide written notice to the employee's right to open session no later than twenty-four (24) hours before the hearing. The Personnel Commission hearing shall be specifically conducted pursuant to Rule 19.10.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.14 RIGHT TO REPRESENTATION:

The employee may, at the employee's option, be represented by legal counsel, union representation, or any other person designated by the employee. If the employee files an appeal, the employee shall be required to attend the Personnel Commission Appeal Hearing, even if the employee's designated representative appears on the employee's behalf. If the employee fails to appear, the employee will be deemed to have forfeited their rights to further appeal and the Personnel Commission shall allow the Board of Education's disciplinary action to stand.

REFERENCE: Education Code Section(s): 45260, 45161, and 45302

19.15 PREHEARING CONFERENCE:

Prior to the Personnel Commission's formal hearing, the Personnel Director may hold a prehearing conference with the Board's representative and the appellant's representative or the appellant if the appellant is representing themselves. Such prehearing conference shall include but

not be limited to submission of witness lists, documents required for submission into evidence, and determination as to length of time necessary for the hearing.

REFERENCE: Education Code Section(s): 45260, 45261, and 45306

19.16 SUBPOENA OF WITNESSES/EVIDENCE:

The Personnel Director or its hearing officer may, and shall, if requested by either party, subpoena witnesses, and/or, require the production of records, documents, or other material evidence. The Personnel Director shall issue subpoenas on behalf of the Personnel Commission or its hearing officer. Subpoenas shall be delivered to the requesting party for service. The District shall be responsible for service of subpoenas on behalf of all current employees subpoenaed by the employee unless the employee makes other arrangements for service.

19.16.1 Requests for subpoenas shall be filed with the Personnel Commission office at least five (5) work days prior to the date of the hearing. Subpoenas may be served by certified mail (Return Receipt Requested). Subpoenas not served by any of the above processes may be served in accord with the California Code of Civil Procedure.

REFERENCE: Education Code Section(s): 45260, 45261, 45305, 45306, and 45307
Code of Civil Procedure Section(s): 1985-1997
Government Code Section(s): 11450.05-11450.50

19.17 LIST OF WITNESSES:

A list of witnesses to be called by each party and a list of persons authorized to attend the hearing shall be submitted to the Personnel Commission office at least five (5) work days prior to the date of the hearing. This will allow the Personnel Commission to secure the release time of employee witnesses prior to the hearing.

REFERENCE: Education Code Section(s): 45260, 45261, 45305, 45306, and 45307

19.18 DATE, TIME, AND PLACE OF HEARING:

Upon receipt of the appeal notice, the Personnel Commission shall determine the date, time, and place of the appeal hearing. The appeal hearing shall be held within the boundaries of the District.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.19 ALL HEARINGS SHALL BE RECORDED:

All hearings conducted pursuant to this Chapter shall be electronically recorded in such a manner that a verbatim written transcript can be produced if necessary.

19.19.1 Either party may request that the hearing be recorded by a court reporter, in which case, the party making the request shall bear the cost and make arrangements for

the court reporter to be present at the hearing. If both parties make such a request, the cost shall be equally shared by the parties unless they agree otherwise.

- 19.19.2 The Personnel Commission may also elect to have the hearing recorded by a court reporter at its discretion in lieu of an electronic recording.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.20 ORAL EVIDENCE BY OATH ONLY:

Oral evidence shall be taken only on oath or affirmation.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.21 ABILITY TO EXAMINE EVIDENCE:

Each party shall have the following rights as it relates to examination of witnesses and evidence:

- 19.21.1 To call and examine witnesses.
- 19.21.2 To introduce exhibits.
- 19.21.3 To cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination(s).
- 19.21.4 To attempt to impeach any witness regardless of which party first called the witness to testify.
- 19.21.5 To rebut all evidence presented by the opposing party.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.22 APPELLANT MAY BE CALLED TO TESTIFY:

If the appellant does not elect to testify on their own behalf, the appellant may still be called to testify and be cross-examined just as if they had testified on their own behalf.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302
California Evidence Code Section(s): 772

19.23 ADMISSION OF EVIDENCE:

The hearing need not be conducted according to the technical rules relating to evidence and the examination of witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious business; regardless of the existence of any common law or statutory rule which might cause the evidence to be objected to or ruled out if presented in a criminal or civil procedure before a court of law.

19.23.1 Hearsay evidence may be used for the purpose of explaining or providing supplemental evidence but shall not be sufficient in and of itself to support a finding by the Personnel Commission or its hearing officer unless it would be admissible over objection in a civil action in a court of law. Employee evaluations, which are not based on facts and are based on undocumented charges, may not be introduced as evidence.

19.23.2 The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence may be excluded.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.24 RIGHT TO BE REPRESENTED:

The Board of Education and the appellant shall be allowed to be represented by legal counsel or other designated representatives.

REFERENCE: Education Code Section(s): 45260, 45261, and 45306

19.25 GRANTING OF CONTINUANCE:

The Personnel Commission or its hearing officer may, prior to or during the hearing, grant a continuance for reason(s) believed to be sufficient or important to reaching a fair and proper conclusion.

REFERENCE: Education Code Section(s): 44261, 45260, 45261, and 45302

19.26 RULING ON OBJECTIONS:

The Personnel Commission or its hearing officer shall rule on all objections raised by either party.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.27 FINDINGS BASED ON PREPONDERANCE OF EVIDENCE:

The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented. The findings of the Personnel Commission or hearing officer shall be based upon the preponderance of evidence.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.28 **ORDER OF PRESENTATION OF EVIDENCE:**

Each side will be permitted an opening statement, District’s representative first and closing arguments, appellant or their representative last. The District shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or their representative will present their witnesses and evidence in defense.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.29 **EXAMINATION OF WITNESSES:**

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

19.29.1 The Personnel Commission or its hearing officer may, at its discretion, exclude witnesses not under examination from the hearing except for the appellant, District representative, the Personnel Director, and their respective counsels or designated representatives.

19.29.2 The employee may be called by either party to give evidence under oath. If the employee refuses to testify if called by the Board of Education, the hearing shall be terminated, and the action of the Board of Education shall be upheld to the extent permitted by law.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.30 **SWORN AFFIDAVITS:**

The policy of the Personnel Commission, shall be that when possible, all witnesses shall give testimony orally at the hearing. However, if in the opinion of the Personnel Commission or its hearing officer, a witness has good and sufficient reason for being unable to be present, written testimony may be accepted under the following conditions:

19.30.1 Such evidence shall be submitted by sworn affidavit of the witness. The affidavit shall be confined to a statement of facts bearing on the case and within the knowledge of the witness, and shall not contain any conclusions of the witness, except that a witness who qualifies as an expert may express their opinion based upon the facts, which they have recited.

19.30.2 Copies of all such affidavits shall be filed with the Personnel Commission office or the hearing officer at least five (5) work days prior to the date of the hearing and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.

19.30.3 Neither party has objections to the submission of the affidavit(s) into evidence. Either party, upon request, may require the attendance of the witness who has given the sworn affidavit for purposes of cross-examination. A continuance may be necessary in order to secure the attendance of the witness.

- 19.30.4 The Personnel Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.31 DELIBERATION AND FINDINGS OF HEARING OFFICER:

Whether the hearing is held in open or closed session, the hearing officer, if one is appointed by the Personnel Commission, shall deliberate on the evidence presented, prepares findings, and recommendations in closed session.

- 19.31.1 The hearing officer shall prepare a report that contains findings of fact and, conclusions, and recommendations in a written report within a reasonable period of time. If the hearing officer cannot complete the report within forty-five (45) days of the conclusion of the hearing, the hearing officer shall notify the Personnel Director that they are unable to do so, and provide an estimated date that it will be finished.
- 19.31.2 The Personnel Director will place a status report on the agenda for the next meeting of the Personnel Commission. The hearing officer shall forward the report and all exhibits to the Personnel Director when they have completed the report.
- 19.31.3 The report of the hearing officer is advisory only and is not binding on the Personnel Commission.
- 19.31.4 In all cases assigned to a hearing officer, a proposed decision shall be prepared in a form to be adopted by the Personnel Commission as its decision in the case.
- 19.31.4.1 Personnel Commission staff will notify the appellant, their representative, and the District's representative of the date of the meeting when the Personnel Commission will consider its decision on the appeal. Copies of the proposed decision shall be made available upon request to the appellant and representatives after the Personnel Commission has received it at a regular Personnel Commission meeting.
- 19.31.4.2 If either representative believes that the Personnel Commission should give further consideration to the decision, the representative shall submit a written request to the Personnel Commission with a copy to the opposing representative detailing reasons for further consideration and the remedy sought. The hearing officer may be present during the consideration of the case by the Personnel Commission and, at its request, may advise the Personnel Commission.
- 19.31.4.3 The Personnel Commission may accept, reject, or amend any of the findings or recommendations in the proposed decision. Any rejections or amendment shall be based either on a review of the transcript of the hearing or investigation, or upon the results of

such supplemental hearing or investigation as the Personnel Commission may order.

- 19.31.4.4 If a further investigation or hearing is ordered, the Personnel Commission may decide the case itself or may refer the case to the same or another hearing officer for the purpose of taking additional evidence. If the case is referred to a hearing officer, the hearing officer shall file another proposed decision.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.32 DELIBERATION OF PERSONNEL COMMISSION:

Whether the hearing before the Personnel Commission is held in open or closed session, the Personnel Commission, after it concludes the hearing, may deliberate its decision(s) in closed session. No persons other than members of the Personnel Commission, its legal counsel, and the Personnel Director, shall be permitted to participate in the deliberations. If the Personnel Director was the administrator initiating the disciplinary action, or if the Personnel Director acted on behalf of the Board of Education in the presentation of the case at any level of the appeal process, or if the Personnel Director served as a witness in the proceedings, the Personnel Director shall also be excluded from the Personnel Commission's deliberations.

REFERENCE: Education Code Section(s): 45260, 45261, 45266, and 45305

19.33 DECISION OF PERSONNEL COMMISSION:

The Personnel Commission shall render the judgment as soon as possible after the conclusion of the hearing. The decision(s) of the Personnel Commission shall be in writing and shall set forth which charges, if any are sustained and the reasons therefore.

- 19.33.1 The Personnel Commission's written decision(s) shall contain findings of fact, a determination of the issues presented, and the penalty imposed (if any). The findings may be stated in the language of the pleading or included by reference thereto.
- 19.33.2 If the disciplinary action is not sustained, the Personnel Commission's order shall set forth the effective date that the employee is to be restored or reinstated to their former position and/or status; such date to be set forth at any time on or after the date that the disciplinary action was invoked.
- 19.33.3 Copies of the Personnel Commission's decision(s) shall be delivered to the parties personally or transmitted to them by certified mail (Return Receipt Requested). The requirement for notification of the employee will be deemed to have been met if the decision is sent, certified mail, to the last known home address on file in the Human Resources office. Failure of the employee to retrieve delivered mail or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification. For purpose of this Rule, if a notice is mailed, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt.

- 19.33.4 If the Personnel Commission either sustains a suspension or modifies a dismissal, or other disciplinary action, to a suspension, such days of suspension shall be served on work days in which the employee is normally assigned.

REFERENCE: Education Code Section(s): 45260, 45261, and 45302

19.34 BOARD SHALL COMPLY WITH PERSONNEL COMMISSION DECISION:

Upon receipt for the Personnel Commission's written decision the Board of Education shall forthwith comply with the provisions thereof. When the Board of Education has fully complied with the Personnel Commission's decision, it shall so notify the Personnel Commission in writing within thirty (30) calendar days.

- 19.34.1 If the Board of Education fails and/or refuses to fully comply with the Personnel Commission's written decision(s) and order(s) as required by these Rules and Regulations and legal statutes within thirty (30) calendar days, the Personnel Commission shall seek action to ensure compliance.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45307

19.35 THE PERSONNEL COMMISSION ACTION:

The Personnel Commission may sustain or reject any or all of the charges filed against the employee. The Personnel Commission may sustain, modify, or reject the disciplinary action invoked against the employee. However, the Personnel Commission may not increase the severity of the disciplinary action imposed by the Board of Education.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45307

19.36 DECISION MUST INCLUDE CONSIDERATION OF JUST SETTLEMENT:

Following its determination of the facts and findings relative to the disciplinary action invoked against the employee, the Personnel Commission shall consider such other matters as it deems necessary and proper to effect a just settlement of the appeal, including, but not limited to:

- 19.36.1 The granting of seniority credit for any or all of the off-duty time pending restoration or reinstatement.
- 19.36.2 Expunge from the employee's personnel file and record any causes or charges that are not sustained by the Personnel Commission.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45307

19.37 OBTAINING COPIES OF THE HEARING TRANSCRIPT:

The employee or the employee's designated representative and the Board of Education or its designated representative may obtain a copy of the transcript under the following conditions:

- 19.37.1 The cost of the transcript and copies if requested, shall be borne by the party making the request.
- 19.37.2 The request shall be in writing and a cash deposit made in an amount determined by the Personnel Director prior to preparation, which shall not be less than the estimated cost of transcribing the hearing record.
- 19.37.3 The final cost of the transcript shall be the actual cost of preparation plus the cost of making copies as determined by the Personnel Director.
- 19.37.4 The transcript shall only be released upon payment in full. When the deposit is greater than the actual costs of the document (including the making of copies), the remainder shall be refunded to the party.

REFERENCE Education Code Section(s): 45260 and 45261

19.38 DISQUALIFICATION OF HEARING OFFICER OR PERSONNEL COMMISSION:

A hearing officer, the Personnel Director, or Personnel Commission member shall voluntarily disqualify themselves and withdraw from any appeal in which they cannot accord a fair and impartial hearing or consideration, or for which a conflict of interest may exist. Any party may request the disqualification of any hearing officer, the Personnel Director, or Personnel Commission member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.

- 19.38.1 If the Personnel Commission determines that there are sufficient grounds for disqualification, it may elect to disqualify the hearing officer, Personnel Director, or Personnel Commission member.
- 19.38.2 Where the disqualification request concerns a Personnel Commission member, the issue shall be determined by the other members of the Personnel Commission. However, no Personnel Commission member shall withdraw voluntarily or be subject to disqualification if the disqualification would prevent the existence of a quorum qualified to act in that particular appeal.
- 19.38.3 The Personnel Director shall not advise or make recommendations to the Personnel Commission if they are the party who brought the action against the employee.

REFERENCE: Education Code Section(s): 45260, 45261, 45266, and 45302

19.39 **COUNSEL FOR THE PERSONNEL COMMISSION:**

The Personnel Commission may seek and appoint legal counsel as part of its appeal and investigatory hearing duties. To avoid any conflict of interest, the legal counsel shall not be the same counsel representing the Board of Education, nor shall the Board of Education and the Personnel Commission be represented by members of the same legal firm in a hearing held pursuant to these Rules and Regulations. All reasonable costs associated with the use of such legal counsel by the Personnel Commission in hearings shall constitute a legal charge against the Board's general funds, whether or not the money or costs for legal services appear in the Personnel Commission's budget.

REFERENCE: Education Code Section(s): 45260, 45261, 45302, and 45313

CHAPTER 20 - LAYOFF AND REEMPLOYMENT PROCEDURES

20.1 LAYOFF PROCEDURES:

For bargaining unit members and classified employees assigned to confidential positions, layoffs are conducted according to contract provisions. When the collective bargaining contract is silent, these Rules prevail. For classified management and non-represented employees, the following applies:

20.1.1 Reason for Layoff:

The layoff of classified employees shall only occur for a lack of work or lack of funds, and only in accordance with the Rules and Regulations of the Personnel Commission. Any effects of layoff that may be negotiated between the District and any recognized exclusive representative shall be in addition to these Rules and Regulations. Any agreement between the District and a recognized exclusive representative may not provide for less than the mandated employment protections and procedures outlined in this Chapter.

REFERENCE: Education Code Section(s): 45260, 45261, and 45308

20.1.2 Layoff Definition:

As used in this Rule, the following term has the following meaning: "Reemployment list" means a list of names of persons arranged in order of their right to reemployment, 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 these Rules, and who are eligible for reemployment without examination in their former class. "Layoff" means layoff from employment or reduction in assigned time per day, week, month, or year.

REFERENCE: Education Code Section(s): 45260, 45261, and 45308

20.1.3 Layoff Resolution by the Board of Education:

Before any layoff notice can be issued, the Board of Education shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by classification and assigned time.

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

20.1.4 Order of Layoff:

Length of service (seniority as prescribed herein) shall be the only criterion used to effect layoffs. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus equal and higher classes (as determined by the Personnel Commission), shall be laid off first. Reemployment shall be in the reverse order of layoff. "Length of service" shall be defined to

include the hire date of that employee as a regular, probationary, or permanent employee in the class, plus any service in equal or higher classes.

20.1.4.1 The Personnel Commission shall grant length of service credit for time spent on unpaid leave in the following areas: military leave, illness leave, maternity leave, and industrial accident/illness leave.

20.1.4.2 Except, as noted in Rule 20.1.4.1, all unpaid leave of more than ten (10) work days shall not count toward earning “length of service” seniority credit. Employees taking leave shall have their classification hire date adjusted on a day for day basis for the duration of the unpaid leave.

20.1.4.3 If two (2) or more employees subject to layoff have equal class hire date seniority, then the decision shall be made by lot.

REFERENCE: Education Code Section(s): 45101, 45260, 45261, and 45308

20.1.5 Decreases in Assigned Time:

A District initiated decrease in the assigned hours per day, hours per week, days per year, or months per year of an existing regular position shall be considered a layoff for lack of work or lack of funds. All District initiated decreases in assigned time shall be performed in accordance with the layoff procedures in these Rules.

20.1.5.1 If a vacant, permanent position of equal time is not available, the incumbent may bump the incumbent of a position with equal time who has the least seniority in the class, provided they have greater seniority.

20.1.5.2 If no such option is available, they may bump the employee with the least seniority among those occupying positions of less time than the original position, provided they have greater seniority. An employee so bumped shall have similar bumping rights.

REFERENCE: Education Code Section(s): 46260, 45261, and 45308

20.1.6 Bumping Rights and Procedures:

An employee in the Classified Service who is laid off from a class and who has previous service in an equal or lower class, shall have the right to bump a less senior employee in that equal or lower class. Seniority for purpose of bumping shall include the total of the previous service in the equal or lower class, plus service in the class from which layoff occurs and in higher classes. In the event of a layoff the following bumping priority will apply:

20.1.6.1 An employee whose position is eliminated or reduced shall first be placed in a vacant position with an equal assignment in the same class when compared with the employee’s current position.

- 20.1.6.2 If the previous option is unavailable, the employee shall be placed in a vacant position that has additional assigned time in the same class when compared with the employee's current position.
- 20.1.6.3 If the previous option is unavailable, the employee will be allowed to bump into a position providing an equal assignment in the same class when compared with the employee's current position, and which is held by the least senior employee of those less senior employees holding positions with more assigned time.
- 20.1.6.4 If the previous option is unavailable, the employee will be allowed to bump into a position providing additional assigned time in the same class when compared with the employee's current position, and which is held by the least senior employee of those less senior employees holding positions with more assigned time.
- 20.1.6.5 If the previous option is unavailable, the employee will be allowed to bump into a position with less assigned time in the class that is closest to the employee's current assigned time, and which is held by a less senior employee in the class. As an alternative, the employee shall also have the option of bumping into an equal (1st option) or lower class (2nd option) previously held as a regular classified employee that will provide at least the same assignment time as the employee's current position.
- 20.1.6.6 If the employee is the least senior employee in the class, the employee shall have the option of bumping into an equal (1st option) or lower class previously held as a regular classified employee. The employee will repeat the sequence of options outlined in this Rule for the equal class position first. If no alternative is available in the equal class, the employee will repeat the sequence options outlined in this Rule of the lower class.

REFERENCE: Education Code Section(s): 45260, 45261, and 45308

20.1.7 Establishment and Maintenance of Seniority List:

The Personnel Commission shall establish and maintain a seniority list of all current employees. The seniority list shall include all employees' names, job site, their current and past classifications and seniority in each class. Seniority shall be defined as the length of service a regular classified employee has served in the class, plus higher classes. The seniority list shall be made available to interested employees.

20.1.7.1 For all employment in the regular Classified Service, seniority shall be determined by the employee's original date of hire in a class, plus higher related classes.

20.1.7.2 No seniority shall be earned during unpaid periods of separation from the service if the school district, except for military leave. Time spent on military leave shall count toward seniority provided

that the employee returns to active service with the District within six (6) months of release or discharge from the military under honorable conditions.

- 20.1.7.3 A permanent employee, who is laid off and is subsequently reemployed shall regain the seniority status held prior to the time of layoff, less the amount of time the employee was in a layoff status.
- 20.1.7.4 Should a permanent employee voluntarily separate from service and be subsequently reinstated to employment, all time spent working in the regular Classified Service shall count toward seniority accrual when the period of separation does not exceed thirty-nine (39) months.
- 20.1.7.5 In the event of a layoff, the seniority list shall be provided to the exclusive bargaining representative president not less than five (5) work days prior to any layoff notices being sent out.

REFERENCE: Education Code Section(s): 45308 and 45309

20.1.8 Seniority Computation:

When an employee believes that an error has been made on the seniority computation, the employee may notify the Personnel Director who shall review the computations and any additional information provided by the employee. The Personnel Director shall determine if a re-computation is appropriate. Seniority lists shall be corrected and presented to the Personnel Commission for certification, as necessary.

- 20.1.8.1 A record of seniority computation shall be maintained for each employee. This record shall be made available to the employee for review. In computing seniority for a single class with both full-time and part-time positions, only one (1) list shall be prepared, which shall include both the full-time and part-time positions.
- 20.1.8.2 Computation of seniority in a class shall include:
 - 20.1.8.2.1 All time served in the class from the date of hire into the class in a regular probationary or permanent status.
 - 20.1.8.2.2 Time for which a regular employee is paid in an equal or higher class on a limited-term or provisional basis shall be credited to the employee's regular class.
 - 20.1.8.2.3 Time served in restricted status upon qualification by the employee as provided in Rule 3.1.6.

- 20.1.8.3 Computation of seniority in a class shall not include:
- 20.1.8.3.1 Time served or compensated for a substitute, limited-term or provisional assignment prior to entering into the Classified Service as a probationary employee.
 - 20.1.8.3.2 Time of unpaid separation from service in the District, except for military leave and normal summer break for employees serving in less than a twelve (12) month per year assignment.
- 20.1.8.4 When a tie in seniority in a class exists, the tie shall be broken in the following manner:
- 20.1.8.4.1 The employee with the longest total service in probationary/permanent status with the District shall be accorded the greater seniority.
 - 20.1.8.4.2 If two (2) or more employees continue to be tied, the Personnel Director shall provide for the employees to draw lots to break the tie.
- 20.1.8.5 When reclassification results either in the merger of two (2) or more classes, or the separation of a class into two (2) or more classes, seniority rights of probationary and permanent employees who are reclassified with their positions shall be computed from the effective date of the reclassification.
- 20.1.8.6 An employee changing from one (1) class to another shall retain seniority in the former class; seniority in the new class shall begin on the date of the change.

20.1.9 Site Seniority:

If a position in a classification is eliminated or reduced at a site or department which has multiple positions at the site with similar assigned times, the least senior employee in that classification with those assigned hours will be bumped from the site before a more senior employee in that classification and assigned hours are impacted.

REFERENCE: Education Code Section(s): 46260, 45261, and 45308

20.1.10 Layoff Versus Temporary Positions:

No regular employee shall be laid off from any position while employees are serving in a probationary, substitute, provisional, emergency, or limited-term appointment is retained in a position in the same or lower classification, unless the regular employee declines assignment to the temporary position.

REFERENCE: Education Code Section(s): 46260, 45261, and 45308

20.1.11 Acceptance of Substitute or Temporary Positions:

An employee who has been laid off for lack of funds or lack of work and who is on a reemployment list may be employed as a substitute or temporary employee in their original class or any other class for which qualified (as determined by the Personnel Commission), for such employment.

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

20.1.12 Refusal of Temporary Employment:

Refusal of an offer of limited-term employment shall not affect the standing of any employee on a reemployment list.

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

20.1.13 Voluntary Demotion or Transfer:

A permanent classified employee who will suffer a layoff for lack of work or lack of funds despite their bumping rights may accept a voluntary demotion to a vacant position in a lower classification, or transfer to an equal class, providing that the employee is deemed to be qualified to perform the duties thereof by the Personnel Commission, and provided further that the Board of Education approves the voluntary demotion or transfer.

REFERENCE: Education Code Section(s): 46260 and 45281

20.1.14 Salary Placement after Demotion or Transfer:

A classified employee who accepts a demotion in lieu of layoff shall be placed at the salary range of the lower class, and then to that step of the lower range that comes closest to the employee's hourly salary rate in the higher classification without being more than the previous hourly salary rate.

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

20.1.15 Notice of Layoff:

The Personnel Commission 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 lack of funds. The notice to the employee shall specify the effective date of the layoff. Such notice shall be sent by certified mail (Return Receipt Requested) to the last known home address of the employee on file in the Human Resources office. Failure of the employee to retrieve delivered mail or respond to notification by the U.S. Postal Service of attempted delivery shall not be grounds for avoiding notification or the staying of the timelines outlined in these Rules. For purpose of this Rule, if a notice is mailed or electronically sent, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: Education Code Section(s): 45117, 45260, and 45261

20.1.16 Advance Notification to Exclusive Representative:

If any of the impacted positions are represented by a collective bargaining exclusive representative, the Personnel Commission, the District and the exclusive representative shall meet 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.

REFERENCE: Education Code Section(s): 45260 and 45261
Government code Section(s): 3540-359.3

20.1.17 Contents of Layoff Notice:

Any notice of layoff shall include the following:

- 20.1.17.1 The reason for the layoff.
- 20.1.17.2 The employee's displacement rights, if any.
- 20.1.17.3 The employee's reemployment rights.
- 20.1.17.4 The name and classification of the employee designated for layoff.
- 20.1.17.5 A statement that the employee may have a right to unemployment insurance.

REFERENCE: Education Code Section(s): 45117, 45260, and 45261

20.2 REEMPLOYMENT PROCEDURES:

20.2.1 Laid Off Employees Placed on Reemployment List:

The names of permanent and probationary employees laid off shall be placed upon the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in the order of seniority as defined in these Rules.

- 20.2.1.1 Laid off employees do not accumulate seniority credit while on the reemployment list.
- 20.2.1.2 Laid off employees are eligible for reemployment for a thirty-nine (39) month period from the actual date of layoff and shall be employed in the reverse order of layoff.
- 20.2.1.3 Laid off employees shall take precedence over any other type of employment defined or undefined in these Rules.
- 20.2.1.4 Laid off employees have the right to apply for promotional and transfer positions and use their seniority therein for a period of thirty-nine (39) months following layoff.

20.2.1.5 An employee on a reemployment list may file a written request with the Personnel Commission to be notified of promotional and/or transfer opportunities.

REFERENCE: Education Code Section(s): 45260, 45261, and 45298

20.2.2 Employees with Equal Seniority:

If two (2) or more employees subject to rehire have equal class hire date seniority, then the rehire offer shall be made to the employee with the earliest regular hire date in the District. If regular hire date is equal, the decision shall be made by lot.

REFERENCE: Education Code Section(s): 45101, 45260, 45261, and 45308

20.2.3 Laid Off Employees Eligibility for Reemployment:

Laid off employees are eligible for reemployment for a thirty-nine (39) month period from the actual date of layoff and shall be employed in the reverse order of layoff. Their reemployment shall take precedence over any other type of employment defined or undefined in these Rules. In addition, they shall have the right to apply for promotional and transfer positions and use their seniority therein for a period of thirty-nine (39) months following layoff. An employee on a reemployment list may file a written request with the Personnel Commission office to be notified of promotional and/or transfer opportunities.

REFERENCE: Education Code Section(s): 445260, 45261, and 45308

20.2.4 Voluntary Demotion/Reduction Employees Eligibility for Reemployment:

Regular employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff, shall be, at the employee's option, returned to a position in their former class or to a position in accordance with their seniority on any valid reemployment list with increased assigned time as vacancies become available, within a sixty-three (63) month period following the actual date of layoff.

REFERENCE: Education Code Section(s): 45260, 45261, and 45298

20.2.5 Public Employees Retirement System Retirement in Lieu of Layoff and Reemployment:

Regular employees who have at least five (5) years of service credit under the Public Employees Retirement System (PERS) and are fifty (50) years of age or older, may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reduction in assigned time. Such employees shall complete and submit a form to PERS. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with the Rules within this Chapter. If an offer of reemployment is made, and a written acceptance of the offer is received within two (2) work days of the written offer of reemployment, the retired person shall be allowed sufficient time to terminate their status with the PERS.

REFERENCE: Education Code Section(s): 45115, 45260, and 45261

20.2.6 Establishment and Maintenance of Seniority List:

The Personnel Commission shall establish and maintain a seniority list indicating an employee's hire date.

20.2.7 Offer of Reemployment and Acceptance:

An employee who is laid off and is subsequently determined by the Personnel Commission to be eligible for reemployment, based upon their seniority, shall be notified by the Personnel Commission office of an opening. If the employee cannot be reached, the employee will be notified in writing. Such notice shall be sent by certified mail (Return Receipt Requested) to the last known home address of the employee on file in the Human Resources office. Failure of the employee to retrieve delivered mail or respond to notification by the U.S. Postal Service of attempted delivery shall not be grounds for avoiding notification or the staying of the timelines outlined in these Rules. For purpose of this Rule, if a notice is mailed or electronically sent, the second (2nd) work day following the postmark date of the notice shall be considered to be the official date of receipt.

20.2.7.1 A regular employee shall notify the Personnel Commission office of their intent to accept or refuse reemployment within five (5) work days following the mailing of the reemployment notice. If the employee accepts reemployment, the employee must report to work within ten (10) work days following the mailing of the reemployment notice. An employee given notice of reemployment need not accept the reemployment to maintain the employee's eligibility on the reemployment list, provided the employee notified the Personnel Commission office in writing within five (5) work days from receipt of the reemployment notice.

20.2.7.2 A person offered an assignment equivalent or greater than the one (1) held at the time of layoff may accept or refuse the offer. If the person refuses this offer of reemployment, their name is removed from the reemployment list.

20.2.7.3 A person offered an assignment with fewer hours or months than the one held at the time of layoff, may accept or refuse the offer. If the person refuses the offer of reemployment they shall remain on the reemployment list until the offer meets the requirement above.

20.2.7.4 Offers of reemployment are to fill positions and may be at a different work location than the one from which the employee was laid off.

REFERENCE: Education Code Section(s): 45260, 45261, and 45298

20.2.8 Reemployment in Highest Rated Class Available:

Employee shall be reemployed in the highest rated job classification available in accordance with their length of service in the class from which they were laid off, equal classes, and/or higher classes. Employees who accept a position lower than their former class or accept a position with less assigned time than their former position, shall retain their original thirty-nine (39) months rights to the higher paid position and an additional twenty-four (24) months as provided in the Education Code and Rules 20.2.3 and 20.2.4.

REFERENCE: Education Code Section(s): 45260, 45261, and 45298

CHAPTER 21 - RESIGNATIONS

21.1 RESIGNATION PROCEDURES:

21.1.1 Resignation During Probation Period:

A person who resigns while in good standing during their probationary term may be returned to their original place on the eligibility list at the discretion of the Personnel Commission.

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

21.1.2 Resignation and Effect on Eligibility List:

A resignation relates only to the specific position from which the employee resigns and does not impair rights on other eligibility list(s), except that if their name is on any promotional eligibility list, it shall be removed from such list.

REFERENCE: Education Code Section(s): 45260

21.1.3 Procedure for Resignation of Employee:

When an employee desires to resign from the District they may do so without prejudice by submitting written resignation to their immediate supervisor or the Human Resources office. The resignation letter shall indicate the last day in paid status of the resigning employee and the reason for the resignation. Human Resources may conduct an exit interview with the employee.

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

21.1.4 Two Week Notice of Resignation:

Classified employees are requested to provide the District with at least two (2) week notice. Management classified employee are requested to provide at least four (4) week notice to the District.

21.4.1 An employee who resigns without the proper notice as described above, except with the written consent of the supervisor or manager, shall not be considered to have resigned in good standing. Such employee may be declared ineligible for reemployment or reinstatement privileges.

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

21.1.5 Acceptance of Resignation:

No resignation of a classified employee shall be considered final until approved by the Board of Education. The date of acceptance of the resignation shall be the date it is received by the Assistant Superintendent, Human Resources or designee unless otherwise stipulated. The Superintendent shall submit all resignations to the Board of Education for the ratification at its next regular meeting date.

21.1.5.1 A resignation of an employee submitted to evade dismissal from the service shall be considered to be with prejudice and such an employee shall not be eligible for reinstatement unless the circumstances of their separation have been thoroughly investigated and reviewed, the Assistant Superintendent, Human Resources, or designee has recommended that the individual be reinstated.

REFERENCE: Education Code Section(s): 45201, 45260, and 45261

21.1.6 Resignations Shall Be Submitted in the Year Effective:

A resignation shall be effective at the close of the work day on the date specified by the employee, except that the effective date of resignation shall be the last day of paid service if the employee is in a non-paid status on the date the resignation is to take effect.

REFERENCE: Education Code Section(s): 45201, 45260, and 45261

21.1.7 Retirement under Public Employees Retirement System:

Classified employees working over one thousand (1000) hours per year (approximately 4 hours per day) are covered by the Public Employees Retirement System (PERS) and Social Security. Employees wishing to retire under this system are required to submit appropriate retirement applications to the PERS.

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

21.2 HEALTH BENEFITS CONTINUATION UPON SEPARATION:

21.2.1 Consolidated Omnibus Budget Reconciliation Act (COBRA) Requirements:

Under Federal law, the District is required to offer employees and their families the opportunity for a temporary extension of health coverage (called “continuation coverage”) at group rates in certain instances where coverage under the health plan would otherwise end.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.2 Employee Continuation upon Reduction or Layoff or Voluntary Termination:

A classified employee and eligible dependents who are covered by the District’s health plan shall have the right to continuation coverage pursuant to COBRA regulations if the employee loses their group health coverage because of a reduction in hours of employment, or the termination of their employment for reasons other than disciplinary cause as outlined in these Rules and Regulations.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.3 Spouse/Domestic Partner Coverage:

The spouse or domestic partner of an employee covered by the District's health plan shall have the right to choose continuation coverage for up to thirty-six (36) months if the spouse or domestic partner loses group health coverage for any of the following reasons:

- 21.2.3.1 The death of the employee.
- 21.2.3.2 Divorce or legal separation from the employee.
- 21.2.3.3 A parent become eligible for Medicare.
- 21.2.3.4 A termination of the employee's employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations, or a reduction in the covered employee's hours of employment with the District that results in a loss of health benefits.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.4 Dependent Child Coverage:

The dependent child of an employee covered by the District's health plan shall have the right to choose continuation coverage for up to thirty-six (36) months if the dependent loses group health coverage for any of the following reasons:

- 21.2.4.1 The death of a parent covered by the plan.
- 21.2.4.2 The dependent ceases to be a "dependent child".
- 21.2.4.3 A parent's divorce or legal separation.
- 21.2.4.4 A parent become eligible for Medicare.
- 21.2.4.5 The termination of a parent's employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations with the District, or reduction in a parent's hours of employment with the District which results in a loss of health benefits.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.5 Responsibility to Notify District of Status Change:

The classified employee or eligible party has the responsibility to inform the District of a divorce, legal separation, dissolution of a domestic partnership, or a child losing dependent status under the District's health plan.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.6 District Shall Send Notification of Rights:

When the District is notified about one of the circumstances outlined in these Rules, the District shall notify the eligible party (employee, spouse, or dependent) in writing of the right to choose continuation coverage.

21.2.6.1 The eligible party shall have sixty (60) days from the date of losing coverage because of the events outlined in these Rules to inform the District in writing that continuation coverage is desired.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.7 Failure to Accept Continuation:

If an employee or eligible under these Rules for health benefits continuation coverage either opts not to accept coverage or fails to indicate that coverage is desired within the stated timelines in these Rules, the right to continue to participate in the District's group health insurance plan will be terminated.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.8 Requirement to Provide Similar Coverage:

If an employee or eligible party chooses continuation coverage, the District shall be required to give health benefit continuation coverage which, as of the time coverage is provided, is identical to the coverage under the health plan to similarly situated employees or to family members.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.9 Length of Continuation Coverage Provided:

The eligible employee and eligible dependents shall be afforded the opportunity to maintain coverage, except as noted below:

21.2.9.1. The District no longer provides group health coverage to any of its employees.

21.2.9.2 The premium for the continuation coverage is not paid by the employee or the eligible party.

- 21.2.9.3 The employee or eligible party becomes an employee covered under another group plan, unless that other plan contains a pre-existing condition limitation which excludes the employee or eligible party from coverage under the new plan due to a pre-existing condition.
- 21.2.9.4 The employee or eligible party becomes eligible for Medicare.
- 21.2.9.5 The divorced spouse of a covered employee subsequently remarries and is covered under the new spouse's group health plan.
- 21.2.9.6 This coverage shall continue for up to eighteen (18) months, unless the employee or eligible party is determined to be disabled by the Social Security Administration within that eighteen (18) month period. If such a determination is made by the Social Security Administration an extension of coverage for eleven (11) months is provided, for a total of twenty-nine (29) months.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.10 No Evidence of Insurability Necessary:

An employee or eligible party shall not be required to prove insurability to choose continuation coverage.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

21.2.11 Payment of Premium:

The employee or eligible party shall pay the full premium for the health benefit continuation coverage, plus an additional charge of two percent (2%) for administrative expenses.

REFERENCE: Education Code Section(s): 45260 and 45261
Federal Public Law 99-272, Title X - Consolidated Omnibus Budget Reconciliation Act

CHAPTER 22 – EMPLOYER-EMPLOYEE RELATIONS

22.1 GENERAL PROVISIONS:

22.1.1 Employee Organizations:

The collective bargaining statutes, Section 2, Chapter 10.7 of Division 4 of Title 1 of the Government Code (Sections 3540-3549.3) and subsequent modifications and revisions, wherever applicable to classified employees, shall serve as the basis for the maintenance of appropriate employer-employee relations within the San Bernardino City Unified School District.

22.1.1.1 The purpose of Chapter 10.7 of the Government Code is to promote the improvement of personnel management and employer-employee relations within the public school systems in the State of California by providing a uniform basis for recognizing the right of public school employees to join organizations of their own choice, to be represented by the organizations in their professional and employment relationships with public school employers, and to select one employee organization as the exclusive representative of the employees in an appropriate unit.

22.1.1.2 Government Code Chapter 10.7 shall not supersede other provisions of the Education Code and the Rules and Regulations of public school employers which establish and regulate a merit system, or which provide for other methods of administering employer-employee relations, so long as the Rules and Regulations or other methods of the public school employer do not conflict with lawful collective bargaining agreements.

REFERENCE: Government Code Section(s): 3540-3549.3

22.1.2 Work Stoppage or Other Concerted Labor Activities:

This article shall not be construed as making the provisions of section 923 of the Labor Code applicable to public school employees. This section means that public school employees may not strike against the District, nor may they engage in other related types of activities in order to attempt to resolve grievances or differences, real or fancied.

22.1.2.1 Any employee or groups of employees, either by their own initiative or through an employee organization, who leave their duty assignment or refuse to perform or fail to report to duty as a result of an unlawful strike or other unlawful concerted labor activities may be considered as having abandoned their positions and, if dismissed, shall not be eligible for reinstatement or subsequent employment with the District. The Board of Education may bring charges against any employee or employees for

abandonment of position and other causes for disciplinary action set forth in this Rule.

22.1.2.2 Any classified employee who absents themselves from duty for any reason during the period of an unlawful strike, sit-down, slow-down, or other concerted activities shall be required to provide proper evidence that the absence was lawful and in no way an effort on the employee's part to further the unlawful strike or concerted activity.

22.1.2.3 Any rule which permits personal or illness absences without evidence of necessity is suspended and void during any attempted unlawful strike or other unlawful concerted labor activity against the District.

REFERENCE: Education Code Section(s): 45260 and 45261
Government Code Section(s): 3549
Labor Code 923

22.2 POLITICAL ACTIVITY:

Every classified employee may, during off-duty hours, participate in any political activity not specifically prohibited by relevant provisions of the Education Code.

REFERENCE: Education Code Section(s): 7050, 7051, 7052, 7053, 7054, 7055, 7056, 7057, 45260, and 45261

22.3 CAUSE FOR DISCIPLINARY ACTION:

A classified employee involved in improper political activity may be disciplined for engaging in political activity that involves:

22.3.1 The use of any District property, equipment, or facility for any political purpose unless the use thereof is authorized, by law, for such purposes and the employee has obtained prior required approval.

22.3.2 The use of any District property, equipment, or facility for any political purpose or the performance of any political act during regular hours of duty.

22.3.3 Active campaigning on behalf of any candidate, including themselves, for public office whether by speaking, soliciting funds or support, distributing handbills, or otherwise, during their assigned hours of employment.

22.3.4 Attempting to gain any advancement or privilege through political activity prohibited by law or District rules.

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

22.4 **PERSONAL CANDIDACY:**

Any employee may be a candidate for any political office for which they may file without suffering any loss of employment status in the District unless they violate the provisions of Rule 19.1.5, Cause for Disciplinary Action.

REFERENCE: Education Code Section(s): 45190, 45198, 45260, and 45261

22.5 **LEAVE OF ABSENCE:**

An employee who files for a political office may request, and shall be granted, an unpaid leave of absence which shall commence not earlier than one (1) month prior to the concerned election and continue until the election processes have been completed insofar as their candidacy is concerned. Such leave is required if the employee is a candidate for election to the Board of Education.

REFERENCE: Education Code Section(s): 45190, 45198, 45260, and 45261

22.6 **ELECTION TO A POLITICAL OFFICE:**

An employee who is elected to a political office, the duties of which will clearly conflict with the normal duty hours and assignment with the District, may request, and shall be granted, an unpaid leave of absence which shall commence on the date the employee assumes the office and shall terminate no later than thirty (30) days after the last day in the elected office. Reelection to the same office or election to a different office which provides reasonable continuity of elected public service shall cause extension of the approved leave.

22.6.1 An employee granted a leave under this Rule may be used as a substitute employee during the period of the leave. The employee will be placed on appropriate employment list(s) and notified that the employee may be offered limited-term employment.

REFERENCE: Education Code Section(s): 45190, 45193, 45260, and 45261

22.7 **VIOLATIONS:**

Any person who willfully or through negligence violates the provisions of applicable Rules of the Personnel Commission, or the provisions of the Education Code, shall be subject to appropriate disciplinary action. Such action may include dismissal, suspension, or demotion as provided in these Rules.

REFERENCE: Education Code Section(s): 45317

22.8 **INTENT:**

It is the Personnel Commission's intent and purpose in enacting these Rules to allow employees their lawful privilege of political freedom and activity, but to ensure that political activities are not engaged in during normal duty hours and normal duty assignments. The District has a reasonable obligation to make certain that personnel are aware of their political rights and can

exercise those rights but at the same time to ensure that its employees do not wrongfully use their duty hours or District facilities for political purposes.

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