MARIN COUNTY
OFFICE OF EDUCATION
Supporting Learning for ALL Students

PERSONNEL COMMISSION HANDBOOK

PERSONNEL COMMISSION

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MARIN COUNTY OFFICE OF EDUCATION

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WELCOME!

The rules and regulations contained in this booklet were developed by the Personnel Commission for our employees and govern the terms and conditions of your employment. Except for matters subject to negotiations under the provisions of Government Code Sections 3540 through 3549 inclusive and covered by lawful collective bargaining agreements, these rules and regulations are the policies and procedures to be followed as they pertain to the classified service.

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

JOHN A. CARROLL

MARIN COUNTY
SUPERINTENDENT OF SCHOOLS

PAULETTE FOSTER

CHAIRPERSON
PERSONNEL COMMISSION

THE MERIT SYSTEM

The Personnel Commission is a separate agency authorized by the state to be responsible for certain personnel matters affecting classified school employees. 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 Marin County Board of Supervisors, on June 9, 1970, approved the transfer of certain duties and functions to the Superintendent. This transfer had been previously approved by the Superintendent at its regular meeting of June 1, 1970.

The Education Code provides that when such transfer occurs, it is mandatory that the Superintendent establish a Merit System for all classified employees if the county has a Merit System in effect at the time of adoption of the resolution of transfer by the Board of Supervisors. The Merit System did exist for county employees at the time of the transfer and it was, therefore, mandatory that it be established for the Marin County Office of Education Classified Employees.

In accordance with the California Education Code Section 45245:

a) One member of the Commission is appointed by the Superintendent
b) One member of the Commission, nominated by classified employees, is appointed by the Superintendent;
c) One member of the Commission is appointed by the former two.

Appointments are made alternately for three year terms. Commission members must be registered voters of Marin County and are required to be known adherents to the principles of the Merit System.

Rules and Regulations

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

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DEFINITION OF TERMS:

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

ACT:

Refers to Article 6 (commencing with Section 45240) of Chapter 5 of Part 25 of Division 3 of Title 2 of the Education Code of the State of California and means the Act and Sections applying to the merit system for classified employees.

AFFIRMATIVE ACTION:

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

ALLOCATE OR ALLOCATION:

The assignment of a class to a particular range on the salary schedule.

ALTERNATE POSITION:

A single position which may be filled alternately by an employee in either of two or more classes, at the discretion of the Superintendent. The highest alternate class shall be construed as being the normal working level of the position and any alternate lower class shall be considered a level suitable for recruitment and training.

ANNIVERSARY DATE:

The date upon which an employee is granted an earned salary increment computed in accordance with Rule 7.100.2.

APPEAL:

A request from an employee, or a recognized employee organization, to have complaints, protests, or points of disagreement heard after which a former decision may or may not be upheld by the hearing officer, Commission or Superintendent (Rule 6.900.3).

APPLICANT:

A person who, under the rules, has filed a formal application for employment.

APPOINTING AUTHORITY:

The Marin County Superintendent of Schools.

APPOINTMENT:

The official act of the appointing authority of offering employment to a person and the acceptance thereof.

BOARD:

The Marin County Board of Education

CABINET:

An executive and policy-making body consisting of upper echelon members of the management group.

CANDIDATE:

A person who has competed in one or more portions of an examination.

CAREER SERVICE INCREMENT:

An additional step on the salary schedule for those employees who have completed five (5) or more years of service.

CERTIFICATED SERVICE:

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

CERTIFICATION:

The submission of names of eligibles from an appropriate list to the appointing authority by the Director of Personnel.

CLASS:

A group of positions sufficiently alike in respect to their duties and responsibilities to justify common treatment in selection, compensation and other employment processes and sufficiently different from positions of other classes to justify different treatment in one or more of these respects. While defined as a group of positions, class may sometimes consist of but one position where no others of the same kind exist in the service.

CLASS SPECIFICATION:

A statement of the duties and responsibilities of the positions in the class, illustrated by examples of typical tasks, and of the qualification requirements of the positions in the class.

CLASSIFIED SERVICE:

All positions in the Marin County Office of Education service to which the Act applies and which are not excluded by the Act.

COMMISSION:

The Personnel Commission established pursuant to the Act for the Marin County Office of Education.

CONFIDENTIAL EMPLOYEE:

Specially designated employee who, in the regular course of duties, has access to, or possesses information relative to employer-employee relations.

CONTINUOUS EXAMINATION:

A method of recruiting applicants in which the last day for filing applications is not specified and examinations are conducted from time to time as the needs of the service require.

C.S.E.A.:

California School Employees Association. Chapter #327 of CSEA is the exclusive representative for employees in certain designated classifications representing the majority of classified personnel.

DEMOTION:

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

DIRECTOR OF PERSONNEL:

The Director of Personnel of Classified Employees is employed by the Commission. She/he shall act as secretary of the Commission.

DISCHARGE or DISMISSAL:

Involuntary separation from service for cause.

DISTRICT:

The Marin County Office of Education.

DUAL CERTIFICATION:

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

ELIGIBLE:

Legally qualified to be appointed. A person whose name appears on an eligibility list.

ELIGIBILITY LIST:

A list of the names of persons who have qualified in a competitive examination. See Employment List.

EMERGENCY APPOINTMENT:

An appointment for a period not to exceed 15 working days to prevent the stoppage of public business when persons on eligibility lists are not immediately available. (Education Code Section 45290)

EMPLOYEE:

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

EMPLOYMENT LIST:

A list of names from which certification may be made. This includes eligibility lists, reemployment lists and lists of persons who wish to transfer, demote, be reinstated or reemployed after resignation, or be restored after voluntary demotion or reduction to limited-term status. (Rule 5.100)

EXAMINATION:

The process of determining and evaluating the fitness and qualifications of applicants.

EXEMPT POSITION:

Employees in the classified service exempt from the provision of overtime. (Education Code Section 45130) See Rule 7.200.4.

EXTRA HIRE:

An employee hired to assist during a short period of time due to an excessive work load.

GENERIC FAMILY:

Family of job titles closely related in job content from the entry level position describing the least complex duty to the most advanced position describing a relatively high level of complexity; for example, Clerk Typist, Administrative Secretary, Senior Administrative Secretary.

GROUP:

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

INCUMBENT:

The person who currently fills a single position.

LAYOFF:

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

LIMITED TERM:

A term used in the Education Code to designate employment for periods not to exceed six months or employment of a temporary employee during the authorized absence of a permanent employee. (Education Code Section 45286)

LIMITED TERM EMPLOYEE:

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

MANAGEMENT EMPLOYEE:

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

M.A.P.E.:

Marin Association of Public Employees, exclusive representative for school bus drivers.

OFFICE or THE OFFICE:

The Marin County Office of Education

P.E.R.B.:

Public Employment Relations Board

PERMANENT EMPLOYEE:

1) An employee who has completed a probationary period in a class in the classified service. 2) An employee who has completed a probationary period for a class, or who entered the class by transfer, demotion, or reinstatement/reemployment without serving a probationary period.

PERMANENT POSITION:

A position established for a continuing and indefinite or unlimited period of time or for a fixed period in excess of six months.

P.E.R.S.:

The Public Employees' Retirement System. All regular classified employees are required to be members.

POSITION:

A combination of duties regularly assigned to be performed by one person on a permanent or limited-term basis. A position can only be established by action of the Superintendent.

PROBATIONARY PERIOD:

The trial period, as established by the Personnel Commission pursuant to Education Code Section 45301, immediately following an original or promotional appointment to a permanent position from an eligibility list.

PROMOTION:

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

PROMOTIONAL LIST:

An eligibility list resulting from a promotional examination limited to qualified employees of the Marin County Office of Education entitling those appearing on such list to appointment to positions in higher classifications according to the respective lists upon which their names appear.

PROVISIONAL APPOINTMENT:

A temporary appointment made in the absence of an appropriate eligibility list, not to exceed 90 working days except in specified circumstances. (See Education Code Section 45287 and 45289, also Rule 5.300).

PROVISIONAL EMPLOYEE:

A person employed under a provisional appointment.

RECLASSIFICATION:

A change in a position or class of positions by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level, on the basis of substantial changes over a period of time in the kind, difficulty or responsibility or duties performed in such position. Reclassification shall not be construed as promotion or demotion. (Education Code Section 45285, also Rule 3.200.10)

REEMPLOYMENT:

Reappointment to duty of an employee who has been laid off.

REEMPLOYMENT LIST:

A list of names of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, or abolishment of reclassification of position, or other reason specified in these rules, and who are eligible to reemployment without examination in their former class, arranged in order of their right to reemployment. (See Rule 5.100.3)

REGULAR EMPLOYEE:

An employee who has probationary or permanent status.

REINSTATEMENT:

A reappointment, after resignation, in regular or limited-term status, without examination, to a position in the employee's former class, or in a lower related class.

RESTORATION:

1) The reassignment of an employee to the same class and status held before resignation. 2) The reassignment of an employee who had been demoted to a former class, or to a related class, or after reduction to limited-term status to permanent status.

SALARY RANGE:

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

SALARY RATE:

A specific amount of money paid for a specified period of service, i.e., dollars per hour, per day or per month.

SALARY SCHEDULE:

The complete list of labor grades, ranges, steps and rates established for the classified service. Salary is within scope of collective bargaining agreements.

SALARY STEP:

A specific rate in a salary range.

SECTION 504:

Regulation implementing the Rehabilitation Act of 1973 (Bill of Rights for disabled people).

SENIORITY:

The total amount of continuous active service as determined by actual regular hours worked in a probationary status and/or permanent status within a classification or a higher classification shall determine seniority. No credits shall be earned during any periods in which the employee is on a Leave-Without-Pay status except when schools are not in session. (Education Code Section 45308)

SEPARATION:

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

SERIES:

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

SERVICE INCREMENT:

Additional compensation applied to Confidential Employees.

SHIFT DIFFERENTIAL:

Additional compensation to those employees whose work day begins after 3:00 p.m.

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

STUDENT:

A full-time day student enrolled in a college or university who works part-time is not considered a member of the classified service.

SUBSTITUTE EMPLOYEE:

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

SUPERINTENDENT:

The Marin County Superintendent of Schools.

SUSPENSION:

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

TEMPORARY:

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

TITLE IX:

The education amendments of 1972 prohibiting sex discrimination in education.

TRANSFER:

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

UNCLASSIFIED SERVICE:

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

WAIVER:

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

WORKING DAY:

A day for which pay is received regardless of the number of hours worked.

Y-RATE:

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

CHAPTER 1

1.100 PRELIMINARY STATEMENT

1.100.1 Statutory Authority for these Rules

The rules contained herein are established pursuant to the authority of the Personnel Commission under Education Code Section 45260, 45261, and other provisions governing the Merit System Act in the Education Code. (Note: it is recognized that certain of these rules venture into substantive matters within the prerogative of the Superintendent. For that reason, the initially adopted set of rules and regulations were submitted to the Superintendent for its approval.)

It shall be the policy of the Commission to submit all new rules or amendment or deletion of existing rules to the Superintendent when:

A. The rule requires Superintendent approval, and

B. It is difficult to define the division of Commission and Superintendent authority regarding the rule in question.

1.100.2 Interpretation and Application of Rules

The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. The Commission is open to responsible suggestions to amend the rules with prospective application; however, no rule amendment or new rule shall be applied retroactively. (See Rule 2.400.2C)

1.100.3 Judicial Review

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

1.100.4 Effect of Data Contained in Addendum to Rules

The salary schedule and related data, class placement on the salary schedule, a classification plan, job descriptions, class specifications, and other written material contained in the addendum to these rules are to be interpreted as having the same force and effect as Commission rules.

1.100.5 A. Distribution of Rules (Education Code Section 45262a)

Copies of these rules and copies of Title 2, Division 3, Part 25, Chapter 5, Article 6 (commencing with Section 45240) of the Education Code shall be made available to each probationary and permanent employee. Copies shall also be made available or electronically transmitted to each school, office, and permanent work site.

B. Employee Salary Data (Education Code Section 45169)

Each classified employee will be provided with 2 copies of a job description, the current salary structure, individual salary data, assignment or work location, duty hours, and the prescribed work week. Evidence of receipt of the documents shall be retained in the employee's personnel file.

CHAPTER 2

THE PERSONNEL COMMISSION

2.100 ORGANIZATION OF COMMISSION (Education Code Section 45245)

2.100.1 Terms

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

On or about August 1 of each year, the Director of Personnel shall notify the Superintendent of the name and home address of the Commissioner whose term will expire and whether or not she/he will accept reappointment. The notification shall also list the appointing authority and indicate that the Superintendent must follow the provisions of Education Code Section 45245 et seq.

2.100.2 Officers

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

2.200 SELECTION OF COMMISSION MEMBERS

2. 200.1 Membership (Education Code Section 45245)

One member of the Personnel Commission shall be appointed by the Board upon nomination by the County Superintendent of Schools, and one member shall be appointed by the Board upon nomination of the classified employees of the Marin County Office of Education. Those two members shall, in turn, appoint the third member.

2.200.2 Qualifications (Education Code Section 45244)

A. To be eligible for appointment or reappointment to the Commission, a person shall meet both of the following requirements:

   1. Be a registered voter and resident within the territorial jurisdiction of the Marin County Office of Education.

   2. Be a known adherent to the principle of the merit system. No member of the Board of any school district or a county board of education shall be eligible for appointment, reappointment, or continuance as a member of the Commission. During his or her term of service, a member of the Commission shall not be an employee of the Marin County Office of Education.

B. As used in this section, residence is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one residence.

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

2.200.3 Appointment of Members (Education Code Section 45246)

A. The Commission Member Appointed by the Board as nominated by the Marin County Superintendent of Schools.

Where a term will expire or a vacancy will exist on December 1, by not later than September 30:

1. The Marin County Office of Education shall publicly announce the name of the person it intends to appoint or reappoint.

2. Before making an appointment and at a board meeting to be held no sooner than 30 days and no later than 45 days after September 30, the Board in open hearing shall provide the public and employees and employee organizations the opportunity to express their views on the qualifications of the nominee recommended for appointment.

Thereafter, the Board shall make the recommended appointment without further notification or public hearing.

B. The Commission Member Appointed by the Classified Employees.

Where a term will expire or a vacancy will exist on December 1, by not later than 30 days before December 1:

1. The classified employees shall submit the name of its nominee to the Board and the Board shall appoint that nominee.

2. At any time prior to action by the Board, the classified employees may voluntarily withdraw the name of the nominee and submit a new nominee.

C. Third Appointee

Where a term will expire on December 1, by not later than September 30:

1. The Commission member appointed by the Superintendent and the Commission member appointed by the classified employees shall publicly announce the name or names of the person(s) they intend to appoint. If the two members are unable to agree upon one or more nominees by September 30, the Superintendent of Public Instruction shall make the appointment within 30 days.

2. At the next regularly scheduled personnel commission meeting to be held after 30 days from the day the intended third Commissioner is announced, as specified above, the Commissioner who is appointed by the Superintendent and the Commissioner who is appointed by the classified employees shall, in an open hearing, provide the public and employees and employee organizations the opportunity to express their views on the qualifications of each candidate recommended for the vacancy. If there is more than one intended appointee, each candidate shall be invited to this meeting.

3. Following the open hearing referred to above, the Commission member who is appointed by the Board and the Personnel Commission member who is the appointee of the classified employees may make an appointment of the nominee or one of the nominees or may make an appointment of a qualified candidate not previously nominated without further notification or public hearing.

D. A commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed but for no more than 90 calendar days.

2.300 MEETINGS

2.300.1 Regular Meetings

Subject to cancellation or proper change, the Commission shall meet once each month at the Marin County Office of Education as predetermined by the Director of Personnel and approved by the Personnel Commission. When such meeting date falls on a holiday, the Commission shall meet on the next succeeding business day, unless at a prior regular meeting it designates some other day for its meeting. In cases of emergency, the Commission may meet at some other time and/or place, provided that at least 24 hours' notice is given to all Commissioners and to employee and administration representatives and posted on the Commission's web page.

2.300.2 Adjourned Regular Meetings

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

2.300.3 Special Meetings

Special meetings may be called at any time by the Chairperson and shall be called upon at the request of any two members. Written notice shall be delivered personally or by mail to each member of the Commission and also be given to recognized employee organizations at least 24 hours before the time of such meeting as specified in the notice. A copy of the notice shall be posted on the Commission's web page. The order shall specify the date, time, and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Commission.

2.300.4 Public Meetings

A. All regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meetings of the Commission, except as provided on Rule 2.300.5.

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

2.300.5 Closed sessions

A. The Commission may hold closed sessions to consider the employment, appointment, expulsion, suspension, or disciplinary action in connection with any classified employee or to hear complaints or charges brought against such employee, unless such employee requests a public hearing.

B. The Commission may hold closed sessions with its designated representatives prior to and during consultations and discussion with representatives of employee organizations regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of employees in order to review its position and instruct its designated representatives (Government Code 54957.6).

C. Interested parties shall submit their reactions to proposals in writing on or before the next Commission meeting and shall have the right to present their reactions orally at the next Commission meeting prior to final action being taken on the proposal.

2.300.6 Minutes

The Director of Personnel shall record in the minutes the time and place of each meeting, the names of the Commissioners present, all official acts of the Commission, and the votes of the Commissioners. A Commissioner's dissent or approval and reasons therefore shall be recorded if requested by the Director of Personnel. The minutes shall be written and presented for correction and approval at the next regular meeting. The minutes or a true copy thereof shall be open to public inspection. Copies of the official minutes shall be distributed to various departments in the Marin County Office of Education and recognized employee organization representatives who have requested them.

2.300.7 Payment for Meeting Attendance (Education Code Section 45250)

Each Commissioner shall receive as compensation an amount as may be established from time to time by the County Board of Education, within the parameters as authorized by Education Code section 45250, plus reimbursement for necessary travel.

2.400 COMMISSION EMPLOYEES

2.400.1 Status of Commission Employees (Education Code Section 45264)

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

2.400.2 General Duties of the Director of Personnel (Education Code Section 45266)

A. The Director of Personnel shall perform all of the duties and carry out all of the functions imposed upon her/him by law and these rules. She/he shall act as Secretary to the Commission and shall issue and receive all notifications on its behalf. She/he shall direct and supervise the employees of the Commission and conduct administrative transactions and perform such other duties as authorized by the Commission, consistent with the law and rules and necessary to the proper functioning of the office and staff of the Commission.

B. The Director of Personnel shall conduct classification, salary, and rule studies and shall make such other investigations as directed by the Commission or as she/he deems necessary to her/his responsibilities.

C. In cases where two or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Director of Personnel, with advice of the Legal Adviser as needed and subject to appeal to the Commission. (Rule 1.100.2)

2.500 MISCELLANEOUS PROVISIONS

2.500.1 Communications

A. Communications and requests to the Commission shall, insofar as practicable, be in writing. Communications and requests shall be acknowledged and replied to, noting official Commission action when appropriate.

B. Individuals or groups who wish to present proposals for action by the Commission shall be encouraged to present them to the Director of Personnel for placement on the Commission agenda. It will be against the policy of the Commission to discuss such proposals except at open meetings, although the Commission may designate one of its members to investigate a specific subject.

2.500.2 Budget (Education Code Section 45253)

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

B. The Commission shall hold a public hearing on its proposed budget not later than May 30 of each year. At the time the Commission schedules the public hearing, it shall direct the Director of Personnel to forward a copy of the proposed budget to the Superintendent and notify the Superintendent of the time, date and place of the public hearing. Board and administration representatives shall be invited to attend the public hearing and present their views on the proposed budget.

C. Prior to adoption of its budget, the Commission will hear and fully consider all comments and suggestions that may be offered by the administration representatives, the Board and other concerned persons or organizations. Efforts shall be made to resolve any differences that may exist between the Commission and Superintendent.

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

2.500.3 Annual Report (Education Code Section 45266)

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

B. The report shall be prepared for Commission approval as soon after each fiscal year as possible and no later than a meeting in November. The report shall cover Commission activities for the preceding fiscal year.

CHAPTER 3

POSITION CLASSIFICATION PLAN

3.100 THE CLASSIFIED SERVICE

3.100.1 Positions Included (Education Code Section 45256 et seq.)

A. All positions established by the Superintendent which are not exempt from the classified service are included. All employees serving in classified positions shall be classified employees. The employees and positions shall be known as the classified service.

B. 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.

3.100.2 Senior Management Positions

The Marin County Superintendent of Schools may designate certain positions as senior management of the classified service. Senior management positions shall be the highest management positions that have responsibility for formulating policies or for the administration of a principal program, as determined by the County Superintendent of Schools (Education Code Section 45108.5). Employees whose positions are designated as senior management positions shall be 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 permanent status in that senior management position (Education Code Section 45256.5).

The Marin County Superintendent of Schools has designated the following positions as Senior Management:

- Assistant Superintendent, Business Services
- General Counsel

3.100.3 Discontinuance of Senior Management Positions

The Marin County Superintendent of Schools 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 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. If the employee in the senior management of the classified service had been a member of the regular classified service, they shall be entitled to a position which is the same as, or similar to, the position to which they hold rights outside of the senior management of the classified service.

3.100.4 Exemption from the Classified Service (Education Code Section 45256)

A. Exempt from the classified service shall be:

1. Positions which require certification qualifications
2. Part-time playground positions where the employee is not otherwise employed in a classified position.
3. Full or part-time day students, employed part-time
4. Apprentice positions
5. Positions established for the employment of professional experts on a temporary basis for a specific project by the Superintendent or by the commission when so designated by the commission.

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87-1/2 per cent of the normally assigned time of the majority of employees in the classified service.

B. Special Categories (Education Code Section 45112)

The Superintendent may create positions of staff assistants or field representatives to directly assist the board or individual board members. Such positions, if created, are exempted from the provisions of these rules, insofar as they relate to position classification, recruitment, employment and salary setting.

Persons employed in such positions shall be members of the classified service for all purposes except that they may not achieve permanency in the classified service as a result of this service. Staff Assistants shall serve at the pleasure of the Superintendent. A field representative shall serve at the pleasure of the individual board member. If a permanent classified employee is appointed to serve in such an exempt position, she/he shall retain status as a permanent employee. If she/he is terminated from the exempt position, she/he shall have bumping rights in the former class (position title) in the same manner as if she/he had been laid off for lack of work or lack of funds.

C. Volunteer Aides (Education Code Section 35021)

Volunteer aide positions in Special Education programs are exempt from the Classified Service. A classified paid position cannot be abolished in order to replace said positions with a volunteer or utilized in lieu of a classified position. It is the intent of the legislature to permit schools to use volunteer aides to enhance the educational program but not to permit displacement of classified employees or to utilize volunteers in lieu of normal employee requirements.

D. Classified Restricted (Education Code Section 45111, 45112, 45113)

1. Persons employed under specially funded programs and programs which are restricted to the employment of persons in low income groups, or from designated impoverished areas or other criteria which restricts the privilege of said citizens to compete for employment shall be considered "classified restricted" employees. They shall have all rights and burdens of classified employees except that they shall not be accorded permanency and they shall not acquire seniority credit for the purposes of layoff for lack of work, lack of funds or abolishment of position until they have complied with the provisions of Sub-rule D-3.

2. If the Superintendent establishes positions and restricts initial appointment of new employees to persons having mental disabilities, then such positions shall, in addition to the regular class title, be classified as "restricted." The positions shall be part of the classified service and persons so employed shall be classified employees for all purposes except that they shall not acquire permanent status or seniority credit and shall not be eligible for promotion into the regular classified service until they have complied with the provisions of Sub-rule D-3).

3. Notwithstanding Sub-rule D-1 and D-2, employees serving in "restricted" positions may, after completion of six months of satisfactory service, take the next competitive examination that is given for the class in which they are serving. If an employee successfully completes the examination and attains placement on the eligibility list, as a result thereof, and regardless of her/his numerical standing on the eligibility list, she/he shall be considered a part of the regular classified service, even if she/he continues to serve in a restricted position, and be accorded full rights, burdens and benefits of a regular classified employee. Seniority rights shall be counted as of the date of her/his initial appointment to the restricted position.

3.100.5 "Part-Time" Defined (Education Code Section 45256)

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis is less than 87-1/2 per cent of the normally assigned time of the majority of employees in the classified service. The Personnel Commission has selected 8 hours per day as the unit of time upon which a determination is made.

3.100.6 Effect of Exemption

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

3.200 GENERAL CLASSIFICATION RULES

3.200.1 Assignment of Duties (Education Code Section 45109)

The Superintendent shall prescribe and fix the duties and responsibilities of all positions in the classified service except those on the Personnel Commission staff. When the duties being performed by an employee are found to be inconsistent with the duties officially assigned to her/his position, the Director of Personnel shall report the facts to the responsible administrator in order that appropriate action is taken.

3.200.2 General Nature of the Classification Plan

The Personnel Commission shall establish and maintain a classification plan which shall include classifications adopted by the Commission for all positions in the classified service. The list of classes (position titles) shall contain the designation of the ranking level applicable to each class (position title). (See Position Description and Job Factor Analysis Plan)

3.200.3 Class (Position Title) Specifications

For each class of positions (position titles), as initially established or subsequently approved by the Commission, there shall be established and maintained a class (position title) specification which shall include:

A. The official class title (position title);

B. A definition of the class (position title), indicating the type of duties and responsibilities and placement within the organizational scheme;

C. A statement of typical tasks to be performed by persons holding positions allocated to the class (position title);

D. A statement of the minimum and/or desirable qualifications for service in the class (position title). The minimum qualifications may include education, experience, knowledge, skills, abilities, and personal and physical traits and characteristics;

E. A statement of distinguishing characteristics, where applicable, which differentiates the class (position title) and other related or similar classes (generic family); and

F. License or other special requirements for employment or service in the class (position title).

G. Any additional qualifications considered so desirable that any person considered for employment who possesses them may be given additional credit in the evaluation of her/his qualifications, even though such additional qualifications are not a prerequisite to consideration for employment. (See Position Description and Job Factor Analysis Plan)

3.200.4 Interpretation of Class (Position Title) Specifications

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

A. 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 (position titles) as determined by their duties, responsibilities, and qualification requirements, and do not prescribe what these details shall be in respect to any position.

B. In determining the class (position title) to which any position shall be allocated, the specification for each class (position title) is considered as a whole. Consideration is given, not to isolated clauses, phrases, or words, apart from their context and from illustrative information in other parts of the specifications, but to the general duties, responsibilities, specific tasks, and qualification requirements as affording a picture of the positions that the class (position title) includes.

C. Each class (position title) specification is construed in its proper relationship to other specifications, and, when appropriate, those classes (position titles) in the same series and group of classes (generic family), in such manner as to maintain a proper gradation in the series in which the class (position title) is located and proper differentiation within the group of classes (Generic family).

D. Qualifications commonly required of the incumbents of all or many offices or positions, such as physical ability to perform the essential duties of the position with or without reasonable accommodation, as well as honesty, sobriety, and industry, even though not specifically mentioned in the specifications, are implied in the qualification requirements.

E. 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 (position title) but does not require a particular form or content of test or testing procedure.

F. The class title (position title) shall always be used with the meaning set forth in the remainder of the specification.

3.200.5 Changes in Duties of Positions

Any substantial changes in the duties of existing positions shall be promptly reported in writing by the Department Head through the Superintendent or her/his designee to the Director of Personnel, who shall cause the positions to be reviewed toward determining whether they should be reclassified.

3.200.6 Working out of Classification (Education Code Section 45110)

Classified employees shall not be required to perform duties which are not fixed and prescribed by the Superintendent, unless the duties reasonably relate to those fixed for the position by the Superintendent, for any period of time which exceeds five working days within 15 calendar-day period without a reasonable upward adjustment in salary for the entire period she/he is required to work out of her/his classification. When it is necessary to assign an employee out of her/his classification, the Director of Personnel shall report the fact with her/his recommendation to the Personnel Commission who shall make final determination of the reasonable salary adjustment for the duration of the temporary assignment.

3.200.7 Review of Positions

The Director of Personnel shall review the duties and responsibilities of positions as necessary to determine their proper classification. If the Director of Personnel finds that a position or positions should be reclassified, she/he shall advise the administration of her/his findings. If the administration verifies the duties of the position or if the duties are not revised to fit within the current classification, the Director shall report her/his findings and recommendations to the Commission. She/he shall also report findings in cases where review indicates that no change in classification is necessary. (Rule 3.200.9)

3.200.8 Creation of New Positions

Whenever it is proposed that a new classified position be established, the following procedures will be followed:

A. The immediate supervisor, with the approval of the Department and the designated Superintendent's staff member, will complete a request for position classification. This request will be forwarded to the Director of Personnel.

B. The Director of Personnel, upon receipt of the request for position classification, may request that the "Classified Salaried Position Questionnaire" be completed by the Department.

C. The Director of Personnel, upon receipt of the request for position classification, and, if required, the "Classified Salaried Position Questionnaire", will prepare the "Position Description" for the proposed position.

D. The Superintendent and Cabinet will review the proposed position description for approval.

E. Once the Superintendent has approved the job description, the approved description will be forwarded to the Personnel Commission so that the Commission may formally rank and place (i.e., classify) the position on the appropriate classified salary schedule based on provided and/or requested back-up data.

3.200.9 Changes in Classification of Existing Position

A. Whenever it is determined that a significant change has occurred in the duties and responsibilities of an existing position, the following procedures will be followed:

1. The immediate supervisor, with the approval of the Department and the designated Superintendent's staff member, will complete a request for position review. This request will be forwarded to the Director of Personnel (also see item "E" of this sub-section).

2. The Director of Personnel, upon receipt of the request for position review, may request that the "Classified Salaried Position Questionnaire" be completed by the incumbent with the stated approvals.

3. The Director of Personnel, upon receipt of the request for position review and, if required, the "Classified Salaried Position Questionnaire" will prepare the Position Description for the proposed position.

4. The Superintendent and Cabinet will review the proposed description, and, upon approval, place the proposed job description on the Superintendent's agenda for approval and adoption.

5. Once the Superintendent has approved the job description, the approved description will be forwarded to the Personnel Commission so that the Commission may formally rank and place (i.e., classify) the position on the appropriate classified salary schedule based on provided and/or requested back-up data.

B. The Personnel Commission, in making its determination as required in A.5, this section shall be governed by the Provisions of Education Code Section 45285. Only those employees who meet the specified years in service requirement will be considered for reclassification action without examination.

C. When the Personnel Commission finds that there are significant factors which have existed over a reasonable period of time which justify a change in the classification of a position, but which do not warrant reclassification of that position, the determination may be made to abolish the original position and establish a new position in a more appropriate class.

D. When the Personnel Commission determines that a change in the classification of a position is not justified, it shall direct that the original classification remain unchanged.

E. Notwithstanding the procedures to be followed as established in A above, the Personnel Commission, upon written request of the Superintendent, the Director of Personnel, or any classified employee, will review the classification of an existing position, when in the opinion of the Commission, significant changes in the duties and responsibilities of the position so warrant.

F. The Personnel Commission, in making its determination to change the classification of an existing position, either by reclassification or by the establishment of a new position in a different class (position title), shall consider the existing relationship of all classes (position titles).

3.200.10 <u>Status of Incumbent of Position after Change in Classification</u>

When a position is reclassified from one class (position title) to another class (position title), any incumbent who meets the required years in service, as specified in the Education Code, in such a class (position title), shall continue without examination in the position in the new class (position title) with the same status which she/he held in the former class (position title). An employee who has been reclassified with her/his position shall not be eligible for subsequent reclassification with her/his position for the period of time as specified in the Education Code. (Education Code Section 45285)

A. In the event the incumbent is promoted, she/he shall assume the status which she/he would assume upon promotion as otherwise provided by these rules. (6.200.4)

B. In the event of demotion, or in the event the incumbent does not qualify for reassignment, the junior employee in the former class (position title) shall be demoted, or treated in the manner provided by these rules for separation through layoff, whichever is applicable.

3.200.11 Allocation of Positions to Classes (Position Titles)

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 (position title).

3.300 ALLOCATION OF CLASSES (POSITION TITLES) TO SALARY SCHEDULES

3.300.1 Factors in Allocation of Classes (Position Titles) for Salary Determination

The Director of Personnel shall prepare recommendations for the allocation of classes (position titles) to salary schedules for approval by the Commission. These recommendations shall take into account, when appropriate, the following factors:

A. External Factors

1. Wages and salaries paid for similar work in private industry in the recruitment area.

2. Wages and salaries paid by other governmental agencies which may be in competition in the labor market within the local geographical area.

B. Internal Factors

1. The principle of like pay for like work within the classified service.

2. Appropriate differentials between related classes (position titles) to reflect differences in duties and responsibilities, as established in the classification plan (see Position Description and Job Factor Analysis Plan).

C. Salary Schedule for the Classified Service (Education Code Section 45268)

1. The Commission shall recommend to the Superintendent salary schedules for the classified service. The Superintendent may approve, amend, or reject these recommendations. No amendment shall be adopted until the Commission is first given a reasonable opportunity to make a written statement of the effect the amendments will have upon the principle of like pay for like service. No changes shall operate to disturb the relationship which compensation schedules bear to one another, as the relationship has been established in the classification made by the Commission.

D. Employee Relations

The Meet and Negotiate and the Meet and Confer processes for the recommendation and/or granting of general increases or decreases in salaries are not a function of the Personnel Commission but are reserved under California Government Code 3540, et seq., for the Superintendent.

3.300.2 Studies for Allocation of Classes (Position Titles)

A. A review or study for proper allocation of classes (position titles) to the salary schedule shall be made:

1. Whenever a new class (position title) is created.

2. When directed by the Commission or the Superintendent.

B. Data obtained in a study for the proper allocation of classes (position titles) to the salary schedule shall be made available to interested parties, including employee organization representatives. The Director of Personnel, based on information obtained from survey data, shall make her/his tentative recommendations to employee organization representatives and the administration.

An effort shall be made to resolve all differences before recommendations are submitted to the Commission.

3.300.3 Allocation of Classes (Position Titles) Recommendations (Education Code Section 45268)

A. After making its findings, the Commission shall present recommendations to the Superintendent for approval. The Superintendent may approve, amend, or reject the recommendation, but may not alter the relationships among classes (position titles) as established by the classification plan.

B. A salary allocation recommendation shall be made each time a new class (position title) is created. Salary allocation recommendations shall be based on clear evidence that the class (position title) in question is substantially overpaid or underpaid in relation to rates in the local and/or Bay Area or alignment with other classes (position titles). Nothing in this paragraph shall prevent adjustments in salary based on classification studies resulting from changes in duties and responsibilities, regardless of when such changes occur.

C. The Superintendent reserves the right to revise the salaries of classified employees at any time during the school year, pursuant to Education Code Section 45162 and 45163.

3.300.4 Appeals of Recommendations

A. An employee may appeal the recommendation of the Director of Personnel in regard to the salary allocation of her/his class (position title). The employee shall have the opportunity to present her/his case in writing and orally at a regular meeting of the Commission. The Administration shall have the same privilege.

B. If the Superintendent wants reconsideration of salary allocation recommendations, they may return recommendations with reasons therefor to the Commission, which shall reconsider them at its next meeting. After reconsideration, the Commission will advise the Superintendent of its findings and the reasons therefor.

CHAPTER 4

APPLICATION AND EXAMINATION

4.100 APPLICATION FOR EMPLOYMENT

4.100.1 Filing of Application

All applications for employment shall be made upon official forms furnished by the Personnel Department, filled out as directed, and filed on or before the date specified with the Personnel Department. When application is made for employment and no position opening exists at the time application is made, the application will remain in the acting pending file for six months only.

4.100.2 General Qualifications of Applicants

Every applicant must be in all respects mentally and physically competent to perform the duties of the position for which she/he applies. No classified service resident requirement or preferential treatment for residents can be applied since the opportunity to compete for and obtain a position in the classified service is based solely on merit and fitness (Education Code Section 45111)

4.100.3 Equal Opportunity Employment

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.

4.100.4 Elimination of Unfit Applicants, Candidates, and Eligibles

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

A. Failure to meet the general qualifications of Rule 4.100.2.

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

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

D. Conviction of or pleading guilty in court to a narcotics offense (see special note) or a charge of moral turpitude, or any sex offense, or mistreatment of children.

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

A. Criminal, dishonest, immoral, or disgraceful conduct as determined by the Personnel Commission.

B. Making a false statement or omitting a statement as to any material fact on the application form.

C. Practicing any deception or fraud in connection with an examination or to secure employment.

D. Narcotics offense, (see special note) drug addiction, and/or use of intoxicating beverages to excess.

E. Dismissal from a previous employment for cause if the cause would have subjected the applicant to dismissal from the Marin County Office of Education.

F. Previous dismissal from this office unless the Commission waives this sub-section.

G. A record of unsatisfactory service with this office even though separation has not occurred.

H. Unsatisfactory health conditions.

I. Discharge other than honorable from the armed forces of the United States.

J. Failure to report for duty after an assignment has been offered and accepted.

K. Failure, after due notice, to report promptly for review of any of the above bases for rejection.

L. Refusal to furnish testimony at a hearing or investigation before the Personnel Commission or Superintendent.

Special Note: The Superintendent determines eligibility to hire anyone convicted of possession or use of marijuana after 5 years of rehabilitation (Education Code Section 45123).

4.100.5 Rejection and Appeal from Rejection

A. Applicants, candidates, and eligibles who are rejected for any of the reasons enumerated in Rule 4.100.4 shall be notified in writing by the Director of Personnel. The notification shall state:

1. The reason(s) for rejection.

2. The length of time the individual shall be ineligible to be considered for examination or appointment to a position in the Marin County Office of Education.

3. That, within seven calendar days after date of receipt of notification by registered mail of the rejection, the individual may appeal to the Director of Personnel for administrative review, and that failure for such makes the rejection final and conclusive.

B. If there has been administrative review, as provided above, and the rejection is sustained, the individual shall be:

1. Given a written notice outlining the reason(s) for sustaining the rejection, and

2. Informed of the right to make a written appeal of the rejection and/or period of disqualification, within seven calendar days after date of receipt of notification by registered mail of the rejection to the Personnel Commission. The appeal may be based on any of the following reasons:

a) Discrimination because of actual or perceived race, color, ethnicity, age, religion, political affiliation, marital status, disability, gender, sexual orientation or national origin.

b) Inconsistency of the reasons given for the rejection with facts.

C. Upon receipt of an appeal, the Commission will set the appeal on the agenda no later than the next regularly scheduled Personnel Commission meeting.

4.100.6 Action When Rejection Is Not Sustained

If a rejection is not sustained by the Director of Personnel or the Personnel Commission, the Director of Personnel shall institute immediate action to insure the rights of the applicant, candidate, or eligible as if the rejection had not been made. However, appointments made in the interim shall not be disturbed.

4.100.7 Applications Not To Be Returned

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

4.100.8 Applicants' Names Not Made Public

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

4.100.9 Veterans' Preference (Education Code Section 45294 & 45296)

A. “Veteran” as used in this article means any person who has at least 30 days of active service in the Army, Navy, Marines, Air Force, Coast Guard, or Merchant Marine who has been discharged or released under conditions other than dishonorable. (Education Code Section 45294).

B. Veterans' preference points shall be added to passing scores in open examinations in the amount prescribed by Education Code Section 45296.

C. In order to obtain credit, the applicant must furnish satisfactory proof of qualifying military service with the application papers. No adjustment of rank on the list shall be made when such proof is presented thereafter (Rule 5.200.2).

4.200 EXAMINATIONS (Education Code Section 45261)

4.200.1 Examinations Barred

No examination announcement may be made and no part of any examination may be held until the Superintendent has properly approved the position on the allocation list, and the Commission has completed the position classification including the establishment of minimum and/or desirable education and work experience requirements.

4.200.2 Promotional Examinations (Education Code Section 45272)

Examinations shall, where practicable, as determined by the Director of Personnel, be limited to promotional applicants. When no promotional field of competition exists or when there is doubt of its adequacy, the Director of Personnel may authorize an open examination or simultaneous open and promotional examinations. Promotional examinations shall be restricted to permanent employees of the office who meet the prescribed qualifications of the class (position title).

4.200.3 Notice of Examination

Whenever it is necessary to fill existing or anticipated vacancies in the classified service and an appropriate employment list does not exist as determined by the Director of Personnel, she/he shall direct the holding of an examination to provide eligibles. Written notices shall be posted at Marin County Office of Education and on the MCOE website not later than 10 working days prior to the closing date of filing appropriate applications. Employees requesting such notices shall have them mailed to them. Except in unusual circumstances, at least 10 working days' advance public notice of such examinations shall be given. The notice shall contain the following facts:

A. Information concerning the location of employment and other conditions of employment.

B. Description of the scope of duties and responsibilities of the position and the class (position title).

C. Minimum and/or desirable qualifications required.

D. The salary and other forms of compensation.

E. The last date for filing an application unless the position is open until filled.

F. Such other information as will assist the employees and the public in fully understanding the nature of the employment and procedures necessary to participate in the examination.

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

4.200.4 Who May Compete

Competitive examinations for positions in the classified service shall be open to those applicants who meet the minimum qualifications and who are not rejected as provided in Rule 4.100.5, except that examinations may be restricted to promotional candidates at the discretion of the Director of Personnel.

4.200.5 Character of Examinations

A. Examinations may be written, oral and performance or demonstration of skill and ability, or any combination thereof.

B. Application appraisals (paper screenings) may be used to evaluate and measure the extent, relevance, level, progression and quality and quantity of experience and education of the

candidates by reference to the applications for employment, or other evidence of professional standing, as submitted by the candidate.

C. In the judgment of the Director of Personnel, the following may be used: background investigation of education, experience, character, loyalty or identity to include records of arrests, manual skill and mental fitness judgment.

D. A physical and medical examination to determine freedom from organic disease or physical incapacity to perform the duties of the position may be required. Such examinations shall be performed by an M.D. as designated by the Marin County Office of Education. Failure to pass such an examination shall be disqualifying. All records of such examinations shall be considered confidential. (Rule 8.400.1)

4.200.6 Examination Procedures

A. Examinations shall be administered objectively and shall consist of tests that relate to job performance. (Education Code Section 45273)

B. All applicants identified for further exam shall be notified and must take the test on the prescribed date unless other arrangements are approved by the Director of Personnel.

C. The Director of Personnel shall establish for each performance examination a minimum passing grade. Failure by any candidate to attain the minimum passing grade in any portion of an examination shall eliminate the candidate from competition in any further portion of the examination. Any candidate so eliminated shall be notified promptly in writing.

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

E. For oral examinations, the interview committee will consist of at least two members. The oral examination shall confine itself to evaluating general fitness for employment in the specific classification, unless a requirement exists to evaluate the candidates technical knowledge and skills, and this is so indicated on the position announcement. When the oral examination evaluates the technical knowledge and skills, at least two members of the committee shall be technically qualified in the specific occupational area.

The proceedings of all oral examinations will be electronically recorded or recorded in written form and shall be maintained for ninety days. Scores achieved by the candidates on other parts of the examination shall not be made available to the oral examination committee. (Education Code Section 45273)

F. The application appraisal (paper screening) is part of the selection process. The Director of Personnel shall appoint a review panel as required. At least two members of the panel shall be technically familiar with the positions to be filled. An application appraisal (paper screening) will be scored so that a determination can be made of the rankings of the candidates who are successful and who may compete in further examinations. Unsuccessful candidates, if any, shall be eliminated from further competition and so notified promptly in writing.

G. The Director of Personnel may designate examinations for certain specified classes (position titles) as continuous examinations. When so designated, these examinations shall be promulgated under similar conditions and techniques as previous examinations for the same class (position title), and the resulting eligibility list may be merged with previous lists for the class (position title) in the relative order of merit of the eligibles.

H. The Director of Personnel may accept the records of typing, shorthand or other performance tests given by County, State or other qualified agencies whose test administration standards are deemed appropriate.

I. Examinations may be scheduled and conducted as a promotional examination only, as an open examination only, or as a promotional and open examination. Any permanent employee who

meets the announced qualifications as presented on the position announcement bulletin shall be authorized to compete in an examination.

4.200.7 Examination Weighting

Failure by a candidate to obtain a minimum passing grade in any portion of an examination shall eliminate the candidate from competition in any further portion of the examination. Any candidate so eliminated shall be notified promptly in writing. All examination papers shall be prepared or approved by and rated under the direction of the Director of Personnel.

4.200.8 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.

4.200.9 Review and Protest of Examinations (Education Code Section 45274)

A. When the written test papers of all competitors have been rated, each candidate will be notified of the grade on the written test and the results of any other tests taken by the candidate.

B. During the first five working days immediately following the mailing to the candidates of the notice of the examination results, any candidate may make an appeal in writing regarding the results of the examination to the Director of Personnel on the basis of any one or more of the following:

1. Erroneous scoring of examinations
2. Unfair or improper conduct of an examination
3. Fraud, bias or error in a rating resulting from an oral, application appraisal (paper screening), performance or medical examination.

C. Notwithstanding the provisions of paragraph B above, copies of test keys for tests shall not be made available for review by a candidate, nor will the individual ratings given candidates by members of a qualifications committee be made available to the candidate.

D. Any appeal shall state in writing the specific nature of the inquiry, the item or incident to which it refers, and the reasons why the applicant believes his rating should be adjusted. Appeals on these bases will be accepted only if delivered to the Personnel Department or postmarked during the first five-working-day period following the date of mailing to the candidates of the final results.

E. The Director of Personnel shall immediately investigate any appeal received during the appeal period and may adjust the final rating(s) of the affected candidate accordingly. If the Director of Personnel does not uphold the appeal, the Director of Personnel shall, at the request of the candidate, refer it to the Personnel Commission with his/her recommendations. The Personnel Commission shall act on all appeals within 10 working days after receipt of the information from the Director of Personnel.

F. No appointments from an established employment list shall be made during the protest period, or in the event of an appeal, during the time an appeal is under consideration by the Director of Personnel or the Personnel Commission.

4.200.10 Seniority Credit - Promotional Examinations

In promotional examinations only, seniority credit shall be added to the final passing scores of candidates in the amount of .05 of one point for each month of service, not to exceed a total of five points (100 months). Credit shall be granted for time spent in regular status (see definition) in the classified service, including authorized leave with pay.
(Rule 5.200.2)

4.200.11 Ties in Examination Scores

When two or more competitors in an examination have the same final examination score, preference in placement on the eligibility list shall be based on the following provision:

In promotional examinations, seniority credit shall be used to break the tie.

4.200.12 Notice of Final Score

Each competitor shall be notified of the results of the examination.

4.200.13 Copying of Examination Records

No candidate may copy any portion of any examination records or materials made available for review, without authorization from the Director of Personnel. Unauthorized copying may result in removal from employment lists, dismissal from employment with the Marin County Office of Education and/or exclusion from future employment.

4.200.14 Retention of Examination Records and Applications (Education Code Section 45300 & 45274)

A. Applications of candidates shall be retained for the duration of the employment list and shall be made available for inspection by the Superintendent or her/his delegated representatives to whom the candidates are certified. Applications of those candidates appointed shall be filed with the reports of their appointment. Applications for those candidates not appointed may be destroyed after expiration of the employment list.

B. Examination records shall be retained for the duration of the employment list and thereafter for a period of time to be determined by the Director of Personnel.

C. All examination records and related papers are the property of the Personnel Commission. They shall be confidential records which may be inspected or copied only under such conditions as may be specified by the Personnel Commission, the Director of Personnel, or competent judicial authority.

4.200.15 Retaking examinations:

A candidate who is unsuccessful in an examination may retake the examination for the same classification after a period of forty-five (45) calendar days. In certain circumstances, a candidate may be allowed to retake an exam after 30 calendar days, at the discretion of the Personnel Administrator of Classified Personnel. For Basic Skills Testing there is no waiting period for re-examination. Each request shall be reviewed on a case-by-case basis.

4.200.16 Examination for Senior Management Positions

Examinations for senior management shall be given pursuant to these rules. Selections shall be made from an unranked list of eligible persons who have been found to be qualified for such positions as specified by the Marin County Superintendent of Schools and determined by the Personnel Commission (Education Code Section 45272).

CHAPTER 5

EMPLOYMENT LISTS

5.100 ELIGIBILITY LISTS

5.100.1 Establishment and Life of Eligibility Lists (Education Code Section 45300)

A. After an examination, the names of successful competitors shall be arranged on a list in order of examination score, plus additional points where applicable.

B. The eligibility list shall be in effect for one year, unless extended for up to one additional year at the discretion of the Commission.

C. Open competitive eligibility lists may be established for a period of six months so long as the six-month duration of the list is noted in the announcement for the examination.

D. Eligibility list for senior management position openings shall be "unranked." Unranked eligibility lists shall terminate upon filling the position opening or after thirty (30) days, whichever comes first.

5.100.2 Termination of Eligibility Lists (Education Code Section 45300)

A. An eligibility list is automatically terminated after one year.

B. An eligibility list authorized for a six month period, is automatically terminated in six months unless extended for an additional period up to six months.

C. Any other eligibility list, other than an open competitive eligibility list, if extended, is automatically terminated in two years.

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

E. An eligibility list may be terminated when no eligible is available for appointment to a specific permanent position in a class or where there are fewer than three eligibles remaining on the list.

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

5.100.3 Re-employment Lists (Education Code Section 45308)

There shall be established for each class a re-employment list which shall take precedence over all other employment lists in appointment. This list shall contain the names of all permanent classified service employees who have been laid off or demoted or who have accepted a reduction in assigned hours because of lack of work or lack of funds.

5.100.4 Consolidation of Eligibility Lists (Education Code Section 45291)

A. If a new examination for a class is given during the first year of the life of an existing list, the examination shall be sufficiently similar to the previous examination to insure 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 where "dual certification" applies, open and promotional lists shall be merged for certification.

B. When lists are consolidated under this rule, the earlier list shall be terminated one year after its establishment, and those eligibles' names shall be removed from the consolidated list.

5.100.5 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 regular part-time employment shall continue to be eligible for full-time employment in accordance with Rule 6.200.4, and an eligible who accepts limited-term employment shall continue to be eligible for regular appointment.

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

A. The name of an eligible may be removed from an eligibility list by action of the Commission or Director of Personnel, subject to appeal to the Commission for any of the following reasons:

1. A written request by the eligible for removal.

2. Failure to respond within seven days to an inquiry regarding availability for employment.

3. Any of the causes listed in Rule 4.100.4.

4. (Promotional Eligibility List) - termination of employment.

5. Failure to respond for an interview after certification.

B. The name of an eligible may be removed from an eligibility list by the Director of Personnel, subject to appeal to the Commission for reinstatement under Rule 4.100.5 for any of the following reasons:

1. Three waivers of certification during the life of the eligibility list, except that waivers relating to part-time or limited-term appointments shall not be counted for the purpose of this sub-rule.

2. Refusing an employment offer after having been properly certified as eligible for appointment.

5.200 CERTIFICATION FROM EMPLOYMENT LISTS

5.200.1 Order of Precedence

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

A. Reemployment List (Education Code Section 45298 & 45308)

Includes classified employees laid off for lack of work or lack of funds. Names on the reemployment list shall be in order of seniority. This list shall take precedence over all other lists.

B. Reinstatement (Education Code Section 45309)

Includes permanent classified employees who have voluntarily resigned and request to be reinstated within 39 months after their last day of paid service and without further competitive examination. Names on the reinstatement list shall be in order of seniority. The appointing authority may choose not to appoint from the reinstatement list and may request to interview eligibles from the promotional eligibility list. In the absence of a promotional list, names will be certified from the open eligibility list.

C. Promotional Eligibility List (Education Code Section 45272)

Includes permanent classified employees who meet the minimum qualifications and who have qualified in a promotional examination and oral interview. This list shall take precedence over the open eligibility list.

D. Open Eligibility List (Education Code Section 45284)

Includes eligibles who meet the minimum qualifications and who have qualified in a competitive examination and oral interview. This list shall be used in the absence of a promotional eligibility list.

5.200.2 Dual Certification (Education Code Section 45284)

When an open competitive examination and a promotional examination for a particular class are held at the same time, the Commission may, prior to the examination, authorize certification for employment of candidates from the open competitive eligibility list before the promotional eligibility list has been exhausted, if the candidate on the open list has a higher score before adjustment for preferential credits than the score of the highest available candidate on the promotional list after seniority credits have been added.

5.200.3 Procedure When Fewer Than Three Names Remain

A. When fewer than three eligibles are available on the promotional list, sufficient names shall be certified from the open list to allow a choice among three eligibles.

B. When fewer than three eligibles are available for certification, the available eligibles shall be certified; however, the appointing authority may choose not to appoint any of them and may request a new examination.

5.200.4 Other Sources of Eligibility

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

5.200.5 Waivers of Certification

A. Eligibles may, without penalty, make themselves unavailable for certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by notifying the Personnel Office in writing.

B. Certification of eligibles who have made themselves unavailable shall not be made, provided that eligibles may revise or withdraw their unavailability in writing.

C. An available eligible may waive certification twice without penalty. At the time a third waiver is to be signed by an eligible, she/he will be informed that, upon signing the third waiver, her/his name will be removed from the eligibility list per Rule 5.100.6.

5.200.6 Procedure of Certification and Appointment

A. When a position is to be filled, the appointing authority shall notify the Director of Personnel of that fact and of the date of the anticipated need. The request for certification shall state the class title, hours and location of employment, and other pertinent information as required by the Director of Personnel.

B. The Director of Personnel shall ascertain the availability of eligibles and shall certify names to the appointing authority in accordance with these rules.

C. The appointing authority shall make a selection and shall notify the Director of Personnel, who shall see that the necessary employment procedures are carried out.

D. If a candidate who has been certified as eligible for appointment to a position fails to keep the interview appointment, or, at the interview, declines the position, the appointing authority may fill the vacancy from the remaining certified eligibles or may request additional certification in accordance with Rule 5.200.7.

5.200.7 Certification of Additional Eligibles

A. If, after certification of eligibles, the appointing authority desires certification of additional eligibles per Rule 5.200.6.D, a written request will be submitted to the Director of Personnel which shall:

1. Specify the number of additional eligibles required.

2. Detail all pertinent data which requires the certification of additional eligibles including the name of the eligibles certified who refused appointment (and reasons given) or failed to respond to interview.

B. The Director of Personnel, when the request is received, shall immediately investigate the matter to determine if the request is validly made, and, specifically, to determine that an appointment refusal was voluntary on the part of the concerned eligible. She/he shall:

1. If she/he finds the request to be valid:

a) Certify additional eligibles as may be required.

b) Remove from the eligibility list, at her/his discretion, the names of eligibles who failed to report for the interview or who refused appointment, and notify the eligibles of the action and their right of appeal to the Commission.

2. If she/he finds that a refusal of appointment was not voluntary and free of any type of duress she/he shall:

a) Notify the appointing authority of her/his findings and refuse to certify additional eligibles, citing the provisions of this Rule.

b) Refer the matter to the Personnel Commission together with her/his findings and recommendations which may include suggested action under Education Code Section 45317.

c) Advise the appointing authority of the date of her/his report to the Commission in order to enable appropriate representation.

5.200.8 Withholding Names from Certification

Eligibility may be withheld when the individual:

A. Expresses unwillingness or inability to accept appointment.

B. Fails to respond within three business days next following the mailing of written inquiry regarding availability for permanent employment or request to appear for the interview regarding such employment.

C. Fails to report for duty at the time agreed upon after having accepted an appointment.

D. Cannot be reached in time for appointment when immediate temporary employment is required. (This provision shall apply only to such immediate temporary employment).

E. Fails to present the license registration, certificate, or any other credential required. (The name of any such eligible shall be reinstated by the Director of Personnel for certification when the particular requirement has been met).

F. For any reason listed in Rule 4.100.4.

5.200.9 Reinstatement to Certification

When the name of a person has been withheld from an eligibility list or from certification or has been removed from the list, it may be placed on such list or reinstated under the following circumstances:

A. When the withholding or removal was because of the waiver or inability of the eligible to accept employment, or failure to respond to inquiry as to availability, or to appear for interview, or to report for duty, and the applicant presents a good and valid reason and certifies to the Director of Personnel that she/he is now willing and able to accept appointment.

B. When the withholding or removal was for a reason stated in Rule 4.100.4 and such action was improper or the defect has since been corrected.

5.200.10 Promotional Certifications

A. When the incumbent of an alternate position qualified for promotion to a different alternate class (position title) to which her/his position is classified, she/he may be certified for promotion, at the request of the Superintendent, without regard to the standing on the employment list.

B. When one or more employees qualify for promotion within the same department in which they are employed, a certification which includes their names may be limited to such employees, at the request of the Superintendent.

5.200.11 Subjects Regarding Which No Questions Shall be Asked
(Title VI, Title VII, Title IX, Section 504 and Education Code section 220)

No questions relating to actual or perceived race, color, ethnicity, age, religion, political affiliation, marital status, disability, gender, sexual orientation or national origin shall be asked of any applicant or any eligible whose name has been certified for appointment, nor shall any discrimination be exercised, therefor, except that in accordance with Executive Order 11246 (30FR 12319) applicants for employment and incumbent employees may be solicited to voluntarily declare their ethnic identification provided this information shall be used for research and statistical purposes only.

5.300 PROVISIONAL APPOINTMENTS

5.300.1 Restrictions (Education Code Section 45287)

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

1. No eligibility list exists for the class (position title), or

2. An eligibility list exists, but with an insufficient number of available eligibles (i.e., less than three) and the appointing authority refuses to appoint an available eligible.

B. A person may receive a provisional appointment or appointments which may accumulate to a total of 90 working days, after which a 90-calendar-day interval shall elapse during which she/he shall be ineligible to serve in any full-time provisional capacity.

C. No person shall be employed in provisional capacities under a given County Superintendent of Schools for a total of more than 126 working days in any one fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position as defined in Education Code Section 45256. Successive 90-working-day-provisional appointments may be made to the part-time position for a total of not more than 126 working days in a fiscal year.

D. Insofar as possible, provisional appointees shall be required to meet the minimum qualifications for the class (position title) of the appointment as stated in the class (position title) specifications.

E. Notwithstanding Rules A and B above, the Commission may extend the 90-working-day-provisional appointment for a period not to exceed 36 additional working days provided:

1. An examination for the class (position title) was completed during the initial 90 work days of the employee's provisional assignment.

2. Satisfactory evidence is presented indicating:

   a) Adequate recruitment effort has been and is being made.

   b) Extension of this provisional assignment is necessary to carry on vital functions of the district.

   c) The position cannot be satisfactorily filled by use of the eligibility list or other employment lists or procedures such as reinstatement, transfer, or other appropriate eligibility lists.

5.300.2 Emergency Appointments

A. If it should become necessary in time of emergency to fill positions in the classified service to prevent the stoppage of public business, the Superintendent may make emergency appointments, without reference to eligibility lists, for a period not to exceed 15 working days.

B. When such emergency appointments are made, the Director of Personnel shall be notified by the Superintendent or her/his designee in writing, naming the appointee or appointees, date of appointment, and nature of duties performed, and giving a statement justifying the emergency appointments shall be considered a part of the period permitted under the Education Code for provisional appointments.

5.300.3 Limited-Term Appointments (Rule 6.300) (Education Code Section 45286)

A. Whenever the Superintendent shall require the appointment of a person to fill a position, the duration of which is not to exceed six months, or to fill a position in lieu of an absent employee for a period not to exceed the authorized absence of said employee, she/he shall request a certification and include in such request a statement of the probable duration of the appointment. Eligible candidates shall be certified in accordance with their position on the appropriate employment list and their willingness to accept appointment for the probable duration stated.

B. Whenever a person employed under a limited-term appointment is subsequently certified and appointed to fill a permanent position without a break in service, her/his permanent employment shall be considered for all purposes, other than completion of probationary period, as beginning with the effective date of the limited-term appointment.

CHAPTER 6

IN-SERVICE STATUS AND TRANSACTIONS

6.100 PROBATIONARY PERIOD

6.100.1 Duration of Probation (Education Code Section 45301)

A new employee appointed from an employment list shall serve a probationary period of six months in one class before attaining permanency in the classified service. An employee who has been promoted shall serve a probationary period of six months in the higher class before attaining permanency in that class. Credit toward completion of probation shall be granted only for service in regular positions in the class after appointment from an eligibility list.

6.100.2 Rights of Probationary Employees (Education Code Section 45305)

A. A new employee who resigns in good standing for reasons other than accepting employment elsewhere during an initial probationary period shall, upon request, have her/his name restored

in proper rank to the employment list. Such action shall not extend the life of the list or the period of eligibility of the employee.

B. A new employee who is suspended or dismissed during an initial probationary period shall be notified in writing by the appointing authority of the action taken and the reasons therefor. The employee shall not have the right of appeal.

C. An employee who has permanent status in the classified service, and who has been promoted to a higher class, may be demoted involuntarily during the probationary period to her/his former class. She/he shall be notified in writing by the appointing authority of the action and the charges against her/him, and shall have the right of appeal provided in Rule 6.900.3B.

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

E. Should the work for which a probationary employee has been appointed prove temporary instead of permanent as certified, and should she/he be laid off without fault or delinquency on her/his part before the probationary period is completed, her/his name shall be restored to the eligibility list and the time she/he has served shall be credited to her/him on a future probationary period.

6.200 ELIGIBILITY LISTS

6.200.1 Transfer

A. An employee may be transferred at her/his request or for the good of the service of the Marin County Office of Education from one position to another in the same class at the discretion of the Superintendent, provided that such action shall not be taken for punitive or preferential reasons.

B. A permanent employee may be transferred to a position in a related class on the same salary schedule for which she/he is qualified. Such actions are discretionary with the appointing authority.

C. Transfers shall not change the employee's salary rate, anniversary date accumulated illness leave, and accumulated vacation credit, or in any other manner reflect adversely upon her/his rights, as provided in law and these rules.

D. The Director of Personnel shall determine whether classes are sufficiently related to permit transfer between them by giving consideration to minimum qualifications, examination content, occupational group, and promotional field (above and below). In general, more latitude in transfers should be permitted:

1. As the employee's seniority in the classified service increases.

2. When the transfer request is based on reclassification, impending layoff, or reasons of health.

Decisions of the Director of Personnel are subject to an appeal to the Commission.

E. A permanent employee who transfers to a position in a class in which she/he has not previously completed a probationary period shall be considered probationary in that class for a period of six months. At any time during the probationary period the employee may be returned (transferred) to her/his 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.

F. Transfers shall have the following effects on seniority:

1. Within the same class - none.

2. From one class to another - the employee shall not receive seniority credit in the new class (position title) for service in other classes; however, the employee shall retain such credit as seniority in the classified service.

G. Reasons for any transfer which is not voluntary shall be discussed with the employee by the supervisor.

6.200.2 Demotions

A. A permanent employee may request in writing a voluntary demotion. Such requests require the approval of the appointing authority.

B. Voluntary demotion is a privilege available to a probationary employee only in cases when she/he would otherwise be laid off for lack of work or lack of funds.

C. Involuntary demotions are subject to the pertinent rules and procedures.

6.200.3 Restorations (Education Code Section 45309)

A. A former permanent employee who resigned in good standing may be reinstated in a vacant position in her/his former class (position title) and status within 39 months of the last date of paid service. Also, the employee may be reinstated in a vacant position in a lower related class, if qualified, or in limited-term status in the same or lower class (position title). Such actions are discretionary with the appointing authority. (Rule 5.100.2 and 6.700.4)

B. An employee who has taken a voluntary demotion may be restored within 39 months to a vacant position in the former class or in a vacant position in a lower related class. Restoration is discretionary with the appointing authority, except when demotion was chosen in lieu of layoff.

C. An employee who has accepted demotion in lieu of layoff for lack of work, lack of funds, or abolishment or reclassification of her/his position, has the right to be reemployed, in accordance with her/his seniority, in a vacant position in her/his former class within 39 months after demotion. Intervening reassignments to other classes shall not abrogate that right. If the employee has not been reemployed in her/his former class within 39 months, she/he shall be eligible for appointment to a vacant position in that class, without examination, for an additional 24 months at the discretion of the appointing authority. (Education Code Section 45298)

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

1. Restoration to the former step in the current salary range for the class, or, if restored in a lower class (position title), to the rate closest to that of the step to which the employee would be assigned if she/he were restored in her/his former class.

2. If restored to permanent status, restoration of accumulated sick leave and seniority as of the date of the separation.

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

4. Restoration of all rights, benefits and burdens of a permanent employee in the class to which restored.

6.200.4 Promotions

A. Vacant positions in the classified service shall be filled by promotion, whenever the qualifications are met by a sufficient number of Marin County Office of Education employees to provide reasonable competition among candidates and reasonable choice of candidates for appointment. The Director of Personnel shall make the determination as to whether competition

is available based on the number and qualifications of possible applicants within the Marin County Office of Education.

B. An employee who is promoted to a position of a class allocated to a higher salary range than the class from which she/he was promoted shall receive the salary of the first step of the range for the new class, provided that in those cases where her/his salary before promotion is the same as or greater than the salary of the first step of the new class, she/he shall receive the salary of the range of the new class, next higher than the salary she/he received before promotion. Notwithstanding these provisions, no employee so promoted shall receive less than a 5% increase in salary. Promotional increases shall be independent of both normal anniversary step increases and any upward reallocation of the class to which the promotion is made.

6.300 LIMITED-TERM EMPLOYMENT (Rule 5.300.3)

6.300.1 Types of Limited-Term Appointments

A. A substitute assignment may be made not to exceed in duration the authorized absence of the regular employee, but it need not coincide with the dates of that absence. Also, a substitute assignment may be made in a lower class related to that of the absent employee if the assigned duties are reduced in level accordingly.

B. The appointing authority may establish positions the duration of which is six months or less; such positions shall be designated "limited-term." Such positions are subject to classification by the Personnel Commission, except that the Director of Personnel may classify them subject to later ratification if the good of the service demands expeditious action.

6.300.2 Eligibility for Limited-Term Employment

A. Limited-term appointments shall be made in accordance with procedures for regular appointments, except as provided below.

B. If an eligible has been appointed from an eligibility list to a substitute assignment or limited-term position, she/he shall continue to be eligible for limited-term appointments in the same or related lower class after the eligibility list has expired. The same privilege of continued eligibility shall apply to a former employee who resigned in good standing and who accepted a limited-term appointment within 39 months after resignation. The names of such persons shall be ranked in the order of seniority on a special list used for limited-term appointments and shall be certified therefrom before the current eligibility list is used. Names may be removed from this list for any of the causes listed in Rule 4.100.4 or Rule 6.900.1, subject to appeal to the Personnel Commission.

C. Provisional appointments may be made to limited-term positions and substitute assignments subject to the provisions of Rule 5.300.

6.300.3 Compensation

A. When a regular employee is given a limited-term appointment in a second class in lieu of all or part of her/his regular appointment, the rate of pay in the second class shall be the rate appropriate to that class which is next above her/his regular rate, if any, but not more than the highest rate applicable to that class. (Education Code Section 45110)

B. Former regular employees who are reinstated as limited-term employees within 39 months after resignation shall be paid in accordance with Rule 6.200.3. The salary step so determined shall be applicable to all future limited-term appointments of that employee in that class until she/he loses eligibility for such appointments.

C. Current regular employees who work less than full-time and who are hired for substitute or extra-hire assignments in the same class shall be paid at their regular rate of pay for limited-term hours worked.

D. All other limited-term employees (including "extra hires" and "substitutes") shall be paid at the normal hiring rate (i.e., Step 1 or hourly equivalent) for regular appointments in the class (position title).

6.300.4 Rights and Benefits

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

B. All other limited-term employees shall be granted only those benefits provided by law, such as bereavement leave. No seniority or credit toward completion of probation or any other benefit shall accrue from service in a limited-term appointment, except as provided in Rule 7.100.1.D. All "extra hire" employees shall be granted only those benefits provided by law.

6.300.5 Terminations

A. Limited-term appointments shall be subject to termination at any time except during an assigned working day.

B. Only permanent employees who serve in limited-term positions and are dismissed for cause shall have the right of appeal.

6.400 ASSIGNMENTS OF EMPLOYEES WITH DISABILITIES

6.400.1 General Policy

When a permanent employee becomes unable to perform the duties of her/his classification because of illness or injury, reasonable efforts shall be made to place her/him in a position the duties of which are within her/his capabilities and in accordance with applicable state and federal law. Reassignment, if any, shall be at the discretion of the appointing authority, with the approval of the Commission in the cases noted below.

6.400.2 Reassignments

A. An employee with disabilities' duties in her/his regular position may be altered in accordance with her/his disability. Such changes in duties shall be reported to the Director of Personnel, who shall determine whether the position requires a classification study.

B. An employee with disabilities may accept demotion or transfer to a less demanding class, with the approval of the Commission.

C. An employee with disabilities may be assigned to a position in a higher class, with the approval of the Commission, but shall receive no salary benefit from such assignment until she/he can be appointed to the higher class in accordance with the rules and procedures on eligibility and appointments.

6.400.3 Effect of Refusal by Employee

An employee with disabilities may refuse assignments to other classes without effect on her/his 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.

6.500 PERFORMANCE EVALUATION

6.500.1 When Evaluations Are To Be Made

All regular classified employees shall be evaluated by their immediate supervisors after receipt of notification for evaluation from the Director of Personnel in accordance with the following schedule:

A. Probationary employees - new employees shall have a report rendered no later than by the end of their first three months of service and at any other time during the six months probationary period when it will aid in the determination of whether or not she/he is to be separated or continued to the end of the probationary period. The Director of Personnel shall notify the department managers to indicate the completion of the first three months of probationary service so that an evaluation will be generated. Also, prior to the end of the six months probationary period, a report shall be rendered recommending either separation or permanent status.

B. Permanent employees - at least once a year, and at any other time if the supervisor desires to make a special report for commendation or for unsatisfactory performance. Permanent employees in a probationary status as the result of a promotion may have reports rendered at any time during the six months probationary period and shall have a report at the end of the period which shall recommend either permanent status in the new classification, or demotion back to the employee's former classification, with substantiating reasons therefore.

6.500.2 Procedure to be Followed

A. Performance evaluation reports shall be made on forms prescribed by the Director of Personnel and shall be prepared by the employee's immediate supervisor whenever possible. The report shall then be discussed with the employee for comments and signature. The report shall then be forwarded to the Department Manager, the Superintendent or her/his designee and finally the Superintendent for appropriate comments.

B. The employee will be furnished a copy of the completed report and the original report filed with the personnel records retained in the Personnel Department and shall be available for review by administrative officials in connection with promotional examinations and disciplinary actions.

C. Classified employees have the opportunity to review and make written comment on any derogatory information; except specified, i.e., a) obtained prior to their employment; b) prepared by identifiable examination committee members; or c) obtained in connection with a promotional examination. If an employee is not satisfied with her/his performance evaluation, she/he may appeal through the grievance procedures. (Rule 8.100) Education Code Section 44031.

6.600 LEAVES OF ABSENCE

6.600.1 Vacation Leave (Education Code Section 45197)

A. Each regular employee, other than emergency or limited-term employee, shall accrue vacation leave with full pay as provided herein. Each accrual may accumulate to a maximum of thirty (30) working days of unused vacation leave. Except in special cases as determined by the Superintendent, no employee may take such leave, or receive payment in lieu thereof until she/he has completed six months of continuous service in the Marin County Office of Education. No employee shall accrue any paid vacation leave for any period of leave without pay, absence without leave, or suspension.
   1. Each such employee shall accrue vacation leave at the rate of ten working days per year until completion of three (3) years of service.

   2. Each such employee who has completed three (3) years of service shall accrue vacation leave at the rate of thirteen (13) working days per year until completion of five (5) years of service.

3. Each such employee who has completed five (5) years of service shall accrue vacation at the rate of sixteen (16) working days per year until completion of ten (10) years of service.

4. Each such employee who has completed ten (10) years of service shall accrue vacation at the rate of twenty-one (21) working days per year.

B. Vacation schedules shall be arranged by department managers with particular regard to the needs of the service and, whenever possible, with regard to the wishes of the employees. Every effort shall be made to arrange vacation schedules so that each employee will take as much vacation in each year as accrued to her/him that year. Each employee's vacation time may be so divided as the needs of the service require or permit. No employee may take vacation leave without advance approval of the Superintendent or her/his designee. No employee may take vacation leave in advance of that actually accumulated at the time such leave is taken without the written recommendation of the department manager concerned and approval of the Superintendent.

C. Each employee who is separated from employment after completing six months of continuous service shall be entitled to payment in lieu of all unused vacation leave which may have accumulated as of the last day of work. In the event of a deceased employee, payment shall be made to the estate or as otherwise provided by probate law.

D. When an employee has accumulated the maximum allowable vacation credit and when a critical emergency prevents her/his being off duty, the nature and duration of the emergency shall be reported to the Superintendent. The Superintendent may authorize payment in lieu of vacation earned above the maximum or may permit the accumulation of excess vacation credit for the duration of the emergency.

E. Any permanent classified employee who commences a prescribed vacation period and subsequently becomes ill or is bereaved before the vacation period has been completed, shall be placed on sick leave under the following conditions:

1. If the illness or bereavement is for three (3) consecutive days or more.

2. If the illness or bereavement is such that had the employee been working, she/he would have been absent on sick or bereavement leave.

3. If the employee, normally, is required to return to duty immediately following the vacation period.

4. If the request is filed with the Superintendent within two weeks of the illness or bereavement or within, at the latest, one week of her/his return to duty unless extraordinary extenuating circumstances exist which prevent such filing.

5. If the filed request fully outlines the reasons for the request and is fully substantiated to include medical reports in the case of illness.

6. When all or part of an employee's vacation is to be converted to illness or bereavement leave, the appropriate vacation credit shall be restored to the employee's earned vacation balance. If possible, the employee shall be granted opportunity to use this vacation credit in order not to exceed the limit on accrued vacation. In other cases, Paragraph D above may be applied in order to avoid loss of vacation credit.

6.600.2 <u>Paid Sick Leave</u> (Education Code Section 45191 and 45196)

A. Sick leave is the authorized absence of an employee due to disabilities caused by illness, injury, exposure to contagious disease, pregnancy, childbirth and recovery therefrom.

B. At the beginning of each fiscal year, a sick leave account of the employee shall be increased by the number of days of paid sick leave which is normally earned in the ensuing fiscal year. An

employee's sick leave account shall be adjusted if a change of assignment alters the amount of sick leave earnable.

C. Employees shall be entitled to earn sick leave without loss of pay at a rate of one working day per month. The unused sick leave shall be cumulative. New employees with probationary status may use no more than six days of paid sick leave during the first six months of employment.

D. An employee who is absent due to a disability and receives full pay because of accrued sick leave shall be entitled to all employment benefits.

E. When a permanent employee is absent due to a non-industrial disability and has used all entitlement to sick leave, vacation compensation, compensatory time or other available paid leave, the employee shall be paid through the fifth month of illness the difference between the current salary and that of a substitute employed on the first step of the position classification or in a lower classification (Education Code Section 45196).

F. A permanent employee whose disability extends beyond the five month period may, on written advice from a licensed medical advisor, be granted by the Superintendent leave of absence without pay, not to exceed one year, in accordance with these rules. Upon return to work, the anniversary date will be changed, making adjustments for time not worked and not covered by sick leave. (Education Code Section 45196)

G. Emergency and limited-term employees will not earn sick leave credit unless they are subsequently appointed into permanent positions without a break in service

H. Employees shall record their sick leave on a time sheet. Reasonable medical evidence of illness may be required for a period less than three days, and shall be required for each such use for a period greater than three consecutive days as determined by the Superintendent.

I. Unlimited accumulations shall be allowed in all sick leave benefits. However, the cumulative aspect of sick leave from year-to-year is based on accrual at the rate of one day's sick leave per whole calendar month of employment or prorated for a major fraction thereof.

J. If an employee leaves the employment of this office, accumulated unused sick leave will not be credited to the employee's final payment.

K. If, at the conclusion of all sick leave and additional leave, paid or unpaid, granted under these rules, the employee is still unable to assume the duties of her/his position, she/he will be placed on a reemployment list for a period of 39 months in the same manner as if she/he were laid off for lack of work or lack of funds.

6.600.3 Industrial Accident and Industrial Illness Leave

A. Leaves resulting from an industrial accident or industrial illness shall be granted in accordance with the provisions of Education Code Section 44043 and 45192 and this rule.

B. An employee in the classified service, who is absent from duty because of an illness or injury defined as an industrial accident/illness under provisions of the Worker Compensation Insurance Law, shall be granted paid industrial accident leave for each such accident or illness while receiving temporary disability benefits from Workers Compensation provided that:

1. The employee has probationary or permanent status.

2. In the opinion of the Superintendent or her/his designee, the illness or injury constitutes an industrial accident or illness, or, if contested, it is ultimately determined to be work connected.

C. Paid industrial accident leave shall be for not more than 60 working days in any one fiscal year.

D. Paid industrial accident leave shall be reduced by one day for each day of authorized absence regardless of the temporary disability allowance made under Workers Compensation. Days absent while on paid industrial accident leave shall not be deducted from the number of days of paid illness leave to which an employee may be entitled.

E. If the employee is still unable to return to duty after exhausting paid industrial accident leave, the employee shall be placed on paid illness leave if she/he is eligible therefor. Accumulated illness leave will be reduced only in the amount necessary to provide a full day's wages or salary, as indicated in the employee's assignment, when added to compensation without penalties from the Workers Compensation Insurance carrier.

F. After all paid illness leave has been exhausted following a paid industrial accident leave, an employee may choose to receive pay from accrued vacation, earned compensatory time, or other earned leave to the extent necessary to make up the employee's regular salary when receiving a temporary disability allowance without penalties from the Workers Compensation Insurance carrier.

G. Upon return to service from any paid or unpaid leave resulting from an industrial accident or industrial illness, an employee shall be assigned to a position in her/his former class (position title) ahead of any employee with a lesser amount of seniority. If no vacancy exists in the former class (position title), she/he may displace the most recently appointed employee in the class (position title) with less seniority. If an employee's former class (position title) has ceased to exist, the employee may be reassigned or placed on a suitable reemployment list.

H. An employee returning from such paid or unpaid leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and Personnel Commission Rules. An employee shall continue to receive seniority credit for all purposes while on such a paid or unpaid leave of absence.

I. When all paid or unpaid leaves of absence have been exhausted following an industrial accident or industrial illness, the employee's name shall be placed on the reemployment list for the class (position title) from which she/he was on leave for a period not to exceed 39 months.

J. An employee who fails to accept an appropriate assignment after being medically approved shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class (position title), in her/his former status and time basis, and in assignment areas in which the employee has made herself/himself available. Employees removed from a reemployment list under this rule may appeal the removal to the Personnel Commission.

K. While an employee is on any paid leave resulting from an industrial accident or industrial illness, the employee's salary paid by the office shall not, when added to a normal temporary disability allowance award without penalties granted the employee under State Workers Compensation Insurance laws, exceed the employee's regular salary. A permanent employee's salary is computed on the basis of the number of hours and days in her/his regular salary computed on the basis of the average number of hours worked each month in which the employee was in paid status during the preceding year.

L. During all paid leaves resulting from an industrial accident or industrial illness, the employee shall report to the Superintendent of the Marin County Office of Education all wage-loss benefit checks received under State Workers Compensation Insurance laws. The Superintendent 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.

M. Final allowance for permanent industrial disability settlements shall not be subject to remittance to the district under this rule. Eligibility for purposes of accruing vacation and sick leave will be suspended during disability leaves without pay.

6.600.4 Bereavement Leave (Education Code Section 45194)

A regular employee shall receive necessary leave of absence with full pay, not to exceed three days, or five days if out-of-state travel is required, in the event of death of father, mother, step-mother, step-father, legal foster parents, grandchild, grandfather or grandmother of the employee or of the spouse or registered domestic partner of the employee and the spouse or registered domestic partner, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law of the employee, or any relative living in the immediate household of the employee or of such other persons as the Superintendent may designate out of consideration of unusual circumstances and conditions.

If needed, additional absence without loss of salary will be allowed in accordance with Section 6.600.5. If additional time is needed, the employee may request the use of accrued vacation time or personal leave time.

6.600.5 Personal Necessity (Education Code Section 45207)

A. A classified employee may elect to use seven days in any one fiscal year, sick leave which has been earned pursuant to Education Code Section 45191, for personal necessities which fall in the following categories:

1. Bereavement leave which may be necessary beyond that authorized in 6.600.4.

2. Accident, involving employee or employees' property, or the person or property of a member of her/his immediate family.

3. Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction, and for which no other leave is provided for in these rules.

4. Illness of children and/or spouse.

B. Immediate family as used in this section shall have the same meaning as provided in Rule 6.600.4.

6.600.6 Jury Duty and Witness Leave

A. Leave of absence for jury service shall be granted to any classified employees who have been officially summoned to jury duty in local, State, or Federal Court. Leave shall be granted for the period of the jury service. The employee shall receive full pay while on leave provided that the jury service fee for such leave is assigned to and the subpoena or court certification is filed with the Superintendent. Request for jury service leave shall be made by presenting the official court summons to jury service to the Director of Personnel.

B. Leave of absence to serve as a witness in a court case shall be granted an employee when she/he has been served a subpoena to appear as a witness, not as the litigant in the case. The length of the leave granted shall be for the number of days in attendance in court as certified by the clerk or other authorized officer of the court. The employee shall receive full pay during the leave period, provided that the witness fee for such leave is assigned to and the subpoena or court certification is filed with the Superintendent. Request for leave of absence to serve as a witness should be made by presenting the official court summons to the Department Manager.

C. The jury service fee and witness fee referred to in A and B, respectively, do not include reimbursement for transportation expenses.

D. Employees who receive leave of absence under this rule shall make themselves available for work during hours when their presence is not required in court.

6.600.7 Absence for Examination

Every employee in the classified service shall be permitted to be absent from duties during working hours in order to take any examination for promotion in the Marin County Office of Education

without deduction of pay or other penalty, provided that she/he gives two days notice to the immediate supervisor.

6.600.8 Military Leave

Military leave of absence shall be granted and compensated in accordance with the Military and Veterans Code Section 389 and 395.

6.600.9 Leave of Absence Without Pay

A. Leave of Absence without pay may be granted to a permanent classified employee, upon the written request of the employee and the approval of the Superintendent or her/his designee, subject to the following restrictions:

1. Leave of absence without pay may be granted for any period not exceeding one year, except that leave of absence for military service shall be granted as provided by the Education Code and the Military and Veterans Code, and leave of absence for service in the Peace Corps, or the Red Cross or Merchant Marine during time of national emergency may be granted for a period not to exceed 24 months, and

2. The granting of a leave of absence without pay gives to the employee the right to return to her/his position at the expiration of such leave of absence, provided that she/he is physically and legally capable of performing duties. The position may be filled only for the duration of the leave, and the employee so assigned must be released or reassigned upon completion of the leave and return of the regular employee.

3. Upon granting leave, the Superintendent may request a "letter of intent to return" a reasonable number of days prior to the expiration of the leave.

B. An employee may make a written request to the Superintendent to return to work prior to the expiration date of the leave. The Superintendent may approve or reject such request.

C. Failure to report for duty within five working days after a leave has expired shall be considered abandonment of the position and the employee may be terminated by the Superintendent. This provision is not applicable to military leaves.

D. If an employee cannot be placed in a vacant position in her/his class (position title) upon return from leave of absence, she/he shall have bumping and reemployment rights, in accordance with seniority, in the same manner as if she/he had been laid off for lack of work or lack of funds on the date the leave expires.

6.600.10 Maternity Leave

A. An employee shall be granted leave with pay for any period of disability contributed to by pregnancy, miscarriage, abortion, childbirth and recovery therefrom as confirmed by a physician and in accordance with all the provisions of Rule 6.600.2 and 6.600.9.

1. An employee who becomes pregnant is requested to advise her supervisor of that fact as early as possible giving an estimate of the dates (as confirmed by a physician's statement) the employee anticipates to be absent on account of disability related to the pregnancy.

2. The employee is entitled to use accumulated sick leave and other salary continuance benefits and extended disability pay (upon termination of accrued sick leave and other available paid leave) for the period of disability.

3. The employee shall request a maternity leave from the Superintendent in writing supported by a physician's statement attesting to the disability and specifying the anticipated period of absence. The Marin County Office of Education may, at its option, obtain other medical opinions, in addition to the employee's own physician.

4. A leave of absence longer than the period of disability is a general leave of absence, not a maternity leave or a disability leave to which benefits are attendant and must be requested separately.

5. During a period of leave without pay, an employee may continue all benefit plans by submitting all necessary payments to the Marin County Office of Education prior to the date such payments become due.

6. Ability of an employee to return to work following childbirth shall be determined by the employee in consultation with her physician.

6.600.11 Transfer of Sick Leave from Another District

Any classified employee of any California School District or County Superintendent of Schools who has been employed for a period of one calendar year or more whose employment is terminated for reasons other than action initiated by the employer for cause and who subsequently accepts employment with the Marin County Office of Education within one year of such termination of the former employment, shall have transferred with her/him the total amount of earned leave of absence for illness or injury to which she/he is entitled.

6.600.12 Leave Reporting

A. The Director of Business Services shall maintain a record of all leave taken and the leave balances accumulated by each employee.

B. One-half hour is the minimum amount of time that will be reported and recorded for any absences. Any time less than thirty minutes will be charged as one-half hour. Any time over thirty minutes, but less than sixty, will be counted as one full hour.

C. Absences from work required in order to have fingerprints recorded and physical examinations for employment purposes, written or oral examinations or tests, appointments and interviews which may serve to advance the employee's status or position at the Marin County Office of Education will not be chargeable against accrued leave.

D. Absences from work required in order for employees to meet doctor or dentist appointments will be reported and charged against employee's accrued sick leave totals.

E. Newly appointed employees will have vacation and sick leave credited from the original date of their provisional appointment whenever the employee continues without a break in the service and subsequently receives a permanent appointment. (Rule 5.300.3B)

F. Every absence of each employee shall be reported and recorded in a manner prescribed by the Director of Business Services and in accordance with these rules and regulations and provisions of the Education Code.

6.600.13 Return to Work After Illness or Disability

When an employee is absent due to illness or disability, the Superintendent may require that the employee obtain written approval by a medical authority prior to return to work or that the employee pass a medical examination prior to her/his return to work. Failure to pass such examination shall result, after expiration of the employee's accumulated sick leave, in further leave with pay, leave without pay, and or separation of the employee, as may be authorized in accordance with these rules.

6.700 LAYOFFS

6.700.1 Layoff Procedures

Classified employees shall be subject to layoff for lack of work or lack of funds.

When it becomes necessary to lay off permanent or probationary employees, such layoffs shall be made in inverse order of seniority in the classification in which the layoff occurs. The employee who has been employed the shortest time in the classification, plus higher classification, shall have the least seniority, and therefore shall be laid off first. (Education Code Section 45308)

6.700.2 Rights of Employees Laid Off for Lack of Work or Funds

Classified employees subject to layoff for lack of funds at the end of a school year shall be given written notice no later than March 15, informing them of their layoff effective at the end of the school year and of their displacement rights, if any, and reemployment rights. Notwithstanding the other requirements of this code respecting layoff of permanent classified employees, when classified positions must be eliminated as a result of the expiration of a specially funded program, the employees to be laid off shall be given written notice not less than 60 days prior to the effective date of their layoff informing them of their layoff date and their displacement rights, if any, and reemployment rights. (Education Code Section 45117)

Displacement Rights are as determined as follows:

A permanent employee in the classified service who is laid off from a classification (position title) shall have the right to displace an employee with less seniority:

a) in that classification and lower classifications within a job series. See Displacement Rights - Job Series

b) in a previously held equal or lower classification not within the currently held job series in which the employee had successfully completed the probationary period.

c) in a lower classification not within the currently held job series if the current position description includes the duties and responsibilities of the lower classification.

d) or; if the employee is found to be specifically qualified by Personnel Commission determination and the employee qualifies under existing testing procedure for this position.

In no case will the mechanics of a layoff procedure increase an employee's employment status, i.e., classification, work hours, etc.

Seniority is the total amount of continuous active service in a probationary or permanent status within a classification or a higher classification, or, by the agreement of the exclusive representative of the classified employees that defines “length of service” to mean the hire date for unit members. If there is such an agreement with the exclusive representative of classified employees, then the County Superintendent of Schools may define “length of service” to mean hire date for any classification of employee not represented by any exclusive bargaining agreement. (Education Code Section 45308)

Hours compensated solely on an overtime basis as provided for in Education Code Section 45128 are excluded from seniority determination.

A permanent employee who may be laid off for lack of work or funds, despite the exercising of displacement rights, in order to avoid layoff may also request in writing a voluntary demotion to a vacant position in a lower classification or a transfer to an equal classification provided she/he is found qualified by the Director of Personnel to perform the duties thereof and provided further that the appointing authority approves the demotion and/or assignment.

6.700.3 Layoffs of Emergency, Provisional and Limited-Term Employees

No permanent or probationary employee shall be laid off from any position while employees are serving under emergency, provisional or limited-term appointments in the same classification or lower classification unless the regular employee declines such an appointment.

Emergency, provisional and limited-term employees may be separated at the discretion of the appointing authority without regard to the procedures set forth in this rule.

6.700.4 Restoration (Rule 6.200.3)

A. Each person who has been laid off or displaced from a position in which she/he had permanent or probationary status shall, in writing, be offered restoration to a position in the class from which she/he is laid off, should such position be reestablished or should the necessity for layoff or displacement cease to exist, or should another position in the same class (position title) become vacant within 39 months after the date she/he is laid off or displaced. Should the employee not accept restoration within one week after the date of the offer, or should she/he decline to begin work within three weeks after the date of the offer, she/he shall be declared unavailable and shall forfeit any right to restoration unless further offer of restoration is granted by the Personnel Commission.

B. Whenever more than one person has been laid off and/or displaced in the same class (position title), the order of restoration shall be in the reverse of the order of layoff.

C. Whenever a person is unavailable for restoration, the next senior person who is eligible for restoration shall be offered restoration in the same manner and under the same conditions. Should there be no person eligible and available for restoration, the position may be filled as otherwise provided by these rules for appointment to a vacant position.

D. A person who is unavailable for restoration may, within two weeks after she/he is declared unavailable, request in writing to the Personnel Commission that she/he be considered for further offer of restoration, should such occur within 39 months after layoff or displacement. The request shall contain a full explanation of the reason for the unavailability. Within one month after the request is filed, the Commission shall either grant or deny further offer of restoration. The Commission may specify conditions under which further offer of restoration may be granted.

6.700.5 Unemployment Insurance (Education Code Section 45208)

Classified employees are eligible for unemployment insurance. When classified employees are separated from the service, they should register with the local Employment Development Department. Eligibility for benefits will be determined and established by that agency based on the California Unemployment Insurance Code.

MARIN COUNTY OFFICE OF EDUCATION

CLASSIFIED SERVICE
DISPLACEMENT RIGHTS - JOB SERIES

		Ranking Level
ACCOUNTING CONTROL SERIES		
Accounting Assistant		10
Accounting Technician		8
Accounting Clerk		6
ACCOUNTING SERIES		
Senior Director of Business	Exempt	18
Director of Business Services	Exempt	16
Business Services Manager	Exempt	13
Senior Accountant	Exempt	11
Accountant	Exempt	9
BUILDING SERVICE SERIES		

Maintenance Worker		11
Maintenance Custodian		8
Custodian/Groundskeeper		6
Office Utility Worker		3

DATA PROCESSING SERIES

Director of Information Services	Exempt	14
Data Processing Manager	Exempt	10
Senior Systems/Programmer Analyst	Exempt	9

FOOD SERVICE SERIES

Cook		7
Food Service Assistant		1

GENERAL CLERK SERIES

General Clerk I		3
General Clerk II		1

INFORMATION SERVICES SERIES

Information Systems/Analyst	Exempt	10
Information Systems Specialist		17
Information Systems Support Technician		14

INSTRUCTIONAL MEDIA SERIES

Media Technician		8
Distributor - I.M.C.		6
Library Assistant		6
Media Center Clerk		3
Booking Clerk		3
Film Inspector		2

OUTDOOR EDUCATION SERIES

Manager, Outdoor Education Program	Exempt	11
Ranch Naturalist Supervisor	Exempt	1

RANCH OPERATIONS SERIES

Ranch Facilities Manager	Exempt	6
Ranch Maintenance Supervisor	Exempt	1

SECRETARIAL SERIES

Superintendent's Secretary /Administrative Assistant		12
Executive Secretary		10
Senior Administrative Secretary		9
Administrative Secretary		8
Clerk Typist		3

TRANSPORTATION SERIES

Transportation Manager	Exempt	9
Assistant Transportation Manager	Exempt	3

NON-SERIES TITLES

Note: The following non-series job titles do not have displacement rights unless they have completed a probationary period in a specific job series title or are found to be specifically qualified by the Personnel Commission determination and are more senior than the displaced employee.

Assistant Ranch Manager	Exempt	12
Braillist		6
Business Education Liaison		14
Classroom Helper		--
Credentials Analyst		11

Director of General Services	Exempt	13
Director of Personnel	Exempt	15
Graphics Technician		8
Instructional Assistant/Child Development		2
Interpreter		9
Licensed Vocational Nurse	Exempt	1
Management Assistant	Exempt	6
Manager, Walker Creek Ranch	Exempt	15
Naturalist		6
Occupational Therapist		22
Occupational Training Assistant		13
Offset Equipment Operator		8
Organizer of Volunteer Services		7
Paraeducator /Special Education/Alternative Education		7
Paraeducator /Auto Technology		7
Paraeducator /Graphics		7
Paraeducator /Business Office Technology		7
Paraeducator /Restaurant Occupations		7
Paraeducator /Small Engine Repair		7
Paraeducator /Video Occupations		7
Paraeducator /Welding Technology		7
Physical Therapist	Exempt	5
Ranch Clerk		7
Ranch Conference Manager	Exempt	2
Ranch Cook		6
Ranch Food Services Manager	Exempt	2
Ranch Helper		4
Ranch Naturalist		7
Ranch Worker		7
Receptionist		4

6.800 RESIGNATIONS AND REINSTATEMENTS (Education Code Section 45309)

6.800.1 Submission in Writing

Classified employees who resign from their position shall present their resignation in writing, including the effective date, to the Superintendent. A copy of the resignation shall be filed with the Director of Personnel.

6.800.2 Rights on Lists

A resignation relates only to the specific position from which the employee resigns and does not remove her/his name from eligibility lists, except promotional eligibility lists.

6.800.3 Absent Without Leave

Employees who fail to report for duty for three consecutive working days without permission from their supervisor or the Superintendent, shall be deemed to be absent without leave. Unless for good cause, such absence shall be deemed an automatic resignation.

6.800.4 Rights After Resignation

Upon recommendation of the Superintendent, any permanent classified employee who resigned in good standing may be reinstated in her/his former classification without further competitive examination within 39 months after the last day of paid service, if a position is available. The break in service shall be disregarded, and she/he shall assume the previous status and have restored all

rights, benefits, and burdens of a permanent employee. The employee may also be reemployed in a lower related classification if she/he is qualified, or on a limited-term basis in the same or lower classification (Rule 6.200.3).

6.800.5 Resigned Probationer

An employee in good standing who resigns during a probationary period may be returned to her/his original place on the eligibility list at the discretion of the Commission. A person who resigns because of inability to cope successfully with the reasonable requirements of a position has no standing under this rule.

6.800.6 After Service in Another Class (position title) or in the Certificated Service (Education Code Section 44062)

If a classified employee accepts a position requiring certification qualifications or in the classified service in a provisional or limited term appointment in another classification with the Marin County Office of Education, such employee shall retain all sick leave, vacation, and other rights and benefits accumulated by her/him at the time of the assignment to the position requiring certification qualifications or the provisional or limited term classified position, whatever the case may be. All seniority and permanency rights shall be secured to such an employee for a period of 39 months from the date of her/his acceptance of the certificated position. Such an employee shall be eligible to return to and assume the duties of her/his prior classified position at any time during the 39 months and her/his return shall be treated as if there had not been an interruption in her/his classified service.

6.800.7 Reinstatement Request File

The Director of Personnel shall maintain a file containing the names of former employees who have requested reinstatement.

6.900 DISCIPLINARY ACTION AND APPEAL (Education Code Section 45302, 45303, 45304, 45305)

6.900.1 Causes for Suspension, Demotion, Dismissal

Persons employed in the classified service may be suspended, demoted or dismissed for any of the following causes:

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

B. Dishonesty or immoral conduct.

C. Improper political activities engaged in by an employee during his assigned hours of employment.

D. Failure to disclose material facts regarding criminal records, and other false or misleading information on application forms or examination and employment records concerning material matters. (Education Code sections 44009, 44010, 44011, 45122.1 and 45123).

E. Abuse of leave of absence and/or illness privileges or absence without leave.

F. Failure to report for review of criminal records or for health examination after due notice.

G. Drinking or being under the influence of alcoholic beverages while on duty.

H. Possessing or being under the influence of a controlled substance as defined in Education Code 44011 while on duty.

I. Conviction of a felony, conviction of any sex offense made relevant by provisions of law, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction for this purpose.

J. Theft or misuse of MCOE office equipment or property.

K. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position.

L. Unlawful discrimination, including harassment, on the basis of actual or perceived race, color, ethnicity, age, religion, political affiliation, marital status, disability, gender, sexual orientation or national origin against the public, students or other employees while acting in the capacity of a district employee.

M. Unlawful retaliation against any other district officer or employee or member of the public who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on the job or directly related thereto.

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

O. Membership in the Communist Party.

6.900.2 Procedure for Disciplinary Action

A. No employee in the permanent classified service shall be reprimanded or disciplined in the form of suspension, demotion, dismissal, or in any way discriminated against because of her/his actual or perceived race, color, ethnicity, age, religion, political affiliation, marital status, disability, gender, sexual orientation or national origin.

B. Prior to any disciplinary action (e.g. suspension, demotion, dismissal) taken against a permanent employee (unless removal of the employee is mandated by the California State Education Code), the Superintendent's designee shall provide the employee with the following preremoval safeguards:

1) She/he must receive a written notice delivered in the form of a "Notice of Intent to Discipline" at least five days prior to the effective date of any punitive action.
2) She/he must receive a written notice (statement of charges) of the reasons for the proposed action in the manner specified in 6.900.2(C).
3) She/he must receive a copy of all materials upon which the action is based.
4) She/he must be given the opportunity to respond, either orally or in writing, to the authority initially recommending discipline; in this instance, the Superintendent's designee.
5. After considering any response made by or on behalf of the employee, the Superintendent's designee shall determine whether to adopt, modify or reject the proposed statement of charges.

C. If the Superintendent's designee, after having given the employee the right to respond, determines that cause exists for disciplining the employee, either by suspension, demotion, or dismissal, she/he shall present to the Superintendent specific written charges. The charges must be so clear that the employee will know the exact complaint and be able to respond to them. After complying with the preremoval safeguards set forth above and where suspension or

dismissal is the recommended sanction, the Superintendent may suspend the employee without pay for up to 30 days, but not longer than the period of the proposed suspension if it is less than 30 days. The 30 day limit shall not apply under those circumstances specified in 6.900.2F. If the employee invokes the right to a hearing before the Board, as specified in 6.900.2D, the Board shall determine whether any suspension imposed under this provision shall be affirmed, modified, or rejected. If the suspension is modified or rejected, the Board shall determine the appropriate remedy for the employee, as set forth in 6.900.2D.

D. The Superintendent‘s designee shall provide the employee with a written notice of the intended action and a copy of the charges presented to the Superintendent. The notice shall include a statement of the employee's right to appear before the Board with counsel for a hearing of her/his case, upon her/his request within five working days of receipt of this notice. Such notice shall be transmitted by registered or certified mail to the last known address of the employee within ten days of the effective date of the disciplinary action. Following the hearing, the Board shall take action to affirm, modify, or reject the disciplinary action invoked by the Superintendent. In the event the Board takes action to modify or reject the Superintendent's disciplinary action, the Board shall also determine the appropriate remedy, including but not limited to restoration of salary, seniority, and benefits.

E. When formal disciplinary action has been taken by the Board, the action and the charges shall be reported to the Director of Personnel, who shall immediately notify the employee of her/his right to appeal the Board's action to the Personnel Commission together with a copy of Rule 6.900.3. The Director of Personnel shall also immediately report the action to the Personnel Commission.

F. A permanent employee charged with the commission of any sex offenses as defined in Education Code Section 44010 or any narcotics offense as defined in Education Code Section 44011 by complaint, information, or indictment filed in a court of competent jurisdiction may be suspended as provided for in Education Code Section 45304. Such a suspension will be processed as an involuntary personal leave in accordance with the provisions of this rule relative to suspensions. The employee may receive compensation as provided for in the Code Section. Such suspension shall be reviewed by the Personnel Commission every 90 calendar days.

G. Dismissal shall cause removal of the employee's name from all employment lists.

H. Failure to appeal, as provided in 6.900.3, shall make the action of the Board of Education final and conclusive.

I. Suspension without pay shall not exceed the time limitations prescribed in Education Code Section 45304.

6.900.3 <u>Appeal</u>

A. A permanent employee who has been suspended, demoted, or dismissed may appeal to the Personnel Commission within 14 days after having been furnished with a copy of the written charges by filing a written appeal to such charges. Appeal can be made only on the following grounds:

1. That the procedures set forth in these rules have not been followed.

2. That the action was taken because of actual or perceived race, color, ethnicity, age, religion, political affiliation, marital status, disability, gender, sexual orientation or national origin.

3. That the action taken was not in accord with the facts.

4. That the penalty involved is excessive.

B. A permanent employee who has not served the full probationary period for the class (position title) and who is demoted to the class (position title) from which promoted may request an

investigation by the Commission within 14 days after the receipt of the copy of written charges. The request for the investigation shall be based only on one or more of the four grounds provided above for appeals. The Commission shall conduct a preliminary investigation, confined to the grounds set forth in the charges and in the request for the investigation, and shall notify the Superintendent and the employee in writing of its findings. If the Commission's investigation and findings, however, indicate any discriminatory action, the Commission may order a formal hearing. The decision of the Commission shall be binding on the Superintendent.

C. A permanent employee has a right to request that the appeal be in the form of a public hearing. Absent a request for a public hearing, the hearing shall be closed and attendance limited to only those persons essential to the matter who may include the following:

- The employee
- Employee representative
- An employee group representative (if requested by the employee or allowed by negotiated agreement)
- The Commission or hearing officer
- Director of Classified Personnel
- Stenographer, court reporter, or technician (operating recording equipment)
- District representative
- Witnesses (only while testifying)
- Legal counsel (if applicable)

6.900.4 Hearing Procedure

A. The Personnel Commission may conduct hearing of appeals or may appoint a hearing officer to conduct the hearing and report findings and recommendations to the Commission.

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

C. The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. It shall base its findings on the preponderance of evidence.

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

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

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

G. The Commission may, and shall if requested by the Board or the employee, subpoena witnesses and/or require the production of records or other material evidence.

H. The Commission may, prior to or during a hearing, grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.

I. Whether the hearing is held in a public or executive session, the Commission, after it concludes the hearing, may deliberate its decision in executive session. No persons other than members of the Commission, shall be permitted to participate in the deliberations. [The members of the Commission reserve the right to call/request input from counsel and/or Commission staff.]

J. The Commission shall render its judgment no later than 14 days after conclusion of the hearing or receipt of the advisory opinion if a hearing officer was used. Its decision shall set forth which charges, if any, are sustained and the reasons therefor.

K. The Commission may sustain or reject any or all of the charges filed against the employee. It may sustain, reject, or modify the disciplinary action invoked against the employee. It may not provide for discipline more stringent than that invoked by the Board.

L. The judgment of the Commission shall be final.

M. The Judgment of the Commission shall be delivered personally or by certified mail to the charged employee, his/her designated representative, the Superintendent and the Director of Personnel. The Judgment shall set forth the effective date of any action ordered by the Commission.

N. The employee or her/his representative may obtain a copy of the transcript of the hearing upon written request and with agreement to pay for necessary costs.

CHAPTER 7

WAGE AND SALARY PROVISIONS

7.100 APPLICATION OF SALARY SCHEDULES

7.100.1 Salary on Employment

A. Except as otherwise provided in these rules, appointment to any position in any class (position title) shall be made at Step 1, and advancement to rates greater than the minimum rate shall be by successive steps in the salary range for the class (position title).

B. Salary range allocated to a particular class of position title is followed by 1, 2, 3, 4, or 5. Such numbers refer to the salary range steps.

C. In exceptional cases and after reasonable effort has been made to obtain employees for a particular class (position title) at the minimum rate (i.e., Step 1), employment of individuals who possess special qualifications higher than the minimum qualifications prescribed for the particular class (position title) when authorized by the Director of Personnel and approved by the Superintendent, may be hired at Step 2 of the salary range for that class (position title). The Director of Personnel shall inform the Commission of the exceptional circumstances which may occasion consideration of such action.

D. A temporary employee filling a permanent position will be granted service credit on the Salary Schedule for continuous service prior to regular appointment up to a maximum of three (3) months. Credit for a month's service is granted when one-half (1/2) or more of the workdays in any given month prior to regular appointment are in a paid status, regardless of number of hours worked per day.

7.100.2 Anniversary Dates

A. The first anniversary date of a new employee or an employee who is reemployed after resignation shall be the first day of the calendar month following completion of six months employment in the particular class (position title).

1. If such persons are employed and commence to work between the first and the fifteenth of the month, the first day of the month shall be considered to be the first day of employment.

2. If such persons are employed and commence to work between the sixteenth and the last day of the month, the first day of the month next succeeding shall be considered to be the first day of employment.

3. After completion of the probationary period, the anniversary date for changes to higher steps shall be a period of twelve months from the first anniversary date for each step. For those hired at a higher step, their date of hire is considered their first anniversary date, and their first salary review will take place 12 months after date of hire.

B. The first anniversary date of employees who are promoted shall be the first day of the calendar month next following completion of six months of employment in the class to which they are promoted.

C. The first anniversary date of employees who are demoted shall not be changed as a result of such demotion, except that employees who are promoted and subsequently demoted shall reassume the anniversary date which they had prior to promotion.

D. The anniversary date of employees who transferred to a class allocated to the same salary range is not changed as a result of such transfer.

E. The anniversary date of employees whose class is reallocated from one salary range to another shall not be changed as a result of such reallocation.

F. In the case of provisional employees or employees who are serving a probationary period on their anniversary date, such anniversary date shall be deferred until the first day of the calendar month next following completion of a probationary period of six months or longer in the particular class.

G. Whenever employees are absent without pay for twelve or more working days in any anniversary year, all of their subsequent anniversary dates shall be deferred for one month. For each twenty additional working days of absence without pay in any anniversary year, all of the subsequent anniversary dates shall be deferred for one additional month. However, this paragraph shall not apply to absences on paid industrial accident leave or to absences governed by the California Military and Veterans Code.

H. For employees whose step advancement is postponed by the Superintendent, the anniversary date shall be changed to the date to which the advancement is postponed.

7.100.3 Step Advancement Within Salary Range

A. Step advancement authorized herein shall be made from each step to the next higher step within the limits of the appropriate salary range on each anniversary date except as otherwise provided herein. No such advancement shall be made without a written approval therefor by the Marin County Office of Education.

B. Should the Superintendent specify that the advancement be postponed for one or more months, not to exceed six months' deferment, such notice will be put in writing to the Director of Personnel.

C. No step advancement shall be made for provisional employees or for employees serving probationary periods.

7.100.4 Salary on Promotion

Employees who are promoted to a position of a class allocated to a higher salary range than the class from which they were promoted shall receive the salary of the first step of the range for the new class, provided that in those cases where the salary before promotion is the same as or greater than the salary of the first step of the new class, they shall receive the salary of the range of the new class next higher than the salary they received before promotion. Notwithstanding these provisions, no employee so promoted shall receive less than a 5% increase in salary. Promotional increases shall be

independent of both normal anniversary step increases and any upward reallocation of the class (position title) to which promotion is made (Rule 6.200.4).

7.100.5 Salary on Demotion

Employees who are demoted to position of a class allocated to a lower salary range than the class from which they are demoted shall have their salary reduced to the salary in the range for the new class next lower than the salary they received before demotion. Such demotion shall be independent of any reallocation of the class to which demotion is made or of any step advancement to which the employee may be entitled through reassumption of a former anniversary date.

7.100.6 Salary on Transfer

In case of the transfer of an employee from one position to another in the same class or to another class to which the same salary range is applicable, the employee shall continue to receive the same salary. Such transfer shall be independent of any reallocation of the class to which transfer is made.

7.100.7 Salary on Reallocation of Class

An employee in a position of a class which is reallocated from one salary range to another shall be compensated at the same step in the new salary range as she/he was compensated in the range to which the class was previously allocated.

7.100.8 Salary on Reclassification of Position

A. The salary of an incumbent of a position which is reclassified to a different class shall be compensated at the same step of the salary range for the new class as the step at which she/he was compensated for in the former class. This provision shall not apply in the event a position in one class is abolished and replaced by a position in a different class. (Rule 3.200.11)

B. Whenever the effect of reclassification is to reduce the salary of an incumbent, a capital "Y" shall be set opposite the reclassified position in the departmental budget and on all payroll and other personnel records. Wherever a capital "Y" is set opposite a position, the incumbent shall continue to receive her/his previously authorized salary until termination of her/his employment in the position, or until a higher rate of pay is authorized. This action is referred to as a "Y-Rating".

7.100.9 Salary Computation

A. For each basic monthly salary there is established a standard hourly rate which is obtained by dividing the basic monthly salary by 21.67, the average number of working days in a month (Authorized holidays included).

B. Each full-time employee whose pay status at the same basic monthly salary rate in any calendar month equals the normal full-time month's work for her/his position in that month, shall be paid the basic monthly salary prescribed for her/his class.

C. Each full-time employee, and each part-time employee whose position is budgeted at a fixed percentage of full-time work, and who is employed at two or more basic monthly salary rates during any calendar month, or whose pay status in any calendar month is less than the normal full-time month's work for her/his position in that month, shall be paid in the same proportion to the basic monthly salary rate as the proportion of her/his pay status at each rate to the normal full-time month's work in that month. Computation of partial monthly pay for classified employees on monthly salary rate will be in accordance with the following tables and formulae:

   Compensation due a classified employee for services performed for part of a month will be determined by multiplying the daily rate (as determined in A above) by the number of days of actual service.

1. Days of actual service shall include paid holidays provided the classified employee was in a paid status during any portion of the working days immediately preceding or succeeding the holiday. (Education Code Section 45203)

2. The number of days in any month countable for pay purposes shall be considered to be 21.67, including all authorized paid holidays.

3. Employees separating for any reason after one year of service shall be paid for Accrued Annual Vacation Leave and Compensatory Time earned as actual days of service and at the rate of compensation in effect at the time of separation except:

   a) Compensatory Time earned is payable at any time of separation, but time earned more than 12 months previous is not reimbursable. The rate of compensation made for overtime will be in accordance with Rule 7.200.3.

D. Each part-time employee, except as provided in Sub-section C above, and each person employed full-time on a limited-term or emergency basis for less than one month shall be paid at the appropriate standard daily rate as determined in Subsection A above, prorated for each part of an eight hour day of pay status.

COMPENSATION FOR CLASSIFIED EMPLOYEES

A. <u>DEFINITIONS</u>

1. Normal Monthly Gross	Monthly salary as determined by reference to the currently effective salary schedule.
2. 21.67	Average number of working days in any month.
3. Daily rate	$\frac{\text{NMG}}{21.67}$
4. School Year	The school year begins on the first day of July and ends on the last day of June (Education Code Section 5101).
5. School Term	Number of work days including authorized paid holidays during the period in which school is in session plus the prorated number of vacation days.
6. Annual Earnings	Total amount employee would earn if he completed the school year, or school term at a given monthly salary rate.
7. Annual Days of Service	Same as school term.
8. Days for Pay Purposes	Total number of days actually worked including authorized paid holidays plus the prorated number of vacation days allowed.
9. Adjusted Daily Rate	$\frac{\text{No. Hours Worked}}{8}$
10. Adjusted Monthly Rate	21.67 x Adjusted Daily Rate
11. Adjusted Annual Rate	Adjusted Monthly Rate x 12

B. <u>METHOD FOR COMPUTING PAY</u>

1. Full Pay	Placement on Salary Schedule
2. Partial Pay (8 hour day)	$\frac{\text{NMG}}{21.67}$ (Daily Rate) x No. Actual Days Worked
3. *Accrued Vacation	$\frac{\text{NMG}}{21.67}$ (Daily Rate) x Accrued Days Vacation Leave (30 maximum)
4. *Compensatory Time	Adjusted Monthly Rate x 12
5. Compensation for Full Fiscal Year (less than 8 hours per day)	Adjusted Monthly Rate x 12
6. Compensation for Total School Term (less than 8 hours per day)	a. Adjusted Daily Rate x School Term b. Adjusted Monthly Rate x Months Worked

Whenever there are two or more different salaries involved within a month the actual number of days worked in each salary must be used.
*Not subject to retirement contributions.

7.200 HOURS OF WORK (Education Code Section 45127)

7.200.1 Work Week

The normal work week of classified employees is forty hours per week falling within a consecutive 5 day period beginning at 00:00 a.m. Saturday and ending at 12:00 p.m. Friday. (Education Code Section 45131)

Work Day

The normal work day of classified employees is eight hours.

7.200.2 Overtime (Education Code Section 45128)

A. Overtime is any time required to be worked in excess of eight hours in any one day or in excess of forty hours in any work week.

B. Any employee may be required to work in excess of the regular established hours of work when so requested and authorized by the Superintendent. This extra work may be required on any day, including Saturdays, Sundays, and holidays.

C. Types of Overtime:

1. Extended Work Day Overtime
   Remaining on the job with authorization after the last regularly scheduled work hour; or reporting to the job before the regularly scheduled work hour.

2. Call Back Overtime
   Returning to work with authorization after the regularly scheduled work hour.

3. Call in Overtime
   Working with authorization on other than a regularly scheduled work day (Saturday, Sunday, or school holiday). (Minimum of two hours employment and requisite compensation)

7.200.3 Compensation for Overtime (Education Code Section 45129, 45137)

A. Compensation for overtime may be paid in cash or compensatory time off at the rate of one and one-half times normal rate of pay. Compensation in cash or in compensatory time off for work on holidays designated in Section 7.300.1 will be made at a rate equal to the normal rate of pay in addition to regular pay received. Part-time employees will be eligible for overtime in accordance with Education Code Section 45131.

B. The Director of Business Service shall maintain a detailed record of all overtime work, including all pertinent information. A corresponding record of time worked less than the required number of hours each work day shall also be maintained and deducted from overtime credits, if any. Such detailed records shall be available for inspection and audit. Whenever possible, overtime shall be reported in multiples of 15 minutes of working time.

7.200.4 Classifications Exempt from Overtime (Education Code Section 45130 and Rule 6.700.2A)

Not withstanding the provisions of paragraphs A through C of Rule 7.200.2, all positions which fall into the following classifications will be considered administrative and professional, and the regular rate of pay shall be considered full compensation for all time that is required of the employee to perform the duties of her/his position. Said time required of said employees shall be at such hours as are necessary to perform her/his assigned duties.

Accountant
Administrative Specialist I
Administrative Specialist II
Assistant Ranch Manager
Assistant Special Projects Manager
Assistant Superintendent, Business Services
Assistant Transportation Manager
Business Services Manager
Data Processing Manager
Director of Business Services
Director of General Services
Director of Information Systems
Director of Personnel
General Counsel
Information Systems Analyst
Licensed Vocational Nurse
Management Assistant
Manager, Outdoor Education Program
Manager, Walker Creek Ranch
Physical Therapist
Ranch Conference Manager
Ranch Facilities Manager
Ranch Food Service Manager
Ranch Maintenance Supervisor
Ranch Naturalist Supervisor
Senior Accountant
Senior Director of Business
Senior Director of Information Systems
Senior Director of Personnel
Senior Systems/Programmer Analyst
Special Projects Manager
Transportation Manager

or any other position title assigned to the exempted Salary Schedule

However, if any employee in this group of positions is required to work on an official holiday as listed in Rule 7.300.1, she/he shall be granted compensatory time off equal to the actual number of hours worked. Reasonable informal time off may be taken at the discretion of the Superintendent as

long as it does not reduce the average work week below 40 hours within the 12 pay periods ending with the pay period in which the absence occurred.

7.200.5 Rest Periods

The Superintendent shall authorize rest periods of 15 minutes which insofar as practicable shall be in the middle of each work period. The authorized work period shall be based on the total hours worked daily at the rate of 15 minutes per four hours or major fraction. Authorized rest period time shall be counted as hours of work for which there shall be no deduction in pay.

7.300 HOLIDAYS

7.300.1 Authorized Holidays

Unless otherwise provided by the Superintendent or by law, holidays with full pay shall be granted annually for all regular employees on the following days:

January 1, New Years Day

January, Martin Luther King Day (observed 3rd Monday)

February , Lincoln's Birthday

February, President's Day (observed 3rd Monday)

May, Memorial Day (observed last Monday)

June 19, Juneteenth

July 4, Independence Day

September, Labor Day (observed 1st Monday)

Day in lieu of Admission Day

November 11, Veteran's Day

Thanksgiving Day, as designated by the President of the United States

The day following Thanksgiving Day

December 25, Christmas Day

Such other days, or portions of days as may be designated by the Superintendent, the Board, the Governor of California, the President of the United States, or other proper authority.

A. When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a classified employee is required to work on any of said holidays, she/he shall be paid compensation, or given compensatory time off, for such work in addition to the regular pay received for the holiday at the overtime rate. (Note: this means regular pay or time, plus 1-1/2 or a total or 2-1/2 times regular pay or time.)

B. All regular employees, full-time and permanent part-time, who are not normally required to work during the holiday periods listed in A above, shall receive their normal rate of pay for those holidays provided they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday periods mentioned.

7.400 PAYMENT OF EMPLOYEES (Education Code Section 45166 and 42646)

7.400.1 Time and Manner of Payment

A. Regular Payroll
Each regular full-time employee shall be paid once per month on the last working day of that month.

B. Supplementary Payroll
Each emergency, limited-term and hourly-employee shall be paid once per month on a supplementary payroll payable (approximately mid-month) in accordance to Education Code Section 42646.

7.400.2 Approval of Payrolls

A. The Director of Business Services shall cause each payroll to be compared with the central roster of employees and positions to confirm the following date:

1. Each employee's name, class, and rate of pay.

2. The time worked by each employee.

3. The proper appointment of each employee in the position in which she/he is to receive pay.

B. She/he shall promptly report any discrepancy to the Superintendent who shall withhold payment to the employee concerned until a correct payroll which includes such employee has been approved by the Director of Business Services.

C. The Director of Business Services shall approved each payroll causing her/his signature to be affixed thereto, thereby approving payment to each employee included thereon for whom she/he has confirmed the data enumerated in this section.

D. Whenever, after her/his approval of any payroll, the Director of Business Services shall learn of any unreported discrepancy or of a separation, an absence or other information which would reduce the amount to be paid any employee, she/he shall immediately so inform the Superintendent who will, wherever possible, withhold payment to the employee concerned until a correct payroll which includes such employee has been approved by the Director of Business Services.

7.400.3 Personnel Records

The Director of Personnel shall maintain in her/his office the names and complete employment records of all employees holding positions under the provision of the Act.

7.500 BENEFITS FOR REGULARLY EMPLOYED PART-TIME EMPLOYEES

A. Benefits for persons employed less than full-time are to provided as authorized in Education Code Section 45136, 45137, and 45197.

B. Sick leave and all other benefits accorded members of the classified service are to be prorated on the basis of assigned hours worked per day as it bears to 8 hours, 40 hours per week, weeks per month, or months to a calendar year.

C. If an employee works 30 minutes or more for 20 consecutive workdays in excess of the assigned time, the assigned time will be adjusted to reflect actual work time and become "assigned time."

D. If Rule C does not apply but an employee works, on an average per day, 50 minutes or more above the assigned time in any one quarter, she/he shall receive fringe benefits in the following quarter based on the average actual time worked in the preceding quarter.

E. Vacation - unless vacation pay is provided on the basis of actual hours of paid regular service, rather than on an assigned time basis, vacation pay shall be granted on the basis of the average number of hours worked in a school year by the part-time employee.

CHAPTER 8

MISCELLANEOUS PROVISIONS

8.100 PROCEDURE FOR THE ADJUSTMENT OF GRIEVANCES OF CLASSIFIED PERSONNEL

8.100.1 Purpose of the Adjustment Procedure

The adjustment procedure is the medium through which permanent classified employees may seek adjustment of complaints arising out of alleged violations of established Superintendent policies or rules or administrative procedures, working conditions, or job relations, including a complaint of one employee against another employee. Because complaints should be adjusted as promptly as possible, various steps have been provided. There is an obligation on the part of an aggrieved employee to make known the existence of the complaint and the facts pertaining to the complaint within 30 working days of any specific or documented incident or at the earliest possible date after the recognition of a nonspecific occurrence so that efforts can be made through the adjustment procedure to resolve differences and to promote harmonious relationships.

Matters excluded from the adjustment procedure shall be:

A. Accusatory charges relating to the moral or professional fitness of an employee. Such charges shall be processed by the Superintendent.

B. Matters specifically reserved for action or review by the Personnel Commission under Personnel Commission rules in effect at the time the events leading to the grievance occurred. Such matters shall be processed through normal channels by the Personnel Commission.

C. Complaints about the subject matter of a Superintendent policy or rule or administrative procedure, rather than the administration of the policy or rule or procedure. An employee with such a complaint should direct her/his suggestions for change through administrative channels to the Superintendent or to the administrator who established it.

D. Classified employees covered by valid collective bargaining agreements to the extent that the grievance is covered by the labor agreement.

E. Matters pertaining to sex discrimination which are covered by a separate "Title IX" complaint procedure.

F. Matters pertaining to disability which are covered by a separate "Section 504" complaint procedure.

8.100.2 Steps in the Adjustment Procedure

A. Informal Discussion with Supervisor

Informal discussion between an employee or a group of employees and the immediate supervisor shall take place to attempt to resolve the problem. The conference shall be confined to the parties immediately concerned. A prompt and courteous examination of the facts to reach a satisfactory adjustment shall be attempted. In the event satisfaction between the employee and the immediate supervisor cannot be established, the procedures set forth in paragraph B will govern the action.

B. Formal Discussion for Further Appeals

1. The immediate supervisor of an employee is the key individual in handling employee grievances and should be the first person contacted before further appeal is made.

2. When the immediate supervisor is a party to the controversy, an informal discussion between the employee, immediate supervisor, and Department Head may be held in an attempt to reconcile differences.

3. In cases where employee(s) have followed steps 1 or 2 above and the grievance has not been settled to satisfaction, the employee(s) may then present the problem in writing to the Director of Personnel with a copy of the written problem to the immediate supervisor and Department Head. The Director of Personnel will investigate the case, interview the employee(s), interview the supervisor and other interested persons as required, and try to resolve the problem by interpretation and explanation of existing policies and rules. If at this point dissatisfaction still persists, the Director of Personnel will bring the matter to the attention of the Superintendent or her/his designee.

4. The Superintendent or her/his designee will interview such personnel as are deemed necessary and make every reasonable attempt to solve the problem to the satisfaction of all concerned. Should the matter still remain unresolved at this point, the Superintendent or her/his designee will refer the matter back to the Director of Personnel who shall then present the matter before the Personnel Commission which shall hear the grievance and receive all other relative information it deems necessary to arrive at a decision. If the matter falls under the purview of the Merit System Rules, the findings of the Commission shall be binding.

5. Time is of the essence in handling any grievance by whatever level of authority the matter is presented. No more than fifteen working days should elapse before a grievant receives a reply or a decision from the individual who has the problem under consideration. The Personnel Commission may require a maximum of thirty working days in order to explore all necessary evidence and interview witnesses.

6. If after a thorough review of the grievance the Personnel Commission determines that the grievance is a subject that should be placed before the Superintendent, it shall be so referred in writing by forwarding all pertinent papers to the Superintendent and the action of the Superintendent shall be final.

8.200 EMPLOYER-EMPLOYEE RELATIONS

8.200.1 General Provisions

The Superintendent, its agents, and the Personnel Commission, its officers and agents, are governed, as are employees and employee organizations, by the provisions of Article 6 of the California Government Code #3540 through 3549 and Education Code Section 45240 et seq.

8.200.2 Unlawful to Strike or Engage in Other Concerted Labor Activities

A. California Government Code Section 3549 specifically provides: "The enactment of this Chapter shall not be construed as making the provisions of Section 923 of the Labor Code applicable to public school employees." This section means that public school employees may not strike against the Marin County Office of Education, nor may they engage in other related types of activities in order to attempt to resolve grievances or differences, real or fancied.

B. Any employee or groups of employees, either by their own initiative or through an employee organization, leaving their duty assignment or refusing to perform or failing to report to duty as a result of a strike or other 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 Marin County Office of Education. The Superintendent may bring charges against any employee or employees for abandonment of position under this rule.

C. Any classified employee who absents himself from duty, for any reason, during the period of an unlawful strike, sit-down, slowdown, or other concerted activities shall be required to provide proper evidence that her/his absence was lawful and in no way an effort on the employee's part to further the strike or concerted activity.

D. Any rule prescribed under this Act or the rules outlined in this Handbook which permits personal or illness absences without evidence of necessity is suspended and void during any attempted strike or other concerted labor activity against the Marin County Office of Education.

8.300 POLITICAL ACTIVITY

8.300.1 Political Activity Freedom

Every classified employee may, during off-duty hours, participate in political activities not specifically prohibited by the Education Code Section 7050-7058.

8.300.2 Cause for Disciplinary Action

Any employee may be disciplined for improper political activity. Improper political activity includes:

A. The use of any Marin County Office of Education property, equipment, or facility for any political purpose unless the use thereof is authorized, by law, for such purposes and the employee has obtained prior required approval.

B. The use of any Marin County Office of Education property, equipment, or facility for any political purpose or the performance of any political act during regular hours of duty.

C. Engaging in active campaigning in behalf of any candidate, including her/himself, for public office, whether by speaking, soliciting funds or support, distributing handbills, or otherwise, during her/his assigned hours of employment.

D. Attempting to gain any advancement or privilege under the act or these rules through political activity.

8.300.3 Personal Candidacy

Any employee may be a candidate for any political office for which she/he may file without suffering any loss of employment status in the office, unless she/he violates the provisions of Rule 8.300.2, and except as provided in Rule 8.300.4B.

8.300.4 Leave of Absence

A. An employee, who files for a political office, may request and shall be granted, an unpaid leave of absence which shall commence not earlier than one month prior to the concerned election and continue until the election processes have been completed insofar as her/his candidacy is concerned.

B. Such leave is required if the employee is a candidate for election to the Marin County Board of Education.

8.300.5 Election to a Political Office

An employee who is elected to a political office, the duties of which will clearly conflict with her/his normal duty hours and assignment with the office, may request, and shall be granted, an unpaid leave of absence which shall commence on the date she/he assumes the office and shall terminate not later than 30 days after her/his 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.

8.300.6 Intent

It is the Commission's intent and purpose in enacting these rules to allow employees their lawful privilege of political freedom and activity but to insure that political activities are not engaged in during normal duty hours and normal duty assignments. The office has a reasonable obligation to make certain that personnel are aware of their political rights and can exercise those rights but, at the same time, to insure that its employees do not wrongfully use their duty hours or office property, equipment, or facilities for political purposes.

8.400 NEW EMPLOYEE CLEARANCES

8.400.1 Physical Examinations

A. Initial Employment

1. Every person being initially employed by the Marin County Office of Education shall be required to comply with the provisions of Education Code Section 49406 which requires an examination to determine that she/he is free from active tuberculosis.

B. After Employment

1. Every permanent employee is required to undergo an examination to determine that she/he is free from active tuberculosis at least once every four years after employment.

2. The Personnel Office shall maintain adequate records on each employee which indicate compliance with these rules and the law.

C. Extensive Physical Examinations

If the Marin County Office of Education requires a more thorough physical examination of an employee, Education Code Section 45122 shall apply.

D. Medical Review Board

1. Any rejection for medical reasons of an eligible or of an employee who has applied for return from a medical leave of absence may be appealed to the Commission.

2. The Commission may employ outside medical experts to give a medical advisory opinion.

3. The Commission, based on evidence submitted and the advice of medical experts to the Commission, shall determine whether or not the denial of appointment or return from leave shall be sustained.

8.400.2 Criminal Records Check (Education Code Section 45106 and 45125)

A. Fingerprinting

Every new regular employee shall submit to a criminal records check in accordance with prescribed procedures or shall forfeit eligibility for employment. The Director of Personnel will notify each such employee where and when to report for fingerprinting and make necessary arrangements for making payment of the required fee.

B. Review of Criminal Records

1. All criminal record reports are confidential. Any employee charged with receiving and/or reviewing them who divulges information contained therein to an unauthorized person is subject to disciplinary action.

2. The Director of Personnel is designated as the Records Security Officer in compliance with criminal record security procedures of the Department of Justice, State of California.

3. The criminal records report will be reviewed together with the person's application form. If there is a criminal record, the appointing authority shall determine whether or not the person should be employed or retained in employment.

4. If the record discloses no information beyond that supplied by the person on her/his application form, and she/he was accepted for examination and/or appointment, she/he shall be considered employable.

5. If an employee is to be dismissed because of information disclosed on the criminal records report or if the appointing authority desires that an eligible be removed from an eligibility list because of such information, the Personnel Commission shall be notified of the recommended action and the reasons therefor.

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

8.400.3 Availability of Personnel File

Any member of the classified service may, upon request, inspect her/his personnel file maintained in the Personnel Department. This file shall not be altered, tampered with or removed from the Personnel Department by the employee. (Rule 6.500.2C)

8.500 VIOLATIONS (Education Code Section 45317)

Any person who willfully or through culpable negligence violates any of the provisions of the Education Code Section 45317 is guilty of a misdemeanor. It is also unlawful for any person to:

A. Willfully, by herself/himself or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to his right of examination, application, or employment under this article or Commission rule.

B. Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under this article or Commission rule, or to aid in so doing, or to make any false representation concerning the same or the person examined.

C. Willfully to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined or to be examined under this article or Commission rule.

8.600 INCOMPATIBLE OUTSIDE ACTIVITIES

Classified employees cannot engage in incompatible outside activities. The Superintendent may establish and adopt rules in this regard and will determine prohibited activities, to include disciplinary action to be taken against employees for engaging in prohibited activities, and for appeal by employees from such a determination and from its application to an employee.

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