Ocean View School District

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# Merit System Rules and Regulations for the Classified Service

# Ocean View School District Personnel Commission

*Classified Employees*
in **PARTNERSHIP** with **EDUCATION**
**Personnel Commission**
1966 – Present

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# OCEAN VIEW SCHOOL DISTRICT

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# CHAPTER 1: DEFINITIONS AND PRELIMINARY STATEMENT

Note: The ( ) following the definition is the location in the rules where the word is first used.

## 1.1 DEFINITIONS, GENERAL

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

**ABANDONMENT**: Failure to report for duty for a period of three (3) or more consecutive working days without notification to the Absence Management System or supervisor. (8.6.1.A.10)

**ACT** or **THE ACT:** ACT shall mean those sections of the Education Code of the State of California applying the merit system to classified employees. It shall include all of the provisions of Articles 5 and 6, Chapter 5, Division 3, and applicable provisions of Chapter 1 and Articles 1 to 4, Chapter 5, Division 3. (2.5.2)

**ADEQUATE FIELD OF COMPETITION**: An examination is expected to result in three (3) or more ranks of eligibles to certify for an appointing authority to fill known or anticipated vacancies. (5.1.5.1)

**ADMINISTRATIVE LEAVE**: The placing of an employee on a paid or unpaid (suspension) leave of absence pending completion of an investigation and/or hearing. (An administrative practice not specifically referenced within the Rules.)

**ADMINISTRATIVE OFFICIAL**: Employees with the rank of Department Head and higher in the line of authority, and others who may be designated by the Board of Trustees. (2.4.1.B)

**ADMINISTRATIVE REVIEW**: The review of a protest, complaint, or allegation of a misapplication of District policy, regulation, or Personnel Commission rule conducted by the Director, Classified Personnel. (4.1.4.C)

**ADMINISTRATIVE TRANSFER**: A transfer initiated at the discretion of the District administration for the good of the District. (8.2.1)

**ADVANCED STEP PLACEMENT**: Placement, upon hire into a class, on the salary range established for the class at a step above step 1 or other step provided for in these Rules. (7.2.1)

**AGREEMENT**: The collective bargaining agreement between the District and Chapter #375, California School Employees Association (CSEA). (2.5.2)

**ALLOCATION**: The official placement of a position in a given class, the assignment of the class title for the class, can also refer to the assignment of a classification to a salary range on a salary schedule. (3.2.6)

**ANNIVERSARY DATE**: The date upon which an employee is granted their annual earned salary increment; also the date the annual performance evaluation becomes due. (2.3.1.B)

**APPEAL**: The process by which a written complaint by an employee, applicant, or candidate, after exhausting administrative remedies, may be brought before the Personnel Commission regarding an administrative action which is perceived as actually or potentially detrimental to the employee, applicant, or candidate. (2.3.2.C)

**APPLICANT**: A person who meets all of the following criteria

- Is applying for a valid job classification for which the District or Commission hires.
- Is applying for a position for which applications are being accepted as evidenced by a job posting or a job announcement.
- Completes an employment application which includes the job preference.
- Completes all employment procedures required before an offer of employment is given (does not voluntarily withdraw at any selection step before the job offer step).
- Is available to be contacted within three (3) days regarding continuing the employment process.
- Possesses the minimum legal requirements (e.g., age, certification, licensing) for the position being sought where such requirements are defined by law or government regulations.
- Possesses the minimum requirements (e.g., operate equipment, pass physical exam, etc., where such skill or condition is a job requirement) for the position as defined by the Personnel Commission
- Is a United States citizen, or possesses appropriate documents approved by the Immigration and Naturalization Service which provides for permanent residence and/or employment in the United States.

**APPOINTING AUTHORITY (OR POWER)**: The Board of Trustees of the Ocean View School District; and/or its designee(s) for Board employees; the Personnel Commission for its employees; (2.1.4)

**APPOINTMENT**: The official act of the appointing authority in approving employment of a person. (2.1.4)

**ASSIGNMENT**: Placement of an appointee in a position. Refers also to the position into which the employee is placed. (3.1.4)

**BARGAINING UNIT**: A group of classified employees represented by an employee organization as the exclusive representative and authorized under laws of the State of California to engage in collective bargaining (negotiations) and representation on behalf of all the employees belonging to or represented by the unit. Refers also to the Employee organization. (2.5.2.E)

**BEREAVEMENT LEAVE:** A paid leave of limited duration granted to an employee upon the death of a member of the immediate family or relative living in the household. (8.9.1)

**BOARD**: The District's elected Board of Trustees. (2.1.1)

**CANDIDATE**: An applicant who has participated in one or more portions of a merit system selection process. (2.1.4.A)

**CAUSE**: The grounds (specific activities, behaviors, or events) upon which a disciplinary action is brought by the Board against an employee as stated within these Rules or enumerated in law. No disciplinary action may be taken for any "cause" other than defined herein. (4.1.3.I)

**CERTIFICATED SERVICE**: Those employees and positions required by law to possess teaching credentials issued by the California Commission on Teacher Credentialing or the County Office of Education. (11.1.1.D)

**CERTIFICATION**: The submission for approval to the Commission by the Director of the names of eligibles from an appropriate eligibility list. Also the submission of a rank of three eligibles from an

appropriate eligibility list and/or eligibles from some other source of eligibility to the appointing power for selection interview (4.1.3)

**CLASS (OR CLASSIFICATION)**: A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be used to designate each position allocated to the class; substantially the same requirements of education, experience, knowledge, and ability are demanded of incumbents; substantially the same tests of fitness may be used in choosing qualified appointees; and the same salary range may be applied with equity. (2.3.2.B)

**CLASSIFIED SERVICE**: All positions not required to have certification qualifications or otherwise excluded by the Education code, and the incumbents of those positions. (2.3.1.A)

**CLASSIFY**: The act of the Personnel Commission in assigning a position to a class; arranging classes into occupational hierarchy and determining reasonable relationships within occupational hierarchies. (3.1.6)

**CLASS SPECIFICATION OR JOB DESCRIPTON**: A formal statement of the essential duties and responsibilities of the position(s) allocated to the class, and the minimum qualification requirements of positions in the class. A class may consist of just one position when no equivalent positions exist in the service. (3.2.4)

**COMMISSION**: The Personnel Commission established under the Act for the Ocean View School District. (2.1)

**COMBINATION EXAMINATION OR DUAL CERTIFICATION EXAMINATION OR MERGED OPEN AND PROMOTIONAL EXAMINATION**: An open and promotional examination resulting in one eligibility list, with both veterans and seniority points included. (5.1.4)

**COMPLAINT**: An alleged misapplication of policies, regulations, or rules which are not subject to a "negotiated" grievance procedure. (2.2.3.A)

**COMPLAINT PROCEDURE**: A problem solving procedure to resolve an employee complaint that a violation has occurred concerning a Board Policy, administrative procedure, or Personnel Commission rule. (10.1)

**CONFIDENTIAL EMPLOYEE**: A classified employee, who in the regular course of their duties, has access to, or possesses information relating to, the District's employer-employee relations. Confidential employees are excluded from representation by a bargaining unit. (3.2.7.C)

**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. (5.1.7)

**DAY/DAYS**: Means working days exclusive of weekends and holidays, unless otherwise specified. (2.1.4.A)

**DEMOTION**: A disciplinary action for cause, subject to the pertinent rules and procedures under the disciplinary action provisions of these Rules. (6.2.2.A)

**DIFFERENTIAL (ALSO STIPEND)**: A fixed salary (dollar amount or percentage) for performing specified duties or working during non-standard hours or conditions. A differential or stipend may

be established through negotiations or upon recommendation of the Personnel Commission and approval of the Board of Trustees. (8.7.2)

**DISCIPLINARY ACTION**: Any action whereby an employee is deprived of any classification or any incident of any classification in which the employee as permanence, including dismissal, suspension, or demotion without the employee's voluntary consent, except a layoff for lack for work or lack of funds. (2.1.8)

**DISMISSAL**: Separation from service for cause. (2.2.3)

**DISTRICT**: The Ocean View School District. (2.1.1)

**DUAL CERTIFICATION**: See COMBINATION EXAMINATION

**ELIGIBLE APPLICANT**: A person who has satisfied all requirements relating to a position and who has been placed on an eligibility list for future employment. (4.1.4)

**ELIGIBILITY LIST**: A list, certified by the Personnel Commission, for a limited duration, of persons who have qualified in a competitive examination and are eligible for certification to an appointment interview, subsequent selection, and appointment to a position in a specific classification. (3.1.4)

**EMERGENCY**: Constitutes an unforeseen circumstance, requiring immediate action by the Commission to implement a Rule or change in practice, without which the orderly business of the District would be significantly impaired, or delay would be detrimental to an employee or group of employees. (2.2.4)

**EMERGENCY APPOINTMENT**: An appointment for a period not to exceed 15 working days when persons on eligibility lists are not immediately available, during times of a crippling disaster, work stoppage or other activity which severely impairs public health, safety, or both. (Government Code 54956.5) (2.1.4.B.1)

**EMPLOYEE**: A person who is legally an incumbent of a position or who is on an authorized leave of absence. (2.1.1)

**EMPLOYEE ORGANIZATION**: An organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer, as defined in the California Government Code sections 3540-3549.1 (2.1.4)

**EMPLOYEE RELATIONS**: Employer-employee contact, both formal and informal, to discuss matters of mutual or individual interest between the District and Employee organization designated as the Exclusive Representative of a bargaining unit of employees. (3.2.7.C)

**EMPLOYMENT LIST**: A list of names from which certification to fill vacancies may be made. Term includes eligibility lists, reemployment (after layoff for lack of work, lack of funds, or for medical reasons) lists, as well as lists of individuals who wish to be transferred, demoted, reinstated after resignation, or those who wish to be reinstated to a former class after voluntary demotion, or reduction to limited term status. (Chapter 6 Title)

**EMPLOYMENT STATUS**: The condition of an employee's present appointment indicating whether the employee is probationary or permanent. (2.4.3.A)

**ENTRANCE QUALIFICATIONS** also MINIMUM QUALIFICATIONS: The minimum qualifications prescribed for those who wish to compete in examinations for specific classifications. (3.2.4.D)

**EXAMINATION**: The process of testing and evaluating the fitness and qualifications of applicants for District employment. (2.4.3.C)

**EXEMPT CLASSIFIED** also referred to as NON-MERIT EMPLOYEES: Refers to those positions and employees exempt from the regular classified service as provided in The Act. (45256) (3.1.1)

**GRADUAL ACCRETION**: The incremental change in duties or responsibilities of a position, generally as a result of external influences; such as might occur by additions or higher level duties to existing duties/ responsibilities of a position if new State of County reporting requirements are added, or changes occurring as a result of the introduction of new technology, equipment, or programs. (3.3.1)

**GRIEVANCE**: A formal written allegation by a grievant that they have been adversely affected by a violation of the specific provisions of the collective bargaining agreement between the District and the exclusive representative of classified employees. (10.1.1.D.5)

**HEARING**: A formal review of evidence in the presence of the parties involved in connection with an action affecting an employee and for which the employee has filed an appeal; also the formal presentation to the Commission of facts gathered pursuant to an investigation ordered by the Commission concerning alleged violations or misapplication of the Rules. (2.5.2)

**HEARING OFFICER**: A qualified person employed by the Commission to hear and make recommendations on appeals from disciplinary actions or other matters for which Commission directs. (2.2.3.B)

**IMMEDIATE FAMILY**: Mother, mother-in-law, father, father-in-law, husband, wife, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, grandparents of employee or spouse, grandchild of employee or spouse, step-parent/guardian or any naturally or legally adopted relative living in the immediate household of the employee. (8.9.1.A)

**INCOMPETENCY**: Failure or inability to perform adequately the minimum standards of duties required for a given position. (4.1.3.J)

**INCUMBENT**: An employee assigned to a position and currently serving in or on leave from that position. (2.1.5.A.1.b)

**INDUSTRIAL ACCIDENT OR INDUSTRIAL ILLNESS**: Injury or illness which arose out of and in the course of employment with the District. (8.7.2)

**INITIAL PROBATIONARY PERIOD**: A period of 6 months or 130 days of paid service, whichever is longer, following hire into the regular classified service, during which the employee's performance is evaluated to determine if they should be granted permanent status. (5.1.4.2.C)

**INSUBORDINATION**: Willful failure of an employee to comply with a reasonable directive from their supervisor, or any act which indicates clearly their unwillingness to accept the authority of a supervisor. (8.6.1.A.5)

**JOB ANALYSIS**: The technique or procedure by which job facts, tasks, essential duties, skills, knowledge, and abilities are discovered and recorded. Typically involves a desk audit interview with

one or more incumbents, discussion with supervisors, and review of a classification questionnaire and/or other documentation pertaining to the jobs being analyzed. (1.2.1[o])

**JOB DESCRIPTION**: See CLASS SPECIFICATION

**JOB SERIES or JOB FAMILY**: A group of classifications related by similarities in duties and responsibilities. (3.2.7.C)

**LAYOFF**: Separation or reduction in permanent assigned work hours from a permanent position because of lack of work or lack of funds. (3.3.5)

**LEAVE OF ABSENCE:** An approved absence from duty with or without pay for a prescribed period of time. (3.2.9.1)

**LIMITED TERM**: Employment for periods not to exceed six (6) months, or employment of a temporary (substitute) employee during the authorized absence of a permanent employee. (3.1.4)

**MANAGEMENT EMPLOYEE**: An employee in a position having significant responsibilities for formulating district policies or administering district programs. {Government Code 3540.1.(g)}; (7.1.2.D)

**MERGED OPEN & PROMOTIONAL EXAM**: See COMBINATION EXAM

**MERGER OF ELIGIBILITY LISTS**: The combination of two or more eligibility lists for the same class. Typically done when a second list must be established tor provide an appointing authority a rank of three eligibles prior to the expiration of the existing list. (5.1.7)

**MERIT SYSTEM**: A personnel management system (Civil Service) established in State Law, applicable to school districts adopting the system, governing the selection, retention and various other aspects of employment for classified employees on the basis of merit and fitness. (2.1.2)

**MILITARY LEAVE**: Authorized absence from the district to engage in ordered military duty. (8.10.6)

**MINIMUM QUALIFICATIONS**: See ENTRANCE QUALIFICATIONS

**OATH OF ALLEGIANCE**: A statement required (State of California Constitution) for each new employee concerning their support of the United States and California constitutions. (4.1.3.P)

**OCCUPATIONAL HEIRARCHIES**: The group of related classifications into a series or hierarchy, generally arranged in order of salary, highest to lowest, within the series. (3.2.2)

**PERMANENT EMPLOYEE**: An employee who has completed the prescribed probationary period for their classification. (3.1.2.B)

**PERS**: The California Public Employees Retirement System to which eligible classified employees mandatorily belong. (Not specifically referenced with the Rules; alluded to in 7.2.10)

**POSITION**: A group of duties and responsibilities established by the appointing power and performed on a full or part-time basis by one individual on a permanent or limited term basis. A position shall be established by Board action. (2.1.4)

**PROBATIONARY PERIOD**: A period of service immediately following appointment to a permanent position from an eligibility list. (5.1.4.2.B)

**PROMOTIONAL LIST**: An eligibility list resulting from a promotional examination limited to qualified permanent employees of the district, or from an open/promotional examination. (6.1.3)

**PROVISIONAL EMPLOYEE**: A person appointed to a position pending establishment of an appropriate eligibility list for a period not to exceed 90 calendar days. (3.1.5.B)

**RANK OF THREE**: The scope of choice available to an appointing authority in making a selection from an eligibility list. Selection is from among those eligibles having any of the three highest scores, rounded to the nearest whole number percentage, who are ready and willing to be appointed to a specific position. (5.3.3)

**REASSIGNMENT**: The assignment of a permanent employee to a position in a related class with the same salary range. (8.1.2.2.B.1.a)

**REEMPLOYMENT LIST**: A list consisting of the names of employees laid off by reason of lack of work or funds, exhaustion of accrued illness or accident leave and who are eligible for reemployment without examination in their former class, arranged in order of their right to reemployment (seniority). (3.3.5)

**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. (6.2.2.A)

**RESTORATION**: Placement again into a former class after a voluntary demotion. (6.2.2.A)

**RESTRICTED EMPLOYEE**: An employee hired in a position which is limited to the employment of persons from low-income groups or designated geographical areas (Ed Code 45108), or an employee hired pursuant to Ed Code 45259 having mental, physical, or developmental disabilities. (3.1.5)

**SALARY RANGE**: A series of consecutive salary steps that comprise the rates of pay for a classification (normally 5 steps). (3.2.7)

**SALARY RATE**: A specific amount of money paid for a specified period. (2.3.2.B)

**SALARY STEP**: A specific location within a salary range. (3.2.9.3)

**SENIORITY DATE**: The permanent hire date of an employee in each individual classification. (8.2.6.C) (Example A1 within Chapter 8.5 – LAYOFF)

**SEPARATION**: Leaving a position; includes resignation, dismissal, layoff, retirement, probationary release, etc. (4.1.3.J)

**SUBSTITUTE DIFFERENTIAL**: The amount of pay difference between an employee's pay and the amount paid to a substitute employee substituting for an absent employee. (8.7.2)

**SUPERVISORY EMPLOYEE**: An employee, regardless of job description, having authority in the interest of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to address their grievances or effectively recommend such action. {Government Code 3540.1(m)}; (3.2.7.C)

**SUSPENSION**: An enforced absence of an employee without pay for disciplinary purposes or pending investigation of charges made against an employee. (8.6)

**TRANSFER**: The reassignment of an employee without examination from one position to another position within the same class. May also mean the relocation of one job site to another with or without a change in the employee's classification or position. (3.3.4)

**UNIT MEMBER**: A regular classified employee serving in a position and classification represented by an employee organization recognized as the exclusive representative of that classification. (2.5.2.E)

**WAIVER**: The voluntary relinquishment by an eligible of any right to consideration for appointment from an eligibility list and/or to an entitlement under these Rules. (6.1.8.F)

Revised 4/18/02)

## 1.2 PRELIMINARY STATEMENT

### 1.2.1 Purpose

The purpose of these rules is to ensure the efficiency of the classified service and the selection and retention of employees upon a basis of merit and fitness (Ed Code 45260). It is further the purpose to provide procedures to be followed as they pertain to the classified service regarding:

[a] applications
[b] examinations
[c] eligibility
[d] appointments
[e] promotions
[f] demotions
[g] transfers
[h] dismissals
[i] resignations
[j] layoffs
[k] reemployment
[l] vacations
[m] leaves of absence
[n] compensation within classifications
[o] job analysis and specifications
[p] performance evaluations
[q] public advertisement of examinations
[r] rejection of unfit applications without competition
[s] any other matters necessary to carry out the provisions and purposes of this article

[Education Code 45261(a)]

### 1.2.2 Interpretation and Application of Rules

The Commission recognizes that no set of rules can encompass or contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration of their intent; however, specific, unambiguous applicable provisions of these rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases unless approved by action of the Commission. The Commission is open to responsible

suggestions to amend these rules with prospective application; however, no rule amendment or new rule shall have retroactive applicability.

### 1.2.3 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.

# CHAPTER 2: THE PERSONNEL COMMISSION

## 2.1 ORGANIZATION OF THE COMMISSION

### 2.1.1 Composition

The Personnel Commission is composed of three individuals. One member of the Commission is appointed by the Board of Trustees; one member is appointed by the Board of Trustees upon the recommendation of the classified organization which represents the District's classified employees; and the third member is appointed by the two members of the Commission.

A. Compensation of Commissioners

The Board of Trustees may authorize payment to members of the Personnel Commission an amount not to exceed Fifty dollars ($50) per meeting, and not to exceed Two Hundred Fifty dollars ($250) per month.

*[Reference Education Code 45250] (Revised 11/9/2000)*

### 2.1.2 Qualifications

In order to serve as an Ocean View School District Personnel Commissioner, an individual shall be a registered voter, reside within the Ocean View School District territorial boundaries, be a known adherent to the principles of the Merit System, shall not be an employee of the District, shall not be a member of the District's Board of Trustees, and shall be eligible to serve as a public officer in the State of California.

*[Reference Education Code 45244 and Government Code 1020 et seq] (Revised 11/9/2000)*

### 2.1.3 Term

The term of office for each Commissioner is three years and it expires at noon on December 1 of the third year. Terms of office are scheduled so that the term of not more than one Commissioner expires each December 1.

### 2.1.4 Commissioner Appointment Procedures

[*New Rule 11/9/2000]*

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

A. The Board of Trustee's Appointment

By September 30, the Board of Trustees shall publicly announce the name of the person it intends to appoint or reappoint. At a Board meeting to be held after thirty and within forty-five days of the date the Board publicly announced its candidate, the Board shall hold a public hearing to provide the public, employees, and employee organizations the opportunity to express their views

on the qualifications of the person recommended by the Board of Trustees for appointment. The Board, at that time, may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

*[Reference Education Code 45246(b) (1) and (d)]*

B. The Classified Employee's Appointment

By November 1, the classified employee organization having authority to nominate the classified employees' appointee to the Commission shall submit to the Board, the name of the person it wishes to appoint to the Commission. The Board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee, to be effective on the date on which the vacancy would occur.

[*Reference Education Code 45246[c] and [d])*

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

*[Reference Education Code 45246 (e ) and 45248]*

C. The Commissioner's Appointment

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

*[Reference Education Code 45246(f)]*

1. In the event that a vacancy would otherwise exist on the Personnel Commission as of December 1 because of the failure of the Commission to take action on a reappointment or on a new appointment, the Commissioners prior appointee shall continue in office and to function as a member of the District's Personnel Commission until such time as the State Superintendent of Public Instruction takes the necessary action(s) to appoint a qualified successor and that person is prepared to assume the duties and responsibilities of the position (not to exceed ninety calendar days beyond the December 1 expiration of the Commissioner's appointee's term.

*[Reference Education Code 45246(g)]*

2. If the reason for the lack of appointment is an inability to agree upon a joint appointee by September 30, the State Superintendent of Public Instruction shall make the appointment within thirty days.

*[Reference Education Code 45246(b)(2)]*

### 2.1.4.1 Personnel Commissioner's Appointment Procedures

*[New Rule 11/9/2000]*

The following specific procedures are to be utilized for selection of the Personnel Commissioner's appointee to the Personnel Commission.

A. By July 15 the Director of Classified Personnel shall inquire of the appointee of the Personnel Commission whose term is up in December of that year whether the Commissioner is interested in reappointment to the Personnel Commission for another three year term of office.

1. If the Commissioner is interested in reappointment the Commission shall announce their intent to reappoint or not to reappoint by September 30.

a. If the Commission's decision is to reappoint the Commissioner's appointee to a subsequent term of office, the procedures of 2.1.4.C of these rules shall be followed.

b. If the Commission's decision is to not reappoint the incumbent to a subsequent term of office, and if they do no announce the name of a new nominee by September 30, the procedures of 2.1.4.C.2 of these Rules shall be followed and the State Superintendent of Public Instruction shall make the appointment.

2. If the Commissioner's appointee is not interested in subsequent appointment to the Commission, the following procedure shall be followed.

a. A recruitment process shall be opened by the Director of Classified Personnel as directed by the Personnel Commission. The process may include news releases sent to local newspapers and local community-based organizations, e.g. Chamber of Commerce, Rotary Club, parent support groups via the Presidents Roundtable, or other such resources as specified by the Commission.

b. An application form eliciting information to document the applicants meeting the requirements of Education Code 45244 shall be completed by all interested applicants.

c. The Commission may make its decision based on the applications as submitted or may conduct individual interviews of the applicants.

d. The Commission shall then comply with 2.1.4.C of these Rules.

### 2.1.5 Election of Officers

A. At its first meeting each December, the Commission shall elect one of its members Chair, and another member as Vice-Chair, to serve a term of one year or until their successors are duly elected. In the absence of the Chair, the Vice-Chair shall assume the duties.

B. The Chair will perform duties as directed by law and the rules of the Commission. These duties include: The

1. Sign all instruments and communications as directed by the Commission

2. Consult with the Director on the preparation of Commission agendas.

3. Confer with the Director on matters which may arise between meetings.

4. Share any communications and mail directed to the Commission.

*[Revised 2/12/1998]*

### 2.1.6 Quorum and Majority

Two members shall constitute a quorum for any regular or special meeting of the Commission, and the affirmative vote of two members shall be required to make any motion of the Commission effective, except where otherwise noted in these rules.

### 2.1.7 Voting

Commissioners present shall vote upon each action item on the agenda. A vote may be taken for or against the motion, or a Commissioner may abstain from voting. An abstention vote shall not be counted for or against the motion. A Commissioner may abstain if they have a personal or pecuniary interest. In voting on the disposition of disciplinary cases, a Commissioner shall abstain if they had their objectivity prejudiced prior to the case being heard. *[Revised 2/12/1998]*

### 2.1.8 Authority of Commissioners

Commissioners have the responsibility to adhere to the laws that affect the Commission and to uphold the rules of the Commission. Individual Commissioners have no authority, except as provided by law and these rules:

A. A Commissioner may:

1. Seek information from the Director and/or consult with the Director regarding Commission business.

2. Pursue diligent efforts to observe, understand, and evaluate Commission operations.

3. Attend meetings, staff development programs, or activities that increase knowledge and understanding of Commission operations, goals, and programs.

B. The Commission as a body has sole discretionary authority to:

1. Adopt positions on various issues.

2. Provide direction to commission staff through the Director.

a. Absent concurrence by the Commission, the Director may not be bound to a course of action established by an individual Commissioner.

b. Upon the occurrence of a one-on-one meeting including: phone calls, faxes, and emails, the Director shall note the basis and outcomes and forward the same to the absent Commissioners within one work day.

*[Revised 2/12/2004]*

The Commission was created by law to provide impartiality in the administration of the provisions of the laws that govern merit systems. Commissioners are appointed by the District and the classified employees bargaining representatives and their points of view should be considered. However, Commissioners are independent and impartial and should seek to apply that standard to all deliberations and actions. Commission and staff should seek to maintain open, cooperative, and effective communication with both the appointing entities.

*[New Rule 5/14/1998]*

## 2.2 MEETINGS

### 2.2.1 Regular and Special Meetings

Regular meetings shall be held at times and places determined by the Commission. Special meetings may be called by the Chair, or upon the written request of any two members of the Commission. Notice of special meetings shall provided to all Commission members at least one day prior to the date of any such meeting. All meetings are governed by the rules of parliamentary procedures and provisions in the Ralph M. Brown Act.

*[Reference Government Code Section 54950]*

### 2.2.2 Public Meetings

A. All regular and special meetings of the Commission shall be open to the public and all persons shall be permitted to attend any public portion of such meetings. This section is not to be construed as allowing employees to absent themselves from their duties to attend Commission meetings.

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

C. Public meetings shall be tape recorded by the Director or designee. Meeting tapes shall be maintained for one year. Copies of tapes may be requested by Commissioners at no cost. Request for copies of tapes by any other person or entity may be made to the Director who may charge a fee not to exceed the cost of materials and labor.

*[Revised 2/12/1998]*

### 2.2.3 Closed Sessions

A. The Commission may meet in closed sessions to consider employment, discipline, or dismissal of any employee and/or to hear complaints or charges brought against such employee, unless such employee requests a public hearing. The Commission shall not take action relating to an employee in closed session unless the employee has been notified of their right to a public hearing and has declined the public hearing or properly failed to request the same.

B. The Commission may meet in closed sessions for any lawful purpose pursuant to the provisions of Government Code Section 54950 etc., including but not limited to consideration of pending litigation, or recommended findings and conclusions of a Commission appointed Hearing Officer.

C. Minutes of the closed session shall be prepared by the Director or when absent by the Chair of the Commission and placed on the agenda of the next Commission closed session meeting for approval. The minutes shall be confidential and shall be maintained in a secure place.

*[Revised 2/12/1998]*

### 2.2.4 Agenda

A. At least 72 hours prior to every regular meeting, or 24 hours prior to every special meeting, the agenda shall provided to the designated representatives of all employee organizations representing the District's classified employees, the District Superintendent, and any media source which has made prior written request for such notice to the Commission, except in an "emergency" situation, as defined in Government Code Section 54956.5. The agenda will also be posted on Commission's bulletin board and distributed to all departments and schools for posting.

B. The agenda will be prepared by the Director in consultation with the Commission Chair. Action items will be clearly indicated with all other items being information or discussion, and not considered for action on the agenda. Agenda items must be submitted to the Director no later than the end of the working day seven days preceding the next Commission meeting.

C. Agenda items may include, but are not limited to: Subject, background information, considerations for discussion, financial or staff impact, and recommendation for action by Director. Agenda items will be submitted with the prescribed time line.

D. Agendas shall be available to the Commissioners at least three calendar days before the meeting. Support information shall include: The Director report, minutes to be approved (including closed sessions when appropriate), copies of communications from employees, CSEA, the District, legal opinions, and other materials needed to conduct an informed meeting.

*[Revised 2/12/1998]*

### 2.2.5 Minutes

A. The Director shall record in the minutes the time and place of each public meeting, the names of the Commissioners present, all official acts of the Commission, and the votes of the Commissioners. The minutes shall be written and presented for review and approval at the next regular meeting. Following adoption, Commission minutes or a true copy thereof shall be open to public inspection. Copies of the official minutes shall be distributed to the Secretary of the Board of Trustees, recognized employee organizations, and posted in all departments and schools.

B. Minutes of the closed session shall be prepared by the Director, or when absent by the Chair of the Commission and placed on the agenda of the next Commission closed session meeting for approval.

## 2.3 COMMISSION EMPLOYEES

### 2.3.1 Status of Commission Employees

A. The Director and others who may be employed to assist the Commission in carrying out its responsibilities shall be deemed employees of the Personnel Commission. However, they shall as well 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 otherwise direct.

B. The Director's performance objectives shall be evaluated by the Commission annually, in closed session, no later than thirty days after the Director's anniversary date.

C. Approval of Attendance to Conferences, Workshops, and Training programs: Attendance at any professional development activity by a commissioner, director, or staff member requiring an expenditure of funds in excess of $100.00 is to be placed upon the agenda and receive approval at any scheduled Personnel Commission meeting.

*[Revised 2/12/1998]*

### 2.3.2 General Duties – Director, Classified Personnel

A. The Director, Classified Personnel shall:

- Perform all of the duties and carry out all of the functions imposed by law and these rules.
- Act as Secretary to the Commission and shall issue and receive all notifications on its behalf.
- Direct and supervise the employees of the Commission and conduct administrative transactions consistent with the law and necessary to the proper functioning of the office and staff of the Commission
- Be free of prejudgment or bias in all matters pertaining to the business of the Commission in order to ensure the impartiality of the Commission.

B. The Director, Classified Personnel may:

- Conduct classification, salary, and Commission rules studies and make such other investigations as directed by the Commission or as deemed necessary.

*[Reference Education Code 452] [Revised 7//1/2002]*

C. In cases where two or more rules appear to be in conflict, or when the rules provide no clear-cut answer to a problem, the matter shall be decided by the Director subject to appeal to the Commission.

*[Revised 2/12/1998]*

## 2.4 MISCELLANEOUS PROVISIONS

### 2.4.1 Budget

A. The Director shall prepare and submit to the Commission a proposed operating budget for the Commission for each fiscal year.

B. The Commission shall designate one its meetings at which a public hearing on its proposed budget will be held. At the time the Commission schedules the public hearing, as required by Education Code 45253, it shall instruct the Director to forward a copy of the proposed budget to the Board and notify the Board of the time, date, and place of the public hearing. Board and administrative representatives shall be invited to attend the public hearing and present their views on the budget.

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

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

### 2.4.2 Annual Report

The Director shall prepare or cause to be prepared, an annual report of Commission activities, as required by Education Code Section 45266. When approved by the Commission, the annual report shall be submitted to the Board of Trustees.

### 2.4.3 Employee Personnel Records

A. The Commission shall establish and maintain, through the Director, Classified Personnel, a service record for each classified employee showing name, title, organizational unit, salary, changes in status, service rating, and such other personnel information as may be considered pertinent.

B. Every recommendation for temporary or permanent change in status of an employee shall be submitted on prescribed forms to the Commission office.

C. Materials in employee personnel files that may serve as a basis for affecting the status of their employment shall be made available for inspection by the employee concerned upon request, provided the request gives reasonable notice to the custodian of the files and is made so that the inspection will occur during a time when the office of the custodian of records is open for business. Materials available for such inspection shall not include ratings, reports, or records which were either obtained prior to or in connection with the employment of the individual concerned and/or prepared by identifiable examination committee members in a regular or promotional examination. *[Reference Education Code 44031] [Revised 7/18/2002]*

D. No information of a derogatory nature shall be placed into an employee's personnel file unless and until the employee has been provided with reasonable prior notice and an opportunity to review and comment thereon. An employee shall be provided reasonable release time without loss of pay for purposes of reviewing and/or commenting on such information. Any written comment provided by the employee concerned shall be permanently attached to the documents concerned.

E. Prior to examination of a personnel file, the following data should be removed:

   Ratings, reports, or records which

   1. Were obtained prior to employment with the District.

   2. Were prepared by identifiable examination committee members.

   3. Were obtained in connection with a promotional examination.

### 2.4.4 Legal Counsel

The primary legal services shall aid and advise the Commission in all legal matters. If the legal counsel does not respond to a written request by the Commission for aid or representation within 15 working days of receipt of the written request, the counsel is deemed to have refused to aid or represent the Commission in that matter.

The legal counsel shall refuse to represent the Commission in circumstances in which the counsel knows, or has reason to know, that at the time the request is made a conflict exists between the interests of the Commission and the interests of the Governing Board of the school district.

If the legal counsel refuses or is unable to aid or represent the Commission in a legal matter, the Commission may employ its own attorney, and the reasonable costs thereof shall constitute a legal charge against the legal funds of the school district.

All opinions from any legal counsel shall be provided to the Commission in writing as soon as possible. Opinions are informational and not binding on the Commission until action is agendized and acted upon in a regular or special meeting.

*[Revised 2/12/1998]*

## 2.5 RULES AND REGULATIONS

### 2.5.1 Distribution

A copy of these Rules and Regulations will be distributed to each school/department/office for loan to employees. Information regarding changes to these Rules will be distributed to each school/department/office as soon as practicable after they are approved by the Personnel Commission.

### 2.5.2 Enforcement of Rules

The Commission shall enforce the provisions of the Act and these Rules and hold such hearings and conduct such investigations as may be necessary to these purposes.

A. The Commission shall prescribe, amend, revoke, interrupt, or suspend such Rules as may be necessary to ensure the efficiency of the service, including but not limited to the selection and retention of employees on the basis of merit and fitness.

B. Proposals to amend, delete, suspend, or add to these Rules will be considered a “first reading” at the meeting in which they are first presented to the Commission. They will not, unless a critical emergency exists, be acted upon at that meeting.

C. At the “first reading” the Commission will set a date for Commission action on the proposal, which date shall be as soon as practicable. The Commission may also instruct the Director to refer to the proposal to interested persons and/or organizations for comments and recommendation.

D. Insofar as possible, interested parties shall be requested to submit their reactions to proposals in writing on or before the stipulated agenda deadline date and shall have the right to present reactions to the Commission orally at the appropriate Commission meeting.

E. Commission Rules shall not apply to bargaining unit members if the subject matter is within the scope of representation (as defined in Government Code Section 3543.2) and is included in a negotiated Agreement between the Board of Trustees and the exclusive representative of employees in the bargaining unit.

F. Commission Rules shall be binding upon employees and the Board of Trustees, but shall not otherwise preclude or restrict the authority of such Board, individual employees, and/or their exclusive representative which may be provided to them pursuant to provisions of the Act or other applicable law.

# CHAPTER 3: POSITION CLASSIFICATION PLAN

## 3.1 THE CLASSIFIED SERVICE

### 3.1.1 Positions Included

All positions established by the Board of Trustees or the Personnel Commission which are not exempt from the classified service by law shall be part of the classified service. All employees serving in classified positions shall be classified employees, except as may otherwise be provided by law.

### 3.1.2 Exemptions from Classified Service

A. Generally, the following positions shall be exempt from the classified service:

1. Positions required by law to have certification qualifications
2. Part time playground positions
3. Full time students employed part time
4. Part time students employed in any college work study program, or in a work experience education program conducted by a community college district pursuant to Article 7 (Commencing with Section 51760) of Chapter 5 of Part 28 and which is financed by state or federal funds
5. Apprentices
6. Professional experts employed on a temporary basis for a specific project by the Board of Trustees or by the Personnel Commission

B. Special categories of positions are exempt from the classified service:

1. Board Assistants – The Board of Trustees 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 Board. A field representative shall serve at the pleasure of the individual Board members.

2. Community Representatives (Education Code Section 45258) Persons employed in advisory or consulting capacity for not more than 90 working days, or a total of 720 hours in any fiscal year shall be exempt from the classified service. Duties of Community Representatives shall not be those normally assigned to a class of positions in the classified service.

   If a permanent classified employee is appointed to service in such exempt positions, they shall retain status as a permanent employee. If the permanent employee is terminated from the exempt position, they shall have displacement rights in their former class in the same manner as if they had been laid off for lack of work or lack of funds.

### 3.1.3 Part Time Defined

A part-time position for the purpose indicated in 3.1.2.A, is one for which the assigned time, when computed on a daily basis is less than 87 ½ percent of the normally assigned time of the majority of employees in the classified service.

### 3.1.4 Professional Expert Assignments

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

In order to be exempt from the classified service as a professional expert, an individual must be recognized as such by reputable members of their own profession. Evidence of professional qualifications must be presented to the Commission at the time the written request of temporary appointment is made.

Service as a professional expert shall not exceed six months except as may be approved by the Personnel Commission.

### 3.1.5 Restricted Positions and Employees

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

B. Persons employed in “restricted” positions shall be classified employees for all purposes except: (1) they shall not attain permanent status, (2) they shall not be accorded seniority rights, (3) they shall not be given provisional appointments concurrent with status in a restricted position, and (4) they are not eligible to compete in promotional examinations in the regular classified service.

C. Notwithstanding Sub Rule B above, employees serving in “restricted” positions shall, after completion of six months of satisfactory service, be given the opportunity to take such qualifying examinations as are required for all other persons serving in the same class in the regular classified service. If an employee successfully completes the examination and attains placement on the eligibility list, as a result thereof, and regardless of their numerical standing on the eligibility list, the employee shall be considered part of the regular classified service even though they may continue to serve in a restricted position, and be accorded full rights, benefits, and burdens of a regular classified employee. Seniority rights shall be counted as of the date of the initial appointment to the restricted position.

### 3.1.6 Weekend/Holiday Positions

The Board of Trustees may create a position or class of positions which require and permit the holders of such position(s) to work only on weekends (Saturdays and Sundays) and holidays. If so created the Commission shall, in classifying the position:

A. Establish a salary scale which recognizes the peculiarity of the work and the days and hours required to work.

B. Exempt employees serving in such positions from overtime pay for work required to be performed on a holiday. The overtime exemption shall not apply to hours required to be worked in excess of eight hours on any Saturday, Sunday, or holiday unless the class is specifically exempted in accordance with Education Code Section 45127. (For example, recreation and security classes.)

C. Ensure itself that the position(s) being created is not being created to avoid payment of overtime to otherwise qualified employees. If it does find that such position(s) is being created to avoid overtime payment, it shall refuse to classify the position(s) and notify the Board of Trustees accordingly.

### 3.1.7 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 by the Board of Trustees.

## 3.2 GENERAL CLASSIFICATION RULES

### 3.2.1 Assignment of Duties

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

### 3.2.2 Classification Plan

The Personnel Commission shall classify all positions except those which are exempt from the classified service. This includes, but is not limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within and among occupational hierarchies, and preparing written specifications.

### 3.2.3 Creation and Adjustment of Classes

The Personnel Commission shall adopt a position classification plan and may create new classes and abolish, divide, or combine existing classes within the classification plan as the needs of the classified service require.

### 3.2.4 Class Specifications

For each class of positions in the classified service established by the Commission there shall be maintained in the Office of the Commission an official class specification including:

A. The official class title

B. A definition of the class, indicating type of duties, responsibilities, and distinguishing characteristics

C. A description of essential duties to be performed in positions allocated to the class

D. A statement of the minimum qualifications for service in the class which may include education, experience, knowledge, skills, abilities, personal and physical traits, and characteristics

E. Any additional qualifications considered so desirable that any person considered for employment who possesses them may be given additional credit in the evaluation of the qualifications even though such additional qualifications are not a prerequisite to consideration for employment

F. License or other special requirement for employment or service in the class

### 3.2.5 Interpretations of Class Specifications

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

A. The class titles used in the classification plan are to be used as payroll titles and in connection with any personnel record or transaction.

B. Class specifications are descriptive and explanatory only and not restrictive. They indicate the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities, and qualification requirements, and do not prescribe what these details shall be with respect to any position. The use of a particular expression or illustration as to duties, responsibilities, qualification requirements, or other attributes is typical or descriptive of the class and does not exclude others not mentioned but of similar kind and/or quality.

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

D. Education and/or experience patterns represent minimum recruitment qualifications. Persons not meeting the education and experience or promotional qualifications where indicated will not be considered further for employment in the class.

### 3.2.6 Allocation of Positions to Classes

All positions substantially similar in the areas of duties performed, responsibilities exercised, and qualifications required shown in the class specification, shall be allocated to the same class.

### 3.2.7 Classification of New Positions

Whenever a new position is created, the appointing power shall submit to the Director, Classified Personnel, in writing, the duties to be performed and the responsibilities to be assigned. For new positions, the Board of Trustees may recommend minimum educational and work experience requirements. The Director, Classified Personnel shall review the materials submitted and make such recommendations as necessary and proper and shall determine whether the position shall be allocated to an existing classification or whether a new class should be created. If the Director, Classified Personnel determines that a new class is required, he/she shall present recommendations to the Commission, which:

A. Include recommendations for a new class specification incorporating the requirements of section 3.2.4.A through F.

B. Include a salary recommendation based upon internal alignments and such external data as applicable to designate proper salary placement.

C. Include recommendations for assignment to an appropriate Job Series, the employee relations status (subject to negotiations between the District and the exclusive bargaining representative, e.g., unit member, Confidential, Supervisory, or Management) and the Fair Labor Standards Act (FLSA) status (exempt/non-exempt from overtime).

D. Prior to presenting the recommendations to the Commission, the Director, Classified Personnel shall provide reasonable notice of the proposed recommendations to the District and the exclusive bargaining representative.

Following the Commission's action to adopt a new classification describing the duties of the new position, the Director, Classified Personnel shall notify the Board of Trustees of the action and the Commission's recommended salary range placement for the class.

(Reference Education Code sections 45130, 45256, 45285.5) [Revised 7/18/02]

### 3.2.8 Changes in Duties

Any substantial changes in the duties of existing positions shall be promptly reported in writing by the appointing authority to the Director, Classified Personnel, who shall determine whether these positions should be allocated to different classes. The Commission shall be notified of the allocation of the reasons for not changing the allocation.

### 3.2.9 Working Out of Classification

When an employee is working out of classification, the fact shall be reported to the immediate supervisor and then to the Director, Classified Personnel, who shall investigate, and if appropriate, report to the Personnel Commission. After review, the Commission shall take such action as necessary based upon the facts. This rule shall not be construed as permitting an employee to refuse to perform duties legally assigned.

#### 3.2.9.1 90 Day Approval

Working out of class assignments are designed for temporary situations and shall not be used to place an employee in a long-term or permanent assignment in a higher or different classification. No employee shall be assigned to work out of class for more than ninety (90) days in one fiscal year without prior approval of the Personnel Commission. An example of the kind of exemption allowed by the Commission would be the temporary replacement of an employee on a long-term illness leave where the employee is assigned to work out of class for the duration of the absent employee's leave.

#### 3.2.9.2 Duties Inconsistent Within Assigned Classification

An employee shall not be required to work out of classification for more than 5 days within a 15 day calendar day period, except that an employee may be required to perform duties inconsistent with those assigned for a period of more than 5 days within a 15 calendar day period provided salary is adjusted upward for the entire period the employee is required to work out of classification.

#### 3.2.9.3 Salary Adjustment

Whenever an employee is allowed to assume, or is required to perform, all or the majority of the functions, duties, and responsibilities of a higher classification, his/her salary shall be adjusted upward to the salary range of the higher classification, and then to the step of that range that will provide the employee at least a 5% salary increase. An employee may receive less than a 5% increase if the top step of the higher classification's salary range is less than 5% above the employee's regular salary. In that instance, the employee shall be placed at said top step.

### 3.2.10 Review of Positions

The Director, Classified Personnel shall review the duties and responsibilities of positions as necessary to determine their proper classification and shall cause all positions to be reviewed at least once every three years.

If the Director, Classified Personnel finds that a position or positions should be reclassified, the administration shall be advised of this finding. If the administration does not revise the duties to fit within the current classification, the Director, Classified Personnel shall report his/her findings and recommendations to the Commission.

## 3.3 RECLASSIFICATION

### 3.3.1 Basis for Reclassification

The basis for reclassification of any position must be a gradual accretion of duties and not a sudden change occasioned by a reorganization or the assignment of completely new duties and/or responsibilities.

### 3.3.2 Requests for Study

Requests for classification study of existing positions shall be presented to the Director, Classified Personnel together with a statement of the reasons for requesting the study.

Requests for study may be initiated by the administration with approval of the Superintendent or by employees or employee organizations.

### 3.3.3 Effective Date of Reclassification

Reclassification of a position shall become effective on the date prescribed by the Commission and shall not have retroactive effect. Effective dates may be sufficiently in the future to allow time for examinations to be completed.

### 3.3.4 Effect on Incumbents

Incumbents of positions reclassified upward who have a continuous employment record of two or more years in one or more of the positions being reclassified shall be reclassified without examination, provided the last performance report in the incumbent's personnel file is satisfactory.

Incumbents of positions who have been in the class less than two years and whose last performance evaluation is satisfactory will be granted status in the higher class upon passing a competitive examination or comparable qualifying examination for the higher class as determined by the Personnel Commission.

A qualifying examination under this rule is defined as one in which only incumbents of reclassified positions may compete. Incumbents must meet the minimum qualifications, and the examination shall be rated as “passing” or “not passing” rather than by a numerical score. The Commission shall determine those instances when equity and the good of the service require the holding of such examinations. Incumbents who are unsuccessful on an examination may be transferred, demoted, or laid off.

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

In the event of reclassification of a position to a lower class, the incumbent shall be reassigned to another position in the higher class if such a position is vacant anywhere in the classified service; or

1. The incumbent shall have the right to displace an employee in the same class with lower seniority in the class; and/or

2. The incumbent shall have the right to displace an employee with lower seniority in any equal or lower class in which the incumbent formerly served and held permanent status; and/or

3. The incumbent accepts the reclassification of his/her position.

Incumbents of positions reclassified to a class of the same level shall be granted status in the new class without further examination.

(Reference Education Code 45285 and AB 1070) [Revised 10/9/03]

### 3.3.5 Reemployment List for Displaced Incumbents

Any displacement of a permanent employee resulting from a reclassification of a position, positions, or class of positions shall be considered a layoff for lack of work, and an appropriate reemployment list will be established in accordance with these rules.

This rule shall be followed in all instances of reclassification whether it results in upgrading, downgrading, lateral class movement, bumping, or complete displacement of incumbents.

## 3.4 REORGANIZATION

Positions created or changed as a result of reorganization of the assignment of completely new duties/responsibilities unrelated to those which the position was classified to perform shall be filled through the normal selection process as provided in these rules.

(Reference Education Code Sections 45285 and 45285.5) [Revised 7/18/02]

# CHAPTER 4: APPLICATIONS

## 4.1 APPLICATIONS FOR EMPLOYMENT

### 4.1.1 Filing Applications

All applications for employment must be made upon form(s) provided by the Personnel Commission, completed as directed, and filed in the Office of the Personnel Commission on or before the closing date specified in the examination announcement.

Applicants taking more than one examination must file a separate and complete application for each particular examination. All applications shall be signed by the applicant and the truth of all statements contained therein certified by such signature.

### 4.1.2 General Qualifications of Applicants

Applicants must meet the minimum qualifications of the class specification officially adopted by the Commission and set forth in the examination announcement, and any other requirement(s) that may be established by the Commission and/or by law.

### 4.1.3 Rejection of Application

An applicant may be refused examination or after examination may be refused certification or appointment for any of the following reasons:

A. Conviction of or pleading guilty in court to a narcotics offense (as defined by E.C. 44011), a controlled substance offense (as defined by E.C. 44011), a crime of moral turpitude, any sex offense (as defined by E.C. 44010), mistreatment of children, or who has been determined to be a sexual psychopath (as defined by E.C. 45124).

B. Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct.

C. The false statement of material fact or practicing any deception or fraud in certification or appointment or in securing eligibility to take the examination.

D. Addiction to the use of narcotics as defined in the Health and Safety Code Section 11001.

E. Evidence of being under the influence of intoxicating beverages or controlled substances while on duty.

F. Conviction of a felony.

G. Physical or mental unfitness for the performance of the duties of the class, not subject to reasonable accommodation.

H. Unwarranted refusal to furnish testimony at a hearing before the Commission or the Governing Board.

I. Dismissal for cause from a previous employment if the cause would have subjected the applicant to dismissal by the District.

J. Involuntary separation from the Ocean View School District as a regular or substitute employee because of incompetency or inefficiency, or any disciplinary cause, or voluntary separation while such charges were pending against such employee.

K. Used or attempted to use political or other coercion, pressure, or bribery to secure an advantage in the examination or appointment.

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

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

N. Directly or indirectly obtaining or seeking to obtain questions to be utilized in any examination given, or to be given by the Commission.

O. Failure to submit application for employment correctly or within the prescribed time limits.

P. Failure to execute the oath of affirmation of allegiance required by the State of California (Section 3, Article 20 of the California Constitution)

Q. Discharge from the armed forces for conditions other than honorable.

R. Failure, after being duly noticed, to report promptly for review of any other basis of rejection of application.

S. Failure to submit or pass pre-employment medical evaluations (may include drug screening).

T. Negative evaluations, discipline, or reference from previous employment with Ocean View School District.

U. Other reasons deemed sufficient by the Commission.

**4.1.4 Notification of Rejection and Appeal**

Applicants, candidates, and eligibles who are rejected for any of the reasons enumerated in Rule 4.1.3 shall be notified by the Director. The notification shall state:

A. The reason(s) for the rejection and procedure for protest and/or appeal.

B. The length of time the individual shall be ineligible to be considered for examination or appointment to a position.

C. The applicant may file a written protest with the Director for administrative review within seven (7) calendar days of the rejection. Failure to protest within seven (7) calendar days makes the rejection final. The protest may be based on either of the following reasons:

1. Unlawful discrimination of any kind, including but not limited to discrimination on the basis of race, color, creed, sex, national origin, marital status, age, or disability not subject to reasonable accommodation.

2. A reasonable factual basis does not exist to support the decision.

The written protest shall state specifics related to the claimed discrimination or to the lack of basis leading to the rejection/disqualification.

D. The Director's Administrative Review shall consist of an interview with the applicant, a review of the documentation presented in support of the protest, and any applicable information upon which the rejection or disqualification was based. The Director shall render a written decision and cause it to be delivered by posting it in the United States Mail to the applicant within seven (7) calendar days of the interview with the applicant.

E. The applicant has seven (7) calendar days from posting of the Administrative Review decision to file an appeal of the rejection/disqualification to the Personnel Commission. The appeal to the Personnel Commission must be based on the above stated reasons.

Upon receipt of a timely appeal, and review of that appeal by the Director, the Commission may set a date for hearing, hear all of the evidence, and render a decision. Its decision shall be transmitted in writing to all concerned and shall be final.

*(Reference Education Code sections 45260, 45621, 45274, and 45293) [Revised 7/18/2002]*

### 4.1.5 Action When Rejection Not Sustained

If a rejection is not sustained by the Personnel Commission, the Director shall institute immediate action to ensure the rights of the applicant, candidate, or eligible as if the rejection had not been made. However, any appointment made in the interim shall not be disturbed unless it was fraudulently made.

### 4.1.6 Applications Not to be Returned

All applications and examination papers are confidential records of the Commission and will not be returned to applicants, except that the Commission may permit the appointing power or designated representative thereof to inspect applications of persons being considered for appointment.

### 4.1.7 Veteran's Preference

Veteran's preference points shall be added to passing scores in examinations for entry level classes in the amount prescribed by Section E.C. 45296:

Veteran – 5 points
Disabled Veteran – 10 points

A minimum of 30 days of active service in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard between the dates listed below are required:

| | |
|---|---|
| • World War II | 12/7/1941 to 12/31/1946 |
| • Korea | 6/27/1950 to 1/31/1955 |
| • Vietnam | 8/5/1964 to 5/7/1975 |
| • Desert Shield/Storm | 8/2/1990 to present |
| • Other Conflicts | For service during and within a specific expedition or campaign for which a medal has been authorized by the United States Government as indicated on form DD214, regardless of the number of days served on active duty. |

(Reference Education Code sections 45294, 45295, and 45296; Military and Veterans Code section 980; 5 USC section 2108) [Revised 7/18/2002]

Service in the armed forces for 30 or more consecutive days during which a campaign or expeditionary medal has been awarded by the Department of Defense shall also be qualifying.

In order to obtain credit, the applicant shall furnish the Director with the original, certified, or photographic copy of their honorable discharge or certificate of honorable active military service (DD Form 214) or other acceptable evidence of required military service prior to establishment of the eligibility list. No adjustment of rank on the list shall be made when such proof is presented thereafter.

# CHAPTER 5: EXAMINATIONS

## 5.1 EXAMINATIONS

### 5.1.1 Examination Barred

No examination announcement may be made and no part of any examination may be held for a new classification until the Commission has approved the class specifications.

### 5.1.2 Notices of Examination

Whenever it is necessary to fill existing or anticipated vacancies in the classified service or whenever an existing eligibility list is about to be abolished in accordance with the provision of the law and these rules, the Personnel Commission's Director may direct the holding of an examination to provide eligible candidates to fill such actual and/or anticipated vacancies.

A job announcement bulletin shall give at least 15 working days public notice of such examinations. The notice shall be distributed widely through the District and in other potential recruitment areas or by publication in daily newspapers, periodicals, or by any other such methods as may be deemed by the Director as necessary and appropriate to elicit applications from qualified individuals. The notice shall contain the following information:

A. The date and place of the examination.

B. The last date for filing applications. If there is a doubt as to the adequacy of the labor market, the job announcement may state, "Open until sufficient number of applicants are received."

C. Information concerning the expected number of vacancies and other conditions of employment.

D. Description of essential duties and responsibilities.

E. Minimum and additional desirable qualifications.

F. Salary and/or other benefits.

G. Such other information as will assist the public in understanding fully the nature of the employment and the procedure(s) necessary to participate in the examination.

### 5.1.3 Posting Examination Announcements

Announcement of all examinations shall be distributed to offices and places of employment throughout the District. The person in charge at the office or place of employment shall be responsible for posting or displaying each announcement in a prominent location beginning with the date of its receipt and continuing until the last day for filing applications stated in the announcement.

### 5.1.4 Promotional Examinations

Examinations, where practicable, shall be promotional and shall be limited to District employees with permanent status in appropriate classes designated by the Commission.

#### 5.1.4.1 Eligibility for Promotional Examinations

A. Applicants for promotional examinations must meet the established minimum qualifications for the class, and their last performance evaluation shall have rated the employee “satisfactory” in all significant performance areas.

B. Any probationary, provisionary appointee, or other regular employee who is substituting in a higher class, who immediately preceding held permanent status in an eligible class, shall be deemed to meet the requirement of permanent status for eligibility to compete in a promotional examination.

C. Employees who have not completed their initial probationary period in the classified service may compete in promotional examinations, but will not be considered a promotional candidate unless their probationary period is completed by the date the eligibility list is ratified by the Personnel Commission.

D. An employee on leave of absence has the rights of a permanent employee, and is considered a promotional candidate when taking tests for employment with seniority points being added if an open/promotional eligibility list is established.

### 5.1.5 Open and Promotional Examinations

When an adequate promotional field of competition does not exist or when there is doubt of its adequacy, the Director may order a simultaneous open and promotional examination.

#### 5.1.5.1 Seniority Credit – Open and Promotional Examinations

In open and promotional examinations, current permanent District employees shall have seniority credit added to their final passing scores in the amount of .25 (or ¼) points for each year of District service not exceed a total of five points. These points will be added prior to merging names on the list. Credit shall be granted for time spent in regular status in the classified service and on paid leave from the classified service. A full year’s credit shall be granted to employee whose regular position is assigned on less than a calendar year basis. Credits shall be calculated for units of not less than a half year.

### 5.1.6 Qualifying Examination (Noncompetitive)

A qualifying noncompetitive examination is administered in instances of the reclassification of an incumbent employee, having served less than two years in the position being reclassified. The Personnel Commission determines those instances when equity and the good of the service require administering a qualifying examination. The examination is the same, or substantially the same examination as is administered competitively for vacancies in the same classification. However, testing is limited to permanent employees as authorized by the Commission and the eligibility list produced is an unranked list of those employees passing the exam.

(Reference Merit Rule 3.3.4) [Revised 10/14/2004]

### 5.1.7 Continuous Examination

A. When there is a shortage of eligibles to fill vacancies in the service in any class, the Personnel Commission may authorize recruitment by continuous examinations.

B. All qualified applicants who have applications on file at the time of the examination shall be notified.

C. The examination shall be given under similar conditions and techniques as previous examinations for the same class.

D. The resulting eligibility list may be merged with previous for the class in the relative order of merit of the eligibles.

E. Continuous examination procedures for any class may be terminated by appropriate action of the Personnel Commission.

### 5.1.8 Admission to Examination

Each applicant whose application has been approved shall be notified a reasonable time in advance of the time, date, and place of the examination. This notice shall be the applicant's authorization to take the examination. No candidate may be admitted to the examination without such authorization. Proof of identity by picture I.D. will be required for entrance into the examination room.

### 5.1.9 Content of Examination

Examinations may be a written, oral, or performance test in the form of a practical demonstration of skill and ability, or any combination of these. Any investigation of education, experience, character, or identity and any tests of technical knowledge, manual skill or physical or mental fitness, which, in the judgment of the Commission serves this end, may be employed.

All examinations shall be prepared under the direction of the Director. With the approval of the Personnel Commission, the Director may secure the assistance of any competent person or agency outside the District in the preparation/validation of examinations. Examinations, whether prepared within the District or secured from outside sources, shall be considered confidential and administered only by the Director, Classified Personnel staff, or designee.

*(Reference Education Code Section 45273)*

## 5.2 WRITTEN EXAMINATION PROCEDURES

### 5.2.1 Written Exams

A. All competitors in any written examination must take the examination on the prescribed date and under the same or similar conditions unless otherwise approved in advance by the Director.

B. All necessary explanations will be made to the whole group and no examination questions will be explained to any individual competitor. Examiners are forbidden to explain the meaning of, or to make remarks relating to, any questions that may assist in their solution.

C. Competitors are forbidden to receive or utilize help of any kind during the examination except as may be necessary to accommodate a disability; the method(s) of assistance must be approved in advance by the Director or designee.

Communication between competitors while the examination is in process is forbidden. Before beginning the examination, competitors will be required to hand to the examiner any printed or written material in their possession that might aid them in the examination, unless such material is expressly permitted as part of the examination process. Evidence of copying or collusion by a competitor shall result in the cancellation of their examination papers and debarment from future examinations. Copies of questions in the examination shall not be made or taken from the examination room.

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

### 5.2.2 Rating Required

All examination papers shall be graded under the direction of the Director or the authorized person or agency outside the District employed for this purpose.

A. Competitors may be required to attain a designated final rating in all parts of the examination in order to qualify, or the lowest qualifying mark may be the final score of the lowest candidate chosen to be placed on the eligibility list.

B. The qualifying score on written examinations

### 5.2.3 Review of Written Test

A. An applicant may file a request for review of the written test. Such requests shall be filed with the Director within 24 hours of the examination. A place, date, and time for review of the test paper may be set. A member of the Classified Personnel office staff shall be present at all times during the review. No candidate may copy or remove any questions or answers from the review room.

B. A protest of the written exam may be filed within 24 hours of the written exam or of the written exam review. The candidate may protest in writing any questions, outlining the basis for the protest and shall state the remedy sought.

C. The Director shall review and act upon all protests of written examination. The Director may allow more than one answer to a question or may disqualify a question, if they find the protest to be valid. If a protest results in any change, the test papers of all applicants will be reviewed and regraded accordingly.

D. The Director shall inform the candidate of their decision. If the Director rules against the protest, the candidate may appeal to the Personnel Commission but the appeal shall not delay other parts of the examination process.

E. A competitor’s examination papers shall be open for inspection only to the competitor, an attorney, or other designated representative upon written authorization of the competitor.

F. An appointment made in good faith from an eligibility list believed to be correct at the time of appointment shall not be invalidated if an error is later discovered in the grading of the examination papers or in the processing of the applications; however, the Director shall notify the appointing power in writing if the corrected grade of the appointee is found to be below the passing score for that examination.

*(Reference Education Code Section 45274)*

### 5.2.4 Examination Results

When the written test papers of all competitors have been graded, each candidate will be notified of their score.

### 5.2.5 Examination Papers

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

*(Reference Education Code Section 45274)*

## 5.3 ORAL EXAMINATION PROCEDURES

### 5.3.1 Qualifications Appraisal Interview (QAI) – Oral Exams

A. Competitors eligible for the QAI will be examined at the earliest practicable date after conclusion and rating of any earlier test(s).

B. The QAI Board will consist of two or more persons who are familiar with the work of the class for which the examination is being held. If the oral examination board is directed to evaluate the candidate's technical knowledge or skills, at least two members of the board shall be technically qualified in the specific occupational area.

C. No member of the Commission or Board may sit on the panel. District employees are permitted to sit on the panel if they are not first or second level of supervision over a vacant position in the class being examined.

D. All oral examinations must be electronically recorded and the tapes and rating sheets must be kept for not less than 90 days after establishment of the eligibility list. Unless an appeal has been filed within the existing rules, 90 days after the establishment of the eligibility list all tapes and rating sheets may be destroyed.

E. Oral examination boards shall not be provided confidential references on employees of the District competing in examinations.

F. Scores achieved by a candidate on other parts of the examination shall not be made available to the oral examination board.

*(Reference Education Code Section 45273)*

### 5.3.2 Review and Appeal Procedures for Oral Examinations

A. Upon completion of the oral examination the candidate has 24 hours to file a request for review of their portion of the oral examination. The candidate will be notified of a date, time, and place for the review of the oral examination.

B. A competitor's oral interview may be listened to only by the competitor or their representative. The interviews of other competitors shall not be available for review.

C. A protest of the oral examination may be filed within 24 hours of the oral examination or review of the oral examination. The protest must be in writing and shall state the basis for the protest and the remedy sought.

D. Protests may be based on any of the following reasons:

1. Unlawful discrimination of any kind, including but not limited to discrimination on the basis of race, creed, sex, national origin, marital status, age, or disability not subject to reasonable accommodation.

2. That the questions asked were unrelated to the job.

E. If a protest is filed, all tapes and rating sheets will be kept on file until the protest or appeal has been exhausted, after which all tapes shall be erased and the rating sheets shall be destroyed in accord with procedures of Merit Rule 5.3.1.D.

F. The Director shall review and act upon all protests or oral examinations. The Director may disqualify a question, if they find the protest to be valid. If a protest results in any change, the Director will review whether to reconstitute the panel, in order to regrade the candidate's evaluation, or to overturn the results of the oral examination in its entirety.

G. The Director shall inform the candidate of their decision. If the Director rules against the protest, the candidate may appeal to the Personnel Commission but the appeal shall not delay other parts of the examination process.

H. Upon receipt of the appeal, the Commission shall set a date for hearing, hear all of the evidence and render a decision. Its decision shall be transmitted in writing to all concerned and shall be final.

I. If a protest is filed in a promotional examination, the review and protest procedure shall be held prior to appointment from an eligibility list unless continuous examination procedures have been authorized for the class.

J. An appointment made in good faith from an eligibility list believed to be correct shall not be invalidated if an error is discovered.

*(Reference Education Code Section 45274, 45293)*

*[Revised 1/16/2003]*

### 5.3.3 Rounding of Examination Scores

Applicants shall be placed on eligibility lists in the rank order of their relative merit as determined by competitive examination. The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from eligibles having the first three ranks on the list who are ready and willing to accept the position.

## 5.4 NOTICE OF TEST RESULTS

### 5.4.1 Final Score Notification

As soon as the rating of all examinations has been completed and the eligibility list established, each competitor shall be notified by mail of the result of the examination and final placement on the list.

# CHAPTER 6: EMPLOYMENT LISTS

## 6.1 ELIGIBILITY LISTS

### 6.1.1 Establishment of Eligibility Lists

After an examination, the names of successful candidates shall be arranged on a list in the order of the examination score, plus additional points where applicable. This list is called an eligibility list.

### 6.1.2 Termination of Eligibility Lists

A. An eligibility list normally terminated one year from the date it is established, unless extended by the Commission. However, the Commission may provide for termination of an eligibility list earlier or later than one year, as conditions of the classified service may require.

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

C. An eligibility list may be terminated by the Director when sufficient eligibles are not available for appointment to a specific permanent position in a class or when there are fewer than three ranks on the list.

D. Upon approval of the Personnel Commission, an eligibility list may be established for a period of six (6) months, as long as the six month duration is noted in the job announcement bulletin.

E. Eligibles on lists terminated prior to the length advertised for the recruitment shall be notified of the lists earlier termination. Notification is not required when an eligible's normal length of eligibility expires.

F. Eligibility lists may be extended for an additional period of two years or less at the discretion of the Commission. However, an eligibility list, having expired may not be resurrected or extended by Commission action.

G. Eligibles on an eligibility list which is terminated may retake the examination if a period of ninety (90) days has elapsed since the candidate last took the examination.

### 6.1.3 Merger of Eligibility Lists

If a new examination for a class is given during the first year of the life of an existing list, and the examination is sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles. The new list shall then be merged with the existing list with eligibles ranked in the order of examination score, plus additional points where applicable. Promotional lists shall be merged only with promotional lists.

A. When lists are merged under this Rule the earlier list shall be terminated. Eligibles' names from the earlier list shall be removed from the merged list one year from establishment of the earlier list, except when the earlier list has been specifically extended by the Commission.

B. All candidates on an eligibility list which is terminated may retake the examination if a period of ninety (90) days has elapsed since the candidate last took the examination.

C. Notification is not required when an eligibles' normal length of eligibility expires.

### 6.1.4 Final Date of Eligibility for Appointment

The final date of eligibility shall be based on the date the Personnel Commission acted to establish the eligibility list and the length the list was approved for by the Personnel Commission. All final appointment interviews must take place prior to the expiration/ termination of the list.

### 6.1.5 Eligibility After Appointment

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

When an eligible is appointed to a permanent position, the eligible's name shall be removed from the eligibility list for the classification to which they have been appointed.

### 6.1.6 Substitute List

A list for substitutes may be established when necessary. Placement on the substitute list shall be made by filing an application with the Commission Office. The applicant must meet the minimum performance requirements for the particular classification. No effort will be made to maintain a rank order of the applicants.

*(Reference Education Code Section 45286 and Merit Rule 6.6 et seq) [Revised 1/16/2003]*

### 6.1.7 Reemployment List

A. A reemployment list shall be established for each class, which shall take precedence over all other employment lists in filling vacancies. This shall contain the names of all classified employees who held regular status and who have been laid off or demoted from a position because of lack of work or lack of funds. Names shall be placed on the reemployment list according to seniority.

*(Reference Education Code Section 45298 and 45308 and Merit Rule 8.5 et seq)*

B. After a period of 39 months from the date of layoff (or 63 months in the case of a reduction in hours), any name remaining on a reemployment list shall be removed.

C. If an employee on a reemployment list is offered a position with the same number or more hours the employee is entitled to, the employee either accepts the position or has their name removed from the reemployment list.

If fewer hours are offered, the employee remains on the reemployment list until the exact number of hours are offered or for the remainder of their 39 months' time, regardless of the number of offers made.

### 6.1.8 Removal of Names from Eligibility List

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

A. Written request by the eligible for removal.

B. Failure to respond within three days to an inquiry regarding availability for interview or employment.

C. Termination of employment.

D. Failure to appear for an interview after certification.

E. Fraud or misrepresentation in certifying qualifications.

F. Three waivers of certifications during the life of the eligibility list, except that waivers relating to limited term employment shall not be counted.

G. After accepting an employment offer having been properly certified as an eligible for appointment, and subsequently refuses the offer.

H. For any other good cause that may occur during the processing of the eligible's candidacy for employment, e.g. failure of a required pre-placement health screening or drug testing, conviction of specified crimes, failure to disclose prior convictions, etc.

I. Failure to appear for duty a the time agreed upon after accepting appointment.

J. Failure to provide satisfactory service as an Ocean View School District substitute employee.

K. Any cause listed in Merit Rule Section 4.1.3 Rejection of Application.

*[Revised 1/16/2003]*

### 6.1.9 Review and Appeal of Removal of Names from Eligibility List

A. Upon notification by certified mail, the candidate may protest the removal of their name from an eligibility list to the Director within five working days of notification. The protest must be submitted in writing, stating the reason(s) for the protest, and shall be signed and dated by the protesting party.

B. The Director shall review and act upon all protests of the removal of a name from eligibility list(s).

C. The Director shall inform the candidate of their decision. If the Director rules against the protest, the candidate may appeal to the Personnel Commission.

D. Upon receipt of the appeal, the Commission shall set a date for hearing, hear all of the evidence and render a decision. Its decision shall be transmitted in writing to all concerned and shall be final.

*[Revised 1/16/2003]*

## 6.2 CERTIFICATION FROM EMPLOYMENT LISTS

### 6.2.1 Order of Precedence

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

A. Reemployment List (One Name)
When certification is made from the reemployment list, the name of the eligible highest on the list according to seniority shall be appointed.

B. Eligibility List (Three Ranks)
The three ranks of eligibles standing highest on the list are certified and one of them shall be appointed.

### 6.2.2 Other Sources of Eligibility

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

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

### 6.2.3 Procedure When Fewer Than Three Ranks Remain

A. When fewer than three ranks of eligibles are available on the promotional list, the Director can declare the list exhausted.

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

C. If the appointing authority requests a new eligibility list be established, because fewer than three ranks of eligibles remain available for appointment interview, the appointing authority shall receive three ranks of eligibles from the newly established eligibility list. Should any eligibles from the previous eligibility list remain in the top three ranks of eligibles on the new eligibility list, they shall be recertified to the appointing authority.

*(Reference Education Code Section 45272) [Revised 1/16/2003]*

### 6.2.4 Waiver of Certification

An available eligible may waive certification twice without penalty. Prior to the third waiver, the applicant shall be informed, that their name will be removed from the eligibility list at the time of the third waiver.

### 6.2.5 Selective Certification

If a position within a classification requires a special skill, license, or language requirement, the Director shall determine which eligibles possess the required skill, license, or language,

and shall certify the names of the first three (3) ranks of eligibles who meet the special requirements. If there are insufficient eligibles who meet the special requirements and who are ready and willing to accept the position, a provisional appointment may be made, pending completion of a recruitment and examination process to fill the position.

### 6.2.6 Withholding Names for Certification

The name of an eligible may be withheld from certification when the eligible expresses a temporary inability to accept appointment in writing and has the approval of the Director.

## 6.3 DUTIES OF ELIGIBLES

### 6.3.1 Time allowed for Reply to Notice of Certification

It shall be the duty of every eligible to respond within three days after receiving notice of certification. Failure of an eligible to respond within the above stated times may be deemed an automatic waiver. The eligible will be notified by mail of such waiver.

### 6.3.2 Reporting for Duty

A. The appointing authority may set a date for an eligible to report for duty. If the eligible, for good reason, is unable to report as scheduled, they will be charged with a waiver. The appointing power may then request certification of another name.

*[Revised 1/16/2003]*

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

### 6.3.3 Correct Communication Information

Every eligible shall be responsible for keeping on file in the Commission office the eligible's correct mailing address, telephone number, and place of residence. Failure to file such information may, at the discretion of the Commission, act as a waiver of the order of certification and/or appointment from any list or lists.

## 6.4 PROVISIONAL APPOINTMENTS

### 6.4.1 Procedure for Provisional Appointments

A. When no eligibility list exists for a vacant position in the classified service, an individual may receive a provisional appointment which may not exceed a total of 90 working days. A 90-calendar day interval shall elapse during which the employee will be ineligible to serve in a new full time provisional capacity.

*[Revised 1/16/03]*

B. Provisional appointees must meet the minimum qualifications prescribed for the class.

### 6.4.2 Extension of Time

A. The Commission may extend the 90 working day provisional appointment for a period not to exceed 36 additional (total 126) working days provided:

1. An examination for the class was completed during the initial 90 work days.

2. There is satisfactory evidence indicating an adequate recruitment effort has bee and is being made.

3. Evidence that this provisional assignment is necessary to carry on a vital function of the district.

4. The position cannot satisfactorily be filled by use of an eligibility or other employment list or procedures such as reinstatement, transfer, or voluntary demotion are not available.

### 6.4.3 Successive Provisional Appointments

Successive provisional appointments of 90 working days or less may be made in the absence of establishment of an appropriate eligibility list, provided the Commission has authorized a continuous application and examination process to fill the job vacancy. In such circumstances, successive provisional appointments may be made and persons employed in such provisional capacities until such time as certification is made to fill the position(s) form an established eligibility list.

### 6.4.4 Termination of Provisional Employees

A. The service of a provisional appointee shall be terminated within 15 working after the date on which an eligibility list has been established.

B. A provisional appointment may be terminated at any time, at the discretion of the appointing power.

### 6.4.5 Time Served in Provisional Status

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

## 6.5 EMERGENCY APPOINTMENTS

### 6.5.1 Definition

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

### 6.5.2 Procedure

When such emergency appointments are made, it shall be the duty of the appointing power to notify the Director, Classified Personnel, in writing naming the appointee(s), date of appointment, nature of duties performed, and giving a statement justifying the emergency nature of such appointment.

No salary claim beyond the 15 day emergency shall be paid for services performed under the emergency appointment unless such claim has been approved by the Commission.

## 6.6 LIMITED TERM AND SUBSTITUTE

### 6.6.1 Limited Term Position

Positions established to perform temporary duties which are not expected to continue beyond six (6) months, may be designated limited term positions.

#### 6.6.1.1 Sources for Appointment

A limited term appointment may be made from an appropriate eligibility list, or from other sources which may be approved by the Director, Classified Personnel. A classified employee may be appointed to fill a limited term position in addition to, or in lieu of their regular assignment.

#### 6.6.1.2 Compensation for Limited Term Service (See Rule 7.2.12)

### 6.6.2 Substitute Position

Positions established to replace temporarily absent employees shall be designated substitute positions and may extend beyond six (6) months in the absence of an employee on an approved leave of absence.

#### 6.6.2.1 Sources for Appointment

A substitute appointment may be made from an appropriate eligibility list, or from other sources which may be approved by the Director, Classified Personnel.

#### 6.6.2.2 Compensation for Limited Term Service (See Rule 7.2.12)

### 6.6.3 Time Served in Limited Term or Substitute Status

Time served in limited term or substitute status shall not be counted as credit toward permanency or completion of the probationary period for the class in which the substitute appointment is made.

# CHAPTER 7: WAGE AND SALARY PROVISIONS

Entire chapter revision adopted 2/12/04

## 7.1 ESTABLISHMENT OF PLAN

### 7.1.1 Factors in Salary Determination

A. The Commission shall recommend, upon request by the Board of Trustees, a comprehensive compensation plan for the classified service. The plan shall include the salary schedules for the various classes, with the salary of each class consistent with the responsibility and difficulty of the work as outlined in the class specifications, and shall be based on the principle that like salaries shall be paid for comparable duties and responsibilities.

B. For each class the compensation plan shall include a minimum and maximum rate, and intermediate rates to provide for steps in salary advancement without change of duty in recognition of meritorious service.

C. The Director, Classified Personnel shall prepare recommendations for the allocation of classes to salary schedules for approval by the Commission. These recommendations may take into account the following factors:

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

2. Wages and salaries paid by other government agencies in the labor market area

3. Principle of “like pay for like work”

4. Appropriate differentials between related classes to reflect differences in duties and responsibilities as established in the classification plan

5. Such other information as the Commission may approve

### 7.1.2 Salary Studies

A. A salary study shall be made whenever a new class is created, when requested by the Board of Trustees and when directed by the Commission.

B. Employees, employee representatives, or the administration may request a salary study of a class or classes by directing a written communication to the Commission and setting forth the reasons for the study.

C. Data obtained in a salary study shall be made available to interested parties, including employee organization representatives as appropriate.

D. Salary studies or surveys shall be made yearly of benchmark classifications as determined by the Director. Studies or surveys of management-level classifications shall be done on as-needed basis as determined by the Director.

*[Revised 2/12/98]*

### 7.1.3 Salary Recommendations

A. After making its findings, the Commission shall present salary recommendations to the Governing Board for approval.

B. Any salary recommendations for classified non-bargaining unit employees shall normally be presented to the Board each year, with a proposed effective date of July 1. A salary recommendation shall also be made each time a new class is created. Salary recommendations at other times of the year shall be based on clear evidence that the class in question is substantially overpaid or underpaid as reflected in a salary study or for the purposes of alignment with other classes. 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 Board may approve, amend, or reject the recommendation(s), but may not alter relationships among classes as established by the plan.

D. Following adoption of the salary schedules by the Governing Board, the Commission staff shall prepare a list showing the latest salary for each class. Copies of the list shall be made available to interested employees.

### 7.1.4 Appeals of Recommendations

A. An employee or representative may appeal the recommendation of the Director, Classified Personnel in regard to the salary of the employee's class. The employee shall have the opportunity to present their appeal in writing and orally at a regular meeting of the Commission. The administration shall have the same privilege.

B. If the Governing Board desires reconsideration of salary recommendations, it may return the recommendations to the Commission, which shall consider them at its next meeting. After reconsideration, the Commission will advise the Board of its findings and the reasons thereof.

## 7.2 APPLICATION OF SALARY SCHEDULES

### 7.2.1 Initial Placement

New employees shall be hired at the first step of the appropriate salary range unless advanced step placement is recommended and approved according to the following procedure:

1. The Executive Director, Human Resources shall review all job offers to see if the candidate qualifies for advance step placement. Advance step placement may be approved by the Executive Director, Human Resources if the following criteria are met:

   A. The individual candidate has additional, directly related and recent experience over above the minimum qualifications for the class, and/or

B. The individual candidate has directly related and recent education over and above the minimum requirements for the class, and/or

C. The individual candidate's most recent employment is at a rate which would prohibit employment in this district unless a salary incentive were offered. Applicants will not be requested or prompted to provide previous salary information. If an applicant voluntarily and without prompting discloses salary history information, it may be considered in determining salary step placement.

D. The classification was particularly difficult to recruit for.

2. The Executive Director, Human Resources shall prepare a report to the Personnel Commission to notify them about the advanced step placements.

A. Approval

1. The Executive Director, Human Resources shall indicate in the monthly report to the Personnel Commission as information, all instances of use of this Rule (7.1.1), identifying the department or school, the classification, and recommending authority.

*[Revised 5/23/24]*

### 7.2.2 Step Advancement

Step advancement shall not be granted automatically each year, but should be based upon performance by the employee which meets standards as reflected by their last performance evaluation report and upon specific recommendation for such adjustment by the employee's site or department administrator.

### 7.2.3 Salary Range Changes

A. When the salary range for a class is changed, the salary of each incumbent in the class on the effective date of the range change shall be placed on the same step in the new range with no change in anniversary date.

B. When a salary range becomes effective the same date as the employee's merit salary adjustment, the employee shall first receive any merit adjustment and then the corresponding step on the new range.

### 7.2.4 Promotions

A. In determining the salary for a permanent employee who is promoted, the following procedure shall be used:

1. Find the employee's present monthly salary on the schedule of their new class and advance the employee one step.

2. If the employee's present salary is not indicated on the new salary schedule, advance the employee's salary to the step which would provide an increase of at least 5%.

3. Upon request of administration, and recommendation by the Director of Classified Personnel, an employee may be granted advanced step placement by the Personnel Commission.

    - As described in Rule 7.2.1

B. If an employee is promoted on their anniversary date, they shall first receive their step increase and then the promotional adjustment.

C. If an employee serving an initial probationary appointment period is promoted to a higher level class prior to achieving permanence in the classified service, they shall be placed on the salary schedule in accord with 7.2.1 et seq. of these Rule (Initial Placement).

D. A promoted employee shall be considered probationary in their new position for six (6) calendar months or 130 working days, whichever is longer.

### 7.2.5 Reclassification

A. When one or more positions are reclassified to another classification which has a higher salary range, and the former classification is maintained in the classification plan, the incumbent's step placement shall remain at the same step. Anniversary dates shall be changed to the date of the reclassification.

B. When all positions are reclassified to another classification which has a higher salary range, and the former classification is abolished, the incumbent's step placement shall remain at the same step. Anniversary dates shall not change.

### 7.2.6 Salary After Position Reallocation

When the Commission divides a class into two or more separate classes or consolidates two or more classes into a single class and permanent status is granted to incumbents, salary shall be determined as follows:

A. If the salary range of the new class to which an employee's position is allocated is the same or one or more steps higher at the maximum than their former class, they shall receive the same step in the new class and shall retain the same anniversary date.

B. If the salary range of the new class to which the position is allocated is one or more steps lower at the maximum, the employee shall continue to receive the same amount received in the former class, but not to exceed the maximum step of the range in the new class, and shall retain the same anniversary date.

C. By special resolution of the Commission a rate above the maximum can be authorized and approved by the Board.

### 7.2.7 Salary for Working Out of Class

A. Salary Adjustment:

Whenever an employee is allowed to assume, or is required to perform, all or the majority of the functions, duties, and responsibilities of a higher classification, their salary shall be adjusted upward to the salary range of the higher classification, and then to the step of that range that will provide the employee at least 5% salary increase. An employee may receive less than a 5% increase if the top step of the higher classification's salary range is less than 5% above the employee's regular salary. In that instance, the employee shall be placed at the top step.

### 7.2.8 Placement after Leave of Absence

A. Upon return from leave of absence, an employee shall be placed on the same step of the range for the class from which the leave was granted.

B. Credit for step advancement shall accrue during leaves of absence for military service.

### 7.2.9 Placement after Voluntary Demotion

An employee taking voluntary demotion shall receive the step of the salary range in the class to which the employee is demoted that is closest to, but not greater than, the employee's current salary.

*(Reference Merit Rules8.2.7; Voluntary Demotion and 8.5.2.B, Voluntary Demotion in Lieu of Layoff) [Revised 1/12/04]*

### 7.2.10 Rate on Appointment from Reemployment List

A person who is appointed from a reemployment list to a position in their former class or a comparable class shall receive a salary no less than the same step of the class in which they were formerly assigned.

### 7.2.11 Rate on Appointment after Permanent Separation

Upon the recommendation for rehire of the appointing power, a former employee who reenters the service within 39 months from the last date of paid service shall receive the salary step they had achieved provided that the employee is reinstated to the same class. If the former employee is reinstated to a lower class in which they had held permanent status, they shall be placed on the step they would have achieved in that class had they not been promoted and subsequently resigned from the classified service. If the former employee is employed in a related lower class in which they never served or achieved permanent status, they shall be placed on a step at or closest to the step on the salary range of the class they held at the time of resignation. In no case shall the employee be reinstated to step/salary placement higher than that attained by the employee at the time of separation.

### 7.2.12 Rate on Appointment as Provisional, Limited Term, and Substitute

A. Provisional, limited term, and substitute employees will receive hourly compensation at Step 1 of the classification filled.

1. The exceptions to this rule are:
   Former employees who had attained permanency with the District shall, for a period of 18 months following their separation from regular District employment, receive hourly compensation at the base salary step they held a the time of their

separation (excluding longevity pay, differential pay, and stipends) whenever they serve as a provisional, limited term, or substitute employee in the same or related higher job classification held at the time of separation. Former employees who accepted provisional, limited term, or substitute employment in related lower classifications shall receive the step of the salary range in the class that is closes to, but not greater than, the employee's base salary step of their former class. All other classifications shall be placed on the first step of the salary range for that class.

2. Retired employees may not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation (including but not limited to longevity pay, differential pay, and stipends) in addition to the hourly rate. Retired employees shall receive hourly compensation at the base salary step they held at the time of retirement whenever they serve as a provisional, limited term, or substitute employee in the same or related higher job classification held at the time of retirement. Retired employees who accept provisional, limited term, or substitute employment in related lower classifications shall receive the step of the salary range in the class that is closest to, but not greater than, the employee's base salary step of their former class. All other classifications shall be placed on the first step of their salary range for that class.

3. Current employees, who substitute in a higher level class in which they formerly held permanence, shall receive their former hourly rate of pay, until such time as the 5% pay increase required for working out of class work their former classification equals or exceeds this amount.

*(Reference Merit Rule 3.2.9.3) [Revised 9/8/16}*

### 7.2.13 Summer Assignments

A. Summer assignments are not considered part of the basic assignment for less than twelve month employees. Regular employees selected by the District to work summer assignments shall receive the same salary or rate of pay received prior to being selected for the summer assignment if they are selected to work in the same classification as that held by the employee.

B. Regular employees selected to work summer assignments in a classification that is paid on a higher range shall be considered to be temporarily promoted for the duration of the summer assignment. Promotional rules shall then apply.

C. Regular employees selected to work summer assignments in a classification that is paid on a lower range than their regular assignment shall be paid on the step of the lower range that comes closest to their regular assignment rate of pay, but does not exceed it.

### 7.2.14 Longevity

Classified employees shall receive the following longevity increments above their base pay at the beginning of the following years of employment:

3% At year 10
3% At year 15 for a maximum of 6%
3% At year 18 for a maximum of 9%

3% At year 21 for a maximum of 12%
3% At year 25 for a maximum of 15%

*(Revised 3/10/16, 4/14/16)*

## 7.3 Payroll Audit

### 7.3.1 Payroll Audit

Payroll records of the District shall be made available for inspection by the Commission or the Executive Director. If, upon examination of payroll records, it is found that any person named thereon has been appointed, elected, or employed in violation of any of the provisions of the Act or the Rules of the Commission, notice of such violation shall be served upon the Board and the disbursing officers that said person has been paid salary or received compensation in an unlawful manner.

# CHAPTER 8: INSERVICE STATUS AND TRANSACTIONS

## 8.1 PROBATIONARY PERIOD

The probationary period is the final and most job-related part of the selection process. Consequently, persons appointed from eligibility lists must successfully complete their probationary period in order for them to be considered both permanent and selected in their classification. Until the successful completion of their probationary period, persons shall serve at the pleasure of the appointing power. The appointing power shall notify all probationary employees of this policy and rule.

*(Reference Education Code 45301)*

This procedure, as related to obtaining permanent status in the classified service, shall not apply to positions in the Senior Management Service.

*(Reference Education Code 45256.5(b)*

### 8.1.1 Length of Probationary Period

A new employee appointed to a permanent position from an eligibility list shall serve a probationary period of six months or 130 days of paid service, whichever is longer, in one class before attaining permanency in the class and classified service.

*(Reference Education Code 45301)*

An employee who has been promoted shall serve a probationary period of six months or 130 days of paid service, whichever is longer, in the higher class before attaining permanency in the new class.

*(Reference Education Code 45301)*

Upon written request of the District administration, the Commission may establish a probationary period not to exceed one year (260 days of paid service) for positions in management classes designated by the Commission as executive or administrative. Such classes shall be identified on the Classified Management Salary Schedule.

*(Reference Education Code 45301)*

The probationary period shall not include time served under emergency, provisional, or limited-term appointment, but shall date from the beginning of service in a permanent position after appointment from a valid eligibility list or from the effective date of promotion.

*(Reference Education Code 45260, 45261)*

Paid sick leave or unpaid leave used by an employee during the probationary period shall not be counted as part of the 130 days or 6 months required to attain permanent status.

*(Reference Education Code 45301) [Revised 9/6/12]*

### 8.1.2 Rights of Probationary Employee

The Appointing Authority may affect the release from the position of any employee at any time during the employee's probationary period, in accord with the following procedures. The District shall notify the Personnel Commission office in writing within three days from the date of each probationary release effected.

A. Upon selection and employment, the appointing authority shall provide a probationary employee a clear description of their new duties and responsibilities and what is expected of the employee in order to be successful.

B. Probationary employees are entitled to probationary performance evaluations at regular intervals, in accord with applicable contract provision (bargaining unit members). Management, Confidential, and Supervisory employees shall be evaluated in accord with Rule 8.11 et seq.

### 8.1.2.1 New Employees

A. The Appointing Authority need not state any reason for the release of a new employee; however, such release shall not be made for any reason prohibited by law. A new employee who is released during the initial probationary period shall be notified in writing of the action taken. A probationary employee shall not have the right of appeal.

B. A new employee who resigns in good standing during the initial probationary period may, upon request, have their name restored in proper rank to the eligibility list at the discretion of the Commission. Such action shall not extend the life of the eligibility list or the period of the eligibility of the employee.

### 8.1.2.2 Promotional Employees

A. An employee who has permanent status in the classified service and who has been promoted to a higher class, may be involuntarily demoted during the probationary period (6 months or 130 days in paid status, whichever is longer) and shall be placed into a position in their former class. The appointing authority need not state any reason for the release of the employee; however, such release shall not be for any reason prohibited by law. The employee who is released during the promotional probationary period shall be notified in writing of the action taken. A promotional probationary employee shall not have the right of appeal.

B. Permanent employees released during a promotional probationary period shall have displacement rights to a position in the last classification in which the employee held permanent status prior to entering into a promotional probationary period.

1. Should that classification no longer exist, the employee may demote to any other classification in which they held permanent status.

    a. Should the employee's classification no longer exist, the employee may request a demotion to a vacancy in a lower classification or reassignment to a vacancy in an equal or related class in which they had not serviced in a permanent or probationary status provided they are qualified to perform the duties and the appointing authority approves the demotion.

2. Should the demotion result in separation from the classified service, the employee shall have the right of appeal to the Personnel Commission.

*(Reference Education Code 45305)*

C. Should the work for which a probationary employee (new hire or promotional) has been appointed prove temporary instead of permanent as certified, and should the employee be laid off without fault or deficiency on their part before the probationary period is completed, the employee's name shall be placed on the reemployment list and time served shall be credited to the probationary period.

### 8.1.3 Duty of the Appointing Power

It shall be the duty of the immediate supervisor to evaluate thoroughly the work of the probationary employee to determine whether the employee is fully qualified for permanent status in the probationary classification. Performance reports will be completed on forms prescribed by the Commission according to the established procedures. `

## 8.2 Transfers *(Bargaining Unit Employees See Contract)*

### 8.2.1 Transfer

An employee may be transferred from one position to another in the same class at their request or for the good of the District at the discretion of the Department or Division Head involved. The Director, Classified Personnel, shall be notified in writing of such transfer within three working days.

A. Lateral Transfer

An employee may be transferred from one position to another in a related class at their request provided that both classes are at the same salary range. The determination of whether the classes are sufficiently related to permit transfer between them shall be made by the Director, Classified Personnel.

The following factors shall be considered in determining whether classes are sufficiently related:

1. Duties
2. Minimum qualifications
3. Examination content
4. Salary range

### 8.2.2 Request for Transfer

An employee's request for transfer shall be made in writing to the Personnel Commission office on a form prescribed by the Commission. The employee may then be considered along with other applicants for vacancies in the same class. The Transfer requests shall remain valid until December 31 of the current calendar year.

No obligation shall exist to fill a position by transfer rather than by other legal methods of appointment.

### 8.2.3 Status Attained by Transfer

A permanent employee shall retain permanent status upon transfer to another position in the same class.

### 8.2.4 Probationary Period

A. A permanent employee shall not be required to pass an additional probationary period upon transfer to another position in the same class.

B. A permanent employee *shall* be required to pass an additional probationary period upon transfer to another position in a related class (lateral transfer).

1. e.g. School Office Manager to Department Secretary (or vice versa)
   School Office Clerk to Intermediate Clerical Assistant (or vice versa)

### 8.2.5 Salary and Benefits Upon Transfer

Transfers shall not change the employee's salary rate, anniversary date, accumulated sick leave or vacation.

### 8.2.6 Seniority Rights

A. An employee transferred to a position in the same class shall retain seniority in that class.

B. An employee transferred to a position in a related class shall not transfer their seniority in the former class to the new class. However, they shall retain such seniority in the classified service and in the classification they were reassigned from and shall earn seniority in the reassignment classification to be effective on the first day of regular paid service in the new classification.

C. If the reassignment does not become final and the employee is returned to their former class, the employee's seniority date remains the same.

### 8.2.7 Transfer or Demotion for Medical Reasons

A. When an employee becomes disabled (as described by the Americans With Disabilities Act – 42 U.S.C Sect 12101-12213) the District shall, if possible, make reasonable work accommodations which will permit the employee to remain in their current position.

B. When an employee becomes physically incapacitated for the performance of the essential functions of their job as determined by a formal job analysis and physical examination, and reasonable accommodation of that disability is not possible, the Assistant Superintendent, Human Resources, may accommodate the employee with a reassignment to a vacant position in a class of the same or lower salary level which they have the ability to fill or for which they

### 8.2.8 Voluntary Demotion

A. A permanent employee may request voluntary demotion to a vacant position in a class with a lower maximum salary rate without examination if the lower position falls in the promotional line of the present class. Such requests require the approval of the

employee's present Department Head, and that of the head of the department to which they are to be assigned.

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

C. An employee taking a voluntary demotion shall receive the step of the salary range in the class to which the employee is demoted that is closest to, but not greater than, the employee's current salary. The anniversary date remains the same.

D. Voluntary demotion in lieu of layoff – see Rule 8.5.2.B.

### 8.2.9 Involuntary Demotion

Involuntary demotion is a disciplinary action for cause and is subject to the pertinent rules and procedures under the disciplinary action provisions of these Rules.

*(Refer to Chapter 8, Section 6)*

## 8.3 REASSIGNMENTS

### 8.3.1 Reassignments

A permanent employee may be reassigned by District administration to a position in a related class within the same salary range for the good of the service. Such reassignment is subject to ratification of the Commission.

*(Reference Education Code 45261)*

A. The Personnel Commission shall determine whether classes are sufficiently related to permit reassignment between them. It shall consider similarity of:

1. Duties
2. Minimum qualifications
3. Examination content
4. Promotional field
5. Occupational group

B. In general, more latitude in approving reassignment is permitted:

1. As the employee's length of service with the school district increases.
2. When the reassignment is based on layoff, reclassification, or health.
3. When no eligibility list exists for the class to which reassignment is requested.
4. When the employee's education and experience show the employee meets the requirements of the class to which reassignment is recommended.

## 8.4 REINSTATEMENTS, RESTORATIONS, REHIRES, AND RESIGNATIONS

*(Revised 7/18/24)*

### 8.4.1 Reinstatements

A. A former permanent employee who resigned in good standing may be reinstated to a vacant position in his/her former class and status within 39 months of the last date of paid service. If qualified, the employee may be reinstated in a vacant position in a related or lower class or to a limited term position. This is discretionary with the appointing power.

*(Reference Education Code 45309)*

1. Reinstatement of a former employee shall have the following effects:

   a. Reinstatement to the former step in the current salary range for the class, or if reinstated in a lower class, to the rate closest to, but not exceeding, that of the step to which the employee would be assigned if the employee were reinstated in his/her former class.

   b. If reinstated to permanent status, reinstatement of accumulated sick leave and seniority as of the date of separation.

   c. If reinstated to permanent status, reinstatement of the former anniversary date, less credit for any off-duty period in excess of fifteen (15) calendar days.

   d. If reinstated to permanent status, restoration of all rights, benefits and burdens of a permanent employee in the class to which reinstated.

### 8.4.2 Restorations

A. An employee who has been laid off or taken a voluntary demotion for medical reasons may be restored to a vacant position in his/her former class or to a vacant position in a related lower class, as determined by the Commission, within 39 months.

*(Reference Education Code 45192, 45195 &45298)*

B. An employee who has accepted a voluntary demotion in lieu of layoff for lack of work or lack of funds, or abolishment or reclassification of his/her position, shall be granted the same rights as a person laid off and has the right to be reemployed in accordance with his/her seniority in a vacant position in his/her former class within 39 months after demotion. Intervening reassignments to other classes shall not abrogate this right.

   1. If the employee has not been restored to his/her former class within 39 months, the employee is eligible for appointment to a vacant position in that class, without examination, for an additional 24 months; provided, that the same tests of fitness under which they qualified for appointment to the class shall still apply. The Director of Classified Personnel shall make the determination of whether the same tests of fitness apply.

   2. Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be placed on a reemployment list for their former class in accordance with their proper seniority. For a period of 39

months, the employee, at their option, shall be given one opportunity to be returned to a position in their former class or to a position in their former class with the hours held prior to the reduction, as vacancies become available.

(*Reference Education Code54298)*

C. Restoration of an 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, to the rate closest to, but not exceeding, that of the step to which the employee would be assigned if the employee were restored to his/her former class.

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

3. Restoration of former anniversary date, less credit for any off-duty period in excess of fifteen (15) calendar days.

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

D. Reinstatement and Restoration Request Lists

1. The Personnel Commission Office shall maintain a list containing the names of former employees who have resigned their District employment and subsequently request reinstatement and whose previous records are such that reinstatement could be recommended when vacancies occur.

a. Reinstatement is the prerogative of the appointing power. There is no obligation on the part of the appointing power to fill a vacancy by reinstatement if it is preferred to fill it by some other legal method of appointment.

2. The Personnel Commission Office shall maintain a list containing the names of employees who have accepted voluntary demotion for medical reasons, in lieu of layoff for lack of work or lack of funds, or abolishment or reclassification of his/her position and who are eligible for restoration.

a. Eligibility for restoration shall require a medical release to resume the duties of the former class without restriction, provided, however, that reasonable accommodations shall be taken into consideration.

Restoration is not an option of the appointing power. If a vacant position is to be filled, the person on the Restoration List or Reemployment List, if one exists, with the most seniority shall be appointed.

### 8.4.3 Rehires

A. Rehire of a previous employee, within 39 months, shall have the following effects:

1. When rehired to a permanent position, there shall be a restoration of

accumulated sick leave (if not donated to the catastrophic sick leave bank or other situation where the sick leave is not available).

2. Restoration of former anniversary date, less any credit during separation from the district in excess of fifteen (15) calendar days.

*(Revised 7/18/24)*

### 8.4.4 Resignations

A. When a classified employee desires to resign from a position, the employee shall present a written resignation, stating the reason(s) and effective date of the resignation to the site/department administrator. A copy of the resignation shall be immediately filed by the site/department administrator with the Director, Classified Personnel.

B. A resignation relates only to the specific position from which the employee resigns and does not impair the employee's rights to other positions which they may hold on eligibility lists except that an employee who resigns shall have their name removed from promotional eligibility lists.

C. Once the Superintendent or designee has accepted and set an effective date for a resignation, as authorized by the Board of Trustees, the resignation may not thereafter be withdrawn by the employee.

*(Revised 1/15/15)*

## 8.5 LAYOFF

### 8.5.1 Layoff Procedures

A. When classified employees are laid off because of lack of work or lack of funds, the order of layoff within the class shall be determined by seniority (length of service). The employee who has been employed the shortest time in the class plus higher classes, shall be laid off first. Reemployment shall be in the reverse order of seniority.

B. Employees subject to layoff shall be given notice of layoff in writing not less than 60 days prior to layoff, which shall indicate the employee's last day of work for the District in that classification.

*(Reference Education Code 45117, 45103, and 45286) [Revised 12/13/12]*

C. If employees hired under specially funded projects are to be laid off at the end of the school year, such employees shall be given written notice of layoff by April 29 of that school year.

*(Reference Education Code 45117, 45103, and 45286)*

D. No permanent or probationary employee shall be laid off from any position while employees serving under limited term appointment are retained in positions the employee is qualified to render, unless the regular employee declines the limited term position(s).

E. Computation of Seniority

1. Seniority shall mean the date upon which an employee initially becomes employed in a classification.

2. Seniority shall be adjusted for periods of unpaid leave of absence of fifteen (15) calendar days or more from the service of the District except during period(s) of authorized military leave.

3. All service in the classification plus higher classifications in line of promotion shall count as seniority within classification.

4. A permanent employee who is laid off and is subsequently reemployed shall regain their seniority date, which has been adjusted to reflect the period of time employee was on the reemployment lists.

*(Reference Education Code 45117, 45103, and 45286)*

5. When reclassification results in the merger of two or more classes or the separation of a class into two or more classes, the seniority rights of regular employees who are reclassified with their positions shall be computed from the date of their earliest entrance into regular service in such former classes.

6. An employee reassigned from one class to another shall retain their seniority in the former class; seniority in the new class shall begin on the date of reassignment.

7. In the event of a tie in a class, preference would be given to the employee with the longest total service with the District. If a tie still exists, the tie shall be broken by lot.

### 8.5.2 Rights of Employees Laid Off for Lack of Work or Lack of Funds

A. Displacement

1. An employee may displace that employee within their classification who has the least seniority in the class plus seniority in the higher class.

(See Example A.1 on the following page)

2. A classified employee who is to be laid off and has held permanency in a class with a lower maximum salary range shall have the right to displace the person with the least seniority in that class.

3. Any employee displaced in the above manner shall have the same displacement options.

4. If an employee waives the opportunity to displace within their classification, they will be placed on a reemployment list.

5. During a 39-month period after layoff, employees laid off shall have the right to participate in promotional examinations for which they are qualified.

EXAMPLE A.1

## SAMPLE LAYOFF PROCESS

Joy has been an employee for many years with the district and has a hire date in several different classes. Her position is being eliminated at the end of the school year. She is currently a School Office Manager.

| Joy's Seniority Dates | Classifications |
|---|---|
| -0- | Administrative Secretary |
| 9/1/86 | School Office Manager |
| 6/1/84 | Senior Clerk Typist |
| 11/13/78 | School Office Clerk |
| -0- | Clerk Typist |

**Administrative Secretary**

Cannot displace up.
Can compete as promotional.

**School Office Manager**

Can displace least senior SOM having same number of work hours with hire date after 9/1/86.

JOY

School Office Manager

**Clerk Typist**

Cannot displace.
No time served in this classification.

**Senior Clerk Typist**

Can displace least senior Senior Clerk Typist with hire date after 6/1/84.

**School Office Clerk**

Can displace least senior School Office Clerk with hire date after 11/13/78.

If Joy displaces School Office Clerk, then that employee may have displacement rights.

B. Voluntary Demotion in Lieu of Layoff

1. An employee who is laid off may request demotion to a vacancy in a lower classification or reassignment to a vacancy in an equal or related class in which they have not served in a permanent or probationary status provided they are qualified to perform the duties and the appointing authority approves the demotion.

2. In order to be considered for a demotion in lieu of layoff, an employee must notify the Personnel Commission office of their request in writing not later than five (5) working days after receiving Notice of Layoff and Displacement Rights, or this right is waived.

3. An employee who takes a voluntary demotion or reduced time in lieu of layoff is eligible for reemployment in their former class or assigned time upon occurrence of a vacancy.

   The employee's name will remain on the reemployment list for 63 months.

   An employee taking a voluntary demotion in lieu of layoff shall receive the step of the salary range in the class to which the employee is demoted that is closest to but not greater than the employee's current salary.

C. Preferential Reemployment

1. After having the opportunity to exercise all rights under this article, an employee who must be laid off will be placed on a reemployment list for the class from which they were laid off for a period of up to 39 months. Names will be listed in relative order of seniority.

2. A reemployment list shall be used before any other means of filling vacancies for that class.

3. Employees with the earliest seniority date in a classification will be the first to be offered an opportunity to be selected to fill the vacancies in that classification as they occur.

   The following rules also apply:

   a. An employee's name will be removed from a reemployment list if the employee is given an offer of employment for the same number of work hours in their former class and subsequently declines the offer.

   b. If an employee is on an eligibility list and is laid off, they shall retain their position on the list until they are placed or the list is abolished.

   c. Seniority date of laid off employees will be adjusted for period of time on reemployment lists in excess of fifteen (15) calendar days.

## 8.6 DISCIPLINE – SUSPENSION, DEMOTION, DISMISSAL

*(Revised 08/09/07)*

When an employee in the classified service has failed or fails to perform the duties of the position in a satisfactory manner, or has committed any act or acts to the prejudice of the public service, or has failed to perform any act or acts the employee was hired to perform, ow whose service rendered is below satisfactory standards, or who otherwise has become subject to disciplinary or other corrective measures, the Board of Trustees shall have the power, and it shall be its duty, to take action subject to the provisions of the Education Code and these rules, in any of the following ways:

- To reprimand the employee and record such reprimand in the employee's personnel file;
- To suspend the employee without pay;
- To demote the employee to a lower class;
- To discharge the employee from the service of the District.

### 8.6.1 Causes for Disciplinary Action

A. A permanent classified employee shall be subject to disciplinary action, which may include demotion, suspension or dismissal, for any of the following causes *(listing does not imply degree or severity in rank order)*:

1. Falsification, withholding, or misrepresentation of material information supplied to the District, including but not limited to, information supplied on application forms, employment records, or other District records.
2. Gambling on school property.
3. Incompetency.
4. Inefficiency.
5. Insubordination.
6. Excessive absences, unexcused absence(s), tardiness, or patterns of absence that indicate abuse.
7. Continuing illness and/or disability, which cannot be reasonably accommodated.
8. Conviction of a serious crime by a court of law for which conviction has a demonstrable adverse impact upon the District's ability to continue employment; failure to disclose material facts regarding a criminal conviction. A plea of nolo contendere is deemed to be a conviction within the meaning of these rules.
9. Inattention to or dereliction of duties.

10. Abandonment of position.

11. Willful and persistent violation of rules, regulations or procedures adopted by the District.

12. Possession of an alcoholic beverage container on District property or in District equipment; consuming an alcoholic beverage on District property or in District equipment; being under the influence of an intoxicant, controlled substance or other drug to a degree sufficient to impair one's ability to work safely and efficiently.

13. Possession of illegally controlled substance or other drug or "look alike" under circumstances indicating an intent to use, supply or sell.

14. Arrest and being formally charged with a sex offense as defined in Education Code Section 44010 is cause for immediate suspension in accord with Education Code 45304, conviction requires termination in accord with Education Code 45123.

15. Arrest for narcotics, or controlled substance offense, as reflected in Education Code Section 44011 is cause for immediate suspension in accord with Education Code 45304, conviction requires termination in accord with Education Code 45123.

16. Offering anything of value or offering any service in exchange for special treatment in connection with one's job or employment; or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.

17. Engaging in political activities during assigned hours of duty.

18. Conviction of a crime of moral turpitude.

19. Making an unprovoked physical or verbal attack on a pupil, District employee or member of the public; or discourteous, offensive, or abusive language or conduct toward other employees, pupils, or the public.

20. Failure to maintain any license or certificate which is a condition of employment.

21. Failure or refusal to submit to involuntary testing of blood, breath, or urine pursuant to a request or direction of a supervisor pursuant to a duly adopted District drug testing procedure for employees engaged in safety sensitive occupations and/or who perform safety sensitive activities.

22. Dishonesty, theft, misappropriation or willful misuse of district property for personal gain; willful destruction or damage to District property or the property of others lawfully on District property.

23. All forms of abuse, harassment, or discrimination including but not limited to ethnic, racial, religious or sexual harassment of another.

24. Advocacy of the overthrow of the federal, state, or local government by force, violence or other unlawful means, including conduct in violation of Government Code Section 1028.

25. Any other cause or causes for disciplinary action set forth in the Education Code or other applicable Code.

### 8.6.2 Dismissal of Temporary and Substitute Employees

The employment of a temporary or substitute employee may be discontinued at any time without regard to procedures set forth in this section. Any employee whose assignment has been discontinued pursuant to this subsection does not have the right to appeal such action to the Personnel Commission.

### 8.6.3 Procedure for Disciplinary Action – Permanent Employees

A. General Procedures:

For purposes of this subsection "disciplinary action" means dismissal, suspension without pay, or involuntary demotion of an employee who has successfully completed any required probationary period.

"Emergency suspension without pay" means a suspension which is necessitated because the employee's continued presence at work would constitute a significant, unwarranted risk to the life, health, or safety of the employee or others, or is of such an outrageous nature as to require immediate removal of the employee from work. Unless otherwise provided by law, the maximum time during which an employee may be suspended without pay is thirty working days.

The severity of disciplinary action shall be determined in consideration of the seriousness of the violation involved, the employee's overall record with the District and any mitigating circumstances. Some offenses may be the basis for disciplinary action, up to dismissal on the first offense.

Before any disciplinary action begins against a permanent employee, except an emergency suspension without pay, the employee shall receive a written Notice of Proposed Disciplinary Action either by personal service or by certified mail issued at least fifteen (15) working days prior to the proposed effective date, which shall contain:

1. A statement of the specific charge(s) (Cause or Causes for Disciplinary Action) against the employee.

2. The specific acts or omissions upon which the proposed disciplinary action is based, referenced back to the specific charge against the employee; and

3. Notice that copies of all documents supporting the proposed disciplinary action are available for the employee's review; and

4. Notice of the date the proposed action will be presented to the Board; and

5. Notice of the employee's right to respond, within ten (10) working days, either orally or in writing prior to the effective date of the proposed action; and that failure to respond will constitute a waiver of the right to respond.

B. Employee's Right to Respond (Predisciplinary Hearing) *(Section 8.6.3 B added 8/9/07)*

1. PREDISCIPLINARY HEARING REQUEST: If the employee submits a request to respond to the charges within ten (10) working days after receipt of the Notice of Proposed Disciplinary Action, the employee shall have a right to meet with the Superintendent or designee, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the predisciplinary hearing process. The employee shall be allowed to respond to the charges prior to the Superintendent's recommendation of disciplinary action to the Board of Trustees.

*(REFERENCE: Skelly v. State Personnel Board 15 Cal.3d 194 (1975)*

2. NOTIFICATION OF THE TIME, PLACE, AND DATE OF THE PREDISCIPLINARY HEARING TO EMPLOYEE: The District shall coordinate the scheduling of the Predisciplinary Hearing. The District shall notify the employee in writing of the time, date, and place of the Predisciplinary Hearing. Notification shall be either in person or sent by Certified Mail (Return Receipt Requested). This requirement will be deemed to have been met if the notification of the Predisciplinary Hearing is sent Certified Mail to the last known home address on file in the District Human Resources Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purposes of this Rule, if a notice is mailed, as indicated above, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

3. EMPLOYEE SHALL HAVE THE OPPORTUNITY TO RESPOND TO CHARGES: The employee shall have the opportunity to respond to all charges. However, the Predisciplinary Hearing is not an evidentiary hearing. The employee will not be allowed to call or examine witnesses.

4. RIGHT TO REPRESENTATION: The employee may be represented by legal counsel, union representative, or any other person designated by the employee. If the employee fails to appear, the Superintendent may recommend the proposed disciplinary action to the Board of Trustees.

5. SUPERINTENDENT OR DESIGNEE'S DECISION: The Superintendent or designee shall issue a written decision within five (5) working days after the conclusion of the Predisciplinary Hearing, to either implement the proposed disciplinary action, to modify the proposed disciplinary action, or to rescind and halt the proposed disciplinary action. The Superintendent or designee shall not act to provide for a penalty or disciplinary action more severe than that recommended in the Notice of Proposed Disciplinary Action. The written decision of the Superintendent or designee shall be filed with the Personnel Commission Office. The District shall be responsible for notification of the employee as to the decision of the Superintendent or designee.

a. If the employee requests a Predisciplinary Hearing with the Superintendent or designee, and at that hearing the employee and Superintendent or designee agree on an alternative course of action, this agreement shall be in writing. If the agreed alternative course of action requires Board of Trustee action, the Superintendent shall recommend to the Board of Trustees that the alternative action be approved. The Board's decision to accept or reject the alternative action shall be final.

6. The Superintendent's or designee's decision shall be communicated to the Board of Trustees.

*(Section 8.6.3.B added 8/9/07)*

C. Emergency Suspension Procedures

In any case where an emergency suspension is effected, the District shall provide the employee, by personal service or by certified mail as soon as possible after the action is taken, with the following:

1. A statement of the specific charges against the employee, including the specific acts or omissions upon which the suspension is based; and

2. Notice that copies of all documents supporting the suspension are available for the employee's review; and

3. Notice of the date the action will be presented to the Board; and

4. Notice of the employee's right to appeal the decision to the Personnel Commission.

D. Notification Procedures:

1. Should the proposed disciplinary action be effected, a written notice shall be promptly served by the District upon the employee, either personally or by certified mail, stating the action taken.

2. Within three (3) working days following the taking of disciplinary action by the Board, the District shall submit to the Commission a complete copy of the causes and charges against the employee, together with all documentation it made available to the employee and copies of all communications with the employee regarding the disciplinary action.

3. Within ten (10) working days following receipt of notification by the District advising that a permanent employee has been suspended, demoted, or discharged, the Director, Classified Personnel shall cause to be furnished to the employee a copy of the charges against the employee together with an advisement of the employee's right to appeal the disciplinary action to the Personnel Commission.

4. Written notification of the employee's appeal rights shall be made by personal service or by certified mail delivery to the employee's last known address.

5. Written notification of the employee's appeal rights shall advise that appeal of the disciplinary action must be made within fourteen (14) calendar days following the employee's receipt of the notification and charges from the Director, Classified Personnel, describe how the appeal is to be made, and caution that failure to make a timely appeal will constitute a waiver of the right to appeal the disciplinary action.

6. If the employee fails to timely appeal the disciplinary action, the disciplinary action shall be final without any action by the Personnel Commission.

### 8.6.4 Grounds for Appeal of Disciplinary Action

Appeal of disciplinary action can be made only on the following grounds:

A. Procedures set forth in these rules have not been followed.

B. The action was taken because of political or religious acts, opinions or affiliations, or unlawful consideration of race, color, national origin, sex, marital status, religion, age or legally cognizable disability which could be reasonably accommodated.

C. There has been an abuse of discretion.

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

E. The penalty involved is excessive.

### 8.6.5 Appeal Hearing Procedures

A. Establishment of Hearing Time and Place

1. If the employee has made timely appeal of disciplinary action, the Commission may investigate the matter and may require further evidence from the employee and/or District.

2. If the employee has made timely appeal of disciplinary action and requested a hearing thereon, the Commission shall fix the time and place of the hearing which will be within a reasonable length of time following the Commission's receipt of the appeal. The Commission shall promptly cause the employee and the District to be advised of the time and place of the hearing; such notification shall be in writing, made either by personal service or by certified mail, and shall be made so as to provide each party with at least five (5) working days notice to the scheduled commencement of the hearing.

3. The Commission may, in its sole discretion, for good cause change or continue any scheduled hearing date. In such case, the Commission shall give appropriate written notice of such change or continuance to both the employee concerned and the District.

4. Notice shall preclude the Commission from scheduling a hearing on its own motion, absent any request from the affected employee and/or the District for a hearing.

5. Any investigation and hearing shall be confined to the reasons for the disciplinary action as charged by the appointing authority and the relevant defenses set forth in the employee's appeal and answer.

B. Conduct of the Hearing

1. The Personnel Commission may, in its sole discretion, elect to conduct the hearing itself or may appoint a hearing officer to conduct the hearing and report the findings and recommendations to the Commission.

2. The hearing may be closed (restricted to parties) or open to the public at the option of the employee.

3. The hearing shall be informal, and neither the Commission nor its hearing officer shall be bound by technical rules of evidence in the conduct of the hearing. Decisions made by the Commission shall not be invalidated by an informality in the conduct of the hearing and/or form of its findings, conclusions, and decision.

4. Any relevant evidence shall be admitted at the hearing if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs irrespective of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions conducted in a court of law. Hearsay evidence may be admitted for any purpose but shall not, of itself, be sufficient to support a finding unless it would be admissible over objection in a civil action conducted in a court of law. The rules of privilege and of official or judicial notice shall be effective to the same extent as in civil actions conducted in a court of law. Irrelevant and repetitious evidence may be excluded. Oral evidence shall be taken only under oath or affirmation.

5. The Personnel Commission or its hearing officer shall determine the admissibility of all evidence proffered at the hearing, including its relevancy, weight, and the credibility of testimony and other evidence whether written or oral. Findings and conclusions shall be based upon a preponderance of evidence presented at the hearing.

6. The hearing shall be recorded on tape or by a Certified Shorthand Reporter. The party requesting the Certified Shorthand Reporter shall be responsible for all costs associated therewith. If the parties mutually agree to utilize the services of a Certified Shorthand Reporter, the costs thereof shall be shared between them on terms to be arranged between them. In the event that the services of a Certified Shorthand Reporter are utilized by the parties and a transcript thereof obtained, a true and correct certified copy of said transcript(s) shall be provided to the Commission and/or hearing officer free of charge.

7. Each party will be permitted an opportunity to make an opening statement (District first) and closing argument (Employee first). The District shall first present its witnesses and/or evidence in support of its charge(s) and the employee will then be afforded an opportunity to present witnesses and/or evidence. Implicit in the opportunity to present witnesses and/or testimony is

the right of the opposing party to cross-examine witnesses and/or object to the introduction of evidence.

8. Each party may petition the Commission in writing on a form obtainable from the Office of the Commission for the issuance of subpoenas to compel the attendance of witnesses and/or the production of documents. Such petition must be received in the Office of the Commission not later than ten (10) working days prior to the scheduled commencement of the hearing. It is the responsibility of the party requesting the subpoenas to ensure that proper service is made thereupon so as to ensure the attendance of witnesses and/or production of documents in a timely manner so as to permit the hearing to proceed as scheduled. Should the need arise during a hearing to subpoena additional witnesses and/or documents, petition may be made to the Commission or hearing officer, whichever is conducting the hearing, which shall have sole discretion as to whether the requested subpoena(s) shall be issued. The Commission or hearing officer, whichever is conducting the hearing, may, on its own motion, issue subpoenas and cause same to be served.

9. Both the District and the employee may be represented by counsel or other designated representative of their choice.

10. The Commission or hearing officer may permit an amendment of the charges at any time prior to the Commission reaching a decision. If such amendment is permitted and determined by the Commission or hearing officer to be substantial and requiring an opportunity for the employee to react to the amendment, the employee shall be given notice of the amendment, and be given an appropriate time in which to respond to the amendment. The Commission or hearing officer may, among other things, grant a continuance of the hearing, reopen the hearing, or take other such action as will, in its sole judgement, ensure that such amendment is not procedurally prejudicial to the employee and that a fair hearing will be had.

11. In the event that a hearing officer is used to conduct a hearing, their findings of fact and recommendations shall be submitted to the Commission no more than forty-five (45) working days following the conclusion of the taking of testimony and evidence or the date established for the submission of post-hearing briefs, whichever is later. The Commission may accept, reject, or amend any of the findings or recommendations. If the Commission does not accept the findings and recommendations as presented, the Commission shall review the record of the hearing or investigation, or the Commission may order a supplementary hearing or investigation before rendering a decision different than that recommended by the hearing officer.

12. In the event the Commission conducts a hearing, the Commission shall render its decision as soon as possible.

13. Whether the hearing is held in public or closed session, the Commission, after conclusion of the hearing, may deliberate to reach its decision in closed session. No persons other than members of the Commission, its counsel or advisor, and its staff, shall be permitted to participate in the deliberations. The Director, Classified Personnel shall not advise or make recommendations to

the Commission or participate in its closed session deliberations if the Director, Classified Personnel is the party who brought the action against the employee.

14. The Commission may sustain or reject, in whole or in part, any or all of the charges filed against the employee. It may sustain, reject, or modify the disciplinary action invoked against the employee, however, it may not provide for discipline more stringent than that invoked by the District.

15. If the disciplinary action is not sustained, and/or the penalty imposed is rejected or modified, the Commission's decision shall set forth the appropriate remedy, which may include determining the effective date the employee is to be reinstated, which may be any time on or after the date of disciplinary action, payment of all or part of the employee's full compensation from the time of suspension, demotion, or dismissal, and/or other measures as may be necessary to effect a just settlement of the appeal consistent with the Commission's findings.

16. The decision shall set forth which charges, if any, are sustained, and the reasons therefore. A copy of the decision shall be filed with the Board of Trustees and a copy delivered to the employee or mailed to the employee's last known address by certified mail no later than fifteen (15) working days following the Commissions deliberations and rendering its decision.

17. The Commissioner's decision shall be final and shall not be subject to review, modification, or reversal by the District's Board of Trustees.

### 8.6.6 Effect of Dismissal Action

Dismissal of any employee shall, unless otherwise ordered by the Commission:

A. Constitute a dismissal from any and all positions which the employee may hold and/or have held in the classified service.

B. Result in the automatic removal of the employee's name from any and all employment lists on which it may appear. The employee may not thereafter take any examinations offered by the District without prior written consent of the District.

C. Terminate the salary of the employee as of the date of dismissal except that the employee shall be eligible to receive any unpaid salary, accumulated unused vacation, and all accumulated unused overtime earned as of the date of the dismissal.

*(Reference Education Code Sections 45260, 45261, 45302-45307, 45311, and 45312)*

## 8.7 LEAVES OF ABSENCE WITH PAY

### 8.7.1 Paid Sick Leave *(Bargaining Unit Employees See Contract)*

Sick leave is the authorized absence of an employee because of personal illness or personal injury due to an accident or exposure to a contagious disease, or for other reason or purpose as may be permitted pursuant to provisions of these Rules.

A. A permanent employee shall earn sick leave at the rate of one day for each month of service not to exceed a total of 12 days a year. A permanent employee working less than 12 months a year shall earn sick leave as follows:

- 10 month employees = 10 days per year
- 11 month employees = 11 days per year
- 12 month employees = 12 days per year

B. A probationary employee earns one calendar day of sick leave per month during the probationary period (6 days) credited to the employee's account at the time of employment. Should the employee fail to successfully complete their probationary period, an adjustment may be made in the employee's final warrant for any excess of sick leave taken but not earned.

C. If an employee does not use the full amount of sick leave earned in any year, the amount not used shall be accumulated without limit. Employees cannot be reimbursed for accumulated sick leave.

D. At the beginning of each fiscal year, the sick leave "bank" of the employee shall be increased by the number of days of paid sick leave which they would normally earn in the ensuing fiscal year. An employee's sick leave "bank" shall be adjusted if a change of assignment alters the amount of sick leave earnable.

E. If an employee has used his or her full amount of sick leave for the fiscal year, and then terminates prior to earning the full 12 days, the unearned used days of such leave are deducted from the employee's final pay warrant.

F. Pay for any day of sick leave used shall be the same pay the employee would have received if the employee had worked that day.

G. In order to receive compensation while absent on sick leave, an employee (or authorized representative) must notify their supervisor of the absence before or within the first working hour of the first day absent. An exception to this is the Transportation Department, in which case the time set by the Director of Transportation will be in effect.

H. In cases where more than one day of sick leave is used, at least one working day prior to their expected return to work the employee shall notify their supervisor in order that the services of any substitute employed to fill the in for the absent employee may be terminated. If the employee fails to notify their supervisor, and both the employee and the substitute report, the substitute is entitled to the assignment, and the employee shall not receive pay for that day.

I. When an employee returns to work from an absence they shall complete a certificate of absence on a form prescribed by the District. The Principal or Department Head is authorized to require further evidence or proof of reasons for absence, if deemed necessary.

J. The District may require employees to report absences by utilizing an automated telephone absence notification system.

### 8.7.2 Long Term Sick Leave

If an absence is due to illness, which is not an industrial accident/illness, an employee has the option of using accumulated vacation following expiration of all accrued sick leave or retaining their vacation and receiving only differential pay. Differential pay is pay equal to the difference between the salary paid the substitute filling the position and an employee's regular salary.

If the absence is the result of an industrial accident/illness, the employee must use accumulated sick leave, vacation, and any other paid leave before receiving the differential pay.

### 8.7.3 Additional Sick Leave

A. After exhaustion of paid sick leave, an employee who remains to ill or injured to return to work may, upon request, use accumulated vacation to avoid leave without pay.

B. After exhaustion of all paid leave, a permanent employee may be placed on additional leave upon request and with the approval of the Board of Trustees. The additional leave may be paid or unpaid and may be extended for any period not to exceed twelve (12) months. If placed on unpaid leave, the employee shall not again become eligible for paid leave because of the commencement of a new fiscal year until they have rendered service in that fiscal year.

### 8.7.4 Termination of Sick Leave

If at the conclusion of all sick leave and additional leave, paid or unpaid, granted under this rule, the employee is still unable to assume the duties of the position, they will be placed on a reemployment list for a period of 39 months.

### 8.7.5 Transfer of Sick Leave

An employee entering into employment with the District on or after November 10, 1969, from another public school district(s) in California shall receive full credit for unused sick leave when the following conditions are met:

A. Such sick leave is properly reported and certified in the Personnel Commission Office of the District.

B. The employee has served in the former district for one calendar year or more.

C. The employee left the former district to accept a position with this District and/or the employee accepted employment with this District within one year of terminating employment with the former district.

## 8.8 INDUSTRIAL INJURY/ILLNESS LEAVE *(Bargaining Unit Employees See Contract)*

### 8.8.1 Reporting Procedure

In the event of an injury or illness covered by Workers' Compensation, the employee must:

A. Report the accident or illness to their immediate supervisor before the close of the working day in which it occurs.

B. Complete both the Employee's Claim for Workers' Compensation Benefits and Employer's Report of Occupational Injury or illness forms and file them with the Assistant Superintendent, Business Services, or designee within 24 hours of the time of the injury or illness, or as soon as practical thereafter.

### 8.8.2 Granting a Leave

A. If absence from work is necessitated by industrial injury/illness, a paid industrial injury/illness leave shall be granted provided:

   1. The appointing power or its designated representative has determined that the injury/illness was directly related to the performance of the employee's duties.

   2. If contested by the District, it is ultimately determined to be work connected.

B. Paid industrial leave shall be for not more than 60 working days per injury; however, the appointing authority may, in its sole discretion, grant additional leave.

C. Industrial injury/illness leave will begin on the first day of absence and will be reduced by one day for each day of authorized absence regardless of temporary disability allowance made under Workers' Compensation.

   Days absent while on paid industrial injury/illness leave shall not be deducted from sick leave.

D. Allowable leave shall not be accumulated from year to year.

   When an industrial injury/illness occurs at a time when it will overlap into the next fiscal year, the employee may carry over into the next fiscal year only the amount remaining at the end of the fiscal year in which the injury occurred.

E. If the employee is unable to return to work after exhaustion of industrial injury/illness leave, the employee shall receive sick leave if eligible. The amount deducted from sick leave will be only that necessary to provide a full day's wages when added to workers' compensation payments received by the employee, if any, from the State.

F. After all paid sick leave has been exhausted an employee shall receive pay from accrued vacation or any other accrued paid leave credit.

   After expiration of all paid leave the appointing authority may place the employee on industrial injury/illness leave without pay.

G. When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of their position, the employee shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. When medically able and available, during the 39 month period, the employee shall be employed in a vacant position in the class of their previous assignment over all other available candidates except for a reemployment list established because of lack of work or funds, in which case the employee shall be listed in accordance with appropriate seniority regulations.

H. Periods of industrial injury/illness leave of absence, paid or unpaid, shall not be considered to be a break in service for purposes of seniority.

I. An employee on industrial injury/illness leave and receiving benefits must remain within the State unless the appointing authority approves travel out of State.

### 8.8.3 Payment Procedure

A. During all paid leaves for industrial injury/illness, the employee shall endorse to the District wage loss benefit checks received under the Workers' Compensation Law of this State. The District, in turn, shall issue the employee appropriate warrants for payment of wages or salary and shall deduct normal retirement, and other authorized contributions.

B. Payment for wages lost on any day shall not, when added to an award granted the employee under the Workers' Compensation Law of this State, exceed the employee's normal wage for the day.

### 8.8.4 Return to Work from Workers' Compensation Injury/Illness Leave

No employee who has been absent due to a reported injury/illness Workers' Compensation claim shall be permitted to return to work without written authorization of the attending medical provider authorized by District procedures. Such written authorization shall be provided to the Assistant Superintendent, Business Services or designee in advance of the employee's return to work.

#### 8.8.4.1 Early Return to Work Program (RTW)

Should a doctor's release of an employee to return to work include restrictions and the district is able to accommodate those restrictions in the employee's regular job with some modifications or alternative job assignment in their department, the employee will be required to return to work. Such modifications shall not extend beyond thirty (30) days, but may extended with Commission approval. In no case will restrictions be accommodated for a period of over six (6) months.

### 8.8.5 Rights Upon Return from Leave

A. Upon return to service from any paid leave resulting from industrial injury/illness, an employee shall be assigned to a vacant position in the former class ahead of any employee with lesser seniority.

1. If no vacancy exists in the employee's former class, the employees may displace the most recently appointed employee in the class having less seniority.

2. If any employee's class has ceased to exist, the employee may be reassigned or placed on a suitable reemployment list.

B. When medically released for return to work, during the 39 month reemployment period, the employee shall be employed in a vacant position in the class of their previous assignment over all other available candidates except for a reemployment list established because of lack of work or funds, in which case the employee shall be listed in accordance with appropriate seniority.

An employee who has been placed on a reemployment list and who has been medically released for return to work who refuses to accept an appropriate assignment, shall be removed from the reemployment list. Employees removed from a reemployment list under this Rule may appeal removal to the Personnel Commission.

## 8.9 OTHER PAID LEAVES OF ABSENCE

### 8.9.1 Bereavement Leave *(Bargaining Unit Employees See Contract)*

A. Every employee shall be entitled to three (3) days leave of absence or five (5) days if out-of-state travel or travel in excess of 400 miles one way is required, for the death of any member of their immediate family.

B. Members of the employee's "immediate family" as used in this section mean: mother, mother-in-law, father, father-in-law, husband, wife, son, son-in-law, daughter, daughter-in-law, brother or sister, grandparents of employee or spouse, grandchild of employee or spouse, step-parent/guardian of any naturally or legally adopted relative living in the immediate household of the employee.

C. This leave shall not be deducted from sick leave.

D. A request for leave shall be submitted to Human Resources as soon as practical following the death of a member of the employee's immediate family.

### 8.9.2 Jury Duty and Witness Leave

A. Leave of absence for jury service shall be granted to any employee who has been officially summoned to jury duty in a local, state, or federal court.

1. Leave shall be granted for the entire period of required jury service actually served by the employee.

2. The employee shall receive full pay while on leave provided the jury service fee is assigned to, and the subpoena or Court Certification is filed with the District.

3. Request for jury service leave is initiated by presenting the official Court Summons for jury service to the Department Head, and then contacting the Human Resources Department for further instruction or guidance.

B. Leave of absence to serve as a witness in a court case shall be granted an employee when the employee has been served a subpoena to appear as a witness, not as a litigant, in the case.

1. The leave shall be granted for the number of days in attendance certified by the clerk or authorized officer of the court.

2. Employees shall receive full pay during leave period provided the witness fee, if any, is assigned to, and the subpoena or Court Certification is filed with, the District.

3. Request for leave of absence to serve as a witness should be initiated by presenting an official Court Summons or subpoena to Department Head and then contacting the Human Resources Department for further instructions or guidance.

C. Jury service and witness fee assignment referred to in A and B respectively does not include reimbursement for transportation.

D. The employee shall make himself available for work during hours when their presence is not required in court.

### 8.9.3 Personal Necessity *(Bargaining Unit Employees See Contract)*

An employee may not use more than ten (10) days per year of their regular sick leave benefits in cases of personal necessity, including the following:

A. Death of a member of the immediate family when additional leave is required beyond that provided by bereavement leave; immediate family is defined to include those identified in rule 8.9.1 – Bereavement Leave.

B. Accident involving their person or property, or the person or property of a member of their immediate family.

C. Appearance in Court as a litigant.

D. Any other reason as may be prescribed by the District, including religious holidays, which the employee cannot reasonably be expected to disregard.

E. Nothing in this policy shall be construed to permit an employee to be absent from their work station to participate in any form of work stoppage.

Authorization for personal necessity leave to be charged against the employee's sick leave account shall be provided by the employee on District forms and through the District telephone absence reporting system established for this purpose.

### 8.9.4 Vacation *(Bargaining Unit Employees See Contract)*

A. Vacation Eligibility

Every regular classified employee shall earn vacation in accordance with the schedules approved by the Board of Trustees.

In order to accrue vacation each month, an employee must be in paid status at least ten (10) working days of the month.

Earned vacation shall not become a vested right until completion of initial six month (or longer) probationary period.

1. Any part-time classified or hourly classified employee shall earn vacation at a rate proportional to the amount of time worked in that particular position as compared to a full-time position in accordance with schedules approved by the Board of Trustees.

2. Vacation shall be paid at employee's current salary rate.

3. New employees to the district, with a 12-month work calendar, may request to utilize vacation prior to being "vested" with approval from their supervisor. These vacation days must be repaid if the employee voluntarily leaves the district or does not pass their probationary period.

*(Revised 7/18/24)*

B. Accumulation of Vacation

1. Vacation credit may be accumulated to a total not exceeding that which the employee could earn in 15 months except upon written approval of the Superintendent or authorized representative. Vacation credit may be accumulated to a total not exceeding that which the employee could earn in two years.

2. When an employee has accumulated the maximum allowable vacation credit and when a critical emergency prevents them being off duty, the nature and duration of the emergency shall be reported to the Superintendent for resolution.

C. Vacation Schedules

Vacation schedules shall be prepared by the Department Head. Effort shall be made to enable vacation to be taken at times convenient to the employee consistent with the needs of the District and the workload of the department.

D. Vacation Payment Upon Separation

Upon separation from the District, a permanent employee shall be paid for their accumulated vacation credit at the rate of pay applicable to their last regular assignment.

E. Interruption or Termination of Vacation Leave

1. A permanent classified employee may interrupt or terminate their vacation to begin another type of paid leave, sick leave, or bereavement, under the following conditions:

    a. Illness or bereavement is for three (3) consecutive days or more.

    b. Illness or bereavement is such that had the employee been working, they would have been absent on such bereavement or sick leave.

    c. The employee, normally, is required to return to duty immediately following the vacation period.

    d. The request is filed with the appointing power within two weeks of the illness or bereavement or within, at the latest, one week of their return to duty. The burden of notification is upon the employee.

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

2. When all or part of an employee's vacation is converted to illness or bereavement leave the appropriate vacation credit shall be restored to the employee's account.

### 8.9.5 Release Time for Examination

Every regular employee in the classified service shall be permitted to be absent from their duties during working hours in order to take any examination for promotion in the District without deduction of pay or other penalty, provided that they give at least two days prior notice to their immediate supervisor.

## 8.10 LEAVES OF ABSENCE WITHOUT PAY

### 8.10.1 Application for Leave of Absence

Application for leave of absence without pay shall be submitted to the employee's immediate supervisor, in writing, stating the reason for the leave, the duration of the leave, and supporting information related thereto. Granting of a leave of absence without pay is discretionary with the Appointing Authority.

The Superintendent may grant a personal leave for Board employees without Board approval, providing it does not exceed five (5) working days. The Director, Classified Personnel may grant a personal leave for Commission staff without Commission approval, providing it does not exceed five (5) working days.

Notification of leaves granted shall be given to the Personnel Commission Office.

### 8.10.2 Condition for Granting Leave

A. Leaves of absence without pay may be granted to a permanent employee for any period not exceeding six (6) months, but may be extended for another six (6) months by the Appointing Authority. An initial leave and one extension is the total leave that may be granted to any employee on each request.

B. The granting of a leave of absence without pay gives to the employee the right to return to their position (same step, but with a recomputed anniversary date) at the expiration of the leave, provided a vacancy exists in the classification the employee held at the time the leave was granted.

   A physical examination may be required before the employee is permitted to return to work.

C. An employee shall not accept gainful employment while on personal unpaid leave of absence without receiving the prior written approval of the Appointing Authority.

### 8.10.3 Return from Leave

A. An employee may make a written request to the Appointing Authority to return to work prior to the expiration date of the leave. The Appointing Authority may approve or reject the request.

B. An employee must give notification not less than fifteen (15) calendar days prior to expiration of leave that they intend to return to their position.

C. Report of the reinstatement at or before the expiration of leave of absence without pay shall be made immediately to the Director, Classified Personnel. The report shall give the date on which the employee returned to duty.

D. Failure to report for duty within three (3) working days after a leave has been canceled or expires shall be considered abandonment of position and the employee may be terminated by the Board. The termination may be appealed to the Personnel Commission in the same manner as any other dismissal for cause.

E. If an employee's classification has been abolished during their absence, the employee shall be laid off for lack of work and placed on the reemployment list for the class effective the date of termination of leave. They may be returned to a vacant position in a class at the same or lower salary level for which they are qualified.

F. Time elapsed while on leave of absence without pay shall not be counted towards seniority, sick leave, or vacation privileges.

G. An employee on leave of absence has the rights of a permanent employee, and is considered a promotional candidate when taking tests for employment with seniority points being added if an open/promotional eligibility list is established.

### 8.10.4 Revocation of Leave

The Appointing Authority reserves the right to revoke a leave of absence if it is determined that the employee is engaged in a practice for which the leave would not have been initially granted. An employee whose leave has been revoked may be terminated.

The Appointing Authority may, for good cause, cancel any leave of absence by giving the absent employee due notification.

The employee may appeal the cancellation or revocation to the Personnel Commission which shall investigate and hear the appeal. The appeal by the employee will stay the cancellation or revocation directive of the Appointing Authority until action by the Personnel Commission, which shall be final and binding.

### 8.10.5 Maternity Leave *(Bargaining Unit Employees See Contract)*

A. Disability Due to Pregnancy

A classified employee is entitled to use a leave for disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom. The length of such disability leave, including the date on which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the employee's physician (normal period of necessary confinement is six to nine weeks total time.)

1. If an employee is absent from work due to a disability related to childbirth or pregnancy, the employee shall be entitled to utilize accumulated earned sick leave benefits during the period of disability.

2. The employee has the option of using accumulated vacation following expiration of all accrued sick leave or retaining their vacation and receiving only differential pay for the remainder of their disability leave.

3. To be eligible to receive these sick leave benefits, a form (available from the Human Resources office) completed and signed by the employee's physician verifying the period of disability is necessary.

B. Extended Child Rearing Leave

1. Extended leave without pay may be granted by the Appointing Authority upon a request from the employee and the recommendation of the staff of the Appointing Authority either prior to and/or following delivery.

2. The extended leave may be granted for three months, but may be extended to not more than 12 months with authorization from the Appointing Authority.

3. Sick leave benefits shall not be available for disability due to pregnancy or childbirth which occurs during the extended leave.

4. Dates of the leave shall be agreed upon by the requesting employee and the Appointing Authority or designated representative.

5. Extended child rearing leave shall not constitute a break in service; however, no salary advancement will be allowed for this period.

6. Employees shall return to their classification or an equivalent class if there is a vacancy.

7. Requests for extended leave shall be made as far in advance as possible on forms which are available in the Personnel Commission Office.

### 8.10.6 Military Leave

A. Leaves of absence for military service shall be granted as provided by the Military and Veteran's Code and applicable Federal statutes. Application for such leave shall be made as soon after receipt of orders as possible.

B. An employee returning from military service who presents evidence of such service shall be returned to a position in the former class or, if the classification has been abolished, has the privilege of accepting assignment to other vacancies of equal or lesser rank for which the employee is qualified.

## 8.11 PERFORMANCE EVALUATIONS *(Bargaining Unit Employees See Contract)*

### 8.11.1 Purpose of Performance Evaluations

A. The employee performance evaluation report, embodying significant factors for the various positions, shall have reference to the quality and quantity of work done, and other characteristics which may be considered important in rating and reporting the ability, performance, efficiency, of the respective employee(s) and the value of said employee(s) to the District service.

B. The following rules provide the performance rating standards and procedures which shall be used in connection with eligibility for advancement, promotion, demotion, and dismissal from the classified service, as well as other decisions relative to members of the classified service. Such evaluation reports shall be one means by which a member of the classified service can learn how their supervisor feels about the quality and quantity of the work being performed by the employee and have the opportunity to discuss the matter with the supervisor. In addition, the completion and review of the evaluation report with the employee affords the supervisor an opportunity to review the employee's performance with them in an effort to correct work deficiencies, recognize the employee's accomplishments, set goals and objectives, and/or encourage the person to greater efforts in the performance of their duties and responsibilities.

### 8.11.2 When Evaluations are to be Made

Performance evaluations for all permanent and probationary employees shall be filed with the Personnel Commission Office. Rating intervals shall be determined by the Commission.

A. Probationary employees shall be evaluated at the end of the second and fifth months of service by their site or department administrator. Administrative and executive classes having probationary periods of twelve (12) months shall be rated at the end of the third, sixth, and eleventh months of service.

B. Permanent employees shall be evaluated at least once each year on or before their anniversary date by their site or department administrator. If an employee's date of hire is before the 15$^{th}$ of the month, their anniversary date is established as the first of that month. If an employee is hired on the 15$^{th}$ of the month or after, their anniversary date is established as the first of the following month.

In the event a permanent employee has been under the supervision of a site or department administrator for less than two (2) months, the Director, Classified Personnel or administrative designee shall determine the employee's evaluator.

C. The Commission may provide for performance reports to be completed for temporary, substitute, and provisional employees.

### 8.11.3 Evaluator

Each employee is to be evaluated by their site or department administrator, who is defined as the person who assigns, checks, and supervises the work of the employee and who is immediately responsible for the employee, and is the most closely acquainted with the employee's performance. If the employee has more than one site or department administrator, each such administrator may evaluate the employee's work performance.

### 8.11.4 Procedure to be Followed

A. Performance evaluation reports shall be made on forms prescribed by the Commission, which shall be completed by the employee's evaluating site or department administrator. The form may be reviewed by the next higher supervisor.

B. The immediate supervisor shall present the performance evaluation to the employee, and discuss it with them. Together they will analyze the employee's strong points and the areas in which improvement may be made.

C. The form shall be signed by the site or department administrator and the employee. The employee's signature indicates receipt of the evaluation form, but does not imply agreement. The original evaluation form shall be sent to the Personnel Commission Office to be placed in the employee's personnel file. A copy of the evaluation shall be given to the employee.

D. Evaluations shall be based upon knowledge and/or investigation by the supervisor.

E. The employee shall have the right to respond in writing within ten (10) work days to the evaluation. Such response shall be attached to the evaluation and shall be placed in the employee's personnel file.

F. If, in the judgment of the site or department administrator, the employee is performing in an unsatisfactory manner or needs improvement, the site or department administrator shall discuss the unsatisfactory performance with the employee prior to the completion of the formal performance evaluation and within a reasonable time frame to allow the employee to improve. A written Performance Improvement Plan may be utilized by the site or department administrator and the employee to support the improvement process.

G. Performance evaluation reports shall be filed in the employee's personnel folder and shall be available for review in connection with promotional examinations and disciplinary actions.

H. Information of a derogatory nature shall not be placed in an employee's permanent file until after the employee is given ten (10) work days' notice to review and comment

thereon. Such review shall take place during the normal business hours, and employees shall be released from duty for this purpose without salary deduction provided timely notice is given to their supervisor in advance. An employee shall have the right to attach a rebuttal statement to any derogatory information.

### 8.11.5 Special/Off Schedule Evaluations

A. At any time, a site or department administrator may issue to an employee a “Notice of Outstanding Performance” or a “Notice of Unsatisfactory Performance”.

B. Above notices shall be completed on forms provided by the Commission and shall give specific reasons for either of the notices.

C. A copy of the notice shall be given to the employee and one copy placed in the employee’s personnel file and shall be available for review in connection with promotional exams.

### 8.11.6 Request for Reevaluation

In the event the performance rating is unsatisfactory or the employee believes the rating does not accurately report their work performance, they may request a review of the rating by the head of the department no later than sixty (60) days from date of the original evaluation.

### 8.11.7 Rating of Record

When an employee terminates employment, their most recent rating on file shall be the rating of record, and no additional rating need be made unless their performance has changed to unsatisfactory.

*(Section8.11 Revised 1/15/15)*

# CHAPTER 9: HOLIDAYS

## 9.1 HOLIDAYS (Bargaining Unit Employees Refer to the Contract)

### 9.1.1 Eligibility

Regular full-time and part-time classified employees shall be granted pay for legal and declared holidays provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday.

### 9.1.2 Holidays Observed

A. Legal Holidays

- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Recess (2 days)
- Winter Recess (2 days)
- New Year's Day (2 days)
- Martin Luther King Day
- Lincoln's Birthday
- Washington's Birthday
- Spring Holiday or floating holiday (1 day)
- Memorial Day

Any declared day by the President, the Governor of this State, for a public fast, a day of Thanksgiving or holiday, or any declared a holiday which the Board specifies.

B. Additional days as may be granted by the District.

C. When a holiday falls on Saturday the preceding Friday will be observed as the holiday.

D. When a holiday falls on a Sunday the following Monday will be observed as the holiday.

### 9.1.3 Exchange of Holidays

A. The Board of Trustees may designate other days during each year as holidays for classified employees in lieu of Lincoln's Day, Washington's Day, Memorial Day, Admission Day, and/or Veteran's Day.

B. Such other designated days in lieu of above holidays must provide a three-day weekend.

C. Employees shall be required to work on a holiday observed on another day. Compensation shall be at the employee's regular rate.

D. If an employee would not be eligible for pay for the "in lieu" holiday because they would not be in paid status before or after the designated day, they shall be entitled

to observe or be paid for the regular holiday. If they are required to work on the regular holiday, they shall be paid time and one-half of the regular rate in addition to regular pay received for the holiday.

E. If any classified employee whose work week is other than Monday through Friday, and as a result of the change in schedule for Washington's Day or Memorial Day, loses a holiday to which they would otherwise have been entitled, the District is required to provide the employee with a substitute holiday or provide compensation for regular holiday worked at double time and one-half.

### 9.1.4 School Holidays

In order to receive pay for a holiday, an employee must be in paid status the day immediately preceding or succeeding the holiday. An employee terminating the day before the a holiday or a new hire commencing work the day after a holiday shall not receive pay for that holiday.

Regular employees who are not normally assigned to duty during any winter, mid-February or spring recess shall be paid for the holidays that fall therein, provided they are in a paid status immediately preceding or following the recess period.

### 9.1.5 Holidays Worked

Any classified employee required to work on any holiday shall be paid compensation for such work at a rate not less than time and one-half in addition to regular pay received for that holiday.

# CHAPTER 10: PROBLEM SOLVING PROCEDURE

## 10.1 PROBLEM SOLVING PROCEDURE

### 10.1.1 Terms and Conditions

A. Problem – an alleged misapplication, misinterpretation, or violation of existing rules and regulations of the Ocean View School District.

B. A decision rendered at any step in the procedure becomes final unless appealed within time limits specified or any extension mutually agreed upon.

C. There is an obligation on the part of the employee having a problem to make known the existence of any complaint and the facts pertaining to it within twenty (20) working days of a specific or documented incident or at the earliest possible date after recognition of a non-specific occurrence.

D. Exclusions: Matters excluded from the problem solving procedure shall be:

1. Written charges recommending suspension, demotion, or dismissal.

2. Performance evaluations the employee deems unjust or unfair.

3. Accusatory charges relating to the moral or professional fitness of an employee.

4. Complaints about subject matter of a rule, policy, or administrative procedure (rather than administration or interpretation). Employees with such complaints should direct any suggestion for change to the appropriate authority.

5. Matters subject to the grievance procedure set forth in any collective bargaining agreement between the District and its classified employees.

### 10.1.2 Informal Procedure

In order to promote harmonious relationships, open communications, and prompt response to employee concerns, every effort shall be made to resolve problems as promptly as possible and at the first level of supervision through the informal procedure.

A. <u>STEP 1</u>
Informal complaints, written or oral, shall be submitted to the employee's immediate supervisor.

An informal discussion between the supervisor and the employee shall take place no later than five (5) working days after submission of the problem.

B. <u>STEP 2</u>
If the problem has not been resolved at the immediate supervision level, the employee may, within five (5) working days, request either orally or in writing that an informal review be made by the department head.

The department head shall attempt to hold a conference with the parties concerned within five (5) working days after receipt of the request for informal review. After the conference, the department head shall render a decision within five (5) working days.

### 10.1.3 Formal Procedure

A. STEP 3

If the problem is not settled through informal discussion or at the department head level, the employee may formally submit a complaint in writing within five (5) working days after receipt of decision from the department head, requesting a review of the problem by the Assistant Superintendent, Human Resources.

The written request shall contain the following:

1. A clear, concise statement of the complaint.
2. Act or condition on which it is based.
3. Course of action that has been followed.
4. Reasons why the decision, if any, is being appealed.
5. Persons involved.
6. Remedy desired.
7. Copies of any documents considered appropriate to the problem.

The Assistant Superintendent, Human Resources, shall hold a conference with all interested parties within five (5) working days of receipt of the letter unless there is mutual agreement that more time be allowed.

The Assistant Superintendent, Human Resources, following a review of the problem shall render a decision within 15 days unless there is a mutual agreement that more time be allowed.

B. STEP 4

If the employee is dissatisfied with the decision from the Assistant Superintendent, Human Resources, the employee may submit a written request for a review to the Superintendent. If after a review by the Superintendent, the employee is still dissatisfied, the employee may appeal directly to the Board of Trustees for review and/or hearing.

After the Board has reviewed the problem, it shall notify the Superintendent and the individual as soon as possible. The decision of the Board shall be final and conclusive.

## 10.2 PROCEDURES FOR VIOLATION OF PERSONNEL COMMISSION RULES AND REGULATIONS

### 10.2.1 Violation of Rules

A. Filing

A charge that the District, an employee organization or its representatives or members, individually or in concert with others, has engaged in or is engaging in any violation of Commission rules or Education Code provisions applicable to merit system districts may be filed by a management representative, by a representative of any employee organization, or by an individual employee or group of employees. Such charge shall be filed in writing in a manner prescribed by the Commission, shall be signed, and shall contain a declaration by the person signing, under penalty of perjury, that its contents are true and correct to the best of their knowledge and belief. The charging party will be expected to support its charge.

A charge shall be deemed untimely and subject to dismissal to the extent that it is filed with the Commission in excess of thirty (30) days following occurrence or discovery of the alleged act or acts on which the charge is based. This rule shall not be subject to the waiver of time requirements.

B. Contents

Such charge shall contain, insofar as is known, the following information.

1. The full name, address, and affiliation, if any, of the charging party, and the title of any representative filing the charge.

2. The full name and address of each charged party (respondent).

3. A clear and concise statement of the facts constituting the charge, including the time and place of occurrence of each particular act alleged, names of persons who allegedly engaged therein, and the sections (including subsections) of the rules alleged to have been violated.

C. Service of Charge

Upon filing a charge, the charging party shall be responsible for service of a copy thereof, within three (3) calendar days, upon the party against whom such charge is made. Proof of service shall be furnished to the Commission.

The Commission will not take any action concerning the charge until a minimum of five (5) days has expired since service of the charge on the charged party(ies).

### 10.2.2 Preliminary Investigation of Charge

After a charge is filed, the Commission may refer the charge to its Director, Classified Personnel or other designated Commission agent, who shall investigate the charge and report thereon to the Commission. Such report may be oral or written and shall remain confidential.

### 10.2.3 Commission Action

Upon receiving such preliminary investigation report, the Commission may dismiss the charge in whole or in part, may order a further investigation, or may direct that a charge and notice of hearing be scheduled and shall notify the respondent(s) and all other parties involved, or the Commission may take such other action as it deems appropriate. The notice of hearing, if issued, shall set forth the charge. Such notice of hearing shall also fix the place of hearing at a time not less than fourteen (14) calendar days from issuance thereof, and shall specify whether the hearing will be conducted by the Commission, or by a hearing officer, or an individual Commissioner authorized to act on behalf of the Commission (hereinafter referred to as hearing officer).

### 10.2.4 Answer to Charge Contained in Notice of Hearing

A. A respondent shall file an answer within fourteen (14) calendar days after service of the charge and notice of hearing, and at the same time shall serve a copy of the answer on the charging party.

B. In the event a respondent files with the Commission a motion for a bill of particulars addressed to the charge, the time for filing an answer to the charge shall be extended by order of the Commission, but not more than fourteen (14) days following the denial of the motion, or fourteen (14) days following the receipt of a charge amended in response to the granting of such motion.

C. The respondent shall specifically admit, deny, or explain each of the allegations in the charge, unless the respondent is without knowledge, in which case the respondent shall so state, and such statement shall operate as a denial.

D. If no timely answer is filed, all allegations in the charge shall be deemed admitted.

E. If any allegation in the charge is not denied or explained, that allegation shall be deemed admitted.

F. The answer may include a specific, detailed statement of any defense.

G. This section (10.2.4 A through F) does not apply to cases involving discharges, suspensions, or demotions.

### 10.2.5 Hearings

See Section 8.6.5 (B) Conduct of Hearings

### 10.2.6 Investigations

In accordance with the Education Code, the Commission or its Director, Classified Personnel, by direction of the Commission, may conduct investigations. Pursuant to an investigation, the Director, Classified Personnel may, at will, inspect any records of the governing board that may be necessary to ensure that Commission procedures have been followed. Upon conclusion of an investigation, the Commission's designee shall make a confidential report to the Commission. The Commission may schedule an evidentiary hearing as a result of the report. If such a hearing is scheduled, the procedures in Section 8.6.5 Hearing Procedures, shall apply, except that the provisions of Section 8.6.5 (B) 4 and

8 shall not apply. During an investigation or subsequent hearing by the Commission, the Commission or its Director, Classified Personnel, may subpoena district employees to require their attendance. The payment of mileage and/or witness fees shall not apply to district employees who are subpoenaed to appear during their regularly scheduled work shift. Witness fees for district employees shall be calculated at the straight time hourly rate rounded upward to the nearest half hour. Witness fees for non-district employees shall be fifteen ($15) dollars per day. Mileage fees shall be calculated from home to hearing and return at the rate of approved IRS rate per mile.

### 10.2.7 Final Order

A. Upon conclusion of a hearing conducted by a hearing officer pursuant to these rules, and only after consideration of the hearing officer's report, the Commission shall act either to adopt, modify, or reverse the report, or any part thereof, filed by the hearing officer.

B. Upon the conclusion of a hearing conducted by the Commission as a whole, the Commission shall issue, within a reasonable period of time, its written findings.

C. In all cases, upon the conclusion of any hearing conducted pursuant to these rules, the Commission shall render a decision and appropriate written order dismissing or sustaining the charge in whole or in part, or directing the respondent to take such corrective action as the Commission may deem appropriate, or such other action as the Commission deems necessary to effectuate its rules, including but limited to, the issuance of a cease and desist order.

D. If remedial action is ordered, the respondent shall advise the Commission when the required remedial action has been effected.

### 10.2.8 Waiver of Time Requirements

Either the Commission or the hearing officer may act to modify or waive any of the specific time requirements set forth in these rules upon showing of good cause, except that the hearing officer shall not be empowered to extend the time for filing their report.

# CHAPTER 11: MISCELLANEOUS

## 11.1 MISCELLANEOUS

### 11.1.1 Work Periods and Overtime (BARGAINING UNIT EMPLOYEES REFER TO CONTRACT)

A. Workday and Work Week
The maximum number of hours of regular employment of an employee is eight hours per day. However, the Board of Trustees may employ persons for less periods of time and may authorize and/or order employees to work in excess of eight hours in one day or 40 hours in one week.

The Board may establish a 10 hour, 4 day work week, or a 9 hour per day, 80 hour per 2 week work schedule for employees.

B. Overtime Defined
For full time employees, overtime is authorized working time in excess of the regular established work day or work week.

If the Board establishes a work week of less than 40 hours but more than 35 hours per week all work in excess of a scheduled work day or week is considered overtime.

If an employee works four hours a day or more, such employee shall be compensated for any work required to be performed on the six and seventh day of the work week at time and one-half.

If an employee works less than four hours per day, such employee shall be paid time and one-half for all work required and authorized on the seventh day of the work week.

C. Compensation for Overtime
A regular employee who works authorized overtime shall be compensated at a rate equal to one and one-half times their regular rate for the amount of overtime worked.

D. Classifications Exempt from Overtime Payment
Employees in classes designated as management shall be excluded from overtime payment provisions of the rule and shall be subject to the certificated administrative vacation schedule.

### 11.1.2 Rest Periods
Regular classified employees shall be allowed rest periods in accordance with District policy.

### 11.1.3 Shift Differential
When one half of an employee's regularly assigned time is assigned to be worked after 5:00 p.m., a shift differential of 5% shall be added to the employee's base pay for all hours actually worked.

### 11.1.4 Time Cards
Monthly time cards are submitted by each employee to their respective department head or principal. These will be checked for accuracy and signed by the designated department

head or principal whose responsibility it will be to see that the information is submitted to the business office on the designated dates.

### 11.1.5 Pay Days

Hourly employees are paid on the 10th of each month. Monthly employees may be paid twice a month, on the 10th and 25th. If the 10th or the 25th falls on a Saturday or Sunday, employees are paid on the preceding Friday.

### 11.1.6 Criminal Record Check

A. Fingerprinting
Each new employee shall be fingerprinted.

B. Review of Criminal Record

1. All criminal record reports are to be treated as confidential. Any employee charged with receiving and/or reviewing them who divulges this information to an unauthorized person will be subject to disciplinary action.

2. The criminal records report will be reviewed and if there is a record, the appointing authority shall decide whether or not the person should be employed or retained in employment.

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

4. If the Commission approves the recommendation, it shall notify the employee or eligible of the action taken or contemplated and the reasons.

   The Personnel Commission shall provide the person concerned with an opportunity to appeal the decision in writing within 10 days of notification. The Commission may hold a hearing at its discretion. The decision of the Commission shall be final.

### 11.1.7 Health Examinations

A. Tuberculosis Examinations *(Reference Education Code 49406)*

1. No applicant shall be initially employed by the district, or employed under contract, in a classified or certificated position unless they have submitted to a tuberculosis risk assessment within the past 60 days and, if tuberculosis risk factors are identified, has submitted to an intradermal or other approved tuberculosis examination to determine that they are free of infectious tuberculosis. If the results of the examination are positive, the applicant shall obtain a chest x-ray of the lungs. At their discretion, an applicant may choose to submit to the examination instead of the risk assessment.

2. Prior to employment by the district, an applicant shall submit a certificate from an authorized health provider stating that the applicant was assessed and/or examined and fount to be free of infectious tuberculosis.

3. An applicant who was previously employed in another school district or private or parochial school shall be deemed to have fulfilled the tuberculosis testing requirement if they produce a certificate showing that they were found to be free of infectious tuberculosis within 60 days of initial hire or if their previous employer verifies they have a certificate on file showing that the applicant is free from infectious tuberculosis.

4. Thereafter, each district employee who was found free of infectious tuberculosis shall undergo a tuberculosis risk assessment and an examination whenever risk factors are identified, at least once every four years or more often when required by the Governing Board upon recommendation of the county health officer. However, once an employee has a documented positive test for tuberculosis infection followed by an x-ray they shall no longer be required to submit to the tuberculosis risk assessment but shall be referred to the county health officer within 30 days of the examination to determine the need for follow-up care.

5. The cost of pre-employment tuberculosis risk assessment and/or examination shall be paid by the applicant, unless the Board has determined that the district will reimburse an applicant who is subsequently hired by the district. The district shall reimburse the employee for the cost, if any, of subsequent tuberculosis risk assessments and examinations. The district may provide for the risk assessment and examination or may establish a reasonable fee for the examination that is reimbursable to the employee.

6. The District shall maintain adequate records on each employee which indicate compliance with this rule.

7. The following applicants or employees shall be exempted from the requirement to submit to a tuberculosis risk assessment and/or examination:

    a. An applicant/employee who files an affidavit stating that they adheres to the faith or teachings of a well-recognized religious sect, denomination, or organization and, in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion and that, to the best of their knowledge and belief, they are free from infectious tuberculosis.

    b. Such an exemption shall be allowed only if the Board determines by resolution, after a hearing, that the health of students would not be jeopardized. If at any time there is probable cause to believe that the applicant/employee is inflicted with infectious tuberculosis, they may be excluded from service until the Board is satisfied that they are not afflicted.

B. Medical Examinations *(Reference Education Code 45122)*

1. Individuals appointed to a position in the Classified Service, or as a substitute, limited term, temporary, provisional, or exempt employee may be required to pass a job related physical examination prior to initial appointment. Promotional eligibles who have been offered employment in a classification possessing different physical requirements may also be required to undergo a medical examination as determined by the Personnel Commission.

The examination will be administered after the initial offer of employment prior to actual finalization of the appointment. The examination shall be administered by a physician chosen by the District. The determination of the kind and extent of the examination shall be determined by the Personnel Commission. Costs associated with this physical shall be borne by the District.

2. The District's physician shall determine the ability of the applicant, candidate, or eligible to perform the prescribed duties of the class in which their shall be employed, and shall notify the Personnel Administrator of the medical findings.

3. If the District's physician proposes to disqualify the individual, the doctor shall provide the Personnel Administrator with a statement describing the specific condition and the limitations that have resulted in the individual's disqualification.

4. In consultation with the District's physician, the Personnel Administrator shall make a determination if reasonable accommodation can be made for the individual. If the determination is that reasonable accommodation can be made, the appointment shall be made. If the determination is that reasonable accommodation is not possible, the individual will be so notified by the Personnel Administrator and informed of appeal rights to the Personnel Commission.

C. Return to Work and Unscheduled Exams *(Reference Education Code 45122)*

1. An employee may be required to undergo a physical examination at any time there is deemed to be reasonable cause by the District Administration, subject to review by the Personnel Administrator.

2. Employees returning from illness/injury leave of absence may be required to submit medical evidence to verify sufficient recovery to return to the employee's regularly assigned duties and any limitations.

D. School Bus Driver Medical Examinations *(Reference Education Code 45122)*

1. In addition to any other examination that may be required by these rules, Bus Drivers must have a valid medical card as required by state law. The District shall arrange for and defray any cost for the Bus Drivers' examination for District employees.

2. Under Federal Law, Bus Drivers must also test negative in a pre-employment drug screen as well as in subsequent random drug screens during their employment.

E. Medical Review Board

1. Any rejection for medical reasons of an eligible or of an employee who has been on leave of absence may be appealed to the Personnel Commission.

2. The appeal process shall be conducted pursuant to these Rules.

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

4. 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. The decision of the Commission shall be final and binding on all parties.