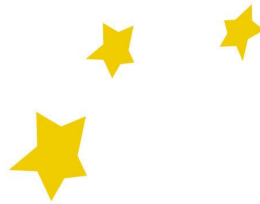


PERSONNEL COMMISSION



Great Schools
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FULLERTON
SCHOOL
DISTRICT



RULES AND REGULATIONS OF THE CLASSIFIED SERVICE

REVISED 12/2023

PERSONNEL COMMISSION RULES AND REGULATIONS OF THE
Fullerton School District
Classified Human Resources Services
1401 West Valencia Drive
Fullerton, California 92833

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CHAPTER 10
RULE-MAKING AUTHORITY AND DEFINITIONS

10.1 **AUTHORITY AND APPLICATION OF RULES**

10.1.1 **STATUTORY AUTHORITY FOR THESE RULES:** Article 6 (Merit System) in Chapter 5 of Part 25 in Division 3 of the California Education Code (commencing with Section 45240) provides the Personnel Commission with the right and responsibility for establishing rules and regulations to govern the District’s classified employees.

10.1.1.1 The rules and regulations contained herein are established by the Personnel Commission pursuant to its authority under Education Code Section 45260; as well as other provisions of law that have been made applicable to classified school employees.

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

REFERENCE: 1. Education Code Section 45260
2. Government Code Section 3543.2

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 However, specific and applicable provisions of the rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases.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

REFERENCE: 1. Education Code Section 45260

10.1.3 **JUDICIAL REVIEW:** If a judicial reviewer a change in law causes any portion of these rules to become invalid or unenforceable, such finding or amendment shall not affect the validity or the enforceability of the other rules or regulations.

REFERENCE: 1. Education Code Section 45260

10.1.4 **PRINTING AND DISTRIBUTION OF RULES AND REGULATIONS:** The Rules and Regulations of the Personnel Commission shall be printed and made available to each school site, office and permanent worksite where employees report and disseminated to employees via website and access to hard copies.

REFERENCE: 1. Education Code Section 45262

10.1.5 **SUBJECTS OF RULES:** The Rules and Regulations shall provide for the procedures to be followed by the Board of Trustees as they pertain to the classified service regarding such matters as applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters deemed necessary by the commission to meet its obligations under the Education Code.

REFERENCE: 1. Education Code Sections 45260-45261

10.2

DEFINITIONS

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

ADMINISTRATIVE LEAVE/IMMEDIATE SUSPENSION WITH PAY: Mandatory paid leave utilized for the purpose of conducting an investigation; placement of an employee on paid leave if it is perceived that there is a danger to the health, safety and well-being of the employee, students, fellow employees or District property; for reasons deemed appropriate by District administrative staff; or through Education Code mandate.

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

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

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

ASSIGNMENT: Placement of an appointee in a position. It also refers to the position to which the employee is placed.

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

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

CANDIDATE: A person who has participated or completed in one or more portions of the District’s selection process.

CAUSE: Those specific activities, behaviors, or events which are listed within these rules as being subject to disciplinary action.

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

CERTIFICATION: The submission of names, by the Personnel Director, of candidates from an appropriate eligibility list (established by the Personnel

Commission), or from some other source of eligibility, to the appointing power or to the department head authorized to make selections subject to the approval of the appointing power.

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

CLASSIFICATION: The action of the Personnel Commission in placing a position into a “Class.”

CLASSIFIED SERVICE: All persons and positions in the District to which “The Act” applies.

CLASS SPECIFICATION: (Sometimes referred to as a “Class Description”) A formal statement of duties and responsibilities of the position(s) in the class, illustrated by examples of typical tasks, as well as the qualification requirements for employment in the position(s) in the class.

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

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

DIFFERENTIAL OR DIFFERENTIAL PAY: A salary allowance in addition to the basic salary rate or schedule, based upon additional skills, responsibilities, or specifically scheduled working hours. It also relates to the size of the interval(s) between steps on a salary range and/or the salary rates (ranges) of related classes.

DISCHARGE OR DISMISSAL: Separation from the classified service for cause in accordance with the Rules and Regulations of the Personnel Commission. Requires action by the Board of Trustees.

DISTRICT: The Fullerton School District

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

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

ELIGIBILITY LIST: A rank order list of the names of persons who have qualified for possible employment through one of the District's competitive examination processes.

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

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

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

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

EMPLOYMENT STATUS: The condition of an employee's present appointment indicating the degree of permanency with the District.

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

EXEMPT CLASSIFIED: Refers to those positions and employees exempt from the regular classified service.

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

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

GOVERNING BOARD: The Board of Trustees of the Fullerton School District (see "Board of Trustees" and/or "Appointing Authority or Power").

GRIEVANCE: An employee complaint concerning conditions of employment. This term does not apply to appeals from disciplinary actions, requests for classification study, or salary review.

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

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

HIRE DATE: Date of original or most recent employment with the District.

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

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

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

LEAVE OF ABSENCE: An approved absence from duty, with or without pay, for a prescribed period of time from a class, but not necessarily from a specific position within the class.

LIMITED TERM: A term used in the Education Code (and these rules) to designate employment for periods of not to exceed six (6) calendar months.

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

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

MERGING: The act of combining two or more eligibility lists for the same class, which were established not more than a year apart, in the rank order of the scores of the eligibles. Even though the eligibility lists have been merged, each list individually expires one (1) year following the date on which it was established by the Personnel Commission; not following the date on which they were merged.

MERIT SYSTEM: A personnel management system in which cooperative merit and fitness govern each individual’s selection and process through the classified service.

PERFORMANCE EVALUATION: A formal written statement of the quantity and/or quality of the work performed by a person employed in the District’s classified service.

PERMANENT EMPLOYEE: In reference to District employment status, an employee who has completed an initial probationary period of six months or one hundred thirty (130) days of paid regular service in the classified service (excluding days absent for illness or injury), whichever is longest, or two hundred sixty (260) days (excluding days absent for illness or injury) for positions designated by the Commission as executive, administrative, or supervisory. In reference to employment status in a specific class, an employee who has completed a probationary period for that class.

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

PERSONAL NECESSITY LEAVE: A leave of absence with pay for a limited duration which may be taken for reasons of personal need, as specified in the Education Code.

PERSONNEL COMMISSION: (also referred to as “Commission”) A three-member committee established pursuant to the requirements of “The Act” to administer the “Merit System” in the Fullerton School District.

PERSONNEL DIRECTOR: (also referred to as “Director of Classified Personnel Services”) As used in these rules, the term refers to the person appointed by the Personnel Commission to act as its designated representative in administering the “Merit System” under the provisions of law and the Rules and Regulations established by the Personnel Commission.

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

POSITION: A group of duties and responsibilities assigned by competent authority which requires either full-time or part-time employment of one person on a permanent or limited term basis. A position can only be established by action of the Board of Trustees, or by the Personnel Commission for a member of its own staff.

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

PROBATIONARY PERIOD: A trial period of six months or one hundred thirty (130) days, whichever is longest, or two hundred sixty (260) days for executive/administrative/supervisory employees, of paid service (excluding days

absent for illness or injury) following appointment to a permanent position from an appropriate eligibility list.

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

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

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

PROVISIONAL APPOINTMENT: A temporary appointment of a person to a permanent or limited term position which is made in the absence of an appropriate eligibility list for a period of time not to exceed ninety (90) working days except in specified circumstances.

PROVISIONAL EMPLOYEE: A person employed temporarily while the selection (testing) process is being conducted to fill the position.

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

RECLASSIFICATION: The removal of a position or positions from one class and placement into another. A change in class assignment (upward or downward) as a result of a change in duties.

REEMPLOYMENT: Return to duty of a former employee who has been laid off.

REEMPLOYMENT LIST: A list of names (in rank order of seniority) of persons who have been laid off from permanent positions by reason of a lack of work, lack of funds, abolishment or reclassification of positions, exhaustion of illness or accident leave privileges, or other reasons specified in the Rules and Regulations of the Personnel Commission, and who are eligible for reemployment without examination in their former class or classes (within a period of thirty-nine months following the date of layoff).

REGULAR APPOINTMENT: An appointment made from an eligibility list to fill a regular full-time or part-time position vacancy.

REGULAR EMPLOYEE: A person (employee) who has probationary or permanent status with the District.

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

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

REINSTATEMENT: A reappointment of a former employee, within a period of thirty-nine (39) months following the date of his resignation, without examination, to a position in one of the person's former classes, or in a related former class. Such reappointment requires the District to restore all rights and benefits earned by the person prior to the resignation.

RESIGNATION: Voluntary termination by an employee of his employment.

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

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

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

SALARY RANGE PLACEMENT: The act of placing a specific classification into a specified range of the salary schedule or salary matrix by the Personnel Commission.

SALARY SCHEDULE: The complete list of ranges, steps, and rates of pay for the classified service. Often referred to as the salary matrix.

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

SALARY SURVEY: The collection of current wage and salary data for the purpose of determining the prevailing wage for certain types of work.

SENIORITY: Status secured by length of service (in a classification) to which certain rights attach; including, but not limited to, the calculation of extra points for employees taking promotional examinations, and for determining the order of layoff when positions within a classification are eliminated.

SEPARATION: Leaving one's employment with the District. This term includes resignation, dismissal, layoff, retirement, etc. The ending of all status as an employee.

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

STATUS: The employee's present standing in the classified service: e.g. temporary, limited term, probationary, permanent, etc.

STEP ADVANCEMENT: Movement to a higher step on the salary range for the class as a result of having served the required number of months in that class during the preceding twelve months, until the maximum step (usually the sixth step) has been achieved.

SUBSTITUTE EMPLOYEE: A person who is temporarily occupying a regular position during the absence of the incumbent.

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

TEMPORARY: Employment on the basis of other than permanent or probationary status: e.g. limited term or provisional status.

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

UNSATISFACTORY SERVICE: The performance of assigned duties and responsibilities in a manner which is considered detrimental to the good of the District, or the failure to perform them adequately.

VETERAN'S CREDIT: Five points (or ten points for persons disabled as the result of military service) for military or related service rendered during time of war or national emergency, and which are to be added to the final passing score of such person or persons competing in an entrance examination.

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

REFERENCE: Education Code Sections 45103, 45127, 45194, 45256, 45260, 45261, 45262, 45269, 45270, 45275, 45285, 45286, 45287, 45290, 45292, 45294, 45296, 45298, 45301, 45302, 45305, 45307, and 45309

10.3 **VIOLATION OF MERIT SYSTEM LAWS**

10.3.1 **VIOLATION SHALL BE CRIMINAL ACT:** Any person who willfully or through culpable negligence violates any of the provisions of Article 6, commencing with Section 45240 of the Education Code is guilty of a misdemeanor.

REFERENCE: 1. Education Code Section 45317

10.3.2 **OTHER UNLAWFUL ACTS:** In addition to the prohibition on unlawful acts outlined in Rule #10.3.1, it is also unlawful for any person:

10.3.2.1 Willfully either alone or in cooperation with another person to defeat, deceive, or obstruct any person with respect to any right of examination, application, or employment under the merit system laws of the Education Code or the rules and regulations of the Personnel Commission.

10.3.2.2 Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under the merit system laws of the Education Code or the rules and regulations of the Personnel Commission, or to aid in doing, or make any false representation concerning the same or the person examined.

10.3.2.3 Willfully to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under the merit system laws of the Education Code or the rules and regulations of the Personnel Commission.

REFERENCE: 1. Education Code Section 45317

CHAPTER 20
THE PERSONNEL COMMISSION

20.1 ORGANIZATION OF THE COMMISSION

20.1.1 TERM (S) OF THE COMMISSION AND GENERAL SELECTION PROCEDURES:

The Personnel Commission is composed of three individuals who must be registered voters, reside in the Fullerton School District, and be “known adherents to the principle of the merit system.” 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 employee organization which represents the largest number of the District’s classified employees, and the third member is appointed by the other two members of the commission.

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

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

20.1.1.3 By law, the term of office for each of the commissioners is for a three (3) year period and expires at noon on December 1st of the third year. The terms of office have been scheduled so that the term of office of not more than one commissioner expires each December 1st.

20.1.1.4 Appointees to a commission in a district which has newly adopted the system shall take office upon receipt of notification of appointment, but the term of office shall run from noon of the first day of December next succeeding.

REFERENCE: 1. Education Code Sections 45244, 45245, 45246, and 45247

20.1.2 SPECIFIC APPOINTMENT PROCEDURES: On or about September 1st of each year, the Personnel Director shall notify the Board of Trustees and the recognized classified employee organization(s) of the name of the commissioner whose term will

be expiring. The notification will also provide the name of the appointing authority, and the procedures to be followed in filling the upcoming vacancy.

20.1.2.1 **The Board of Trustees' Appointments:** By September 30th, 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 (30) and within forty-five (45) days of the date the Board publicly announced its candidate, the Board shall in open hearing 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.

20.1.2.2 **The Classified Employees' Appointment:** The classified employees shall submit the name of its nominee to the Board at least thirty (30) days prior to the date on which the vacancy will occur. The Board shall appoint that nominee to be effective on the date on which the vacancy would occur, 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.

20.1.2.2.1 In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on September 1st (of the year in which the classified employees' appointment is to be made) shall be the one authorized to submit the recommended appointment to the Board of Trustees for action as required by law and these rules and regulations.

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

20.1.2.2.3 In the event that a vacancy is created on the Personnel Commission because of the classified employees

failure to agree upon a nominee, the Board of Trustees, upon the recommendation of the Personnel Director, may make an emergency appointment until such time as a permanent appointment can be made.

20.1.2.3 **The Commissioners' Appointment:** By September 30th, 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 (30) days of when the Commission publicly announced its candidate, the Commission shall in open hearing provide the public, employees, and employee organizations the opportunity to express their views on the qualifications of the person recommended for the vacancy. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

20.1.2.3.1 If the Board of Trustees and the classified employees are unable to agree upon a nomination by September 30, the Superintendent of Public Instruction shall make the appointment within thirty (30) days.

20.1.2.4 A Commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed, but not for more than 90 calendar days.

REFERENCE: 1. Education Code Sections 45244-45248

20.1.3 **FILLING OF VACANCIES DURING TERM OF OFFICE:** In the event that a vacancy occurs during the term of office of any of the commissioners (pursuant to the definition as outlined in Rule #20.1.2), a new appointee shall be selected by the original appointing authority to complete the unexpired term in accordance with the procedures noted below. The Personnel Director shall immediately notify the other commissioners, the Board of Trustees, and the recognized classified employee organization(s) of the name of the commissioner, the effective date of the vacancy, the duration of the unexpired term, the name of the appointing authority, and the procedures to be followed in filling the vacancy.

20.1.3.1 Replacement Procedures: Appointments to vacancies occurring subsequent to initial appointment shall be made by the original appointing authority either for a new full term, or to fill an unexpired term. The procedures outlined under Rule #20.1.2.1, 20.1.2.2, and 20.1.2.3 shall be followed in the appointment and recommendation for appointment to fill vacancies occurring subsequent to the initial appointment.

- REFERENCE:** 1. Education Code Sections 45244- 45249, 45260
2. Government Code Section 1302

20.1.3 **EMERGENCY APPOINTMENT OF COMMISSIONERS:** Not withstanding these rules, the Board of Trustees at the request of the Personnel Director shall declare that an emergency exists and shall make an interim appointment to fill a vacancy or vacancies to insure the continuance of the functions of the Personnel Commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

20.1.4.1 An interim appointee must meet the requirements of Section 45244 of the Education Code and Rule #20.1.1 and be free of the restrictions contained therein.

20.1.4.2 An interim appointment in no event shall be valid for more than ninety (90) calendar days.

- REFERENCE:** 1. Education Code Section 45244, 45248, 45260 and 45261

20.1.5 **OFFICERS:** At its first regularly scheduled meeting in December of each year, the Commission shall elect one of its members to serve as Chairperson and another of its members to serve as Vice-Chairperson for a period of one year or until such time as their successors are duly elected.

- REFERENCE:** 1. Education Code Sections 45260 and 45261
2. Government Code Section 1302

20.1.6 **QUORUM AND MAJORITY VOTE:** Two members of the Commission shall constitute a quorum for any regular or special meeting of the Personnel Commission. The affirmative vote of at least two members of the Commission is required to carry any motion or action.

- REFERENCE:** 1. Education Code Sections 45260 and 45261
2. Government Code Section 54952.6

20.1.7 **COMPENSATION OF COMMISSION MEMBERS:** Upon approval of the Board of Trustees, the members of the Personnel Commission shall receive compensation at the rate of fifty dollars (\$50) per meeting, not to exceed two hundred fifty dollars (\$250) per month. Upon approval of the Board of Trustees, the members of the Commission shall also be entitled to the same health insurance plans of the District as regular classified employees.

20.2 **MEETINGS OF THE COMMISSION**

20.2.1 **REGULAR MEETINGS:** Subject to cancellation or proper change, the Personnel Commission shall meet each month at the Fullerton School District Administrative Offices, 1401 West Valencia Drive, Fullerton, California. Specific meeting dates and times will be posted on each agenda.

20.2.1.1 The Commission may meet at some other time and/or place within District boundaries, provided that notice is given and posted on the School District’s official bulletin board.

REFERENCE: 1. Government Code Section 54954, 54954.2

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

REFERENCE: 1. Government Code Section 54955

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

REFERENCE: 1. Government Code Section 54956

20.2.4 **PUBLIC MEETINGS:** All regular and special meetings of the Commission shall be open to the public, and all persons shall be permitted to attend any of the Commission’s meetings except as provided for in Personnel Commission Rule #20.2.5. This rule shall not be construed as authorizing employees to be absent from duty for attendance at Personnel Commission meetings, unless they have specific business before the Commission, and have received written notice that the

Commission will be considering specific complaints or charges against them during the closed session or, upon their request, in an open session.

20.2.4.1 Public Comment: Each agenda shall provide an opportunity for public comment upon any item under the Commission’s subject matter jurisdiction before or during the Commission’s consideration of the item. Individual comments shall be limited to three (3) minutes per person, and thirty (30) minutes per the total group of individuals in support of a particular position. If the number of persons requesting to speak on a position exceeds 10, those individuals may divide their thirty (30) total minutes among themselves. Commission members are not expected or required to respond at the time the comments are made, and questions shall normally be directed to staff for research and response. In extraordinary circumstances, the Commission, in its discretion, may allow an extension of the 30-minute limit.

REFERENCE: 1. Government Code Section 54953, 54957, and 54954.3

20.2.5 **CLOSED SESSIONS:** A closed session may be conducted during a regular or special meeting of the Personnel Commission that has been called with proper notice. Prior to holding a closed session, the Commission shall state the legal reason(s) for the closed session and cite the statutory or other legal authority under which the session is/was being held. In the closed session, the Commission may consider only those matters covered in its agenda. In the case of a special, an adjourned or a continued meeting, the agenda shall be made as part of the written meeting notice for such special, adjourned or continued meeting.

20.2.5.1 The Commission shall report, in the open session of the meeting following the closed session, any action taken by the Commission in the closed session and any roll call vote taken which is required by law to be reported.

20.2.5.2 The Commission may hold a closed session on any subject authorized by law.

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

is not given as prescribed, any action taken relative to the employee shall be null and void.

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

REFERENCE: 1. Government Code Sections 3549.1, 54954.5, 54957, and 54957.1

20.2.6

AGENDA: Seventy-two (72) hours prior to every regular Commission meeting, the agenda shall be sent to the designated representatives of all employee organizations representing classified employees, the Commission members, and the Superintendent. The agenda(s) will be posted on the District's official bulletin board, and distributed to the news media having requested it/them.

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

20.2.6.2 Individual employees, employee organizations, and other interested parties have an opportunity to address the Commission on any item of interest to the public, before or during Commission consideration of the item, that is within the subject matter jurisdiction of the Commission.

20.2.6.3 District personnel, representatives of recognized employee organizations, representatives of the Board of Trustees, District administrators, or other interested parties may submit Personnel Commission related items to be placed on a Commission agenda by submitting the items to the Personnel Director in a timely manner which allows for placement on the agenda at the next scheduled Commission meeting. It shall be the prerogative of the Director to determine the manner in which the item is characterized for placement on the agenda.

REFERENCE: 1. Education Code Section 35145.5

20.2.7

AMENDMENTS, DELETIONS, OR ADDITIONS TO RULES: All proposals, from any source, to amend, delete, or add to these rules and regulations will be considered for a "first reading" at the meeting in which they are first presented to the Personnel Commission. They will not be acted upon when presented for a "first reading."

20.2.7.1 On a "first reading," the Personnel Commission will set a date for Commission action on the proposal, which date shall normally be the

next regularly scheduled Commission meeting. The Personnel Director will refer the proposed rule changes to the designated representatives of recognized employee organizations representing the District's classified employees, the Superintendent, and others (who have indicated their interest in such matters) in order to provide them with an opportunity to submit their comments or recommendations.

REFERENCE: 1. Education Code Section 45260

20.2.8

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

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

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

20.3 **COMMISSION EMPLOYEES**

20.3.1 **STATUS OF COMMISSION EMPLOYEES:** The Personnel Director and other persons required to carry out the day-to-day responsibilities of the Personnel Commission shall be selected by the Commission. The persons so employed shall be a part of the District’s classified service and subject to all of the rules, procedures, benefits, and burdens pertinent to the classified service, except as the Commission may specifically direct.

REFERENCE: 1. Education Code Sections 45260 and 45264

20.3.2 **GENERAL DUTIES OF THE PERSONNEL DIRECTOR:** The Personnel Director shall perform all of the duties assigned and carry out all of the functions imposed upon this position by law and these rules and regulations. The Personnel Director shall act as Secretary to the Personnel Commission, and shall issue and receive all notifications on its behalf. The Personnel Director shall direct and supervise the employees of the Commission, and conduct administrative transactions consistent with the law as well as the proper functioning of the office and staff of the Personnel Commission.

20.3.2.1 Under agreement with the Board of Trustees, the Personnel Director shall also perform all Board related functions of administering the classified personnel management program, and shall serve as the advisor to the Superintendent and the Board of Trustees on classified personnel matters.

REFERENCE: 1. Education Code Sections 45260 - 45261, 45266, 45312

20.4 **COMMUNICATIONS:**

20.4.1 **COMMUNICATIONS:** Communications and requests shall, when practicable (in the opinion of the Commission), be in writing. Communications and requests shall be acknowledged and replied to, noting official Commission action if appropriate.

20.5 **PERSONNEL COMMISSION BUDGET**

20.5.1 **BUDGET:** The Personnel Commission shall prepare an annual budget for its own office, which upon approval of the County Superintendent of Schools, shall be included by the Board of Trustees in the regular budget of the School District. The annual budget of the Commission may include amounts for staff training.

REFERENCE: 1. Education Code Sections 45253 and 45260

20.5.2 **PUBLIC HEARING:** After preparation and study, the Commission shall provide for a public hearing on its proposed budget. This hearing shall be held not later than May 30 of each year, or at a date agreed upon between the governing board and the Personnel Commission to coincide with the process of adoption of the School District budget.

REFERENCE: 1. Education Code Sections 45253 and 45260

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

REFERENCE: 1. Education Code Sections 45253 and 45260

20.5.4 **ADOPTED BUDGET FORWARD TO COUNTY SUPERINTENDENT:** Following its adoption of a budget for the ensuing year, the Commission shall then forward its adopted budget to the Orange County Superintendent of Schools for action.

REFERENCE: 1. Education Code Sections 45253 and 45260

20.5.5 **HEARING/ADOPTION BY COUNTY SUPERINTENDENT:** If the County Superintendent of Schools proposes to reject the budget as submitted by the Commission of a school district, he or she shall, within thirty (30) days after the Commission's submission of the budget, hold a public hearing on the proposed rejection within the affected district. He or she shall have informed both the Commission and the governing Board of the date, time and place of the hearing. He or she may after the public hearing either reject, or, with the concurrence of the Commission, amend the proposed budget. In the absence of agreement between the Personnel Commission and the County Superintendent, the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the commission.

REFERENCE: 1. Education Code Sections 45253 and 45260

20.5.6

BUDGET REVIEW AND RELIEF: If the Commission's adopted budget is rejected by the County Superintendent of Schools, the Personnel Commission may pursue rights under Education Code 45253.

20.6 **PERSONNEL COMMISSION ANNUAL REPORT**

20.6.1 **ANNUAL REPORT:** The Personnel Director shall prepare an annual report of the Commission's activities which shall be sent by the Commission to the Board of Trustees.

REFERENCE: 1. Education Code Section 45266

20.7 LEGAL COUNSEL FOR THE PERSONNEL COMMISSION:

20.7.1 LEGAL COUNSEL: Legal counsel for the Board of Trustees shall aid and represent the commission in all legal matters. If 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 or the school district. If the legal counsel refuses to aid or represent the commission in a legal matter, the Commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the school district.

REFERENCE: 1. Education Code Section 45313

**CHAPTER 30
POSITION CLASSIFICATION PLAN**

30.1 THE CLASSIFIED SERVICE

30.1.1 POSITIONS INCLUDED: All positions established by the Board of Trustees which are not exempt from the classified service by law shall be a part of the classified service of the District. All employees serving in the District’s classified positions shall be classified school employees.

30.1.1.1 No person whose contribution to the District consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exemptions established by law shall be employed outside of the classified service.

REFERENCE: 1. Education Code Sections 45104, 45105, 45106, 45108, 45256, 45258, and 45259

30.1.2 EXEMPTION FROM THE CLASSIFIED SERVICE: Positions required by law to have certification qualifications, part-time playground positions, full-time day students employed part-time, part-time students employed part-time in any college work-study program or in a work experience program conducted by a community college district, apprentices, community representatives (as provided by law), and professional experts employed on a temporary basis for a specific project by the Board of Trustees or by the Personnel Commission when so designated by the Commission.

REFERENCE: 1. Education Code Sections 45256

30.1.3 EFFECT OF EXEMPTION: Any position or employee totally exempted from the classified service by law shall be excluded from the benefits and burdens imposed by these rules and regulations, except as provided by law, the Board of Trustees, or these rules and regulations.

REFERENCE: 1. Education Code Sections 45103, 45105.4, 45106, 45256, 45257, 45258, and 45260

30.1.4 RESTRICTED POSITIONS: If specially-funded programs of the District are required, as a part of such program, to employ persons of low-income groups, from designated impoverished areas and such other criteria that limits the privilege of all citizens to compete for employment in such positions, those positions shall (in addition to the regular class title) be classified as “restricted.” The selection and retention of employees in such positions shall be made on the same basis as that of persons selected and retained in positions that are a part of the regular school program, except that persons employed in the following “restricted” classifications need not participate in the same type of selection processes as other similar non-

restricted positions: 1.) The position of Instructional Assistant (Restricted), and 2.) Any other position involving personal contact with pupils or parents established to assist regular school personnel that are responsible for school-community relations, educational support services, or prevention of behavioral problems.

30.1.4.1 **Exempt From Certain Rights** - Persons employed in “Restricted” positions are considered classified employees for all purposes except:

30.1.4.1.1 They shall not attain permanent status.

30.1.4.1.2 They shall not be accorded seniority rights in the event of a layoff.

30.1.4.1.3 They shall not be eligible for promotions within the classified service until they have complied with the provisions of Personnel Commission Rule #30.1.6.2

30.1.4.2 **Exam May Provide All Rights:** Employees serving in “restricted” positions may, after completion of six (6) months of satisfactory service, be given the opportunity to take an appropriate competitive examination being given for the class in which they are serving. Should such persons successfully complete the examination process for placement on the eligibility list, as a result thereof, and regardless of the employee’s numerical standing on the eligibility list, the employee shall become a member of the regular classified service of the District. Employees who have attained regular permanent status with the District under the provisions of this rule shall be accorded the full rights, benefits, and burdens of a regular permanent classified employee including, but not limited to, seniority rights (from the date of the employee’s original employment with the District in a “restricted” position).

REFERENCE: 1. Education Code Sections 45105, 45105.1, 45108, and 45259

30.2 **GENERAL CLASSIFICATION RULES**

30.2.1 **THE GENERAL CLASSIFICATION PLAN:** The Commission shall classify all employees and positions within the jurisdiction of the Board or the Commission, except those positions which the Commission determines are exempt from the Classified Service pursuant to Rule 30.1.2. The Commission may create new classes and abolish, divide or combine existing classes within a classification plan as needed. For purposes of this rule, classification shall include, but not be limited to:

- 30.2.1.1** Allocation of all positions to appropriate classes.
- 30.2.1.2** Arrangement of classes into occupational hierarchies (job families).
- 30.2.1.3** Determination of reasonable percentage relationships between classes within the occupational hierarchies.
- 30.2.1.4** Determination of reasonable percentage relationships between occupational hierarchies.
- 30.2.1.5** Preparing written class specifications.

REFERENCE: 1. Education Code Sections 45100, 45104, 45105, 45105.1, 45109, and 45256

30.2.2 **CLASS SPECIFICATIONS:** For each class, the Personnel Commission shall establish and maintain a class specification which shall include:

- 30.2.2.1** The class title.
- 30.2.2.2** A statement of distinguishing characteristics, which differentiates the class from other, related or similar classes.
- 30.2.2.3** A statement of the examples of duties to be performed by persons holding positions allocated to the class. The Commission shall develop this statement from the list of duties presented to it by the Board of Trustees.
- 30.2.2.4** A statement of the minimum qualifications for service in the particular class. The minimum qualifications may include education, experience, knowledge, skills, abilities, personal and physical traits and characteristics.
- 30.2.2.5** A statement about any license, certificates, or other special requirements for employment or service in the particular class.

- 30.2.2.6** A statement about any physical requirements required of positions in the class.
- 30.2.2.7** A statement about any additional qualifications considered to be so desirable that any person applying for employment who possesses such qualifications may be given additional credit in the evaluation of his/her qualifications, even though such additional qualifications were not listed as a prerequisite.
- 30.2.2.8** Minimum qualifications shall not require a teaching, administrative, or other credential, nor may they require work experience, which would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials.
- 30.2.2.9** The title of the class shall be used as the title of all positions in the class on payrolls submitted to the Commission for auditing and in the records and correspondence of the Commission and the Board of Trustees.

REFERENCE: 1. Education Code Sections 45256, 45260, 45276, and 45277

30.2.3

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

- 30.2.3.1** Determine if the new position shall be a part of the Classified Service or exempt under Rule #30.1.2.
- 30.2.3.2** Classify the position and determine whether the position should be allocated to an existing class or whether a new class should be established.
- 30.2.3.3** If a new class is recommended, the Personnel Director shall set forth a proposed class specification setting forth the title and minimum duties, qualifications, and other requirements of the class specification. The minimum qualifications approved by the Commission must reasonably relate to the duties assigned to the position by the Board of Trustees.
- 30.2.3.4** The Commission shall designate the proper salary placement on the appropriate classified salary schedule.

REFERENCE: 1. Education Code Sections 45104, 45105, 45105.1, 45109, 45241, and 45256

30.2.4 **CHANGES IN DUTIES OF POSITIONS:** Any substantial change in the duties of existing positions shall be promptly reported in writing to the Personnel Director, who shall conduct a review to determine whether the position should be allocated to a new or different class. Should a change in classification be warranted or necessary, the Personnel Director shall submit recommendations to the Personnel Commission for action.

REFERENCE: 1. Education Code Sections 45256, 45260, 45273, 45276, 45277, 45285, and 45285.5

30.2.5 **POSITIONS REQUIRING SPECIAL LANGUAGE OR SKILLS:** The Board of Trustees may request that the Personnel Commission designate certain positions within a class or classes to require the holder of the position to possess a special skill, license, or language. The Board of Trustees must clearly set forth valid reasons for requesting such special requirements. The duties of the position must be the same as those for all other positions within the classification, except for this one special requirement. There can only be one special requirement for that position. Examples of special skills could include a position in the instructional assistant classification, which has a need for the incumbent to read, speak, and write Spanish; an administrative secretary class where one position requires the use of shorthand skills; and a gardener classification where one position requires a pesticide certificate.

30.2.5.1 The Commission shall have the right to designate a differential salary rate to compensate incumbents in such special positions for their special skills.

30.2.5.2 An announcement calling for an examination for a class with position(s) containing special requirements will contain appropriate information and will indicate that successful candidates possessing the special skill will be given preference over other successful candidates, as authorized in Personnel Commission Rule #50.2.4, but only as to those specific positions.

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

30.2.5.4 Layoffs in classifications with positions established pursuant to this Rule shall be conducted pursuant to Rule #200.

REFERENCE: 1. Education Code Section 45277

30.3 **RECLASSIFICATION**

30.3.1 **RECLASSIFICATION POLICY:** The Commission will conduct studies, as it deems necessary to review classifications and maintain internal alignment in the Classified Service.

30.3.1.1 The only basis for reclassification of a position shall be the gradual accretion or growth of duties. Recommendations as to gradual accretion will be made by the Personnel Director. The Commission shall be the final approving authority.

30.3.1.2 Requests for a reclassification study of an existing position shall be presented in writing to the Personnel Director, together with a statement setting forth the reasons for the request. Requests for the reclassification study of a position may be initiated by an employee, the District Administration, or a recognized employee organization. Requests initiated by an employee or an employee organization shall include a listing of duties and a statement indicating the reasons the employee feels a reclassification is justified. A statement by the employee's supervisor verifying the authorized duties of the position must also be submitted.

REFERENCE: 1. Education Code Sections 45256, 45260, 45268, 45285, and 45285.5

30.3.2 **EFFECTIVE DATE OF RECLASSIFICATION:** Reclassification of a position or positions shall become effective on the date prescribed by the Personnel Commission, and shall not have retroactive effect.

REFERENCE: 1. Education Code Sections 45256, 45260, 45268, 45285, and 45285.5

30.3.3 **NOTIFICATION OF RECLASSIFICATION:** Notification of a recommendation for the classification or reclassification of a position or employee shall be given to the employee's exclusive bargaining representative, prior to the adoption of the classification proposal.

REFERENCE: 1. Education Code Sections 45285.5

30.3.4 **EFFECTS OF RECLASSIFICATION ON INCUMBENTS:** Whenever a position or entire classes of positions are reclassified, the rights of incumbents will be determined in accordance with these rules and regulations.

30.3.4.1 **Reclassification Upward:** When all of the positions in a class are reclassified to a higher class, the incumbents of the positions who

have been in the class for two (2) or more years may be reclassified by the Commission with their positions.

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

30.3.4.1.2 In order for an incumbent to be reclassified upward, the basis for the reclassification of the position must be the gradual accretion of duties and not a sudden change occasioned by a reorganization or the assignment of completely new duties and responsibilities. Determination as to the gradual accretion of duties will be on the basis of the guidelines provided by the Rules and Regulations of the Personnel Commission.

30.3.4.1.3 An employee who has been reclassified with his/her position shall be ineligible for subsequent reclassification with his/her position for a period of at least two (2) years from the date of the prior reclassification.

30.3.4.1.4 Those incumbents not able to be reclassified with their positions shall have an opportunity to take a qualifying examination for promotion into the higher class.

30.3.5 **DEFINITION OF GRADUAL ACCRETION:** For purposes of these guidelines, two (2) or more years of regular service shall be interpreted to mean assignment for at least two (2) complete years within the assignment basis of the class or position. Determination as to gradual accretion will be based on an analysis of data to be supplied by the division or school, as well as the Personnel Commission staff, regarding the following guideline factors:

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

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

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

REFERENCE: 1. Education Code Sections 45256, 45260, 45268, 45285, and 45285.5

30.3.6

REEMPLOYMENT LISTS FOR DISPLACED INCUMBENTS: Any displacement of a regular employee resulting from a reclassification of a position, positions, or a class of positions, shall be considered as a layoff for lack of work, and an appropriate reemployment list will be established in accordance with these rules.

REFERENCE: 1. Education Code Sections 45260, 45285, 45298, and 45308

30.4 **SENIOR MANAGEMENT EXEMPTIONS**

30.4.1 **BOARD MAY DESIGNATE POSITIONS AS SENIOR MANAGEMENT:** The Board of Trustees may adopt a resolution designating certain positions as senior management of the classified service. Notwithstanding the provisions of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title I of the Government Code (The Rodda Act), the decision of the Board of Trustees shall not be deemed a matter subject to negotiation but shall be subject to review by the Public Employment Relations Board.

30.4.1.1 No position funded in whole or in part by the Personnel Commission shall be made a part of the senior management of the classified service by the Board of Trustees without the concurrence of the Personnel Commission.

REFERENCE: 1. Education Code Sections 45256.5, 45260, and 45261
2. Government Code Sections 3540 - 3549.3

30.4.2 **SENIOR MANAGEMENT PART OF THE CLASSIFIED SERVICE:** Employees whose positions are designated as senior management of the classified service shall be a part of the classified service, and shall be afforded all rights, benefits, and burdens of other classified employees, except that they shall be exempt from all provisions relating to obtaining permanent status in a senior management position.

REFERENCE: 1. Education Code Sections 45256.5, 45260, and 45261

30.4.3 **DEFINITION OF SENIOR MANAGEMENT:** Positions designated senior management must conform to either of the following two definitions in order to be legally declared senior management of the classified service:

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

30.4.3.2 An employee who acts as the fiscal advisor to the Superintendent.

REFERENCE: 1. Education Code Sections 45108.5, 45260, and 45261

30.4.4 **MAXIMUM NUMBER OF POSITIONS:** The maximum number of positions, which may be designated, as senior management positions shall be as follows:

30.4.4.1 If the District has less than 10,000 units of average daily attendance (ADA), two positions.

- 30.4.4.2** If the District has 10,000 to 25,000 units of average daily attendance (ADA), inclusive, three positions.
- 30.4.4.3** If the District has 25,001 to 50,000 units of average daily attendance (ADA), inclusive, four positions.
- 30.4.4.4** If the District has more than 50,000 units of average daily attendance (ADA), five positions.

REFERENCE: 1. Education Code Sections 45108.5, 45260, and 45261

30.4.5 **WAIVER REQUEST FOR ADDITIONAL POSITIONS:** The Board of Trustees may apply to the State Board of Education to waive the provisions of Section 45108.5 of the Education Code for the purpose of expanding the number and type of senior management positions. If the Personnel Commission does not agree with the Board of Trustees' request for additional senior management positions, the Commission shall have the right to file a waiver protest with the State Board of Education.

REFERENCE: 1. Education Code Sections 45108.7, 45260, and 45261

30.4.6 **FILLING SENIOR MANAGEMENT POSITIONS:** Positions in the senior management of the classified service shall be filled using the rules and regulations of the Personnel Commission except as noted below:

- 30.4.6.1** The position shall be filled from a list of eligible persons who have demonstrated managerial ability, and who have been found qualified for the positions as specified by the District Superintendent and determined by the Personnel Commission.
- 30.4.6.2** The appointing authority shall have the right to interview all eligible candidates certified by the Commission from the unranked list.
- 30.4.6.3** The Personnel Commission shall determine the minimum qualifications for the position designated senior management, taking particular note of managerial ability necessary to successfully perform in the position and that the final eligibility list shall be unranked rather than ranked.

REFERENCE: 1. Education Code Sections 45260, and 45261

30.4.7 **IMPACT OF SENIOR MANAGEMENT DESIGNATION ON INCUMBENTS:** Any classified employee already serving in a position, which is subsequently designated senior management of the classified service, shall retain all rights, burdens and benefits of employment in the classified service, including the right to obtain or retain

permanency and tenure. The incumbent's eventual successor in the position shall not be entitled to permanency rights in the senior management position.

REFERENCE: 1. Education Code Sections 45260 and 45261

30.4.8 **ABOLITION OF SENIOR MANAGEMENT POSITION:** The Board of Trustees may adopt a resolution abolishing any or all positions of the senior management of the classified service. An employee occupying a senior management position abolished by the action shall become a member of the classified or certificated service in a position to which he or she would otherwise be entitled if the employee had not been a member of the senior management of the classified service.

30.4.8.1 If the employee in the senior management of the classified service had been a member of the regular classified or certificated service, he or she shall be entitled to a position, which is the same as, or similar to, the position to which he or she holds rights outside of the senior management of the classified service.

REFERENCE: 1. Education Code Sections 45104.5, 45260, and 45261

30.4.9 **NOTIFICATION OF REASSIGNMENT OR DISMISSAL:** Notice of reassignment or dismissal from a position in the senior management of the classified service shall be provided in accordance with the following provisions:

30.4.9.1 The senior management employee may be given a contract of employment stating a specific term of employment which shall not exceed four (4) years duration from the effective date of the contract.

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

30.4.9.3 In the event the Board of Trustees determines that an employee in the senior management of the classified service is not to be reelected or reemployed as such upon the expiration of the employee's term, he/she shall be given written notice thereof by the Board of Trustees

at least forty-five (45) calendar days in advance of the expiration of the employee's term.

30.4.9.4 In the event the Board of Trustees fails to reelect or reemploy an employee as a member of the senior management of the classified service and the written notice required in Rule #30.4.9.3 has not been given, the employee shall be deemed reelected for a term of the same length as the one just completed, and under the same terms and conditions of employment (including compensation).

30.4.9.5 The notice not to reelect or reemploy an employee who is a member of the senior management of the classified service shall be in writing and served in person or by Certified Mail (Registered Receipt Requested) to the employee. This requirement will be deemed to have been met if the Notice Not to Reelect or Reemploy is sent Certified Mail to the last known home address on file in the Personnel Commission 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. The responsibility for keeping the District informed of a home address is the requirement of the employee. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 35031, 45256.5, 45260, and 45261

30.5 **EXECUTIVE SECRETARY EXEMPTIONS**

30.5.1 **BOARD MAY REQUEST EXEMPTIONS FOR EXECUTIVE SECRETARIES:** Upon the request of a majority of the members of the Board of Trustees, the Board may request that the Personnel Commission consider exempting certain executive secretary positions from specific provisions of the Education Code and these Rules and Regulations. If a waiver is granted, it shall only be done pursuant to these Rules and Regulations.

REFERENCE: 1. Education Code Sections 45272, 45260, and 45261

30.5.2 **EXECUTIVE SECRETARIES PART OF THE CLASSIFIED SERVICE:** Any person employed in an exempt executive secretarial position shall continue to be afforded all of the rights, benefits, and burdens of any other classified employee serving in the regular classified service of the District, except that the employee shall not attain permanent status in an executive secretarial position.

REFERENCE: 1. Education Code Section 45272

30.5.3 **DEFINITION OF EXECUTIVE SECRETARY:** Positions designated as executive secretary by the Personnel Commission and thus exempt under provisions of Rule 30.5 shall be limited to executive secretarial positions reporting directly to members of the Board of Trustees, the District Superintendent, or not more than four (4) principal deputies of the District Superintendent, or all of these positions.

REFERENCE: 1. Education Code Sections 45272, 45260, and 45261

30.5.4 **FILLING EXECUTIVE SECRETARY POSITIONS:** Positions declared by the Personnel Commission as executive secretary for purposes of this rule shall be filled using the Rules and Regulations of the Personnel Commission except as noted below:

30.5.4.1 The position shall be filled from an unranked list of eligible employees who have been found to be qualified as specified by the District Superintendent and determined by the Personnel Commission.

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

30.5.4.3 The Personnel Commission shall determine the minimum qualifications for the position designated executive secretary, taking particular note of the qualifications necessary to perform successfully at this level, and that the final eligibility list shall be unranked rather than ranked.

REFERENCE: 1. Education Code Sections 45272, 45260, and 45261

30.5.5 **IMPACT OF EXECUTIVE SECRETARY DESIGNATION ON INCUMBENTS:** Any classified employee already serving in a position, which is subsequently, designated executive secretary by the Personnel Commission shall retain all rights, burdens, and benefits of employment in the classified service except that he or she shall not attain permanent status in an executive secretary position.

30.5.6 **DISCONTINUANCE OF EXECUTIVE SECRETARY SERVICES:** Any person whose services in an executive secretarial position are discontinued for a cause other than a cause for disciplinary action specified in the Education Code or in these Rules and Regulations, shall have the right to return to a position in a classification the employee previously occupied or, if that classification no longer exists, in a similar classification, as determined by the Personnel Commission.

REFERENCE: 1. Education Code Sections 45272, 45260, and 45261

30.5.7 **NOTIFICATION OF DISCONTINUANCE OF SERVICE:** Notice of discontinuance of service in an exempt executive secretarial position shall be provided in accordance with the following provisions:

30.5.7.1 In the event the Board of Trustees determines that an employee serving in an exempt executive secretarial position is not to continue in that position (except for disciplinary causes as outlined in the Education Code or these Rules and Regulations), the impacted employee shall be given written notice thereof by the Board of Trustees at least forty-five (45) calendar days in advance of the last day in paid status in the exempt position.

30.5.7.2 The notice not to continue to employ a person who is serving in an exempt executive secretary position shall be in writing and served in person or by certificated mail (Return Receipt Requested) to the employee. This requirement will be deemed to have been met if the Notice To Discontinue Executive Secretary Service is sent certified mail to the last known home address on file in the Personnel Commission 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. The responsibility for keeping the District informed of a home address is the requirement of the employee. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45272, 45260, and 45261

CHAPTER 40
APPLICATION FOR EMPLOYMENT

40.1 **APPLICATION**

40.1.1 **FILING OF APPLICATIONS:** All applications for employment shall be made on the official forms furnished by the Commission. Every item shall be answered in full and the application filed in the Personnel Commission Office on or before the time and date specified in the official vacancy notice.

40.1.1.1 Applicants taking more than one examination must file a separate and complete application for each examination unless otherwise directed. Incomplete and/or unclear applications will be screened out of the process.

40.1.1.2 For federal/state report purposes, questions regarding race, sex and national origin shall be placed on a separate form. Answers to such questions shall be voluntary.

40.1.1.3 Applications and examination papers are confidential and become the property of the Personnel Commission and shall not be returned to the applicant.

40.1.1.4 Restrictions may be placed on the overall number of applications accepted for each recruitment, depending on position need and testing conditions.

REFERENCE: 1. Education Code Sections 45260 and 45272

40.1.2 **GENERAL QUALIFICATIONS OF APPLICANTS:** Applicants must be able to prove their legal right to work in the United States. Applicants must meet minimum qualifications established for each classification.

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

40.1.2.2 No minimum or maximum age limit shall be set as a condition for initial or continued employment in the District.

40.1.2.3 Disabled persons shall be given equal employment opportunity and reasonable accommodation for employment shall be made.

REFERENCE: 1. Education Code Sections 45111, 45134, 45260, 45272, and 45276

40.2 **DISQUALIFICATION OF APPLICANTS AND CANDIDATES AND ELIGIBLES**

40.2.1 **CAUSES FOR DISQUALIFICATION:** An applicant may be refused initial admittance to an examination and a candidate or eligible may be disqualified from further competition, certification, or appointment for any of the following reasons:

40.2.1.1 Failure to meet the minimum qualifications of the position.

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

40.2.1.3 Conviction, either by plea or verdict of guilty, a finding of guilt in a trial without a jury, or a conviction following a plea of *nolo contendere* to a charge of a sex offense as defined in Education Code Sections 44010.

40.2.1.4 Conviction of a controlled substance offense as defined in Education Code Section 44011. If, however, the conviction is reversed and the person acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

The governing board of a school district may employ a person convicted of a controlled substance if the governing board of the school district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

40.2.1.5 Designation as a sexual psychopath per Education Code 45124. If such determination is reversed and the person is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed this section does not prohibit his or her employment thereafter.

40.2.1.6 Conviction, either by a plea of guilty or *nolo contendere*, a court decision or a jury verdict of a violent or serious felony per Education Code 45124, including any violent or serious offense, which, if committed in this state, would have been punishable as a violent or serious felony precludes employment in a school district. A violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

A conviction record of one or more convictions which would indicate that the person is a poor employment risk will be evaluated on the following basis: nature, seriousness and circumstances of the

offense(s); age of the person at the time and recency of the offense; number of convictions; relationship of the offense to the position applied for; employment record with respect to the job responsibility and duration.

An applicant will not be denied employment if a certificate of rehabilitation and pardon pursuant Education Code 45122.1 (e) is provided.

- 40.2.1.7** Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form.
- 40.2.1.8** Practicing any deception or fraud in connection with an examination or to secure employment.
- 40.2.1.9** Obtaining or attempting to obtain either directly or indirectly privileged information regarding test questions or examination content.
- 40.2.1.10** Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District under these rules.
- 40.2.1.11** Previous dismissal from the District.
- 40.2.1.12** A record of unsatisfactory service within the District or other employment as evidenced by a disciplinary action, a work improvement, unsatisfactory job performance notice or a resignation in lieu of dismissal.
- 40.2.1.13** Dishonorable discharge from the Armed Forces of the United States.
- 40.2.1.14** Unsatisfactory health conditions which clearly indicate that the applicant or candidate would be unable to perform the essential functions of the job, or would endanger his/her health and the safety or the health and safety of others.
- 40.2.1.15** Failure to report for duty after an assignment has been offered and accepted.
- 40.2.1.16** Other reasons deemed sufficient by the Personnel Commission and/or Board of Trustees.

REFERENCE: 1. Education Code Sections 45122, 45123, 45124, 45260, 45261, and 45303

40.2.2 **APPEAL FROM REJECTION:** The Personnel Director shall be responsible for notifying, in writing, applicants, candidates and eligibles who have been rejected. Any rejected individual may appeal to the Personnel Director for administrative review within seven (7) calendar days. The Personnel Director shall conduct such review and shall render a decision in writing to the appellant.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45274

40.2.3 **SUBMITTING PROOF OF VETERAN'S CREDIT:** Any applicant who claims veteran's credit must submit Form #DD214 at the time of or prior to the examination. Failure to submit Form #DD214 at the appropriate time of shall result in no veteran's credits being considered or added to any passing score.

REFERENCE: 1. Education Code Sections 45260 and 45261

**CHAPTER 50
RECRUITMENT AND EXAMINATIONS**

50.1 RECRUITMENTS

50.1.1 ANNOUNCEMENT OF EXAMINATIONS: The Personnel Commission shall direct and administer the holding of examinations for the purpose of filling vacancies or creating eligibility lists for the Classified Service.

50.1.1.1 No examination announcement may be made, and no part of any examination may be held for a new position until the Board has properly designated the position duties and the Commission has completed the position classification, including the establishment of minimum qualifications.

50.1.1.2 Whenever it is necessary to fill existing or anticipated vacancies, and an appropriate eligibility list or eligible candidates pursuant to Education Code 45272 do not exist (as determined by the Commission) the Personnel Commission shall announce each examination on an employment recruitment bulletin, which shall be distributed for posting to all employee work sites and community locations for at least fifteen (15) working days. The Personnel Director may place advertisements in the newspapers, trade and business journals, or other media.

50.1.1.3 The Employment Opportunity Bulletin shall contain the title of the class and shall include the following:

50.1.1.3.1 Information concerning the location of employment, the expected number of vacancies and other conditions of employment, if applicable.

50.1.1.3.2 A description containing examples of essential duties and functions of the class.

50.1.1.3.3 The qualifications and prerequisites of the class.

50.1.1.3.4 The salary, benefits and other compensation, and number of hours/months of the position if applicable.

50.1.1.3.5 The closing date for filing applications.

50.1.1.3.6 Such information as will assist interested persons in fully understanding the nature of the employment and procedures necessary to participate in the examination.

REFERENCE: 1. Education Code Sections 45109, 45260, 45261, 45272, 45278, and 45300

50.2 **EXAMINATIONS**

50.2.1 **DETERMINATION OF EXAMINATIONS:** The Personnel Commission shall determine the standards of proficiency to be required for each examination and determine whether the examination shall be:

50.2.1.1 Open Competitive

50.2.1.2 Promotional

50.2.1.3 Promotional and open competitive with the promotional list taking precedence

50.2.1.4 Merged promotional and open competitive

REFERENCE: 1. Education Code Sections 45272 and 45284

50.2.2 **PROMOTIONAL EXAMINATIONS:** Promotional examinations shall be restricted to probationary and permanent employees of the District and former employees on a valid reemployment list who meet the qualifications of the class. Probationary employees (defined as those employees who hold no permanency or tenure in any classification in the District) may take the exam, but will not be able to be selected off of the promotional eligibility list until completion of their probationary period.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45272

50.2.3 **PROMOTIONAL AND OPEN COMPETITIVE EXAMINATIONS:** This examination procedure shall result in a promotional and an open eligibility list. The promotional eligibility list shall take precedence when certifying eligibles. When the promotional eligibility list does not contain sufficient ranks of eligibles (defined as having fewer than three eligible and willing employees), certification of additional ranks shall then be made from the open list.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45272

50.2.4 **MERGED EXAMINATIONS:** Upon the recommendation of the Personnel Director, the Commission may authorize the holding of an examination under merged promotional and open competitive procedures. The resulting eligibility list shall consist of promotional and open competitive eligibles in one merged list. When an open competitive examination and a promotional examination for a particular class are held at the same time, the Commission may, prior to the examination, authorize certification for employment of candidates from the open competitive eligibility list before the promotional eligibility list has been exhausted, if the candidate on the open list has a higher score before adjustment for preferential credits than the score

of the highest available candidate to the promotional list after seniority credits have been added.

REFERENCE: 1. Education Code Sections 45282 and 45284

50.2.5 **CONTINUOUS EXAMINATIONS:** The Commission may provide for the continuous examinations of both open and promotional classes. Applications shall be accepted every working day and examinations shall be given as the need arises.

REFERENCE: 1. Education Code Sections 45273 and 45292

50.2.6 **TYPES OF EXAMINATIONS:** Examinations shall be conducted by the Commission's staff and shall be administered objectively and shall consist of test parts that relate to job performance. The parts may be any of the following:

50.2.6.1 Written examination;

50.2.6.2 Practical demonstration of skill;

50.2.6.3 Evaluation of applicants' training and experience submitted on application materials;

50.2.6.4 Evaluation of training, education and experience by a qualifications appraisal interview panel

50.2.6.5 Other tests of fitness determined by the Commission.

REFERENCE: 1. Education Code Sections 45260 and 45273

50.2.7 **SCORING AND WEIGHTING OF TESTS:** All examination parts shall be prepared under the direction of the Personnel Director, who shall determine passing scores and assign relative percentage weights to each part. The procedure for setting percentage weights shall be impartial.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45274

50.2.8 **ORAL EXAMINATION:** For classes of positions deemed by the Commission to require an oral examination, the Personnel Director shall assure that the following rules are followed:

50.2.8.1 The panel shall consist of at least two persons. When a structured objective examination (examiner exercises no discretion in the selection of questions or evaluation of answers) is to be administered to the entire field of candidates, a single member oral examination board may be utilized.

- 50.2.8.2** An employee of the District or of the Commission may serve on an interview panel if that employee is not at the first or second level of supervision over a vacant position in the class for which the examination is being held.
- 50.2.8.3** Unless specifically directed to evaluate candidates' technical knowledge and skills, the interview panel shall confine itself to evaluating general fitness for employment in the class.
- 50.2.8.4** When the interview panel is directed to evaluate technical knowledge and skills, at least two members of the panel shall be technically qualified in the specified occupational areas under examination.
- 50.2.8.5** Members of the Board of Trustees or Personnel Commission shall not serve on an interview panel.
- 50.2.8.6** Interviews shall be electronically recorded and filed in the Commission Office.
- 50.2.8.7** Scores achieved by the candidate on other parts of the examination shall not be made available to the interview panel.
- 50.2.8.8** In no case will an oral or performance examination board be provided with confidential references on employees of the District who are competing in promotional examinations.

REFERENCE: 1. Education Code Sections 45260 and 45273

50.2.9 **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, and such notice shall be the applicant's authority to take the examination. No candidate may be admitted to any examination without this authorization or other satisfactory evidence of having filed an acceptable application. In addition, each candidate must provide personal identification (with picture I.D.) at time of examination admittance in order to take the test.

REFERENCE: 1. Education Code Sections 45260 and 45261

50.2.10 **EXAMINATION PROCEDURES:** Competitors in any written test must take the test on the prescribed date unless approved by the Personnel Director.

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

50.2.10.2 A competitor in any examination who places an identifying mark upon his/her test papers (other than the identifying mark prescribed at the time of examination) or makes an attempt to disclose to others the identity of his/her papers prior to the completion of the examination may be disqualified.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45273

50.2.11 **RATING REQUIRED:** Candidates may be required to attain a designated minimum rating in each part or in combined areas of the selection process to qualify for participation in the next succeeding part.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45273

50.2.12 **SENIORITY CREDIT:** Seniority credit shall be added to the final passing scores of candidates who have permanency with the District or who are on a valid reemployment list. A full year's credit shall be granted to employees whose regular position is assigned on less than a full calendar year basis or less than an eight-hour day. Seniority credit rights shall be considered as having been lost when the services of an employee have been terminated for a period of thirty-nine (39) months or more. The following is the schedule of seniority credits allowed:

- 50.2.12.1** 1 Point for service through the first year, but less than two years of service;
- 50.2.12.2** 2 Points after completion of the second full year of service but less than three years of service;
- 50.2.12.3** 3 Points after completion of the third full year of service but less than four years of service;
- 50.2.12.4** 4 Points after completion of the fourth full year of service but less than five years of service;
- 50.2.12.5** 5 Points after completion of the fifth full year of service but less than six years of service;
- 50.2.12.6** 6 Points after completion of the sixth full year of service and all years thereafter.

REFERENCE: 1. Education Code Sections 45260, and 45261

50.2.13 **VETERAN'S PREFERENCE:** In the case of all entrance examinations, qualifying veterans who become eligible for appointment by attaining the passing mark established for the examination, shall be allowed an additional credit of five (5) points

and disabled veterans an additional credit of ten (10) points, which will be added to the percentages attained in the examinations by the veterans.

50.2.13.1 A veteran, as defined in this rule, shall mean an individual who has served at least thirty (30) days of active duty in the Army, Navy, Marine Corps, Air Force, National Guard, Reserve or Coast Guard in time of war or national emergency declared by the President of the United States, and has been discharged or released under conditions other than dishonorable, proof of which shall be submitted at the time of examination. Qualifying dates include:

World War IIDecember 7, 1941 to December 31, 1946
Korea June 27, 1950 to January 31, 1955
Viet Nam August 4, 1964 to May 7, 1975
Any campaigns in which medals were issued

50.2.13.2 A disabled veteran is an individual classified by the U.S. Veteran's Administration to be ten percent (10%) or more disabled as a result of service in the Armed Forces of the United States.

REFERENCE: 1. Education Code Sections 45260, 45261, 45294, 45295, and 45296

50.2.14 **NOTICE OF FINAL SCORE:** Each applicant/candidate shall be notified of test results as soon as practicable following the administration of the examination.

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

50.2.14.2 A candidate who is unsuccessful in an examination may not retake the written examination for the same classification for a period of forty-five (45) calendar days. Practical demonstration of skill examinations may be retaken, as determined by the Personnel Director.

REFERENCE: 1. Education Code Sections 45260 and 45261

50.2.15 **VIOLATION OF THESE EXAMINATION RULES/LAW:** Whenever the Personnel Commission, after a public hearing, finds that any appointment has been made in violation of the Education Code provisions of the merit system, or these rules as they apply to examination procedures, the Commission may order that no salary warrant shall thereafter be drawn to the employee so appointed, for services rendered after the date of said order. Any violation of the merit system sections of the Education Code or the rules of the Personnel Commission as they apply to examination

procedures shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

REFERENCE: 1. Education Code Sections 45260, 45261, 45310, and 45311

50.3 REVIEW AND PROTEST OF EXAMINATIONS

50.3.1 RETENTION OF ALL EXAMINATION RECORDS: Examination records, including test answer sheets, tape recordings of interviews and the rating sheets of each member of an oral interview panel shall be retained by the Personnel Commission for not less than ninety (90) days after promulgation of an eligibility list.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45274

50.3.2 EXAMINATION RECORDS SHALL BE CONFIDENTIAL: Examination records shall be confidential. Records, such as identifiable ratings of oral panel members and confidential references of previous employers shall not be available for review.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45274

50.3.3 AVAILABILITY FOR REVIEW: Remaining examination records, such as papers, tapes and scores of the candidate or eligible shall be available for review only by the candidate or his/her representative. The candidate or his/her representative may not review the records of another person.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45274

50.3.4 NOTIFICATION OF RESULTS AND REVIEW: Notification of test results shall be provided to candidates as soon as practicable following administration of the test. Review of test segments shall be made during the five (5) working days following notification. At the time of review the candidate may protest in writing, any part of the examination, outlining the basis for protest and stating the remedy sought. No candidate may remove or copy information from the examination materials.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45274

50.3.5 FAILURE TO FILE PROTEST: Failure to review or file a protest with the Personnel Director within the review period shall constitute a waiver of the right to appeal that part of the selection process.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45274

50.3.6 PERSONNEL DIRECTOR SHALL REVIEW ALL PROTESTS: The Personnel Director shall review and act upon all protests. The Director may allow more than one answer to a question or may disqualify a question if the protest is valid. If a protest results in any change, the test papers of all candidates will be reviewed and re-scored accordingly.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45274

**CHAPTER 60
ELIGIBILITY FOR EMPLOYMENT**

60.1 ELIGIBILITY LISTS

60.1.1 ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS: After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable.

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45300

60.1.2 CONTENTS OF ELIGIBILITY LIST: An eligibility list shall contain:

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

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

60.1.2.3 The expiration date of each person's eligibility.

60.1.2.4 The signature of the Personnel Director attesting to the accuracy of the information on the eligibility list.

60.1.2.5 The date the list was ratified or approved by the Personnel Commission.

REFERENCE: 1. Education Code Sections 45260 and 45261

60.1.3 CERTIFICATION BY PERSONNEL COMMISSION: All eligibility lists shall be certified by the Commission at the first reasonable opportunity.

REFERENCE: 1. Education Code Sections 45260 and 45261

60.1.4 TYPES OF ELIGIBILITY: Appointments to a position shall be made from:

60.1.4.1 Eligibility Lists:

60.1.4.1.1 Reemployment: A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, or exhaustion of medical leave. These eligibles shall take precedence over all other persons eligible for appointment.

- 60.1.4.1.2** Promotional: A list of eligibles resulting from an examination limited to qualified permanent employees only. All applicants for promotional examinations shall meet the minimum qualifications of education, training, experience, and length of service, which shall be determined by the Commission to be appropriate for the class for which they have applied. Any promotional applicant who has served the required amount of time in a designated class, or who meets the minimum qualifications for admission to a promotions examination shall be admitted to the examination.
- 60.1.4.1.3** Promotional and Open Competitive: Separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence. When an open competitive examination and a promotional examination for a class are held at the same time, the Commission may, prior to the examination, authorize certification for employment of candidates from the open competitive eligibility list before the promotional eligibility list has been exhausted if the candidate on the open list has a higher score before adjustment for preferential credits than the score of the highest available candidate on the promotional list after seniority credits have been added.
- 60.1.4.1.4** Merged Promotional and Open Competitive: One list of eligibles resulting from a single examination, including seniority credit and/or veteran's credit points.
- 60.1.4.1.5** Open Competitive: A list of eligibles resulting from an examination open to all qualified applicants.
- 60.1.4.2** **Requests:** Other methods of filling positions include:
- 60.1.4.2.1** Transfer: Employees who have requested appointment to a vacant position in the same or related classification.
- 60.1.4.2.2** Reinstatement: Former employees who have requested reinstatement to a vacant position in a class in which they held permanent status.

60.1.4.2.3 Demotion: Employees who have requested assignment to a vacant position in a lower classification. (See Rule #90.2)

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45284

60.1.5 **DURATION OF ELIGIBILITY LISTS:** An eligibility list shall be in effect for a period of one year, unless exhausted, and may be extended for a period of two years or less at the discretion of the Commission. Names of successful competitors may be added to eligibility lists by the Personnel Director.

60.1.5.1 The Commission may approve the establishment of an eligibility list for a period of six (6) months when announced on the recruitment bulletin for the examination.

60.1.5.2 When fewer than three (3) ranks of available eligibles remain on an eligibility list and the appointing authority has requested certification of additional eligibles, the list may be terminated by the Personnel Director.

60.1.5.3 An eligibility list may be terminated by the Personnel Director prior to its expiration when no eligible is available for appointment to a specific permanent position in a class, or when there are fewer than three (3) eligibles remaining on the list. Candidates on such lists shall be notified of the proposed termination. The exception to this rule will apply if a promotional list has less than three (3) names remaining on the list, but an open eligibility list exists. In this case the Personnel Director will continue to certify three ranks by merging the remaining promotional employees on to the list, adding any veteran's and seniority points allowed under these rules, and then rounding the score to the nearest whole percentage point. The Personnel Director will then certify the top three ranks of willing and able eligibles from the newly combined Promotional/Open list to the appointing authority for selection.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45300

60.1.6 **MERGER OF ELIGIBILITY LISTS:** If a new examination for a class is given during the first year of the life of an existing list, the examination shall be sufficiently similar to the previous examination to 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.

60.1.6.1 When lists are merged under this rule, the earlier list shall be terminated one year after its establishment and those eligibles' names

shall be removed from the consolidated list, except when the earlier list is extended.

60.1.6.2 All candidates on an eligibility list, which is terminated, shall be notified at the time a new examination is scheduled for the class. Each candidate may retake the examination if a period of forty five (45) days has elapsed since the candidate last took the examination. Notification is not required when an eligibility list expires.

REFERENCE: 1. Education Code Sections 45260, 45261 and 45291

60.1.7 **REEMPLOYMENT LISTS:** There shall be established for each class, as necessary, a reemployment list which shall take precedence over all other employment lists in filling vacant positions. This list shall contain the names of all regular classified employees who have been laid off or demoted from any position because of lack of work or lack of funds or who exhausted medical leave and can perform the essential functions of the position.

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

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

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

REFERENCE: 1. Education Code Sections 45298 and 45195
2. Military and Veterans Code 395.1 and 395.3

60.1.8 **ELIGIBILITY AFTER APPOINTMENT:** An eligibility list shall be used for full-time, part-time, regular and, when practicable, limited-term assignments in the class. An eligible who accepts part-time assignment shall continue to be eligible for full-time employment, and an eligible who accepts limited-term assignments shall continue to be eligible for regular employment.

REFERENCE: 1. Education Code Sections 45260, 45261, 45286, and 45300

60.1.9 **REMOVAL OF NAMES FROM ELIGIBILITY LIST:** The name of an eligible may be removed from an eligibility list by the Personnel Director for any of the following reasons:

- 60.1.9.1** Any of the causes listed in Rule #40.2.
- 60.1.9.2** Failure to respond for a scheduled interview after certification.
- 60.1.9.3** Termination of employment (Promotional Eligibility List only).
- 60.1.9.4** Refusing an employment offer after having been properly certified as eligible and available for appointment.
- 60.1.9.5** A written request by the eligible for removal.
- 60.1.9.6** Failure to obtain a satisfactory reference check.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45300

60.1.10 **NOTIFICATION TO ELIGIBLE OF REMOVAL FROM LIST:** Notification is pursuant to Rule 40.2.2

60.2 **CERTIFICATION FROM ELIGIBILITY LISTS**

60.2.1 **APPOINTING AUTHORITY:** The appointing authority shall be the Board of Trustees and its designated managers, except that the Personnel Commission shall be the appointing authority in the case of employees assigned to the Personnel Commission.

60.2.2 **EMPLOYMENT LIST CERTIFICATION:** All vacancies in the classified service shall be filled from applicants on eligibility lists which, whenever practicable, shall be made up from promotional examinations. Appointments may also be made by means of transfer, demotion, reinstatement, and reemployment, in accordance with the Commission Rules.

REFERENCE: 1. Education Code Sections 45272 and 45284

60.2.3 **RULE OF THREE RANKS:** Eligibles shall be placed on the eligibility list in rank order according to their score on the examination. The final scores of candidates shall be rounded to the nearest whole percent. All eligibles with the same percentage score shall be placed in the same rank. Certification from the list shall be the first three (3) ranks of eligibles who are ready and willing to accept the positions to be filled.

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

REFERENCE: 1. Education Code Sections 45260, 45261, and 45272

60.2.4 **CERTIFICATION & APPOINTMENT FROM ELIGIBILITY LISTS:** When a new position is to be filled, the appointing authority shall notify the Personnel Director of the date of anticipated need. The employment request shall provide information regarding the duties, class title, hours and location of employment, budget categories, and other pertinent information as required.

60.2.4.1 When a vacancy occurs in an established position, a written request shall be completed.

60.2.4.2 The Personnel Director shall determine the availability of eligibles and shall certify the names of eligibles who are ready and willing to accept the position. Certification shall be in accordance with Rule #60.2.2 and #60.2.3. Appointments shall be made from the eligibles having the first three (3) ranks on the list who are ready and willing to accept the position.

60.2.4.3 The Administrator concerned shall, within five (5) working days of the interview or within a reasonable time should extenuating

circumstances arise, make a selection from the persons presented and shall notify the Personnel Director, who shall see that the necessary employment procedures are carried out.

60.2.4.4 If a candidate who was declared eligible for appointment to a position fails to keep an interview appointment or declines the appointment, the appointing authority may fill the vacancy from the remaining eligibles or may request certification of eligibles in accordance with Rule #60.2.6.

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45277

60.2.5 **PROCEDURE WHEN FEWER THAN THREE RANKS REMAIN:** When fewer than three (3) ranks of eligibles are available on the promotional list, sufficient names shall be certified from the merged promotional/open list and then the open competitive lists to allow a choice among three (3) ranks of eligibles.

60.2.5.1 When fewer than three (3) ranks of eligibles are available for certification, the available eligibles may be certified. However, the appointing authority may choose not to appoint any of them and may request additional eligibles.

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45277

60.2.6 **WITHHOLDING NAMES FROM CERTIFICATION:** The name of an eligible may be withheld from certification by the Personnel Director when the eligible:

60.2.6.1 Expresses unwillingness or inability to accept appointment.

60.2.6.2 Cannot be contacted or is not available for employment interview.

60.2.6.3 Fails to present the license, registration, certificate, or any other credential required.

60.2.6.4 Any reason listed in Rule #40.2.

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45277

60.2.7 **FAILURE TO MAKE APPOINTMENT:** Should the appointing authority fail to make a selection from the top three ranks of eligibles as certified by the Personnel Director, the Personnel Director shall direct that the position be vacated (if there is a temporary person assigned to fill the vacancy), and remain vacant until such time as the eligibility list for that class expires. If there are insufficient applicants who meet special certification requirements, an employee who meets the special requirements may receive provisional appointments, which may accumulate to a total of ninety (90)

working days. Successive provisional appointments of 90 working days or less may be made in the absence of an appropriate eligibility list containing applicants who meet the special requirements. These appointments cannot be additionally extended if certification can later be made from an appropriate eligibility list.

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45277

60.2.8 **RESTORATION TO ELIGIBILITY LIST:** When the Personnel Director has withheld a candidate or eligible from placement on, or certification from the eligibility list, the Director may subsequently approve placement on or restoration to the list under the following circumstances:

60.2.8.1 When the withholding or removal was because of the waiver or inability of the eligible to accept employment, or failure to respond to inquiry, appear for an interview or report for duty, and the eligible presents a good and valid reason that the eligible is now willing and able to accept an appointment.

60.2.8.2 When the withholding or removal was for a reason listed in Rule #40.2, and the defect or reason for ineligibility has since been corrected.

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45277

60.2.9 **CERTIFICATION FROM LIST FOR ANOTHER CLASS:** 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 Personnel Director finds, subject to approval by the Commission, 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.

REFERENCE: 1. Education Code Sections 45260 and 45261

60.2.10 **DUTIES OF ELIGIBLES:** Eligibles have the following responsibilities:

60.2.10.1 Eligibles are required to keep the Personnel Commission Office informed as to current home address and telephone numbers where they can be reached to schedule employment interviews. Failure to keep the Personnel Commission Office informed could result in the eligible being bypassed on the eligibility list as unreachable.

60.2.10.2 An eligible who has been selected for a permanent position and is unable or unwilling to report by the end of two (2) full weeks (one full month in the case of management classes) may be considered to

have refused appointment, and the appointing authority may request certification of additional eligibles.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45272

60.2.11 **SELECTIVE CERTIFICATION:** If a position within a classification requires a special skill, license, or language requirement, pursuant to Rule #30.2.5, the Personnel 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.

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45277

60.2.12 **CERTIFICATION OF RELATIVES:** An employment decision shall not be based on whether an individual has a spouse presently employed by the employer, except in accordance with the following criteria:

60.2.12.1 For business reasons of supervision, safety, security or morale, an employer may refuse to place one spouse under the direct supervision of the other spouse.

60.2.12.2 For business reasons of supervision, security or morale, an employer may refuse to place both spouses in the same department, division or facility if the work involves potential conflicts of interest or other hazards greater for married couples than for other persons.

60.2.12.3 If co-employees marry, an employer shall make reasonable efforts to assign job duties as to minimize problems of supervision, safety, security or morale.

REFERENCE: 1. Education Code Sections 45260 and 45261
2. Title II, California Code of Regulations, Section 7292.5

CHAPTER 70
APPOINTMENT TO CLASSIFIED POSITIONS

70.1 **PROCEDURES FOR APPOINTMENT**

70.1.1 **PROCEDURES FOR SELECTION:**

The appointing authority shall interview eligibles certified from appropriate employment (transfer, demotion, reemployment, reinstatement, etc.) or eligibility lists. A selection shall be required when sufficient eligibles are certified for a given vacancy to total three (3) ranks of eligibles who are willing and/or able to accept the position.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45272

70.1.2 **APPOINTMENT:** Upon selection, each prospective employee shall be given an offer of employment by the Personnel Commission Office. The offer shall include the time and date to report for duty and the salary at time of hire. Appointment to the position shall be subject to ratification by the Personnel Commission (approving that the employee was hired pursuant to the Rules and the Education Code) and the Board of Trustees (action to employ as the employer) except for Commission positions.

70.1.2.1 The prospective employee shall be allowed two (2) weeks to report for duty after an offer of employment to a permanent position has been made or one (1) month in the case of management cases. Should the prospective employee be unable or unwilling to report for duty within the required period, the appointing authority may request that additional eligibles be certified.

REFERENCE: 1. Education Code Sections 45260 and 45261

70.1.3 **DISCRIMINATION PROHIBITED:** No questions relating to political or religious opinions or affiliations, race, color, national origin or ancestry, employee organization membership or non-membership and legal activities related thereto or disability, sex or marital status shall be asked of any applicant, or any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefore.

REFERENCE: 1. Education Code Section 45293

70.1.4 **NEPOTISM:** No person shall be employed in any position, which is in a direct line of supervision, under a supervisor or administrator who is a member of that person's immediate family.

70.1.4.1 No employee shall be transferred, assigned to or remain at a work location in any position, which is in direct line of supervision, under a

supervisor or administrator who is a member of the employees immediate family.

70.1.4.2 For purposes of this Rule, immediate family shall include the father, mother, grandparent, grandchild of the supervisor or his/her spouse; also included is the spouse, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, or any person residing in the household of the supervisor.

REFERENCE: 1. Education Code Sections 45260 and 45261
2. Title II, California Code of Regulations, section 7292.5

70.2 **PROVISIONAL APPOINTMENT**

70.2.1 **REASONS FOR PROVISIONAL APPOINTMENT:** The appointing authority may make a provisional appointment when the Personnel Director certifies that:

70.2.1.1 No eligibility list exists for the class or;

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

REFERENCE: 1. Education Code Sections 45260, 45261, 45287, 45288, and 45289

70.2.2 **LENGTH OF PROVISIONAL APPOINTMENT:** A provisional appointment may accumulate to a total of ninety (90) working days. A ninety (90) calendar day interval shall elapse before an employee is again eligible to serve in any full-time provisional assignment. In no case may a person be employed in full-time provisional assignments for a total of more than 126 working days in any fiscal year unless authorized under Rule #70.2.4.

REFERENCE: 1. Education Code Sections 45260, 45261, 45287, 45288, and 45289

70.2.3 **EXTENSION OF PROVISIONAL APPOINTMENT:** The Commission may extend the ninety (90) working day provisional appointment for a period not to exceed thirty-six (36) additional working days provided:

70.2.3.1 An examination for the class was completed during the initial ninety (90) working days of an employee’s provisional assignment.

70.2.3.2 Satisfactory evidence is presented indicating:

70.2.3.2.1 Adequate recruitment effort has been and is being made;

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

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

REFERENCE: 1. Education Code Sections 45260, 45261, 45287, 45288, and 45289

70.2.4 **SUCCESSIVE 90 DAY APPOINTMENTS:** In the absence of an appropriate eligibility list, successive ninety (90) working day appointments may be made to a position for a period exceeding the 126 working day limitation when:

70.2.4.1 Continuous examination procedures have been authorized by the Commission or;

70.2.4.2 The position is less than twenty (20) hours per week.

70.2.4.3 Such appointment shall continue only until certification from an appropriate list can be made.

REFERENCE: 1. Education Code Sections 45260, 45261, 45287, 45288, and 45289

70.2.5 **STATUS OF PROVISIONAL EMPLOYEES:** To be eligible for appointment to a regular position, the provisional appointee must qualify by competitive examination for a place on the eligibility list.

70.2.5.1 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.

REFERENCE: 1. Education Code Sections 45260, 45261, 45287, 45288, and 45289

70.2.6 **TERMINATING PROVISIONAL APPOINTMENT:** The services of a provisional appointee shall be terminated as soon as reasonably possible after the date on which certification for interview from an eligibility list has been made. A provisional appointment may be terminated at any time, at the discretion of the appointing authority.

REFERENCE: 1. Education Code Sections 45260, 45261, 45287, 45288, and 45289

70.3 **SPECIAL APPOINTMENTS**

70.3.1 **PROCEDURE FOR EMERGENCY APPOINTMENT:** If it should become necessary in time of declared emergency to fill positions in the Classified Service to prevent the stoppage of public business, the Board, through its authorized management representatives, may request the Personnel Director to make emergency appointments without reference to eligibility lists, for a period not to exceed fifteen (15) working days. The Personnel Director shall comply with the request if appropriate.

70.3.1.1 When such emergency appointments are made by the Personnel Director, it shall be the duty of the Board of Trustees to provide the Director with written information outlining the date of appointment and nature of duties performed, giving a statement justifying the emergency nature of such appointments, and any other additional information requested by the Director so that an appropriate decision made be made under this Rule.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45290

70.4 **LIMITED TERM AND SUBSTITUTE APPOINTMENTS**

70.4.1 **POSITIONS DEFINED:** Positions established to perform duties, which are not expected to exceed six (6) months, shall be designated limited term positions.

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

REFERENCE: 1. Education Code Sections 45260, 45261, and 45286 - 45290

70.4.2 **PROCEDURE FOR ESTABLISHMENT OF LIMITED TERM/SUB POSITIONS:**
When a limited term position is requested, the appointing authority shall notify the Personnel Commission Office in writing of the duration of the assignment.

70.4.2.1 A limited term appointment may not exceed six (6) months. A substitute assignment may not exceed the duration of the absence of a regular employee. The appointment may be in the same class as that of the absent employee, or the duties may be reduced in level and the appointment may be made from a lower class.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45286

70.4.3 **ELIGIBILITY FOR APPOINTMENT:** Limited term and substitute appointments shall be made from available substitute employees, eligibility list candidates and, where applicable, reemployment lists.

70.4.3.1 If an eligible is appointed from an eligibility list to a substitute or limited term position, the individual shall continue to be eligible for substitute or limited term appointments in the same or a related lower class after the eligibility list has expired.

70.4.3.2 When no substitute employee or eligible is available to accept a substitute or limited term position, the Personnel Director is authorized to certify applicants or candidates for appointment.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45286

70.4.4 **TERMINATION OF LIMITED TERM APPOINTMENT:** A limited term or substitute appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority. The appointing authority shall immediately notify the Personnel Commission Office when a limited term assignment is being terminated.

REFERENCE: 1. Education Code Sections 45260, and 45261

**CHAPTER 80
EMPLOYMENT STATUS**

80.1 EMPLOYEE ASSIGNMENT

80.1.1 ASSIGNMENT DATA: Upon initial employment and upon each change in classification thereafter, each regular classified employee shall be furnished:

80.1.1.1 The employee's class specification.

80.1.1.2 Notice of salary data, including pay period and the hourly, daily, monthly, annual, and overtime and differential rate of pay, whichever are applicable.

80.1.1.3 Assignment or work location, the duty hours, and prescribed workweek.

REFERENCE: 1. Education Code Sections 45169, 45260, and 45261

80.1.2 EMPLOYEE SHALL SIGN ASSIGNMENT DATA: The employee shall sign an acknowledgment of the receipt of the assignment data. The original shall be placed in the employee's personnel file, one copy given to the employee, and one copy sent to the employee's immediate supervisor.

REFERENCE: 1. Education Code Sections 45169, 45260, and 45261

80.2 **PROBATIONARY STATUS**

80.2.1 **INITIAL PROBATIONARY PERIOD:** Each new employee appointed from an eligibility list shall serve an initial probationary period of 130 days or six (6) months, whichever is longest, of paid regular service in one classification in the Classified Service (excluding days absent for illness or injury). For positions designated by the Personnel Commission as executive, administrative, or supervisory, the probationary period shall be 260 days of paid regular service in one classification in the Classified Service (excluding days absent for illness or injury).

80.2.1.1 Credit toward completion of probation shall be granted only for service in a regular position in a class after appointment from an eligibility list. An employee who has served the prescribed probationary period shall be deemed to be in the permanent Classified Service.

REFERENCE: 1. Education Code Section 45301

80.2.2 **COMPLETION OF INITIAL PROBATION:**

80.2.2.1 An employee may be disqualified from probationary status for unsatisfactory work performance.

80.2.2.2 A probationary employee who resigns in good standing during the initial probationary period shall, upon request, be restored in proper rank to the eligibility list. Such action shall not extend the life of the list or the period of eligibility of the person.

80.2.2.3 Should the work for which a probationary employee has been appointed prove temporary instead of permanent as certified, and should such person be laid off without fault or delinquency on his/ her part before completion of the probationary period, the person's name shall be restored to the eligibility list and the time served in the defunct position shall be credited towards completion of the probationary period in any subsequent position to which appointed in that same classification.

REFERENCE: 1. Education Code Sections 45260, 45261, 45270, and 45301

80.2.3 **SUBSEQUENT PROBATION FOR PERMANENT EMPLOYEES:** A permanent classified employee who has been promoted, reclassified to a higher class, or transferred to a related class shall serve a new probationary period in the class before attaining permanency in that class.

REFERENCE: 1. Education Code Sections 45260, 45261, 45269, 45270, 45301, 45302, and 45305

**CHAPTER 90
TRANSFER OF EMPLOYEES**

90.1 TRANSFER

90.1.1 DEFINITION OF TRANSFER:

90.1.1.1 A lateral transfer shall mean the relocation of an employee between job sites or between departments at the same job site, within the same classification.

90.1.1.2 A related-class transfer is the transfer of an employee to a position in a similar or related class with the same salary range.

REFERENCE: 1. Education Code Sections 45260 and 45261

90.1.2 LATERAL TRANSFER: A lateral transfer may be initiated by the District Administration or at the request of the employee. An employee may request a lateral transfer if the employee has permanent status and is performing satisfactorily. An employee whose last evaluation was unsatisfactory or needs to improve is not eligible for transfer, except with the approval of the Personnel Director. Administration initiated lateral transfers may be made at any time for the good of the Classified Service upon recommendation of the department/site supervisors and the approval of the Personnel Director.

90.1.3 RELATED-CLASS TRANSFER: Transfer from a position in one class to a position in another related class shall first be approved by the Personnel Director. Determination of whether classes are sufficiently related to permit transfer between them shall be based on the similarity of duties, minimum qualifications, and examination content. The extent to which the two classes must be comparable may depend on additional factors. In general, more latitude is allowed as an employee's length of service with the District increases, when the request for lateral transfer is based on layoff, reclassification, health, or when the employee meets the minimum qualifications for the class.

REFERENCE: 1. Education Code Sections 45260 and 45261

90.1.4 PERIOD FOR RELATED-CLASS TRANSFER: A permanent employee who transfers into a position in a class in which the employee has not previously completed a probationary period shall be considered probationary in that class for the standard probationary period outlined in Section #90.3.1 of these rules. At any time during this probationary period, the employee may be returned (transferred) to his/her former class without right of appeal.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45305

90.1.5 **NO ADVERSE AFFECT FROM TRANSFERS:** A transfer shall not change the employee's range and step placement on the salary schedule, salary increment date, accumulated leave and vacation credit, or otherwise adversely affect the employee's rights as provided in the law and these Rules.

REFERENCE: 1. Education Code Sections 45260 and 45261

90.1.6 **SENIORITY CREDIT:** Related-class or lateral transfers shall have no adverse impact upon the employee's seniority. Under Personnel Commission rules, a transferred employee retains full seniority where both positions are within the same class. Where the transfer is to a position in a related class, the employee will carry the seniority earned in the lateral class with him/her to the new classification.

90.1.7 **SUBMISSION OF REQUEST FOR TRANSFER:** An employee may request a transfer to a vacant position by submitting a written request to transfer to the Personnel Commission Office. Consideration shall be given to all requests for transfer which are properly and timely submitted. Generally, transfer requests are accepted as long as there is time enough to schedule the employee into the interview.

90.1.7.1 A classified employee may submit at any time a written request for transfer to the Personnel Commission Office to be held on file for transfer consideration. This transfer request shall be renewed by the employee annually. The Personnel Director shall have the right to periodically purge the transfer lists of those employees who are no longer interested in transfer, have terminated with the District, or have had their transfer requests honored. If an employee is interested in transferring to more than one classification, the employee must file a separate form for each lateral classification the employee is considering for transfer.

REFERENCE: 1. Education Code Sections 45260 and 45261

90.1.8 **CERTIFICATION OF NAMES TO INTERVIEW:** The Personnel Director shall certify and submit to the appropriate administrator or supervisor the names of eligible employees who are qualified for transfer consideration.

REFERENCE: 1. Education Code Sections 45260 and 45261

90.2 **DEMOTIONS**

90.2.1 **VOLUNTARY DEMOTION:** A permanent employee may request a voluntary demotion to a vacant position in a class with a lower salary rate, provided that the employee has previously achieved permanent status in that class or meets the minimum qualifications of the class, or the request for demotion is to a related class in the same job series as defined by the Personnel Commission. All other demotion requests would require the employee to file an application and go through the selection process as if the position were a promotion. All demotion requests shall require the approval of the Personnel Director.

90.2.1.1 An employee may take a voluntary demotion or reduction in assigned time in lieu of layoff or to remain in his/her present position rather than being reassigned.

90.2.1.2 A permanent employee may accept a temporary demotion on a voluntary basis to fill a limited term position or a summer assignment.

90.2.1.3 A voluntary demotion is available to a probationary employee, who does not hold permanent status in the District, only in cases when the employee would otherwise be laid off.

90.2.1.4 An employee who demotes to a class in which the employee does not hold permanency shall complete the appropriate probationary period in the new class.

90.2.1.5 Salary placement for employees who demote to a class with a lower maximum salary rate shall be in accord with these rules.

REFERENCE: 1. Education Code Section 45272

90.3 **RESTORATIONS**

90.3.1 **RESTORATION OF FORMER EMPLOYEE:** A former permanent employee who voluntarily resigned in good standing may be reinstated to a vacant position in his/her class and status within thirty-nine (39) months of the last date of his/her paid service without further competitive examination. In addition, the former employee may be reemployed to a vacant position in a lower-related class (as determined and approved by the Personnel Commission), if qualified (as determined and approved by the Personnel Commission) or in a limited-term status in the same or lower class in which the employee formerly had permanent status. Such employment actions are discretionary with the appointing authority.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45309

90.3.2 **RESTORATION OF CURRENT EMPLOYEE TO FORMER CLASS:** An employee who has taken a voluntary demotion may be restored to a vacant position in his/ her former class or to an vacant position in a related lower class (as determined and approved by the Personnel Commission) within thirty-nine (39) months after demotion. Except for demotion(s) taken in lieu of layoff (which are covered by the layoff provisions of these rules) restoration is discretionary with the appointing authority.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45309

90.3.3 **EFFECTS OF REINSTATEMENT:** Reinstatement or reemployment of a current or former employee shall have the following effects:

90.3.3.1 A former employee would be restored to the former step in the salary range for the class, or if reemployed in a lower-related class, to the rate closest to that of the step to which he/she would be assigned if the former employee were reinstated to his/her former class.

90.3.3.2 The former employee would receive restoration of accumulated sick leave and seniority as of the date of separation.

90.3.3.3 The former employee would receive restoration of his/her former anniversary date deducting time away from the District and without step-advancement credit for the off-duty period.

90.3.3.4 The former employee would receive restoration of any prior longevity steps granted prior to resigning, without longevity step-advancement credit for the off-duty period.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45309

CHAPTER 100
PERFORMANCE EVALUATIONS

100.1 **GENERAL POLICY**

100.1.1 **ADMINISTRATION OF PERFORMANCE APPRAISAL SYSTEM:** The Personnel Director shall be charged with administering the performance appraisal system of the Director for all members of the Classified Service.

REFERENCE: 1. Education Code Sections 45260 and 45261

100.1.2 **WHEN EVALUATIONS ARE TO BE MADE:** All permanent regular classified employees shall be evaluated by their immediate supervisors in accordance with the following schedule:

100.1.2.1 **Probationary Employees:** Employees designated as probationary may be evaluated at the end of the second, fourth, and fifth months of service. For persons employed in positions designated as supervisory, administrative, or executive by the Personnel Commission, performance evaluations shall take place at the end of the third, seventh, and eleventh months of service. The completion of evaluations for probationary employees is intended only to assist in the determination of permanency. The completion or non-completion of evaluations shall not impede such determination.

100.1.2.2 **Permanent Employees:** Employees designated as permanent shall be evaluated annually.

100.1.2.3 **Special Evaluations:** An employee may be given a special evaluation at any time during employment if deemed necessary by the supervisor.

REFERENCE: 1. Education Code Sections 45260 and 45261

100.1.3 **EVALUATION RATER:** Each employee is to be rated by his/her immediate supervisor who is defined as the person of higher classification who assigns, checks, and supervises more of the work of the employee than any other person in the section, crew, office, or department.

100.1.3.1 Only designated supervisory employees may rate and sign the formal evaluation form. Supervisors may receive input from employees having a lead function over the employee to be evaluated. (Example: Teacher provides input to the principal on performance of assigned instructional assistant; Lead Custodian provides input on performance of assigned custodian, etc.)

REFERENCE: 1. Education Code Sections 45260 and 45261

100.1.4 **EVALUATION FORMS:** Performance evaluations shall be made on forms approved by the District. This does not preclude the use of attachments made by either the employee or supervisor.

REFERENCE: 1. Education Code sections 45260 and 45261

100.1.5 **DOCUMENTATION:** All evaluations which contain negative comments about the employee's performance shall include substantiating documentation.

REFERENCE: 1. Education Code Sections 45260 and 45261

100.1.6 **SPECIFIC RECOMMENDATIONS FOR IMPROVEMENT:** In appropriate situations, negative evaluations shall include specific recommendations for improvements.

REFERENCE: 1. Education Code Sections 45260 and 45261

100.1.7 **SIGNING OF FORM:** The completed evaluation form shall be signed by the person being evaluated to indicate that the employee has seen and received a copy of the evaluation. The signing of the evaluation form shall not be construed to mean that the employee is necessarily in agreement with the contents of the evaluation form.

REFERENCE: 1. Education Code Sections 45260 and 45261

100.1.8 **DISTRIBUTION OF EVALUATION:** The completed evaluation form shall be distributed as follows:

100.1.8.1 One copy to the employee being evaluated.

100.1.8.2 One copy to the supervisor performing the evaluation.

100.1.8.3 One copy to the Personnel Commission Office for inclusion in the employee's personnel file.

REFERENCE: 1. Education Code Sections 45260 and 45261

100.2

EVALUATION OF THE PERSONNEL DIRECTOR

- 100.2.1.1** The performance evaluation of the Personnel Director shall follow the same rules and regulations as applicable to other employees in classified management classifications.
- 100.2.1.2** The Personnel Director shall be evaluated solely by the Personnel Commission.
- 100.2.1.3** As part of the Personnel Director performance evaluation process, the Personnel Commission may seek input from the Superintendent and/or his/her Designee; from the CSEA President and/or his/her Designee; and from other District employees whose input may be deemed useful by the Personnel Commission.
- 100.2.1.4** The development, choice, and utilization of procedures, criteria, and materials used in the evaluation of the Personnel Director shall be at the discretion of the Personnel Commission.

**CHAPTER 110
LEAVES OF ABSENCE**

110 GENERAL PROVISIONS

110.1 DEFINITION OF LEAVE OF ABSENCE: A leave of absence is an authorization for a regular employee to be absent from duty for a specific period of time for an approved purpose.

110.1.2 RIGHTS TO POSITION FOR LEAVES OVER SIX MONTHS: The granting of a paid or unpaid leave of absence shall guarantee the employee the right to return to a position of equal status in the employee's same classification. However, the assignment may be in a different department or location. Reasonable efforts will be made to place employee on a similar shift.

110.1.3 AUTHORIZED LEAVE IS NOT A BREAK IN SERVICE: An unpaid illness leave, industrial leave, and military leave shall not constitute breaks in service.

110.1.4 CONTINUATION OF ALL BENEFITS DURING PAID LEAVES: An employee on a paid leave of absence shall continue to accrue all benefits to which entitled as a regular employee.

110.1.5 CANCELLATION OF VOLUNTARY LEAVES: The Board may cancel any voluntary leave of absence for good cause by giving the absent employee due notice. Due notification shall allow sufficient time for the employee to return to work, but shall not be less than five (5) working days.

110.1.6 FAILURE TO REPORT FOR DUTY AFTER LEAVE EXPIRES: Failure to report for duty within three (3) working days after a leave expires or has been cancelled (pursuant to Rule #110.1.5) shall be considered abandonment of position and the employee may be terminated by the Board. Termination for abandonment shall be deemed termination for cause and treated as a disciplinary action.

110.1.7 EMPLOYEE MUST MAINTAIN LICENSES/CERTIFICATES: Any required license or certificate held by the employee at the time the leave was granted must be valid at the time the employee returns to work.

110.1.8 ABSENT EMPLOYEES MAY NOT ACCEPT GAINFUL EMPLOYMENT: An employee, while on leave of absence, may not accept other gainful employment, except ordered military service, without express prior approval of the Board.

110.1.9 HOLIDAYS DURING PAID LEAVES: Authorized paid holidays which occur during the period in which an employee is on a paid leave of absence shall be paid as holiday pay and shall not be deducted from any paid leave days being used or eligible to be used by the employee.

110.1.10 **LEAVES NOT GRANTED AS A MATTER OF RIGHT:** An employee shall not be entitled to a leave of absence as a matter of right. Upon request for a leave of absence signed by the employee and stating the reason for the leave, the appointing authority may recommend either to approve or disapprove the request. The request shall be submitted to the Personnel Director for approval. The Personnel Director, acting for the District and the Personnel Commission, shall approve or disapprove the request based upon its compliance with the law and these rules and regulations.

110.1.11 **VERIFICATION OF LEAVES:** The District shall have the right to require verification of all leaves requested and taken by an employee. An employee's inability or refusal to provide reasonable verification, as determined by the Personnel Director, shall be grounds for denying or revoking the requested leave of absence.

REFERENCE: 1. Education Code Sections 45190, 45198, 45203, 45204, 45205, 45260, and 45261

110.2 **SICK LEAVE**

110.2.1 **DEFINITION OF SICK LEAVE:** Sick leave is the authorized absence of a regular employee when the absence is due to:

110.2.1.1 Inability to perform the usual and customary duties of the position due to illness, injury, or for legally established quarantine.

110.2.1.2 A visit to a licensed physician, dentist, medical practitioner, psychologist or other therapist for examination, treatment, consultation, or therapy.

110.2.2 **NUMBER OF SICK LEAVE DAYS PER YEAR:** Every regular classified employee employed five (5) days a week shall earn one (1) day of sick leave per full month of paid status to a maximum of 12 days per year as specified under Education Code 45191.

110.2.3 **SICK LEAVE SHALL BE EARNED IN HOURS:** Employees shall earn sick leave on the basis of accrual by hours.

110.2.4 **PAY RATE FOR SICK DAYS:** Pay for a day of sick leave shall be the same pay the employee would have received had the employee worked regularly assigned hours that day.

110.2.5 **CARRY-OVER OF SICK LEAVE:** Sick leave accrued, but not used, shall carry over at the earned rate from one fiscal year to another with no limit on accumulation.

110.2.6 **PROBATIONARY EMPLOYEES' USE OF SICK LEAVE:** New probationary employees may not use more than six (6) days of paid sick leave during their initial probationary period. New probationary management classified employees may not use more than six (6) days of paid sick leave during the first six (6) months of their initial twelve (12) month probationary period. This rule shall not apply to those regular classified employees who have previously completed a probationary period in a lower or equal classification in the District.

110.2.7 **NOTIFICATION OF ABSENCE:** In order to receive compensation for sick leave, the employee must notify his/her immediate supervisor or the Substitute Dispatcher prior to the start of the employee's working day, but not later than the first working hour of the day of absence, unless conditions make such notification impossible. The burden of proof regarding the impossible conditions shall be upon the employee. The employee shall continue to advise the supervisor, on a daily basis, of the absence, unless the employee has notified the supervisor of an extended duration absence.

110.2.8 **NOTIFICATION OF RETURN TO WORK:** The employee shall notify his/her immediate supervisor or the Substitute Dispatcher of his/her impending return as soon as possible, but not later than the end of his/her normal work day preceding the day on which the employee is to return to work. If an employee fails to notify his/her supervisor or the Substitute Dispatcher, and a substitute has been assigned to work for the day when the employee returns to work, the employee may be sent home for the day without being paid for that day.

110.2.9 **DOCTOR'S NOTE MAY BE REQUIRED:** If the District has reason to question an employee's absence from duty and/or ability to perform the essential functions of the job as a result of the illness or injury, regardless of the duration the District may require the employee to present a statement from a state-licensed physician verifying the medical need and/or duration of the illness. In addition, the District may send an employee to a District appointed physician for examination at the District's expense.

110.2.10 **GENERAL DISTRICT RIGHT TO REQUIRE MEDICAL EXAM:** The District shall have the right to have an employee examined by a state-licensed physician, at District expense, whenever there is a question as to the employee's ability to perform the essential functions of the position; regardless of whether or not the employee has claimed or received paid benefits under the provisions of these rules and regulations.

110.2.11 **NO SICK LEAVE PAYOFF WHEN EMPLOYEE LEAVES:** If an employee leaves the employment of the District, accumulated unused sick leave will not be credited to the employee's final payment.

REFERENCE: 1. Education Code sections 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45196.5, 45200, 45203, 45260, and 45261

110.3 **50% EXTENDED SICK LEAVE**

110.3.1 **EXTENDED SICK LEAVE:** All regular classified employees who have exhausted all accrued and advanced sick leave shall receive extended sick leave pursuant to Education Code 45196.

110.3.1.1 Extended sick leave shall be paid at 50% of the employee’s regular rate of pay.

110.3.1.2 Extended benefits shall be limited to 100 workdays in each fiscal year. At the beginning of a fiscal year, employees shall be credited with a total of not less than 100 working days of paid sick leave including days to which the employee is entitled under Education Code 45191. Such days of paid sick leave in addition to those required by Section 45191 shall be compensated at not less than 50% of regular salary.

110.3.1.3 These 100 days shall be exclusive of any other paid leave, holidays, vacation or compensatory time to which the employee may be entitled.

110.3.2 **USE EXTENDS INTO NEXT FISCAL YEAR:** In the event that the entitlement to extended sick leave is not exhausted at the end of the present fiscal year, and the employee continues to be sick or disabled, the employee shall be entitled to receive the new regular and extended sick leave benefits available for that fiscal year. The employee must be in paid status at the end of the work year to receive the new 100 days. If paid leave is exhausted, the employee may request an unpaid leave. The employee shall be notified in writing that available paid leave has been exhausted and shall be offered an opportunity to request additional leave. The employee will be placed on a thirty-nine 39-month reemployment list if they are unable to return to work following exhaustion of available leaves.

110.3.3 **VERIFICATION OF ILLNESS:** All rules governing verification of illness absences outlined in Rule #110.2 shall also apply to any absences taken under this rule. Additionally, an employee who is absent from work and requests use of half-day sick leave shall provide verification of illness by a medical practitioner prior to the authorization of such leave. Extended sick leave shall only be used for a continuing illness or for illness of at least five (5) consecutive days.

110.3.4 **ABSENCE NOTIFICATION:** All rules governing absence notification outlined in Rule #110.2 shall also apply to any absences taken under this rule.

REFERENCE: 1. Education Code Sections 45136, 45137, 45190, 45191, 45193, 45195, 45196, 45200, 45260, and 45261

110.4 **TRANSFER OF SICK LEAVE**

110.4.1 **TRANSFER OF SICK LEAVE FROM ANOTHER DISTRICT:** Any classified employee of any school district, county superintendent of schools, or community college district, who was not terminated from that agency for cause, who accepts employment with the District within one calendar year (from the date of termination of employment with the other agency) shall be allowed to transfer his/her accumulated sick leave from that agency to this district. In order to effectuate the transfer of the accumulated sick leave, the newly hired employee shall request the Personnel Director to secure the necessary information from the former school agency.

REFERENCE: 1. Education Code Sections 45202, 45191, and 88191

110.5 **UNPAID ILLNESS LEAVE**

110.5.1 **SIX MONTH UNPAID LEAVE:** A permanent classified employee, who has exhausted all entitlement to sick leave, vacation, compensatory overtime or other available paid leave, and who is absent due to industrial or non-industrial accident or illness may be granted additional leave not to exceed six (6) months. The employee shall be notified in writing, that available paid leave has been exhausted and shall be offered an opportunity to request additional leave. The leave may be renewed for two additional six (6) month periods not to exceed a total of eighteen (18) months. Eligible employees may request leave under the Family Care and Medical Leave Policy found under Rule #110.18.

110.5.2 **FACTORS THAT MUST BE CONSIDERED:** Prior to granting this leave the following factors shall be considered:

- 110.5.2.1** The likelihood that the employee will be able to return to regular duties at the conclusion of the leave;
- 110.5.2.2** The length of service and work record of the employee;
- 110.5.2.3** The employee’s previous leave history and attendance record;
- 110.5.2.4** The number of positions in the employee’s class;
- 110.5.2.5** The uniqueness of the duties performed, and the availability of a substitute.

110.5.3 **RIGHT TO RETURN TO CLASS:** An employee, upon ability to resume the essential functions of a position within the class to which he/she was assigned may do so without the leave being considered a break in service. If, at the conclusion of the leave of absence, paid or unpaid, the employee is still unable to resume the duties of the position, the employee shall be placed on a reemployment list for a period of thirty-nine (39) months. If at any time during the thirty-nine (39) months the employee is able to assume the essential functions of the position, the employee shall be reemployed in the first vacancy in the classification of the previous assignment. The employee’s reemployment will take preference over all other applicants except those on lay-off, in which case the employee shall be ranked according to seniority.

REFERENCE: 1. Education Code Sections 45195, 45260, and 45261

110.6 **BEREAVEMENT LEAVE**

110.6.1 **THREE TO FIVE DAYS OF PAID LEAVE:** In the event of the death of a member of the immediate family, (as defined in appropriate contract language) an employee shall be granted necessary leave of absence, not to exceed three (3) days, and an additional two (2) days for out-of-state travel or necessary travel beyond 300 miles of the District (as measured by the shortest land route). Additional days of absence beyond those described herein may be provided under the terms of Personal Necessity Leave provisions contained in Rule #110.8. Employees granted bereavement leave under this rule shall suffer no deduction from their salary, nor shall such leave be deducted from leave granted by other sections of these rules or the Education Code.

110.7 **HOSPITALIZATION LEAVE OF IMMEDIATE FAMILY LEAVE:** Days taken under this rule for hospitalization of the employee's spouse, child or parent which requires the employee's presence shall be considered the same as personal illness. A written request for such presence, by either the doctor or hospital management, shall be submitted with an absence notification form to the immediate supervisor. Maximum allowance for such absence under this leave shall be limited to six (6) days in any one fiscal year, so long as the employee has such number of accumulated sick leave days available.

110.8 **PERSONAL NECESSITY LEAVE**

110.8.1 **USE UP TO SEVEN DAYS:** An employee may use, at his/her election, not more than seven (7) days accumulated sick leave benefits in any school year, in the following cases of personal emergency:

110.8.1.1 Death of a member of the immediate family. This leave is in addition to regular bereavement leave offered under Rule #110.6.

110.8.1.2 Accident involving his/her person or property, or property of a member of the employee's immediate family as defined in Rule #110.6, of such a nature that the immediate presence of the employee is required during his/her working day.

110.8.1.3 Illness involving a member of the employee's immediate family as defined in Rule #110.6, of such a nature that the presence of the employee is required during his/her working day.

110.8.1.4 Appearance in court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.

110.8.1.5 In any other situations of urgency as judged acceptable to the District, for the purpose of conducting personal business which is impossible to transact at other than school district working hours. Such leave may not be used for seeking other employment, rendering paid services, or working either with or without remuneration for oneself or for anyone else; for recreational activities; or for withholding of services. The permissive sections of this leave as outlined in Rule #110.8.1.5 may not be granted on the first or last day of the school year, nor on the first working day preceding or following a vacation or holiday period including weekend holidays. (Exceptions: Activities such as recognized religious holidays, graduation exercises for the employee or members of the immediate family as defined in Rule #110.6, honors convocation honoring the employee, military departure of a son or daughter, etc.)

110.8.2 **NOTIFICATION OF LEAVE USAGE:** Classified employees desiring to use such leave shall submit their request at least three (3) working days in advance of the anticipated absence, except in emergencies or unexpected events. In such cases, the employee shall apply as soon as possible. The employee must complete an Absence Notification Form and have the supervisor approve the requested personal necessity usage, subject to final approval by the Personnel Director. The general reason for the personal necessity shall be clearly stated on the Absence Notification Form. The maximum length of leave allowed for permissive personal necessity

reasons as outlined in Rule #110.8.1.5 shall not exceed seven (7) working days and must be agreed upon between employees and supervisor.

110.8.3 **PERSONAL NECESSITY NOT CUMULATIVE:** Personal necessity leave is non-cumulative. Employees are limited in each fiscal year to the amount of usage outlined in Rule #110.8.1.

REFERENCE: 1. Education Code Sections 45207, 45260, and 45261

110.9 **PREGNANCY DISABILITY LEAVE**

110.9.1 **ENTITLEMENT TO LEAVE:** Regular female classified employees who must be absent from their duties due to pregnancy, childbirth, or related medical conditions shall be entitled to take pregnancy disability leave for up to four months.

110.9.2 **USE OF SICK LEAVE:** The employee shall use available sick leave, including current and accrued sick leave, then 50% extended sick leave, during the period of pregnancy disability leave. Pregnancy Disability Leave runs concurrently with all available sick leave. If the employee exhausts all available paid leave, the remainder of the pregnancy disability leave will be unpaid.

110.9.3 **BENEFITS:** During pregnancy disability leave, the District shall maintain the employee's coverage under the District's group health benefits plans at the same level as prior to leave pursuant to Personnel Commission Rule #110.18.15.

110.10 PARENTAL AND CHILD-REARING LEAVE

- 110.10.1 PARENTAL LEAVE:** For purposes of this Rule, “parental leave” means leave for the purpose of bonding with an employee’s newborn child or with a newly placed child in the employee’s household for adoption or foster care. Parental leave does not include leave taken for the employee’s disability due to pregnancy, childbirth, or recovery therefrom, which are covered by Personnel Commission Rule #110.9.
- 110.10.2 ELIGIBILITY:** A regular classified employee shall be entitled to up to 12 workweeks of parental leave in any twelve (12)-month period. Such leave must be taken within the first twelve (12) months following the birth or placement of a child in the employee’s household for adoption or foster care.
- 110.10.3 USE OF SICK LEAVE:** The employee shall use any current and accumulated sick leave for parental leave, for maximum of twelve (12) workweeks.
- 110.10.4 50% PAY PARENTAL LEAVE:** An employee who has been employed by the District for at least twelve (12) months at the time parental leave begins shall, after exhausting all fully paid sick leave, be paid at the 50% pay rate for the remainder of the twelve (12)-week period. An employee who has been employed by the District for fewer than twelve (12) months at the time parental leave begins may, after exhausting all fully paid sick leave, continue to be absent for parental leave without pay for a total of twelve (12) weeks.
- 110.10.5 BENEFITS:** During parental leave, the District shall maintain an employee’s coverage under the District’s group health benefits plans at the same level as prior to leave pursuant to Personnel Commission Rule #110.18.15.
- 110.10.6 NOTICE:** The employee must give the Classified Personnel Office reasonable advance written notice of his or her intention to use parental leave and the anticipated beginning and ending dates of the leave. If the need for the leave is foreseeable, the employee is expected to give at least thirty (30) days’ advance notice to the Classified Personnel Office.
- 110.10.7 LEAVE INCREMENTS:** Parental leave must be used within twelve (12) months following the birth or placement of the child. Parental leave must be taken in increments of at least two weeks’ duration. However, the employee may take parental leave in increments of less than two weeks for up to two occasions.
- 110.10.8 CONCURRENT CALIFORNIA FAMILY RIGHTS ACT (CFRA) LEAVE:** Parental leave taken under this Rule runs concurrently with parental (child bonding) leave to which the employee may be entitled under CFRA. The total amount of parental leave may not exceed twelve (12) workweeks in any twelve (12)-month period.
- 110.10.9 UNPAID CHILD-REARING LEAVE:** An employee who has exhausted all parental leave, or is not eligible for parental leave (i.e. has worked for the District fewer than twelve (12)

months), may request an unpaid child-rearing leave. Such leave is considered a personal unpaid leave of absence and must be approved by the District's governing board.

REFERENCE: Education Code sections 45196.1, 45260, 45261
Government Code section 12945.2

110.11 **JURY DUTY LEAVE**

110.11.1 **LEAVE OF ABSENCE FOR JURY DUTY:** Regular classified employees who are called to serve on a jury shall be entitled to be absent from duty without loss of pay for a period of time as authorized by the Board of Education. Any compensation, excluding reimbursements for meals, mileage, and parking allowances, received by an employee as a member of a jury while in paid status shall be remitted to the District.

110.11.2 **NOTIFICATION OF JURY LEAVE:** Any request for jury duty leave shall be made by completing an Absence Notification Form and attaching the official court summons to jury service to said form for forwarding to the Personnel Commission Office.

REFERENCE: 1. Education Code Sections 44037, 45260, and 45261

110.12 **WITNESS LEAVE**

110.12.1 **WITNESS LEAVE OF ABSENCE:** A leave of absence to serve as a witness in court (other than as a litigant) or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee, may be granted to all regular classified employees without loss of pay. Any compensation, excluding reimbursements for meals, mileage, and parking allowances, received by an employee as a result of being a witness shall be remitted to the District.

110.12.2 **NOTIFICATION OF WITNESS LEAVE:** Any request for witness leave shall be made by completing an Absence Notification Form and attaching the official subpoena to said form for forwarding to the Personnel Commission Office.

REFERENCE: 1. Education Code Section 44036

110.13 **RELEASE TIME FOR PERSONNEL ACTIVITIES**

110.13.1 **LEAVE TO TAKE DISTRICT EXAMINATION:** An eligible employee in the classified service of the District shall be permitted to take qualifying examinations given by the Personnel Commission during the employee's regular working hours without deduction of pay or other penalty. This paid release time shall be valid only with written authorization to take the examination signed by the Personnel Director or his/her designee. The employee shall provide at least two (2) days' notice to his/her immediate supervisor.

110.13.2 **ATTENDANCE AT INTERVIEW:** Any employee in the classified service of the District shall be permitted release time to attend an interview for promotion or transfer in the District during his/her regular working hours without deduction of pay or other penalty. The employee shall provide notice to his/her immediate supervisor as soon as possible after notification by the Personnel Commission Office of the interview time.

110.13.3 **ATTENDANCE AT PERSONNEL COMMISSION MEETING:** Any employee in the classified service of the District shall be permitted release time to attend a Personnel Commission meeting at which a recommendation affecting the employee's classification, salary or status is being presented, without deduction of pay or other penalty. The employee shall provide at least 24 hours notice to his/her immediate supervisor.

REFERENCE: 1. Education Code Sections 45260, and 45261

110.14 **MILITARY LEAVE**

110.14.1 **ALL REGULAR EMPLOYEES GRANTED MILITARY LEAVE:** Regular classified employees under official orders, who are called to active duty in the Armed Services of the United States of America (including the Coast Guard) shall be granted military leave of absence for the period of service. Request for reinstatement must be within six months of the end of active service.

110.14.2 **RESERVE SERVICE:** Regular classified employees who are members of a reserve corps, and who must be temporarily absent due to active duty training or exercises shall be granted temporary military leave of absence.

110.14.3 **30 DAYS LEAVE WITH PAY:** Regular classified employees who have been employed for at least one year immediately prior to the commencement of the leave and who have been ordered for active military training not exceeding 180 calendar days shall be granted full pay for the first thirty (30) calendar days of the leave. Such days do not have to be consecutive. Employees on military leave shall be granted salary advancement and shall continue to accrue seniority for purposes of layoff. No other fringe benefits, such as sick leave or vacation shall accrue during any unpaid portion of the leave. Such pay shall not exceed thirty (30) days in any one fiscal year and per Education Code 45057 is deemed to be one month's salary.

110.14.4 **OFFICIAL ORDERS MUST BE SUBMITTED:** In order for a paid leave of absence to be granted, the employee must submit official orders to active duty or reserve duty, stating the dates to report.

110.14.5 **RETURN FROM MILITARY LEAVE:** Upon return from military leave, the employee shall be reinstated to his/her regular position or an equal position in the same class. Reservists and military personnel returning with disabilities that prevent them from performing the essential job duties will be reemployed in similar positions.

- REFERENCE:**
1. Education Code Sections 45190, 45260, and 45261
 2. California Military and Veterans Code Sections 389, 395, 395.01, 395.05, 395.1-395.4

110.15 **LEAVES OF ABSENCE WITHOUT PAY**

110.15.1 **WHEN GRANTED:** Leaves of absence without pay may be granted to a permanent classified employee upon written request of the employee, and the approval of the District, subject to the restrictions and conditions outlined in this rule. The written request shall be submitted to the Personnel Director for approval prior to the date on which the leave is to be effective.

110.15.2 **LENGTH OF LEAVE:** Leave of absence without pay may be granted for any period not exceeding six (6) months, but may be extended for six (6) months with the approval of the Personnel Commission. Additional extensions may be granted upon approval of the Board of Trustees and the Personnel Commission up to a maximum of eighteen (18) months.

110.15.3 **REASONS:** A leave of absence may be granted an employee provided the employee meets all other requirements set forth in this rule:

110.16.3.1 An employee who desires to attend an educational institution or to enter training to improve the quality of his/her service.

110.16.3.2 For reasons already enumerated in Chapter #110 of these rules.

110.16.3.3 For reasons deemed satisfactory to the District and the Commission.

110.15.4 **RIGHT TO RETURN:** The granting of a leave of absence without pay gives the employee the right to return to his/her classification at the expiration of the leave of absence, or before, with the concurrence of the appointing authority and/or in conformance with procedures contained in Chapter #110 of these rules and regulations, if such a position still exists. Such leaves are granted only to employees who desire to return to their former positions. A physical examination may be required by the Personnel Commission before the employee returns to work.

110.15.5 **CANCELLATION OF UNPAID LEAVE OF ABSENCE:** The Personnel Commission may, for cause, and upon request of the appointing authority, cancel any leave of absence approved by giving the absent employee due notification.

110.15.6 **REPORT OF REINSTATEMENT:** Report of the employee's return to work at or before the expiration of a leave of absence without pay, shall be made directly to the Personnel Director, prior to the employee returning.

110.15.7 **FAILURE TO RETURN:** Failure to report for duty within three (3) working days after the deadline for returning from a leave shall be considered abandonment of position and subject the employee to disciplinary action up to and including termination from employment. The employee may present evidence to the Personnel Director to show

why the failure to return was excusable, and if found acceptable to the Personnel Director, the employee shall be reinstated with no further action.

110.15.8 **COUNTING TIME FOR SENIORITY OR SALARY ADJUSTMENT:** Time spent on leave of absence without pay of over five (5) working days shall not count towards merit salary adjustments (step increases). Before an employee receives a salary adjustment, the employee must serve the required service time.

110.15.9 **UNPAID LEAVES OF FIVE DAYS OR LESS:** A voluntary informal unpaid leave of absence may be granted by the immediate supervisor for a period of five (5) working days or less without approval of the Personnel Director. However, this unpaid leave must be reported on the employee's time sheet and an Absence Notification Form must be filled out and attached to the time sheet.

REFERENCE: 1. Education Code Sections 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45196.5, 45198, 45199, 45260, and 45261

110.16 **ABSENCE DUE TO EPIDEMICS OR EMERGENCIES**

110.16.1 **ABSENCE DUE TO EPIDEMICS OR EMERGENCIES:** An employee shall be paid his/her regular salary for any period during which the employee's place of employment is closed because of quarantine, epidemics, or other conditions involving the health or safety of employees, provided that the employee is ready, able and willing to perform his/her customary or other reasonable and suitable duties. During this period, the District shall endeavor to assign the employee to work elsewhere.

REFERENCE: 1. Education Code Sections 45260 and 45261

110.17 **CATASTROPHIC SICK LEAVE BANK**

110.17.1 **WHEN GRANTED:** Employees who suffer a catastrophic illness which results in the employee using all available paid leaves, including regular sick leave, 50% sick leave, vacation, and compensatory time off, shall become eligible to use this catastrophic sick leave bank, subject to the restrictions and conditions outlined in this rule.

Catastrophic illness or injury is defined as a severe illness or injury which is expected to incapacitate an employee due to the injury or the prolonged illness and which creates a financial hardship because the employee has exhausted all available leave credits including regular sick leave, 50% extended sick leave, vacation, and compensatory time.

Such catastrophic illness or injury may include, but not be limited to, heart attack, stroke, kidney failure, cancer, incapacitating disease, major surgery and/or treatment for life threatening illness or hospitalization as a result of a serious automobile or other accident.

The purpose of the Catastrophic Sick Leave Bank Program is to assist an employee who is suffering from a catastrophic illness through the use of paid leave days donated to the bank by Fullerton School District employees.

110.17.2 **ELIGIBILITY LIMITED TO THOSE WHO DONATED DAYS:** The use of this Sick Leave Bank shall only be available to those classified employees who have made a donation to the Bank.

110.17.3 **SICK LEAVE BANK:** The Fullerton School District shall have established a Catastrophic Sick Leave Bank to which all classified employees may donate earned and unused sick leave days and/or earned and unused vacation days to the Sick Leave Bank. This donation shall be irrevocable, and shall be accomplished by the employee filing a “Classified Sick Leave Bank Irrevocable Deposit Form.” The form shall clearly state that the sick leave days and/or vacation days being donated are irrevocable given to the Sick Leave Bank, and cannot be rescinded for any reason whatsoever. A donation to the Sick Leave Bank shall be a general donation, and shall not be donated to a specific employee for his/her exclusive use.

110.17.4 **LIMITS ON NUMBER OF DAYS:** No classified employee may donate any sick leave days unless the employee has a minimum of five (5) earned sick leave days credited to his/her sick leave account. A less than twelve (12) month employee may not donate vacation days if such donation would result in an unpaid period of time during the winter or Spring Recess periods. Twelve (12) month employees shall have no such restrictions. There is no limit to the number of sick leave days an employee may donate to the Sick Leave Bank, so long as the minimum number of earned sick leave days available to the employee does not fall to five (5) days or less. Except for

the restrictions noted above, there shall be no limit to the number of sick leave or vacation days an individual employee may contribute to the Sick Leave Bank.

- 110.17.5** **SOLICITATION OF DONATIONS:** The Catastrophic Sick Leave Bank donations shall be solicited from permanent classified employees (excludes probationary employees) in November of each year. At the beginning of the donation period, the Classified Personnel Commission Office shall send to each classified employee a notice outlining the Sick Leave Bank Program and a “Classified Sick Leave Bank Irrevocable Deposit Form.” Donations must be received by the Classified Personnel Commission Office during the donation period.
- 110.17.6** **SICK LEAVE BANK APPROVAL COMMITTEE:** All employees wishing to use this Sick Leave Bank shall submit a “Classified Sick Leave Bank Request For Withdrawal Form.” This form shall be submitted to the Classified Personnel Commission Office. The request shall state the maximum number of days being requested by the employee. A Sick Leave Bank Committee shall consider the request of the employee. The committee shall consist of the Director of Classified Personnel Services (Chairperson), the CSEA Chapter #110 President and one classified confidential employee (selected by majority vote of that group).
- 110.17.7** **MAXIMUM NUMBER OF DAYS USED:** The maximum number of days allowed to be utilized by one employee for a single approved catastrophic illness shall not exceed twelve (12) consecutive months. Generally, the donated days are utilized to keep an employee in paid status for the purpose of maintaining medical benefits. An employee may request a specific number of days on one “Classified Sick Leave Bank Request For Withdrawal Form,” and if the employee finds that additional days are necessary, the employee may file an additional request for consideration by the Committee, so long as the total number of days utilized for a single approved catastrophic illness shall not exceed the maximum.
- 110.17.8** **APPROVED AND UNUSED DAYS RETURNED TO SICK LEAVE BANK:** Any days approved by the Committee or the Personnel Commission that are unused by the employee shall be returned to the Catastrophic Sick Leave Bank. When an employee who donates to the bank retires or terminates, the days are withdrawn from the remaining balance.
- 110.17.9** **THE WORTH OF A DONATED DAY:** A day of donated sick leave or vacation shall be considered one day for purposes of credit to the Sick Leave Bank, regardless of the number of hours that donated day would have been worth to the employee making the donation.
- 110.17.10** **EMPLOYEES ON THIS LEAVE CONSIDERED IN PAID STATUS:** Employees who are granted use of Sick Leave Bank days shall be considered in regular paid status during such use.

110.17.11 **VERIFICATION OF CATASTROPHIC ILLNESS:** A physician’s verification of catastrophic illness, injury and estimated date of return must be provided by the employee prior to authorization. Should the physician indicate that an employee will not be able to return to work, the employee, prior to Sick Leave Bank approval, must apply for disability or service retirement benefits if eligible.

REFERENCE: 1. Education Code Sections 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45196.5, 45198, 45199, 45260, and 45261

110.18 **FAMILY CARE AND MEDICAL LEAVE**

110.18.1 **PURPOSE:** An eligible employee may be entitled to family care and medical leave in connection with the birth, newborn care, adoption, or foster care placement of a child with the employee or the serious illness of a child, parent, spouse, or the employee because of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation, or to care for a current member of the Armed Forces (covered service member) see Personnel Commission Rule #110.18.22.7 with a serious illness or injury.

110.18.2 **ELIGIBILITY:** To be eligible for leave, an employee must comply with all requirements of state/federal law pertaining to family care and medical leave and must have satisfied both of the following:

110.18.2.1 Have worked for the District at least one year prior to the leave,

110.18.2.2 Except for purposes of parental leave pursuant to Personnel Commission Rule #110.10, have provided at least 1,250 hours of service with the District during the *twelve (12)* months before leave commences.

110.18.3 **REASONS FOR LEAVE:** Leave may be requested for:

110.18.3.1 Birth and care for the employee’s newborn child;

110.18.3.2 Adoption or foster care placement of a child with the employee;

110.18.3.3 When the employee is needed to care for the serious illness or health condition of a child, spouse or parent;

110.18.3.4 For the serious health condition of the employee. A “serious health condition” is an illness, injury, impairment, or physical or mental condition that involves (a.) inpatient care in a hospital or other health care facility, or, (b.) continuing treatment by a health care provider. Continuing treatment for a serious health condition may arise as a result of a “chronic serious health condition.”

110.18.3.5 Because of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation. A “qualifying exigency” is: (1) short-notice deployment, (2) military events and related activities, (3) childcare and school activities, (4)

financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post-deployment activities, and (8) additional activities to which the employer consents;

110.18.3.6 To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member. A “serious injury or illness” means an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.

110.18.4 **DURATION OF LEAVE:** The employee may be granted up to twelve (12) workweeks of family care and medical leave during the twelve (12)-month period beginning with the date of commencement of leave. The employee may be granted up to twenty-six (26) workweeks of leave to care for a covered service member with a serious injury or illness during the twelve (12)-month period, starting the first day the employee takes leave to care for a covered service member with a serious injury or illness. Leave may be taken in one or more periods. The District may deny a leave request if the leave is deemed not to be of sufficient duration. For intermittent leave or leave on a reduced leave schedule, there must be medical certification of the medical need for the leave and that the medical need can be best accommodated through an intermittent or reduced leave schedule. The employee must attempt to schedule the leave so as not to unduly disrupt District operations.

A husband and wife employed by the District may take only a combined total of 26 weeks of leave during the twelve (12)-month period if the leave is to care for a covered service member with a serious injury or illness.

110.18.5 **SPECIAL PROVISIONS FOR PREGNANCY RELATED DISABILITY AND PARENTAL LEAVE:** Upon expiration of any pregnancy disability leave authorized by Government Code section 12945 and Personnel Commission Rule #110.9 eligible employee is entitled to take up to twelve (12) weeks of parental leave pursuant to Personnel Commission Rule #110.10. The employee must provide at least 30 days’ advance written notice of the request for parental leave to the Classified Personnel Office pursuant to these procedures.

110.18.6 **ALTERNATE TO ACCOMMODATE INTERMITTENT OR REDUCED LEAVE SCHEDULE:** The District may require the employee to temporarily transfer to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee’s regular position, so long as it has equivalent pay and benefits.

110.18.7 **SUBSTITUTION OF PAID SICK LEAVE AND OTHER PAID LEAVE FOR FCML LEAVE IN THE CASE OF SERIOUS HEALTH CONDITION OF AN EMPLOYEE:** Employees shall utilize and exhaust all available paid sick leave, substituting such

paid sick leave for family care and medical leave for the employee's serious health condition where the employee is unable to perform the functions of his/her position. Upon exhaustion of current year and accrued paid sick leave, the employee shall utilize 50% extended sick leave pursuant to Personnel Commission Rule #110.3, available paid vacation and compensatory time off leave. If the total of sick leave, 50% extended sick leave, vacation leave, and compensatory time off is less than twelve (12) workweeks, the remainder of the twelve (12)-week-leave period shall be unpaid family care and medical leave. Part-time, regular employees who are otherwise eligible for FCML leave are entitled to leave in the proportion that their work schedule bears to a full-time assignment, for up to twelve (12) weeks at the employee's regular number of assigned hours.

110.18.8 **EMPLOYEE EXPLANATION OF REASONS FOR FCML LEAVE:** The employee must provide sufficient information for the District to determine whether the leave qualifies as FCML entitlement. An employee who fails to identify the reasons for the leave as one of those enumerated above, may be required to provide additional information to substantiate whether the leave request qualifies for FCML leave.

110.18.9 **SCHEDULING OF FORESEEABLE LEAVE:** An employee must provide at least thirty (30) days advance written notice of the need for FCML leave if the need is foreseeable based on an expected birth, placement for adoption or foster care or planned medical treatment for a serious health condition of the employee or family member or the planned medical treatment for a serious injury or illness of a covered service member. For foreseeable leave due to a qualifying exigency, notice must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable. When this is not practicable, because the employee lacks knowledge of when the need for the leave would begin, notice must be given as soon as practicable. Notice must be given within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances. In the case of a medical emergency requiring leave because of the employee's own serious health condition or to care for a family member with a serious health condition, written notice is required as soon as the need for the leave is known. The employee is required to provide additional information as soon as it can readily be accomplished, taking into consideration the exigencies. Where the employee fails to give at least thirty (30) days written notice for foreseeable leave with no reasonable excuse of delay, FCML leave may be delayed until up to thirty (30) days after the date the employee provides written notice of the need for leave.

110.18.10 **DENIAL OF LEAVE REQUEST:** Leave may be denied if the employee has not complied with these procedures.

110.18.11 **SALARY DURING LEAVE:** Except to the extent that paid leave is substituted for family care and medical leave, an employee is not entitled to any continued salary during leave. Eligible employees are entitled to 50% pay during parental leave, pursuant to Personnel Commission Rule #110.10.

110.18.12 **REINSTATEMENT:** Upon termination of leave, the employee shall be entitled to reinstatement to the same or equivalent position with the same or equivalent rate of pay. An employee who takes leave has no greater right to reinstatement than if he or she had been continuously employed during the leave period. If the District reduces its workforce during the leave period and the employee is laid off for legitimate reasons at that time, he or she is not entitled to reinstatement, provided the District has no continuing obligations under a collective bargaining agreement or otherwise.

110.18.13 **SENIORITY:** Upon termination of leave, an employee retains the same seniority as at the commencement of leave. Seniority shall not accrue during unpaid leave.

110.18.14 **CERTIFICATION:** For leave taken to care for a sick family member or for the employee's own illness, a qualifying exigency, or to care for a covered service member with a serious injury or illness, the District requires medical certification issued by the licensed health care provider of the family member or employee.

110.18.14.1. The medical certification must include:

110.18.14.1.1 The name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;

110.18.14.1.2 The approximate date on which the serious health condition commenced and its probable duration;

110.18.14.1.3 A statement of the medical need for the leave, without disclosing the patient's health condition for which leave is requested;

110.18.14.1.4 If the patient is a covered family member with a serious health condition, information sufficient to establish that the family member is in need of care, and an estimate of the frequency and duration of the leave required to care for the family member.

110.18.14.2 The medical certification of an employee's own illness must include:

110.18.14.2.1 The name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;

110.18.14.2.2 The approximate date on which the serious health condition commenced;

- 110.18.14.2.3** Its probable duration;
 - 110.18.14.2.4** A statement that, due to the serious health condition, the employee is unable to work at all, cannot perform any one or more of the essential functions of his or her position, and the nature of any other work restrictions.
- 110.18.14.3** The first time an employee requests leave because of a qualifying exigency arising out of the active duty or call to active duty status of a covered military member, the District may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service. The District may also require the orders to be supported by certification, which shall include:
- 110.18.14.3.1** A statement or description, signed by the employee, of facts regarding the qualifying exigency;
 - 110.18.14.3.2** The approximate date on which the qualifying exigency started or will start;
 - 110.18.14.3.3** The beginning and end dates for the employee's absence, or in the case of intermittent leave or reduced schedule leave, an estimate of the frequency and duration of the employee's absence; and
 - 110.18.14.3.4** If the qualifying exigency involves meeting with a third party, contact information for the person or organization with whom the employee is meeting (such as the name, title, organization, address, telephone number, fax number, and email address), and a brief description of the purpose of the meeting.
- 110.18.14.4** When leave is taken to care for a covered service member with a serious injury or illness, the District may require the employee to obtain a certification completed by an authorized health care provider of the covered service member. [Authorized health care providers are described in Federal Code of Regulations, Title 29 section 825.310 (a).] The District may also request:

- 110.18.14.4.1** The name of the covered service member, the employee's relationship to the covered service member, and the type of service and military rank of the service member;
 - 110.18.14.4.2** The name, address, and contact information (telephone number, fax number, and/or email address) of the health care provider, the type of medical practice, the medical specialty, whether the health care provider is one enumerated in Federal Code of Regulations, Title 29 section 825.310 (b) (1), and whether the covered service member is assigned to a military medical facility or unit as an outpatient;
 - 110.18.14.4.3** Whether the covered service member's injury or illness was incurred in the line of duty on active duty;
 - 110.18.14.4.4** The approximate date on which the serious injury or illness commenced;
 - 110.18.14.4.5** The probable duration of the illness or injury;
 - 110.18.14.4.6** A statement or description of medical facts regarding the covered service member's health condition for which leave is requested;
 - 110.18.14.4.7** Information to establish that the covered service member is in need of care, and a description of the care that will be provided;
 - 110.18.14.4.8** An estimate as to the beginning and ending dates for this period of time; and
 - 110.18.14.4.9** Whether the covered service member is on the temporary disability retired list.
- 110.18.14.5** The written certification must be provided within 15 calendar days of the date of the request, unless it is impractical under the particular circumstances to do so.
- 110.18.14.6** If the District has reason to doubt the validity of the certification provided by the employee for his or her own serious health condition,

it has the right to require the employee to obtain a second medical opinion, at the District's expense, from a health care provider designated or approved by the District, but not regularly employed by the District. The District may require the employee to obtain, at the District's expense, a third medical opinion if the second opinion differs from the opinion in the original certification. The opinion of the third health care provider, who shall be approved jointly by the District and the employee, shall be considered final and binding on the District and the employee.

110.18.14.7 If the leave extends beyond the period indicated in the original medical certification, or additional leave is requested, or the District receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification the employee may be required to obtain re-certification.

110.18.15 **GROUP HEALTH BENEFITS DURING LEAVE:** During qualifying leave, the District shall maintain an employee's coverage under the District's group health benefit plans at the same level as prior to leave. If the District provides new health benefits or plans or changes health benefits or plans while an employee is on leave, the employee is entitled to the new or changed benefits or plan to the same extent as if the employee were not on leave. The District shall give an employee on leave notice of any opportunity to change plans or benefits. If a plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits will be available. An employee may choose not to retain health coverage during leave. When the employee returns from the leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, without any qualifying period, physical examination or exclusion or pre-existing conditions.

110.18.16 **TERMINATION OF GROUP HEALTH BENEFITS:** Except as required by COBRA and for "key" (see 110.18.19) employees, the District's obligation to maintain health benefits for an employee on leave ceases if and when the employee informs the District of the intent not to return, or when the employee fails to return, and thereby terminates employment, or when the employee exhausts his/her family care and medical leave entitlement.

110.18.17 **EMPLOYEE SHARE OF GROUP HEALTH BENEFITS:** Any change of health plan premiums which had been paid by the employee prior to leave must continue to be paid by the employee during the leave. If premiums are raised or lowered, the employee will pay the new premium rates. The employee shall make arrangements with the District concerning the method of payment for premiums. The District's obligation to maintain insurance coverage ceases if the employee's payment is thirty (30) days late. The employee may also elect to continue any non-health group benefits (e.g., life insurance), by providing the premiums at his/her own expense.

- 110.18.18** **RECOVERY OF PREMIUMS:** The District may recover any unpaid premiums owed by the employee. The District may also recover its share of health premiums paid during leave if the employee fails to return to work when entitlement to leave is exhausted, unless the reason the employee does not return to work is due to:
- 110.18.18.1** The continuation, reoccurrence, or onset of a serious health condition of the employee or the employee’s family member, or a serious injury or illness of a covered service member entitling the employee to leave;
 - 110.18.18.2** Other circumstances beyond the employee’s control. Examples: a parent chooses to stay home with a newborn child who has a serious health condition; an employee’s spouse is unexpectedly transferred to a job location more than seventy-five (75) miles from the employee’s work site; a relative or individual other than a covered family member has a serious health condition and the employee is needed to provide care; the employee is laid off while on leave; or, the employee is a “key” employee who decides not to return to work upon being notified of the employer’s intention to deny restoration because of substantial and grievous economic injury to the employer’s operations and is not reinstated by the employer. Circumstances beyond an employee’s control do not include an employee desiring to remain with a parent in a distant city even though the parent no longer requires the employee’s care or a parent’s decision not to return to work to stay home with a well, newborn or newly placed child.
 - 110.18.18.3** When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, the District may require medical certification of the employee’s or the family member’s serious health condition or the covered service member’s serious injury or illness. Such certification must be provided within thirty (30) days. If the requested certification is not provided, the District may recover from the employee health benefit premiums paid during the period of unpaid leave.
 - 110.18.18.4** An employee who returns to work for at least thirty (30) calendar days is considered to have “returned” to work.
- 110.18.19** **“KEY” EMPLOYEES:** A “key” employee is a salaried employee among the top ten percent (10%) highest paid of all District employees. If restoration of a “key” employee will cause the District substantial and grievous economic harm, the District may refuse to reinstate a “key” employee.
- 110.18.20** **DENIAL OF REINSTATEMENT TO A “KEY” EMPLOYEE:** If the District believes that reinstatement may be denied to a “key” employee, it will give written notice at

the time leave is requested that he or she qualifies as a “key” employee. The District will inform the “key” employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the District should determine that substantial and grievous economic injury to its operations will result if the employee is reinstated.

Once the District makes a good faith determination, based on available facts, that substantial and grievous economic injury to its operation will result if a “key” employee who has requested or is using family care and medical leave is reinstated, the District shall notify the employee in writing of its determination and that it intends to deny restoration to employment. The notice will explain the basis for the District’s finding that substantial and grievous economic injury will result and will provide the employee a reasonable time in which to return to work. The employee will receive this written notice in person or by certified mail.

If a “key” employee does not return to work in response to the District’s notification, the “key” employee will continue to be entitled to maintenance of health benefits. The “key” employee’s leave rights will continue until the employee either gives notice that he/she no longer wishes to return to work or until the District actually denies reinstatement.

110.18.21 **“INSTRUCTIONAL EMPLOYEE”:** “Instructional Employees” are persons whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants whose presence in the classroom is essential to the educational process, such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instruction, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

110.18.21.1 If an eligible “instructional employee” requests intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee’s own serious health condition, or to care for a covered service member with a serious illness or injury, any of which are foreseeable based upon planned medical treatment, and the employee would be on leave for more than twenty (20) percent of the total number of working days over the period that the leave would extend, the District may require the District may require the employee to choose either to:

110.18.21.1.1 Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment;

- 110.18.21.1.2** Transfer temporarily to an available alternative position for which the employee is qualified, which has the equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.
- 110.18.21.2** If an instructional employee does not give the required notice of foreseeable family and medical leave to be taken intermittently or on a reduced leave schedule the District may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the District may require such an employee to delay the taking of leave until the notice requirements are met.
- 110.18.21.3** When an instructional employee begins federal family care and medical leave more than five (5) weeks before the end of an academic term, the District may require the employee to continue taking leave until the end of the term if:
- 110.18.21.3.1** The leave will last at least three (3) weeks:
- 110.18.21.3.2** The employee would return to work during the three (3) week period before the end of the academic term.
- 110.18.21.4** When an instructional employee begins federal family care and medical leave for the purpose other than the employee's own serious health condition, or leave to care for a covered service member more than five (5) weeks before the end of an academic term, the District may require the employee to continue taking leave until the end of the term if:
- 110.18.21.4.1** The leave will last more than two (2) weeks:
- 110.18.21.4.2** The employee would return to work during the two (2) week period before the end of the term.
- 110.18.21.5** When an instructional employee begins federal family care and medical leave for a purpose other than the employee's own serious health condition, or to care for a covered service member during the three (3) week period before the end of the academic term, and the leave will last more than five (5) working days, the District may require the employee to continue taking leave until the end of the academic term.

- 110.18.21.6** If an instructional employee chooses to take leave for “periods of a particular duration” in the case of intermittent or reduced schedule leave; the entire period of leave taken will count for purposes of family and medical leave.

In the case of an instructional employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee’s family and medical leave entitlement. Any additional leave required by the District to the end of the school term will not be counted as family and medical leave. The District will maintain the employee’s group health insurance; restore the employee to the same or equivalent position and other benefits to which the employee would be entitled, at the conclusion of the leave.

110.18.22 **DEFINITIONS:** The following definitions apply:

- 110.18.22.1** “Child” means a biological, adopted, or foster child, a stepchild, a child of a person standing *in loco parentis*, or a legal ward who is either under age 18, or older than age 18 and incapable of self-care because of a mental or physical disability.
- 110.18.22.2** “Parent” means a biological, foster, or adoptive parent, a person who stood or stands *in loco parentis* to the employee when the employee was a child, a stepparent, or a legal guardian. This term does not include parents “in law.”
- 110.18.22.3** “Spouse” means the legal husband or wife of the employee, including a legally recognized common-law marriage, or the registered domestic partner of the employee.
- 110.18.22.4** “Serious health condition” means an illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of the treatment of supervision and which involves either inpatient care or continuing treatment or supervision by a licensed health care provider.
- 110.18.22.5** “Academic term” means the school semester.
- 110.18.22.6** “*In loco parentis*” means in the place of a parent; instead of a parent; charged with a parent’s rights, duties, and responsibilities. It does not require a biological or legal relationship.
- 110.18.22.7** “Covered service member” means a current member of the Armed Forces, including a member of the National Guard or Reserves, who

is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty.

110.18.22.8 “Serious injury or illness of a covered service member” means an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of the member’s office, grade, rank or rating.

110.18.22.9 “Active duty or call to active duty status” means duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation pursuant to applicable sections of Title 10 United States Code.

110.19 **CALIFORNIA FAMILY SCHOOL PARTNERSHIP ACT**

110.19.1 **PURPOSE:** Entitlement to a maximum of forty (40) hours per school year for the purpose of visiting and/or participating in activities at the school or licensed child day care facility attended by an employee’s child/children.

110.19.2 **ELIGIBILITY:** An eligible employee is one who is a parent, guardian, or grandparent having custody of one or more children in grades 1 to 12 inclusive. Employees will be allowed to take up to forty (40) hours each school year, not to exceed 8 hours in any calendar month of the school year. Eligibility does not apply to sites with less than 25 employees.

110.19.2.1 Employees utilizing this leave shall provide documentation from the school or licensed child day care facility to verify participation in the school or day care facility activity at a specific time and date. Additionally, reasonable advance notice must also be provided.

110.19.2.2 If both parents are employed at the same work site, only one at a time may take off, unless otherwise approved.

110.19.3 **LEAVE USE:** Employees shall use existing vacation and/or compensatory time, if leave under Rule 110.18 is taken. Unpaid leave for the planned absence can also be utilized, subject to approval.

REFERENCE: 1. Labor Code Section 230.8

**CHAPTER 120
COMPENSATION AND PAY PRACTICES**

120.1 DETERMINATION OF SALARY SCHEDULES/PAY RATES

120.1.1 FIXING ANNUAL SALARY SCHEDULES: The Board of Trustees shall fix and order paid compensation for all classified employees and other employees not requiring certification qualifications employed by the District unless otherwise prescribed by law. The fixing of annual salaries shall mean that the Board shall adopt a salary schedule or matrix with specific dollar amounts for each range and step. The adoption of any classified salary schedule shall be done in such a way so as not to alter the compensation relationships (salary range placements and percentage relationships) between and among classes as established by the Personnel Commission.

REFERENCE: 1. Education Code Sections 45160, 45260, 45261, and 45267

120.1.2 BOARD MUST EMPLOY/PAY IN ACCORDANCE WITH MERIT SYSTEM: The Board of Trustees shall employ, pay and otherwise control the services of classified employees only in accordance with the provisions of Title 2, Division 3, Chapter 5, Article 6 (Merit System) of the State of California Education Code and these Rules.

REFERENCE: 1. Education Code Sections 45241, 45260, and 45261

120.1.3 COMMISSION SHALL RECOMMEND SALARY SCHEDULES TO BOARD: The Commission shall recommend to the Board salary schedules for the classified service. No amendment shall be adopted until the Commission is given reasonable opportunity to make a written statement of the effect the amendment will have on the principle of like pay for like service. No changes shall disturb the relationship which compensation schedules bear to one another, as the relationship has been established in the classification by the Commission.

REFERENCE: 1. Education Code Sections 45268

120.1.4 COMMISSION SHALL DETERMINE SALARY RANGE PLACEMENT: The Personnel Commission shall determine the salary range placement of every position and classification within the Classified Service of the District, pursuant to its obligation to set reasonable relationships between and amongst the various classifications. The Commission may make modifications to the range placement as part of its statutory obligations only after consultations with the District Administration and the exclusive representative of the bargaining unit.

REFERENCE: 1. Education Code Sections 45162, 45260, and 45261

120.2 APPLICATION OF SALARY SCHEDULES

120.2.1 INITIAL SALARY PLACEMENT: All new regular classified employees shall be paid in accordance with the salary range established for the class to which assigned. The hiring rate will normally be the first step of the salary range. However, a new employee may be provided with advanced step placement based upon such factors as:

120.2.1.1 Additional qualifying experience beyond that required for entry into the class.

120.2.1.2 Additional education at the college level (limited to no more than one step for each two years of education related to the position), but beyond the educational requirements established for entry into the class.

120.2.1.3 Difficulty experienced in the recruitment of candidates to meet the vacancy needs in the class.

120.2.1.4 The additional skills or qualifications of the candidate that make him/her especially qualified for the position.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.2.2 SALARY PLACEMENT OF TEMPORARY EMPLOYEES: Salary placement of temporary, substitute, and limited term employees will be at the first step of the appropriate salary range.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.2.3 STEP ADVANCEMENT: When a probationary or permanent employee accepts a regular position on the first step of the salary range, a merit salary adjustment shall be granted to Step 2 upon successfully completing the probationary period outlined in these rules. If the completion of this period of satisfactory service is completed after the fifteenth of the month, the salary adjustment shall be the first of the following month. The date of the first salary adjustment after employment is known as the Anniversary Date. After reaching the Anniversary Date, merit salary adjustments shall be made on an annual basis, provided the employee has received a satisfactory rating during the period.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.2.4 SALARY RANGE CHANGES: Unless otherwise provided by special resolution of the Personnel Commission, whenever the salary range for a class is changed upward, the salary of each incumbent in the class on the date the change was

effective shall be adjusted to the higher range and then to that step of the higher range that will provide an increase in the base hourly rate of pay. Whenever the salary range for a class is changed downward, the salary of each incumbent in the class on the date the change was effective shall be adjusted to the lower range and then to that step of the lower range that provides a base hourly rate as close to the former higher salary without exceeding the former higher salary. The employee's original Anniversary Date will remain unchanged unless so ordered by the Commission.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.2.5 **PROMOTIONAL SALARY RATE:** In determining the salary for an employee who is promoted, the following procedure will normally be used:

120.2.5.1 Find the present monthly salary on the new salary range.

120.2.5.2 If the present monthly salary is between salary steps on the new range, placement shall be at the step above the next higher step.

120.2.5.3 If the present monthly salary is not indicated on the new salary range, the promoted employee will be placed on step one as long as a minimum 5% increase is provided to the promoted employee. If a step one placement would provide less than a 5% increase, step two shall be assigned.

120.2.5.4 When computing salary for promotional step placement, a current employee, who has been receiving shift differential pay in the current lower classification but will no longer receive such shift differential pay due to a promotion, shall have the new promotional salary step placement be calculated using both the employee's current base rate of pay and current shift differential pay.

120.2.5.5 An employee who is promoted may be provided with advanced step placement based upon the factors identified in Rule 120.2.1.1 through 120.2.1.4 when the circumstances warrant such placement, subject to approval by the Board of Trustees.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.2.6 **PLACEMENT AFTER UNPAID LEAVE OF ABSENCE:** Upon return from an unpaid leave of absence, an employee shall be placed on the same step of the range for the class which he/she had achieved prior to taking the leave, including any change(s) in rate or range applicable to the employee's class; except that step advancement within the range shall be granted under the following conditions:

120.2.6.1 When the employee's paid status credit since returning when combined with any previous service time earned prior to the unpaid leave but after the last anniversary date increase, add up to the equivalent of one year's service credit for purposes of step advancement. Upon return from an unpaid leave of absence, the Personnel Director shall recalculate any changes necessary in the employee's anniversary date in order to comply with this rule.

120.2.6.2 Credit for step advancement shall accrue during leaves of absence for military service up to a total of five years of such leave, and any paid leaves of absence (e.g. illness, vacation, industrial accident/illness, etc.).

REFERENCE: 1. Education Code Sections 45260 and 45261
2. 28 U.S.C. Sections 4301-4335

120.2.7 **SALARY PLACEMENT UPON DEMOTION:** An employee who selects voluntary demotion or is involuntary demoted shall be placed on the step of the range of the lower class which is closest to the rate the employee earned in the higher class; provided that the employee shall not receive a salary increase thereby. The demoted employee shall retain the anniversary date established in the higher class.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.3 **DIFFERENTIAL/LONGEVITY PAY PRACTICES**

120.3.1 **DIFFERENTIAL COMPENSATION:** The Personnel Commission shall, insofar as it is possible to do so, determine the practices relating to morning and night shift salary differentials in the private employment fields and surrounding public agencies in which the District must compete for employees for its classified staff, and shall consider the advisability of providing comparable salary differentials for its classified staff.

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

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

REFERENCE: 1. Education Code Sections 45181, 45182, and 45184

120.3.2 **TEMPORARY ASSIGNMENT:** An employee receiving differential compensation pursuant to these rules shall not lose such compensation if the employee is temporarily, for twenty (20) working days or less, assigned to a position not entitled to such compensation.

REFERENCE: 1. Education Code Sections 45185, 45260, and 45261

**CHAPTER 130
GRIEVANCE PROCEDURE**

130.1 PROCEDURE FOR THE ADJUSTMENT OF GRIEVANCES

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

REFERENCE: 1. Education Code Sections 45260 and 45261

130.1.2 CERTAIN MATTERS EXCLUDED FROM PROCEDURE: There are certain subjects and matters that are not covered by this procedure:

130.1.2.1 An alleged violation of any specific provision of a collective bargaining agreement shall be adjudicated using that agreement’s grievance procedure.

130.1.2.2 An alleged violation of the disciplinary action section of these Rules and Regulations, if formal disciplinary action has been initiated, shall be adjudicated through the disciplinary action appeal process contained in Rule #140.

130.1.2.3 Complaints about the subject matter of a rule, regulation, policy, law or administrative procedure. Any employee with such a complaint should direct his/her suggestions for change through administrative channels to the responsible authority.

REFERENCE: 1. Education Code Sections 45260 and 45261
2. Government Code Section 3540 et seq.

130.1.3 ADJUDICATING BODY DETERMINED BY SUBJECT MATTER: The subject matter of a particular complaint will determine whether it will be directed for consideration to the Personnel Commission. When there is a question as to which official body may consider the complaint, the Personnel Director will decide the official body to review the appeal. Generally, complaints and grievances dealing with established Board policies and relevant Education Codes will be adjudicated by the Board of Trustees, and those dealing with established Commission Rules and Regulations, and the Education Code will be handled by the Personnel Commission.

- REFERENCE:** 1. Education Code Sections 45260 and 45261
2. Government Code Section 3540 et seq.

130.1.4 **COMPLAINT MUST BE FILED WITHIN 30 WORKING DAYS:** A complaint must be filed within thirty (30) working days of the occurrence of the violation or infraction, or within thirty (30) working days of when the complaining party could reasonably have known of the occurrence of the act or omission.

- REFERENCE:** 1. Education Code Section 45260 and 45261

130.1.5 **COMPLAINT PROCESS:** Any rejected individual may appeal to the Personnel Director for administrative review within seven (7) calendar days. The Personnel Director shall conduct such review and shall render a decision in writing to the applicant.

If after administrative review by the Personnel Director, the complaint remains unresolved to the satisfaction of the complainant, complainants shall have the right to appeal to the Personnel Commission subject to the following conditions:

130.1.5.1 The appeal is made in writing and is received within seven (7) calendar days following receipt of the written results of the Personnel Director's administrative review.

130.1.5.2 The appeal is based upon a charge that the rejection constitutes a violation of law or misapplication of the rules of the Personnel Commission, or that the reasons for rejection are inconsistent with the facts; the facts supporting such a charge shall be clearly set forth in the appeal.

130.1.5.3 After receipt of a timely written appeal, the Commission shall set a date for a review at which time the evidence shall be considered and the Commission will render a decision. The decision shall be transmitted in writing to all concerned, and shall be final.

130.1.5.4 If the complaint is sustained by the Personnel Commission, action shall be taken to restore the rights of the complainant.

CHAPTER 140
PROCEDURES FOR DISCIPLINARY ACTION AND APPEAL

140.1 **GENERAL PROVISIONS ON DISCIPLINARY ACTIONS**

140.1.1 **DISCIPLINARY ACTION ONLY PURSUANT TO THIS RULE:** A regular classified employee shall be subject to disciplinary action only for cause as prescribed in these Rules and Regulations and only pursuant to the procedures outlined herein.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45302

140.1.2 **TIME LIMITS ON DISCIPLINARY ACTION:** No disciplinary action shall be taken against an employee for any cause which arose prior to the employee’s becoming permanent, nor for any cause which arose more than two (2) years prior to the date of the Notice of Proposed Disciplinary Action, unless such cause was concealed or not disclosed by the employee. Disciplinary action occurring prior to two years may be used to illustrate prior warning, remediation, knowledge of rules, history of unacceptable behavior, etc. but may not be the basis of the current disciplinary action, provided however, that prior disciplinary actions may be considered in determining the appropriate penalty.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.1.3 **PROHIBITED ACTS RELATED TO DISCIPLINE:** No employee shall be suspended, demoted, dismissed, subjected to any form of disciplinary action, sexually harassed, or in any way discriminated against because of the employee’s affiliations, race, color, ethnicity, national origin, age, marital status, religion, sex, gender, gender identity, gender expression, sexual orientation, or any other characteristic that is set forth in the Penal Code section 422.55 defining hate crimes, disability, ancestry, employee organization membership or non- membership and legal activities related thereto, medical condition (as defined in Government Code Section 12926), or religious or political beliefs or acts, except as legally provided in Rule #140.1.5.

REFERENCE: 1. Education Code Sections 220, 45260 and 45261
2. Government Code Section 12926
3. Penal Code Section 422.55

140.1.4 **CAUSES FOR DISCIPLINARY ACTION:** The following causes shall be grounds for disciplinary action:

140.1.4.1 Unprofessional behavior - Failure to perform work in a “work person like” fashion.

140.1.4.2 Incompetency - A pattern of below standard work performance.

- 140.1.4.3** Inefficiency - The continued inability to perform the assigned duties of the position.
- 140.1.4.4** Insubordination - Knowingly refusing to perform lawful and reasonably assigned duties or failure to follow rules or directives of a supervisor.
- 140.1.4.5** Inattention to or Dereliction of Duty - A pattern of continued neglect or dereliction in the performance of assigned duties.
- 140.1.4.6** Willful and persistent violation of the Education Code, of Rules and Regulations or procedures adopted by the District or a department when such procedures are made known to the employee in writing.
- 140.1.4.7** Knowingly falsifying, withholding, or supplying misleading information to the District, including, but not limited to, information supplied on application forms and employment records.
- 140.1.4.8** Possession of opened alcoholic beverage containers on District property, for drinking alcoholic beverages on District property, or being intoxicated while on duty. For designated safety-sensitive positions, engaging in conduct prohibited by Federal and/or State law including: Drinking alcohol within four hours of performing safety-sensitive duties, being in possession of alcohol while on duty, having an alcohol concentration of .04 or greater, or more than one occurrence of having an alcohol concentration of .02 to .0399, as determined by an evidentiary breath test or refusal to take a required evidential breath test.
- 140.1.4.9** The illegal use, distribution or possession of drugs at work or on District property. For designated safety-sensitive positions, failure to submit to a required drug test or a positive drug test results obtained pursuant to Federal and/or State Law. A physician's recommendation or possession of "a medical marijuana card does not authorize possession of or being under the influence of marijuana at work or during work hours."
- 140.1.4.10** Arrested, being formally charged and convicted of a sex offense as defined in Education Code Section 44010. Conviction of such offense shall result in dismissal.
- 140.1.4.11** Arrested, being formally charged and convicted of a narcotics offense as defined in Education Code Section 44011. Conviction of such offense shall result in dismissal.

- 140.1.4.12** Engaging in political activities during assigned hours of duty, including the use of District time, property, or resources to advocate for or against a candidate for office or a ballot initiative.
- 140.1.4.13** Conviction of a crime involving moral turpitude.
- 140.1.4.14** Abusive, hostile or threatening behavior towards a pupil, a member of the public, another District employee, or a District official.
- 140.1.4.15** Carrying out an unprovoked physical attack on a pupil, a member of public, another District employee, or a District official.
- 140.1.4.16** Repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification.
- 140.1.4.17** Abandonment of Position - Absence of three (3) consecutive working days without notification or permission (and failure to notify the District of a valid or acceptable reason for absence).
- 140.1.4.18** Failure to return to work or notify the District within three (3) working days following an authorized leave of absence, except in the case of dire emergency.
- 140.1.4.19** The uninsurability of an employee to drive a District vehicle when such is a requirement of the employee's position. Upon notification or confirmation by the District's insurance carrier, discipline under this section shall be handled in the following manner:
 - 140.1.4.19.1** The District shall attempt to reassign the employee within the same class or to a vacant position in a related class (with the approval of the Commission).
 - 140.1.4.19.2** If reassignment is not possible, then the employee may be demoted, pursuant to these Rules and Regulations.
 - 140.1.4.19.3** If a position does not exist for a demotion to be accomplished, then the employee may be dismissed, pursuant to these Rules and Regulations.
- 140.1.4.20** Cancellation or suspension of a license or certificate required for the performance of assigned duties.

- 140.1.4.21** Dishonesty, theft, willful misuse, destruction or mishandling of District property.
- 140.1.4.22** Sexual harassment - Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature, made by someone from or in the work setting.
- 140.1.4.23** Failure to obey a subpoena issued by the Personnel Commission and duly served, or any refusal to furnish testimony or documents at a hearing or investigation before the Commission or Board of Trustees.
- 140.1.4.24** Advocacy of the overthrow of the federal, state, or local government by force, violence or other unlawful means.
- 140.1.4.25** Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
- 140.1.4.26** Conviction of a felony or serious crime or a record of one (1) or more convictions which indicate that the person is a poor employment risk for the particular job which the employee holds in the District. A plea, verdict, or finding of guilty, or a conviction following a plea of *nolo contendere* is to be deemed a conviction within the meaning of these Rules.
- 140.1.4.27** Discrimination, including harassment, on the basis of employee's affiliations, race, color, ethnicity, national origin, age, marital status, religion, ancestry, gender identity, gender expression, disability, sex, gender, sexual orientation, or any other characteristic that is set forth in the Penal Code section 422.55 defining hate crimes, against the public or other employees while acting in the capacity of a District employee.
- 140.1.4.28** Express written permission must be provided by the employee's supervisor for the possession of a knife. Possession of any firearm, explosive, or other dangerous object while on duty is prohibited.

- REFERENCE:**
1. Education Code Sections 212.5, 230, 44010, 44011, 45260, 45261, 45302, 45303, 45304, and 45123
 2. Government Code Section 1028
 3. Penal Code Section 261
 4. Health and Safety Code Sections 1105, 11056, 11357 - 11361, 11363 - 11364, 11377 - 11382

140.1.5 **PROGRESSIVE DISCIPLINE - WRITTEN WARNING:** In situations where progressive discipline is warranted, an employee whose work performance is of such character as to incur discipline shall be disciplined using the principles of progressive discipline. Progressive discipline includes the following stages: counseling, oral warning, written warning, suspension, demotion, and discharge. A written warning may state the rule violated, the acts or omissions in violation, a recommended performance improvement plan (P.I.P.) developed in conjunction with the employee and a reasonable time period during which the employee's performance will be reviewed for improvement or attainment of goals. The discipline used shall be appropriate to the cause for the discipline. It is expressly understood that each situation should be individually evaluated and, when warranted, any step of progressive discipline may be bypassed and immediate dismissal recommended for instances of violations determined to be willful and/or egregious in nature.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.1.6 **PROGRESSIVE DISCIPLINE - SUSPENSION:** After written warning, if the employee's work performance continues to violate a cause treated in Rule #140.1.5 above, then the employee may be suspended for up to thirty (30) days without pay. The proposed length of suspension shall reasonably relate to the seriousness of the alleged offense. It is expressly understood that each situation should be individually evaluated and, when warranted, any step of progressive discipline may be bypassed and immediate dismissal recommended for instances of violations determined to be willful and/or egregious in nature.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.1.7 **PROGRESSIVE DISCIPLINE - FINAL STEP:** If the behavior warranting action under Rule #140.1.5 and #140.1.6 continues, the employee may be subjected to other forms of disciplinary action, including demotion or termination. Employee behavior warranting severe penalty may result in dismissal, demotion, or suspension without prior progressive discipline.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.1.8 **IMMEDIATE SUSPENSION WITHOUT PAY:** An employee may be immediately suspended without pay if charged with the commission of any sex offense or narcotics offense referred to in Education Code Sections 44010, 44011, and 45304, and the suspension shall continue for not more than ten (10) days after the date of the entry of the court judgment. Any employee so suspended shall continue to be paid his/her regular salary during the period of suspension if the employee furnishes to the District a suitable bond, or other security acceptable to the Board of Trustees, as a guarantee that the employee will repay to the District the amount of salary so paid to him/her during the period of suspension in case the employee is convicted

of such charges, or the employee does not return to service after such period of suspension. If the judgment determines that the employee is not guilty of such charges, or if the complaint, information, or indictment is dismissed, the District shall reimburse the employee for the cost of the bond; or, if the employee has not elected to furnish such bond, the District shall pay to the employee his/her full compensation during the period of the suspension, provided the employee returns to service after such period of suspension.

- REFERENCE:**
1. Education Code Sections 44010, 44011, and 45304
 2. Penal Code Section 261
 3. Health and Safety Code Sections 11054, 11056, 11357 - 11361, 11363 - 11364, and 11377 - 11382

140.1.9 **IMMEDIATE SUSPENSION - WITH PAY:** Other than stated in Rule #140.1.8 above, an employee may be immediately suspended without loss of compensation if, in the opinion of the District, there is a clear and present danger to the health, safety, and well being of the employee, students, fellow employees, District property, or if such action is necessary pending an investigation of alleged misconduct. The District may end the suspension without loss of compensation or take action to suspend without pay in accordance with these rules as warranted. While on paid suspension, employees are expected to be available during their normal work hours and permission to be at any District property at any time is withdrawn.

- REFERENCE:** 1. Education Code Sections 45260 and 45261

140.1.10 **DISMISSAL OF PROBATIONARY, SUBS/LIMITED-TERM/PROVISIONAL EMPLOYEES:** A probationary, substitute, limited-term, provisional, or other temporary employee may be terminated at any time during his/her assignment without regard to the causes or procedures set forth in this chapter.

- REFERENCE:** 1. Education Code Sections 45260, 45261, and 45305

140.2 **NOTICE OF PROPOSED DISCIPLINARY ACTION**

140.2.1 **NO DISCIPLINE WITHOUT NOTICE:** No permanent regular classified employee may be subjected to disciplinary action until the employee has received a “Notice of Proposed Disciplinary Action,” and the employee has had an opportunity to appeal the charges. The exception to this rule is in the case of action in accordance with Rule #140.1.9 and #140.1.10 above.

REFERENCE: 1. Education Code Section 45302

140.2.2 **CONTENTS OF NOTICE OF PROPOSED DISCIPLINE:** The Notice of Proposed Disciplinary Action shall contain statements in ordinary and concise language of:

140.2.2.1 The nature of the proposed action (suspension, demotion, dismissal, etc.).

140.2.2.2 The specific causes and sections of these rules that the employee is accused of violating.

140.2.2.3 The specific charges, including times, dates, location, and a description of the chargeable actions or omissions in ordinary and concise language.

140.2.2.4 The proposed effective date(s) of the disciplinary action.

140.2.2.5 The employee’s rights to see and obtain copies of all evidence and documentation to support the District’s case against the employee.

140.2.2.6 The employee’s right to representation.

140.2.2.7 The employee’s right to request a Skelly Appeal Hearing before the Superintendent or designee to dispute the charges and/or proposed action within five (5) working days of service of notice, and the right to have such a hearing within the timelines specified in these rules. The Skelly Appeal Hearing is informal, and is not an evidentiary hearing. At the Skelly, the Superintendent/Designee will ascertain whether the employee has received the notice of Proposed Disciplinary Action and the documents that the District intends to use in any evidentiary hearing. The employee will be given an opportunity to explain his version of the facts.

140.2.2.8 The employee’s right to a reasonable amount of time off with pay to respond to the charges.

140.2.2.9 The employee’s right to respond to charges either orally or in writing.

REFERENCE: 1. Education Code Section 45116

140.2.3 **SKELLY APPEAL FORM MUST ACCOMPANY DISCIPLINARY NOTICE:** A Skelly appeal form must accompany the Notice of Proposed Disciplinary Action which shall explain the procedure for a Skelly hearing and the signing and filing of which shall constitute a demand for hearing. The appeal form must be submitted to the Personnel Commission Office by the deadline noted in the Notice of Proposed Disciplinary Action.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.2.4 **NOTICE MUST BE IN WRITING AND SERVED ON EMPLOYEE:** The Notice of Proposed Disciplinary Action shall be in writing and served in person or by certified mail (Return Receipt Requested) to the employee. This requirement will be deemed to have been met if the Notice of Proposed Disciplinary Action is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the US Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. The responsibility for keeping the District informed of a home address is the requirement of the employee. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.3 **SKELLY APPEAL HEARING**

140.3.1 **ACTION IF APPEAL IS NOT FILED:** If the employee does not respond and request a Skelly Appeal Hearing within the five (5) working day period outlined in the Notice of Proposed Disciplinary Action, the proposed disciplinary action shall be submitted to the Board of Trustees for approval.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.3.2 **PRELIMINARY APPEAL HEARING BEFORE SUPERINTENDENT/DESIGNEE:** If the employee submits an appeal notice to the Personnel Commission Office within five (5) working days after receipt of the Notice, the employee shall have a right to have a Skelly Appeal Hearing before the Superintendent/designee, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the appeal process.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.3.3 **NOTIFICATION OF HEARING TO EMPLOYEE:** The employee shall be notified in writing of the time, date, and place of the Skelly Appeal Hearing before the Superintendent/designee. Notification shall be pursuant to Rule #140.2.4.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.3.4 **DESIGNEE FOR SUPERINTENDENT:** The Superintendent may assign a designee. That designee must be an administrator who has the authority and authorization to accept, modify, or rescind the proposed disciplinary action. The administrator may not be the supervisor initiating proposed disciplinary action.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.3.5 **RIGHT TO REPRESENTATION:** The employee may, at his/her option, be represented by legal counsel, union representation, or any other person designated by the employee. If the employee files an appeal, the employee shall be required to attend the Skelly appeal hearing even if the employee's designated representative appears on his/her behalf. If the employee fails to appear, the employee will be deemed to have forfeited rights to further appeal.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.3.6 **SKELLY APPEAL DECISION:** Within a reasonable amount of time, the Superintendent/designee shall issue a written recommendation following the conclusion of the Skelly Appeal Hearing as to whether there is sufficient reason to recommend the action to the Board of Trustees and, if so, whether the proposed penalty is appropriate to the alleged misconduct. The Superintendent shall not act

to provide for a penalty or disciplinary action more severe than that recommended in the Notice of Proposed Disciplinary Action.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.3.7

BOARD OF TRUSTEES ACTION: If the Skelly decision supports the recommendation of the proposed or amended disciplinary action, the Letter of Discipline, with amendments if warranted following the Skelly Hearing, shall be forwarded to the Board of Trustees for action following an informal hearing by the Board. The Personnel Director shall be notified in writing of the Board's decision.

140.4 **FILING FOR APPEAL HEARING BEFORE COMMISSION**

140.4.1 **APPEAL TO PERSONNEL COMMISSION:** If the decision of the governing board is to suspend, demote or dismiss the employee, he/she may appeal the proposed action to the Personnel Commission pursuant to these rules. The Commission shall review the Board’s action on appeal and, upon request of the employee, may order a hearing.

REFERENCE: 1. Education Code Section 45305

140.4.2 **NOTIFICATION BY PERSONNEL DIRECTOR:** Within fourteen (14) calendar days of notification of the Board’s decision, the employee may appeal the disciplinary action to the Personnel Commission. The right to appeal expires fourteen (14) calendar days following the notification of the Board’s decision by the Superintendent or designee. The employee may request a formal hearing or, in the alternative, ask the Commission to investigate his/her written summary involving the disciplinary action.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45305

140.4.3 **APPEAL REQUEST:** The employee’s written response to the charges must be submitted to the Personnel Commission Office by the deadline noted. In addition to the written response, the employee must include his/her current mailing and residency address at which the employee may be contacted in the event that additional correspondence or notices need to be sent to the employee. The appeal request filed by the employee must also contain the name of his/her legal counsel or representative (if known at the time of the appeal) and the address and telephone number of such counsel or representative.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45305

140.4.4 **ACTION IF APPEAL IS NOT FILED:** If the employee does not respond with a written response to the charges within the allowed period, the action of the governing board shall be final and no further appeal rights shall be allowed.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45305

140.4.5 **NOTIFICATION OF HEARING TO EMPLOYEE:** Notification shall be either in person or sent by certified mail (Return Receipt Requested) pursuant to Rule #140.2.4.

140.4.5.1 The Personnel Director shall notify the employee in writing of the time, date, and place of the Commission Appeal Hearing before the Personnel Commission.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.4.6 **RIGHT TO REPRESENTATION:** The employee may, at his/her option, be represented in a formal hearing, by legal counsel, union representation, or any other person designated by the employee. If the employee files an appeal, the employee shall be required to attend the Commission Appeal Hearing, even if the employee's designated representative appears on his/her behalf. If the employee fails to appear, the employee will be deemed to have forfeited his/her rights to further appeal and the Personnel Commission shall allow the Board of Trustees' disciplinary action to stand.

REFERENCE: 1. Education Code Sections 45260 and 45261

- 140.5** **ELECTION TO REQUEST COMMISSION INVESTIGATION IN LIEU OF FORMAL HEARING:** If the employee elects the informal investigation rather than the formal evidentiary hearing, the employee shall sign a statement acknowledging his/her understanding of the informal investigative process:
- 140.5.1** The employee waives the right to the formal hearing set forth in Rule 140.6.
- 140.5.2** Both the employee, and the District waive the right to be represented by legal counsel at the informal investigative hearing.
- 140.5.3** Both the employee and the District waive the right to examine and cross-examine at the informal investigative hearing. Instead, each will be provided an opportunity to make a statement to the Commission totaling no more than sixty minutes duration, including presentation and all rebuttal, after which the Commission may ask questions of both parties.
- 140.5.4** Statements of the parties will be accepted as evidence by both parties without further submission of testimony.
- 140.5.5** Each party may introduce documentary evidence in support of its position. The Commission in its sole discretion, may limit the amount of documentary evidence introduced by each party, and shall determine how much weight, if any to give any item of evidence offered by either party.
- 140.5.6** The parties agree to be bound by the decision of the Commission, and waive any and all right to judicial review of the Commission's decision, which shall not be invalidated in any way by the informality of the proceedings.

140.6 **PERSONNEL COMMISSION APPEAL HEARING PROCEDURES**

140.6.1 **AUTHORITY OF COMMISSION HEARING AND DECISION:** The Personnel Commission of the District shall conduct hearings of appeals to disciplinary actions. The Commission shall have the right to sustain or reject any or all of the charges filed against the employee, take action to sustain or modify or reject the disciplinary action invoked against the employee, or it may direct such other action as it may find necessary to effect a just settlement of the appeal, pursuant to these rules and regulations.

REFERENCE: 1. Education Code Sections 45260, 45261, 45305, 45306, and 45307

140.6.2 **APPOINTMENT OF HEARING OFFICER:** The Personnel Commission may appoint a hearing officer to conduct any hearing or investigation which the Commission itself is authorized by the Education Code and/or these rules to conduct, including disciplinary action. The hearing officer conducting such hearing may administer oaths and subpoena and require the attendance of witnesses and the production of books or papers. The Commission may instruct such hearing officer to present findings or recommendations. The Commission may accept, reject, or amend any of the findings or recommendations of the hearing officer. The rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing, or upon the results of such supplementary hearings or investigations as the Commission may order.

140.6.2.1 The Commission may employ by contract or as professional experts or otherwise any such hearing officer, and may adopt and amend such rules and procedures as may be necessary to effectuate this section of the rules.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45312

140.6.3 **COMMISSION SHALL DETERMINE TIME AND PLACE OF HEARING:** Upon receipt of the appeal notice, the Personnel Commission shall determine the date, time, and place of the hearing on appeal. The appeal hearing shall be held within the boundaries of the District, and in a place which is conducive to the proper conduct of the hearing.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.4 **ALL HEARINGS SHALL BE RECORDED:** All hearings under the authority of this chapter shall be electronically recorded in such a manner that a verbatim written transcript can be produced if necessary.

140.6.4.1 Either party may request that the hearing be recorded by a court reporter, in which case the party making the request shall bear the cost. If both parties make such a request, the cost shall be equally shared by the parties.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.5 **HEARINGS CONDUCTED TO DETERMINE TRUTH:** Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Personnel Commission or its appointed hearing officer shall be bound by technical rules of evidence. Decisions made by the Personnel Commission shall not be invalidated by any informality in any of the proceedings.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.6 **ORAL EVIDENCE BY OATH ONLY:** Oral evidence shall be taken only on oath or affirmation.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.7 **ABILITY TO EXAMINE EVIDENCE:** Each party shall have the following rights as it relates to examination of witnesses and evidence:

140.6.7.1 To call and examine witnesses.

140.6.7.2 To introduce exhibits.

140.6.7.3 To cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination(s).

140.6.7.4 To attempt to impeach any witness regardless of which party first called the witness to testify.

140.6.7.5 To rebut all evidence presented by the opposing party.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.8 **APPELLANT MAY BE CALLED TO TESTIFY:** The appellant may be called to testify and be cross-examined just as if he/she had testified on his/her own behalf.

REFERENCE: 1. Education Code Sections 45260 and 45261
2. California Evidence Code Section 772

140.6.9 **ADMISSION OF EVIDENCE:** The hearing need not be conducted according to the technical rules relating to evidence and the examination of witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious business; regardless of the existence of any common law or statutory rule which might cause the evidence to be objected to or ruled out if presented in a criminal or civil procedure before a court of law.

140.6.9.1 Hearsay evidence may be used for the purpose of explaining or providing supplemental evidence, but shall not be sufficient in and of itself to support a finding (by the Personnel Commission or its hearing officer) unless it would be admissible over objection in a civil action in a court of law.

140.6.9.2 The rules of privilege shall be effective to the extent that if they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence shall be excluded.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.10 **RIGHT TO BE REPRESENTED:** The Board of Trustees and the appellant shall be allowed to be represented by legal counsel or other designated representative.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45306

140.6.11 **GRANTING OF CONTINUANCE:** The Personnel Commission or its hearing officer may, prior to or during the hearing, grant a continuance for reason(s) believed to be sufficient or important to reaching a fair and proper conclusion.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.12 **RULING ON OBJECTIONS:** The Personnel Commission or its hearing officer shall rule on all objections raised by either party.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.13 **FINDINGS BASED ON PREPONDERANCE OF EVIDENCE:** The Personnel Commission or its hearing officer shall determine the relevancy, weight, and creditability of evidence and testimony presented. The findings of the Commission or hearing officer shall be based upon the preponderance of evidence.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.14 **ORDER OF PRESENTATION OF EVIDENCE:** Each side will be permitted an opening statement (Board's representative first) and closing arguments (appellant or

his/her representative last). The Board shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or his/her representative will present his/her witnesses and evidence in defense.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.15 **EXAMINATION OF WITNESSES:** Each side will be allowed to examine and thoroughly cross-examine witnesses.

140.6.15.1 The Commission or its hearing officer may, at its discretion, exclude witnesses not under examination except for the appellant, District representative, the Personnel Director, and their respective counsels or designated representatives.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.16 **SUBPOENA OF WITNESSES/EVIDENCE:** The Personnel Commission or its hearing officer may, and shall if requested by either party, subpoena witnesses and/or require the production of records, documents, or other material evidence. The Personnel Director shall issue the subpoenas on behalf of the Commission or its hearing officer. Subpoenas shall be delivered to the requesting party for service.

140.6.16.1 Requests for subpoenas must be filed with the Personnel Commission Office at least 72 hours prior to the date of the hearing.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.17 **LIST OF WITNESSES:** A list of witnesses to be called by each party shall be submitted to the Personnel Commission Office at least 24 hours prior to the date of the hearing. This will allow the Personnel Commission to secure the release time of employee witnesses prior to the hearing.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.18 **SWORN DECLARATIONS:** The policy of the Personnel Commission shall be that where possible, all witnesses shall give testimony orally at the hearing. However, if in the opinion of the Commission or its hearing officer, a witness has good and sufficient reason for being unable to be present, written testimony will be accepted under the following conditions:

140.6.18.1 Such evidence must be submitted by sworn declaration of the witness. The declaration shall be confined to a statement of facts bearing on the case and within the knowledge of the witness, and shall not contain any conclusions of the witness, except that a witness

who qualifies as an expert may express his/her opinion based upon the facts which he/she has recited.

140.6.18.2 Copies of all such declarations must be filed with the Personnel Commission Office or the hearing officer at least three (3) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such declarations.

140.6.18.3 Neither party has objections to the submission of the declaration(s) into evidence. Either party, upon request, may require the attendance of the witness who has given the sworn declaration for purposes of cross-examination. A continuance may be necessary in order to secure the attendance of the witness.

140.6.18.4 The Personnel Commission or hearing officer may exclude any such declaration submitted which fails to comply with any of the foregoing conditions.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.19 **DELIBERATION AND FINDINGS OF HEARING OFFICER:** Whether the hearing is held in open or closed session, the hearing officer (if one is appointed by the Personnel Commission) shall deliberate on the evidence presented and a determination of his/her recommendations to the Personnel Commission in closed session.

140.6.19.1 The hearing officer shall submit his/her written recommendations and findings of fact to the Personnel Director within twenty (20) days following the conclusion of the hearing.

140.6.19.2 Upon receipt of the hearing officer's written recommendations and findings of fact, the Personnel Director shall contact the Chairperson at the Personnel Commission to schedule a meeting of the Commission to consider the findings and recommendations of the hearing officer.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.20 **DELIBERATION OF PERSONNEL COMMISSION:** Whether the hearing before the Personnel Commission is held in open or closed session, the Commission, after it concludes the hearing, may deliberate its decision(s) in closed session. No persons other than members of the Personnel Commission, its legal counsel, and the Personnel Director, shall be permitted to participate in the deliberations. If the Personnel Director was the administrator initiating the disciplinary action, or if the

Director acted on behalf of the Board of Trustees, in the presentation of the case at any level of the appeal process, or if the Director served as a witness in the proceedings, the Personnel Director shall also be excluded from the Commission's deliberations.

REFERENCE: 1. Education Code Sections 45260, 45261, 45305, and 45306

140.6.21 **DECISION OF PERSONNEL COMMISSION:** The Personnel Commission shall render its judgment as soon after the conclusion of the hearing as possible. The decision(s) of the Commission shall be in writing and shall set forth which charges, if any, are sustained and the reasons therefore.

140.6.21.1 The Commission's written decision(s) shall contain findings of fact, a determination of the issues presented, and the penalty imposed (if any). The findings may be stated in the language of the pleadings or included by reference thereto.

140.6.21.2 If the disciplinary action is not sustained, the Commission's order shall set forth the effective date that the employee is to be restored or reinstated to his/her former position and/or status: Such date to be set forth at any time on or after the date that the disciplinary action was invoked.

140.6.21.3 Copies of the Commission's decision(s) shall be delivered to the parties personally, or transmitted to them by certified mail (Return Receipt Requested). The requirement for notification of the employee will be deemed to have been met if the decision is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the US Postal Service of attempted delivery shall not be grounds for voiding notification. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.22 **BOARD SHALL COMPLY WITH COMMISSION DECISION:** Upon receipt of the Commission's written decision, the Board of Trustees shall forthwith comply with the provisions thereof. When the Board of Trustees has fully complied with the Commission's decision, it shall so notify the Commission in writing.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45307

140.6.23 **COMMISSION ACTION:** The Personnel Commission may sustain or reject any or all of the charges filed against the employee. The Commission may sustain, modify,

or reject the disciplinary action invoked against the employee. However, the Commission may not invoke more stringent discipline against the employee than that invoked by the Board of Trustees.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45307

140.6.24 **DECISION MAY INCLUDE CONSIDERATION OF JUST SETTLEMENT:** Following the determination of the facts and findings relative to the disciplinary action invoked against the employee, the Commission may consider such other matters as it deems necessary and proper to effect a just settlement of the appeal, which may include, but are not limited to:

140.6.24.1 The granting of seniority credit for any or all of the off-duty time pending restoration or reinstatement.

140.6.24.2 Transfer or other change of the employee's work location.

140.6.24.3 Expunction from the employee's personnel file and record of any and all causes, charges that are not sustained by the Commission, and/or disciplinary action.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45307

140.6.25 **OBTAINING COPIES OF THE HEARING TRANSCRIPT:** The employee or his/her designated representative and the Board of Trustees or its designated representatives may obtain a copy of the transcript under the following conditions:

160.5.25.1 The cost of the transcript and copies, if requested, shall be born by the party making the request.

140.6.25.2 The request shall be in writing and a cash deposit made in an amount determined by the Personnel Director prior to preparation, which shall not be less than the estimated cost of transcribing the hearing record.

140.6.25.3 The final cost of the transcript shall be the actual cost of preparation plus the cost of making copies as determined by the Personnel Director.

140.6.25.4 The transcript shall only be released upon payment in full. When the deposit is greater than the actual costs of the document (including the making of copies), the remainder shall be refunded to the party.

REFERENCE: 1. Education Code Sections 45260 and 45261

140.6.26 **DISQUALIFICATION OF HEARING OFFICER OR COMMISSIONER:** A hearing officer or Personnel Commission member shall voluntarily disqualify himself/herself

and withdraw from any appeal in which he/she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or Personnel Commission member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.

140.6.26.1 If the Personnel Commission determines that there are sufficient grounds for disqualification, it may elect to disqualify the hearing officer or Personnel Commission member.

140.6.26.2 Where the disqualification request concerns a Personnel Commission member, the issue shall be determined by the other members of the Commission. However, no Commission member shall withdraw voluntarily or be subject to disqualification if his/her disqualification would prevent the existence of a quorum qualified to act in that particular appeal.

CHAPTER 150
LAYOFF AND REEMPLOYMENT PROCEDURES

150.1 **LAYOFF PROCEDURES**

150.1.1 **REASON FOR LAYOFF:** The layoff of classified employees shall only occur for a lack of work or a lack of funds, and only in accordance with the rules and regulations of the Personnel Commission and Education Code. Any effects of layoff that may be negotiated by and between the District and any recognized exclusive representative shall be in addition to these rules and regulations.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45308

150.1.2 **ORDER OF LAYOFF:** Length of service (seniority as prescribed herein) shall be the only criterion used to effect layoffs. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes (as defined by the Personnel Commission), shall be laid off first. Reemployment shall be in the reverse order of layoff.

150.1.2.1 If two or more employees subject to layoff have equal class hire date seniority, then the preference shall be given to the employee with the earliest regular hire date in the District. If regular hire date is equal, the preference shall be given to the employee with the earliest District hire date. If District hire date is equal, the decision shall be made by lot.

REFERENCE: 1. Education Code Sections 45101 and 45308

150.1.3 **BUMPING RIGHTS:** In the event of a layoff, the following bumping priority will apply:

150.1.3.1 An employee whose position is eliminated or reduced shall first be placed in a vacant position with an equal assignment in the same class when compared with the employee's current position.

150.1.3.2 If the previous option is unavailable, the employee shall be placed in a vacant position that has additional assigned time in the same class when compared with the employee's current position.

150.1.3.3 If the previous option is unavailable, the employee will be allowed to bump into a position providing an equal assignment in the same class when compared with the employee's current position, and which is occupied by a less senior employee.

150.1.3.4 If the previous option is unavailable, the employee will be allowed to bump into a position providing additional assigned time in the same class when compared with the employee's current position, and which is held by the least senior employee of those less senior employees holding positions with more assigned time.

150.1.3.5 If the previous option is unavailable, the employee will be allowed to bump into a position with less assigned time in the class that is closest to the employee's current assigned time, and which is held by a less senior employee in the class. As an alternative, the employee shall also have the option of bumping into an equal (1st option) or lower class (2nd option) previously held as a regular classified employee that will provide at least the same assigned time as the employee's current position.

150.1.3.6 If the employee is the least senior employee in the class, the employee shall have the option of bumping into an equal (1st option) or lower class (2nd option) previously held as a regular classified employee. The employee will repeat the sequence of options outlined in this rule for the equal class position first. If no alternative is available in the equal class, the employee will repeat the sequence of options outlined in this rule for the lower class.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45308

150.1.4 **VOLUNTARY DEMOTION OR TRANSFER:** A permanent classified employee who will suffer a layoff for lack of work or funds despite his or her bumping rights may accept a voluntary demotion to a position in a lower class or transfer to a related class, providing that the employee is deemed to be qualified to perform the duties thereof by the Personnel Commission, and provided further that the Board of Trustees approved the voluntary demotion or transfer.

REFERENCE: 1. Education Code Sections 45260 and 45261

150.1.5 **ACCEPTANCE OF SUBSTITUTE OR TEMPORARY EMPLOYMENT:** An employee who has been laid off for lack of funds or lack of work and who is on a reemployment list may be employed as a substitute or temporary employee in his/her original class or any other class for which qualified (as determined by the Personnel Commission), and such employment shall in no way jeopardize or otherwise affect his/her status or eligibility for reemployment.

REFERENCE: 1. Education Code Sections 45260 and 45261

150.1.6 **REFUSAL OF TEMPORARY EMPLOYMENT:** Refusal of an offer of limited-term employment shall not affect the standing of any employee on a reemployment list. If

such an assignment is requested, priority status will be given to qualified employees on the reemployment list.

REFERENCE: 1. Education Code Sections 45260 and 45261

150.1.7 **NOTICE OF LAYOFF:** The District shall notify the affected classified employees in writing no later than March 15 and in accordance with California Education Code for any layoff for lack of work or funds. Notice of lay-offs occurring due to the termination of a specially funded program shall be given to affected classified employees in writing not less than 60 days prior to the effective date of their layoff in accordance with California Education Code. The notice to the affected employee shall specify the reason for the layoff and be given by personal delivery or by certified mail to the last known home address of the employee on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the US 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, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45117, 45260, and 45261

150.1.8 **ADVANCE NOTIFICATION TO EXCLUSIVE REPRESENTATIVE:** If any of the impacted positions are represented by a collective bargaining exclusive representative, the District Administration and the exclusive representative shall meet in advance of layoff notices being sent out to review the proposed layoff. A copy of each layoff notice will be sent to the exclusive representative.

REFERENCE: 1. Education Code Sections 45260 and 45261
2. Government Code Sections 3540 - 3549.3

150.1.9 **CONTENTS OF LAYOFF NOTICE:** Any notice of layoff shall include the following:

- 150.1.9.1** The reason for the layoff.
- 150.1.9.2** The employee's displacement rights, if any.
- 150.1.9.3** The employee's reemployment rights.
- 150.1.9.4** The name and classification of the employee designated for layoff.
- 150.1.9.5** A statement that the employee may have a right to unemployment insurance.
- 150.1.9.6** The employee's right to request a hearing to determine if there is cause for not reemploying the employee for the ensuing year

REFERENCE: 1. Education Code Sections 45117, 45260, and 45261

150.1.10

LAYOFF RESOLUTION BY BOARD OF TRUSTEES: Before any layoff notice can be issued, the Board of Trustees shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by classification and assigned time.

REFERENCE: 1. Education Code Sections 45260 and 45261

150.2 **REEMPLOYMENT PROCEDURES**

150.2.1 **LAI D OFF EMPLOYEES PLACED ON REEMPLOYMENT LIST:** The names of regular classified employees laid off or placed in a position with reduced time pursuant to Rule #150.1 shall be placed upon the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in order of seniority as defined by these rules.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45298

150.2.2 **EMPLOYEES WITH EQUAL SENIORITY:** If two or more employees subject to rehire have equal class hire date seniority, then the rehire offer shall be made to the employee with the earliest regular hire date in the District. If regular hire date is equal, the rehire offer shall be made to the employee with the earliest District hire date. If district hire date is equal, the decision shall be made by lot.

REFERENCE: 1. Education Code Sections 45101, 45260, 45261, and 45308

150.2.3 **ELIGIBLE FOR REEMPLOYMENT FOR 39 MONTHS:** Laid off employees are eligible for reemployment in the class from which laid off for a thirty-nine (39) month period from the date of the actual layoff and shall be employed in the reverse order of layoff. Their reemployment shall take precedence over any other type of employment, defined or undefined, in these rules. In addition, they shall have the right to apply for promotional and related-class transfer positions and use their seniority therein for a period of thirty-nine (39) months following layoff. Upon written request to the Personnel Commission Office, an employee on a reemployment list shall be notified of promotional and/or related class transfer opportunities. If the employee is reemployed in a new position and fails to complete the probationary period in the new position, he or she shall be returned to the reemployment list for the remainder of the 39-month period. The remaining time period shall be calculated as the time remaining in the 39-month period as of the date of reemployment.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45298

150.2.4 **ELIGIBILITY FOR AN ADDITIONAL 24 MONTHS:** Regular employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be, at the employee’s option, returned to a position in their former class or to positions in accordance with their seniority on any valid reemployment list with increased assigned time as vacancies become available within a sixty-three (63) month period following the actual date of layoff.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45298

150.2.5 **PERS RETIREMENT IN LIEU OF LAYOFF AND REEMPLOYMENT:** Regular employees who have at least five (5) years service credit under the Public Employees

Retirement System and are fifty (50) years of age or older, may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reductions in assigned time. Such employees shall, prior to the effective date of the proposed layoff, complete and submit a form to the Public Employees Retirement System. The District shall notify the Board of Administration of the Public Employees Retirement System of the fact the retirement was due to layoff. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with this regulation. If the District makes an offer of reemployment, and the Personnel Commission Office receives a written acceptance of the offer within two (2) working days of the written offer of reemployment, the District shall maintain the vacancy until the Board of Administration of the Public Employees Retirement System has properly processed the request for reinstatement from retirement.

REFERENCE: 1. Education Code Sections 45115, 45260, and 45261

150.2.6

OFFER OF REEMPLOYMENT AND ACCEPTANCE: An employee who is laid off and is subsequently determined by the Personnel Commission to be eligible for reemployment based upon his/her seniority shall be notified by the Personnel Commission by telephone, but if he/she cannot be reached, will be notified in writing by the Personnel Commission of an opening. Such notice shall be sent by certified mail to the last known home address of the employee on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the US 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, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

150.2.6.1 A regular employee shall notify the Personnel Commission Office of his intent to accept or refuse reemployment within five (5) working days following the mailing of the reemployment notice. If the employee accepts reemployment, the employee must report to work within ten (10) working days following the mailing of the reemployment notice.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45298