NEWPORT-MESA UNIFIED SCHOOL DISTRICT

PERSONNEL COMMISSION

RULES AND REGULATIONS

January 2026

LISTING OF CONTENTS

1 GLOSSARY OF DEFINITIONS AND PRELIMINARY STATEMENT ..... 1 of 7
1.1 **DEFINITIONS, GENERAL** ..... 1 of 7
1.2 **PRELIMINARY STATEMENT** ..... 6 of 7
1.2.1 **Statutory Authority for These Rules** ..... 6 of 7
1.2.2 **Interpretation and Application of Rules** ..... 7 of 7
1.2.3 **Generic Terminology** ..... 7 of 7
1.2.4 **Judicial Review** ..... 7 of 7
1.2.5 **Effect of Data Contained in Addendum to Rules** ..... 7 of 7

2 THE PERSONNEL COMMISSION ..... 1 of 5
2.1 **ORGANIZATION OF PERSONNEL COMMISSION** ..... 1 of 5
2.1.1 **Terms** ..... 1 of 5
2.1.2 **Officers** ..... 1 of 5
2.1.3 **Quorum and Majority** ..... 1 of 5
2.2 **MEETINGS** ..... 1 of 5
2.2.1 **Regular Meetings** ..... 1 of 5
2.2.2 **Adjourned Regular Meetings** ..... 2 of 5
2.2.3 **Special Meetings** ..... 2 of 5
2.2.4 **Public Meetings** ..... 2 of 5
2.2.5 **Closed Sessions** ..... 2 of 5
2.2.6 **Agenda and Supporting Data** ..... 3 of 5
2.2.7 **Adoption, Amendment, Deletion, Interpretation, or Addition to Rules** ..... 3 of 5
2.2.8 **Minutes** ..... 3 of 5
2.3 **PERSONNEL COMMISSION EMPLOYEES** ..... 4 of 5
2.3.1 **Status of Personnel Commission Employees** ..... 4 of 5
2.3.2 **General Duties of the Director of Classified Personnel** ..... 4 of 5
2.4 **MISCELLANEOUS PROVISIONS** ..... 4 of 5
2.4.1 **Communications** ..... 4 of 5
2.4.2 **Budget** ..... 5 of 5
2.4.3 **Annual Report** ..... 5 of 5
2.4.4 **Legal counsel for the Personnel Commission** ..... 5 of 5

3 POSITION CLASSIFICATION PLAN ..... 1 of 9
3.1 **THE CLASSIFIED SERVICE** ..... 1 of 9
3.1.1 **Positions Included** 1 of9
3.1.2 **Exemptions from the Classified Service** ..... 1 of 9
3.1.2.1 **General** 1 of9
3.1.2.2 **Special Categories** 1 of9
3.1.3 **"Part-time" Defined** 2 of9
3.1.4 **Effect of Exemption** ..... 2 of 9
3.1.5 **Professional Experts Assignments** ..... 2 of 9
3.1.6 **Restricted Positions and Employees** ..... 2 of 9
3.1.7 **Weekend/Holiday Position** ..... 3 of 9
3.2 **GENERAL CLASSIFICATION RULES** ..... 3 of 9
3.2.1 **Assignment of Duties** ..... 3 of 9
3.2.2 **General Nature of the Classification Plan** ..... 4 of 9
3.2.3 **Class Specifications** ..... 4 of 9
3.2.4 **Interpretation of Class Specifications** ..... 4 of 9
3.2.5 **Allocation of Positions to Classes** ..... 5 of 9
3.2.6 **Changes in Duties of Positions** ..... 5 of 9
3.2.7 **Working Out of Classification** ..... 5 of 9
3.2.8 **Review of Positions** ..... 6 of 9
3.2.9 **Creation of New Positions** ..... 6 of 9
3.2.10 **Positions Requiring Multiple Languages** ..... 6 of 9
3.2.11 **Mandatory Titles** ..... 7 of 9
3.3 **RECLASSIFICATION** ..... 7 of 9
3.3.1 **Requests for Study** ..... 7 of 9
3.3.2 **Effective Date of Reclassification** ..... 7 of 9
3.3.3 **Effects on Incumbents** ..... 7 of 9
3.3.4 **Reemployment Lists for Displaced Incumbents** 8 of9
3.4 **TRAINEE POSITIONS** ..... 8 of 9
3.4.1 **Authority** ..... 8 of 9
3.4.2 **Training Programs** 9 of9

4 APPLICATION AND EXAMINATION ..... 1 of 8
4.1 APPLICATION FOR EMPLOYMENT ..... 1 of 8
4.1.1 Filing of Application ..... 1 of 8
4.1.2 General Qualifications of Applicants ..... 1 of 8
4.1.3 Elimination of Unqualified Applicants, Candidates, and Eligibles ..... 1 of 8
4.1.4 Rejection and Appeal from Rejection ..... 2 of 8
4.1.5 Action when Rejection is Not Sustained ..... 3 of 8
4.1.6 Applications Not to be Returned ..... 3 of 8
4.1.7 Applicants' Name Not Made Public ..... 3 of 8
4.1.8 Veterans' Preference ..... 3 of 8
4.2 EXAMINATIONS ..... 4 of 8
4.2.1 Examination Barred ..... 4 of 8
4.2.2 Promotional Examinations ..... 4 of 8
4.2.3 Examinations for Business Manager. et. al. ..... 4 of 8
4.2.4 Notice of Examination ..... 5 of 8
4.2.5 Who May Compete ..... 5 of 8
4.2.6 Admission to Examination ..... 5 of 8
4.2.7 Character of Examination ..... 5 of 8
4.2.8 Examination Procedures ..... 6 of 8
4.2.9 Examination Weighting ..... 6 of 8
4.2.10 Rating Required ..... 6 of 8
4.2.11 Review of Written Test ..... 7 of 8
4.2.12 Examination Papers ..... 7 of 8
4.2.13 Qualifications Appraisal Interview ..... 7 of 8
4.2.14 Seniority Credit--Promotional Examinations ..... 8 of 8
4.2.15 Notice of Final Score ..... 8 of 8
4.2.16 Examination Procedures for Trainee Positions ..... 8 of 8

5 EMPLOYMENT LISTS ..... 1 of 10
5.1 **ELIGIBILITY LISTS** ..... 1 of 10
5.1.1 **Establishment and Life of Eligibility Lists** ..... 1 of 10
5.1.2 **Reemployment Lists** ..... 1 of 10
5.1.3 **Termination of Eligibility Lists** ..... 1 of 10
5.1.4 **Consolidation of Eligibility Lists** ..... 2 of 10
5.1.5 **Eligibility after Appointment** ..... 2 of 10
5.1.6 **Removal of Names from Eligibility Lists** ..... 2 of 10
5.2 **CERTIFICATION FROM EMPLOYMENT LISTS** ..... 3 of 10
5.2.1 **Certification Procedure** ..... 3 of 10
5.2.2 **Order of Precedence** ..... 3 of 10
5.2.3 **Dual Certification** ..... 3 of 10
5.2.4 **Procedure when Fewer than Three Ranks Remain or Three Eligibles Remain** ..... 3 of 10
5.2.5 **Other Sources of Eligibility** ..... 4 of 10
5.2.6 **Waivers of Certification** ..... 4 of 10
5.2.7 **Procedure of Certification and Appointment from Eligibility List** ..... 4 of 10
5.2.8 **Certification of Additional Eligibles** ..... 5 of 10
5.2.9 **Certification from List for Another Class** ..... 5 of 10
5.2.10 **Withholding Names from Certification** ..... 6 of 10
5.2.11 **Restoration to Certification** ..... 6 of 10
5.2.12 **Duties of Eligible** ..... 6 of 10
5.2.13 **Subjects Regarding which no Questions Shall be Asked** ..... 7 of 10
5.2.14 **Certification of Eligibles for Position with Language Requirements** ..... 8 of 10
5.2.15 **Reduction in Eligibility** ..... 8 of 10
5.2.16 **Consanguinity** ..... 8 of 10
5.3 **PROVISIONAL APPOINTMENTS** ..... 9 of 10
5.3.1 **Restrictions** ..... 9 of 10
5.3.2 **Terminating Provisional Appointments** ..... 10 of 10
5.3.3 **Emergency Appointments** ..... 10 of 10
5.3.4 **Provisional Appointments - Subsequent Appointment to Regular Status** ..... 10 of 10

6 IN-SERVICE STATUS AND TRANSACTIONS ..... 1 of 25
6.1 PROBATIONARY PERIOD ..... 1 of 25
6.1.1 Duration of Probation ..... 1 of 25
6.1.2 Rights of Probationary Employees 1of 25
6.2 CHANGES IN POSITION AND CLASS ..... 2 of 25
6.2.1 Transfer ..... 2 of 25
6.2.2 Demotions ..... 3 of 25
6.2.3 Restorations 3 of25
6.2.4 Changes in Assigned Time ..... 4 of 25
6.2.4.1 General Rule ..... 4 of 25
6.3 LIMITED-TERM EMPLOYMENT ..... 4 of 25
6.3.1 Types of Limited-term Appointments ..... 4 of 25
6.3.2 Eligibility for Limited-term Employment ..... 5 of 25
6.3.3 Compensation 5of25
6.3.4 Rights and Benefits ..... 5 of 25
6.3.5 Terminations ..... 5 of 25
6.4 ASSIGNMENTS OF HANDICAPPED EMPLOYEES ..... 5 of 25
6.4.1 General Policy ..... 5 of 25
6.4.2 Reassignments 6 of25
6.4.3 Effect of Refusal by Employee ..... 6 of 25
6.5 EMPLOYMENT OF PERS RETIREES ..... 6 of 25
6.5.1 General Policy ..... 6 of 25
6.5.2 Compensation ..... 6 of 25
6.5.3 Assignment ..... 7 of 25
6.6 PERFORMANCE EVALUATIONS ..... 7 of 25
6.6.1 Bargaining Unit Employees ..... 7 of 25
6.6.2 When Required Evaluations Are to be Made ..... 7 of 25
6.6.3 Who Makes Evaluations 7 of25
6.6.4 Procedure to be Followed ..... 8 of 25
6.6.5 Special Evaluations ..... 8 of 25
6.6.6 Appeals 8 of25
6.7 LEAVES OF ABSENCE ..... 8 of 25
6.7.1 Vacation ..... 8 of 25
6.7.2 Paid Sick Leave ..... 9 of 25
6.7.3 Additional Sick Leave ..... 10 of 25
6.7.4 Termination of Sick Leave ..... 11 of 25
6.7.5 Industrial Accident and Industrial Illness Leave ..... 11 of 25
6.7.6 Bereavement Leave ..... 12 of 25

6.7.7 **Personal Necessity Leave**..... 12 of 25
6.7.8 **Jury Duty and Witness Leave**..... 13 of25
6.7.9 **Absence for Examination** .....14 of 25
6.7.10 **Military Leave**..... 14 of25
6.7.11 **Leave of Absence without Pay** ..... 14 of 25
6.7.12 **Maternity Leave**..... 15 of25
6.7.13 **Leave to Serve in an Exempt, Temporary, or Limited-term Position**..... 15 of 25
6.7.14 **Leave of Absence for Study**..... 15 of 25
6.7.15 **Leave of Absence for Retraining** ..... 17 of 25
6.7.16 **Transfer of Sick Leave from Another District** ..... 18 of 25
6.8 **LAYOFF** .....18 of 25
6.8.1 **Procedure Regarding Layoff** 18 of25
6.8.2 **Rights of Employees Laid Off for Lack of Work or Funds** ..... 18 of 25
6.8.2.1 **Bumping** ..... 19 of 25
6.8.2.2 **Voluntary Demotion or Transfer** ..... 19 of 25
6.8.3 **Limited-term, Provisional, or Probationary Positions** ..... 19 of 25
6.8.4 **Reinstatement Following Layoff**..... 19 of25
6.8.5 **Provisional Appointments of Permanent Employees Following Layoff** ..... 20 of 25
6.8.6 **Layoff: Reinstatement from Service Retirement** ..... 20 of 25
6.9 **RESIGNATION**.....20 of 25
6.9.1 **Reinstatement of Permanent Non-certificated Employees after Resignation**.....20 of 25
6.10 **DISCIPLINARY ACTION AND APPEAL**.....21 of 25
6.10.1 **Causes for Suspension, Demotion, Dismissal**..... 21 of 25
6.10.1.1.7**Abuse of Sick Leave** .....22 of 25
6.10.2 **Procedure for Disciplinary Action** ..... 22 of 25
6.10.3 **Appeal** ..... 23 of 25
6.10.4 **Hearing Procedure** ..... 23 of 25

7 WAGE AND SALARY PROVISIONS ..... 1 of 11
7.1 DETERMINATION OF SALARY SCHEDULES ..... 1 of 11
7.1.1 Factors in Salary Determination ..... 1 of 11
7.1.2 Salary Studies ..... 1 of 11
7.1.3 Salary Recommendations ..... 2 of 11
7.1.4 Appeals of Recommendations ..... 2 of 11
7.2 APPLICATION OF SALARY SCHEDULES ..... 2 of 11
7.2.1 Initial Placement ..... 2 of 11
7.2.1.1 Accelerated Hiring Rate ..... 3 of 11
7.2.1.2 Advanced Step Placement ..... 3 of 11
7.2.2 Step Advancement ..... 3 of 11
7.2.3 Promotions ..... 4 of 11
7.2.4 Placement after Leave of Absence ..... 4 of 11
7.2.5 Placement when Demoted ..... 5 of 11
7.2.6 Salary when Working in a Higher Classification ..... 5 of 11
7.3 WORK PERIODS AND OVERTIME ..... 5 of 11
7.3.1 Bargaining Unit Employees ..... 5 of 11
7.3.2 Workday and Workweek ..... 5 of 11
7.3.3 Overtime Defined ..... 5 of 11
7.3.4 Compensation for Overtime ..... 6 of 11
7.3.5 Classification Exempt from Overtime ..... 6 of 11
7.4 HOLIDAY PAY ..... 6 of 11
7.4.1 Bargaining Unit Employees ..... 6 of 11
7.4.2 Eligibility (Holidays) ..... 6 of 11
7.4.3 Exchange of Holidays by Board Action ..... 7 of 11
7.5 PAYROLLS ..... 8 of 11
7.5.1 Official Roster ..... 8 of 11
7.5.2 Payroll Audit ..... 8 of 11
7.5.3 Alternative Payroll Audit Procedure ..... 9 of 11
7.6 BENEFITS FOR PART-TIME EMPLOYEES ..... 9 of 11
7.7 SALARY DIFFERENTIAL FOR SHORTHAND USE ..... 9 of 11
7.8 SALARY DIFFERENTIAL FOR NIGHT WORK ..... 10 of 11
7.9 SALARY DIFFERENTIAL FOR BILINGUAL SKILLS ..... 11 of 11

8 MISCELLANEOUS PROVISIONS ..... 1 of 8
8.1 **PROCEDURE FOR THE ADJUSTMENT OF GRIEVANCES OF CLASSIFIED PERSONNEL** ..... 1 of 8
8.1.2 **Steps in the Adjustment Procedure** ..... 2 of 8
8.1.2.1 **Informal Discussion** ..... 2 of 8
8.1.2.2 **Informal Review** ..... 2 of 8
8.1.2.3 **Administrative Review** ..... 2 of 8
8.1.2.4 **Formal Hearing** ..... 3 of 8
8.1.2.5 **Personnel Commission Review** ..... 4 of 8
8.2 **EMPLOYER-EMPLOYEE RELATIONS** ..... 4 of 8
8.2.1 **General Provision** ..... 4 of 8
8.2.2 **Board Rules** ..... 4 of 8
8.3 **POLITICAL ACTIVITY** ..... 4 of 8
8.3.1 **Political Activity Freedom** ..... 4 of 8
8.3.2 **Cause for Disciplinary Action** ..... 5 of 8
8.3.3 **Personal Candidacy** ..... 5 of 8
8.3.4 **Leave of Absence** ..... 5 of 8
8.3.5 **Election to Political Office** ..... 5 of 8
8.3.6 **Intent** ..... 6 of 8
8.4 **NEW EMPLOYEE CLEARANCES** ..... 6 of 8
8.4.1 **Physical Examinations** ..... 6 of 8
8.4.1.1 **Initial Employment** ..... 6 of 8
8.4.1.2 **After Employment** ..... 6 of 8
8.4.1.3 **School Bus Drivers** ..... 7 of 8
8.4.1.4 **Medical Review Board** ..... 7 of 8
8.4.2 **Criminal Records Check** ..... 7 of 8
8.4.2.1 **Fingerprinting** ..... 7 of 8
8.4.2.2 **Review of Criminal Records** ..... 7 of 8
8.4.3 **Availability of Personnel File** ..... 8 of 8
8.5 **VIOLATIONS** ..... 8 of 8

CHAPTER 1

GLOSSARY OF DEFINITIONS AND PRELIMINARY STATEMENT

1.1 DEFINITIONS, GENERAL

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

ACCELERATED HIRING RATE: An initial hiring rate at a step above the beginning range for the class. Such a rate must be specifically authorized by the Personnel Commission for the particular class as a recruitment incentive.

ACT or THE ACT: The Act shall mean those sections of the Education Code of the state of California applying the merit system to classified employees in certain school districts. It shall include all of the provisions of Article 6, Chapter 5, and applicable provisions of Chapter 1 and Articles 1 to 5 and Division 3.

ADVANCED STEP PLACEMENT: The procedure by which an eligible candidate for a specified class can be appointed at a salary step above the lowest in the salary range on the basis of qualifications above the minimum entrance qualifications.

ALLOCATION: The official placing of a position in a given class.

ANNIVERSARY DATE: The date upon which an employee is granted an earned salary increment which is the first day of the pay period following completion of the required period of service.

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

APPOINTING AUTHORITY: The Board of Education of the Newport-Mesa Unified School District, or the Personnel Commission for Personnel Commission staff.

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

ASSIGNMENT: The placement of a candidate in a position; also the position into which a candidate is placed.

BASE SALARY: (Base rate) The salary range assigned to a classification as authorized by the Personnel Commission.

BARGAINING UNIT: Refers to classified employees who are recognized as being represented by an exclusive representative under the collective bargaining laws of the state of California in accordance with Section 3540.1 (e), Chapter 10.7 of Division 4 of Title 1 of the Government Code.

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

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

CERTIFICATION: The submission by the Personnel Commission of the names of the eligibles from an appropriate eligibility list or from ~~some~~ other sources of eligibility to the appointing authority.

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

CLASS SPECIFICATION (also referred to as a class or job description): A formal statement of the duties and responsibilities of the position(s) in the class, illustrated by examples of typical tasks, and of the qualification requirements of the position(s) in the class.

CLASSIFIED SERVICE: All positions in the district's service to which The Act applies and which are not exempted by The Act (see Rule 3.1).

COMMISSION: The Personnel Commission established pursuant to The Act for the Newport-Mesa Unified School District.

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

DIFFERENTIAL: A compensation allowance in addition to the base salary or range, based upon additional skills, responsibilities, or shift differential. (See CSEA Contract, Article 11.6).

DISCHARGE OR DISMISSAL: Separation from employment for cause.

DISTRICT: The Newport-Mesa Unified School District.

DUAL CERTIFICATION: A special procedure which provides for certification in specified cases, from an open list while a promotional list exists (see Rule 5.2.3, Education Code 45284).

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

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

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

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

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

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

EXEMPT: Supervisors and administrators who are not covered under the Fair Labor Standards Act.

GOVERNING BOARD: The Board of Education of the Newport-Mesa Unified School District (synonymous with authority or power).

GROUP: (See series).

LAYOFF: Separation from a permanent position because of lack of work or lack of funds, or because the position has been abolished or reclassified, or because an employee has exhausted all leave privileges after illness or injury (see Education Code 45286).

LIMITED TERM EMPLOYEE: An employee who is serving as a substitute for an absent employee or in a position established for a period of six months or less.

MERIT SYSTEM: A personnel system in which initial regular employment and promotion are based upon competition in examinations and a defined structure of job identification, salary and disciplinary action.

NEPOTISM: Assignment of close relatives to the same school or office.

NON-EXEMPT: Employees who receive overtime pay at the rate of time and one-half for work in excess of eight hours in any one day, or 40 hours in any one week, as defined by law.

OPEN EXAMINATION: An examination that is not restricted to persons who are current employees of the district, i.e., an examination that may be taken by any person who has the required qualifications.

PERMANENT EMPLOYEE: In reference to district employment status, an employee who has completed a probationary period in a class in the classified service. In reference to employment status in a specific class, an employee who has completed a probationary period for the class or who entered the class by transfer, demotion or reinstatement/reemployment without serving a probationary period.

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

PERSONNEL COMMISSION: A three-member panel that is responsible for maintenance of the merit system for classified employees.

POSITION: A group of duties and responsibilities assigned by competent authority requiring the full or part-time employment of one person on a permanent or limited term basis. A position can be established only by action of the Board of Education.

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

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

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

PROVISIONAL APPOINTMENT: A temporary appointment made in the absence of an appropriate eligibility list, not to exceed 90 working days except in specified circumstances (See Education Codes 45287, 45288 and 45289).

PROVISIONAL EMPLOYEE: A person employed under a provisional appointment.

RANKS, RULE OF THREE: Final scores rounded to nearest whole percent. (See Education Code 45272).

REEMPLOYMENT LIST: A list of names of persons who have been laid off from permanent positions by reasons of lack of work, lack of funds, or abolishment as reclassification of position, or other reason specified in these rules and who are eligible for reemployment without examination in their former class, arranged in order of their right to reemployment.

REGULAR EMPLOYEE: An employee who has permanent status.

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

RESTORATION: Includes "reemployment" (see above). Also, the reassignment to duty of an employee to the same class and status that he held when he resigned. Also, the reassignment of an employee who had demoted to his former class or to a related class or, after reduction to limited term status, to permanent status.

RESTRICTED EMPLOYEE: An employee hired into a federal or state funded position where employment is restricted to persons in low income groups or from designated impoverished areas, or other criteria which restricts the privilege of competing for such positions. Employees hired into restricted positions shall not gain seniority or permanency while employed in such positions.

RULE OF THREE RANKS: The scope of choice available to an appointing authority in making a selection from an eligibility list; refers to selection from among those eligibles having any of the three highest scores who are ready and willing to be appointed to a specific position. (See Education Code 45272).

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

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

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

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

SEPARATION: Discontinuation of district employment including, resignation, dismissal, layoff and retirement.

SERIES (sometimes referred to as occupational groups or occupational series): A number of classes closely related in occupational hierarchy and arranged in a list in order to indicate occupational levels in a group.

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

SUBSTITUTE EMPLOYEE: An employee occupying a permanent position during the absence of the incumbent. (Refer to limited term employee).

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

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

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

UNCLASSIFIED SERVICE: All positions and employees not in the classified or certificated service; i.e., those exempted by law (see Rule 3.1; see Education Code 45256). Part-time playground positions, full-time day students employed part-time, professional experts employed in consulting or advisory capacities on a temporary basis for a specific project.

WAIVER: The voluntary relinquishment by an eligible of a right to be considered for an appointment from an employment list in one or more positions, locations, or for a specific or unlimited period of time.

WORK DAY: That part of a 24-hour period during which an employee is scheduled to work in accordance with the employee's specific assignment.

WORKING DAY: Any day for which an individual employee receives compensation, regardless of the number of hours in a day for which compensation is received, with two exceptions:

1. A work shift that begins in one day and ends in the succeeding day is considered one working day.

2. A calendar day for which only overtime compensation is received, is not considered a working day.

WORK WEEK: Forty hours, usually served in five consecutive days within a seven-day cycle is the regular work week for the majority of regular employees.

"Y" RATE: An employee or class of employees whose salary is frozen; i.e., Y-rated, until the salary schedule rises to the dollar amount frozen.

1.2 PRELIMINARY STATEMENT (See: *Education Code 45240, 45241, 45260,45261)*

1.2.1 Statutory Authority for these Rules

The rules contained herein are established pursuant to the authority of the Personnel Commission under Article 6, Education Code 45240, 45241, 45260, 45261, and other provisions governing the Merit System Act in the Education Code.

It shall be the policy of the Personnel Commission to submit all new rules or amendments or deletion of existing rules to the governing board when:

1.2.1.1 The rule obviously requires board approval and,

1.2.1.2 It is difficult to define the division of Personnel Commission and Board authority regarding the rule in question. In such cases, the rule in question shall not become effective until it has been approved by the governing board.

1.2.2 Interpretation and Application of Rules

The Personnel Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration of their intent; however, specific, applicable provisions of the rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. The Personnel Commission is open to responsible suggestions to amend the rules with prospective application; however, no rule amendment or new rule shall have retroactive applicability.

1.2.3 Generic Terminology

As used in these rules, the terms “he” and "his" refers to the feminine as well as the masculine. Singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

1.2.4 Judicial Review

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

1.2.5 Effect of Data Contained in Addendum to Rules

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

CHAPTER 2

THE PERSONNEL COMMISSION

2.1 ORGANIZATION OF PERSONNEL COMMISSION (*See Education Code 45245, 45246, 45247, 45248)*

2.1.1 Terms

By law, the term of each Personnel Commissioner is for three years and expires at noon, December 1. The term of one Personnel Commissioner expires each year. On or about September 1 of each year, the Director of Classified Personnel shall notify the governing board of the name and home address of the Personnel Commissioner whose term will expire and whether or not he will accept reappointment. The notification shall also list the appointing authority and indicate that the board must follow the provisions of Education Code 45245.

2.1.2 Officers

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

2.1.3 Quorum and Majority

Two members shall constitute a quorum for any regular or special meeting of the Personnel Commission. The affirmative vote of two members shall be necessary to any action.

2.2 MEETINGS

2.2.1 Regular Meetings

Subject to cancellation or proper change, the Personnel Commission shall meet the third Thursday of each month at 5:30 p.m., in the Testing Room, 2985-A Bear Street, Costa Mesa, California, 92626. When the regular meeting date falls on a holiday, the Personnel Commission shall meet on the next succeeding Thursday unless at a prior regular meeting it designates some other day for its meeting. In cases of emergency, the Personnel Commission may meet at some other time and/or place, provided that at least 24 hours notice is given to all Personnel Commissioners and to employee and administration representatives, and posted on the Personnel Commission's official bulletin board.

2.2.2 Adjourned Regular Meetings

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

2.2.3 Special Meetings

Special meetings may be called at any time by the Chairperson and shall be called upon the written request of any two members. Written notice shall be delivered personally or by mail to each member of the Personnel Commission. Notice must also be given to each of the following who have filed written requests for such notice: each local newspaper of general circulation, radio or television station, and recognized employee or other organization. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. A copy of the notice shall be posted on the Personnel Commission's official bulletin board. The order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Personnel Commission.

2.2.4 Public Meetings

2.2.4.1 All regular and special meetings of the Personnel Commission shall be open and public, and all persons shall be permitted to attend any meetings of the Personnel Commission, except as provided in Rule 2.2.5. This rule shall not be construed as permitting employees to be absent from duty to attend Personnel Commission meetings.

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

2.2.5 Closed Sessions

2.2.5.1 The Personnel Commission may hold Closed sessions to consider the employment or dismissal of any employee or to hear complaints or charges brought against such employee, unless such employee requests a public hearing. The Personnel Commission shall not, where practicable, consider any matter in Closed session relating to an employee unless the employee has been notified of his right to a public hearing and has declined the public hearing or properly failed to request same.

2.2.5.2 The Personnel Commission may hold Closed sessions with its designated representatives prior to and during consultations and discussions with individuals or exclusive representatives regarding employee-employer relations, in order to review its position and instruct its designated representatives (Government Code Section 54957.6).

2.2.6 Agenda and Supporting Data

Insofar as possible, at least 48 hours prior to every regular or 24 hours prior to every special Personnel Commission meeting, the agenda shall be provided the designated representatives of all employee organizations representing District classified employees. Whenever practical, supporting data will be furnished in advance. The agenda will also be posted at least 72 hours before a regular meeting on the Personnel Commission's official bulletin board and distributed to news media which have requested it.

2.2.7 Adoption, Amendment, Deletion, Interpretation, or Addition to Rules (*See Education Code 45260, 45310, 45311, 45312,45313, 45317)*

2.2.7.1 All proposals, from any source, to amend, delete, or add to these rules will be considered a "first reading" at the meeting in which they are first presented to the Personnel Commission. They will not, unless a critical emergency exists, be acted upon at that meeting.

2.2.7.2 At the "first reading" the Personnel Commission will set a date for Personnel Commission action on the proposal, which date shall not be less than two weeks later. It shall also instruct the Director of Classified Personnel to refer the proposal to interested persons or organizations who have requested the information for comment and recommendation.

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

2.2.7.4 Enforcement Provisions: The Personnel Commission shall enforce the provisions of the Act and of these rules, and may hold such hearings and conduct such investigations as may be necessary to this end.

2.2.8 Minutes

The Director of Classified Personnel shall cause to be recorded in the minutes the time and place of each meeting, the names of the Personnel Commissioners present, all official acts of the Personnel Commission, and the votes of the Personnel Commission. When requested by him, a Personnel Commissioner's dissent or approval and his reasons shall be recorded. The minutes or a true copy thereof shall be open to public inspection. Copies of the official minutes shall be distributed to recognized employee organization representatives who have requested them.

2.3 PERSONNEL COMMISSION EMPLOYEES

2.3.1 Status of Personnel Commission Employees (*See Education Code 45264)*

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

2.3.2 General Duties of the Director of Classified Personnel (*See Education Code 45266, 45312)*

2.3.2.1 The Director of Classified Personnel shall perform all of the duties and carry out all of the functions imposed upon him by law and these rules. He shall act as secretary to the Personnel Commission and shall issue and receive all notifications on its behalf. He shall direct and supervise the employees of the Personnel Commission and conduct administrative transactions consistent with law and rules and necessary to the proper functioning of the office and staff of the Personnel Commission.

2.3.2.2 The Director of Classified Personnel shall direct and/or conduct studies of classifications, salaries, and rules and shall make such other investigations as directed by the Personnel Commission or as he deems necessary to his responsibilities. The Director of Classified Personnel may be designated as a hearing officer in accordance with Education Code 45312.

2.3.2.3 In cases where two or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Director of Classified Personnel subject to appeal to the Personnel Commission.

2.3.2.4 With the agreement of the Board of Education and the Personnel Commission, the Director of Classified Personnel shall also perform Board delegated functions of administering all or part of the classified personnel management program (not mandated under Article 6 of the Personnel Commission), and shall serve as the advisor to the superintendent and the Board of Education on classified personnel matters.

2.4 MISCELLANEOUS PROVISIONS

2.4.1 Communications

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

2.4.1.2 Individuals or groups who wish to present proposals for action by the Personnel Commission must present them to the Director of Classified Personnel for placement on the Personnel Commission agenda. It is against the policy of the Personnel Commission to take up proposals made at open meetings, although the Personnel Commission may designate one of its members to investigate a specific subject.

2.4.2 Budget (*See Education Code 45250, 45253, 45255)*

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

2.4.2.2 The Personnel Commission may designate one if its meetings prior to May 30th at which a public hearing on its proposed budget shall be held. The Board of Education may request the Personnel Commission to hold a public hearing on the proposed budget at another date which will coincide with the process of the adoption of the school district budget; said request shall be submitted no later than February of each year. At the time the Personnel Commission schedules the public hearing as required in Education Code 45253, it shall direct the Director of Classified Personnel to forward a copy of the proposed budget to the Board of Education and notify the board of the time, date, and place of the public hearing. Board and administration representatives shall be invited to attend the public hearing and present their views on the proposed budget.

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

2.4.2.4 When approved by the Personnel Commission the budget then shall be submitted to the county superintendent of schools in accordance with Education Code 45253.

2.4.3 Annual Report (*See Education Code 45266)*

2.4.3.1 The Director of Classified Personnel shall prepare, as required by Education Code 45266, an annual report of Personnel Commission activities. When approved by the Personnel Commission, the annual report shall then be submitted to the Board of Education.

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

2.4.4 Legal Counsel for the Personnel Commission (*See Education Code 45313)*

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

CHAPTER 3

POSITION CLASSIFICATION PLAN

3.1 THE CLASSIFIED SERVICE (*See Education Code 45256, 45112)*

3.1.1 Positions Included

3.1.1.1 All positions established by the governing board which are not exempt from the classified service by law shall be a part of the classified service. All employees serving in classified positions shall be classified employees. The employees and positions shall be known as the classified service.

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

3.1.2 Exemptions from the Classified Service

3.1.2.1 General

Positions required by law to have certification qualifications, part-time playground positions, students employed part time, apprentices, and professional experts employed on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission, shall be exempt from the classified service.

3.1.2.2 Special Categories

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

Persons employed in such positions shall be members of the classified service for all purposes except that they may not achieve permanency in the classified service as a result of this service. Staff assistants shall serve at the pleasure of the board. A field representative shall serve at the pleasure of the individual board member.

If a permanent classified employee is appointed to serve in such an exempt position, he shall retain status as a permanent employee. If he is terminated from the exempt position, he shall have bumping rights in his former class in the same manner as if he had been laid off for lack of work or lack of funds.

3.1.3 "Part-time" Defined

A part-time position, for the purposes indicated in the exemption rule, is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis is less than 87.5% of the normally assigned time of the majority of employees in the classified service.

3.1.4 Effect of Exemption

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

3.1.5 Professional Expert Assignments

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

3.1.5.2 When the person is known who is to be appointed as a professional expert, his name and data relative to his qualifications shall be submitted to the Director of Classified Personnel. In order to be exempted from the classified service as a professional expert, an individual must be recognized as such by reputable members of his own profession. Evidence of professional qualifications must be presented to the director at the time the written request for temporary appointment is made. Authorization for service as a professional expert shall not exceed six months. Additional required service shall be subject to approval by the commission.

3.1.6 Restricted Positions and Employees (*See Education Code 45105,45107, 45259)*

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

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

3.1.6.3 Notwithstanding 3.1.6.2, above, employees serving in "Restricted" positions may, after completion of six months of satisfactory service, take the next competitive examination that is given for the class in which they are serving. If an employee successfully completes the examination and attains placement on the eligibility list, as a result thereof and regardless of his numerical standing on the eligibility list, he shall be considered a

part of the regular classified service even though he may continue to serve in a restricted position, and he shall be accorded full rights, benefits, and burdens of a regular classified employee within the restricted class. Seniority rights shall be counted as of the date of his initial appointment to the restricted position.

3.1.7 Weekend/Holiday Position

The Governing board may, in accordance with Education Code 45204, create a position or class of positions which require and permit the holders of such positions to work exclusively on weekends (Saturday and Sundays) and holidays. If so created, the commission shall, in classifying the position:

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

3.1.7.2 Exempt employees serving in such positions from overtime pay for work required to be performed on a holiday. The overtime exemption shall not apply to hours required to be worked in excess of 8 on any Saturday, Sunday or holiday unless the class is specifically exempted in accordance with Education Code 45127 (for example, recreation and security classes).

3.1.7.3 Assure itself that the position being created is not being created to avoid payment of overtime to otherwise qualified employees. If it does find that such position is being created to avoid overtime payment, it shall refuse to classify the position and will notify the Governing board accordingly.

3.2 GENERAL CLASSIFICATION RULES (*See Education Code 45109, 45260, 45261)*

3.2.1 Assignment of Duties

The Board of Education shall prescribe the duties and responsibilities of all positions in the classified service except those on the Personnel Commission staff. When the duties being performed by an employee are found to be inconsistent with the duties officially assigned to his position, the Director of Classified Personnel shall report the facts to the responsible administrator in order that appropriate action may be taken. (See Rule 3.2.7)

3.2.2 General Nature of the Classification Plan

The Personnel Commission shall establish and maintain a plan of classification for all positions in the classified service. Classes will be placed in groups according to general occupational nature and, within groups, shall be listed in series by specific occupation. The Director of Classified Personnel shall decide, when he orders an examination, whether the examination shall be open, promotional or a combination thereof. The list of classes shall contain designation of the salary range applicable to each class.

3.2.3 Class Specifications

3.2.3.1 For each class of positions, as initially established or subsequently approved by the commission, there shall be established and maintained a class specification, which shall include:

3.2.3.1.1 The official class title;

3.2.3.1.2 A definition of the class, indicating the type of duties and responsibilities and placement within the organizational scheme;

3.2.3.1.3 A statement of typical tasks to be performed by persons holding positions allocated to the class;

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

3.2.3.1.5 A statement of distinguishing characteristics which differentiates the class from other related or similar classes; and

3.2.3.1.6 License or other special requirements for employment or service in the class;

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

3.2.3.2 Minimum qualifications may never require a teaching, administrative or other credential, nor may they require work experience which essentially would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials.

3.2.4 Interpretation of Class Specifications

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

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

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

3.2.4.3 Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series and group of classes, in such manner as to maintain a proper gradation in series in which the class is located and proper differentiation within the group of classes.

3.2.4.4 Qualifications commonly required of the incumbents of all or many offices or positions, such as honesty, sobriety, and industry, even though not specifically mentioned in the specifications, are implied in the qualification requirements.

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

3.2.4.6 The class title shall always be used with the meaning set forth in the remainder of the specification.

3.2.5 Allocation of Positions to Classes

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

3.2.6 Changes in Duties of Positions

Any substantial changes in the duties of existing positions shall be promptly reported in writing by the appointing authority to the Director of Classified Personnel, who shall cause them to be reviewed toward determining whether the positions should be allocated to different classes.

3.2.7 Working Out of Classification

An employee is not expected to be required to work out of classification, but when required to do so the fact shall be reported to the Director of Classified Personnel, who shall immediately investigate and report to the Personnel Commission. After review, the commission shall take such action as necessary based upon the facts. The rule shall not be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.

3.2.8 Review of Positions (*See Education Code 45109, 45276, 45285, 45285.5)*

The Director of Classified Personnel shall review the duties and responsibilities of positions as necessary to determine their proper classification and may cause all positions to be reviewed at least once every three years. If the director finds that a position or positions should be reclassified, he shall advise the administration of his findings. If the administration verifies the duties of the position or if the duties are not revised to fit within the current classification, the Director of Classified Personnel shall report his findings and recommendations to the commission. He shall also report his findings in cases where his review indicates that no change in classification is necessary.

3.2.9 Creation of New Positions

When the board creates a new position, it shall submit to the Director of Classified Personnel, in writing, the duties officially assigned to the position. The board may recommend minimum educational and work experience requirements for the position. The Director of Classified Personnel shall:

3.2.9.1 Classify the position and determine whether the position should be allocated to an existing class or to a new class.

3.2.9.2 If a new class is recommended, set forth the minimum qualifications the Director of Classified Personnel recommends. The minimum qualifications approved by the commission must reasonably relate to the duties assigned to the position by the board.

3.2.9.3 Designate the proper salary placement if a new class is established.

3.2.9.4 Notify the exclusive representative of the new classification and recommended salary placement.

3.2.9.5 Present the proposed new classification to the Personnel Commission for approval and then notify the board of this action.

3.2.10 Positions Requiring Multiple Languages (*See Education Code 45277)*

3.2.10.1 The Board of Education may, with the approval of the commission, designate positions within a class which require the holder of the position to speak, read, and write a language in addition to English.

3.2.10.2 The board must clearly set forth valid reasons for placing language requirements on a position.

3.2.10.3 An announcement calling for an examination for a class with position(s) containing language requirements will contain appropriate information and will indicate that successful candidates possessing the language requirements will be given preference over other successful candidates, as authorized in Rule 5.2.13, but only as to those specific positions.

3.2.10.4 When a vacancy occurs in a position which has approved language requirements, the board will notify the commission that the need for language requirements continues to be a part of the position.

3.2.10.5 If a request from the board to designate a position for language requirements is challenged, the commission shall cause a proper investigation to be made and shall consider the findings and all other pertinent data presented by any concerned and responsible source prior to taking final action on the request.

3.2.11 Mandatory Titles

As required by the Education Code, 45342 all instructional aides shall be titled a basic title of "Instructional Aide" or other appropriate title. The commission, in classifying all such positions, shall determine subclasses thereof, if any, and additions to the basic title as well as completing other classification requirements.

3.3 RECLASSIFICATION (*See Education Code 45285, 45285.5)*

3.3.1 Requests for Study

Requests for classification study of existing positions shall be presented to the Director of Classified Personnel together with a statement of the reasons for requesting the study. Requests for study may be initiated by the administration, with the approval of the Superintendent, or by employees or employee organizations. Requests initiated by the administration shall be accompanied by a statement of the current authorized duties of the position(s) and any prospective changes.

3.3.2 Effective Date of Reclassification

Reclassification of a position shall become effective on the date of the commission action or not later than the first day of the following month and shall not have retroactive effect. Effective dates may be set sufficiently in the future to allow time for examinations to be completed, if required, but not more than three months.

3.3.3 Effects on Incumbents

3.3.3.1 For an employee to be reclassified to a higher class with his position the reclassification must have been occasioned by a gradual accretion of duties and not by a sudden change resulting from reorganization or the assignment of completely new duties or responsibilities. The commission shall decide at the time the reclassification occurs as to whether the reclassification meets this rule.

3.3.3.2 When all of the positions in a class are reclassified to a higher class, those incumbents with two or more years' continuous employment record in the class shall be automatically reclassified with the positions. The incumbents automatically reclassified shall carry with them the seniority earned in their former class to the new class.

3.3.3.3 When a portion of the positions in a class are reclassified to a higher class, those incumbents with two or more years' service in one or more of the positions being reclassified shall be reclassified with their position(s). (Note: The commission may

require a qualifying examination or other evidence of qualifications.)

3.3.3.3.1 When a group of positions are reclassified to a new, common job title due to a commonality of duties and responsibilities distinctive to those positions, incumbents reclassified with their positions in accordance with established criteria shall carry with them the seniority earned in their former class to the new class.

3.3.3.4 An employee who has been reclassified with his position is ineligible for subsequent reclassification with his position for at least two years from the last upward reclassification.

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

3.3.3.5.1 The right to bump the employee in the same class with the lowest seniority in the class, provided that the incumbent has greater seniority in the class.

3.3.3.5.2 The right to bump the employee with the least seniority in any equal or lower class in which the incumbent formerly served, provided that he had greater seniority in that class.

3.3.3.5.3 The right to be demoted or to transfer, with examination when appropriate, to the class to which his position is reclassified.

The employee may choose to transfer, demote, or exercise bumping rights at his option, and his choice shall not affect his right under Rule 3.3.4.

3.3.4 Reemployment Lists for Displaced Incumbents

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

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

3.4 TRAINEE POSITIONS

3.4.1 Authority

3.4.1.1 The appointing authority may request the Director of Classified Personnel to establish trainee positions.

3.4.1.2 Trainee class descriptions shall be approved by the Personnel Commission upon recommendation of the Director of Classified Personnel.

3.4.2 **Training Programs**

The appointing authority shall fully describe the training program including:

3.4.2.1 Time required.

3.4.2.2 Evaluation procedures and length of probationary period. (See Rule 6.1.1.3)

CHAPTER 4

APPLICATION AND EXAMINATION

4.1 APPLICATION FOR EMPLOYMENT (*See Education Code 45260, 45261, 45272)*

4.1.1 Filing of Application

All applications for employment shall be made upon official forms designed and furnished by the commission, filled out as therein directed, and filed on or before the date specified and in the office specified in the examination announcement.

Applicants taking more than one examination must file a separate and complete application for each such examination.

4.1.2 General Qualifications of Applicants (*See 8 U.S.C. 13249)*

Applicants must be citizens of the United States or have filed appropriate intention to become citizens, except as otherwise provided in law, and possess all other requirements that may be specified in the minimum qualifications established for the class. Every applicant must be in all respects mentally and physically competent to perform the duties of the position for which he applies.

4.1.3 Elimination of Unqualified Applicants, Candidates, and Eligibles

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

4.1.3.1 Failure to meet the general qualifications of Rule 4.1.2.

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

4.1.3.3 Advocacy of overthrow of the government of the United States or the state of California by force, violence, or other unlawful means.

4.1.3.4 Conviction of or pleading guilty in court to a narcotics offense, or a charge of moral turpitude, or a sex offense, or mistreatment of children.

4.1.3.5 Criminal, infamous, dishonest, immoral, or disgraceful conduct according to standards approved by the Personnel Commission.

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

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

4.1.3.8 Narcotics offense, drug addiction, and/or use of intoxicating beverages to excess.

4.1.3.9 Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the district.

4.1.3.10 Previous dismissal from this district unless the district waives this subsection.

4.1.3.11 A record of unsatisfactory service with this district even though separation has not occurred.

4.1.3.12 Unsatisfactory health conditions.

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

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

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

4.1.3.16 Refusal to furnish testimony at a hearing or investigation before the Personnel Commission or Board of Education.

4.1.3.17 Failure to demonstrate eligibility of employment by providing documents as required by the Immigration Reform and Control Act of 1986.

4.1.2.18 Other causes deemed sufficient by the Commission.

4.1.4 Rejection and Appeal from Rejection

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

4.1.4.1.1 The reason(s) for rejection.

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

4.1.4.1.3 That, within seven calendar days, the individual may appeal to the Director of Classified Personnel for administrative review, and that failure to appeal for administrative review makes the rejection final and conclusive.

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

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

4.1.4.2.2 Informed of his right to make a written appeal of the rejection and/or the period of disqualification, within seven calendar days, to the Personnel Commission. The appeal may be based on any of the following reasons:

4.1.4.2.2.1 Discrimination because of political or religious acts or affiliations or opinions, race, color, sex, marital status, national origin or ancestry.

4.1.4.2.2.2 Abuse of discretion.

4.1.4.2.2.3 Inconsistency of the reasons given for the rejection with the facts.

4.1.4.2.3 Upon receipt of an appeal, the commission shall review all of the evidence, and render a decision. Its decision shall be transmitted in writing to the individual concerned and shall be final.

4.1.5 Action when Rejection is Not Sustained

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

4.1.6 Applications Not to be Returned

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

4.1.7 Applicants' Name Not Made Public

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

4.1.8 Veterans' Preference (*See Education Code 45294, 45295, 45296)*

4.1.8.1 Veterans' preference points shall be added to passing scores in open entry level examinations in the amount prescribed by Education Code 45296. At least 30 days of active service in the Army, Navy, Marines, Air Force or Merchant Marine, or as a nurse on active duty with the Red Cross, between the dates listed below, are required:

World War II	December 7, 1941 to December 31, 1946
Korea	June 27, 1950 to January 31, 1955
Vietnam	August 4, 1964 to May 7, 1975
Gulf War	August 22,1990 to March 8, 1991

Service in the Coast Guard between December 7, 1941 and January 1, 1946, is also credited.

4.1.8.2 In order to obtain credit, the applicant shall furnish satisfactory proof of qualifying military service at the time of the examination. No adjustment of rank on the list shall be made when such proof is presented thereafter.

4.2 EXAMINATIONS

4.2.1 Examination Barred

No examination announcement may be made and no part of any examination may be held until the Board of Education has properly approved, if a reclassification, or designated, if a new class, the position duties, and the director has completed the position classification, including the establishment of minimum education and work experience requirements.

4.2.2 Promotional Examinations (*See Education Code 45272)*

4.2.2.1 Examinations shall, where applicable, as determined by the Director of Classified Personnel, be limited to promotional applicants. When no promotional field of competition exists or when there is doubt of its adequacy, the director may establish open examinations or simultaneous open and promotional examinations. Promotional examinations shall be restricted to permanent employees of the district who meet the prescribed qualifications of the class.

4.2.2.2 When there exists a trainee classification, and a vacancy occurs in an entry level classification in the same occupational series, the appointing authority may request promotion, without examination, of the trainee into the next highest vacant position in the same occupational series upon certification to the Director of Classified Personnel that the trainee has satisfactorily completed the training program. When more than one incumbent exists in a training position in an occupational series, a promotional examination is required, if the appointing authority certifies that two or more incumbents have satisfactorily completed the training program.

4.2.3 Examinations for Business Manager et. al. (*See Education Code 45280)*

4.2.3.1 Examinations for the position of business manager or any other single position class at or above the level of business manager shall be held on an open and promotional basis.

4.2.3.2 When such examinations are held, all permanent employees of the district (classified and certificated), who meet the minimum qualifications, shall be allowed to compete in the promotional examination.

Final scores of all successful competitors in the promotional examination will be adjusted to add promotional points, including seniority credits.

4.2.3.3 A single eligibility list will be developed from among the passing open and promotional candidates. Rating will be in accordance with the final score plus authorized credits.

4.2.3.4 These examinations are not by law considered "entrance examinations," and military preference credits are, therefore, not to be included.

4.2.4 Notice of Examination (*See Education Code 45278)*

Whenever it is necessary to fill existing or anticipated vacancies in the classified service and an appropriate eligibility list does not exist as determined by the Director of Classified Personnel, the director shall initiate an examination to provide eligibles. At least 15 working days' advance public notice of such examinations shall be given. The notice shall contain the following facts:

4.2.4.1 Information concerning the location of employment, the expected number of vacancies, and other conditions of employment.

4.2.4.2 Description of the scope of duties and responsibilities of the position and the class;

4.2.4.3 Minimum qualifications required.

4.2.4.4 The salary and other forms of compensation.

4.2.4.5 The last day for filing an application.

4.2.4.6 The subjects about which competitors may be examined and the weights of the various parts of the examination.

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

4.2.5 Who May Compete

4.2.5.1 Competitive examinations for positions in the classified service shall be open to all applicants who meet the minimum qualifications and who are not rejected as provided in Rule 4.1.4, provided that examinations may be restricted to promotional candidates at the discretion of the Director of Classified Personnel.

4.2.5.2 Age shall not be a factor in admitting applicants to examinations.

4.2.6 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 authorization to take the examination. No candidate may be admitted to any examination without such authorization or other satisfactory evidence of having filed an acceptable application.

4.2.7 Character of Examination

Examinations may be written, oral or in the form of a practical demonstration of skill and ability, or any combination of these. Any investigation of education, experience, character, or identity, and test of technical knowledge, manual skill or physical and mental fitness which, in the judgment of the Director of Classified Personnel, serves this end, may be employed. Employees and supervisors are encouraged to make suggestions to improve the examination process.

4.2.8 Examination Procedures

4.2.8.1 Competitors in any written test must take the test on the prescribed date unless religious affiliation or military service (promotional candidates) requires other arrangements.

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

4.2.8.3 Where written tests are required, they shall be so managed that none of the test papers will disclose the name of any competitor until all papers of all competitors in a given examination shall have been marked and rated.

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

4.2.8.5 The commission may designate examinations for specified classes as continuous examinations. When so designated, the examination shall be administered as applicants are available, and applications shall be accepted on every working day. Procedures for review of written tests shall be suspended. The Qualifications Appraisal Panel may consist of no more than two persons who may be employees of the district.

4.2.9 Examination Weighting

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

4.2.10 Rating Required

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

4.2.11 Review of Written Test (*See Education Code 45273, 45274)*

4.2.11.1 When the written test papers of all competitors have been rated, candidates will be notified of their score(s) and the location they may review their test papers. Candidates will be notified of the beginning and last date for such review. It shall be the candidates' responsibility to contact the office of the Personnel Commission to arrange a time and date (within the date span allowed in the above notice) for test review. At the time of review, the candidate will be provided a protest sheet and may protest any question, outlining the basis for the protest. No candidate may copy or remove from the review room any question or answer.

4.2.11.2 The protest sheets, if any, shall be filed with the Director of Classified Personnel within 24 hours. The Director of Classified Personnel shall review and act upon all protests. He may allow more than one answer to a question or may disqualify a question, if he finds the protest to be valid. If protests result in any change, the test papers of all applicants will be reviewed and re-rated accordingly. A change in scoring which results in a change in the relative placement of candidates shall cause the Director of Classified Personnel to notify all candidates of the change and the reason therefore.

4.2.11.3 The Director of Classified Personnel shall inform the protester of his decision. If he rules against the protest, the applicant may appeal to the Personnel Commission, but the appeal shall not delay other parts of the examination process.

4.2.11.4 The Director of Classified Personnel may allow an eligible candidate or an employee to review his written examination after the eligibility list has been approved by the Personnel Commission, but without protest rights, under the following conditions:

4.2.11.4.1 The eligible candidate or employee may request to review his written test within 45 days of the Personnel Commission's approval of the eligibility list.

4.2.11.4.2 The Personnel Commission has not identified the selection process as "continuous" as referenced in Personnel Commission Rule 4.2.8.5.

4.2.11.4.3 If a vacancy arises resulting in a need to establish an eligibility list, a request to review a written test within the same promotional series/job family shall not be allowed by the Director of Classified Personnel.

4.2.12 Examination Papers

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

4.2.13 Qualifications Appraisal Interview (Oral Examination) (*See Education Code 45273)*

4.2.13.1 If an examination includes a Qualifications Appraisal Interview (QAI), those competitors eligible for the QAI will be examined at the earliest practicable date after conclusion and rating of the earlier test(s). Operating units may provide relevant questions for QAI panels for the Director of Classified Personnel's review and approval.

4.2.13.2 A QAI Panel will consist of two or more persons, at least one of whom shall be technically qualified to interview for knowledge in the area of the class of positions being tested. An exception shall be made for entry-level classes on continuous examination per Rule 4.2.8.5, or for a "technical oral interview and/or a structured objective examination" which requires only one panel member.

4.2.13.3 Under no circumstances shall a supervisory employee, under which a successful competitor may serve, be designated as an oral examiner.

4.2.13.4 A competitor may appeal a QAI rating to the Director of Classified Personnel and, if rejected, he may appeal to the commission at any time after notification of his final score, but within 10 days after establishment of the eligibility list. The commission may alter the QAI rating if it finds justification for the protest and order the competitor's examination score adjusted accordingly. No change in an eligibility list shall invalidate any appointment which was made prior to the ordered adjustment unless the appointment was fraudulent.

4.2.14 Seniority Credit--Promotional Examinations

In promotional examinations only, seniority credit shall be added to the final passing scores of candidates in the amount of 1/4 of one point for each year of service, not to exceed a total of five points. Credit shall be granted for time spent in regular status (see definition) in the classified service and on leave from the classified service while otherwise employed in this district. A full year's credit shall be granted to employees whose regular position is assigned on less than a calendar-year basis. Credit shall be calculated for units of not less than a half-year, unless greater accuracy is required in order to break ties in examination scores, and fractions of years shall not normally be counted.

4.2.15 Notice of Final Score

Each competitor shall be notified of his score for each portion of the examination, additional veterans' or seniority credits, the total thereof, and his standing on the eligibility list, if qualified.

4.2.16 Examination Procedures for Trainee Positions

Examination for entry into trainee classifications shall be by promotion and open examination, which may include diagnostic and predictive devices commonly known as aptitude tests as well as achievement tests.

CHAPTER 5

EMPLOYMENT LISTS

5.1 ELIGIBILITY LISTS

5.1.1 Establishment and Life of Eligibility Lists (*See Education Code 45291, 45292, 45300)*

5.1.1.1 After an examination, the names of successful competitors shall be arranged on a list in the order of examination score, plus additional points where applicable. The list shall be presented for approval of the Personnel Commission.

5.1.1.2 After approval, eligibility list(s) shall be in effect for one year, unless exhausted, and may be extended for one additional year at the discretion of the Personnel Commission. Eligibility lists may be in effect for six months at the discretion of the Director of Classified Personnel, but must be announced in the recruitment bulletin. Names of successful competitors may be added to eligibility lists resulting from continuous examinations without approval by the Personnel Commission.

5.1.1.3 When an examination is announced as promotional and open, the resulting eligibility list shall have all promotional candidates listed in order of total score before all open candidates are listed by their scores. (Except for examinations announced under Rule 5.2.2.)

5.1.2 Reemployment Lists

There shall be established for each class, as necessary, a reemployment list which shall take precedence over all other employment lists in appointment. This list shall contain the names of all regular classified service employees who have been laid off or demoted from any position because of lack of work or lack of funds. Employees who require leaves of absence for military reasons and those who are ordered, pursuant to the laws of the Untied States, to serve in any civilian war effort or war industry shall take precedence by having their names placed over other names on the reemployment list in any given class (see also Rule 6.7).

5.1.3 Termination of Eligibility Lists

5.1.3.1 An eligibility list is automatically terminated one year from the date of its approval unless previously extended by the Personnel Commission.

5.1.3.2 An eligibility list is automatically terminated two years after its approval unless previously terminated.

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

5.1.3.4 An eligibility list may be terminated by the Director of Classified Personnel when no eligible is available for appointment to a specific permanent position in a class or when there are fewer than three eligibles remaining on the list.

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

5.1.4 Consolidation of Eligibility Lists

5.1.4.1 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. Promotional lists shall be merged only with promotional lists, except that, where "dual certification" applies, open and promotional lists shall be merged for certification.

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

5.1.5 Eligibility after Appointment

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

5.1.6 Removal of Names from Eligibility Lists

5.1.6.1 The name of an eligible may be removed from an eligibility list by action of the Director of Classified Personnel for any of the following reasons:

5.1.6.1.1 A written request by the eligible for removal.

5.1.6.1.2 Failure to respond within a reasonable time to an inquiry regarding availability for employment.

5.1.6.1.3 Any of the causes listed in Rule 4.1.3.

5.1.6.1.4 (Promotional eligibility list): termination of employment.

5.1.6.1.5 Failure to respond for an interview after certification.

5.1.6.2.1 The name of an eligible may be removed from an eligibility list by the Director of Classified Personnel, subject to ratification of and appeal to the Personnel Commission for restoration under Rule 4.1.4, for any of the following reasons:

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

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

5.2 CERTIFICATION FROM EMPLOYMENT LISTS

5.2.1 Certification Procedure (*See Education Code 45272)*

The procedure for certification of eligibles (Rule 5.2.2) shall be as follows:

The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

5.2.2 Order of Precedence

Names shall be certified for appointment from employment lists in the following sequence, for interview by the first-line supervisor:

5.2.2.1 Reemployment list (one name). Only one name will be certified to the hiring authority and not other lists.

5.2.2.2 Transfer list (all shall be interviewed). Refer to Bargaining Unit Contract – Increased Hours – 7.2.2

5.2.2.3 Promotional eligibility list (all of whom shall be interviewed).

5.2.2.4 Open eligibility list (all of whom shall be interviewed).

5.2.3 Dual Certification (*See Education Code 45284)*

When the same examination is held on an open competitive and promotional basis to provide a list of eligibles, the Director of Classified Personnel may, prior to the examination, authorize dual certification from the resultant eligibility lists. The three ranks certified shall be those of open and promotional eligibles who have the highest examination scores, without veterans' credit but including seniority credit for promotional eligibles. When all promotional eligibles have been removed from the list, through appointment or otherwise, veterans' credit shall be added to scores of remaining open eligibles, and their ranks shall be adjusted accordingly.

5.2.4 Procedure when Fewer than Three Ranks Remain or Three Eligibles Remain

5.2.4.1 When fewer than three ranks are available on the promotional list, sufficient ranks shall be certified from the open list, when available, to allow a choice among three ranks. When there are less than three ranks available, the Director of Classified Personnel shall certify available ranks.

5.2.4.2 When at least three eligible candidates are available for certification, the Director of Classified Personnel shall ascertain their readiness for employment and, if ready and willing to accept employment, the Director of Classified Personnel shall certify their names to the appointing authority.

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

5.2.5 Other Sources of Eligibility

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

5.2.6 Waivers of Certification

5.2.6.1 An eligible may, without penalty, make himself unavailable for certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by filing a prescribed form in the Office of the Personnel Commission.

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

5.2.6.3 An available eligible may waive certification twice without penalty. At the time a third waiver is to be signed by an eligible, he will be informed that, upon signing the third waiver, his name will be removed from the eligibility list per Rule 5.1.6. In the extraordinary cases where waivers are caused by circumstances beyond the control of the eligible, the Director of Classified Personnel may restore the eligible to the list on satisfactory explanation of the reason for the waiver.

5.2.6.4 At the time an eligibility list is established, each eligible shall be sent a copy of Rule 5.1.6 and Rule 5.2.6.

5.2.7 Procedure of Certification and Appointment from Eligibility List

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

5.2.7.2 The Director of Classified Personnel shall ascertain the availability of eligibles and shall certify three ranks or the names of available eligibles to the appointing authority in accordance with these rules.

5.2.7.3 The appointing authority shall make its selection from the persons certified and shall notify the Director of Classified Personnel, who shall see that the necessary employment procedures are carried out.

5.2.7.4 If a candidate who has been certified as eligible for appointment to a position fails to keep his interview appointment or at the interview declines the position, the appointing authority may fill the vacancy from the remaining certified eligibles or may request additional certification in accordance with Rule 5.2.8.

5.2.8 Certification of Additional Eligibles

5.2.8.1 If, after certification of eligibles, the appointing authority desires certification of additional eligibles per Rule 5.2.7.4, a written request will be submitted to the Director of Classified Personnel which shall:

5.2.8.1.1 Specify the number of additional eligibles required;

5.2.8.1.2 Detail all pertinent data which require the certification of additional eligibles, including the names of the eligibles certified who refused appointment (with reasons given) or failed to respond for the interview.

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

5.2.8.2.1 If he finds the request to be valid; he shall:

5.2.8.2.1.1 Certify additional eligibles as may be required.

5.2.8.2.1.2 Remove from the eligibility list, at his discretion, the names of eligibles who failed to report for interviews or who refused appointment, and notify the eligibles of his action and their right of appeal to the Personnel Commission.

5.2.8.2.2 If he finds that a refusal of appointment was not voluntary and free of any type of duress, he shall:

5.2.8.2.2.1 Notify the appointing authority of his findings and refuse to certify additional eligibles, citing the provisions of this rule.

5.2.8.2.2.2 Refer the matter to the Personnel Commission, together with his findings and recommendations, which may include suggested action under Education Code 45312.

5.2.8.2.2.3 Advise the appointing authority of the date of his report to the Personnel Commission in order to enable appropriate representation.

5.2.9 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 a higher salary level if the duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled, provided that the Director of Classified Personnel finds that the use of the list is in the best interest of the district and that the necessary skills and knowledge were adequately tested in the examination.

5.2.10 Withholding Names from Certification

The name of an eligible may be withheld from certification when:

5.2.10.1 He expresses unwillingness or inability to accept appointment.

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

5.2.10.3 He fails to present himself for duty at the time agreed upon after having accepted an appointment.

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

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

5.2.10.6 For any reason listed in Rule 4.1.3.

5.2.11 Restoration to Certification

5.2.11.1 When the name of a person has been withheld from an eligibility list or from certification or has been removed from the list, it may be placed on such list or restored thereto by the Director of Classified Personnel, subject to ratification by the Personnel Commission at its next meeting, under the following circumstances.

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

5.2.11.1.2 When the withholding or removal was for a reason stated in Rule 4.1.3 and such action was improper or the defect has since been corrected.

5.2.11.2 Revisions and withdrawals of voluntary waivers shall not require approval by the Personnel Commission.

5.2.11.3 As provided in Rule 5.2.10.5.

5.2.12 Duties of Eligible

5.2.12.1 It shall be the duty of every eligible to respond promptly after receiving the notice of certification. When the eligible resides in the district, he shall respond within three days after the date the notice is mailed. If the eligible resides outside the district, he shall respond within three days plus the normal time required for the communication to be transmitted by mail to the eligible's place of residence and for his answer to be returned

by mail.

5.2.12.1.1 In the event an eligible is notified by fax or overnight mail of the certification, he shall present himself before the appointing authority for interview or reach the appointing authority with some form of communication within 24 hours after the sending of the fax or overnight mail.

5.2.12.1.2 Failure of an eligible to respond within the above stated times will be deemed an automatic waiver of certification, and the Director of Classified Personnel may certify an additional name in lieu of the name of such eligible.

5.2.12.2 An eligible who has been certified shall be allowed two weeks (one month in the case of administrative and executive classes) to report for duty after an offer of appointment to a permanent position has been made. If he is unable or unwilling to report by the end of two weeks (one month in the case of administrative and executive classes), he may be considered to have refused appointment, and the appointing authority may request certification of another name from the eligibility or reemployment list.

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

5.2.12.2.2 Notification may be made by telephone, fax, overnight mail, registered mail or certified mail.

5.2.12.2.3 The appointing authority may allow a period longer than two weeks, at its discretion.

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

5.2.12.3 Every person who has been placed on an eligibility list or reemployment list shall promptly and in writing file with the office of the Personnel Commission his correct mailing address and place of residence. This address shall be the place to which the Director of Classified Personnel shall direct all notices necessary in carrying out the provisions of the Act and these rules. Whenever such person shall have any change in mailing address or place of residence, he shall promptly notify the office of the Personnel Commission, stating the list or lists upon which his name appears, together with his new mailing address and place of residence. Failure or neglect on the part of any such person to file such information may, at the discretion of the Director of Classified Personnel, operate as a waiver of his order of certification and/or appointment from any such list or lists.

5.2.13 <u>Subjects Regarding which no Questions Shall be Asked</u>

No questions relating to political or protected classes including religious opinions or affiliations, race, color, national origin or ancestry, or marital status shall be asked of any applicant or any eligible whose name has been certified for appointment, nor shall any discrimination be exercised therefore.

5.2.14 **Certification of Eligibles for Position with Language Requirements (*See Education Code 45277)***

5.2.14.1 If a position has multiple language requirements, as provided for in Rule 3.2.10, the appointing authority shall so indicate to the Director of Classified Personnel when calling for certification of eligibles to fill the vacancy.

5.2.14.2 In such an instance the Rule of the top three ranks is suspended. The Director of Classified Personnel shall determine which eligibles possess the required language skill and shall certify the names of three qualified eligibles, in order of their relative standing on the list, who are ready and willing to accept the position.

5.2.14.3 If there is an insufficient number of eligibles who meet the language requirement and who are ready and willing to accept the position, the Director of Classified Personnel shall certify for appointment the top eligible(s) plus those possessing the language requirements who are ready and willing to accept the position, provided that the total number certified shall not exceed three.

5.2.15 **Reduction in Eligibility**

A reduction in eligibility from a higher class to a lower class may be granted only when the two classes are in the same line of promotion. A person granted a reduction in eligibility shall be placed at the bottom of the eligibility list for the lower class. When no eligibility list exists for the lower class, reduction in eligibility may be granted only in accordance with Rule 5.2.9.

5.2.16 **Consanguinity (*See Education Code 45261)***

A classified employee (or candidate for employment) shall not be certified or assigned to a position in which he or she is supervised by a member of the employee's (or candidate's) immediate family. Nor shall a classified employee be certified or assigned to a position in which he is evaluated by a second-level supervisor while under the immediate supervision of a first-level supervisor who is a member of the employee's (or candidate's) immediate family.

Immediate family consists of family members as defined in Education Code 45194.

The adoption of this rule shall not act to change the assignment of any employee assigned prior to its adoption.

5.3 PROVISIONAL APPOINTMENTS (*See Education Code 45287, 45288, 45289)*

5.3.1 Restrictions

5.3.1.1 The appointing authority may request a provisional appointment when the Director of Classified Personnel certifies that:

5.3.1.1.1 No eligibility list exists for the class, or

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

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

5.3.1.3 No person shall be employed in provisional capacities under a given governing board for a total of more than 126 working days in any one fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position as defined in Education Code 45256, successive 90-working-day provisional appointments may be made to the part-time position for a total of more than 126 working days in a fiscal year.

5.3.1.4 Insofar as possible, provisional appointees shall be required to meet the minimum qualifications for the class of the appointment as stated in the class specifications.

5.3.1.5 Notwithstanding Rules 5.3.1.1 and 5.3.1.2, the director may extend the 90-working-day provisional appointment for a period not to exceed 36 additional working days, provided:

5.3.1.5.1 An examination for the class was completed during the initial 90-work days of the employee's provisional assignment.

5.3.1.5.2 Satisfactory evidence is presented indicating:

5.3.1.5.2.1 Adequate recruitment effort has been and is being made.

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

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

5.3.2 Terminating Provisional Appointments

5.3.2.1 The services of a provisional appointee shall be terminated within 15 working days after the date on which an eligibility list has been established, provided that this 15-day period does not extend beyond the 90-working-day provisional assignment or the additional 36 working days if authorized by Rule 5.3.1.5.

5.3.2.2 A provisional appointment may be terminated at any time, at the discretion of the appointing authority.

5.3.3 Emergency Appointments (*See Education Code 45290)*

5.3.3.1 If it should become necessary in time of emergency to fill positions in the classified service to prevent the stoppage of public business, the Board of Education, through its authorized department heads, may make emergency appointments, without reference to eligibility lists for a period not to exceed 15 working days.

5.3.3.2 When such emergency appointments are made, it shall be the duty of the Board of Education to notify the Director of Classified Personnel in writing, naming the appointee or appointees, date of appointment, and nature of duties performed, and giving a statement justifying the emergency nature of such appointments. Time served under such emergency appointments shall be considered as part of the period permitted under the Education Code for provisional appointments.

5.3.4 Provisional Appointments - Subsequent Appointment to Regular Status

Effective July 1, 1979, a provisional appointee subsequently among the top three of a current eligibility list, who is selected for a regular appointment, shall be placed in regular status retroactive to the date he was first appointed provisionally. The individual appointed to regular status from a provisional appointment shall receive seniority and benefits retroactive to the date first appointed provisionally.

CHAPTER 6

IN-SERVICE STATUS AND TRANSACTIONS

6.1 PROBATIONARY PERIOD

6.1.1 Duration of Probation (*See Education Code 45301)*

6.1.1.1 A new employee appointed from an eligibility list shall serve a probationary period of six (6) months or 130 days of paid service, whichever is longer, in one class before attaining permanency in the classified service. An employee who has been promoted shall serve a probationary period of six (6) months or 130 days in the higher class before attaining permanency in that class. Credit toward completion of probation shall be granted only for service in regular positions in the class after appointment from the eligibility list.

6.1.1.2 For those classes designated by the commission as executive or administrative, the probationary period shall be one (1) year.

6.1.1.3 For those classes designated by the commission as trainee classes, the probationary period shall be as indicated on the class description but not to exceed 12 months.

6.1.1.4 Time while on paid or unpaid leave of absence shall not be included as part of the probationary period.

6.1.2 Rights of Probationary Employees (*See Education Code 45305)*

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

6.1.2.2 A new employee who is suspended or dismissed during his initial probationary period shall be notified in writing of the action taken and the reasons therefore. He shall not have the right of appeal.

6.1.2.3 An employee who has permanent status in the classified service and who has been promoted to a higher class may be demoted involuntarily during the probationary period to a vacant position in his former class. If a position is not available in his former class, he may be placed in a lower position and "Y" rated to the salary rate of his former position (payment will be at the hourly rate if this is not a full time position) for a period not to exceed six months and may be returned to his former class when a position becomes available. Should the incumbent not be returned to the former classification after six months he will receive the salary of the present classification. He shall be notified in writing of the action and the charges against him and shall have the right of appeal provided in Rule 6.10.3.2.

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

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

6.2 CHANGES IN POSITION AND CLASS (*See Education Code 45261)*

6.2.1 Transfer

6.2.1.1 For bargaining unit employees transfer regulations shall be as indicated in the collective bargaining contract. In those areas in which the contract is silent, commission rules shall prevail.

6.2.1.2 An employee may be transferred at his request or for the good of the service from one position to another in the same class at the discretion of the department head(s) involved, provided that such action shall not be taken for punitive or preferential reasons.

6.2.1.3 A permanent employee may be transferred to a position in a related class on the same salary schedule. Such transfers shall be made only with the approval of the commission.

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

6.2.1.5 The Personnel Commission shall determine whether classes are sufficiently related to permit transfer between them. It shall consider similarity of duties, minimum qualifications, examination content, occupational group, and promotional field (above and below). In general, more latitude in transfers is permitted:

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

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

6.2.1.5.3 When the employee meets the minimum requirements for the class.

6.2.1.6 A permanent employee who transfers to a position in a class in which he has not previously completed a probationary period shall be considered probationary in that class for a period of six (6) months or 130 days. At any time during the probationary period he may be returned (transferred) to his former class without right of appeal, unless such action results in layoff, demotion, or reduction in assigned time. In this latter case, the employee will have the same appeal rights as a permanent employee who is demoted or dismissed.

6.2.1.7 Transfers shall have the following effects on seniority:

6.2.1.7.1 Within the same class: none.

6.2.1.7.2 From one class to another: the employee shall not receive seniority credit in the new class for service in other classes; however, he shall retain such credit as seniority in the classified service.

6.2.1.8 Transfer shall not be used as a device to alter the sequence of impending layoff, although employees whose positions are to be eliminated may transfer to other classes as this rule contemplates.

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

6.2.2 Demotions

6.2.2.1 A permanent employee may request voluntary demotion to a vacant position in a class within the same promotional series with a lower maximum salary rate. A permanent employee may request voluntary demotion to a vacant position in a class in a different promotional series with a lower maximum salary rate if the permanent employee had previously achieved permanency in a class in that promotional series or if the Director finds the qualifications and duties to be sufficiently related. Such requests require the approval of the employee's current department head and that of the head of the department to which the employee is to be assigned.

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

6.2.2.3 Involuntary demotion is a disciplinary action for cause and is subject to the pertinent rules and procedures.

6.2.3 Restorations (*See Education Code 45309)*

6.2.3.1 A former permanent employee who resigned in good standing may be reinstated in a vacant position in his former class and status within 39 months of the last date of paid service.

Also, he may be reinstated in a vacant position in a lower related class if qualified, or in limited-term status in the same or lower class. Such actions are discretionary with the appointing authority.

6.2.3.2 An employee who has taken a voluntary demotion may be restored to a vacant position in his former class or in a vacant position in a related lower class, as determined by the commission, within 39 months. Except when demotion was chosen in lieu of layoff, restoration is discretionary with the appointing authority.

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

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

6.2.3.4.1 Restoration to the former step in the current salary range for the class, or, if restored to a lower class, to the rate closest to that of the step to which he would be assigned if he were restored to his former class.

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

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

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

6.2.4 Changes in Assigned Time (*See Education Code 45260)*

6.2.4.1 General Rule

6.2.4.1.1 When a class contains permanent positions of varying hours of work per day, week, or month, preference in assignment to vacant positions shall be based on seniority in the class.

6.3 LIMITED-TERM EMPLOYMENT

6.3.1 Types of Limited-term Appointments (*See Education Code 45286)*

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

6.3.1.2 The appointing authority may establish positions the duration of which is six (6) months or less; such positions shall be designated "limited-term." Such positions are subject to classification by the Director of Classified Personnel.

6.3.1.3 No person shall attain permanent status in the classified service as a result of an appointment to a limited term position even if appointed from an eligibility list.

6.3.2 Eligibility for Limited-term Employment

Limited-term appointment shall be made in accordance with procedures for regular appointments.

6.3.3 Compensation

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

6.3.3.2 Former regular employees who are reinstated as limited-term employees within 39 months after resignation shall be paid in accordance with Rule 6.2.3. The salary step so determined shall be applicable to all future limited-term appointments of that employee in that class until he loses eligibility for such appointments.

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

6.3.4 Rights and Benefits

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

6.3.4.2 All other limited-term employees shall be granted only those benefits provided by law. No seniority or credit toward completion of probation or any other benefit shall accrue from service in a limited-term appointment, except as provided under Paragraph 6.3.4.1 of this rule.

6.3.5 Terminations (*See Education Code 45260)*

6.3.5.1 Limited-term appointments may be discontinued at any time based on the needs of the District.

6.3.5.2 Limited-term employees may be dismissed without cause and serve in an at will capacity. The Director of Classified Personnel may remove the employee's name from the special list for limited-term appointments, if appropriate.

6.4 ASSIGNMENTS OF HANDICAPPED EMPLOYEES

6.4.1 General Policy

When a permanent employee becomes unable to perform the duties of his classification because of illness or injury as determined by medical authority designated by the district, effort shall be made to place him in a position the duties of which are within his capabilities. Reassignment, if any, shall be at the discretion of the appointing authority, with the approval of the commission as noted in sub rules of Section 6.4.

6.4.2 Reassignments

6.4.2.1 A handicapped employee's duties in his regular position may be altered in accordance with his handicap. Such changes in duties shall be informally reported to the Director of Classified Personnel, who shall determine whether the position requires classification study.

6.4.2.2 A handicapped or ill employee may accept demotion or transfer to a less demanding class, with the approval of the Director of Classified Personnel. When demotion or transfer is accepted to a class with a lower range the employee shall be "Y" rated.

6.4.2.3 A handicapped employee may be assigned to a position in a higher class, with the approval of the Director of Classified Personnel, but shall receive no salary benefit from such assignment until he can be appointed to the higher class in accordance with the rules and procedures on eligibility and appointments.

6.4.3 Effect of Refusal by Employee

A handicapped employee may refuse assignments to other classes without effect on his rights under sick-leave provision of the law and these rules. However, there is no obligation for the appointing authority to renew offers of reassignment which have been refused or to make alternative offers.

6.5 EMPLOYMENT OF PERS RETIREES

6.5.1 General Policy (*See Education Code 45134, 45135)*

6.5.1.1 Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed for up to 120 days or 960 working hours in a calendar year or get a waiver whenever other eligibles are not available and the retiree's skills or knowledge is needed, or during an actual emergency to prevent the stoppage of public business. (Government Code 21150 et seq)

6.5.1.2 The retired person must certify that he understands he is restricted to 120 days or 960 working hours in any calendar (unless a waiver has been obtained) year with the district and with all other employers subject to PERS and that his employment and continuance in employment is discretionary with the governing board.

6.5.2 Compensation

6.5.2.1 A retired employee under authority of this rule shall be entitled only to the appropriate salary earned to include overtime compensation as provided for in Rule 7.3.3. He shall be entitled to all fringe benefits applicable to employees with limited-term status only, except retirement contributions

6.5.2.2 Retired personnel shall normally be paid on the first step of the hiring rate of the salary schedule of the class to which assigned, but may be paid on a higher step upon the recommendation of the appointing authority and the approval of the Director of Classified Personnel, but in no case will the compensation be at a rate other than one payable to a regular employee in that class.

6.5.3 Assignment

6.5.3.1 A retired employee employed under this rule is not subject to reinstatement to PERS nor does the compensation paid provide for retirement allowance adjustment.

6.5.3.2 The appointing authority will certify to the Director of Classified Personnel that a retiree employed under this rule meets the provisions thereof and his combined calendar year employment by all employers subject to PERS does not exceed 960 working hours. (It is suggested that the appointing authority secure an affidavit from the prospective employee as to his eligibility and/or the district certify eligibility through PERS.)

6.6 PERFORMANCE EVALUATIONS (*See Education Code 45261)*

6.6.1 Bargaining Unit Employees

For bargaining unit employees, evaluation regulations shall be as indicated in the collective bargaining contract. In those areas in which the contract is silent, commission rules shall prevail.

6.6.2 When Required Evaluations are to be Made

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

6.6.2.1 Probationary employees--at the end of the second calendar month of service and at least 30 calendar days prior to the granting of permanent status.

6.6.2.2 Permanent employees--at least once each year.

6.6.2.3 Evaluations as described above shall be the minimum number of required evaluations. Employees may be evaluated at more frequent intervals as determined by the district.

6.6.3 Who Makes Evaluations

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

6.6.4 Procedure to be Followed (*See Education Code 45261)*

6.6.4.1 Performance evaluation reports shall be made on forms prescribed by the commission or the district for employee group(s) as defined in Education Code 45261, and shall be prepared by the employee's immediate supervisor if possible. The form shall be reviewed by the next higher supervisor and, if the need for improvement is noted, by the department head.

6.6.4.2 The immediate supervisor shall present the performance evaluation report to the employee and shall discuss it with him. The evaluation form shall be signed by the employee to indicate receipt, and he shall be given a signed copy. When the employee is no longer supervised by the person preparing the evaluation, it may be delivered by mail.

6.6.5 Special Evaluations

At any time, a supervisor may, with the approval of his department head, issue to an employee a Notice of Commendation or a Notice of Unsatisfactory Service. Such Notices shall be made on prescribed forms and shall set forth specific reasons for recognition of outstanding or unsatisfactory service by the employee. They shall be delivered to the employee personally by his immediate supervisor whenever practicable. A copy of such notice shall be placed in the employee's personnel record and shall be available for review in connection with promotional examinations.

6.6.6 Appeals

An employee who desires to appeal an unsatisfactory evaluation shall submit in writing to the superintendent, within 15 work days of the date of receipt of his evaluation, his reasons for appeal. The superintendent shall investigate the facts of the case and shall obtain such evidence as may be necessary for the final determination of the employee's evaluation. The superintendent shall meet with the appellant and his representative, if any, upon request of the appellant. The superintendent's decision regarding the evaluation appeal shall be final.

6.7 LEAVES OF ABSENCE

For bargaining unit employees, leaves of absence regulations shall be as indicated in the collective bargaining contract. In those areas in which the contract is silent, commission rules shall prevail.

6.7.1 Vacation (*See Education Code 45197)*

6.7.1.1 Every regular classified, confidential, supervisory, and management employee, permanent and probationary, shall earn vacation credit at the prescribed rate as part of his compensation.

6.7.1.2 Confidential, employees earn vacation at the rate of twenty-two (22) days per fiscal year. Supervisory employees earn vacation at the rate of twenty-two (22) days per fiscal year. Management employees shall earn vacation at the rate of twenty-two (22) days per fiscal year.

6.7.1.3 Vacations are based on twelve (12) months of employment per year, with vacations pro rated for less than full-time service.

6.7.1.4 If the district is unable to approve vacation time off during the work year, the employee may request and receive vacation pay in lieu of days off. Vacation pay in lieu of days off may be used when approved by the immediate supervisor. All requests for vacation pay in lieu of days off must be in writing and must be submitted no less than thirty (30) days in advance of the expected pay period.

6.7.1.5 Vacation schedules shall be prepared by the department head. Effort shall be made to enable vacation to be taken at times convenient to the employee, consistent with the needs of the service and the workload of the department.

6.7.1.6 Earned vacation shall not become a vested right until completion of the initial six (6) months of employment.

6.7.1.7 Upon separation from service, the employee shall be entitled to lump sum compensation for all earned and unused vacation, except that employees who have not completed six (6) months of employment in regular status shall not be entitled to such compensation.

6.7.1.8 If the employee is not permitted to take his annual vacation, the amount not taken shall be accumulated for use in the next fiscal year, but shall not carry over to a third fiscal year. The district shall make a lump sum payment for all days in excess of approved accumulation; such compensation shall be at the rate at which vacation was earned.

6.7.1.9 If an employee is terminated and has been granted vacation which has not been earned at the time of termination of his services, the district shall deduct from the employee's severance check the full amount of salary which was paid for such unearned days of vacation taken. If after the deduction, compensation is still due the district, the employee shall be liable for all court costs expended to recover monies due.

6.7.1.10 Employees who become incapacitated by reason of illness or accident during a period of vacation shall be eligible for illness or injury leave as enumerated in these rules, provided the employee presents a doctor's verification of such illness or accident. The provisions of this section shall also apply to bereavement as enumerated in these rules.

6.7.1.11 When a holiday occurs during the period of an employee-approved vacation and the employee would have ordinarily been entitled to such holiday, such holiday shall not be charged against the employee's vacation.

6.7.2 Paid Sick Leave (*See Education Code 45191, 45196)*

6.7.2.1 Sick leave is the authorized absence of an employee because of illness or injury or exposure to contagious disease.

6.7.2.2 A regular classified employee (probationary and permanent) shall earn paid sick leave in accordance with the provision of Education Code 45191. Unused sick leave may be accumulated without limit.

6.7.2.3 At the beginning of each fiscal year, the sick leave "bank" of the employee shall be increased by the number of days of paid sick leave which he would normally earn in the ensuing fiscal year. A total of 100 days at one-half pay, including full pay sick leave, shall be credited each year and expunged the next. In case of extended illness or injury leave which overlaps into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the illness or injury leave occurred for the same illness. An employee's sick leave "bank" shall be adjusted if a change of assignment alters the amount of sick leave earned.

6.7.2.4 However, a new employee of the district shall not be eligible to take more than six (6) days until the first day of the calendar month after he performs his assignment for a period of 130 days. When an employee terminates from the district, a deduction shall be made for any unearned but used illness or injury leave from his final warrant.

6.7.2.5 Pay for any day of sick leave shall be the same pay the employee would have received if he had worked that day, except as provided by Education Code 45191 for part-time personnel.

6.7.2.6 Employees who, due to emergency, do not know of the absence in advance of the scheduled day of work shall notify the immediate supervisor within the first hour of scheduled work of the first day of absence unless conditions make such notification impossible, or in accordance with requirements as established by the employee's immediate supervisor. Employees who do not request leave in accordance with the above notification procedure may lose one (1) day's pay for each day of unapproved absence.

6.7.2.7 In case of absence which extends to a second day or longer period, the employee shall notify the work site or other location indicated by district procedures at least the day or work shift prior to his expected return to work. Except in cases of emergency, if the employee fails to notify the work site or other location indicated by district procedures of his expected return to work and the employee's substitute also reports for the work, the employee shall have deducted from his salary the cost of the substitute for that day.

6.7.2.8 In the case of accident or illness leave, the district may require verification of the absence by a physician, or in the case of religious requirement by a practitioner, at any time the district believes that the absence may not have been used for proper leave purposes. Abuse of leave privileges may be subject to loss of pay and disciplinary action.

6.7.3 Additional Sick Leave

6.7.3.1 After exhaustion of paid sick leave, an employee who is ill or injured may, upon request, use accumulated vacation (and compensatory time, if provided) to avoid leave without pay.

6.7.3.2 After exhaustion of all paid leave, a permanent employee may be placed on additional leave upon request and with the approval of the Board. The additional leave may be extended for any period not to exceed 18 months. If placed on unpaid leave, the employee shall not again become eligible for paid leave because of the commencement of a new fiscal year until he has rendered service.

6.7.4 Termination of Sick Leave

6.7.4.1 An employee who has been placed on paid or unpaid sick leave may return to duty at any time during the leave, provided that he is able to resume the assigned duties and, if the leave has been for more than twenty (20) working days, provided that he has notified the district of his return at least three (3) working days in advance.

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

6.7.5 Industrial Accident and Industrial Illness Leave (*See Education Code 45195, 45199)*

6.7.5.1 Leaves resulting from an industrial accident or industrial illness shall be granted in accordance with the provisions of Education Code 45192 and 45199 and this rule.

6.7.5.2 An employee in the classified service who is absent from duty because of an illness or injury defined as industrial accident or industrial illness under provisions of the Worker's Compensation Insurance law shall be granted paid industrial accident leave for each such accident or illness while receiving temporary disability benefits from worker's compensation provided that:

6.7.5.2.1 He has permanent status.

6.7.5.2.2 In the opinion of the superintendent or his designated representative the illness or injury constitutes an industrial accident or illness, or, if contested by the district, it is ultimately determined to a compensable injury or illness.

6.7.5.3 Paid industrial accident leave shall be for not more than seventy-five (75) working days in any one fiscal year for the same accident. When an accident or illness overlaps into the next fiscal year, the employee shall be entitled to only that amount of the seventy-five (75) days allotment remaining at the end of the fiscal year in which the original accident or illness occurred.

6.7.5.4 Paid industrial accident leave shall be reduced by one (1) day for each day of authorized absence regardless of the temporary disability allowance made under worker's compensation. Days absent while on paid industrial accident leave shall not be deducted from the number of days of paid illness leave to which an employee may be entitled.

6.7.5.5 If the employee is still unable to return to duty after exhausting paid industrial leave, an employee may choose to receive pay from accrued vacation, earned compensatory time, or other earned leave to the extent necessary to make up the employee's regular salary when receiving a temporary disability allowance.

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

6.7.5.7 An employee returning from such paid or unpaid leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and Personnel Commission rules or negotiated contract under Government Code Section 3540 as appropriate. An employee shall continue to receive seniority credit for all purposes while on such a paid leave of absence.

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

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

6.7.6 Bereavement Leave (*See Education Code 45194)*

6.7.6.1 Probationary, permanent, and provisional employees in the classified service shall be allowed regular pay for not more than three (3) working days when absent on account of the death of any member of his immediate family. Bereavement leave with pay shall be extended to a maximum of five (5) days if travel of more than 200 miles is required.

6.7.6.2 For the purposes of this provision, "immediate family" shall be defined as mother, father, stepmother, stepfather, grandmother, grandfather, grandchild, husband, wife, son, son-in-law, daughter, daughter-in-law, brother or sister of either the unit member or the unit member's spouse, stepbrother, stepsister, aunt, uncle, or close personal friend of the unit member, or close personal friend of the unit member, or any person living permanently in the immediate household of the unit member.

6.7.7 Personal Necessity Leave

6.7.7.1 Employees shall be entitled to use a maximum of seven (7) days of accrued illness or injury leave each fiscal year for purposes listed below.

6.7.7.2 The death of a member of the employee's immediate family as defined when the number of days required exceeds the limit provided in Bereavement Leave ("immediate family" as defined in Rule 6.7.6.2).

6.7.7.3 A serious accident involving the employee's person or property or the person or property

of a member of his immediate family. An emergency accident would involve an unforeseen mishap or the serious injury of an immediate family member or property damage resulting from an unforeseen tragedy or act of destruction.

6.7.7.4 An illness of a member of the employee's immediate family which is of a serious nature. An illness of a serious nature shall be an illness which an employee cannot reasonably be expected to disregard and which requires the attention of the employee during his assigned hours of service.

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

6.7.7.6 The birth of a child, making it necessary for the employee who is the father of the child to be absent from his position during his assigned hours of service.

6.7.7.7 The employee shall request personal necessity leave five (5) days in advance, except in cases of emergency, and the district reserves the right to require verification of the reason for the personal necessity leave. Under all circumstances, an employee shall verify in writing that the personal necessity leave was used only for the purposes as set forth above. The employee shall be subject to one (1) day loss of pay for each day of absence if the leave is used for purposes other than those stipulated.

6.7.7.8 One day of the seven (7) personal necessity leave days as defined, may be used each fiscal year by employees for conditions of personal necessity as deemed appropriate by the employee. However, this day may be used only for necessities which the employee cannot be expected to disregard and which require the attention of the employee during his assigned hours of service. No prior approval by the supervisor is required, but notification to the immediate supervisor must be made in advance of this one day of leave and such notification shall be five (5) days in advance except in cases of emergency. The one day of unspecified personal necessity leave may not be accumulated or carried over to a subsequent school year. This provision may not be used for a work stoppage or slow down.

6.7.8 Jury Duty and Witness Leave

6.7.8.1 Leave of absence for jury service shall be granted to any classified employee who has been officially summoned to jury duty in local, state, or federal court. Leave shall be granted for the period of the jury service. The employee shall receive full pay while on leave provided that the jury service fee for such leave is assigned to, and the subpoena or court certification is filed with the district. Request for jury service leave should be made by presenting the official court summons to jury service to the district.

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

6.7.8.3 The jury service fee and witness fee referred to in 6.7.8.1 and 6.7.8.2, respectively, do not include reimbursement for transportation expenses.

6.7.8.4 An employee who has received leave of absence under this rule shall make himself available for work during hours when his presence is not required in court. If an employee's work shift is other than between the hours of 7 A.M. and 5 P.M., the employee shall have the right to be excused from his assignment for a period of time equal to his required court duty.

6.7.9 Absence for Examination

Every employee in the classified service shall be permitted to be absent from his duties during working hours in order to take any examination for promotion in the district without deduction of pay or other penalty, provided that he gives two days' notice to his immediate supervisor.

6.7.10 Military Leave

6.7.10.1 Military leave of absence shall be granted and compensated in accordance with the Military and Veterans Code Sections 389 and 395, and that which follows, Rule 6.7.11. See also Rule 5.1.2.

6.7.10.2 A copy of the military orders must accompany the request for leave.

6.7.11 Leave of Absence without Pay

6.7.11.1 A permanent employee may be granted by the district a leave of absence without pay or other compensation for the purposes of travel, rest, child care, study, retraining, or other reasons acceptable to the district. Such leaves shall be for a period of one (1) year or less and shall terminate at such time as deemed appropriate by the district.

Such determination shall be made at the time the leave is granted. An extension of up to one year may be granted by the district. Failure to return from a leave without pay at the time deemed appropriate by the district shall be the cause for termination. Application for such leave of absence shall be made by the employee forty-five (45) days in advance of the requested leave except in cases of emergency.

6.7.11.2 Forty-five (45) days prior to the expiration of any leave without pay, the employee shall notify the district of his intent to return to work or to seek an extension of the leave, except for an employee on unpaid medical leave of absence.

6.7.11.3 Failure to report for duty within five (5) working days after a leave has been canceled or expires shall be considered abandonment of the position, and the employee may be terminated by the Board of Education. The termination may be appealed to the Personnel Commission in the same manner as any other dismissal for cause. This provision is not applicable to military leave.

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

6.7.12 Maternity Leave (*See Education Code 45193)*

6.7.12.1 Employees are entitled to use accumulated illness or injury leave for disabilities caused or contributed to by pregnancy, miscarriage, childbirth, or recovery therefrom. Such leave shall not be used for child care, child rearing, or preparation for childbearing, but shall be limited to those disabilities as set forth above. The length of such disability leave, including the date upon which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the employee and the employee's physician.

6.7.12.2 Employees shall notify their immediate supervisor four (4) weeks in advance of the anticipated maternity absence except in cases of emergency.

6.7.12.3 Employees may request leave without pay for absence caused by pregnancy, miscarriage, childbirth, or recovery there from after illness or injury leave entitlement has been exhausted.

6.7.13 Leave to Serve in an Exempt, Temporary, or Limited-term Position

6.7.13.1 Any permanent classified employee who accepts an assignment within the district to an exempt, temporary, or limited-term position shall, during such assignment, be considered for status purposes as serving in his regular position, and such assignment shall not be considered separation from service.

6.7.13.2 The employee may, with the approval of the appointing authority, voluntarily return to his position or a position in the class of his permanent status prior to the completion of service in an exempt, temporary, or limited-term position.

Failure to complete their required service, unless approved as specified herein, will constitute abandonment of position and may be grounds for disciplinary action by the appointing authority.

6.7.14 Leave of Absence for Study (*See Education Code 45380, 45381, 45382, 45383, 45384, 45386, 45387)*

6.7.14.1 Every regular classified employee who has completed seven (7) consecutive years of service in regular status with the district shall be eligible to apply for a leave of absence

for study purposes. The granting of such leave shall be entirely discretionary with the appointing authority. When a study leave has been authorized and taken, an additional seven (7) years of service after return to duty from the last leave, must be completed before another study leave may be granted.

6.7.14.2 Study leave can be for any period of time not to exceed one (1) year and may be taken in any time increments as approved by the governing board, but must be completed within three (3) years after the initial part of the leave was commenced. If the leave is not continuous, the service performed between the leave intervals shall be credited toward future study leave eligibility.

6.7.14.3 Any leave granted and taken under this rule shall not constitute a break in service for any purpose, but the leave time shall not count toward eligibility for a future study leave.

6.7.14.4 The employee must file an application with the governing board for a leave of absence under this rule and must outline:

6.7.14.4.1 His work history with the district (i.e., positions held and length of service in each).

6.7.14.4.2 Length of leave requested and time period in which the leave will be completed if granted.

6.7.14.4.3 The purpose for which the leave is requested. The application must include the complete course of study to be pursued, institution giving the course, costs involved, degree or credits to be granted, and other pertinent data.

6.7.14.4.4 Amount of compensation requested while on leave (see Paragraph 6.7.14.5 and 6.7.14.6).

6.7.14.4.5 Service, if any, to be performed by the employee for the district during the leave.

6.7.14.4.6 The benefits to be derived by the district from the granting of the leave.

6.7.14.4.7 Willingness of the employee to provide a bond to the district as required by law.

6.7.14.4.8 Agreement by the employee that he will serve the district for at least two (2) years after termination of the leave.

6.7.14.4.9 Willingness to provide the district evidence of satisfactory study progress at agreed intervals during leave. Failure to provide such evidence or to make satisfactory progress may, at the option of the district, result in immediate cancellation of the leave.

6.7.14.4.10 Agreement by the employee that he will report any employment during the leave to the Director of Classified Personnel who shall determine whether conflict exists with the purpose of the leave.

6.7.14.5 If a leave is granted under this rule, the employee will be paid, as a minimum, the difference between what his salary or wage would have been had he not been on leave and the salary paid the substitute employee. In lieu of the minimum, the board and employee may agree, in writing, to greater compensation. If the board approves compensation greater than the minimum, it shall not be less than one half of the

employee's normal rate of compensation and not more than full compensation.

6.7.14.6 Compensation shall be paid as follows:

6.7.14.6.1 If the employee does not provide a bond as determined by the district or provide a written statement indicating that he will serve at least two (2) years with the district upon return from leave, the agreed to compensation shall be paid in two equal annual installments during the first two (2) years of service to the district following return to duty after termination of the leave.

6.7.14.6.2 If the employee provides the required bond or submits a written document, approved by the board in accordance with Education Code 45384, the employee shall be paid the agreed upon compensation in the same manner as if he were in active service with the district. If the employee fails to complete two (2) years of service for the district following return from leave, except as provided below, he may be required to refund to the district a pro rated portion of any compensation received while on leave.

6.7.14.6.3 If any employee has provided a bond or written agreement and fails to complete the required two (2) years of service because of his death or physical or mental disability, the bond or conditions of the agreement shall be exonerated in the same manner as if the required service had been performed.

6.7.15 **Leave of Absence for Retraining (*See Education Code 45380, 45387)***

In the event that the governing board contemplates the abolition of positions in the classified service and creation of new positions because of automation, technological improvements, or for any other reason, it may provide for retraining of displaced employees in accordance with this rule.

6.7.15.1 To be eligible for retraining leave, an employee must:

6.7.15.1.1 Have served at least three (3) years in the district.

6.7.15.1.2 Be serving in a position which the district contemplates abolishing, or show that the retraining will clearly benefit the district.

6.7.15.1.3 Indicate a willingness to undergo the prescribed training program.

6.7.15.1.4 Indicate a willingness to serve the district for at least two (2) years after successful completion of the retraining program.

6.7.15.2 The governing board shall prescribe the retraining program and may provide the program internally or designate the institution or place where the program is to be given.

6.7.15.3 The employee shall be considered a permanent employee for all purposes during the period of the retraining program and shall receive his normal compensation and benefits. The board may prescribe duties, if any, to be performed by the employee on behalf of the district during retraining leave.

6.7.15.4 The board shall provide for reasonable expenses necessary for the prescribed retraining but may recover costs from the employee if he fails to complete the prescribed retraining program.

6.7.15.5 The board may establish retraining programs for purposes other than outlined in this rule and grant leaves of absence for retraining in the same manner as for study leaves of absence, except that the three (3)-year service requirement shall prevail. Such programs must be endorsed by the commission and must be available to all qualified employees of the district, except that approval for such leave shall be discretionary with the governing board.

6.7.16 Transfer of Sick Leave from Another District (*See Education Code 45202)*

Any classified employee of any California school district who has been an employee of that district for a period of one (1) calendar year or more and who terminates employment with that district for the sole purpose of accepting a classified position with this district and who subsequently, within twelve (12) months of termination of his former employment, accepts a classified position shall be credited with all of the earned but unused sick leave which was credited to him in his former school district.

6.8 LAYOFF (*See Education Code 45298, 45308)*

6.8.1 Procedure Regarding Layoff

6.8.1.1 When classified employees are laid off for lack of work or funds, layoff shall be made in inverse order of seniority in the class in which the layoff occurs. The employee who has been employed the shortest time in the class, plus higher classes, shall be considered to have the least seniority and, therefore, shall be laid off first.

6.8.1.2 The names of permanent and probationary employees thus laid off shall be placed upon the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in the relative order of seniority.

6.8.1.3 When two or more employees have identical seniority due to their positions being reclassified, seniority shall be determined by counting their seniority in former classes in which they served prior to reclassification.

6.8.1.4 An employee who elects a layoff in lieu of bumping maintains his reemployment rights under these rules.

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

In addition to the procedure and rights prescribed in Rule 6.8.1, permanent employees in the classified service have the following rights:

6.8.2.1 Bumping

A permanent employee in the classified service who is laid off from a class who has achieved permanent status in an equal or lower class shall have the right to bump an employee with less seniority in that class. Seniority shall include the total of the previous service in the equal or lower class plus service in the class from which layoff occurs and in higher classes. In the case of an employee having eligibility in more than one class, the employee shall be allowed to bump into the most recent class in which the employee served.

6.8.2.1.1 The employee displacing a lower level class employee shall have the right to the position that most nearly matches the annual hours of the position he is vacating.

6.8.2.1.2 The method utilized to determine seniority is date of hire in classification.

6.8.2.2 Voluntary Demotion or Transfer

A permanent classified employee who will suffer a layoff due to lack of work or funds despite the exercising of bumping rights in order to avoid layoff may accept a voluntary demotion to a vacant position in a lower class or transfer to a position within the same promotional series, provided that he is qualified to perform the duties thereof and provided further that the appointing authority approves the voluntary demotion.

6.8.3 Limited-term, Provisional, or Probationary Positions

6.8.3.1 No permanent employee shall be laid off from any position while employees serving under limited-term, provisional or probationary appointments are retained in positions in the same class.

6.8.3.2 A probationary employee on layoff shall be offered reemployment over all other applicants, except permanent employees on layoff. A probationary employee's time spent prior to the layoff shall be credited to him following reinstatement for purposes of obtaining permanence.

6.8.4 Reinstatement Following Layoff

6.8.4.1 Employees who have been laid off shall be placed on a preferential hiring list in accordance with their accumulated seniority (i.e., seniority in the class affected by layoff plus higher class service). Reinstatement shall be made in inverse order of layoff (see also Rule 6.2.3.3).

6.8.4.2 Where vacancies occur in the classes affected by layoff, employees shall be notified of openings which most nearly match the hours of their former positions.

6.8.4.2.1 If the hours of the vacant position match the hours of the employee's former position, the employee may 1) accept the position offered, or 2) stay on full layoff. If the employee selects the latter option, he will be given one more opportunity to accept an equal position. If the employee refuses to accept it, he will not receive further offers of employment.

6.8.4.2.2 If the hours of the vacant position are less than the hours of the employee's former position, the employee shall be given three (3) opportunities to accept positions with fewer hours, after which he will not receive further offers of employment. At the time when a position becomes available which is equal to the number of hours held by the employee in his former position, the employee shall be offered that position in order of seniority.

6.8.5 Provisional Appointments of Permanent Employees Following Layoff

6.8.5.1 Permanent employees on layoff may be provisionally appointed to vacant positions in the same promotional series, pursuant to the establishment of an eligibility list.

6.8.5.2 After serving in provisional status, such employees who become regular employees in the classified service will be granted vacation and sick leave credit, and seniority credit in the class in which the employee served provisionally.

6.8.5.3 An employee shall have the right to apply for promotional positions within the filing dates, while on a reemployment list following layoff.

6.8.6 Layoff: Reinstatement from Service Retirement (*See Education Code 45115)*

Reinstatement of employees who elected service retirement in lieu of layoff shall be done in accordance with Education Code 45115.

6.9 RESIGNATION

When an employee desires to resign from his position, he shall present his resignation, preferably in writing, to the appointing authority. A copy of such resignation shall immediately be filed by the appointing authority with the Director of Classified Personnel.

A resignation relates only to the specific position from which the employee resigns and does not impair his right to other positions which he may hold on eligibility lists, except that an employee who resigns shall have his name removed from promotional eligibility lists. A resignation may be withdrawn by the employee at any time prior to acceptance by the Board of Education.

6.9.1 Reinstatement of Permanent Non-certificated Employees after Resignation (*See Education Code 45309)*

6.9.1.1 Any permanent, classified employee may be reinstated within thirty-nine (39) months after his last day of paid service at the district's discretion. If the district elects to reinstate a person as a permanent employee in his former classification under the provisions of the Educational Code, Section 45309, it shall disregard the break in service of the employee and classify him as, and restore to him all of the rights, benefits and burdens of a permanent employee in the class to which he is reinstated.

6.9.1.2 The district may, at its discretion, reinstate a former employee in accordance with Education Code, Section 45309, in a lower classification in which the employee formerly had permanent status.

6.9.1.3 The district may, at its discretion, reinstate a former employee in accordance with Education Code, Section 45309, in a related lower classification: a classification within the same promotional series as determined by the Director of Classified Personnel.

6.10 DISCIPLINARY ACTION AND APPEAL (*See Education Code 45302, 45303)*

6.10.1 Causes for Suspension, Demotion, Dismissal

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

6.10.1.1.1 Incompetency, inefficiency, insubordination, inattention to or dereliction of duty, discourteous treatment of the public or of fellow employees, or any other willful failure of good conduct tending to injure the public service, or any willful and persistent violation of the provisions of the Education Code and/or rules, regulations, or procedures adopted by the Board of Education or the Personnel Commission, provided that specific instances must be set forth as to any of the causes enumerated under this heading (Education Code 45302, 45303).

6.10.1.1.2 Dishonesty, habitual drunkenness, immoral conduct, or addiction to the use of narcotics.

6.10.1.1.2.1 The use or possession while on duty of illegal or restricted drugs, other than prescribed by a licensed physician. For designated safety-sensitive positions, failure to submit to a required drug test or a positive drug test result obtained pursuant to federal and/or state law.

6.10.1.1.2.2 Possession of opened alcohol beverage containers on district property, drinking alcohol beverages on district property, or being intoxicated while on duty. For designated safety-sensitive positions, engaging in conduct prohibited by federal/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 .0339, as determined by an evidential breath test, or refusal to take a federal/state-required evidential breath test.

6.10.1.1.3 Political activities engaged in by an employee during his assigned hours of employment.

6.10.1.1.4 Conviction of a serious crime by a court of law; a record of one or more convictions which indicates that the person is a poor employment risk; failure to disclose material facts regarding criminal records; and other false or misleading information on application forms or examination and employment records concerning material matters.

6.10.1.1.5 Frequent unexcused absence or tardiness.

6.10.1.1.6 Illness leaves, when habitually taken for trivial indispositions.

6.10.1.1.7 Abandonment of position. For the purposes of this rule, three (3) days shall constitute abandonment of position.

6.10.1.1.8 Abuse of Sick Leave

6.10.1.1.9 Continuing illness of a disabling nature after the exhaustion of illness leave and leave of absence privileges.

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

6.10.1.1.11 Advocacy of overthrow of the government of the United States or the state of California by force, violence, or other unlawful means.

6.10.1.1.12 Membership in the Communist Party.

6.10.2 Procedure for Disciplinary Action (*See Education Code 44010, 44011, 45116, 45304)*

6.10.2.1 No employee in the classified service shall be suspended, demoted, dismissed, or in any way discriminated against because of his political or religious acts or opinions or affiliations, or race, color, sex, national origin or ancestry, or marital status, subject to the provisions of Rule 6.10.1.1.3 and Rule 6.10.1.1.11.

6.10.2.2 When a regular employee is to be suspended, demoted, or dismissed, specific written charges shall be prepared and presented for action of the governing board. The charges must be so clear that the employee will know the exact complaints and may be expected to respond to them.

The employee shall be informed of the charges prior to formal board action and be given the opportunity to refute the charges to a district administrator with authority to determine the validity of the charges.

6.10.2.3 When formal disciplinary action has been taken by the governing board, the action and the charge shall be reported to the Director of Classified Personnel, who shall report the action to the commission at its next regular meeting.

6.10.2.4 The governing board shall serve notice to the employee which shall include a copy of the charges and a statement of his right to appeal, if any, together with a copy of Rule 6.10.3. Such notices shall be transmitted by registered or certified mail to the last known address of the employee within 10 days of the effective date of the disciplinary action.

6.10.2.5 Notwithstanding the procedures prescribed above, an employee may be suspended prior to board approval at the discretion of the superintendent subject to later ratification by the board and approval of charges which must be transmitted to the employee within 10 days after the date of suspension. Requirements in regard to charges and notifications must be met when the board ratified the administrative action.

6.10.2.6 A regular employee charged with the commission of any sex offense as defined in Education Code 44010 or any narcotics offense as defined in Education Code 44011 by complaint, information, or indictment filed in a court of competent jurisdiction may be suspended as provided for in Education Code 45304. Such a suspension will be

processed as an involuntary personal leave in accordance with the provisions of this rule relative to suspensions. The employee may receive compensation as provided. Such suspension shall be reviewed by the Personnel Commission every 90 calendar days.

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

6.10.2.8 Failure to appeal, as provided below, shall make the action of the governing board final and conclusive.

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

6.10.3 Appeal (*See Education Code 45305)*

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

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

6.10.3.1.2 That the action was taken because of political or religious acts or opinions or affiliations, or race, color, national origin or ancestry, sex, or marital status.

6.10.3.1.3 That there has been abuse of discretion.

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

6.10.3.1.5 That the penalty invoked is excessive.

6.10.3.2 A permanent employee who has not served the full probationary period for the class and who is demoted to the class from which promoted may request an investigation by the Director of Classified Personnel within 14 days after the receipt of the copy of written charges. The request for the investigation shall be based only on one or more of the five grounds provided above for appeals. The Director of Classified Personnel shall conduct an investigation confined to the grounds set forth in the charges and in the request for the investigation but shall not be required to follow the procedures for appeals and hearings set forth in these rules.

The Director of Classified Personnel shall notify the governing board and the employee in writing of his findings. If the director's investigation and findings, however, indicate any discriminatory action, the commission may order a formal hearing. The decision of the commission shall be binding on the governing board.

6.10.4 Hearing Procedure (*See Education Code 45311, 45312)*

6.10.4.1 With approval of the Personnel Commission, the Director of Classified Personnel may conduct hearings on appeal, or may recommend appointment of a hearing officer to conduct the hearing and report findings and recommendations to the commission; or the Personnel Commission may sit as a hearing board and conduct the hearing.

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

6.10.4.3 The Director of Classified Personnel the hearing officer, or the commission, shall determine the relevancy, weight, and credibility of testimony and evidence. They shall base their findings on the preponderance of evidence.

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

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

6.10.4.6 Both the board and the employee will be allowed to be represented by legal counsel or other designated representatives.

6.10.4.7 The Director of Classified Personnel, hearing officer, or commission, may and shall, if requested by the board or the employee, subpoena witnesses and/or require the production of records or other material evidence.

6.10.4.8 The Director of Classified Personnel, hearing officer, or commission, may, prior to or during a hearing, grant a continuance for any reason he believes to be important to his reaching a fair and proper decision.

6.10.4.9 The Director of Classified Personnel, hearing officer, or commission shall render its judgment as soon after the conclusion of the hearing as possible and in no event later than 30 days. The decision shall set forth which charges, if any, are sustained and the reasons therefore.

6.10.4.10 The Director of Classified Personnel, hearing officer, or commission may sustain or reject any or all of the charges filed against the employee. He may sustain, reject, or modify the disciplinary action invoked against the employee. He may not provide for discipline more stringent than that invoked by the board.

6.10.4.11 If the Director of Classified Personnel or hearing officer conducts the hearing, they shall report their findings to the commission who shall accept or reject the findings and recommendations. Whether the hearing is held in a public or closed session, the commission, after it receives the report, may deliberate its decision in closed session. No persons other than members of the commission, its counsel, and its staff shall be permitted to participate in the deliberations. If the Director of Classified Personnel or any staff is not serving for the commission full time and/or was a witness in the proceedings, he shall also be barred from the commission's final deliberations. If its counsel also served as counsel for the board, he shall be barred from the commission's final deliberations.

6.10.4.12 The commission order of judgment will be filed with the governing board and the charged employee and will set forth its findings and decision. If a disciplinary action is not sustained, its order shall set forth the effective date of the action ordered by the commission.

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

CHAPTER 7

WAGE AND SALARY PROVISIONS

7.1 DETERMINATION OF SALARY SCHEDULES (*See Education Code 45268)*

7.1.1 Factors in Salary Determination

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

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

7.1.1.2 Wages and salaries paid by other governmental agencies which may be in competition with the District in the labor market.

7.1.1.3 The principle of like pay for like work within the classified and certificated service.

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

7.1.1.5 Such other information as the Personnel Commission may require.

7.1.2 Salary Studies

7.1.2.1 A salary study shall be made:

7.1.2.1.1 Whenever a new class is created.

7.1.2.1.2 When directed by the Personnel Commission.

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

7.1.2.3 Data obtained in a salary study shall be made available to interested parties, including employee organization representatives. The staff shall indicate its tentative recommendations to, and shall meet and confer with, employee organization representatives and district administration. An effort shall be made to ameliorate all differences before recommendations are submitted to the Personnel Commission.

7.1.3 Salary Recommendations (*See Education Code 45162, 45268)*

7.1.3.1 After making its findings, the Personnel Commission shall present salary recommendations to the governing Board for approval. The Board may approve, amend, or reject the recommendation but may not alter the relationships among classes as established by the classification plan.

7.1.3.2 Salary recommendations for the classified service shall be presented to the Board annually, with a proposed effective date. A salary recommendation shall also be made each time a new class is created. Salary recommendations at other times of the year shall be based on clear evidence that the class in question is substantially overpaid or underpaid in relation to community rates or alignment with other classes. Nothing in this paragraph shall prevent adjustments in salary based on classification studies resulting from changes in duties and responsibilities, regardless of when such changes occur.

7.1.3.3 By adoption of this rule, the governing Board reserves the right to increase or decrease the salaries of all classified employees at any time during the school year, pursuant to Education Code 45162, in accord with its approval of the recommendations of the Personnel Commission.

7.1.4 Appeals of Recommendations

7.1.4.1 An employee or his representative may appeal the recommendation of the Director of Classified Personnel in regard to the salary of his class. He shall have the opportunity to present his case in writing and orally at a regular meeting of the Personnel Commission. The administration shall have the same privilege.

7.1.4.2 If the governing Board desires reconsideration of salary recommendations, it may return the recommendations to the Personnel Commission, which shall reconsider them at its next meeting. After reconsideration, the Personnel Commission will advise the Board of its findings and the reasons therefore.

7.2 APPLICATION OF SALARY SCHEDULES

7.2.1 Initial Placement

All new employees shall be appointed at the hiring rate for the class as approved by the Personnel Commission. The hiring rate shall be the first step of the schedule except for classes where recruitment efforts have indicated difficulty in recruiting at that step.

7.2.1.1 Accelerated Hiring Rate

An accelerated hiring rate may be set, with the approval of the Board and the Personnel Commission, at any step of the schedule of the class. If an accelerated hiring rate is approved, all current employees in the class shall be advanced to that rate and shall begin a new cycle of step advancement. The criteria to be used for recommending an accelerated hiring rate shall be the inability to establish a viable eligibility list after three attempts to recruit for that classification within a 12-month period.

7.2.1.2 Advanced Step Placement

Notwithstanding Rule 7.2.1 and Rule 7.2.1.1, the appointing authority may recommend to the Director of Classified Personnel advanced step placement for an individual candidate up to and including the fifth step in the salary range. The Director of Classified Personnel may approve such salary placement if the following criteria are met:

7.2.1.2.1 The individual candidate has additional, directly related, and recent experience over and above the minimum requirements for the class, and/or

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

7.2.1.2.3 The individual candidate's most recent employment is at a salary rate which would prohibit employment in this district unless a salary incentive were offered.

The Director of Classified Personnel shall indicate in the annual report to the Board of Education all instances of use of this Rule (7.2.1.2), identifying the department or school, the classification, and recommending authority.

7.2.2 Step Advancement

7.2.2.1 Employees placed on an initial step of a salary range as provided in Rule 7.2.1, of a range will advance to the next step on the first of the month following completion of six months of service in the class. Each succeeding step will be attained one year from the preceding step until the maximum step on the assigned range has been achieved.

7.2.2.2 For the purpose of this rule, the appointment shall be considered as effective on the first day of the next month.

7.2.2.3 For those classes designated by the Personnel Commission as trainee classes, incumbents placed on Step I of a range may advance to Step II on the first of the month following completion of three months of satisfactory service in the class. Each succeeding step will be attained six months from the preceding step based on satisfactory service. New employees in trainee classes will advance a six-month intervals based on satisfactory service until the maximum step has been achieved.

7.2.3 Promotions

7.2.3.1 Promotions. A permanent employee who receives a promotion to a classification allocated to a higher salary range shall be placed on the step of the salary range which will provide a minimum of five percent (5%) more than the employee received in the previous classification.

7.2.3.2 Employees hired in a probationary status will use the date of hire in lieu of an anniversary date until successful completion of the probationary period has been achieved.

7.2.3.3 Permanent employees who were originally hired on or prior to the 14th of any month shall be entitled to a anniversary date effective the first day of that month. Employees hired on the 15th of the month, or any day thereafter, shall be entitled to an anniversary date on the first day of the following month.

7.2.3.4 Employee step advancement shall occur on the anniversary date following successful completion of the sixth month probationary period; except for the identified management group who shall have a 12-month probationary period and who shall advance in step following successful completion of the 12-month anniversary period. Each succeeding step shall be attained one year from the anniversary date.

7.2.3.5 Appointment of an employee to a classification with a salary range equal to or below his/her current salary range shall not be considered a promotion and shall not warrant a salary increase. In such cases, placement will be made on the same rate formerly earned by the employee not to exceed the maximum of the range of the classification to which appointed.

7.2.4 Placement after Leave of Absence

7.2.4.1 Upon return from leave of absence, an employee shall be placed on the same step of the range for the class which he had achieved prior to the leave, regardless of changes in rate or range applicable to the class.

7.2.4.2 When an employee is restored to his/her pervious salary step after a leave of absence, he shall receive credit for step advance for service prior to the leave.

7.2.4.3 His anniversary date shall be adjusted accordingly so he shall be granted a step advancement after having completed one year of total service.

7.2.4.4 Credit toward a step advancement within a range shall accrue when the Education Code sections relating to military leave require that such credit be given.

7.2.5 Placement When Demoted

7.2.5.1 An employee who accepts voluntary demotion shall be placed on the step of the range of the lower class which is closest to the rate he earned in the higher class, provided that he shall not receive a salary increase thereby. He shall retain the anniversary date established in the higher class.

7.2.5.2 The order in an involuntary demotion shall specify the step of the schedule at which the employee shall be placed. Step advancement shall be in accordance with Rule 7.2.2.1.

7.2.6 Salary Placement: Working in a Higher Classification (*See Education Code 45110)*

An employee may be required to perform duties inconsistent with those assigned to the position by the governing Board for a period of more than five working days. If the employee works in a higher classification for any period of time which exceeds five working days within a 15 calendar day period, the employee will be paid at the salary rate for the time worked in the higher class.

For the purposes of determining an upward salary adjustment for working out-of-class, the employee shall be placed at the salary range of the higher classification, and then to the step of that range that will provide the employee with at least a 5% salary increase. An employee may receive less than a 5% increase if the top step of the higher classification's salary range is less than 5% above the employee's base salary. In that instance the employee shall be placed at the highest step and shall not be entitled to further compensation.

7.3 WORK PERIODS AND OVERTIME

7.3.1 Bargaining Unit Employees

For Bargaining Unit employees, work period and overtime regulations shall be as indicated in the collective bargaining contract.

7.3.2 Workday and Workweek

The maximum number of hours of regular employment of an employee is eight hours a day and 40 hours in one week. However, the Governing Board may employ persons for lesser periods of time and may, through authorized administrators, order and authorize employees to work in excess of eight hours in one day or 40 hours in one week.

7.3.3 Overtime Defined

7.3.3.1 Overtime is ordered-and-authorized working time in excess of eight hours in one day or 40 hours in one week. No one shall order or authorize overtime unless it is compensable as provided below. Overtime shall be credited; all overtime shall be reported and credited in multiples of 15 minutes of working time.

7.3.3.2 In determining the eligibility of an employee to receive the prescribed overtime rate, the number of hours worked by an employee shall include, in addition to actual hours

worked, time during which the employee is excused from (and is paid for) holidays, sick leave, vacation, compensating time off, or any other paid leave of absence.

7.3.4 Compensation for Overtime

7.3.4.1 The District will provide compensation or compensatory time off at a rate of equal to one and one-half times the regular rate of pay for employees designated by the District and authorized to perform such overtime. Compensatory time off may be requested and taken by the employee if in the judgment of the department head it will not interfere with the effective operation of the department. An employee may accumulate up to ten working days of such compensatory time. More compensatory time may be accumulated with the approval of the District. The employee shall be advised of the method of compensation prior to the working of overtime.

7.3.4.2 If the compensatory time off is to be provided, the compensatory time off shall be taken as requested by the employee subject to the approval of the immediate supervisor, but in no event more than 12 months after the overtime was earned. If compensatory time off is not provided within the 12-month period, the District shall pay the employee for the overtime at the rate at which it was earned.

7.3.5 Classification Exempt from Overtime (authorized by Education Code 45127)

7.3.5.1 The Board of Education may, with the approval of the Personnel Commission, exempt specific classes of positions from compensation for overtime in excess of eight (8) hours in one (1) day, provided that hours worked in excess of 40 in a calendar week shall be compensated on an overtime basis. This rule shall not include food service or transportation classes. Notwithstanding this exemption, if an incumbent thereof is required to work on a holiday, he shall be paid in addition to his/her regular holiday pay straight time for hours required to work.

7.4 HOLIDAY PAY

7.4.1 Bargaining Unit Employees

For Bargaining Unit employees, holiday pay regulations shall be as indicated in the collective bargaining contract.

7.4.2 Eligibility (holidays)

7.4.2.1 All classified employees will be entitled to payment for authorized holidays, provided that they were in a paid status during any portion of the working day immediately preceding or succeeding the holiday.

7.4.2.2 Holidays shall include:

Independence Day
Labor Day
Veterans Day
Thanksgiving
December 25
January 1,
Martin L. King Jr. Day
Lincoln's Birthday,
Presidents' Day
Admission Day
Memorial Day

and any other days approved by the Board of Education. If the holiday falls on Sunday, the following Monday shall be deemed to be the holiday. If the holiday falls on Saturday, the preceding Friday shall be deemed to be the holiday.

7.4.2.3 The holidays listed in 7.4.2.2 are guaranteed holidays for all members of the classified service who establish eligibility for same under 7.4.2.1 above, except that employees servicing in positions created under Rule 3.1.7 are exempt from guaranteed holidays.

7.4.2.4 Pay for a holiday shall be the same as the employee would have received had the day not been a holiday. Exception: see Rule 7.6, BENEFITS FOR PART-TIME EMPLOYEES.

7.4.2.5 An employee must be in paid status for any portion of the working day immediately preceding or succeeding the holiday in order to be paid for the holiday. Regular employees of the District who are not normally assigned to duty during the school holidays of December 25 and January 1, shall be paid for those two holidays, plus any other holidays approved by the Board of Education, provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

7.4.3 Exchange of Holidays by Board Action (*See Education Code 45205, 45206.5)*

7.4.3.1 The Board of Education may, prior to July 1 of any year, specify, if so authorized by law, that schools will be maintained and classified employees are required to work on any or all of these holidays:

Admission Day
Veterans Day
Lincoln's Birthday
Presidents' Day and/or
Memorial Day.

7.4.3.2 If the Board lawfully takes such action, it shall designate another day during the same school year as a holiday for classified employees in lieu of the regular, normal holiday.

7.4.3.3 The day specified as the "in lieu" holiday shall:

7.4.3.3.1 Be a day when all classified employees who could normally have established eligibility for the regular holiday will also be able to establish eligibility for the "in lieu of" holiday.

7.4.3.3.2 Provide classified employees with at least a three-day weekend.

7.4.3.4 If the Board fails to comply with Rule 7.4.3.3.1 above, employees who will not normally be able to establish eligibility for the "in lieu of" holiday and who are required to work on the regular holiday shall be paid, in addition to the normal pay for the holiday, at the rate of one and one-half for time required to be worked.

7.5 PAYROLLS

7.5.1 Official Roster

The Director of Classified Personnel shall maintain in his/her office an official roster containing the names and complete employment records of all employees holding positions under the provisions of this Act.

7.5.2 Payroll Audit

7.5.2.1 All payrolls or claims containing the names of any person or persons to be paid for services rendered in positions subject to the provisions of the Act shall be submitted to the Director of Classified Personnel who shall cause such payrolls or claims to be examined to determine whether the employees whose names appear thereon are employed in accordance with law.

7.5.2.2 If, upon examination of a payroll or claim, the names, titles, periods for which payments are to be made, and rates of pay of the persons to be paid are all found to be in accordance with the provisions of the Act and the rules and regulations prescribed thereunder and all statutes relating in any manner to employment, certification of that fact shall be made upon payroll or claim by the Director of Classified Personnel or his/her authorized representative.

7.5.2.3 If, upon examination of a payroll or service report, it is found that any person named thereon has been employed in violation of any provision of the Act or the rules and regulations, notice of such violation shall be made upon such payroll or service report, and such notice shall serve as official notification to the governing Board and the county offices that the drawing, signing, or issuing of any warrant on the treasurer or another disbursing officer of the county for the payment of salary or compensation to such person is unlawful.

7.5.3 **Alternative Procedure Payroll Audit**

The Director of Classified Personnel shall audit all initial assignments and changes of assignment for all classified personnel and, if found to be in accordance with existing laws and rules, shall certify the assignment for payment. All changes of assignment, including transfer, change of hours, etc., shall be reported for certification by the Director of Classified Personnel. Each payroll following the initial assignment and certification by the Director of Classified Personnel shall bear the certification of the department authorized to submit the payroll that all payments thereon are in accordance with the original certification by the Director of Classified Personnel.

The Director of Classified Personnel shall make periodic audits of all payrolls, and if he finds assignments not in accordance with law and rules, he shall withdraw his/her certification and order payment stopped in accordance with the procedure described in Rule 7.5.2.3.

7.6 BENEFITS FOR PART-TIME EMPLOYEES (*See Education Code 45136, 45137)*

7.6.1 Benefits for persons employed less than full time are to be provided as authorized in Education Codes 45136 and 45137.

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

7.7 SALARY DIFFERENTIAL FOR SHORTHAND USE

7.7.1 Positions in the collective bargaining unit which require shorthand shall receive a 2.5% differential above base pay.

7.7.2 The administrator of the position requiring shorthand skills shall certify this requirement to the Director of Classified Personnel in writing.

7.7.3 Upon approval by the Director of Classified Personnel that the need for shorthand skill is required by the incumbent or candidate on a skilled, frequent, and continuous basis as certified by the administrator, the Director of Classified Personnel shall cause a shorthand performance test to be administered to the incumbent (or require such skill in a notice of examination, 4.2.4). Upon verification that the incumbent or candidate for the position meets the required skill level, a 2.5% differential shall be assigned, and issued to the incumbent above base pay.

7.7.4 The Director of Classified Personnel may audit all initial assignments of the shorthand differential, and may make periodic audits of all such differential assignments. If the criteria for shorthand differentials are not in accordance with these rules, he may order the differential payment stopped. Such actions may be appealed to the Personnel Commission for adjudication. The Personnel Commission's ruling shall be final.

7.7.5 Incumbents hired as permanent employees prior to January 1, 1980, and who qualified in a shorthand performance test as a qualification for employment, shall not be retested as indicated in 7.7.3, except that upon promotion to a classification requiring a higher shorthand speed, Rule 7.7.3 shall be applied.

7.8 SALARY DIFFERENTIAL FOR NIGHT WORK (*See Education Code 45180, 45181, 45183, 45185)*

7.8.1 All employees in the classified service whose regularly assigned time requires them to work a shift which includes the hours of 10 P.M. through 12 midnight, shall be paid one range above their regular (base salary) daytime step and if their assigned time occurs between 12 midnight and 6 A.M., they shall be paid two ranges above their regular daytime step. If such shifts are worked less frequently than five (5) days a week, such higher range placements shall be paid only for those days on which such shifts are worked.

7.8.2 Employees assigned to night work on a continuous basis who are nevertheless ordered to temporary daytime work for periods not to exceed 20 working days, shall suffer no reduction in compensation by reason of the change.

7.8.3 Overtime work performed by an employee regularly assigned to a night shift shall be compensated at the rate of one and one-half times the employee's night rate.

7.8.4 When a new position that is eligible for a shift differential is established or when a vacancy occurs in a position for which a shift differential has been authorized, the position shall be filled by the employee with the most seniority in the class who has been displaced from a position eligible for a shift differential or who has requested such an assignment.

7.8.5 When a filled position is reassigned from either a shift with no differential to a shift with a differential or a shift eligible for a differential to a shift eligible for a higher differential, the position shall be filled by the most senior employee in the class who has requested such an assignment.

7.8.6 A file of requests for assignments eligible for a differential for night work shall be maintained. When a position is the first in its class to be assigned to a shift eligible for a differential, the appropriate administrator shall take steps necessary to assure that all employees in the class or all employees in the class at the location, as the case may be, are notified of the proposed assignment. Upon receipt of notification, such employees shall have five (5) working days in which to file requests for assignment. Requests shall be considered active for a period of one (1) year. For the purpose of this rule, seniority shall be computed on the basis of assigned time in the class and higher classes.

7.8.7 If, at any time a vacancy is to be filled, there is no active request for assignment to a position on that shift at that location, the appointment shall be made in accordance with Rule 5.1.

7.8.8 Assignments of less than 30 days in duration shall be exempt from the provisions of Rules 7.8.4, 7.8.5 and 7.8.6

7.9 SALARY DIFFERENTIAL FOR BILINGUAL SKILLS

7.9.1 Positions in the collective bargaining unit which are designated under Personnel Commission Rule & Regulation 3.2.10 to require verbal bilingual translation skills shall receive a 2.5% differential above base pay. Positions in the collective bargaining unit which are designated under Personnel Commission Rule & Regulation 3.2.10 to require reading, writing, and verbal translation skills shall receive a 5% differential above base pay.

7.9.2 The administrator of the position requiring bilingual skills shall certify this requirement to the Director of Classified Personnel in writing.

7.9.3 On approval by the Director of Classified Personnel that the need for bilingual skill is required by the incumbent or candidate on a skilled, frequent, and continuous basis as certified by the administrator, the Director of Classified Personnel shall cause a test to be administered to the incumbent (or require such skill in a Notice of Examination, 4.2.4). On verification that the incumbent or candidate for the position meets the required verbal skill level, a 2.5% differential shall be assigned, and issued to the incumbent above base pay. On verification that the incumbent or candidate for the position meets the required reading, writing, and verbal skill levels, a 5% differential shall by assigned, and issued to the incumbent above base pay.

7.9.4 The Director of Classified Personnel may audit all initial assignments of the bilingual differential, and may make periodic audits of all such differential assignments. If the criteria for bilingual differentials are not in accordance with these rules, he may order the differential payment stopped. Such actions may be appealed to the Personnel Commission for adjudication. The Personnel Commission's ruling shall be final.

CHAPTER 8

MISCELLANEOUS PROVISIONS
(*See Education Code 45260)*

8.1 PROCEDURE FOR THE ADJUSTMENT OF GRIEVANCES OF CLASSIFIED PERSONNEL

8.1.1 Purpose of the Adjustment Procedure

The adjustment procedure is the medium through which permanent classified employees may seek adjustment of complaints arising out of alleged violations of established Personnel Commission rules or policies or administrative procedures, working conditions, or job relations. Because complains should be adjusted as promptly as possible, various time limits have been established to minimize delays in the various steps that have been provided. There is a obligation on the part of an aggrieved employee to make known the existence of his complaint and the facts pertaining to his complaint within 15 working days or any specific or documented incident or at the earliest possible date after the recognition of a nonspecific occurrence, so that efforts can be made through the adjustment procedure to resolve differences and to promote harmonious relationships.

Matters excluded from the adjustment procedure shall be:

8.1.1.1 Accusatory charges relating to the moral or professional fitness of an employee. Such charges shall be processed by the Board of Education.

8.1.1.2 Matters specifically reserved for action or review by the Personnel Commission under Personnel Commission rules in effect at the time the events leading to the appeal occurred, such as appeals regarding recruitment and selection, classification and salary allocation.

In cases where the Personnel Commission rule regulates less than the total procedure, the Commission may waive that rule and thereby provide that the dispute be settled through the grievance procedure.

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

8.1.1.4 Matters specifically related to a collective bargaining contract.

8.1.2 Steps in the Adjustment Procedure

8.1.2.1 Informal Discussion

Informal discussion between an employee (or group of employees) and the immediate supervisor shall take place to attempt to resolve the problem. The conference shall be confined to the parties immediately concerned. A prompt and courteous examination of the facts to reach satisfactory adjustment shall be attempted within one working day. The supervisor shall promptly communicate his decision and supporting reasons to the employee(s).

8.1.2.2 Informal Review

8.1.2.2.1 If the problem has not been resolved by the immediate supervisor, the employee may request, either orally or in writing, that an informal review be made by the next higher-level supervisor in whom authority exists to take corrective action. In the case of school-assigned personnel, this supervisor would be the site administrator unless the informal discussion was between the site administrator and the employee.

8.1.2.2.2 The supervisor shall attempt to hold a conference within one working day after he has received the employee's request for an informal review.

8.1.2.2.3 The employee must be in attendance; he may present his own case or may present the problem through a representative of his own choosing at the informal review and at any subsequent stage of the adjustment procedure. The supervisor and the respondent may each have a representative at the informal review and at any subsequent stage of the adjustment procedure. Any employee of the district may serve as a representative without prejudice or loss of salary, provided that he notifies his supervisor in advance.

8.1.2.2.4 Following the oral presentation of the complaint to the supervisor, if the complaint has not been resolved to the satisfaction of all concerned, the employee or his representative shall prepare and represent the complaint in writing to the supervisor and respondent, if other than the supervisor, within five working days. The respondent, if other than the supervisor, shall prepare a similar statement of his position and submit it to the supervisor, with a copy to the appellant.

8.1.2.2.5 The supervisor shall communicate in writing his decision and supporting reasons to the appellant, the respondent, if other than the supervisor, the appellant's immediate supervisor, and the concerned division heads within five working days.

8.1.2.3 Administrative Review

8.1.2.3.1 If the appellant remains dissatisfied following the informal review, he may submit a written complaint within five working days after receipt of the decision, requesting a formal administrative review.

8.1.2.3.2 The written request shall include: a clear, concise statement of the complaint; the act or condition on which it is based; the remedy desired; the persons involved; and the course of action that has been followed, including the decision rendered in the informal review, the reasons why the decision is being appealed, and the name of the appellant's representative, if any. The appellant may obtain assistance from the district's employee relations department, or such other office as may be designated, throughout the course of the adjustment procedure.

8.1.2.3.3 The appellant shall submit the complaint directly to his branch head (or equivalent level if the term branch head is not used) and route one copy of the complaint through the appellant's administrative chain of command, one to his division head for information purposes only, and one to the respondent.

8.1.2.3.4 The branch head or the branch head's designated representative shall hold a conference with all interested parties on the complaint within five working days of receipt, unless there is mutual agreement that more time shall be allowed. Time limits in all subsequent stages of the adjustment procedure may be modified by agreement of the parties involved.

8.1.2.3.5 The branch head or his designated representative shall submit written notice to the appellant and the appellant's supervisor of the decision on the matter within five working days after the conclusion of the conference. One copy shall be forwarded through the administrative chain of command, one to the division head for information, and one to the respondent, if other than the supervisor. The branch head shall implement the decision.

8.1.2.4 Formal Hearing (*See Education Code 45312)*

8.1.2.4.1 If the appellant is dissatisfied with the decision of the administrative review, he may send to the Personnel Director, within five working days after receipt of the decision, a written request for a hearing before the Director. A copy shall be sent to the respondent.

8.1.2.4.2 The district shall provide the hearing officer with all necessary technical and clerical staff assistance in preparing for and conducting the hearing and in preparing the findings.

8.1.2.4.3 The Director shall convene a hearing on the earliest practical date after his selection. He shall establish his own procedures. He shall review the written statements submitted by the parties to the grievance. The appellant and the respondent may request the presence of witnesses. The Director shall be empowered to direct the attendance of any district employee at the hearing without loss of salary to the employee.

8.1.2.4.4 The hearing shall be conducted in an informal manner with only those having legitimate interest in the problems of issue, as determined by the Director, admitted. The appellant and the respondent shall each be limited to two days to present their respective positions. The Director may admit evidence and testimony regarding incidents and occurrences that antedate the event giving rise to the grievance if he concludes that they have sufficient relevance as background information. He may also take such additional time as necessary to take such further testimony as he deems necessary. The hearing shall be conducted in accordance with fundamental rules of fairness and due process.

8.1.2.4.5 The Director shall render written findings, conclusions and recommendations within 10 working days of the termination of the hearing. The findings, conclusions, and recommendations shall be sent to the parties concerned and to the Superintendent for implementation.

8.1.2.5 Personnel Commission Review (*See Education Code 45311)*

8.1.2.5.1 If the appellant, the respondent, or the concerned division heads are not satisfied with the recommendations submitted by the Personnel Director, a written appeal may be made to the Personnel Commission within five working days after receipt of the findings, conclusion, and recommendation. A copy of the appeal shall be submitted to the Superintendent.

8.1.2.5.2 A copy of the appeal shall be provided to the responding party, and he shall be required to submit his written reply to the points made in the appeal within five working days of receipt thereof.

8.1.2.5.3 The Personnel Commission may review the records of the hearing, including the findings, conclusion, and recommendations, or conduct its own hearing or investigation of the appeal.

8.1.2.5.4 When the Personnel Commission has reached a decision, the Personnel Director shall notify the Superintendent and the individuals involved as soon as possible after the completion of the review of the appeal. The Superintendent shall implement the decision.

8.1.2.5.5 The decision of the Personnel Commission on an appeal shall be final and conclusive.

8.2 EMPLOYER-EMPLOYEE RELATIONS

8.2.1 General Provision

The Board of Education, agents, and the Personnel Commission, its officers and agents, are governed, as are employees and employee organizations, by the provisions of Article 6, Chapter 5, Division 3 of the Education Code, and Chapter 10.7 of Division 4 of Title I of the Government Code.

8.2.2 Board Rules

The Employer/Employee Relations Rules for classified personnel adopted by the Board, in accordance with law, are added hereto and made a part hereof. They shall apply in the same manner as if adopted by the Commission.

8.3 POLITICAL ACTIVITY

8.3.1 Political Activity Freedom

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

8.3.2 Cause for Disciplinary Action (*See Education Code 45260)*

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

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

8.3.2.2 The use of any district property, equipment, or facility for any political purpose or the performance of any political act during regular hours of duty.

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

8.3.2.4 Attempting to gain any advancement or privilege under the Act or these rules through political activity.

8.3.3 Personal Candidacy

Any employee may be a candidate for any political office for which he may file without suffering any loss of employment status in the district unless he violates the provisions of Rule 8.3.2, and except as provided for in Rule 3.3.4.2.

8.3.4 Leave of Absence

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

8.3.4.2 Such leave is required if the employee is a candidate for election to the governing board.

8.3.5 Election to Political Office

8.3.5.1 An employee who is elected to a political office, the duties of which will clearly conflict with his normal duty hours and assignment with the district, may request, and shall be granted, an unpaid leave of absence which shall commence on the date he assumes the office and shall terminate not later than 30 days after his last day in the elected office. Reelection to the same office or election to a different office which provides reasonable continuity of elected public service shall cause extension of the approved leave.

8.3.5.2 An employee granted a leave under this rule may be used as a substitute employee during the period of the leave. He will be placed on the appropriate employment list(s) and notified that he may be offered limited-term employment.

8.3.6 **Intent**

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

8.4 **NEW EMPLOYEE CLEARANCES (*See Education Code 45122)***

8.4.1 **Physical Examinations**

8.4.1.1 **Initial Employment**

8.4.1.1.1 Every person being initially employed by the district, whether in a regular position, as a substitute, relief, limited-term, or provisional employee, shall be required to comply with the provisions of Education Code 45122.

8.4.1.1.2 Prior to employment, each person is required to submit adequate proof that he has undergone a test for tuberculosis and has been found to be free of active tuberculosis. The examination must have been conducted within a two-year period preceding the date of employment.

8.4.1.1.3 Prior to employment, each person is required to submit adequate proof that he has undergone a drug screening test and has been found to be free of illegal or controlled substances. The examination will be at district expense and must be conducted by the medical facility designated by the district to perform pre-employment physical. Such applicants will be cleared for employment upon certification by the examining physician that the applicant has satisfactorily passed the drug screen.

8.4.1.1.4 Persons who make application for employment will not be required to undergo screening against their will; however, those applicants who refuse to accept screening as part of the pre-employment process, will not be considered for employment.

8.4.1.1.5 All job applicants testing positive for an illegal or controlled substance may, upon direct request, be provided a follow-up screening test at district expense. Positive results on either original or follow-up screening tests would determine that pre-employment requirements had not been met.

8.4.1.2 **After Employment**

8.4.1.2.1 Every employee is required to undergo an examination to determine that he is free from active tuberculosis at least once every four (4) years after employment. The district shall provide the required examination (required by Education Code 45122).

8.4.1.2.2 The district shall maintain adequate records on each employee which indicate compliance with these rules and the law.

8.4.1.2.3 Employees testing positive on original screening and negative on follow-up screening will be required to submit to a post-employment screening test prior to the completion of the six-month probationary period. A positive finding after employment, which is not related to a prescribed substance, will determine that the employee has not satisfactorily completed his probationary period and will result in termination from district employment.

8.4.1.3 School Bus Drivers

8.4.1.3.1 In addition to any other examination that may be required by these rules, school bus drivers must have a valid school bus driver's certificate which requires a separate medical examination to meet the minimum medical requirements set forth by the Department of Motor Vehicles in Chapter 29b of the Driver's License Examiner's Manual of Procedure.

8.4.1.3.2 The district shall arrange for and defray the costs of the school bus drivers' examination for its employees and shall reimburse new employees for the costs of the required examination, but not to exceed the amount which it pays for the examination required of its regular-employee bus drivers.

8.4.1.4 Medical Review Board

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

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

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

8.4.2 Criminal Records Check

8.4.2.1 Fingerprinting

Every new employee prior to employment shall submit to a criminal records check in accordance with prescribed legislation or shall forfeit eligibility for employment. If a fee is charged, appropriate provisions should be made.

8.4.2.2 Review of Criminal Records

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

8.4.2.2.2 The criminal records report from the California Department of Justice and/or the Federal Bureau of Investigation will be reviewed together with the person's application form. If there is a criminal record, the Director of Classified Personnel shall decide whether or not the person should be employed or retained in employment.

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

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

If he approves the recommendation, the Director shall notify the employee or eligible of the action taken or contemplated and the reasons therefore. The Director shall provide the person with an opportunity to appeal the decision in writing to the Personnel Commission within 10 days of notification. The decision of the Commission shall be final.

8.4.3 Availability of Personnel File (*See Education Code 44031)*

8.4.3.1 Any member of the classified service may, by his request, inspect his personnel file whether maintained by the Commission, in the district office, or at a school or other district location.

8.4.3.2 The employee's request for inspection shall be during a time when he is not required to render service to the district, unless it is impossible to arrange such service during his off-duty hours and he has the written permission of his immediate supervisor to be absent from work for a specified period of time and proper arrangements have been made for him to inspect his file.

8.4.3.3 Prior to his examination of his file, all of the following data shall be removed: ratings, report, or records which (a) were obtained prior to his employment with the district, (b) were prepared by identifiable examination committee members, or (c) were obtained in connection with a promotional examination.

8.5 VIOLATIONS (*See Education Code 45317)*

Any person who willfully or through culpable negligence violates any of the provisions of this article (Merit System--commencing at Section 45240) is guilty of a misdemeanor. It is also unlawful for any person to:

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

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

8.5.3 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 this article or commission rule.