

Merit System Rules & Regulations

Personnel Commissioners

Veronica Palmer
Karen Schwarz
Annette Shreve

Executive Director

Randy A. Perez



Marco Chavez, County Superintendent of Schools
101 Twin Dolphin Drive, Redwood City, CA 94065

CONTENTS

<u>CHAPTER 10: RULE MAKING AUTHORITY</u>	1 - 9
10.1 Authority & Applications of Rules	1
10.2 Interpretation & Application of Rules	1
10.3 Judicial Review	1
10.4 Subject of Rules	2
10.5 Printing & Distribution of Rules	2
10.6 Effective Date of Merit Rules	2
10.7 Violation Shall Be Criminal	2
10.8 Other Unlawful Acts	3
10.9 Definitions.....	9
 <u>CHAPTER 20: COMMISSION ORGANIZATION & ADMINISTRATION</u>	 10 - 17
20.1 Appointment & Qualifications of Personnel Commission Members.....	10
20.2 Personnel Commission Appointment Procedures	11
A. Appointee of the Board of Education.....	11
B. Appointee of the Classified Employees.....	11
C. Appointee of the Commission	12
D. Filling of Vacancies during Term of Office.....	12
E. Discharge of Duties until a Successor Appointed	12
F. Emergency Appointment of Commissioners	12
20.3 Commission Officers.....	12
20.4 Quorum & Majority Vote.....	12
20.5 Compensation of Commission Members	13
20.6 Regular Meetings.....	13
20.7 Special Meetings.....	13
20.8 Public Meetings.....	13
20.9 Closed Session	14
20.10 Agenda & Supporting Data.....	14

20.11 Official Minutes	15
20.12 Amendments, Deletions, or Additions to Rules	15
20.13 Personnel Commission Employees	15
A. General Duties of the Personnel Director	15 - 16
20.14 Communications	16
20.15 Personnel Commission Budget.....	16 - 17
20.16 Annual Report of the Commission.....	17
20.17 Legal Counsel for the Personnel Commission	17
 <u>CHAPTER 30: POSITION CLASSIFICATION PLAN</u>	18 - 29
30.1 The Classified Service	18 - 19
A. Positions Included	18
B. Exemption from the Classified Service	18
C. Part-Time Defined	18
D. Effect of Exemption	18
E. Professional Expert Assignments	18 - 19
F. Restricted Positions	19
30.2 General Classification Rules.....	19 - 24
A. Assignment of Duties	19
B. The General Classification Plan.....	20
C. Class Descriptions	20
D. Interpretation of Class Descriptions	20 - 21
E. Creation of New Positions.....	21
F. Allocation of Positions to Classes.....	22
G. Changes in Duties of Positions.....	22
H. Working Out of Classification	22 - 23
I. Review of Positions.....	23
J. Positions Requiring Foreign Language Skills or Drivers License	23
K. Confidential Designation	23 - 24
30.3 Reclassification	24 - 25
A. Reclassification Policy	24

B. Effective Date of Reclassification.....	24
C. Effects of Reclassification on Incumbents	25
30.4 Senior Management Positions	26 - 27
A. Board May Designate Positions as Senior Management.....	26
B. Senior Management Part of the Classified Service	26 - 27
C. Definition of Senior Management	27
D. Filling Senior Management Positions.....	27
E. Abolition of Senior Management Positions	27
F. Notification of Reassignment or Dismissal	27 - 28
30.5 Executive Secretary Exemptions	28 - 29
A. Board May Request Exemptions for Executive Secretaries	28
B. Executive Secretaries Part of the Classified Service.....	28
C. Definition of an Executive Secretary	28
D. Filling Executive Secretary Positions	29
E. Discontinuance of Executive Secretary Services.....	29
F. Notification of Discontinuance of Service.....	29
 <u>CHAPTER 40: APPLICATION FOR EMPLOYMENT</u>	30 - 32
40.1 Application	30
A. Filing of Applications	30
B. General Qualifications of Applicant.....	30
40.2 Disqualification of Applicant & Candidates	31 - 33
A. Causes for Disqualification.....	31 - 32
B. Appeal from Disqualification.....	32 - 33
C. Applicant's Names Not Made Public.....	33
D. Submitting Proof of Veterans Credit.....	33
40.3 Equal Employment Opportunity	33
 <u>CHAPTER 50: RECRUITMENT & EXAMINATIONS</u>	34 - 41
50.1 Recruitment	34
A. Announcement of Examinations.....	34

50.2 Examinations	40
A. Determination of Examinations	34 - 35
B. Open Competitive Examinations	35
C. Promotional Examinations.....	35
D. Promotional & Open Competitive Examination	35 - 36
E. Merged (Dual Certification).....	36
F. Continuous Examinations.....	36
G. Types of Examinations	36
H. Scoring & Weighting of Tests	36
I. Qualifications Appraisal Interview Examination.....	36 - 37
J. Evaluation of Training & Experience.....	37 - 38
K. Admission to Examinations	38
L. Written Examination Procedures.....	38 - 39
M. Rating Required.....	39
N. Seniority Credit	39
O. Veterans Preference.....	39 - 40
P. Notice of Examination Results.....	40
Q. Violation of these Examination Rules/Laws	40
50.3 Review & Protest of Examination	40 - 41
A. Retention of all Examination Records.....	40
B. Examination Records shall be Confidential	40
C. Availability for Review	40
D. Failure to Protest	40
E. Personnel Director shall Review all Protests	41
F. Appeal to Commission.....	41

CHAPTER 60: ELIGIBILITY FOR EMPLOYMENT..... 42 - 49

60.1 Eligibility Lists	42 - 45
A. Establishment and Life of Eligibility Lists.....	42
B. Contents of Eligibility Lists.....	42

C. Promotional Lists	43
D. Merger of Eligibility Lists	43
E. Reemployment Lists	43
F. Termination of Eligibility Lists	43 - 44
G. Eligibility after Appointment	44
H. Waivers of Certification	44
I. Removal of Names from Eligibility Lists	44 - 45
J. Notification to Eligible of Removal from List	45
K. Inactive List	45
60.2 Certification from Employment List	45 - 49
A. Appointing Authority	45
B. Order of Precedence in Filling Vacancies	45 - 46
C. Rules of Three Ranks	46
D. Certification and Appointment from Eligibility Lists	46 - 47
E. Procedure When Fewer Than Three Ranks Remain	47
F. Failure to Make an Appointment	47
G. Restoration to Eligibility List	47
H. Certification from List for Another Class	47 - 48
I. Duties of Eligibles	48
J. Selective Certification	48
K. Release of Information	49
<u>CHAPTER 70: APPOINTMENT TO CLASSIFIED POSITIONS</u>	50 - 56
70.1 Procedures for Appointment from Eligibility Lists	50
A. Procedures for Selection	50
B. Appointment	50
C. Discrimination Prohibited	50
70.2 Provisional Appointments	50 - 52
A. Reasons for Provisional Appointments	50
B. Length of Provisional Appointment	50

C. Extension of Provisional Appointment.....	51
D. Successive Ninety (90) Day Appointment.....	51
E. Qualifications of Provisional Employees	51
F. Status of Provisional Employees.....	51
G. Terminating Provisional Appointments.....	51 - 52
70.3 Special Appointments.....	52 - 53
A. Procedure for Emergency Appointment	52
B. Summer and Other Recess Period Assignments	53
70.4 Limited Term and Substitute Appointments	53 - 54
A. Limited Term Position.....	53
B. Substitute Positions	53
C. Procedures for Establishment of Limited Term/Substitute Positions	53
D. Eligibility for Appointment.....	54
E. Compensation for Limited Term/Substitute Assignments	54
F. Rights and Benefits during Limited Term Assignments	54
G. Termination of Limited Term Appointment.....	54
70.5 Employment of PERS Retirees, Volunteers and Contractors	55 - 56
A. Employment of CalPERS Retirees	55
B. 180-Day Wait Period Between Retirement Date & Hire Date	55
C. 180-Day Wait Period Exceptions	55
D. Interim Appointment to a Vacant Position	55
E. 960 Hour Limit per Calendar Year	55
F. Unemployment Insurance Payment Qualifications.....	56
G. Compensation of Retirees.....	56
 <u>CHAPTER 80: EMPLOYMENT REQUIREMENTS</u>	57 - 61
80.1 Physical Examinations	57 - 58
A. Tuberculosis Examinations.....	57 - 58
B. Return to Work and Unscheduled Exams	58
C. School Bus Driver Medical Examination	58
D. Appeal to the Commission	58

80.2 Criminal Records	60
A. Fingerprinting for Applicants	59
B. Review of Criminal Records	59 - 60
80.3 Pre-Employment Requirement	60 - 61
A. Income Tax Withholding Form	60
B. Social Security Number	60
C. Loyalty Oath	60
D. Verification of Right to Work Status	60
E. Requirement to Notify District of Any Status Change	61
F. Filing of Required Licenses or Certificates	61
 <u>CHAPTER 90: EMPLOYMENT STATUS</u>	52 - 64
90.1 Certification of Payrolls	62
A. Certification of Payrolls/Assignments	62
90.2 Employee Assignment	62 - 63
A. Assignment Data	62
B. Employee Shall Sign Assignment Data	63
C. Orientation of New Employee	63
90.3 Probationary Status	63 - 64
A. Initial Probationary Period	63
B. Rights of Probationary Employees	63 - 64
90.4 Permanency	64
A. Permanent Status	64
 <u>CHAPTER 100: HOURS OF EMPLOYMENT AND OVERTIME</u>	65 - 69
100.1 Work Schedule	65 - 67
A. Workweek	65
B. Ten Hour Workday	65
C. Nine Hour Workday	65 - 66
D. Workday	66

E. Increase In Assigned Time	66
F. Temporary Assignments For Permanent Employees	66
G. Benefits For Probationary and Permanent Part-Time Positions	66 - 67
H. Meal Period.....	67
I. Rest Period	67
J. Accommodation for Religious Belief and Practice.....	67
K. Accommodation for Religious Dress or Grooming Practices	67
100.2 Overtime and Related Matters	67 - 69
A. Overtime	67 - 68
B. Compensation For Overtime.....	68 - 69
C. Exclusion From Overtime.....	69

CHAPTER 110: TRANSFER OF EMPLOYEES..... 70 -75

110.1 Transfer	70 - 71
A. Definition of Transfer	70
B. Position Transfer.....	70
C. Lateral Transfer	70
D. Probation Period for Lateral Transfers	70 - 71
E. No Adverse Affect from Transfers.....	71
F. Seniority Credit.....	71
G. Transfer Shall Not Alter Effects of Layoffs.....	71
H. Posting of Vacancy Notices	71
I. Submission of Request for Transfer	71
J. Certification of Names to Interview	71
110.2 Demotions	71 - 72
A. Voluntary Demotion	71 - 72
B. Involuntary Demotion	72
110.3 Restoration.....	72 - 73
A. Restoration of Former Employee.....	72
B. Restoration of Current Employee to Former Class.....	72 -73

C. Effects of Reinstatement	73
110.4 Employees with Disabilities	73 - 75
A. General Policy	73
B. Disabilities of a Temporary Nature.....	73 - 74
C. Medical Inquiries.....	74
D. Interactive Process	74
E. Permanent Disabilities.....	74 - 75
F. Effect of Refusal by Employee.....	75
 <u>CHAPTER 120: EMPLOYEE PERSONNEL FILES.....</u>	76 - 78
120.1 Personnel Files.....	76 - 78
A. Personnel Files	76
B. Maintenance of Personnel File.....	76
C. Inspection of Personnel File.....	76
D. Inspection of Personnel File by Others.....	77
E. Derogatory Information	77
F. Signature/Date Required	77
G. Confidential Files.....	78
H. Inspection of Confidential File(s) by Employee	78
I. Inspection of Confidential File by Others.....	78
J. Disclosure of Medical Records.....	78
K. Disclosure of Personnel Records in Litigation	78
 <u>CHAPTER 130: PERFORMANCE EVALUATIONS.....</u>	79 - 80
130.1 General Policy.....	79 - 80
A. Policy Statement.....	79
B. Administration of Performance Appraisal System.....	79
C. When Evaluations Are To Be Made.....	79
D. Additional Evaluations	79
E. Evaluation Rater	80

F. Evaluation Meeting	80
G. Documentation	80
H. Signing of Form.....	80
I. Distribution of the Form	80
J. Employee Attachments to Evaluation	80
<u>CHAPTER 140: VACATIONS</u>	81 - 82
140.1 Vacations	81 - 82
A. Ratio for Earning Vacation – Regular Employees	81
B. Vacation Rate of Pay	81
C. Vacation Credit for Partial Month.....	81
D. Vacation Earned During Paid Status.....	81
E. Vacation Schedules	81
F. Earned Vacation Upon Separation From Service.....	82
G. Vacation Accrual	82
H. Interruption of Vacation	82
I. Vacation Holidays.....	82
<u>CHAPTER 150: HOLIDAYS</u>	83 - 84
150.1 Holidays	83 - 84
A. Holidays for Classified Employees	83
B. In Lieu Holidays.....	83
C. Other Paid Holidays	83
D. Governor/President Declared Holidays.....	83
E. Weekend Holidays	84
F. Holidays Occurring On School Recess Periods	84
G. Overtime Pay for Working Holidays.....	84
H. Holidays for Employees with Non-Traditional Work Weeks	84
I. Teacher In-Service Day	84
<u>CHAPTER 160: LEAVES OF ABSENCE</u>	85 - 102

160.1 Sick Leave	85 - 86
A. Absence Due to Illness	85
B. Number of Sick Days Per Year.....	85
C. Sick Leave Bank	85
D. Pay for Sick Days.....	85
E. Notification of Absence.....	85
F. Notification of Return to Work.....	86
G. Doctor's Note May be Required	86
H. Doctor's Note Required for Absences Over Five (5) Days	86
I. Submission of Doctor's Notes	86
160.2 Extended Sick Leave	86 - 87
A. Sick Leave Exhausted	86 - 87
160.3 Unpaid Leave for Non-Industrial Accident	87
A. Six Month Unpaid Leave	87
160.4 Transfer of Sick Leave.....	87 - 88
A. Service Requirement	87 - 88
160.5 Industrial Accident/Illness Leave	88 - 89
A. Paid Industrial Accident/Illness Leave	88
B. Use of Paid Leave After Exhaustion of Sixty (60) Days.....	88
C. Industrial Accident or Injury Leave Without Pay	88 - 89
D. Placement of Re-Employment List at Exhaustion of Leaves	89
E. Employee Must Remain in California	89
F. Absences Not Considered a Break in Service.....	89
G. Workers' Compensation Check Endorsed to Office	89
160.6 Bereavement Leave	89 - 90
A. Paid Bereavement Leave	89 - 90
B. Definition of Immediate Family	90
160.7 Jury Duty.....	90
A. Leave of Absence for Jury Duty	90
160.8 Witness Leave	90
A. Witness Leave of Absence.....	90

160.9 Personal Necessity Leave.....	90 - 91
A. Paid Personal Necessity Leave.....	90 - 91
B. Board of Education to Prescribe Rules	91
160.10 Military Leave.....	91 - 92
A. All Regular Employees Granted Military Leave	91
B. Reserve Service	91
C. Thirty (30) Days Leave with Pay	91
D. Official Orders Must Be Submitted	91
E. Return from Military Leave	91
F. Military Spouse Leave	91 - 92
160.11 Pregnancy Disability Leave	92 - 93
A. Disabled by Pregnancy Defined	92
B. Duration of Pregnancy Disability Leave	92
C. Calculating Pregnancy Disability Leave	92
D. Intermittent Leave	92
E. Employee Request for PDL.....	92
F. Responding to a Request for PDL	93
G. Medical Certification	93
H. Providing Reasonable Accommodation and Transfers	93
I. When the Employer Requires a Pregnant Employee to Transfer	93
J. Benefits and Pregnancy Disability Leave.....	93
K. Seniority and Pregnancy Disability Leave.....	93
L. Returning to Work After Pregnancy Disability Leave	93
160.12 Release Time for Personal Activities.....	93
A. Release Time for Examination.....	93
160.13 Leave to Service in Temporary/Limited Term Job.....	94
A. Temporary Assignments.....	94
160.14 Leave of Absence Without Pay	94
A. When Granted	94
160.15 Leave of Absence for Study	94 - 96
A. Study Leave	95

B. Time Limits for Study Leaves.....	95
C. Study Leave Not a Break in Service	95
D. Application for Study Leave.....	95 - 96
E. Compensation.....	96
F. Compensation Paid.....	96
160.16 Leave of Absence for Retraining	96 - 97
A. Absence for Retraining	96
B. Retraining Leave Eligibility	96 - 97
C. Board Prescribes Training.....	97
D. Employee Remains Permanent.....	97
E. Reasonable Expenses Paid	97
F. Other Training Programs	97
160.17 Family Medical Leave.....	97 - 100
A. Family Medical Leave Eligibility	97
B. Purposes for Family Leave.....	97 - 98
C. Leave Calculation Method	98
D. Integration with Pregnancy Disability Leave	98
E. Child Bonding Leave	98
F. Requests for Leave.....	99
G. Certification by Health Care Provider.....	99
H. Care for a Family Member	99
I. Care for Own Health Condition	100
J. Health Insurance & Family and Medical Leave.....	100
K. Other Employment Benefits & Family and Medical Leave.....	100
L. Use of Sick or Vacation Time During Family & Medical Leave.....	100
160.18 Active Duty Leave	100 -102
A. Duty Leave	100 -101
B. Military Caregiver Leave	101
C. Continuance of Health Care Insurance	101
D. Return to Work After Leave.....	101
E. Intermittent Use of Leave	102

F. Use of Sick Time or Vacation during Family Leave	102
160.19 Children’s Activity Leave.....	102
A. Leave to Attend Children’s School Activities	102
<u>CHAPTER 170: COMPENSATION AND PAY PRACTICES</u>	103 - 107
170.1 Determination of Salary Schedules and Pay Rate	103 - 104
A. Fixing Annual Salary Schedules	103
B. Board May Increase Salary Schedule.....	103
C. Board May Delay Adoption of Salary Schedule	103
D. Superintendent Must Employ/Pay in Accordance With Merit System.....	103
E. Commission Shall Recommend Salary Schedules to Superintendent.....	103 - 104
F. Commission Shall Allocate Job Classifications	104
170.2 Application of Salary Schedules	104 - 107
A. Initial Salary Placement.....	104
B. Step Advancement	104 - 105
C. Promotional Salary Rate.....	105
D. Impact of Promotions on Previous Anniversary Dates	105
E. Placement After Unpaid Leave of Absence	105
F. Shift Differential	105
G. Salary Adjustment Working Out of Classification.....	105 - 106
H. Salary Placement Reclassification.....	106
I. Compensation for Limited Term/Sub Assignments	106
J. Salary Placement Transfers	106
K. Salary Placement Demotions	106
L. Salary Placement Reinstatement/Reemployment	106 - 107
M. Salary Placement Medical Reassignment.....	107
N. Salary Placement Retirees	107
<u>CHAPTER 180: COMPLAINT PROCEDURE</u>	108 - 110
180.1 Procedures for the Adjustment of Complaints	108 - 109
A. Purposes of the Adjustment Procedure	108

B. Matters Excluded From the Adjustment Procedure	108
C. Adjudicating Body Determined by Subject Matter	108 - 109
D. Complaint Time Limits Considered Maximums	109
E. Complaint Must Be Filed Within Ten (10) Working Days.....	109
F. Definition of Complainant	109
G. Employee Representation	109
H. No Reprisals for Filing of Complaint	109
I. Maintenance of Complaint Files	109
J. Reasonable Release Time	109
180.2 Steps in the Adjustment Procedure	109 - 110
A. Level 1 – Informal Discussion.....	109
B. Level 2 – Formal Written Grievance	109 - 110
C. Level 3 – Superintendent/Personnel Director	110
D. Level 4 – Board of Education/Personnel Commission.....	110

CHAPTER 190: PROCEDURES FOR DISCIPLINARY ACTION & APPEAL 111 - 127

190.1 General Provisions on Disciplinary Action.....	111 - 113
A. Disciplinary Action Only Pursuant to This Rule.....	111
B. Definition of Discipline	111
C. Causes for Disciplinary Action.....	111 - 113
190.2 Progressive Discipline	113 - 115
A. Progressive Discipline – Oral Warning.....	113 - 114
B. Progressive Discipline – Written Warning/Reprimand	114
C. Progressive Discipline - Suspension.....	114
D. Progressive Discipline – Final Step	115
190.3 Notice of Proposed Disciplinary Action.....	115 - 116
A. No Discipline for Discriminatory Reasons.....	115
B. No Discipline Without Notice	115
C. Notice Shall Be in Writing and Served on Employee.....	115
D. Contents of Notice of Proposed Disciplinary Action.....	115 - 116

E. Disciplinary Action Reported to Personnel Director.....	116
190.4 Skelly Hearing Notification & Procedures	116 - 118
A. Action if Skelly Hearing is Not Filed.....	116
B. Skelly Hearing Before Appointed Officer.....	116
C. Right to Skelly Hearing	117 - 118
190.5 Notice of Disciplinary Action	118 - 119
A. Notice of Disciplinary Action.....	118
B. Notification to Personnel Commission	118
C. Appeal Form Shall Accompany Notice of Disciplinary Notice.....	118 - 119
D. Notice Shall be in Writing and Served on Employee.....	119
E. Action if Appeal is Not Filed	119
190.6 Appeal Hearing Before the Personnel Commission.....	119 - 126
A. Personnel Commission Hearing	119 - 120
B. Notification of Hearing to Employee.....	120
C. General Conduct of Commission Appeal Hearing.....	120
D. Right to Representation	120 - 121
E. Pre-Hearing Conference	121
F. Subpoena of Witnesses/Evidence	121
G. Appointment of Hearing Officer	121 - 122
H. All Hearings Shall Be Recorded	122
I. Ability to Examine Evidence.....	122
J. Appellant May Be Called to Testify.....	122
K. Admission of Evidence	122 - 123
L. Granting of Continuance	123
M. Ruling on Objections.....	123
N. Findings Based on Preponderance of Evidence	123
O. Order of Presentation of Evidence	123
P. Sworn Affidavits.....	123 - 124
Q. Deliberation and Findings of Hearing Officer.....	124
R. Deliberation of Personnel Commission.....	124 - 125
S. Decision of Personnel Commission.....	125 - 126

T. The Superintendent Shall Comply with Personnel Commission Decision	126
U. Obtaining Copies of the Hearing Transcript	126
190.7 Miscellaneous Provisions.....	126 - 127
A. Health Benefits Maintained Until Appeal Concluded	126
B. Permanent Employee in Probationary Promotional Position	127
C. Dismissal of Substitute/Limited Term/Provisional/Probationary Employees	127
D. Paid Administrative Leave.....	127
E. Mandatory Leave Offense	127
F. Immediate Suspension – With Pay	127
G. Removal From Eligibility Lists	127
H. Failure to Appeal	127
<u>CHAPTER 200: LAYOFF AND REEMPLOYMENT PROCEDURES.....</u>	128 - 132
200.1 Layoff Procedures	128 - 131
A. Reason and Order of Layoff.....	128
B. Reemployment List	128
C. Seniority Computation.....	128
D. Layoff Notice.....	128 - 129
E. Procedure After Layoff.....	129
F. Bumping Rights	129 - 130
G. Voluntary Demotion or Transfer	130
H. Layoff Versus Temporary Positions.....	130
I. Acceptance of Substitute or Temporary Employment.....	130 - 131
J. Refusal of Temporary Employment	131
K. Probationary Employees	131
200.2 Reemployment Procedures.....	131 - 132
A. Laid Off Employees Placed on Reemployment List	131
B. Employees with Equal Seniority	131
C. Eligible for Reemployment for 39 Months 131 -	132
D. Eligibility for an Additional 24 Months	132

CHAPTER 10 RULE MAKING AUTHORITY

10.1 AUTHORITY AND APPLICATION OF RULES

Article 6 (Merit System) in Chapter 5 of Part 25 in Division 3 of the California Education Code (commencing with Section 45240) provides the Personnel Commission with the right and responsibility for establishing rules and regulations to govern the County Office's classified employees.

- A.** The rules contained herein are established by the Personnel Commission pursuant to its authority under Education Code Section 45260 as well as other provisions of law and government code applicable to classified school employees.
- B.** Since the implementation of new rules or amendments to existing rules can impact the Board, the Superintendent, and the classified employees, the Personnel Director shall submit copies of all proposed rules, amendments to, or the deletion of existing rules, to the Superintendent, Board, exclusive bargaining representative(s), and the representatives of confidential and management employees' meet and confer groups for their review and comments at least (14) calendar days prior to adoption by the Personnel Commission. (Education Code 45261)

10.2 INTERPRETATION AND APPLICATION OF RULES

The Commission recognizes that no set of rules can anticipate all possible combinations of circumstances affecting particular cases. These rules are to be applied to effectuate their basic intent. In instances where two or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Personnel Director, subject to appeal to the Personnel Commission. The Commission is open to responsible suggestions to amend rules which prove to be unclear.

10.3 JUDICIAL REVIEW

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

10.4 SUBJECT OF RULES

The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses, and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters deemed necessary by the Commission to insure

the efficiency of the classified service and the selection and retention of employees upon a basis of merit and fitness.

- A. The rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in Section 3543.2 of the Government Code, and is included in a negotiated agreement between Governing Board and that unit. The rules shall be binding on the Board.
- B. No rule or amendment shall be adopted by the Commission until employee representative groups for classified employees and administration of the San Mateo County Office of Education have been given reasonable notice of the proposal. (Education Code Section 45260)
- C. All proposals to amend, delete, or add to these rules will be presented to the Personnel Commission for a first reading. Proposals to amend, delete, or add rules shall not become final without a second reading, unless a critical emergency exists requiring that the Commission take immediate action to enact or revise a rule.

10.5 PRINTING AND DISTRIBUTION OF RULES

The rules of the commission shall be printed and distributed to every Personnel Commissioner and Board of Education member. In addition, copies shall be made available in the offices of the Superintendent, division offices, permanent work sites, and the library. Each classified and certificated manager and exclusive representative of the classified employees shall also receive a copy of the rules.

10.6 EFFECTIVE DATE OF MERIT RULES

The rules and regulations shall be effective the date approved by the Personnel Commission, and shall not have retroactive effects.

10.7 VIOLATION SHALL BE CRIMINAL

Any person who willfully or through culpable negligence violates any provision of Article 6 (Merit System), commencing with Section 45240 of the Education Code is guilty of a misdemeanor.

10.8 OTHER UNLAWFUL ACTS

In addition to the prohibition on unlawful acts outlined in Rule 10.7, it is also unlawful for any person:

- A. Willfully, either alone or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to any right of examination, application, or

employment under the Merit System statutes of the Education Code or the Personnel Commission Rules.

- B.** Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under the Merit System statutes of the Education Code or the Personnel Commission Rules, or to aid in so doing, or make any false representation concerning the same or the person examined.
- C.** Willfully to furnish to any person any special or secret information regarding the contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under the Merit System statutes of the Education Code, or the Personnel Commission Rules.

10.9 DEFINITIONS

The Act: The Act shall mean those sections of the Education Code of the State of California which apply to the Merit System. It shall include all of the provisions of Article 6, Chapter 5, Part 25, as well as the provisions of Chapter 1 and Articles 1 to 4 of Chapter 5 in Part 25.

Allocation: The placing of a position in a class by the Personnel Commission, or the assignment of a class to a salary range.

Anniversary Date: The first of the month following completion of probation in a classified position. The anniversary date is used to determine annual step advancement.

Applicant: A person who has filed a County Office of Education application to participate in the selection process for a classified position.

Appointing Authority or Power: The San Mateo County Superintendent of Schools or his/her designee, and the Personnel Commission when referring to Commission Employees.

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

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

Board or Board of Education: The Board of Education of the San Mateo County Office of Education.

Bumping Rights: The right of an employee, under certain layoff conditions, to displace an employee with the least seniority in the class.

Candidate: A person who has competed in one or more portions of an examination for a classified position.

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

Certificated Service: All positions and employees required by law to possess credentials issued by the Commission on Teacher Credentialing for the State of California.

Certification: The submission of names of candidates by the Personnel Director, from an appropriate eligibility list, or from some other source of eligibility, to the appointing authority authorized to hire employees.

Class: (Sometimes referred to as "Classification") A group of positions sufficiently similar in duties and responsibilities to warrant that the same descriptive title may be used to designate each position allocated to the class; substantially the same education and experience, and knowledge and ability is required of incumbents; substantially the same tests of fitness may be used in selecting qualified employees; the same salary range may be applied with equity.

Classification: The action of the Personnel Commission in placing a position into a "class". Classification means that each position in the classification shall have a designated title, minimum qualifications, and placement on the appropriate salary schedule.

Class Description: A formal statement of duties and responsibilities of the position(s) in the class, illustrated by examples of duties, and qualification requirements for employment in the position(s) in the class.

Classified Service: All positions established by the governing board to which "The Act" applies.

Commission Staff: The Administrator, Classified Human Resources and other employees appointed to positions supervised by the Personnel Commission, and paid from funds budgeted for the support of the Commission.

Continuous Examination(s): A procedure authorized by the Personnel Commission for the continuous testing of applicants in certain classifications.

County Office: San Mateo County Office of Education.

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

Differential or Differential Pay: A salary allowance in addition to the basic salary rate or schedule based upon additional skills, or assigned responsibilities. Differential can also refer to the size of intervals between steps on a salary schedule and/or salary range between classifications.

Discharge or Dismissal: Separation from the classified service for cause in accordance with the Rules and Regulations of the Personnel Commission. Requires action by the County Superintendent of Schools.

Disciplinary Action: Includes any action taken by the Superintendent to suspend, demote or dismiss a regular employee for cause in accordance with procedures set forth in the Personnel Commission's Rules and Regulations.

Dual Certification: An examination procedure authorized by the Personnel Commission which provides for simultaneous certification, under specific conditions, to an open eligibility list and a promotional eligibility list in accordance with the examination scores attained by the candidates.

Eligible: A person whose name appears on an eligibility or reemployment list for a given class.

Emergency Appointment: The assignment of an individual to a regular classified position for a period not to exceed 15 working days in order to prevent the stoppage of public business when persons on an eligibility list are not immediately available.

Employee: A person who is employed by San Mateo County Office of Education.

Employment List: A list of names from which certifications may be made. The term includes eligibility lists, reemployment lists, and lists of persons who wish to transfer, demote, be reinstated or reemployed after resignation, or those who wish to be reinstated to a former class after voluntary demotion or reduction to limited-term status.

Employment Status: An employee's present appointment status indicating whether an employee is probationary, permanent, substitute, or limited-term.

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

Exempt Classified: Refers to those positions and employees exempt from the regular classified service as provided in Education Code Sections 45256b, 45257, and 45258.

Field of Competition: Applicants for position (either from within or outside the Office of Education) that have been identified as possessing the required qualifications to participate in a selection process.

Fiscal Year: July 1st of one year through June 30th of the following year.

Governing Board: San Mateo County Board of Education.

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

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

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

Involuntary Leave: Leave of absence resulting from a disciplinary action.

Job Audit: A personal job evaluation technique in which various combinations of job audit questionnaires, personal interviews and work site observations are used to collect data on the duties, tasks, and responsibilities of a position.

Layoff: Separation from a permanent position because of lack of work or lack of funds. A layoff shall also include any reduction in hours of employment or assignment to a class or grade lower than that in which the employee has probationary or permanent status, voluntarily consented to by the employee, in order to avoid interruption of employment by layoff (voluntary demotion or voluntary reduction in assigned time in lieu of layoff).

Leave of Absence: An absence from duty, with or without pay, for a prescribed period of time approved by the appointing authority.

Limited Term: Individuals hired to perform functions not to exceed six months, or employment of a temporary employee to substitute only for the duration of the authorized absence of a permanent employee.

Loyalty Oath: A statement required from each new employee documenting their support of the United States and California Constitutions as required by state law.

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

Merit System: A personnel management system in which employees are selected for positions on the basis of merit and fitness through competitive examinations.

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

Permanent Position: A position established for an indefinite period of time, or for a fixed period of time in excess of six months.

Personnel Commission: (Also referred to as "Commission") Three member body established pursuant to "The Merit System Act" to administer the Merit System.

Position: A group of duties and responsibilities assigned on a full or part-time basis to one person. A position can only be established by action of the Superintendent and Board of Education or by the Personnel Commission for a member of its own staff.

Position Classification: The process of categorizing jobs by occupational groups, series, class, and grade, according to similarities and differences in duties, responsibilities and qualification requirements.

Probationary Period: A trial period of one hundred thirty (130) days of paid service for non-management employees, or two hundred sixty days (260) for management employees following appointment to a permanent position from an eligibility list.

Professional Expert: A person employed in a professional capacity for a specific limited-term project; such persons are excluded from the classified service.

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

Promotional List: An eligibility list resulting from a promotional examination limited to qualified employees of the Office.

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

Reallocation: Movement of an entire class (of positions) from one salary range to another salary range.

Reclassification: The allocation of a position or positions from one class placement into another as a result of a gradual and substantial accretion of duties and responsibilities.

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

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

Regular Employee: An employee who has probationary or permanent status.

Reinstatement: A reappointment of a former employee, without examination, within a period of 39 months following the date of resignation to a position in one of the person's former

classes, or in a related class. Such reappointment requires restoration of all rights and benefits earned by the employee prior to their resignation, except seniority date.

Resignation: Voluntary termination of employment by an employee.

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

Right: A benefit which is bestowed on a person by law or rule and must be granted to the person.

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

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

Salary Schedule: The complete list of ranges, steps, and rates of pay for the classified service.

Salary Step: A specific rate in a salary range. One of the consecutive rates that comprise a monthly or hourly salary range.

Seniority: Status served by length of service in a classification to which certain rights attach; including, but not limited to, the calculation of seniority points for employees taking examinations, and for determining the order of layoff when positions in a classification are eliminated.

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

Series: A number of closely related classes arranged in an occupational hierarchy in order to indicate levels in a group.

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

Substitute Employee: A person hired to replace a temporarily absent 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 the basis of other than permanent or probationary status, e.g., limited-term or provisional status.

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

Veterans' Credit: Five points for military or related service, or ten points for persons disabled as a result of military service rendered during time of war or national emergency, are to be added to the final passing score of such person or persons competing in an "open competition."

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

REFERENCE: Education Code Sections 45241, 45260, 45261, 45262

CHAPTER 20 COMMISSION ORGANIZATION AND ADMINISTRATION

20.1 APPOINTMENT AND QUALIFICATIONS OF PERSONNEL COMMISSION MEMBER

The Personnel Commission is composed of three members. One member of the personnel commission shall be appointed by the Board and one member, nominated by the classified employees of the County Office, shall be appointed by the Board. Those two members shall, in turn, appoint the third member.

As used in this section, “classified employees” shall mean an exclusive representative which represents the largest number of noncertificated employees in a unit or units within the County Office. **(Education Code Sections 45245)**

A. Qualifications and Restrictions. To be eligible for appointment or reappointment to the Personnel Commission, a person shall meet the following three (3) requirements:

- (1) Be a registered voter and resident within the territorial jurisdiction of the County Office of Education. Residence is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one residence.
- (2) Be a known adherent to the principle of the merit system. A “known adherent to the principle of the Merit System,” with respect to a new appointee, shall be a person who by the nature of his or her prior public or private service has given evidence that (s)he supports the concept of employment, continuance in employment, in-service promotional opportunities, and other related matters on the basis of merit and fitness. A “known adherent to the principle of the Merit System,” with respect to a candidate for reappointment shall mean a commissioner who has clearly demonstrated through meeting attendance and actions that (s)he does, in fact, support the Merit System and its operation.
- (3) A member of the Personnel Commission shall not be an employee of the County Office or a member of the governing board of any school district or a county board of education during his or her term as a Personnel Commissioner.

B. By law, the term of office for each of the commissioners shall be three years. The term of any newly appointed commissioner shall commence at noon on December 1st. The term of one commissioner shall expire each year at noon on December 1st. **(Education Code Sections 45244, 45247)**

20.2 PERSONNEL COMMISSION APPOINTMENT PROCEDURES

On or about September 1st of each year, the Personnel Director shall notify the Board and the recognized classified employee organizations of the name of the commissioner whose term is expiring, and whether or not the commissioner will accept reappointment for another three-year term, if reappointed. The notification will also provide the name of the appointing authority, and the procedures to be followed in filling the upcoming vacancy.

- A. **Appointee of the Board of Education:** By September 30th, the Board of Education shall publicly announce the name of the person it intends to appoint or reappoint. At a board meeting to be held after 30 and within 45 days of the date the Board publicly announces its candidate, the Board of Education shall hold a public hearing to provide the public, employees, and the employee organizations the opportunity to express their views on the qualifications of the person recommended by the Board for appointment or reappointment. The Board at that time may make its appointment, or make a substitute appointment or recommendation without further notification or public hearing. **(Education Code Section 45246)**
- B. **Appointee of the Classified Employees:** By November 1st the classified employee organization having the authority to nominate the classified employee's appointee to the Commission shall submit to the Board the name of the person it wishes to appoint to the Commission. The Board shall appoint the nominee unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee.
1. In the event that the classified employees of the County Office are represented by more than one employee organization, the employee organization which represents the largest number of classified staff shall be the one authorized to submit the recommended appointment to the Board for action as required by these rules and regulations.
 2. In the event that a vacancy is created on the Personnel Commission because of the classified employees' failure to agree on a nominee, the Board of Education, upon the recommendation of the Personnel Director, may make an emergency appointment until such time as a permanent appointment can be made, but not to exceed sixty (60) days. **(Education Code Sections 45246 and 45248)**
- C. **Appointee of the Personnel Commission:** By September 30, the appointee of the Board, and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint or reappoint. The Commission at that time may make its appointment. At the next regularly scheduled meeting of the Personnel Commission to be held after 30 days from the day the intended appointee is announced, the appointee of the Board of Education, and the

appointee of the classified employees shall, in open hearing, provide the public, employees and employee representative groups an opportunity to express their views on the qualifications of the candidate recommended for the vacancy. The candidate shall be invited to this meeting. The Commission at that time may make its appointment.

1. If the Commissioner appointed by the Board and the Commissioner appointed by the classified employees are unable to agree upon a nomination by September 30, the California State Superintendent of Public Instruction shall make the appointment within 30 days. **(Education Code Sections 45246)**

D. Filling of Vacancies during Term of Office: In the event that a vacancy on the Commission occurs during the term of office of any of the commissioners, a new appointee shall be selected by the original appointing authority to complete the unexpired term in accordance with procedures set forth in rule 20.2. **(Education Code 45248)**

E. Discharge of Duties until a Successor Appointed: A Commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed, but for no more than 90 calendar days. **(Education Code Section 45246)**

F. Emergency Appointment of Commissioners: If there are two vacancies on the Personnel Commission, the Board of Education, at the request of the Personnel Director, shall declare that an emergency exists, and shall make one interim appointment to fill a vacancy to ensure the continuance of the functions of the Personnel Commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee. An interim appointee must meet the requirements of Merit System Rule 20.1, and in no event shall the appointment be valid for more than sixty (60) days. **(Education Code 45248)**

20.3 COMMISSION OFFICERS

At its first meeting following December 1st of each year, the Commission shall elect one of its members as Chair, and another member as Vice-Chair, to serve a term of one (1) year until such time as their successors are duly elected. **(Education Code 45260)**

20.4 QUORUM AND MAJORITY VOTE

Two members of the Commission shall constitute a quorum for any special or regular meeting of the Personnel Commission. The affirmative vote of at least two (2) members of the Commission is required to carry out any motion. **(Education Code 45247)**

20.5 COMPENSATION OF COMMISSION MEMBERS

The Board may authorize payment to members of the Commission of an amount not to exceed fifty dollars (\$50) per meeting, and not to exceed two hundred-fifty (\$250) per month. **(Education Code Section 45250)**

20.6 REGULAR MEETINGS

Subject to cancellation or proper change, the Commission shall meet each month, on a specified date set by the Commission at least one month in advance, at the San Mateo County Office of Education. When the regular meeting date falls on a holiday, the Commission shall meet on the next succeeding business day, unless at a prior or regular meeting it designates some other day for its meeting. In cases of emergency, the Commission may meet at some other time and/or place, provided that at least twenty-four (24) hours notice is given to employee unit and administrative representatives, and posted on the Commission's bulletin board and webpage.

- A. The Commission may adjourn any regular or previously adjourned meeting to a time and a place specified in the order of adjournment. When so adjourned, the reconvened meeting is a regular meeting for all purposes. When an order of adjournment of a regular or previously adjourned meeting fails to state the hour at which the convened meeting is to be held, it shall be held at the hour normally designated for regular Commission meetings. **(Government Code Section 54955)**

20.7 SPECIAL MEETINGS

A special meeting may be called at any time by the Commission Chairperson, or by the written request of any two members. Written notice shall be delivered personally, by mail, or electronic means to each member of the Commission. Written notice shall also be given to local media outlets who have filed written requests for such notices, and to representatives of County Office's collective bargaining groups, the Board of Education, and the Superintendent. Such notice shall be delivered personally, by mail, or electronic means at least twenty-four (24) hours before the time of such meeting as specified in the notice. A copy of the notice shall be posted on the Commission's official bulletin board. The meeting notice shall specify the time, and place of the special meeting and the business to be transacted. No other business may be transacted at the meeting. **(Government Code Section 54956)**

20.8 PUBLIC MEETINGS

All regular and special meetings of the Commission shall be open to the public, and all persons shall be permitted to attend any of the Commission's meetings except as provided for in Personnel Commission Rule 20.9. This rule shall not be construed as permitting employees to be absent from duty for attendance at Personnel Commission meetings, unless they are authorized to do so. **(Government Code Section 54953)**

20.9 CLOSED SESSION

The Commission may hold closed sessions during any regular or special meeting to consider the appointment, employment, performance evaluation, or dismissal of an employee, or the hearing of complaints or charges brought against employees by another person or employee, unless such employee requests a public hearing. The Commission may also consider in closed session legal matters coming within the purview of the attorney/client relationship as it relates to litigation.

- A. Prior to holding a closed session, the Commission shall state the general reason(s) for the closed session, and may consider only those matters covered in its statement of reason(s). In giving the reason for holding a closed session, the Commission is not required to give names or other information which might constitute an invasion of privacy. The Commission shall publicly report in the public portion of the meeting in which the closed session is being held or at its next public meeting, any action taken in the closed session, and any roll call vote taken on such actions. **(Government Code Section 54957.7)**

20.10 AGENDA AND SUPPORTING DATA

At least seventy-two (72) hours prior to every regular or twenty-four (24) hours prior to every special Commission meeting, the agenda shall be provided to the Commission members, the designated representatives of all employee organizations representing classified employees, the Board, and the Superintendent. The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. The agenda shall specify the time and location of the regular meeting, and will be posted on the Commission's bulletin board and webpage.

- A. When practicable, supporting data for agenda items will be furnished prior to the meeting date.
- B. Employees, employee organizations, Board members, the Superintendent, and other interested parties may submit their written views on any item on the agenda and shall be given reasonable opportunity to present their views orally during the Commission meeting. The Commission will consider all comments and recommendations made to it prior to taking a course of action.
- C. Employees, employee organizations, Board members, the Superintendent and other interested parties may request to have items placed on a Commission agenda by submitting the items to the Personnel Director not less than seven (7) calendar days prior to the scheduled Commission meeting at which the item is to be considered. **(Education Code Section 35145.5)**

20.11 OFFICIAL MINUTES

The Personnel Director shall serve as Secretary of the Commission and shall record in the minutes the time and place of each Personnel Commission meeting, the names of the

Commissioners present, all official acts of the Commission, and the votes of the Commissioners. When requested by a Commissioner, the Personnel Director shall record that Commissioner's approval or dissent and any expressed reasons therefore. The minutes shall be written and presented for correction and approval at the next regular meeting. Copies of the minutes shall be distributed to recognized employee organization representatives, the Board, and the Superintendent. The minutes of each Commission meeting shall be posted on the Commission's bulletin board, and be available for public inspection. **(Government Code Section 54957.2)**

20.12 AMENDMENTS, DELETIONS, OR ADDITIONS TO RULES

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

- A. On a "first reading", the Personnel Commission will set a date for Commission action on the proposal, which date shall normally be the next regularly scheduled Commission meeting. The Personnel Director will refer the proposed rule changes to the designated representatives of classified collective bargaining groups, and the Superintendent in order to provide them with an opportunity to submit their comments or recommendations.
- B. Insofar as possible, the interested parties shall submit their reactions and/or recommendations to proposed rule changes in writing on or before the stipulated agenda deadline date (see Commission Rule 20.10). However, those who want to speak to the item(s) at the Commission meeting will be given that opportunity as provided in Personnel Commission Rule 20.10 (agenda and supporting data). **(Education Code Section 45260)**

20.13 PERSONNEL COMMISSION EMPLOYEES

The Personnel Director, and other persons required to carry out the responsibilities of the Personnel Commission shall be appointed from an eligibility list established from a competitive examination given under the auspices of the Commission. The Commission shall appoint all employees paid from funds budgeted for the support of the Commission, and shall supervise the activities of those employees that are performed as part of the functions of the Commission. Such employees shall be classified employees of the County Office, and shall be accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the County Office, including representation by the appropriate collective bargaining group if applicable.

A. General Duties of the Personnel Director

1. The Personnel Director shall be responsible to the Commission for carrying out all procedures in the administration of the classified personnel in conformity with the Education Code and the Rules of the Commission, and shall be free of prejudgment or bias in order to ensure the impartiality of the Commission. The Personnel Director shall act as Secretary to the Personnel Commission, and shall issue and receive all notifications on its behalf. The Personnel Director shall direct and supervise the employees of the Commission, and shall conduct administrative transactions consistent with the law as well as the proper functioning of the office and staff of the Personnel Commission.
2. In cases where two or more rules or regulations appear to be in conflict, or when no rule provides a clear cut answer to the problem, the matter shall be decided by the Personnel Director, subject to appeal to the Personnel Commission.
3. The Personnel Director shall not advise or make recommendations to the Commission regarding any disciplinary action appealed to the Commission under Education Code Section 45305, if the Personnel Director is the party who brought the action against the employee. **(Education Code Section 45266)**

20.14 COMMUNICATIONS

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

- A. Individuals who wish to present proposals for action by the Commission shall present their requests to the Personnel Director for placement on the Commission agenda in accordance with Merit System Rule 20.10:C. Although the Personnel Commission may, on occasion, designate one of its members to investigate a specific subject or matter, it is against the policy of the Commission to take up or consider any proposals except at open (public) meetings.

20.15 PERSONNEL COMMISSION BUDGET

The Personnel Director shall, prior to the first Commission meeting in April of each year, prepare and submit to the Commission a proposed operating budget for the ensuing fiscal year. The Commission shall hold a public hearing on its proposed budget no later than May 30th of each year.

- A. Prior to the public meeting on its budget, the Personnel Commission shall forward a copy of its proposed budget to the Board indicating the time, date, and place of the public hearing, and shall invite the Board and County Office Administrative representatives to attend the meeting and to present their views regarding the proposed budget. The Commission shall fully consider the views

and opinions expressed by the Board and administrative representatives in adopting its budget.

- B.** The Personnel Director shall forward the approved budget to the County Superintendent of Schools for action. If the County Superintendent of Schools proposes to reject the budget as submitted by the Personnel Commission, (s)he shall contract with the Office of Administrative Hearings of the State of California for an administrative law judge to conduct a public hearing on the proposed rejection. The administrative law judge shall render findings and any proposed amendments, if any, to the proposed budget. The Commission may accept or reject the findings and proposed amendments. If the Personnel Commission rejects the findings and proposed amendments, if any, of the administrative law judge, the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the Commission. **(Education Code Section 45253)**

20.16 ANNUAL REPORT OF THE COMMISSION

The Personnel Director shall prepare an annual report of the Commission's activities. The report shall be prepared for Commission approval as soon after each fiscal year as possible, and not later than the Commission's regularly scheduled meeting in November. When approved by the Commission, the annual report shall be submitted to the Board at a regular Board meeting for its review. **(Education Code 45266)**

20.17 LEGAL COUNSEL FOR THE PERSONNEL COMMISSION

The legal counsel for the Board of Education shall also aid and represent the Personnel Commission in all legal matters. If such counsel refuses, or if the Commission or legal counsel determines that a conflict of interest may exist, the Commission may employ its own legal counsel, and the reasonable costs thereof shall constitute a legal charge against the County Office's general funds.

CHAPTER 30
POSITION CLASSIFICATION PLAN

30.1 THE CLASSIFIED SERVICE

- A. Positions Included:** All positions established by the Superintendent which are not exempt from the classified service by law shall be part of the classified service. All employees serving in classified positions shall be classified employees. The employees and service shall be known as the classified service.
1. 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 by law shall be employed outside the classified service.
- B. Exemption from the Classified Service:** Positions required by law to have certification qualifications, full-time day students employed part-time, part-time students employed part-time in any college work study program or in a work experience program conducted by a community college district, apprentices, community representatives (as provided by Education Code 45258) and professional experts employed on a temporary basis for a specific project by the Board, Superintendent, or by the Personnel Commission when so designated by the Commission, shall be exempt from the classified service.
- C. Part-Time Defined:** A part-time position for the purpose of exemption under Rule 30.1:B is one for which the assigned time, when computed on a monthly basis, is less than eighty-seven and one-half percent (87.5%) time of the normally assigned time for the majority of employees in the classified service.
- D. Effect of Exemption:** Any position or employee exempted from the classified service by law shall be excluded from the benefits and burdens imposed by these rules, except as provided by law, the Board of Education, or these rules and regulations.
- E. Professional Expert Assignments:** When a professional expert assignment is to be made, the administration shall submit to the Personnel Director a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to the employee so assigned, nor shall a limited-term position be filled by the assignment of a professional expert if the duties and responsibilities to be performed by the person fit an existing class for which a reemployment or an eligibility list exists.
1. When the person is known who is to be employed as a professional expert, the person's name and information about his/her qualifications shall be submitted to the Personnel Director. In order to be exempted from the classified service, an individual must be recognized as a professional expert by reputable members of

his/her own profession. Evidence of professional qualifications must be presented to the Personnel Commission at the time that the written request for such temporary appointment is made.

Authorization for service as a professional expert shall not exceed one year unless extended by the Personnel Commission

F. Restricted Positions: If specifically funded programs restrict employment to persons who are disabled, low income, from designated impoverished areas, or who meet other criteria that limits the privilege of all citizens to compete for employment in those positions, then such positions shall be classified as "restricted."

1. Persons employed in "restricted" positions shall be classified employees for all purposes except: (1) They shall not attain permanent status; (2) They shall not be accorded seniority rights; (3) They may not serve as provisional employees; and, (4) They shall not be eligible for promotions within the classified service until they have complied with the provisions of Personnel Commission Rule 30.1:F.2.
2. Employees serving in "restricted" positions may, after completion of six (6) months of satisfactory service, be given the opportunity to take the next competitive examination that is given for the class in which they are serving. If an employee successfully passes the examination and attains placement on the eligibility list, as a result thereof, and regardless of his/her placement on the eligibility list, that employee shall be considered a part of the regular classified service and be accorded full rights, benefits, and burdens of a regular classified employee. Seniority rights shall be counted as of the date of the initial appointment to the restricted position.

30.2 GENERAL CLASSIFICATION RULES

A. Assignment of Duties: The Superintendent shall prescribe the duties and responsibilities of all positions in the classified service except those of the commission staff. The Superintendent may recommend the minimum educational work experience requirements for classified positions to the Personnel Commission. In approving minimum educational education and work experience requirements for classified positions, the commission shall insure that such requirements reasonably relate to the duties of the position as established by the Superintendent, and that they will admit an adequate field of competition. No requirements may be approved which unduly or unreasonably restrict the field of competition. The position duties shall be prescribed by the Superintendent and qualification requirements for the position class shall be prepared and approved by the Commission prior to issuance of an announcement calling for a competitive examination to fill the vacancies. (Education Code Section 45276)

B. The General Classification Plan: The Commission shall classify all employees and positions within the jurisdiction of the Superintendent or the Commission, except those positions which are exempt from the classified service. The Commission shall maintain a classification plan for all positions in the classified service, organized by class series and occupational hierarchy. The Commission may create new classes and abolish, divide, or combine existing classes within the classified plan as the needs of the classified service require (as determined by the Commission). The list of classes shall contain designation of the salary rate or range applicable to each class. For purposes of this rule, to "classify" shall include but not be limited to:

1. Allocation of all positions to classes.
2. Arrangement of classes into occupational hierarchies (job families).
3. Determination of reasonable relationships between classes within the occupational hierarchies.
4. Preparation of written class specifications.

C. Class Descriptions: For each class, the Personnel Commission shall establish and maintain a class specification which shall include:

1. The class title.
2. A definition of the class, indicating the type and level of job duties and responsibilities.
3. A statement of distinguishing characteristics which differentiates the class from other related classes in a job series.
4. A statement of examples of duties to be performed by persons holding positions allocated to the class.
5. A statement of qualifications for service in the class. The qualifications may include, but not be limited to education, experience, knowledge, skill, and ability.
6. A statement about any license, certificate, or other special requirements for employment in the class.
7. A statement about any physical requirements required of positions in the class.
8. Minimum qualifications shall not require a teaching, administrative, or other credential, nor may they require work experience which would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials.

D. Interpretation of Class Descriptions: The class specification and their various parts have the following force and effect:

1. The title of the class shall be used as the title of all positions in the class on payrolls submitted to the Commission for auditing.

2. Class descriptions are descriptive and explanatory only. They are not restrictive. They indicate the kinds of positions that are allocated to the respective classes but do not prescribe the duties and responsibilities of any position. The use of a particular expression or illustration in the examples of duties and responsibilities or other attributes typical or descriptive of the class does not exclude others not mentioned that are of a similar nature.
3. In determining the class to which any position shall be allocated, the description for each class is considered in its entirety and in its relation to others in the classification plan.
4. 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 qualifications of candidates seeking appointment, but does not require a particular form or content of test or testing procedure.
5. The following personal qualification requirements apply to all classes even though not necessarily specifically mentioned in a class specification; freedom from communicable diseases; ability to perform the duties of the class with or without reasonable accommodation, and without presenting a direct and imminent threat to the health and safety of others; dependability; sound judgment; ability to work cooperatively with others; and willingness and ability to assume the responsibilities and to conform to the conditions or work characteristics of a particular position.

E. Creation of New Positions: When the Superintendent creates a new position, it shall submit the duties officially assigned to the position, in writing, to the Personnel Director. The Superintendent may recommend minimum educational and work requirements for the position. The Personnel Director shall present recommendations to the Commission for action. The Commission shall:

1. Classify the position and determine whether the position should be allocated to an existing class or whether a new class should be established.
2. If a new class is recommended, the Personnel Director shall draft a classification description setting out the title, duties, qualifications, and other requirements. The qualifications approved by the Commission must reasonably relate to the duties assigned to the position by the Board.
3. The Commission shall designate the proper salary placement on the appropriate salary schedule.
4. The Personnel Director shall notify the Superintendent of the Commission's action.

- F. Allocation of Positions to Classes:** All positions which substantially consist of comparable duties, responsibilities, and qualifications shall be allocated to the same class.
- G. Changes in Duties of Positions:** Any substantial change in the duties of existing positions shall be promptly reported in writing to the Personnel Director, who shall conduct a review to determine whether the position should be allocated to a different class. Should a change in classification be warranted, the Personnel Director shall submit recommendations to the Personnel Commission for action.
- H. Working Out of Classification:** Each classified employee shall be required to perform the duties approved by the Superintendent and classified by the Commission for the class to which the employee is assigned. Employees shall not be required to perform duties and responsibilities which are not fixed and prescribed for their positions by the Superintendent for any period of time which exceeds five (5) working days within a fifteen (15) calendar day period, except as provided by this rule.

An employee may be worked beyond the scope of the duties normally assigned to that employee's classification provided that the employee's salary is adjusted as follows:

1. When an employee is assigned to work out of classification as described in Rule 30.2:H, the employee's salary shall be adjusted upward for the entire period worked out of classification.
2. Whenever an employee is assigned to perform all or a majority of the functions and duties of a higher classification, the salary shall be adjusted upward to the salary range of the higher classification, and to the step of that range that will provide the employee a maximum 5% salary increase. An employee may receive less than a 5% increase if the top step of the higher classification's salary range is less than 5% above the employee's regular salary. In the event that the first step of the higher class would provide a pay increase of more than 5%, then the employee will be placed on the first step of that range.
3. A differential pay request for working out of class must be submitted to the Personnel Director and must contain a list of the assigned duties and the duration for which the duties will be performed. A differential pay request may be submitted by an employee or a supervisor. The Personnel Director will notify the supervisor upon receipt of a request submitted by an employee. Requests for differential pay must be submitted at the time higher level duties are assigned.
4. The Personnel Director shall determine if the assigned duties are at a higher level and shall authorize a pay differential consistent with these rules.
5. If the Personnel Director's review determines that the assigned duties are not at a higher level, the Director shall notify the employee and the supervisor within 10 days after receiving the differential pay request and inform them of a right to appeal the decision to the Personnel Commission.

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

I. Review of Positions: The Commission shall maintain a system whereby classification review will be continuous. The Commission will conduct studies as it deems necessary to review classifications and maintain internal alignment in the classified service. The Personnel Director shall continually review the duties and responsibilities of positions as necessary to determine their proper classification. If the Director finds that a position or positions should be reclassified, the Director shall advise the administration of the findings. If the administration verifies the duties of the position, or if the duties are not revised to fit within the current classification, the Director shall report the findings to the Personnel Commission for appropriate action. The Personnel Director shall also report the findings in cases where the review indicates that a change of classification is unwarranted.

1. In accordance with Merit Rule 180.1 (B)(2), an employee may dispute the outcome of a classification review by notifying the Personnel Director in writing within 10 business days of the event causing the dispute. The employee or the employee's representative must include a description of the complaint, the desired outcome, and a justification.
2. The Personnel Director shall investigate the matter, formulate a recommendation, and present it at a meeting in closed session to the Personnel Commission for discussion and potential action.
3. The Personnel Commission shall consider all prepared material concerning the matter and render a decision, which will be final.

J. Positions Requiring Foreign Language Skills or Driver's License: The Superintendent may request that the Personnel Commission designate certain positions within a class or classes to require the holder of the position to possess an ability to speak, read, or write a language, including sign language, in addition to English or to possess a valid driver's license. Minimum qualification requirements shall be subject to approval by the Commission.

1. An announcement calling for an examination for a class with position(s) containing foreign language or driver's license requirements shall indicate that successful candidates possessing these special requirements will be given preference over other successful candidates, as authorized in Rule 60.2:F (Selective Certification), but only as to those specific positions.
2. When a vacancy occurs in a position that has approved special skill requirements, the administration shall notify the Commission as to whether or not special skill requirements continue to be part of the position.

3. If a request to designate a position in a class as requiring a special skill is challenged, the Personnel Director shall investigate the matter and present findings to the Personnel Commission prior to the Commission taking final action on the request. (Education Code Section 45277)

K. Confidential Designation: The Commission, pursuant to Government Code Section 3540.1 may designate certain positions Confidential. Employees filling positions designated Confidential, must, in the course of their duties, perform work including

compiling and preparing information used in formulating collective bargaining proposals; and maintaining documents, meeting minutes, and other materials relating to collective bargaining activities and formal grievance procedures.

30.3 RECLASSIFICATION

A. Reclassification Policy:

1. Request for a classification study of an existing position may be initiated by an employee, supervisor, department or division head, or by the Superintendent. It must be submitted in writing to the Personnel Director, together with a statement of the reasons for requesting such a study and a listing of all the duties being performed by the employee that are inconsistent with the employee's actual classification.
2. The basis for reclassification of a position shall be a gradual accretion of duties over at least a two (2) year period and not a sudden change occasioned by reorganization or the assignment of completely new duties and responsibilities. For purposes of these guidelines, two (2) or more years of regular service shall be interpreted to mean assignment for at least two (2) complete years within the higher classification.
3. "Gradual accretion of duties" is defined as a change in a position caused by the incremental performance of higher-level duties or responsibilities, or a gradual progression of scope and/or complexity of work performed. Determination of gradual accretion will be based on an analysis of data to be supplied by the department or division as well as the Commission Staff regarding the following guideline factors.
 - a. The nature and scope of each identified change in duties and responsibilities.
 - b. The exact or approximate date the incumbent began the performance of the newly acquired duties and responsibilities.
 - c. The conditions which led to the association of the added duties and responsibilities with the position(s).
 - d. Evidence of the employee's performance of the added duties and responsibilities.

- B. Effective Date of Reclassification:** Reclassification of a position shall become effective on the first work day following the day in which the action was taken and shall not be retroactive. A date shall be established for the qualifying examination to be completed for those incumbents who have not been in their positions for two years. The examination shall be held within three months of the date of the Commission's action. Incumbents who pass the qualifying examination shall be reclassified on the first working day following successful completion of the exam.

C. **Effects of Reclassification on Incumbents**: An employee who has been reclassified with his/her position shall be ineligible for subsequent reclassification with that position for a period of at least two years from the initial action.

1. **Reclassification Upward**: When all positions in a class are reclassified to a higher class, the incumbents of the positions who have been in the class for two or more years shall be reclassified with their positions without examination.
 - a. When one or more but not all positions of a class are reclassified to a higher class, an incumbent who has a continuous employment record of two or more years in one or more of the positions being reclassified shall be reclassified without examination.
 - b. Those incumbents that do not meet the criteria to be reclassified with their positions shall have an opportunity to participate in the Personnel Commission's qualifying examination process for promotion into the higher class.
 - c. A qualifying examination under this rule is defined as one in which only incumbents of reclassified positions may compete. They must meet the minimum qualifications, and the examination shall be rated as "passing" or "not passing" rather than scored relatively. Should an impacted employee fail the examination of the reclassified position, he/she may be grandfathered into the position he/she holds at the time. The Commission shall determine those instances when equity and the good of the service require the holding of such examinations.
 - d. An employee who is reclassified to a class allocated to a higher salary range shall be placed on the step of the new range which will provide a full step increase.
2. Incumbents of positions reallocated to a class of the same level shall be granted status in the new class without further examination.
3. **Reallocation Downward**: When a position or group of positions is reallocated to a class with a lower salary range, an incumbent shall have the following rights:
 - a. 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.
 - b. The right to bump the employee with the least seniority in any equal or lower class in which the incumbent formerly served provided that the incumbent had greater seniority in the class.
 - c. The right to be demoted or to transfer, without examination, to the class to which his/her position is reallocated.
4. Notification of a recommendation for the classification, reclassification or reallocation of a position or employee shall be given to the employee(s) affected,

their exclusive representative, the employee's supervisor, and the District Administration before the classification proposal is adopted by the Personnel Commission.

- 5. Reemployment List for Displaced Incumbents:** Any displacement of a regular employee resulting from a reclassification or reallocation 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. These rules shall be followed in all instances of reclassification, reallocation or classification whether it results in upgrading, downgrading, lateral class movement, bumping, or complete displacement of incumbents.

The reclassification of all positions in a class automatically reclassifies the mandatory reemployment list (if any) for that class. The Personnel Commission shall also review the appropriateness of the current eligibility list for the class to determine whether or not it should be reclassified.

Persons laid off because of a reallocation or reclassification are eligible for reemployment for a period of thirty- nine months, except that those who take a voluntary demotion or voluntary reduction in assigned time in lieu of layoff are eligible for reemployment for thirty-nine months plus an additional 24 months. Those on the reemployment list shall be reemployed in preference to new applicants. In addition, such laid- off persons have the right to participate in promotional examinations within the District during their reemployment period.

(Education Code Section 45285)

30.4 SENIOR MANAGEMENT POSITIONS

- A. Superintendent May Designate Positions as Senior Management:** The Superintendent may adopt a resolution designating certain positions as senior management of the classified service. Notwithstanding the provisions of Chapter 10.7 of Division 4 of Title 1 of the Government Code (the Rodda Act), the decision of the Superintendent shall not be deemed a matter subject to negotiation with any exclusive certified employee organization. The decision of the Superintendent to make a position senior management shall be subject to review by the Public Employment Relations Board.
- 1.** No position funded in whole or in part by the Commission shall be made a part of the senior management of the classified service by the Superintendent without the concurrence of the Commission.
- B. Senior Management Part of the Classified Service:** Employees whose positions are designated as senior management of the classified service shall be part of the classified service and shall be afforded all rights, benefits, and burdens of other

classified employees, except that they shall not attain permanent status in a senior management position.

C. Definition of Senior Management: Positions designated senior management must conform to either of the following two definitions in order to be declared senior management of the classified service:

1. An employee in the highest position in a County Office program area, as determined by the Superintendent, which does not require certification qualifications, and which has district wide responsibility for formulating policies or administering the program area.
2. An employee who acts as the fiscal advisor to the County Superintendent of Schools.

D. Filling Senior Management Positions: Positions in the senior management of the classified service shall be filled from an unranked eligibility list developed by the Personnel Commission and arrived at by competitive examination(s) determined by the Commission.

1. The examination shall include test segments that will allow the candidates to demonstrate managerial ability.
2. The appointing authority shall have the right to interview all eligible candidates certified by the Commission from the unranked list.

E. Abolition of Senior Management Positions: The Superintendent may adopt a resolution abolishing any or all positions in the senior management of the classified service. An employee occupying a senior management position abolished by the action shall become a member of the classified or certificated service in a position to which (s)he would otherwise be entitled if the employee had not been a member of the senior management of the classified service.

1. If the employee in the senior management of the classified service had been a member of the regular classified or certificated service, (s)he will be entitled to a position which is the same as, or similar to, the position to which (s)he holds rights outside of the senior management of the classified service.

F. Notification of Reassignment or Dismissal: Notice of reassignment or dismissal from a position in the senior management of the classified service shall be provided in accordance with the following provisions:

1. The Superintendent, with consent of the employee concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, a member of the senior management of the classified service; and reemploy the employee, on those terms

and conditions as may be mutually agreed upon by the Superintendent and the employee, for a new term to commence on the effective date of the termination of the existing term of employment and contract.

2. In the event the Superintendent determines that an employee in the senior management of the classified service is not to be reemployed upon the expiration of the employee's term, (s)he shall be given written notice thereof by the Superintendent at least forty-five (45) calendar days in advance of the expiration of the employee's term.
3. In the event the Superintendent fails to reemploy an employee of the senior management of the classified service and the written notice required in Rule 30.4:F.2 has not been given, the employee shall be deemed reemployed for a term of the same length as the one just completed, and under the same terms and conditions and with the same compensation.
4. Maximum Number of Positions: The maximum number of positions which may be designated as senior management positions shall be as follows:
 - a. Less than 10,000 units of average daily attendance -- two positions.
 - b. 10,001 to 25,000 units of average daily attendance inclusive -- three positions
 - c. 25,001 to 50,000 units of average daily attendance inclusive -- four positions
 - d. 50,001 plus units of average daily attendance -- five positions

30.5 EXECUTIVE SECRETARY EXEMPTIONS

- A. **Board May Request Exemptions for Executive Secretaries:** Upon the request of a majority of the members of the Board, the Commission may exempt one or more executive secretarial positions from specific provisions of the Education Code and the Personnel Commission Rules and Regulations.
- B. **Executive Secretaries Part of the Classified Service:** Any person employed in an exempt executive secretarial position shall continue to be afforded all of the rights, benefits, and burdens of any other classified employee serving in the regular classified service of the Office, except that the employee shall not attain permanent status in an executive secretarial position.
- C. **Definition of an Executive Secretary:** Positions designated as Executive Secretary by the Personnel Commission and thus exempt under provisions of Rule 30.5 shall be limited to executive secretarial positions reporting directly to members of the Board, the Superintendent, or not more than four (4) principal deputies of the Superintendent, or all of these positions.
- D. **Filling Executive Secretary Positions:** Positions declared by the Personnel Commission as Executive Secretary shall be filled from an unranked list of eligible

candidates arrived at by qualifying examinations determined by the Commission. The appointing authority shall have the right to interview all eligible candidates certified by the Commission.

- E. **Discontinuance of Executive Secretary Services:** Any person whose services in an executive secretarial position are discontinued for a cause other than a cause for disciplinary action specified by the Education Code or in the Rules and Regulations, shall have the right to return to a position in a classification the employee previously occupied or, if that classification no longer exists, in a similar classification as determined by the Personnel Commission.
- F. **Notification of Discontinuance of Service:** In the event the Board determines that an employee serving in an exempt executive secretarial position is not to continue in that position (except for disciplinary causes outlined in the Education Code or these Rules and Regulations), the impacted employee shall be given written notice thereof by the Board at least 45 calendar days in advance of the last day in paid status in the exempt position. Such notice must be served in writing, in person, or by certified mail.

CHAPTER 40

APPLICATION FOR EMPLOYMENT

40.1 APPLICATION

A. Filing of Applications: All applications must be made on official forms provided by the Personnel Commission Office. The application must be filled out as directed and filed in the Personnel Office in accordance with instructions contained in the examination announcement.

1. Applicants taking more than one examination must file a separate application for each examination unless otherwise directed.
2. For affirmative action and federal/state reporting purposes, questions about ethnicity and sex shall be placed on a separate form. Answers to such questions shall be voluntary.
3. Applications and examination papers are confidential records of the Personnel Commission and will not be returned to the applicant.
4. The application form shall require that each applicant indicate whether or not (s)he has been convicted of a crime. If an applicant states that (s)he has been convicted of a crime, then such applicant shall be required to provide the Commission with detailed information concerning all conviction. An applicant may be disqualified based on a conviction as set forth in Rule 4.02.
(Education Code Sections 45260, 45272)

B. General Qualifications of Applicants: Applicants must be able to prove their right to work in the United States, and prove their identity in accordance with the requirements of federal law (Immigration and Control Act). Applicants must possess all job qualifications adopted by the Commission for the class, and be able to perform all essential functions unaided or with the assistance of reasonable accommodation.

1. Every qualified applicant shall have the opportunity to seek, obtain, and hold permanent employment without discrimination because of race, sex, religious creed, color, national origin, ancestry, age, disability, medical condition, sexual orientation, marital status, registered domestic partner status, gender identity or political affiliations.
2. Residency within the district shall not be a condition for filing applications or offering employment except for restricted positions which require specific residency.
3. No maximum age limit shall be set as a condition for initial or continued employment. (Education code Sections 4511, 45134, 45260, 45272; Government Code Sections 12921, 12926, 12940)

40.2 DISQUALIFICATION OF APPLICANTS AND CANDIDATES

A. Causes for Disqualification: The Personnel Director may refuse to examine an applicant, or after examination may withhold from certification from an eligibility list, the name of any applicant for any of the following reasons:

1. Failure to meet the general qualifications of Rule 40.1:B and following.
2. Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form.
3. Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the Office of Education under these rules.
4. Previous dismissal from the Office of Education.
5. A record of unsatisfactory service with the Office of Education as evidenced by documented unsatisfactory job performance, a record of disciplinary action, or a resignation in lieu of dismissal.
6. Practicing any deception or fraud in connection with an examination or to secure employment.
7. Possession of a disability or health condition which would render a candidate unable to perform the essential functions of the job with reasonable accommodation, or would endanger his/her health and safety or the health and safety of others.
8. A history of alcohol or drug addiction without acceptable evidence of rehabilitation.
9. Conviction, either by a plea of guilty or *nolo contendere*, a court decision, or a jury verdict of a charge of a sex offense as defined in Education Code Section 44010.
10. Conviction, either by a plea of guilty or *nolo contendere*, a court decision, or a jury verdict of a charge of a controlled substance offense in accordance with Education Code Section 45123, and defined in Education Code Section 44011.
11. Conviction, either by plea of guilty or *nolo contendere*, a court decision, or a jury verdict of a felony or serious misdemeanor crime or a record of one or more convictions which would indicate that the person is a poor employment risk. A conviction record will be evaluated on the following basis: nature, seriousness and circumstances of the offense(s); age of the person at the time

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

12. Dishonorable discharge from the Armed Forces of the United States.
13. Refusal to furnish testimony, other than self-incriminating, at a hearing before the Personnel Commission or the Board of Education.
14. Failure, after due notice, to report for review of any of the above causes for disqualification.
15. Failure to report for duty after an assignment has been offered and accepted.
16. Health conditions which clearly indicate that the applicant or candidate would be unable to perform the essential functions of the job with or without reasonable accommodation or would endanger his/her health and safety or the health and safety of others.
17. Any or all causes set forth in the Education Code, or other causes deemed sufficient by the Commission. (Education Code Sections 45111, 45122, 45123, 45124, 45134, 45260, 45261, 45303)

B. Appeal From Disqualification: Any applicant, candidate, or eligible disqualified based on Rule 40.2 and following shall be notified, in writing, indicating the reasons for disqualification and advising the individual that (s)he has five (5) working days from receipt of notification to appeal in writing the decision to the Personnel Director.

1. Anyone who has appealed a disqualification shall conditionally be permitted to take an examination pending final decision.
2. If after an administrative review by the Personnel Director the rejection is sustained, the individual shall be given a written notice outlining the reason(s) for sustaining the rejection and informed of his/her right to make a written appeal of the rejection within five (5) working days to the Commission.
3. Upon receipt of an appeal, the Commission shall set a date for a hearing, hear all the evidence, and render a decision. The Commission's decision shall be transmitted in writing to the individual and shall be final and binding on all parties.

4. If a rejection is not sustained by the Personnel Director or the Commission, the Personnel Director shall institute immediate action to ensure the rights of the applicant, candidate, or eligible as if the rejection had not been made. Appointments may be made from available eligibles pending final decision on the appeal (unless ordered otherwise by the Commission) and shall not be changed even though the outcome is in the appellant's favor. (Education Code Sections 45260 and 45261)

C. Applicant's Names Not Made Public: The names of applicants or unsuccessful candidates in any examination shall not be made public.

D. Submitting Proof of Veterans Credit: Any applicant who claims veterans' preference credit must submit Form DD214 at the time the employment application is submitted. Failure to submit Form DD214 at the time of application shall result in no veterans' credits being added to any passing score.

40.3 EQUAL EMPLOYMENT OPPORTUNITY

A. Equal Employment Opportunity: San Mateo County Office of Education is an equal opportunity employer and is committed to implementing a policy of nondiscrimination in all aspects of employment. The Personnel Commission shall ensure that all classified employment decisions, including but not limited to those involving recruitment, examination, hiring, promotion, compensation, benefits, and transfer, are made without regard to race, ancestry, national origin, age, color, creed, religion, sex, gender identity or expression, sexual orientation, marriage status, medical condition, physical or mental disability, genetic characteristics, or veteran status.

(California Fair Employment and Housing ACT; SMCOE Board Policy 4510)

CHAPTER 50

RECRUITMENT AND EXAMINATIONS

50.1 RECRUITMENT

A. Announcement of Examinations: The Personnel Commission shall direct and administer the holding of examinations for the purpose of filling vacancies or creating job eligibility lists for the classified service.

1. No examination and no part of any examination may be held for a new position until the Board has authorized the position duties and the Commission has allocated the position to a job classification. (Note: A newly created position is one which does not have a previously separate existence.)
2. Whenever it is necessary to fill existing or anticipated vacancies and an appropriate eligibility list does not exist, the Personnel Director shall prepare an employment opportunities bulletin which shall be distributed to all employee work sites and community locations. The Personnel Director will mail or electronically send employment opportunity bulletins to community agencies and organizations supporting women, minorities, and the disabled, and military veterans.
3. The employment opportunity bulletin shall contain the title of the class and shall include the following:
 - Information concerning the location of employment, the expected number of vacancies, and other conditions of employment.
 - Information about the field of competition (promotional only, open, open and promotional.)
 - A description of essential duties and responsibilities of the class.
 - The qualifications and requirements of the class.
 - The salary, benefits and other compensation.
 - The closing date for filing applications.
 - The types of examinations to be given.
 - Such other information as will assist employees and the public in understanding fully the nature of the employment and procedures necessary to participate in the examination. (Education Code Sections 45260, 45261, 45272, and 45278)

50.2 EXAMINATIONS

A. Determination of Examinations: The Personnel Director shall determine the standards of proficiency to be required for each examination and shall determine whether the examination shall be:

1. Open Competitive
2. Promotional
3. Promotional and Open Competitive with the Promotional list taking precedence.
4. Merged (Dual Certification)
5. Continuous

B. Open Competitive Examinations: The entry level classification (class lowest in hierarchy within each job family) within the classified service shall always have an open competitive examination and veteran's preference points shall be allowed as specified in Rule 50.2:N. These examinations shall be open to all qualified applicants.

C. Promotional Examinations: Where an adequate field of competition exists within the Office, and examinations can reasonably be expected to result in three (3) qualified ranks of eligibles, the field of competition shall be limited to promotional applicants.

1. Promotional examinations shall be restricted to permanent employees of the Office and former employees on a valid reemployment list who meet the qualifications of the class.

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

1. This examination procedure shall result in a promotional and open eligibility list. The promotional list shall take precedence when certifying eligibles. When the promotional eligibility list does not contain sufficient ranks of eligibles (defined as having fewer than three (3) eligible and willing employees), certification of additional ranks shall then be made from the open list. Example: Only two eligible employees are on the promotional list and there is a valid open list. The top ranking candidate on the open list will be merged with the promotional list candidates to form an open and promotional list of three ranks.
2. To obtain placement on the promotional list, a permanent employee must achieve a minimum score of 80 percent on each individual part of an examination, except for performance tests which are scored on a pass/fail basis. Permanent employees that pass an examination but do not achieve the cutoff score as described herein shall be placed on the open eligibility list in accordance with their overall rank.
3. While an employee is in probationary status, he/she may apply for any other classified position for which he/she is qualified. If the employee is admitted to the examination process and passes all examinations administered, he/she shall be placed on the Open

eligibility list in accordance with his/her overall ranking, and his/her name shall be certified in accordance with the rule of three ranks. If the employee is selected off the Open List in accordance with these rules, the employee shall begin a new probationary period in the new classification.

E. Merged (Dual Certification)

An examination may be held under merged promotional and open competitive procedures. The resulting eligibility list shall consist of promotional and open competitive candidates merged on one eligibility list. Scores on this type of list shall include all applicable veteran's preference points for open candidates and seniority credit points for promotional candidates.

Education Code: 45284

F. Continuous Examinations: The Commission may designate examinations for specified classes as continuous examinations. Applications shall be accepted every working day and examinations shall be given as the need arises.

1. A candidate who is unsuccessful on a written examination may not retake the same examination for the same classification for a period of 60 calendar days. (Education Code Sections 45260, 45261, 45272, 45273, 45284, 45292)

G. Types of Examinations: Examinations shall be conducted by the Commission's staff, administered objectively, and consist of test parts that relate to job performance. Test components may include any of the following:

1. Written examination.
2. Practical demonstration of skill.
3. Evaluation of applicants' training and experience.
4. Evaluation of training, education, and experience by qualifications appraisal interview panel.
5. Other tests of fitness determined by the Commission. (Education Code Sections 45260, 45273)

H. Scoring and Weighting of Tests: All examination parts shall be prepared under the direction of the Personnel Director who shall determine passing scores and assign impartial percentage weights to each part. (Education Code Sections 45260, 45261)

I. Qualifications Appraisal Interview Examination: If the examination requires the use of a Qualifications Appraisal Interview Panel, the Personnel Director shall assure that the following rules are followed:

1. The panel shall consist of at least two (2) persons.
2. An employee of the Office of Education or of the Personnel Commission may serve on an interview panel if that employee is not at the first or second level of

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

3. Unless specifically directed to evaluate candidates' technical knowledge and skills, the interview panel shall confine itself to evaluating general fitness for employment in the class.
4. When the interview panel is directed to evaluate technical knowledge and skills, at least two (2) members of the panel shall be technically qualified in the specified occupational areas under examination.
5. Members of the Board of Education or Personnel Commission shall not serve on an interview panel.
6. Interviews shall be electronically recorded and filed in the Commission Office.
7. Scores achieved by the candidate on other parts of the examination shall not be made available to the interview panel.
8. Oral board panelists shall not be provided with confidential references on applicants who are competing in examinations.
9. In interview panel examinations, ratings accorded competitors shall be expressed in percentages with 70% being the minimum qualifying rating. Ratings shall be made independently by each interviewer. Ratings shall be made on forms prescribed by the Personnel Director, which shall be signed by the interviewer. When a competitor does not receive the minimum qualification rating by a member of the Qualifications Appraisal Interview Board, the member shall make a record of the reasons(s) on the rating sheet.
10. The ratings of Qualifications Appraisal Interview Board members shall be averaged to determine each candidate's final rating. If the majority of the rating panel gives a candidate a score of at least 70%, but the final averaged score is below 70%, the candidate shall be given a final rating of 70%. If the majority of the rating panel gives a candidate a score below 70%, but the final averaged score is above 70%, the candidate shall be disqualified regardless of the fact that his/her average rating may be 70% or more. If the panel is comprised of only two (2) members, the final score shall be the average of the two (2) raters.
(Education Code Sections 45260, 45273)

J. Evaluation of Training and Experience: If part of the examination is an evaluation of the applicant's training and experience, the evaluation may be conducted by Personnel Commission staff or a subject matter expert(s) that is technically qualified in the occupational field for which applicants are being evaluated.
Application screening

committee members shall not serve on the qualification's appraisal board. The scoring of an evaluation of training and experience is typically on a pass/fail rating, but the Personnel Director may determine the weight and the passing scores of the training and experience evaluation. The Personnel Director and/or Commission staff may screen applications to determine if applicants meet the minimum requirements posted on a job announcement, and invite those who do to the next part of the employment examination process. (Education Code Section 45260)

K. Admission to Examinations: Each applicant whose application has been accepted shall be given reasonable advance notice of the date, time and place of the examination. The exam notice shall be the applicant's authorization to take the examination. No candidate may be admitted without such authorization or other satisfactory evidence of having filed an acceptable application. (Education Code Sections 45260, 45261)

L. Written Examination Procedures: Competitors in any written test must take the examination on the prescribed date unless approved by the Personnel Director. The Personnel Director may approve alternate examination dates and times for individual job candidates to accommodate disabilities or emergencies that arise on the date of the scheduled examination, or for any other reason that may be warranted.

1. Written examinations shall be so managed that none of the written examination papers shall disclose the name of any competitor until all examination papers of all competitors in a given examination have been marked and rated.
2. A competitor in any examination who places an identifying mark upon his/her test papers (other than the identifying mark prescribed at the time of the examination) or attempts to disclose to others the identity of his/her papers prior to the completion of the examination may be disqualified.
3. The content of pending examinations shall be maintained under strict security. Security shall not be lifted until the beginning of the examination and then only in the presence of the competitors and by an authorized Personnel Commission staff member.
4. Instructions about the examination shall be in English, unless otherwise indicated, and made under uniform circumstances for all competitors. Examiners shall not explain questions or make remarks relating to any question that may assist in its solution.
5. Communication among competitors during an examination is strictly prohibited. Before the commencement of an examination, competitors shall be required to turn in to the examiner any materials in their possession which might aid them in the examination, unless such materials are expressly permitted as part of the examination process. Evidence of copying or collusion by a competitor may result in the cancellation of his/her participation in the examination.

6. Copies of the questions in the test shall not be made by competitors or taken from the examination room. (Education Code Sections 45260, 45261, 45273)

M. Rating Required: All examination papers shall be marked and graded under the direction of the Personnel Commission staff.

1. Competitors may be required to attain a designated minimum score on each part of an examination, or in combined parts of the selection process, in order to qualify.
2. The determination of minimum qualifying scores on written examinations shall be made before any examination papers are identified.
3. 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 on the eligibility list. (Education Code Sections 45260, 45261, 45273)

N. Seniority Credit: Seniority credit shall be added to the final passing scores of permanent employees of the Office, or who are on a reemployment list, in the amount of $\frac{1}{4}$ of one point for each full year of service, not to exceed a total of five (5) points. A full year's credit shall be granted to employees whose regular position is assigned on a less than a full calendar year basis or less than an eight (8) hour day. Former employees who elect to take examinations for employment with the Office of Education after a separation of more than 39 months shall not receive seniority credit for prior year's service. (Education Code Sections 45260, 45261, 45272)

O. Veterans Preference: A veteran, as defined in this rule, shall mean an individual who has served at least thirty (30) days of active duty in the United States Armed Forces in time of war or national emergency declared by the President of the United States, and who has been discharged or released under conditions other than dishonorable. "Armed Forces" means the United States Air Force, Army, Navy Marine Corps, or Coast Guard.

1. Veterans, except disabled veterans, who become eligible for appointment by attaining the passing mark established for entrance examinations, shall be allowed an additional credit of five (5) points which shall be added to the final score attained in the examinations.
2. Disabled veterans shall have an additional ten (10) points added to their final score for entrance examinations. A disabled veteran is an individual classified by the U.S. Veteran's Administration to be ten percent (10%) or more disabled as a result of service in the Armed Forces of the United States.

3. Veterans may receive service credit on their final scores on examinations taken for all positions within the classified service except for those classified as management.
4. Veterans must submit proof of service (DD214 forms) prior to taking examinations. (Education Code Sections 45260, 45261, 45294, 45295, 45296)

P. Notice of Examination Results: As soon as the scoring of an examination has been completed and the eligibility list established, each competitor shall be notified by mail or e-mail of the results of the examination. (Education Code Sections 45260, 45261)

Q. Violation of these Examination Rules/Laws: Whenever the Personnel Commission, after a public hearing, finds that any appointment has been made in violation of the Education Code provisions of the Merit System, or these rules as they apply to examination procedures, the Commission may order that no salary warrant shall thereafter be drawn to the employee so appointed for services rendered after the date of said order. Any violation of the Merit System sections of the Education Code or the rules of the Personnel Commission as they apply to examination procedures shall constitute grounds for the dismissal of the employee or employees guilty of such violation. (Education Code Sections 45310, 45311)

50.3 REVIEW AND PROTEST OF EXAMINATIONS

- A. Retention of all Examination Records:** Examination records, including test answer sheets, tape recordings of interviews and the rating sheets of oral board panel members shall be retained by the Personnel Commission for one (1) year. (Education Code Section 45274)
- B. Examination Records shall be Confidential:** Records including identifiable ratings of oral panel members or confidential references of previous employers shall not be available for reviews. (Education Code Section 45274)
- C. Availability for Review:** Notification of test results shall be provided to candidates as soon as practicable following administration of the test. A keyed copy of a written examination will be available for review for one (1) business day on the first business day following the examination date. At the time of review, the candidate may protest in writing any part of the examination, outlining the basis for the protest and stating the remedy sought. No candidate may remove or copy information from the examination materials. (Education Code Section 45274)
- D. Failure to Protest:** Failure to review or file a protest with the Personnel Director within the review period shall constitute a waiver of right to appeal that part of the selection process. (Education Code Sections 45260, 45261)

- E. Personnel Director Shall Review All Protests:** The Personnel Director shall review and act upon all protests. The Director may allow more than one (1) answer to a question or may disqualify a question if the protest is valid. If a protest results in any change, the test papers of all candidates will be reviewed and re-scored accordingly. (Education Code Sections 45260)
- F. Appeal to Commission:** The Personnel Director shall inform the candidate who has submitted the protest of his/her decision. That decision shall be in writing and served in person or by certified mail to the applicant. This requirement will be deemed to have been met if the Personnel Director's decision is sent certified mail to the last known home address on file in the Personnel Commission office. Failure of the applicant to retrieve delivered mail shall not be grounds for voiding notification, or the staying of timelines outlined in these rules. The responsibility for keeping the district informed of a home address is the requirement of the applicant. For purposes of this rule, if a notice is mailed, the fifth day following the postmark date of the notice shall be considered to be the official date of receipt. Should the Personnel Director rule against the protest, that decision may be appealed to the Personnel Commission. However, the filing of such an appeal shall not stop or otherwise delay the selection (examination) process unless so ordered by the Personnel Commission.
1. Appeals to the Personnel Commission shall be submitted in writing to the Personnel Commission within three (3) working days of receipt of the decision of the Personnel Director.
 2. The Personnel Commission shall hold a hearing to hear the appeal of the applicant. The decision of the Personnel Commission shall be in writing and provided to the applicant using the procedures outlined in Rule 50.3:F. The decision of the Personnel Commission shall be final and binding on all parties. (Education Code Section 45260)

CHAPTER 60 ELIGIBILITY FOR EMPLOYMENT

60.1 ELIGIBILITY LISTS

A. Establishment and Life of Eligibility Lists: After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable. The completed list constitutes an eligibility list for that class upon signature of the Personnel Director.

1. Unless specifically authorized in these rules, all appointments to positions in the Classified Service shall be made from eligibles whose names appear on the eligibility lists. The Personnel Director shall be responsible for establishing eligibility lists as a result of examinations authorized by these rules.
2. Except as provided in Rule 60.1:A.4 an eligibility list shall remain in force for one year, unless an extension of time not to exceed one year is authorized by the Commission.
3. When fewer than three (3) ranks of available eligibles remain on an eligibility list, and the appointing authority has requested certification of additional eligibles, the list may be terminated by the Personnel Director.
4. The Commission may approve the establishment of an eligibility list for a period of six (6) months when announced on the recruitment bulletin for the examination. (Education Code Sections 45260, 45261, and 45272)

B. Contents of Eligibility Lists: An eligibility list shall contain:

1. The type of eligibility list: open, promotional, open and promotional, or continuous.
2. The names of all eligibles in rank order of total examination scores.
3. The adjusted scores of each part of the examination and the weight assigned to that part of the examination.
4. The dates examinations were given, and the weight assigned to each part of the examination plus additional points where applicable.
5. The expiration date of each person's eligibility.
6. The signature of the Personnel Director attesting to the accuracy of the information on the eligibility list. (Education Code Sections 45260, 45261, and 45272)

C. Promotional Lists: The names of competitors who are successful in promotional examinations as provided by these rules shall be placed on a promotional eligibility list for the class for which such examination is held. A promotional list shall take precedence over an open competitive list. An employee who leaves the service, except by layoff, shall be considered as having relinquished his/her right to promotion and the former employee's name shall be stricken from such promotional eligibility list.

1. When an open and promotional examination is given at the same time, a promotional candidate who does not obtain a qualifying score for placement on the promotional list, but does obtain a score of 70 percent or higher may be placed on the open list. (Education Code Sections 45260 and 45261)

D. Merger of Eligibility Lists: If a new examination for a class is given during the first year of the life of the 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.

1. When lists are merged under this rule, the earlier list shall be terminated one year after its establishment and those eligibles' names shall be removed from the consolidated list, except when the earlier list is extended. (Education Code Sections 45291 and 45300)

E. Reemployment Lists: There shall be established for each class, as necessary, a reemployment list which shall take precedence over all other employment lists in filling vacant positions. The list shall contain the names of all regular classified employees who have been laid off or demoted from any position because of lack of work or lack of funds.

1. The life of the reemployment list for persons laid off shall be thirty-nine (39) months.
2. Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall retain eligibility for reemployment for an additional period of twenty-four (24) months, provided the same tests of fitness under which they qualified for appointment still apply, as determined by the Personnel Commission. (Education Code Section 45298)

F. Termination of Eligibility Lists: An eligibility list is automatically terminated one (1) year from the date of its approval unless extended by the Commission, except that lists established under Rule shall terminate six (6) months from the date of approval.

1. An eligibility list is automatically terminated when no eligibles remain on the list.
 2. The Personnel Director may terminate an eligibility list prior to its expiration when no eligible is available for appointment to a specific permanent position in a class or when there are fewer than three (3) eligibles remaining on the list. Candidates on such lists shall be notified of the proposed termination. The exception to this rule will apply if a promotional list has less than three names remaining on the list, but an open eligibility list exists. In this case, the Personnel Director will continue to certify three ranks by merging the remaining promotional employees on to the open list. The Personnel Director will then certify the top three ranks of eligibles from the newly combined promotional/open list to the appointing authority for selection.
 3. The Personnel Commission may terminate an eligibility list on the recommendation of the Personnel Director and Superintendent. (Education Code Sections 45260, 45261, and 45298)
- G. Eligibility After Appointment:** An eligibility list shall be used for regular full-time, part-time, and limited term assignments in the class. An eligible who accepts a part-time assignment shall continue to be eligible for full-time employment, and an eligible who accepts limited term assignments shall continue to be eligible for regular full or part-time employment. (Education Code sections 45286 and 45300)
- H. Waivers of Certification:** An eligible may waive appointment after certification to permanent part-time or full-time positions by filing a written statement in the Personnel Commission Office.
1. An available eligible may waive certification once without penalty. At the time a second waiver is made by an eligible, the eligible will be informed that his/her name will be removed from the eligibility list. (Education Code Sections 45260 and 45261)
- I. Removal of Names From Eligibility Lists:** The name of an eligible may be removed from an eligibility list by the Personnel Director for any of the following reasons:
1. Failure to respond within five (5) business days following the mailing of an inquiry regarding availability for employment.
 2. Any of the causes listed in Rule 40.2.
 3. Failure to keep a scheduled interview after certification.
 4. Failure to report for duty at any time agreed upon after having accepted an appointment.
 5. Failure to present a license, registration, certificate or other credential required.

6. Termination of an employment (promotional eligibility list only).
 7. Two (2) waivers of certification during the life of the eligibility list, except that waivers relating to part-time or limited-term appointments should not be counted for the purpose of this rule.
 8. A written request by the eligible for removal.
 9. Failure of the applicant to keep their address and telephone number information current with the Personnel Commission. (Education Code Sections 45260 and 45261)
- J. Notification to Eligible of Removal From List:** The Personnel Director shall notify the eligible of the action and the reasons therefore and shall provide the person with the opportunity to appeal the decision to the Personnel Commission within five (5) days of notification. The decision of the Commission is final. (Education Code Sections 45260 and 45261)
- K. Inactive List:** An eligible who is not available for immediate certification shall be placed, upon written request, on an inactive list. The eligible may be restored to the active list from which their name has been removed, upon written request, provided the list is still in existence or at the discretion of the Personnel Director. (Education Code Sections 45260 and 45261)

60.2 CERTIFICATION FROM EMPLOYMENT LISTS

- A. Appointing Authority:** The appointing authority shall be the Superintendent and his/her designated managers except that the Personnel Commission shall be the appointing authority for employees assigned to the Personnel Commission. (Education Code Sections 45260 and 45264)
- B. Order of Precedence in Filling Vacancies:** Certification for filling vacancies in the Classified Service shall be made in the following order:
1. **Reemployment List:** Persons previously laid off because of lack of work, lack of funds, or exhaustion of medical leave privileges shall be assigned to vacant positions in order of seniority.
 2. **Voluntary Demotion/Lateral Transfer/Reinstatement:** All qualified persons requesting increase or decrease in hours, voluntary demotion, lateral transfer or reinstatement shall be certified in addition to eligibles from eligibility lists established by competitive examination.

3. **Promotional Eligibility List:** When the vacancy is not filled through the procedures listed above, the top three (3) ranks of available eligibles shall be certified.
 4. **Open Competitive List:** When the vacancy cannot be filled from the promotional list, the top three (3) ranks of available eligibles on the open or merged promotional/open competitive list shall be certified. (Education Code Section 45272)
- C. **Rule of Three Ranks:** Eligibles shall be placed on the eligibility list in rank order according to their score on the examination. The final scores of candidates shall be rounded to the nearest whole percent. All eligibles with the same percentage score shall be placed in the same rank. Certification from the list shall be the first three (3) ranks of eligibles who are ready and willing to accept the positions to be filled.
1. For classes approved for continuous testing, certification shall be made at the time the Personnel Director can first reasonably certify three ranks of eligibles to the appointing authority. (Education Code Section 45272)
- D. **Certification and Appointment from Eligibility Lists:** When a new position is to be filled, the appointing authority shall notify the Personnel Director of the date of anticipated need. The employment request shall state the duties, class title, hours, and location of employment and other pertinent information required by the Personnel Director. The Personnel Director shall ensure that the Board of Education approves the duties to be assigned the position, and the Personnel Commission classifies the position under a new or existing job description before certifying an eligibility list to fill the vacancy.
1. When a vacancy occurs in an established position, the appointing authority shall complete and submit to the Personnel Director a "Personnel Requisition Form".
 2. The Personnel Director shall determine the availability of eligibles and shall certify the names of all eligibles who are ready and willing to accept the position. Certification shall be in accordance with Rule 60.2 B and C.
 3. The appointing authority shall within fifteen (15) business days after certification of the eligibility list, interview and make a selection from the candidates presented and shall notify the Personnel Director who shall see that the necessary employment procedures are carried out.
 4. The appointing authority may arrange for the assignment of a certified eligible on a temporary basis so long as the timeline for making an appointment is not exceeded. The candidate may waive appointment without penalty if assignment under this rule is not satisfactory to the candidate.

5. If a candidate who was declared eligible for appointment to a position fails to keep an interview appointment or declines the appointment, the appointing authority may fill the vacancy from the remaining eligibles or may request certification of additional eligibles in accordance with Rule 60.2:C. (Education Code Sections 45260, 45261, 45272, and 45277)

E. Procedure When Fewer Than Three Ranks Remain: When fewer than three (3) ranks of eligibles are available on a promotional list, sufficient names shall be certified from an open competitive list to allow a choice among three ranks of eligibles.

1. When fewer than three (3) ranks of eligibles are available for certification, the eligibles may be certified. However, the appointing authority may choose not to appoint any of them and may request additional eligibles.
2. When fewer than five eligibles are available for certification, the candidates may be certified; however, the Personnel Director may require a new examination. (Education Code Section 45272)

F. Failure to Make an Appointment: Should the appointing authority fail to select a candidate from the top three ranks of eligibles as certified by the Personnel Director, the Personnel Director shall direct that the position be vacated (if there is a temporary person assigned to fill the vacancy), and remain vacant until such time as the eligibility list for that class expires. (Education Code Section 45272)

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

1. When the withholding or removal was due to failure to respond to a written inquiry or failure to appear for an interview, or report for duty, and the candidate presents a valid reason.
2. When the withholding or removal was for a reason listed in Rule 40.2 and the reason for ineligibility has been corrected.

Withdrawals of voluntary waivers shall not require approval by the Commission. The Personnel Director shall notify the eligible of the decision in writing within five (5) business days after the decision is made. (Education Code Section 45272)

H. Certification From List for Another Class: If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list for another class at the same or higher salary level. The duties and qualifications of the class for which the examination was given must include substantially all of the duties of the position to be filled. The examination given for the class must have adequately measured the

knowledge and skills required of the position. Certification from an alternate list must be in the best interest of the Office. (Education Code Section 45272)

- I. Duties of Eligibles:** It shall be the duty of every eligible to respond promptly after receiving notice of certification. The eligible will be expected to respond within five (5) business days from the date of notification. Failure to respond within the above stated time may result in removal from the eligibility list.
1. Eligibles are required to keep the Personnel Commission Office informed as to current home address, telephone numbers, and an email address where they can be contacted to schedule employment interviews. Failure to keep the Personnel Commission Office informed could result in the eligible being bypassed on the eligibility list as unreachable. In that event, the Personnel Director or designee shall send email notification inquiring as to continued availability and interest. Failure to respond pursuant to these rules will result in removal from the eligibility list.
 2. An eligible who has been selected for a permanent position and is unable or unwilling to report by the end of two (2) full weeks (one full month in the case of management classes) may be considered to have refused appointment and the appointing authority may request certification of additional eligibles.
 3. The date of the offer of appointment shall be the date on which the eligible is notified by the Personnel Director of selection.
 4. Notification may be made by telephone, telegram, registered or certified mail.
 5. The appointing authority may allow a period longer than two weeks at its discretion.
 6. When appointment is to a limited term position or substitute position, the eligible must be available on the date specified by the appointing authority. (Education Code Sections 45260, 45261, and 45272)
- J. Selective Certification:** If a person within a classification requires a special skill, license, or language requirement, pursuant to Rule 30.02 J, or the position requires hiring a male or female to meet a bona fide occupational qualification of a specific position, the Personnel Director shall determine which eligibles possess the required skill, license, language, or bona fide occupational qualification, and shall certify the names of the first three (3) ranks of eligibles who meet the special requirement. If there are insufficient eligibles who meet the special requirements who are ready and willing to accept the position, a provisional appointment may be made, pending completion of a recruitment and examination process to fill the position. (Education Code Sections 45272 and 45277)

K. Release of Information: Eligibility lists shall be considered confidential. The amount of information and release of information on lists shall be limited to:

1. Only information relating to eligibles who have been certified shall be released to the appointing authority.
2. Only information pertaining to an eligible's own score and current position on the list shall be released to the eligible or his/her representative.
3. Such other information as specifically ordered by the Personnel Commission.
(Education Code Sections 45272, and 45274)

CHAPTER 70
APPOINTMENT TO CLASSIFIED POSITIONS

70.1 PROCEDURES FOR APPOINTMENT FROM ELIGIBILITY LISTS

A. **Procedures for Selection:** The appointing authority shall interview the top three ranks certified from an appropriate eligibility list. An appointment to a vacant position shall be made from among the first three (3) ranks of candidates on the list who are ready and willing to accept position(s). (Education Code Sections 45160, 45161 and 45772)

B. **Appointment:** Upon selection, each prospective employee shall be given a written offer of employment by the Personnel Director. The offer shall be contingent on meeting pre-employment conditions, and shall include the time and date to report for duty and the salary at the time of hire.

1. The prospective employee shall be allowed two (2) weeks to report for duty after a written offer of employment to a permanent position has been made or one (1) month in the case of management classes. Should the prospective employee be unable or unwilling to report for duty within the required period, the appointing authority may request that additional eligibles be certified.
(Education Code Sections 45260 and 45261)

C. **Discrimination Prohibited:** In accordance with law, no applicant or eligible certified for employment shall be discriminated against because of his/her sex, race, color, ancestry, religion, national origin, physical or mental disability, medical condition, age (40 and above), marital status or sexual orientation. No questions shall be asked relating to these matters during the selection and interview stages of employment.
(Education Code Section 45293 and Government Code Sections 12941, 12926 and 12940)

70.2 PROVISIONAL APPOINTMENT

A. **Reasons for Provisional Appointment:** The appointing authority may make a provisional appointment when the Personnel Director certifies that:

1. No eligibility list exists for a class, or
2. An eligibility list exists, but there is an insufficient number of available eligibles, and the appointing authority requests three (3) ranks of eligibles to interview.
(Education Code Sections 45287, 45288 and 45289)

B. **Length of Provisional Appointment:** A provisional appointment may accumulate a total of ninety (90) working days. In no case may a person be employed in a full-time provisional capacity for a total of more than 126 working days in any fiscal year.
(Education Code Sections 45287, 45288 and 45289)

- C. **Extension of Provisional Appointment:** The Commission may extend the ninety (90) working day provisional appointment for a period not to exceed thirty-six (36) additional working days provided:
1. An examination for the class was completed during the initial ninety (90) working days of an employee's provisional assignment.
 2. Satisfactory evidence is presented indicating:
 - a. Adequate recruitment effort has been and is being made, or
 - b. Extension of this provisional assignment is necessary to carry on vital functions of the Office or,
 - c. The position cannot be satisfactorily filled by use of other employment lists or procedures. (Education Code Sections 45260, 45261, 45287, 45288 and 45289)
- D. **Successive Ninety (90) Day Appointments:** In the absence of an appropriate eligibility list, successive ninety (90) working day appointments may be made to a position for a period exceeding the 126 day limitation when:
1. Continuous examination procedures have been authorized by the Commission.
 2. Such appointment shall continue only until certification from an appropriate list can be made. (Education Code Sections 45287, 45288 and 45289)
- E. **Qualifications of Provisional Employees:** Provisional appointees must meet the qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be determined by the Personnel Director prior to appointment. (Education Code Sections 45260 and 45261)
- F. **Status of Provisional Employees:** To be eligible for appointment to a regular position, the provisional appointee must qualify by competitive examination for a place on the eligibility list.
1. Time served in provisional status shall not be counted as credit toward permanency or completion of the probationary period for the class in which the provisional appointment is made, or provide the person with any other vested rights in the position or class. (Education Code Sections 45287, 45288 and 45289)
- G. **Terminating Provisional Appointment:** The services of a provisional appointee shall be terminated within twenty (20) working days after the date on which certification from eligibility list has been made. A provisional appointment may be

terminated at any time, at the discretion of the appointing authority. (Education Code Sections 45260 and 45261)

70.3 SPECIAL APPOINTMENTS

- A. **Procedure for Emergency Appointment:** If it should become necessary in time of declared emergency to fill positions in the classified service to prevent the stoppage of public business, the Superintendent may request the Personnel Director to make emergency appointments without reference to eligibility lists, for a period not to exceed fifteen (15) working days.
1. When an emergency appointment is requested by the Superintendent, it shall be the duty of the Superintendent to provide the Personnel Director with written information outlining the date of appointment, the nature of the duties to be performed, a statement explaining the emergency, and any other additional information requested by the Personnel Director so that an appropriate decision may be made under this rule. (Education Code Section 45290)
- B. **Summer and Other Recess Period Assignments:** When the Superintendent establishes temporary positions during the recess period between the regular September to June school year, or during other recess periods during the school year, those positions shall be offered to regular employees of the Office not regularly employed during these periods. Appointment to these positions shall be on the basis of seniority among employees requesting summer/recess period employment in the class to which the position has been allocated by the Personnel Commission. If there are insufficient employees in the class, appointment shall be made on the basis of seniority of employees who are qualified to perform the duties of the position, as determined by the Personnel Director.
1. 10-month employees must complete an "Intent-to-Work" form to notify programs of their desire to work in the Extended School Year (ESY) by a prescribed deadline.
 2. Extended School year assignments shall first be given to bargaining unit members for programs in which they currently serve. Thereafter, the assignment shall be made in order of seniority in the appropriate classification from those unit members requesting ESY work by the prescribed deadline, but no employee shall be required to accept such assignment. If the employee with the greatest seniority refuses the assignment, it shall be offered to the other employees within the appropriate classification in descending order of seniority until the position is filled.
 3. The second session of the Special Education ESY consists of classes only for Severely Multiply Handicapped (SMH) students. For these classes, position assignments shall first be given to those Paraeducators who work in these SMH

classes during the regular school year, by seniority. If any additional vacancies become available, these positions shall be offered to the employee who possesses the most seniority in the Paraeducator, Special Education job classification, regardless of the number of hours or classroom that an employee is working in during the regular school year.

4. If vacancies still exist after the initial placement of regular Special Education Paraeducator staff, employees who have held permanent status in the Paraeducator, Special Education classification, but currently work in a different job classification (e.g. County and Community School Paraeducator, or Training Placement Assistant), shall be offered vacant Paraeducator ESY assignments, based on the seniority they accrued in the Paraeducator, Special Education classification.
5. If vacancies still exist after the above assignment criteria have been met, the vacancies may be filled from the current pool of substitute Paraeducators.
6. If vacancies remain after meeting the criterion in rule 70.3:B.5, recruitment may be opened to fill positions from outside candidates.

(Education Code Sections 45260, 45261)

70.4 LIMITED TERM AND SUBSTITUTE APPOINTMENTS

- A. **Limited Term Position:** Positions established to perform duties which are not to exceed six (6) months shall be designated limited term positions.
- B. **Substitute Positions:** Positions established to replace temporarily absent employees shall be designated substitute positions. (Education Code Section 45286)
- C. **Procedure for Establishment of Limited Term/Substitute Positions:** When a limited term position is established, the appointing authority shall notify the Personnel Commission Office in writing of the hours, starting date and length of the assignment.
 1. A limited term appointment may not exceed six (6) months. A substitute assignment may not exceed the duration of the absence of a regular employee. The appointment may be in the same class as that of the absent employee or the duties may be reduced in level and the appointment may be made from a lower class.
 2. Limited term positions shall be approved by the Personnel Director and shall be classified by the Personnel Commission. (Education Code Sections 45286 and 45290)

D. **Eligibility for Appointment:** Limited term and substitute appointments shall be made from eligibility lists and re-employment lists whenever possible in accordance with procedures for regular appointments.

1. When no eligible is available to accept a substitute or limited term position, the Personnel Director is authorized to certify other qualified candidates for appointment.
2. Eligibles who accept substitute or limited term assignments shall remain on the appropriate lists and shall not be considered as having waived their right to consideration for appointment to permanent positions. (Education Codes Sections 45286 and 45290)

E. **Compensation for Limited Term/Substitute Assignments:** Employees serving in provisional substitute or limited term assignments will normally be compensated at the minimum step for the class. The Personnel Director may authorize salary placement at any step of the classification subject to approval of the appointing authority.

1. Employees serving in substitute assignments will be granted a step increase after 120 days of continuous service in any one position.
2. When a regular employee is given a limited term assignment in a second class in lieu of all or part of the employee's regular appointment, the employee's rate of pay in the second class will normally be the same as the employee's regular rate of the classification is allocated to the same salary grade. In the case that the assignment is in a higher class, the employee shall receive the rate of the higher class which is next above the rate of the employee's current step on the schedule or the minimum step of the class, whichever is greater. (Education Code Sections 45286, 45290 and 45309)

F. **Rights and Benefits During Limited Term Assignments:** Any permanent classified employee who accepts an assignment in a substitute, limited-term or provisional position, shall, during the assignment, be considered as serving in his/her regular position and retain all seniority and other benefits thereof.

1. Provisional, limited term, and substitute employees shall be granted only those benefits provided by law such as worker's compensation and unemployment insurance. No seniority credit toward completion of probation shall accrue from service in a substitute or limited term appointment in a classification in which the employee does not have permanent status. (Education Code Sections 45286, 45290 and 45309)

G. **Termination of Limited Term Appointment:** A provisional, limited term or substitute employee may be terminated at any time at the discretion of the appointing authority. (Education Code Sections 45260 and 45261)

70.5 EMPLOYMENT OF RETIREES, VOLUNTEERS, AND CONTRACTORS

A. **Employment of CalPERS Retirees:** A CalPERS retiree can be appointed to a temporary work assignment without reinstatement or loss of retirement benefits either during an emergency to prevent stoppage of public business or because the retiree has skills needed to perform work of limited duration. There must be some showing in the retiree's work history that he or she has previous experience and the skill set to perform the desired work.

1. Work assignments of limited duration may include extra help work such as elimination of a backlog, substituting for an employee on an authorized medical or other leave, work on a special project, or work in excess of what permanent staff employees can accomplish.

B. **180-Day Wait Period Between Retirement Date and Hire Date:** A retiree shall wait 180 days after their retirement date before he or she is eligible to begin post-retirement employment.

C. **180-Day Wait Period Exceptions:** The Board of Education shall certify the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days has passed. The Board, in a public meeting, must approve the appointment, and the resolution may not be placed on the consent agenda.

1. If a retiree accepts a Golden Handshake or any other employer incentive related to retirement, he or she must serve the 180-day wait period regardless of the 180-day wait period exception.

D. **Interim Appointment to a Vacant Position:** The Board of Education may appoint a retiree to work in a vacant managerial or other mission critical position during the recruitment to permanently fill the vacancy or during an emergency to prevent stoppage of public business. The appointment document shall explain the need for the particular retiree's hire and the appointment action must be documented in the form of a resolution or board minutes.

1. There shall be an open recruitment to fill the position in place at the time the retiree is retained to fill the vacancy.
2. The retiree may be appointed only once to fill a specific position vacancy, therefore the employment agreement, contract, or other appointment document must specify the end date of the appointment.

E. **960 Hour Limit per Calendar Year:** Individuals who have retired from service with CalPERS may be employed a maximum of 960 hours per fiscal year in an assignment as defined in Merit System Rule 70.5 sections A and D. There is no exception to this limit.

F. Unemployment Insurance Payment Qualification: Upon accepting an offer of employment, a retiree must certify in writing that he or she did not receive any unemployment insurance payments within the past 12 months prior to this appointment for previous retired annuitant work with any CalPERS employer.

1. If after hiring a retiree, it is discovered that the retiree did receive unemployment insurance payment within the 12 months prior to the current appointment date, the retiree must be separated from employment on the last day of the current pay period. The retiree is thereby not eligible for reappointment by any CalPERS employer for 12 months following the last day of employment.

G. Compensation of Retirees: Retirees who return to work in a temporary or interim appointment assignment in their former or equal classification shall be placed on the same range and step (including longevity pay steps if applicable) that they previously held at the time they retired from the Office of Education divided by 173.333 to equal an hourly rate. Retiree's who perform temporary work in a lower classification than the one they previously occupied, shall be paid at the fifth step on that classification's pay range (including longevity pay steps if applicable) divided by 173.333 to equal an hourly rate.

CHAPTER 80 EMPLOYMENT REQUIREMENTS

80.1 PHYSICAL EXAMINATIONS

A. Tuberculosis Examinations: A new permanent, limited term, substitute, student employee, or volunteer (other than a student's parent or relative) shall present evidence that (s)he has submitted to an examination within the past sixty (60) days to determine that (s)he is free of active tuberculosis, by a physician and surgeon licensed under the Business and Professions Code. The examination shall consist of an approved intradermal tuberculin test (Mantoux), which, if positive, shall be followed by an X-ray of the lungs. The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under the Business and Professions Code. If a new employee is transferring employment from one school or school district (including private and parochial schools) to the Office of Education, the sixty (60) days requirement above will be waived if the new employee can produce a certificate as provided for in Section 3450 of the California Health and Safety Code which shows that (s)he was examined within the past four (4) years and was found to be free of communicable tuberculosis. This requirement can also be met if it is verified by the school previously employing the new employee that it has such a certificate on file, and a copy of such certificate is forwarded to the Personnel Commission Office. For new employees, evidence of compliance with the requirements of this section must be on file in the Personnel Commission Office prior to the first day in paid status.

1. Subsequent to employment, employees who are skin negative shall be required to undergo the foregoing examination at least once each four (4) years or more often if directed by the County Superintendent of Schools upon the recommendation of the local health officer for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by a positive X-ray, the foregoing examination is no longer required, and a referral shall be made within thirty (30) days of completion of the examination to the local health officer to determine the need for follow-up care.
2. The Superintendent may exempt, for a period not to exceed sixty (60) days following termination of the pregnancy, a pregnant employee from the requirement that a positive intradermal tuberculosis test be followed by an X-ray of the lungs.
3. Pre-employment tuberculin test costs are paid for or reimbursed by the Office. The Office shall reimburse at a maximum dollar amount set by the Office, or cause to provide the exam at its own cost for all continuing employees.

4. The Office of Education reserves the right to designate a particular clinic or hospital where the test will be administered.

(Education Code Sections 45122, 45260, 45261 and 49406; Health and Safety Code Sections 3450 and 3451; Administrative Code, Title 5, Section 5505.)

- B. Return to Work and Unscheduled Exams:** An employee may be required to undergo a physical or psychiatric examination at any time there is deemed to be reasonable cause.

1. An employee returning from injury/illness leave may be required by the County Superintendent of Schools to undergo a medical examination to verify sufficient recovery to return to the employee's regularly assigned duties.
2. When a classified employee is required to submit to a physical examination for continuance in employment, the Personnel Commission Office shall arrange for and ensure the employee is reimbursed for the cost of this examination.

(Education Code Sections 45122, 45160 and 45261)

- C. School Bus Driver Medical Examinations:** In addition to any other examination that may be required by these rules, School Bus Drivers must maintain valid school bus driver certificates. State law requires that School Bus Drivers take a medical examination to meet requirements set forth by the Department of Motor Vehicles. The Personnel Commission Office shall ensure the employee is reimbursed for the cost of this examination. (Education Code Sections 45122, 45160, and 45161)

- D. Appeal to the Commission:** Any employee who is denied a request to return to work for medical reasons may appeal the decision to the Personnel Commission.

1. The appeal process shall be conducted pursuant to Personnel Commission Rule 40.2:B.
2. The County Superintendent of Schools may employ outside medical experts to give a medical advisory opinion.
3. The Commission, based on evidence submitted and the advice of medical experts to the Commission, shall determine whether or not the denial of the request to return to work shall be sustained. The decision of the Commission shall be final and binding on all parties. (Education Code Sections 45122, 45260 and 45261)

80.2 CRIMINAL RECORDS

- A. Fingerprinting for Applicants:** Job candidates for temporary or permanent employment shall submit to a criminal records check prior to employment in accordance with prescribed procedures or shall forfeit eligibility for employment. The Personnel Commission Office shall notify each employee where and when to report for fingerprinting. The cost for fingerprinting services shall be borne by the Office of Education.
- B. Review of Criminal Records:** 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.
1. **Disqualification:** The Personnel Director shall review criminal records reports from the California Department of Justice, and shall disqualify an applicant's participation in a selection process pursuant to Education Code Sections 45122.1, 45123 and 45124 if the applicant has been convicted of any sex offenses (Education Code 44010), controlled substance offense (Education Code 44011), violent felonies offense (Penal code 667.5), serious felonies (Penal Code 1192.7), or sexual psychopath offense (Welfare and Institution Code 6300 et seq.). The Personnel Director, in consultation with the Superintendent, may also disqualify an applicant's participation in a selection process for possessing a criminal conviction where there is a direct relationship between the offense and the responsibilities of the employment sought. In demonstrating whether an exclusion based on criminal history is job related and consistent with business necessity, an individual assessment the following factors will be considered:
 - The nature and gravity of the offense or conduct with reference to the harm caused by the crime.
 - The time that has passed since the offense or conduct and/or completion of the sentence.
 - The nature of the job sought, including the position's essential functions, the circumstances under which the work is performed, and the location where the job duties are performed.
 2. **Existing Employees – Convictions:** The Personnel Director shall submit to the Superintendent criminal records received on an employee subsequent to employment with the Office of Education. The Superintendent shall decide if the employee shall be dismissed pursuant to statutes listed in Rule 80.2:B.1, or on the basis of other applicable laws, policies, and regulations. Any action to terminate an employee shall be implemented in conformance with Merit System Rule 190.1 (General Provisions on Disciplinary Action). If an employee is dismissed because of information disclosed on the criminal records report, the employee shall be removed from all eligibility lists.

3. The Personnel Director shall notify the eligible or employee of action taken and the reasons therefore and shall provide the person with an opportunity to appeal the decision in writing within five (5) calendar days of notification. If an appeal is filed, the Personnel Commission shall conduct an appeal hearing using the procedures outlined in Rule 190.3.2. The decision of the Commission shall be final and binding on all parties. (Education Code Section 45125)

80.3 PREEMPLOYMENT REQUIREMENTS

- A. **Income Tax Withholding Form:** New employees shall submit the W-4 form for both State and Federal taxes to the Personnel Commission Office at the time of employment.
- B. **Social Security Number:** New employees shall submit an original copy their social security card to the Personnel Commission Office at the time of employment. A copy of the employee's social security card will be made for employment records, and the original returned to the employee.
- C. **Loyalty Oath:** All new employees must sign a loyalty oath as required by the California State Constitution and the Education Code. Refusal to sign the loyalty oath shall cause the initial employment offer to be withdrawn.
(Education Code Sections 7000-7006, 45260 and 45261; California State Constitution, Article XX)
- D. **Verification of Right to Work Status:** All individuals employed after November 1, 1986, are required to provide proof of their right to work in the United States and for the County Office of Education. An individual's right to work is a minimum qualification for employment with the Office of Education. The Personnel Director shall ensure that all employees hired after the above date are legally entitled under Federal law to work for the Office.
 1. No individual shall be placed on the payroll without having on file in the Personnel Commission Office documentation required by Federal law certifying the individual's right to work in the United States.
 2. No right to work verification will be required until after an individual is offered employment. Every individual will be required to provide verification as required in this rule.
 3. An individual unable to provide verification of his/her right to work in the United States and for the County Office of Education pursuant to this rule, shall have his/her name removed from the eligibility list(s), and shall not be placed on the payroll of the County Office of Education.

- E. Requirement to Notify District of Any Status Change:** Employees shall notify the Personnel Commission Office whenever their status changes, such as eligibility to work in the United States, new address, new telephone number, marital status (for health and welfare benefits), increase or decrease in the number of dependents (health and welfare benefits and tax purposes), name of person(s) to notify in case of emergency, etc.
- F. Filing of Required Licenses or Certificates:** Some classifications may require the employee to possess certain licenses and/or certificates. Every new employee must file copies of all licenses and/or certificates required as a condition of employment with the Personnel Commission Office. As these licenses and/or certificates are renewed, copies of them must also be filed in the Personnel Commission Office within ten (10) working days of receipt by the employee.
(Education Code Sections 45260 and 45261)

CHAPTER 90

EMPLOYMENT STATUS

90.1 CERTIFICATION OF PAYROLLS

A. **Certification of Payrolls/Assignments:** The Personnel Director shall certify by signing Notice of Employment documents and monthly payroll reports that all persons appointed to a position in the classified service are appointed in accordance with these Rules and Regulations.

1. The Personnel Director shall audit all changes of status for classified employees. The Director shall certify that all changes are in accordance with existing laws and these Rules.
2. The Personnel Director shall make periodic audits of all payrolls and, if the Director finds assignments that are not in accordance with existing law(s) or the Rules and Regulations of the Personnel Commission, (s) he shall immediately notify the Superintendent of any irregularities and attempt to resolve these problems.
3. If any irregularities are not resolved within a reasonable time period, the Personnel Director shall submit his/her findings to the Personnel Commission. Whenever the Commission, after a public hearing, finds that any appointment has been made in violation of rules and Regulations of the Commission as they relate to examination procedures, the Commission may order thereafter that no salary warrant thereafter be drawn to the employee so appointed, for services rendered after said order.

(Education Code Sections 45261, 45310)

90.2 EMPLOYEE ASSIGNMENT

A. **Assignment Data:** Upon initial employment and upon each change in classification thereafter, each classified employee shall be furnished:

1. The employee's class specification.
2. Notice of salary data including pay period and the hourly, daily, monthly, annual, and overtime and differential rate of pay, whichever are applicable.
3. Work location and the duty hours, prescribed work week, and work year.
4. The terms and conditions of the probationary period, including performance evaluation procedures.

(Education Code Sections 45169)

B. Employee Shall Sign Assignment Data: The employee shall sign an acknowledgment documenting receipt of the assignment data. The original shall be placed in the employee's personnel file, one copy given to the employee, and one copy sent to the employee's immediate supervisor.

(Education Code Sections 45260, 45261)

C. Orientation of New Employees: Within five (5) working days of assignment, each employee shall be advised by his/her immediate supervisor of information relating to the employee's position including specific duty hours, break times and lunch period, work rules and department regulations, procedures for reporting absences, terms and conditions of probation and the procedures for performance evaluation.

(Education Code Sections 45260, 45261)

90.3 PROBATIONARY STATUS

A. Initial Probationary Period: Each new employee, other than an employee designated as management, appointed from an eligibility list shall serve an initial probationary period in one class not to exceed six months or 130 days of paid regular service, whichever is longer, (excluding days absent for illness, injury or leave of absence) before attaining permanency in the classified service. An employee in a position designated as management shall serve an initial probationary period of one year or 265 days of paid service, whichever is longer, before attaining permanency in the classified management service.

1. An employee who has been promoted to a higher class or laterally transferred to a related class shall serve a probationary period as defined in 90.3.1 in the class before attaining permanency in that class.

2. Credit toward completion of probation shall be granted only for service in a regular position in a classification after appointment from an eligibility list.

(Education Code Section 45301)

B. Rights of Probationary Employees

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

2. A probationary employee who is to be dismissed shall be given written notice of termination from probationary status prior to the date on which the probationary period ends. A probationary employee may be dismissed at any time during the probationary period without cause and without right of appeal.

3. A permanent employee who has been promoted to a higher class, may be demoted during the probationary period to a vacant position in the employee's former class, without recourse to an appeal or hearing by the Personnel Commission except as provided by Merit System Rule 190.3.2, and provided that such demotion does not result in the separation of the employee from the permanent classified service. The employee shall be given written notice of the intended action.
4. Should work for which a probationary employee has been appointed prove temporary instead of permanent as certified, and should such person be laid off without fault or deficiency on his/her part before the probationary period is completed, the employee's name shall be restored to the eligibility list and the time served shall be credited towards completion of the probationary period in any subsequent position to which appointed in that same classification.
5. A permanent employee who has been transferred to a related class, in which the employee has not completed a probationary period, may be returned (transferred) to a vacant position in the employee's former class, at any time during the probationary period, without right of appeal, unless such action results in layoff, demotion, or reduction in assigned time. In these cases, the employee will have the same rights as a permanent employee who is demoted or dismissed.
(Education Code Sections 45270, 45301 and 45302)

90.4 PERMANENCY

A. Permanent Status: Upon successful completion of the prescribed initial probationary period outlined in Rule 90.3.1, a classified employee shall be deemed to be part of the permanent classified service.

1. Every permanent classified employee shall be entitled to all the rights, benefits and burdens conferred by law, the Personnel Commission's Rules and Regulations, or Superintendent Policies affecting classified employees.
2. No permanent classified employee shall be demoted or removed except for reasonable cause or for layoff due to lack of work or lack of funds.
(Education Code Sections 45301)

CHAPTER 100

HOURS OF EMPLOYMENT AND OVERTIME

100.1 WORK SCHEDULE

A. Workweek: The workweek of a full-time classified employee shall be 40 hours. The workday shall be eight hours. These rules shall not restrict the extension of a regular workday or workweek on an overtime basis when such is necessary to carry on the business of the Office of Education.

1. The Office of Education may establish a workday of less than eight (8) hours per day and a workweek of less than forty (40) hours for some or all classified positions.
2. The Office of Education may, with the approval of the Personnel Commission, exempt specific classes of positions from compensation for overtime in excess of eight hours in one day, provided the hours worked in excess of 40 in a calendar week shall be compensated on an overtime basis. Such exemptions shall be applied only to those classes which the Superintendent and Personnel Commission specifically find to be subject to fluctuations in daily working hours not susceptible to administrative control, such as security patrol and recreation classes, but shall not include food service or transportation classes.

B. Ten Hour Workday The Office of Education may establish a ten (10)-hour-per-day, forty (40)-hour, four consecutive day workweek for all, or certain classes of its employees, or for employees within a class when, by reason of the work location and duties actually performed by such employees, their services are not required for a workweek of five consecutive days. This provision may only be implemented if the establishment of such a workweek has the concurrence of the concerned employee, class of employees, or classes of employees as ascertained through the employee organization representing a majority of the concerned employees or class or classes of employees.

C. Nine Hour Workday: The Office of Education may establish a nine (9)-hour per day, eighty (80)-hour per-two (2) week work schedule. This provision may only be implemented if the establishment of such a workweek has the concurrence of the concerned employee, class of employees, or classes of employees. If the affected employees are represented by an exclusive bargaining representative, the concurrence must be ascertained through that employee or organization.

1. When a nine (9)-hour-per day, eighty (80)-hour per two week work schedule is established, it shall consist of nine (9) work days, eight (8) of which shall be nine (9)-hour days, and one of which shall be an eight (8) hour day. The workweek shall be defined in either two ways, as follows:

2. The workweek shall begin on noon Friday and will end at noon the following Friday, with the employee working nine (9) hours each day except on alternate Thursdays when the employee will work eight (8) hours, and on alternate Fridays when the employee will not work; or
3. The workweek shall begin at noon on any other day of the week and shall be defined so that no employee will be required to work more than forty (40) hours during any given workweek.
(Education Code Sections 45127 and 45132)

D. Workday: The length of the workday shall be designated by the Superintendent for each classified assignment in accordance with the provisions set forth in these rules. Each classified employee shall be assigned a fixed minimum number of assigned hours per day (with fixed, regular starting and ending times), days per week, and months per year.

E. Increase In Assigned Time: When a classification 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 classification. If the senior employee declines the assignment, it shall be offered to the remaining employees in the classification in descending order of seniority. When an existing part-time position is assigned increased hours on a permanent basis, the position shall be considered "vacant" for the purpose of this rule.

1. A seniority bid list shall be maintained for the purpose of this rule. Employees may waive their opportunities for increased hours of work; however, once an assignment is made, it shall not be revoked because of withdrawal of waivers.

F. Temporary Assignments For Permanent Employees: Regular employees working in a less than twelve (12) month assignment shall be given first opportunity to perform any temporary work required in the time periods other than their assigned work year. Such temporary assignments shall only be made to a classification in which the employee holds or has held permanent status. Such assignments shall be offered in order of seniority in the appropriate classification; however, no employee shall be required to accept such assignment.

G. Benefits For Probationary and Permanent Part-Time Positions: All probationary and permanent part-time classified employees shall be entitled to sick leave and all other benefits conferred by law on classified employees. Part-time employees shall be entitled to all leaves and benefits granted to regular full-time employees in the same job classifications. Such leaves and benefits may be prorated in the same ratio and the regular work hours per day, days per week, weeks per month, or months per year. Except for prorating benefits for part-time employees, the governing board shall provide at least the same benefits for all regular employees in the

classified service as it provides for a majority of such employees. Noting in this rule shall be construed to prohibit the granting of additional benefits for some employees in recognition of nature of work, level of classification, or length of service.

(Education Code Section 45136)

H. Meal Period: All employees who are scheduled to work more than five (5) consecutive hours per day shall be assigned an unpaid, duty-free meal period of at least thirty (30) minutes to a maximum of one (1) hour. The meal period shall be assigned at or about the midpoint of each work day.

I. Rest Period: Employees shall be allowed a fifteen (15) minute rest period during each four (4) hour working period, occurring as near as possible to the middle of the work period.

(Education Code Sections 45260 and 45261)

J. Accommodation for Religious Belief and Practice: The Office shall “reasonably accommodate” an employee’s religious belief and practices including assigning work days and work schedules unless doing so would cause “undue hardship”.

1. An accommodation may cause an undue hardship if it is costly, compromises workplace safety, decreases workplace efficiency, infringes on the rights of other employees, or requires other employees to do more than their fair share of potentially hazardous or burdensome work.

K. Accommodation for Religious Dress or Religious Grooming Practice: Religious discrimination protections and reasonable accommodation requirements shall cover religious dress practices and religious grooming practices. Segregation of an employee from other employees or the public shall not be considered a reasonable accommodation for a religious dress or grooming practice.

1. “Religious dress practice” shall be construed broadly to include the wearing and carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of the observance by an individual of his or her religious creed.
2. “Religious grooming practice” shall be construed broadly to include all forms of head, facial and body hair that are part of the observance by an individual of his or her religious creed.

100.2. OVERTIME AND RELATED MATTERS

A. Overtime: Overtime is defined to include any time authorized to be worked in excess of eight hours in any one day and in excess of 40 hours in any calendar week. All overtime shall be reported and credited in multiples of 15 minutes of working time.

1. For the purpose of computing the number of hours worked, time during which an employee is excluded from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence shall be considered as time worked by the employee.
2. If the Office of Education establishes a work day of less than eight (8) hours but seven (7) hours or more and a workweek of less than forty (40) hours but thirty-five (35) hours or more for all of its classified employees or for certain classes of classified positions, all time worked in excess of the established workday shall be deemed to be overtime. The foregoing provisions do not apply to classified positions for which a workday of fewer than seven (7) hours and a workweek of fewer than thirty-five (35) hours has been established.
3. For employees who are assigned to work an average of four (4) hours per day during the regular work week, all hours worked beyond the workweek of five (5) consecutive days shall be compensated at the overtime rate commencing on the sixth or seventh day of work. For employees who are assigned to work an average of less than four (4) hours per day during the regular workweek, all hours worked beyond eight (8) hours on the sixth day shall be compensated at the overtime rate, and all hours worked on the seventh day shall be compensated at the overtime rate.
4. When a ten (10) hour per day, four (4) day workweek is established, the overtime rate shall be paid for all hours worked in excess of ten (10) hours per day, forty (40) hours per week. Work performed on the fifth, sixth, and seventh days shall be compensated at the overtime rate of pay.
5. When a nine (9) hour per day, eighty-hour per two (2) week work schedule is established, the overtime rate shall be paid for all hours worked in excess of nine (9) hours per day, consistent with rule 100.1.C and 100.1.C.1.

B. Compensation For Overtime: A regular non-exempt employee who works authorized overtime shall be paid at a rate equal to one and one-half (1 ½) times the amount of overtime worked, or may receive compensatory time off at a rate of one and one-half (1 ½) times the number of hours worked overtime. Shift and special assignment differentials regularly received by the employee shall be included in determining the individual's regular rate of pay.

1. Compensatory time may be taken as time off in units of one-half (½) hour or more with the approval of the employee's manager.
2. The method of compensation for overtime shall be determined at the option of the employee.

3. The maximum compensatory time which may be accrued shall be 240 hours. An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation for any additional hours of work. Compensatory time off shall be taken within one year of the date earned.
4. Payment for accrued compensatory time upon termination of employment shall be calculated at the average regular rate of pay for the final three years of employment, or the final regular rate received by the employee, whichever is higher.

C. Exclusion From Overtime: The Personnel Commission may specify certain positions or classes of positions as supervisory, administrative, or executive and exclude the employees serving in such positions and their positions from the overtime provisions. To be excluded from such overtime provisions, positions or classes of positions must clearly and reasonably be management positions. In approving positions or classes of positions for the exclusion from the overtime provisions, the Personnel Commission shall certify, in writing, that the duties, flexibility of hours, salary, benefit structure and authority of the positions or classes of positions are of such nature that they should be set apart from those positions which are subject to the overtime provisions, and that the employees serving in such excluded positions or classes of positions will not be unreasonably discriminated against as a result of the exclusion.

1. If an employee serving in an excluded position is required to work on a holiday by action of the Governing Board or Superintendent, the employee shall be paid, in addition to regular pay for the holiday, compensation, or given compensatory time off, at a rate not less than the employee's normal rate of pay.

(Education Code Sections 45128, 45131, 45203)

CHAPTER 110

TRANSFER OF EMPLOYEES

110.1 TRANSFER

- A. **Definition of Transfer:** For purposes of this rule, a vacancy shall occur when a new position is created or an existing position becomes vacant. There are two forms of transfer possible for classified employees:
1. A position transfer shall mean the relocation of an employee between job sites or between departments at the same job site, within the same classification.
 2. A lateral transfer is the transfer of an employee to a position in a similar or related class with the same salary range.
- B. **Position Transfer:** A position transfer may be initiated by office administration or at the request of the employee. Transfers initiated by management may be made at any time for the good of the classified service and shall be governed by the following rules:
1. An employee who is about to be transferred shall be notified in writing by his/her immediate supervisor at least five (5) working days prior to the effective date of the transfer.
 2. Transfers shall not be made for arbitrary or capricious reasons, and an employee may request a conference or written statement regarding the reasons for an employer initiated transfer.
- C. **Lateral Transfer:** 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 Personnel Commission. Determination of whether classes are sufficiently related to permit transfer between them shall be based on the similarity of 1) occupational group; 2) duties; 3) minimum qualifications; and 4) examination content. In general, more latitude in transfers is permitted when the transfer request is based on reclassification, impending layoff, or health.
- D. **Probation Period for Lateral Transfers:** A permanent employee who transfers to a position in a class in which the employee has not previously completed a probationary period shall be considered probationary in that class for the standard probationary period outlined in Section 90.3.1 of these rules. At any time during this probationary period, the employee may be returned (transferred) to a vacant position in his/her former class without right of appeal. However, if such transfer

to the former class would result in a layoff, demotion, or reduction in assigned time, the employee will have the same appeal rights as a permanent employee who is demoted or dismissed.

(Education Code Sections 45301, 45260, and 45261)

- E. No Adverse Affect from Transfers:** A transfer shall not change the employee's range and step placement on the salary schedule, salary increment date, accumulated sick leave and vacation credit, or otherwise adversely affect the employee's rights as provided in the law and these rules.
- F. Seniority Credit:** Transfers shall have the following effects on seniority:
1. Within the same class—none.
 2. From one class to another—the employee shall not receive seniority credit in the new class for service in other classes; however, the employee shall retain seniority credit for time served in each former class.
- G. Transfer Shall Not Alter Effects of Layoffs:** A transfer shall not be used as a device for altering the effects of impending layoffs, except as provided for elsewhere in the rules and regulations.
- H. Posting of Vacancy Notices:** Vacancy notices shall only be required to be distributed if there is not a current eligibility list in existence. In such instances, the vacancy notice will be posted pursuant to the procedures outlined in Rule 50.1.
- I. Submission of Request for Transfer:** An employee may request a transfer at any time by submitting a "Transfer Request Form" to the Personnel Office. All such requests will be kept on file in the Personnel Office for one year.
- J. Certification of Names to Interview:** The Personnel Director shall certify to the hiring manager the names on the transfer list (in rank order by seniority) who are qualified for transfer to a vacant position. Transfer candidates shall be given first consideration when filling vacancies. The hiring manager may, after interviewing transfer candidates, request that names be certified for consideration from a job eligibility list.
- (Education Code Sections 45260 and 45261)

110.2 DEMOTIONS

- A. Voluntary Demotion:** A permanent employee may request a voluntary demotion to a vacant position in a class with a lower salary rate, provided that the employee has previously achieved permanent status in that class, or, the request for demotion is to a related class in the same job family as defined by the Personnel

Commission. All demotion requests shall require the approval of the Personnel Director.

1. An employee may take a voluntary demotion or reduction in assigned time in lieu of layoff or to remain in his/her present position rather than be reassigned.
2. An employee who demotes to a class in which the employee does not hold permanency shall complete the appropriate probationary period in the new class.
3. A voluntary demotion is available to a probationary employee who does not hold permanent status in the classified service only in cases when the employee would otherwise be laid off.
4. An employee who accepts a voluntary demotion, or who is involuntarily demoted for cause, will be placed on the step of the salary range of the lower class that is closest to but not more than the salary step the employee is on in his/her current class.

B. Involuntary Demotion: an involuntary demotion is initiated by management and is defined as a change in assignment of an employee from a position in one class to a position in another class which is allocated to a lower maximum salary rate. Involuntary demotion occurs pursuant to the following:

1. A permanent employee who has been promoted to a higher class, or transferred to a new class, may be involuntarily demoted to a vacant position in the employee's former class for cause if the employee achieved permanency in the new classification. Such involuntary demotion is a disciplinary action for cause and is subject to the disciplinary procedures pursuant to these Rules.
2. A permanent employee who has been promoted to a higher class, or transferred to a new class, may be involuntarily demoted during their probationary period to a vacant position in the employee's former class without cause. The employee does not possess the right to appeal their probationary release.
3. A permanent employee who has been promoted to a higher class but fails to maintain the required license/certification or other occupational requirements of the classification may be involuntarily demoted to a vacant position in the employee's former classification. The licensure, certification or other occupational qualifications of the classification must be legally required as determined by respective industry standards and approved by the Personnel Commission.

(Education Code Sections 45260 and 45261)

110.3 RESTORATIONS

A. Restoration of Former Employee: A former permanent employee who resigned in good standing may be reinstated to a vacant position in his/her former class and status within thirty-nine (39) months of the last date of paid service. In addition, the former employee may be reemployed to a vacant position in a lower related class (as determined and approved by the Personnel Commission) if qualified, or in a limited-term status in the same or lower class. Such appointments are discretionary with the appointing authority.

B. Restoration of Current Employee to Former Class: An employee who has taken a voluntary demotion may be restored to a vacant position in his/her former class or to a vacant position in a related lower class (as determined and approved by the Personnel Commission) within thirty-nine (39) months after demotion. Restoration is discretionary with the appointing authority. (Demotions taken in lieu of layoff

are covered by the layoff provisions of these rules consistent with Education Code Section 45298.)

C. Effects of Reinstatement: Reinstatement of a current employee or reemployment of a former employee shall have the following effects:

1. A former employee shall be restored to the former step in the salary range for the class, or if re-employed in a related lower class, to the rate closest to that of the step to which the employee would be assigned if reinstated to his/her former class.
2. A current employee being reinstated to a former higher class shall be placed at the salary range of the higher class and then to the step required in the rules if the employee was receiving a promotion.
3. The former employee shall receive restoration of accumulated sick leave and seniority as of the date of separation.
4. The former employee shall receive restoration of his/her former anniversary date, deducting time away from the Office and without step advancement credit for the off duty period.
5. The former employee shall receive restoration of any prior longevity steps granted prior to resigning, without longevity step advancement credit for the off duty period.
(Education Code Sections 45260, 45261, and 45309)

110.4 EMPLOYEES WITH DISABILITIES

A. General Policy: Whenever an employee is medically determined to have a physical disability, mental disability or medical condition, within the meaning of applicable law, that limits a major life function including physical, mental, and social activities, the Office shall consider any reasonable accommodation(s) that would allow the employee to perform essential job functions in accordance with the provisions of these rules and regulations.
(Education Code Section 45279)

B. Disabilities of a Temporary Nature: When an employee is temporarily unable to perform the regularly assigned duties of his/her position, the Office may, when feasible and in the best interests of the Office, alter the employee's duties and work schedule, or reassign the employee to a temporary position to accommodate the disability.

1. An employee may receive a temporary job accommodation provided that a state licensed physician has determined that the employee is unable to perform any or all of his/her regular job duties.

2. The duration of any work accommodation provided a temporarily disabled employee will be at the discretion of the employer.

C. Medical Inquiries: When an employee declares that (s)he has a physical or mental impairment that inhibits the employee's ability to perform an essential job function, or requests a work accommodation, the Office may request that the employee provide medical evidence of the nature, severity and duration of the impairment, the activities it limits, and the extent to which it limits them. Such inquiry shall be made with the employee's written consent, and limited to requesting information about the employee's functional limitations and ability to perform job-related functions.

D. Interactive Process: When an employee requests a job accommodation based on medical certification of a physical impairment, or it is apparent that the employee needs an accommodation, the Office shall engage in a timely, good faith, interactive process with the disabled employee to determine whether there is any reasonable job accommodation the Office can make. The meeting will include identifying possible accommodations and documenting the employee's beliefs about what his/her needs are.

1. The Office shall not have an obligation to initiate an interactive process if an employee does not request a reasonable accommodation and the Office neither knows nor has reason to know of the disability.

E. Permanent Disabilities: When an employee is permanently unable to perform the regularly assigned duties of his/her position, the Office may implement accommodations that include, but are not limited to: transferring marginal job functions to another employee; acquiring or modifying work tools and equipment; offering a leave of absence; modifying work hours; and reassigning the employee to an open position for which the employee is qualified. The Office has the final discretion to select a suitable accommodation, and may make its decision based on its cost or other relevant program considerations.

1. The employer shall consider making reasonable accommodations for the limitations imposed by a known permanent disability of an employee who is otherwise qualified to perform the essential functions of the job, provided that the accommodations do not provide an undue hardship on the Office.
2. An employee may receive a permanent job reassignment provided that a state licensed physician has determined that the employee is permanently unable to perform any or all of his/her essential job duties.
3. The Personnel Director shall review the proposed duties offered to an employee who is given a job reassignment to determine their proper classification.

4. If the employee is assigned to a position in a classification with a lower salary range, such assignment shall require:
 - a. The approval of the employee.
 - b. The approval of the Personnel Commission.
 - c. That the employee meets the minimum qualifications for the class.
 - d. That the employee be placed on the step of the salary range of the lower level class that is closest to but not more than the salary step the employee is on in his/her current class.
 - e. If the employee is assigned to a position in a classification with a higher salary range, such assignment shall require:
 1. The approval of the employee.
 2. The approval of the Personnel Commission.
 3. That the employee meets the minimum qualifications of the class.
 4. That the employee shall receive no salary increase from such assignment until the employee can be appointed to the higher class in accordance with the rules and procedures on eligibility and appointment.

F. Effect of Refusal by Employee: A disabled employee may refuse assignment to other classes without effect on the employee's rights under sick leave provisions established by law, or these rules and regulations. However, there is no obligation for the Office to renew offers of reassignment which have been refused or to make alternate offers.

(Education Code Sections 45260, 45261, and 45279; Cal Govt. Code Sections 12926 and 12940; U.S. Code sections 42 12010 to 12213)

CHAPTER 120

EMPLOYEE PERSONNEL FILES

120.1 PERSONNEL FILES

- A. **Personnel Files:** The Personnel Department maintains a personnel file, and when applicable, a separate medical file for each classified employee. Information kept in the files is maintained in compliance with California state and federal laws and regulations. The files and the information they contain are the property of the County Superintendent of Schools. Documents placed in an employee's personnel file include employment application materials, position placement and salary documents, employment verification forms, employment history records, performance appraisals, emergency contact data, employee orientation form, and other documents as required by law or regarded as necessary by the Office of Education. Secondary confidential files may be kept for employees that contain medical information, employment reference letters, and employment examination documents. To ensure employees' rights to privacy, personnel files are considered confidential and are kept in locked filing cabinets. The Office of Education restricts internal access to a "need to know" basis in accordance with these rules, and policies outlined in collective bargaining agreements. The Office shall limit information disclosed to third parties to only lawful access and disclosure, unless the employee signs a release authorizing the Office to provide file information.
(Fair employment and Housing Act, California Civil Code, Confidentiality of Medical Information Act)

1. It is each employee's responsibility to keep information, such as name, address, emergency notification, and other important personnel information, current in their file by notifying the Personnel Department when changes occur.

- B. **Maintenance of Personnel File:** The official personnel file for each classified employee shall be maintained in the Personnel Commission Office.

- C. **Inspection of Personnel Files by Employee:** Employees or their official representative (who can be anyone so designated by employees) shall have the right to review their official personnel file. All reviews must be done in the presence of a personnel commission staff member, and shall take place during normal business hours. With prior approval of supervisors, employees shall be released from duty to inspect their personnel file during working hours. Employees may request copies of, but may not alter, remove, or replace any documents. Employees shall have access to all material in their personnel file, and in their confidential personnel files except reference and other materials obtained prior to the employee's employment and papers prepared by examination committee members.

(Education Code Sections 45260, 45261, and 44031)

- D. Inspection of Personnel File by Others:** Personnel files shall not be made public. Access to a personnel file shall be limited to the following: Superintendent or designee, Associate Superintendent, Human Resources, Personnel Director, Personnel Commission, Board of Education, and immediate supervisor of the employee. The inspection of a personnel file by an individual other than the employee (or official representative) shall be allowed only when necessary in the proper administration of the Office's affairs or with the supervision of the employee. Personnel file records shall be released to third parties only upon written and signed consent of the employee on a form provided by San Mateo County Office of Education, or by subpoena for records by state or federal investigators. All requests for personnel records via a subpoena shall be reviewed by legal counsel before personnel records are sent to the requesting party. Applicable law, including the Patriot Act, may require disclosure of employee information to government agencies without prior notice and/or disclosure of the request to the employee.
(California Civil Code, state and federal Constitution, federal Patriot Act)

- E. Derogatory Information:** Derogatory information shall not be placed in the personnel file unless and until the employee is given notice and an opportunity to review and attach comments to the alleged derogatory material prior to inclusion in the file. Such review shall take place during normal business hours and without loss of pay. The affected employee shall be furnished with a copy of the proposed material ten (10) working days prior to it being placed in that employee's personnel file.

1. The employee's written response to derogatory information shall be made within ten (10) days after notification. The employee may later submit an addendum to his or her initial response if the addendum is directly related to the derogatory material.
2. If an employee does not provide a written response within ten (10) days from the date of notification, the material will be placed in the file without the employee's written comments, unless an acceptable reason is given for allowing a reasonable extension. The Personnel Director shall approve requests for extending the time line for responding to derogatory material.
3. Once filed, derogatory information becomes part of the employee's permanent file, and as such, must be retained indefinitely.

- F. Signature/Date Required:** Any person who drafts written materials for placement in the employee's personnel file shall sign the material and signify the date on which such material was drafted. The Personnel Director shall be responsible for placing all materials in an employee's personnel file.

- G. Confidential Files:** Medical records, examination records, reference and background check documents, investigative and grievance records, and records regarding criminal offenses shall be segregated from general personnel files and shall be maintained in a confidential file.
- H. Inspection of Confidential File(s) by Employee:** Employees shall have the right to review only medical records placed in their confidential file(s).
- I. Inspection of Confidential File by Others:** Access to records maintained in confidential files shall be limited to the Superintendent or designee, Personnel Director, and Human Resources Administrator. Access to medical records will be for reasons as follows: 1) to determine an employee's work restrictions and required accommodations, and 2) to determine if a disability might require emergency treatment. Access to confidential records will also be granted to federal officials to conduct audits for compliance with the Americans With Disabilities Act.
- J. Disclosure of Medical Records:** Medical records shall be released to third parties only upon written and signed consent of the employee on a form provided by the San Mateo County Office of Education.
- K. Disclosure of Personnel Records in Litigation:** Disclosure of personnel or medical records in litigation shall be permitted to the extent allowed by the employee or compelled by law. Any such disclosure shall be made with the advice from an attorney employed to provide legal advice to the Office of Education. When served with a court order or subpoena for employee records, the Office shall notify the employee of the service and allow the employee opportunity to object.
(Education Code Sections 44031, 45311, 45260, 45261, Government Code Section 6250, Cal Civil Code Sections 56-56.37, Confidentiality of Medial Information Act)

CHAPTER 130

PERFORMANCE EVALUATIONS

130.1 GENERAL POLICY

- A. **Policy Statement:** The employee performance evaluation report serves as an important tool for both management and employees to measure the quality and efficiency of work performance. The preparation and use of employee performance evaluations are intended for the mutual benefit of the Office of Education and its employees and may be used in making decisions on promotion, merit pay increases, transfers, demotions, dismissal, and other employment conditions. Performance evaluation reports shall be used to identify specific levels of performance measured against appropriate standards; to acknowledge the merit of above-standard performance; and to prescribe the means and methods of correcting deficiencies to a required level of performance.
- B. **Administration of Performance Appraisal System:** The Personnel Director shall administer the performance appraisal system for all classified staff. The Personnel Director shall be responsible for ensuring that all evaluations are properly completed and submitted to the Personnel Commission Office for review and inclusion in the employee's personnel files.
- C. **When Evaluations Are To Be Made:** All regular classified employees shall be evaluated in writing by their immediate supervisor in accordance with the following schedule:
1. **Probationary Employees:** Employees serving in a probationary status shall be evaluated at the end of the third month of service and at the end of the fifth month of service. For positions designated as management, performance evaluations shall take place at the end of the fifth and eleventh months of service.
 2. **Permanent Employees:** Employees who hold permanent status shall be evaluated annually on or before their anniversary date, and at any time more than sixty (60) days after an employee is assigned to a new supervisor.
- D. **Additional Evaluations:** An employee may be given an evaluation at any time during employment if deemed necessary by the supervisor.

- E. Evaluation Rater:** Each employee is to be evaluated by his/her immediate supervisor who is defined as the person of higher classification who assigns, checks, and supervises a majority of the employee's work. Each immediate supervisor under whom the employee has served for sixty (60) working days or more during any rating period shall provide a performance evaluation, even though the employee may have left the supervisor's control. In cases where the employee is assigned to work in more than one program or department, the employee shall receive separate evaluations for each assignment.
- F. Evaluation Meeting:** After completing the performance evaluation form, the supervisor shall meet with the employee to discuss evaluation ratings. The evaluation meeting shall be held during the employee's regular work time.
- G. Documentation:** An evaluation that contains a rating of unsatisfactory on any performance dimension shall include substantiating documentation such as work examples, dates, and times of less than satisfactory performance. The supervisor shall outline specific and measurable goals and objectives to meet performance standards, and recommend ways to attain them.
- H. Signing of Form:** The completed evaluation form shall be signed by the employee being evaluated to indicate the employee has seen and received a copy of the evaluation. The signing of the evaluation form shall not be considered to mean that the employee is necessarily in agreement with the contents of the evaluation form.
- I. Distribution of the Form:** The completed evaluation form shall be distributed as follows:
1. One copy to the employee being evaluated.
 2. One copy to the Personnel Commission Office for inclusion in the employee's personnel file.
- J. Employee Attachments to Evaluation:** An employee shall have ten (10) working days from the date of the final evaluation meeting to submit to the Personnel Commission Office written comments and/or documentation evidence to refute or rebut any derogatory rating or comments on the evaluation form. Any employee submissions shall be attached to the evaluation form.

REFERENCE: Education Code Sections: 44031, 45260, 45261

CHAPTER 140

VACATIONS

140.1 VACATIONS

A. Ratio for Earning Vacation - Regular Employees: Regular employees, or a regular employee temporarily assigned to a provisional or limited term assignment, shall earn vacation on a fiscal year basis as follows:

1. **One (1) Through Five (5) Years Service Inclusive:** Vacation allowance shall be fifteen (15) days, or a prorated amount thereof if work is less than twelve (12) full months.
2. **Six (6) Through Ten (10) Years Service Inclusive:** Vacation allowance shall be twenty (20) days or a prorated amount thereof if work is less than twelve (12) full months. Employees may be paid for up to five (5) days of vacation based on the salary in effect at the end of the fiscal year in which the vacation is earned.
3. **Ten (10) or More Years Service:** Vacation allowance shall be twenty-five (25) days or a prorated amount thereof if work is less than twelve (12) full months. Employees may be paid up to ten (10) days of vacation based on the salary in effect at the end of the fiscal year in which vacation is earned.

B. Vacation Rate of Pay: All vacation shall be paid at the employee's current rate of pay including any longevity or shift differential. An employee whose vacation is earned and begun under a given status shall suffer no loss of earned vacation salary by reason of subsequent changes in conditions of employment.

C. Vacation Credit for Partial Month: Full vacation leave for a given month is credited if an employee is in paid status for a minimum of 11.5 working days in the month.

D. Vacation Earned During Paid Status: Vacation is earned at all times that an employee is in a paid status including working time, paid holidays, and all paid leaves of absence.

E. Vacation Schedules: Vacation schedules shall be prepared by management. Effort shall be made to enable vacations to be taken at times convenient to the employee, consistent with the needs and workload of the department.

F. Earned Vacation Upon Separation From Service: Upon separation from employment, an employee shall be paid for accumulated vacation credit at the rate of pay applicable to their last regular assignment, except that employees who have not completed six (6) months of employment in regular status shall not be entitled to such compensation.

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

G. Vacation Accrual: Employees may accrue up to a maximum of thirty (30) days vacation which may be carried over to the following year. When a critical emergency prevents the employee from taking vacation, the Commission may authorize payment for vacation time in excess of the allowable thirty (30) days accrued vacation.

H. Interruption of Vacation: Employees may interrupt or terminate vacation leave to begin another type of paid leave without return to active service, provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption or termination to the Personnel Director.

I. Vacation Holidays: If an Office approved holiday falls within a scheduled vacation, the employee shall not be charged a vacation day for the holiday.

REFERENCE: Education Code Sections 45190, 45197, 45160, 45261

CHAPTER 150

HOLIDAYS

150.1 HOLIDAYS

- A. **Holidays for Classified Employees:** All probationary or permanent employees that are part of the classified service shall be entitled to the following paid holidays provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday subject to eligibility provisions of this Chapter:

New Year's Eve

New Year's Day

Martin Luther King Day *

Mid-Winter Break (Lincoln's Day) *

Mid-Winter Break (Washington's Day) *

Spring Holiday

Memorial Day *

Juneteenth

Independence Day

Labor Day

Veteran's Day *

Thanksgiving Break (2 days)

Winter Break (2 days)

- B. **In Lieu Holidays:** The office may designate other days during the year as holidays in lieu of the holidays marked with an asterisk (*) in Rule 150.1.A provided that the in lieu holidays are scheduled prior to July 1 of any school year and provide at least a three (3) day weekend.
- C. **Other Paid Holidays:** The County Board of Education or County Superintendent of Schools may declare a holiday in the schools or offices operated by the County Superintendent of Schools whenever good reason exists pursuant to Education Code Section 1318.
- D. **Governor/President Declared Holidays:** In addition to the holidays listed in Rules 150.1.A and 150.1.B, all regular classified employees shall be entitled to a paid holiday for every day appointed by the President of the United States or the Governor of the State of California for a public fast, thanksgiving, or holiday pursuant to Education Code Section 37220.

- E. **Weekend Holidays:** When a holiday falls on a Saturday, the preceding Friday shall be deemed to be the holiday. When the holiday falls on a Sunday, the following Monday shall be deemed to be the holiday.
- F. **Holidays Occurring on School Recess Periods:** Regular classified employees who are not normally assigned to duty during the school holidays, which include December 25 and January 1, shall be paid for those two holidays provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.
- G. **Overtime Pay for Working Holidays:** Regular classified employees who work on a holiday shall be paid compensation, or given compensating time off, for such work in addition to the regular pay received for the holiday at the rate of time and one-half (1 ½) the employee's regular rate of pay.
- H. **Holidays for Employees with Non-Traditional Work Weeks:** A regular classified employee assigned to a work week other than Monday through Friday (i.e., Tuesday through Saturday, etc.) shall be provided a substitute holiday when the regular holiday falls on a day on which the employee is not normally assigned to work.
- I. **Teacher In-Service Day:** Notwithstanding the adoption of separate work schedules for the certificated or classified service, on any day during the regular school term when pupils would otherwise be in attendance but are not and for which certificated personnel receive regular pay, classified employees shall also receive regular pay whether or not they are required to report for duty that day.

Education Code Sections 1318, 37220, 45203, 45205, 45206, 45260, 45261

CHAPTER 160

LEAVES OF ABSENCE

160.1 SICK LEAVE

- A. **Absence Due to Illness:** Sick leave is the absence of an employee because of illness or injury of the employee, or serious or emergency illness of the employee's immediate family, which requires the absence of the employee during regularly assigned hours of service.
1. Immediate family is defined as: Mother, father, grandmother, or grandfather of the employee, or the employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, sister, grandchild, or any person living in the immediate household of the employee.
 2. Employees may use accrued sick leave to care of a sick family member in accordance with sick leave reporting and other provisions outlined in this rule.
- B. **Number of Sick Days Per Year:** Regular classified employees shall earn one (1) day of sick leave per full month of service to a maximum of twelve (12) days per year. Part-time employees shall earn a proration of sick leave in accordance with Education Code 45191.
1. Sick leave accrued, but not used, shall carry over from one fiscal year to another with no limit on accumulation.
 2. New probationary employees may not use more than six (6) days of paid leave during their initial probationary period.
- C. **Sick Leave Bank:** At the beginning of each fiscal year, the sick leave account of the employee shall be increased by the number of days of paid sick leave which would normally be earned in the ensuing fiscal year.
1. An employee's sick leave advance allotment shall be adjusted should a change in the employee's assignment alter the amount of sick leave which the employee can earn.
- D. **Pay for Sick Days:** When an employee takes a sick leave day, pay for that day of sick leave shall be the same pay the employee would have received had the employee worked that day.
- E. **Notification of Absence:** The employee must notify his/her immediate supervisor and the Substitute Placement Assistant if applicable, no later than one hour prior to the start of each workday, unless conditions make such notification impossible. The burden of proof regarding the impossible conditions shall be upon the employee.

- F. Notification of Return to Work:** In order to allow the County Office the opportunity to make arrangements for the return of an absent employee (such as terminating the services of a substitute), the employee shall notify his/her immediate supervisor or the Substitute Placement Assistant of his/her impending return not later than **5:00** p.m. of the work day preceding the day on which the employee is to return to work. If an employee fails to notify his/her supervisor or the Substitute Placement Assistant, and the substitute has been assigned to work the day when the employee returns to work, the employee may be sent home for the day without being paid for that day.
- G. Doctor's Note May be Required:** If the County Office has reason to question an employee's absence from duty, regardless of the duration of such illness, the County Office may require the employee to present a statement from a state-licensed physician verifying the nature and/or duration of the illness. Requests for medical verification of illness shall be made by the County Office prior to the return of the employee from his/her sick leave.
- H. Doctor's Note Required for Absences Over Five (5) Days:** An employee who is absent over five (5) working days shall present the County Office with a physician's statement outlining the nature and/or duration of the illness or injury as well as the date on which the employee can be expected to return to work.
- I. Submission of Doctor's Notes:** Doctor's reports and/or clearances to return to work shall be submitted to the Human Resources Office.
(Education Code Sections: 45136, 45137, 45190, 45191, 45196, 45196.5)

160.2 EXTENDED SICK LEAVE

- A. Sick Leave Exhausted:** All permanent classified employees who have exhausted all accrued and advanced sick leave shall receive extended sick leave benefits subject to the following conditions:
1. Extended sick leave shall be paid at 50% of the employee's regular rate of pay.
 2. Employees must provide medical verification of need for sick leave for each day of paid extended sick leave.
 3. After exhausting all paid sick leave or, at the employee's option, all sick leave, vacation or other paid leave is used, a permanent employee shall be granted supplemental leave up to a maximum of 100 work days in each fiscal year.
 4. If, at the conclusion of all sick leave, extended sick leave, or unpaid medical leave of absence, the employee is still unable to assume the duties of his/her position, the employee shall be placed on a re-employment list for thirty-nine (39) months. If at any time during the thirty-nine-month period the employee is able to assume the duties of his/her position, the employee shall be re-employed in the first

vacancy in the classification of his/her previous assignment. The employee's re-employment will take preference over all other applicants except for those laid off for lack of work or lack of funds in which case the employee shall be ranked according to his/her proper seniority. Upon resumption of the employee's duties, the break in service will be disregarded and the employee shall be fully restored as a permanent employee.
(Education Code Section 45196)

160.3 UNPAID LEAVE FOR NON-INDUSTRIAL ACCIDENT

A. **Six Month Unpaid Leave:** A permanent classified employee who has exhausted all paid leaves and who continues to be absent due to non-industrial illness or injury may be granted an additional six (6) month unpaid leave of absence upon approval of the superintendent. This leave may be extended for up to two additional six-month periods.

The following factors may be considered in making leave request decisions:

- The likelihood that the employee will be able to return to regular duties at the conclusion of the leave.
 - The length of service and work record of the employee.
 - The employee's previous leave history and attendance record.
 - The uniqueness of the duties performed, and the availability of a substitute.
 - The length of time the employee has been out on paid leave.
 - Other reasons as may be deemed appropriate by the Superintendent
1. With medical clearance, an employee may return to work at any time during the leave period. The employee shall be restored to a position within the class to which the employee was assigned, and if practicable, to the employee's regular position. Upon resumption of his or her duties, the break in service will be disregarded, and the employee shall be fully restored as a permanent employee.
 2. If at the conclusion of all leaves of absence, paid and unpaid, the employee is still unable to resume the duties of his or her position, the employee shall be placed on a reemployment list for a period of thirty-nine (39) months in accordance with Rule 160.5 D.

(Education Code Section 45192)

160.4 TRANSFER OF SICK LEAVE

A. **Service Requirement:** A classified employee with one (1) calendar year of service with any school district, county superintendent of schools, or community college district who leaves that entity in good standing to accept employment with another school employer shall be allowed to transfer accumulated sick leave to the new school employer under the following conditions:

1. The employee must accept employment with the new school employer within one (1) calendar year from the date of the termination of employment with the previous school district.
2. The employee shall request the former school employer to provide accumulated sick leave information for review by the Personnel Director and inclusion in the employee's sick leave bank.
(Education Code Section 45202)

160.5 INDUSTRIAL ACCIDENT/ILLNESS LEAVE

- A. Paid Industrial Accident/Illness Leave:** A regular classified employee who is absent from duty because of an illness or injury defined as an industrial accident under provisions of the Workers' Compensation Insurance Law, shall be granted paid industrial accident leave for each separate accident or illness.
1. Paid industrial accident or illness leave shall be granted from the first day of absence to and including the last day of absence resulting from each separate industrial illness or injury.
 2. Eligible employees shall be entitled to not more than sixty (60) working days industrial leave in any one (1) fiscal year for each industrial accident or injury. Industrial accident or illness leave shall not be accumulative from year to year.
 3. Industrial accident or illness leave will be reduced by one (1) day for each day of authorized absence regardless of a compensation award made under workers' compensation. Days absent while on paid industrial accident or illness leave shall not be deducted from the number of days of paid illness leave to which an employee may be entitled.
 4. When an industrial accident or illness occurs at a time when the full sixty (60) days will overlap 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 injury or illness occurred, for the same illness or injury.
- B. Use of Paid Leave After Exhaustion of Sixty (60) Days:** When entitlement to industrial accident or illness leave has been exhausted, entitlement to other paid leave will then be used. If an employee is receiving Workers' Compensation the employee shall be entitled to use only so much of his/her accumulated or available sick leave, extended sick leave, accumulated compensatory time, vacation or other available leave which, when added to the Workers' Compensation award, provide for a full day's pay.
- C. Industrial Accident or Injury Leave Without Pay:** After exhaustion of all paid leave privileges, the Superintendent may place the employee on an industrial accident leave without pay. The total time of all leave benefits provided under this rule,

including unpaid industrial accident or illness leave, shall not exceed thirty-six (36) months for any one industrial accident or illness. Factors that may be considered in granting a leave request are outlined in Rule 160.3.

1. Upon return from service from any paid or unpaid leave resulting from an industrial accident or illness, an employee shall be assigned to a vacant position in the employee's former class ahead of any employee with a lesser amount of seniority. If no vacancy exists in the employee's former class, (s)he may displace the most recently appointed employee in the class with less seniority.

D. Placement on Re-employment List at Exhaustion of Leaves: When all available paid or unpaid leaves of absence have been exhausted, and if the employee is still medically unable to assume the duties of his/her position, the employee shall (if not voluntarily placed in another position) be placed on a re-employment list for a period of thirty-nine (39) months. When the employee is medically able to return to work during the 39 month period, (s)he shall be employed in a vacant position in the class of his/her previous assignment over all other candidates, except for a re-employment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations.

1. An employee who has been placed on a re-employment list, who has been medically released for return to duty, and who fails to accept an appropriate assignment shall be dismissed. Appropriate assignment is defined as an assignment to the employee's former class, in the employee's former work status and work time.

E. Employee Must Remain in California: Any employee receiving benefits under provisions of this rule shall, during the period of leave, remain within the state of California unless out-of-state travel is authorized by the Superintendent.

F. Absences Not Considered a Break in Service: Any leave under this rule, either paid or unpaid, shall not be considered a break in service and the employee, while on such leaves, shall continue to accrue seniority credit.

G. Workers' Compensation Check Endorsed to Office: During all paid leaves of absence resulting from an industrial accident or illness, the employee shall endorse to the County Office all wage loss benefit checks received under Workers' Compensation insurance laws. The County Office shall issue the employee appropriate warrants for payment of wages or salary and shall deduct normal retirement and other authorized contributions.
(Education Code 45192)

160.6 BEREAVEMENT LEAVE

A. Paid Bereavement Leave: Regular classified employees shall be granted pay for a maximum of five (5) working days when absent due to the death of any member of

the employee's immediate family. Such time must be taken within fifteen (15) days of the funeral. Bereavement leave of one-half (½) day shall be granted with department head approval for any death.

- B. Definition of Immediate Family:** Members of the immediate family means the mother, father, grandmother or grandfather of the employee or of the spouse of the employee, son, son-in-law, daughter, daughter-in-law, brother, sister, or grandchild of the employee, and any person living in the immediate household of the employee. (Education Code Section 45261)

160.7 JURY DUTY

- A. Leave of Absence for Jury Duty:** All classified employees who are called to serve on a jury shall be granted paid leave for time served in court. An employee must complete a Request for Paid Time Off form and submit a copy of the court order to the Human Resources to receive pay during the leave period. Any compensation, excluding reimbursements for meals, mileage, and parking allowances received by an employee as a member of a jury shall be remitted to the County Office. (Education Code Section 44037)

160.8 WITNESS LEAVE

- A. Witness Leave of Absence:** All classified employees who are called to serve as a witness in a court case (other than as a litigant), administrative hearing, or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee, shall be granted paid leave from duty for time served in court or other governmental proceedings. Any compensation, excluding reimbursements for meals, mileage, and parking allowances received by the employee for serving as a witness shall be remitted to the County Office.

160.9 PERSONAL NECESSITY LEAVE

- A. Paid Personal Necessity Leave:** An employee may use up to six (6) days accumulated sick leave benefits in any school year, in the following cases of personal necessity:
1. Death of a member of the immediate family when rights to bereavement leave have been exhausted.
 2. Accident involving the employee's person or property or the property of a member of the employee's immediate family of such a nature that the immediate presence of the employee is required during the working day.
 3. Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.

4. Such other reasons which may be prescribed by the Superintendent.

B. Board of Education to Prescribe Rules: The Board of Education shall adopt rules and regulations prescribing the manner and proof of personal necessity for purposes of this section.

(Education Code Section 45207)

160.10 MILITARY LEAVE

A. All Regular Employees Granted Military Leave: Regular classified employees under official orders, who are called to active duty in the Armed Services of the United States of America (including the Coast Guard) shall be granted military leave of absence for the period of service.

B. Reserve Service: Regular classified employees who are members of a reserve corp., and who must be temporarily absent due to active duty training or exercises shall be granted temporary military leave of absence.

C. Thirty (30) Days Leave with Pay: Regular classified employees shall be granted full pay for the first thirty (30) calendar days of military leave. Pay for such purposes shall not exceed thirty (30) days in any one fiscal year. Employees on military leave shall be granted salary advancement and shall continue to accrue seniority for purposes of layoff.

D. Official Orders Must Be Submitted: In order for a paid leave of absence to be granted, the employee must submit official orders to active duty or reserve duty stating the dates to report.

E. Return from Military Leave: Upon return from military leave the employee shall be reinstated to his/her same position or an equal position in the same class.

F. Military Spouse Leave: An employee whose spouse is in the military shall be allowed to take up to ten (10) days of unpaid leave to spend time with a spouse during his or her deployment leave from a military conflict.

1. A qualified employee is someone who satisfies all these requirements:

a. The employee's husband or wife is a member of the armed forces who has been deployed to a combat theater or zone, or is a National Guard or Reserves member who has been deployed during a period of military conflict.

b. The employee works an average of 20 hours a week.

- c. The employee notifies the Human Resources within two business days of receiving official notice that the spouse will be on leave from deployment that he or she intends to take leave.
- d. The employee provides to the Human Resources Department written documentation certifying that the service member will be on leave during the period for which the workplace leave is requested.
- e. An employee who requests military spouse leave may use vacation or other discretionary leave in lieu of taking unpaid leave.
(U.S.C. 6323)

160.11 PREGNANCY DISABILITY LEAVE

- A. **Disabled by Pregnancy Defined:** An employee who is disabled by pregnancy, childbirth, or related medical condition is entitled to Pregnancy Disability Leave (PDL) if her health care provider deems that she is unable to perform any one or more of the essential job functions of her job, or to perform any of these functions without undue risk to herself, the successful completion of her pregnancy or to other people. Medical conditions leading to disability by pregnancy include, but are not limited to, prenatal or postnatal care, postpartum depression, or loss or end of pregnancy.
- B. **Duration of Pregnancy Disability Leave:** A pregnant employee may take up to four months of leave, when disabled by her pregnancy, and may use accrued sick leave supplemental sick leave, or accrued vacation time to remain in a paid status while on pregnancy disability leave. If any employee remains disabled at the end of four calendar months, she may request additional time off under the rules applicable to use of regular and supplemental sick leave. The four months of leave is allowed for each pregnancy and is not an annual limit.
- C. **Calculating Pregnancy Disability Leave:** Four months of PDL means the number of days an employee normally would work within four months:
 - 1. For a full-time employee who works five, eight-hour days per week, four months means 693 hours of leave (40 hours per week times 17 1/3 weeks)
 - 2. For a part-time employee who works 20 hours a week, four months means 346.5 hours of leave (20 hours per week times 17 1/3 weeks).
- D. **Intermittent Leave:** Employees may take leave intermittently or on a reduced work schedule when medically advisable, as determined by the employee's health care provider.
- E. **Employee request for PDL:** If the need for PDL leave is foreseeable, the employee must provide at least 30 days' advance notice of the need for leave, reasonable accommodation, or transfer. The employer may not deny pregnancy disability leave, reasonable accommodation or transfer that is an emergency or is otherwise unforeseeable on the basis that the employee did not provide advance notice of the need.

- F. Responding to a Request for PDL:** The employer must respond to a request for pregnancy leave, reasonable accommodation or transfer request as soon as possible, but no later than 10 calendar days after receiving the request.
- G. Medical Certification:** The employer shall require medical certification as a condition of granting a pregnancy disability leave, a reasonable accommodation, or a transfer, and shall inform the employees of the need to provide medical certification, the deadline for providing the certification, what constitutes sufficient medical certification, and the consequences for failing to provide the required certification.
- H. Providing Reasonable Accommodation and Transfers:** A reasonable accommodation may be required when an employee is affected by pregnancy and needs a change in the work environment or job duties to enable her to perform the essential functions of her job. The employee only needs to be affected by pregnancy, not disabled by pregnancy, for reasonable accommodation and transfer requests to apply. The request for reasonable accommodation must be based on the advice from the employee's health care provider.
- I. When the Employer Requires a Pregnant Employee to Transfer:** If it is medically advisable, because of pregnancy, for an employee to take intermittent leave or have a reduced work schedule, the employer may require that the employee transfer temporarily to an available alternative position that meets the employer's and employee's needs. The alternative position must have the equivalent rate of pay and benefits, be a position for which the employee is qualified, and must better accommodate the employee's leave requirement than her regular position.
- J. Benefits and Pregnancy Disability Leave:** The employer must continue paying its contribution to health plan premiums (medical, dental, vision) for an employee on pregnancy disability leave as if she was actively working.
- K. Seniority and Pregnancy Disability Leave:** An employee on pregnancy disability leave will continue to accrue seniority under the same conditions as would apply to any other paid leave not related to pregnancy.
- L. Returning to work After Pregnancy Disability Leave:** When an employee's pregnancy disability leave is over and the employee is released by her physician to return to work, the employer must reinstate the employee to the same position or to a comparable position in the same job classification.
1. The employer may delay or deny reinstatement to the position the employee held prior to taking a pregnancy disability leave owing to legitimate business reasons such as layoff. In this case, policies within Merit System Rules and the employee's Collective Bargaining Agreement will regulate reinstatement procedures.

160.12 RELEASE TIME FOR PERSONAL ACTIVITIES

- A. Release Time for Examination:** Any classified employee shall be granted release with paid time to take any examination given by the Personnel Commission during the employee's regular working hours. The employee shall provide at least two (2) days notice to his/her immediate supervisor.

160.13 LEAVE TO SERVE IN TEMPORARY/LIMITED TERM JOB

- A. **Temporary Assignments:** Any permanent classified employee who accepts a temporary or limited-term assignment within the County Office shall, during such assignment, be considered (for status purposes) as serving in his/her regular position, and such assignment shall not be considered a separation from service.
1. The employee may, with approval of the employee's division head, voluntarily return to his/her former position prior to completion of service in the temporary assignment. Failure to complete the required service, unless approved as specified herein, will constitute abandonment of position and may be cause for disciplinary action.
(Education Code Sections 45260 and 45261)

160.14 LEAVE OF ABSENCE WITHOUT PAY

- A. **When Granted:** Leave of absence without pay may be granted for up to one (1) year to a permanent classified employee upon written request of the employee and the approval of the Superintendent subject to the following conditions:
1. **Right to Return:** An employee on leave of absence without pay has the right to return to his/her position at the expiration of the leave provided that the employee is capable of performing the job duties. The position may be filled only for the duration of the leave.
 2. **Cancellation of Unpaid Leave of Absence:** The Superintendent may, for good cause, cancel a leave of absence (except military leave) by giving the absent employee due notification. The employee may appeal the cancellation to the Personnel Commission which shall investigate and hear the appeal. The appeal by the employee will stay the cancellation directive of the Superintendent until action by the Personnel Commission which shall be final and binding.
 3. **Rescind Leave:** An employee may make a written request to the Superintendent to return to work prior to the expiration of the leave. The Superintendent may approve or reject the request.
 4. **Failure to Report:** 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. The termination may be appealed to the Personnel Commission in the same manner as any other dismissal for cause.
(Education Code Sections 45260 and 45261)

160.15 LEAVE OF ABSENCE FOR STUDY

- A. **Study Leave:** Every regular classified employee who has completed seven (7) consecutive years of service in regular status with the Office of Education (at the time the application for such leave is made) shall be eligible to apply for a leave of absence for study purposes. The granting of such leave shall be entirely discretionary with the County Office. However, once a study leave has been granted or taken, the employee shall not again be eligible for a study leave until the employee has completed an additional seven (7) consecutive years of service (from the date of completion of the previous study leave).
- B. **Time Limits for Study Leaves:** 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 Superintendent, but must be completed within three (3) years from the initial date the leave commenced.
- C. **Study Leave Not a Break in Service:** Any leave granted and taken under provisions of 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. However, if the leave is not continuous, the service performed between the leave intervals shall be credited toward future study leave eligibility.
- D. **Application for Study Leave:** To secure a leave of absence under provisions of this rule, the applicant must submit a request for the leave to the Human Resources Department which contains all of the information outlined as follows:
1. Work history with the County Office, and length of time served in each position.
 2. Length of leave requested, and the time period in which the leave will be completed.
 3. The purpose for which the leave is requested. The leave application must include the complete course of study to be pursued, the institution giving the course, cost involved, degree or credits to be granted, and any other pertinent data.
 4. Services, if any, to be performed by the employee for the County Office during the leave.
 5. The benefits, if any, to be derived by the County Office as a result of granting the leave request.
 6. Agreement by the employee that (s)he will serve the County Office for at least two (2) years after termination of the leave.
 7. Willingness by the employee to provide a bond to indemnify the County Office against loss in the event that the employee fails to render at least two (2) years

service following completion of the leave. (Subject to waiver provision outlined in this rule).

8. Willingness to provide the County Office evidence of satisfactory study progress at the agreed intervals during leave. Failure to provide such evidence or to make satisfactory progress may, at the option of the County Office, result in immediate cancellation of the leave.
 9. Agreement by the employee that (s)he will report any employment during the leave to the Human Resources Department who shall determine whether a conflict exists with the purpose of the leave.
- E. **Compensation:** If a leave is granted under this rule, the employee shall be paid, as a minimum, the difference between what the employee's salary would be had the employee not been on leave and the salary paid to the substitute employee. In lieu of the minimum, the Superintendent and the employee may agree, in writing, to greater compensation. If the Superintendent agrees to compensation greater than the minimum, it shall not be less than one-half ($\frac{1}{2}$) of the employee's normal compensation and not more than full compensation.
- F. **Compensation Paid:** If the employee does not provide a bond as determined by the County Office, or provide a written statement indicating that the employee will serve at least two (2) years with the County Office upon return from leave, compensation shall be paid in two (2) equal annual installments during the first two (2) years of service to the County Office following return to duty after termination of the leave.
1. If the employee provides the required bond or submits a written document, approved by the Board in accordance with Education Code Section 45384, the employee shall be paid the agreed-upon compensation in the same manner as if the employee were in active service with the County Office. If the employee fails to complete two (2) years of service for the County Office following return from leave, the employee may be required to refund the County Office a pro-rata portion of any compensation received while on leave.
(Education Code Sections 45380 – 45387)

160.16 LEAVE OF ABSENCE FOR RETRAINING

- A. **Absence for Retraining:** In the event that the Superintendent considers abolishing positions in the classified service and creating new positions because of automation, technological improvements, or for any other reasons to meet the changing conditions in the Office of Education, it may provide for retraining of displaced employees in accordance with this rule.
- B. **Retraining Leave Eligibility:** To be eligible for retraining leave an employee must:

1. Have served at least three (3) years with the County Office; and
 2. Be serving in a position which the County Office contemplates abolishing; and
 3. Show that the retraining will clearly benefit the County Office; and
 4. Indicate a willingness to undergo the prescribed training program; and
 5. Indicate a willingness to serve the County Office for at least two (2) years after successful completion of the retraining program.
- C. **Superintendent Prescribes Training:** The Superintendent shall prescribe the retraining program and may provide the program internally or designate the institution where the program is to be given.
- D. **Employee Remains Permanent:** The employee shall be considered a permanent employee for all purposes during the period of the retraining program and shall receive normal compensation and benefits. The Superintendent may prescribe duties, if any, to be performed by the employee on behalf of the County Office during retraining leave.
- E. **Reasonable Expenses Paid:** The Superintendent shall provide for reasonable expenses necessary for the prescribed retraining, but may recover costs from the employee if the two (2) year service requirements are not met because of voluntary termination of employment.
- F. **Other Training Programs:** The Superintendent 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 County Office. Approval for such leave shall be discretionary with the Superintendent.

(Education Code Sections 45280 – 45287, 45260, 45261)

160.17 UNPAID FAMILY MEDICAL LEAVE

- A. **Family/Medical Leave Eligibility:** Employees who have more than 12 months of service, and who have worked at least 1,250 hours during the previous 12-month period before the date of the leave is to begin are eligible under federal Family and Medical Leave Act (FLMA) and state California Family Rights Act (CFRA) family leave laws to take up to a maximum of 12 workweeks of unpaid family/medical leave within a 12-month period. The 12 workweek maximum amount of unpaid leave includes any combination of eligible reasons for which an employee may need to take separate leaves during a 12-month period.
- B. **Purposes for Family Leave:** Family medical leave is permitted as follows:

- For the birth of the employee's child, or placement of a child with the employee for adoption or foster care;
- To care for the employee's spouse, child, parent or domestic partner who has a serious health condition;
- To recuperate from a serious health condition that makes an employee unable to perform his/her job;
- For employees with an immediate family member who is on active duty or called to active duty in the reserves or National Guard who meet any "qualifying exigency" outlined in Rule 160.18;
- For an eligible employee who is the spouse, child, parent, or next of kin (nearest blood relative) of an Armed Forces member injured in the line of duty.

1. **Certificate of Domestic Partnership:** Employees who seek leave for the medical care of a domestic partner must complete a Certification of Domestic Partnership form 30 days prior to accessing this benefit.

C. Leave Calculation Method: The calculation method used to determine the 12-month period in which the 12 workweeks of leave entitlement occurs shall be the 12-month period measured forward from the date an employee's first family leave begins. There is no carryover of unused leave from one 12-month period to the following 12-month period.

1. If an employee takes leave on an intermittent or reduced work schedule, only the amount of leave actually used can be counted toward the 12 weeks of leave. For example, if an employee needs physical therapy that requires absence from work two hours per week, only those two hours can be charged against the employee's family leave entitlement.
2. If a holiday falls within a week used for family and medical leave, the week is counted as a full week of family and medical leave. However, if an employee uses leave in increments of less than one week, the holiday will not count against the employee's leave entitlement.

D. Integration with Pregnancy Disability Leave: Time off from work because of an employee's disability due to pregnancy, childbirth or related medical condition shall be counted as time used for FMLA leave.

E. Child Bonding Leave: An employee is entitled to take up to a 12-week unpaid (CFRA) leave of absence after exhausting pregnancy disability leave to bond with a child. When both parents are employed by the Office of Education, and request simultaneous leave for the birth, adoption or foster care of a child, they cannot take more than a combined 12 weeks of leave.

1. Leave taken for baby bonding must be taken in increments of at least two weeks at a time.

- F. Requests for Leave:** Requests for leave shall be presented to the Human Resources Department on a prescribed form. If the leave is based on the expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or family member, the employee must notify Human Resources as soon as (s)he becomes aware of the need for FMLA leave, but no later than 30 days before the leave is to begin, unless circumstances make this impossible. The employee must consult with his or her supervisor as soon as practical regarding scheduling of any planned medical treatment in order to minimize the disruption to the operations of the Office of Education. The employer shall respond verbally to an employee's request for leave within two business days from the date the employee gives notice of the need for leave, which shall be followed up by written confirmation within 10 days of the request or no later than the following payday, whichever is sooner.
- G. Certification by Health Care Provider:** An employee who requests family medical leave must provide medical documentation from a licensed health care provider certifying the need for the leave within 5 days of the request, or in the event of unforeseen circumstances on the date the leave is commenced. If certification is incomplete or insufficient, the employer must specify in writing the information that is lacking and give the employee seven days to cure the deficiency. The employer may request recertification of an ongoing condition every six months in connection with an absence, and for annual medical certifications when a serious health condition extends beyond a single year. The Human Resources Department may contact an employee's health care provider to seek clarification about information on an employee's FMLA certification form. A "serious health condition" must involve more than three (3) consecutive calendar days of incapacity plus two visits to a health care provider. Those two visits must occur within thirty (30) days of the period of incapacity.
- H. Care for a Family Member:** If the leave is needed to care for a sick child, spouse, domestic partner, or parent, the employee must provide certification from a licensed health care provider stating:
1. Date of commencement of the serious health condition;
 2. Probable duration of the condition;
 3. Estimated amount of time for care by the health care provider; and
 4. Confirmation that the serious health condition warrants the participation of the employee to provide care during the period of treatment, or supervision of the child, parent, spouse or domestic partner. This includes, but is not limited to providing psychological comfort, and arranging "third party" care for the child, care.

I. Care for Own Health Condition: If the leave is needed to care for the employee's own health condition, the employee must provide certification from licensed health care provider stating:

1. Date, if known, on which the serious health condition commenced;
2. The probable duration of the condition; and
3. A statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his/her position.

Entitlement to leave for the employee's own serious health condition shall be satisfied by and run concurrently with leaves taken pursuant to Sick Leave and Extended Sick Leave provisions (MSR 160.1 and 160.2). Upon return to work, an employee must provide certification from his/her treating physician that the employee is fit to return to his/her job.

(Family Medical Leave Act)

J. Health Insurance and Family and Medical Leave: The employer shall continue to pay the employer's monthly contribution for health, dental and basic life insurance coverage during the employee's family and medical leave.

K. Other Employment Benefits and Family and Medical Leave: Employees on FMLA/CFRA leave shall retain employee status during the leave period. The leave does not constitute a break in service for purposes of earning longevity or seniority service credit.

L. Use of Sick or Vacation Time During Family and Medical Leave: Employees taking Medical and Family Leave may use accrued sick, vacation or other compensatory time in accordance with applicable Merit Rules governing use of this leave time.

160.18 ACTIVE DUTY LEAVE

A. Duty Leave: Employees with an immediate family member (spouse, son, daughter, or parent) who is on active duty or called to active duty in the Reserves or National Guard may take up to 12 weeks of unpaid leave during any 12-month period for any qualifying exigency outlined below:

1. **Short Notice Deployment:** Leave may be taken when the call or order comes seven days or less before the deployment date. Leave taken for this purpose can be used for up to seven calendar days beginning on the date a covered military member is notified of the impending call to order.
2. **Military Events and Related Activities:** Leave may be taken to attend any official military-sponsored ceremony, program, or event related to the active duty or call to active duty status of a covered military member. It is also for attending family support or assistance programs and briefings sponsored by the military, military service organizations, or the American Red Cross.

3. **Childcare and School Activities:** Leave may be taken to make alternate childcare arrangements for the military member's child or to provide child care on an urgent, immediate need basis, to enroll or transfer the child in a new school or daycare facility, or to attend meetings with staff at a school or daycare facility.
 4. **Financial and Legal Arrangements:** Leave may be taken to make or update financial or legal arrangements to address the covered military member's absence, or to act as the military member's representative before a federal, state or local agency to obtain, arrange, or appeal military service benefits while he or she is on active duty status and for 90 days after active duty terminates.
 5. **Counseling:** Leave may be taken to attend counseling provided by someone other than a healthcare provider for the employee, or for the military member or his or her child.
 6. **Rest and Recuperation:** Leave may be taken to spend time with a covered military member who is on short-term temporary rest and recuperation leave during the period of deployment. This leave may last up to five days for each instance of rest and recuperation.
 7. **Post-Deployment Activities:** Leave may be taken to attend arrival ceremonies, reintegration briefings and events, and any other official military-sponsored ceremony or program for a period of 90 days after active duty status terminates. Leave can also be used to address issues that arise from the death of a military member while on active duty status, such as meeting and recovering the covered military member's body and making funeral arrangements.
 8. **Other Activities:** Leave may be taken for other reasons arising out of a call or order to active duty if the employer and the employee agree that the leave qualifies as an exigency and agree on the timing and the duration.
- B. **Military Caregiver Leave:** An eligible employee who is the spouse, child, parent, or next of kin (siblings, grandparents, aunts and uncles and first cousin) of an Armed Forces member injured in the line of duty can take up to 26 weeks of unpaid leave during a 12-month period to care for the service member. During a 12-month period when service member family leave is used, an employee is limited to a combined total of 26 weeks of FMLA leave, for any reason.
- C. **Continuance of Health Care Insurance:** An employee taking family/medical leave will be allowed to continue participating in any health and welfare benefit plans in which he or she was enrolled before the first day of leave for a maximum of 12 workweeks. The Office of Education will continue to make the same premium contribution as if the employee had continued working.
- D. **Return to Work After Leave:** An employee who takes family leave shall be returned to the same or comparable position.

- E. Intermittent Use of Leave:** An employee may take all 12 weeks of leave at once, or take leave in shorter increments of hours, days, or weeks. An employee may also use family leave to create a reduced work schedule, where the employee works fewer hours per day and counts those hours toward the 12-week leave entitlement.
1. If an employee requires intermittent leave on a reduced work schedule that is foreseeable based on planned medical treatment for the employee or family member, the employer may require the employee to transfer temporarily to an available alternative position better suited to that schedule.
 - a. The alternative position must have the equivalent rate of pay and benefits, the employee must be qualified for the position, and it must better accommodate recurring periods of the leave than the employee's regular job. It does not have to have equivalent duties.
 - b. Transfer to an alternate position includes altering an existing job to accommodate the employee's need for intermittent leave, or a reduced schedule.
- F. Use of Sick Time or Vacation during Family Leave:** An employee may elect to use accrued sick leave, vacation, or other discretionary leave time if the leave is for the care of the employee's own serious health condition, or for the care of a seriously ill child, parent, spouse or domestic partner who has a serious health condition.
(U.S.C. 6323)

160.19 CHILDREN'S ACTIVITY LEAVE

- A. Leave to Attend Children's School Activities:** An employee who is the parent or legal guardian of a child in grades K-12, or attending a licensed day care facility shall be granted up to eight (8) hours a month with a cap of forty (40) hours per year of unpaid leave to attend their children's school activities. An employee shall also be granted time off within these time parameters to appear at a school in connection with his/her child who is suspended.
1. An employee must provide reasonable advance notice that leave time is needed, and may be required to provide documentation from the school or licensed day care facility that the employee participated in the activity on a specific date and at a specific time.
 2. An employee may use vacation or other discretionary leave while on Children's Activity Leave to remain in a paid status.
(California Leave Law 1997)

CHAPTER 170

COMPENSATION AND PAY PRACTICES

170.1 DETERMINATION OF SALARY SCHEDULES AND PAY RATE

A. Fixing Annual Salary Schedules: The Superintendent shall fix the annual salaries for all classified employees for the ensuing school year not later than the date prescribed by law for approval of the published budget of every year. The Superintendent may, at that time, include an increase in annual salaries, all or part of which is conditional upon the actual receipt by the district of anticipated revenue from all sources. If the revenue actually received is less than that anticipated, the Board may, at any time during the school year, reduce such annual salaries by an amount not to exceed the amount which was granted subject to the receipt of such revenues.

1. The adoption of classified salary schedules shall be done in such a way as not to alter the compensation relationships (salary range placement and percentage relationships) between and amongst classes as established by the Personnel Commission.

(Education Code Section 45162)

B. Board May Increase Salary Schedule: The Superintendent may, at any time during the school year, increase the salaries of persons employed by the Office of Education in positions not requiring certification qualifications. Such increase shall be effective on any date ordered by the Board.

(Education Code section 45162)

C. Board May Delay Adoption of Salary Schedule: If the Superintendent is unable to comply with the provisions of Rule No. 170.1 because it is engaged in a salary study, the Superintendent may, prior to adoption of the Office's final budget, adopt an interim salary schedule or adjust salaries after completion of the study in accordance with Education Code section 45163.

(Education Code Section 45163)

D. Superintendent Must Employ/Pay in Accordance With Merit System: The Superintendent shall employ, pay and otherwise control the services of classified employees only in accordance with provisions of Title 2, Division 3, Chapter 5 Article 6 (Merit System) of the State of California Education Code.

(Education code Section 45260)

E. Commission Shall Recommend Salary Schedules to the Superintendent: The Personnel Commission shall recommend to the Superintendent salary schedules for the classified service. The Superintendent may approve, amend, or reject these recommendations. No amendment shall be adopted until the Commission is given

reasonable opportunity to make a written statement of the effect the amendments will have on the principle of like pay for like service. No changes shall operate to disturb the relationship which compensation schedules bear to one another, as the relationship has been established in the classification made by the Commission. (Education Code Section 45256)

F. Commission Shall Allocate Job Classifications: The Personnel Commission shall determine the salary range placement of job classifications within the classified service in accordance with Education Code section 45256.

170.2 APPLICATION OF SALARY SCHEDULES

A. Initial Salary Placement: All new regular classified employees shall be paid in accordance with the salary range established for the class to which assigned. New employees shall normally be appointed at the first step of the range. The Personnel Director may approve appointments up to step three on a salary range, and an accelerated hiring placement at step four or five may be made with approval of the Superintendent and the Personnel Director. Advanced step placement shall be based upon such factors as:

1. Difficulty in the recruitment of candidates to meet the vacancy needs in the class.
2. Recent salary data for a specific classification.
3. Skills or qualifications of the candidate that make him/her exceptionally qualified for the position.
4. Current compensation for work performed at the same position level.
(Education Code Sections 45260 – 45261)

B. Step Advancement : When a probationary or permanent employee accepts a regular position a merit salary adjustment shall be granted to the next step upon successfully completing the probationary period outlined in these rules. The salary adjustment shall be effective the first day of the month following the completion of probation. The date of the first salary adjustment after employment is known as the Anniversary Date. After reaching the Anniversary Date, merit salary adjustments shall be made on an annual basis, until the maximum salary is reached in that class.

The date an employee achieves permanency in a position in the Classified Service shall be the employee's anniversary date. The anniversary date, however, may change during the course of an employee's employment with the County Office due to events such as unpaid leaves of absence, breaks in service, promotions or other factors as determined by law or these rules. Employees who are promoted are probationary in the new position and a new anniversary date is established on the date of probationary completion in the same manner as when initially hired.

(Education Code Sections 45260 – 45261)

- C. **Promotional Salary Rate:** Employees who receive promotions shall be placed on the salary step of the new class that will provide a full step (5%) 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 previous salary. In the event that the first step of the higher class would provide a pay increase of more than 5%, then the employee will be placed on the first step of that range.

(Education Code Sections 45260 – 45261)

- D. **Impact of Promotions on Previous Anniversary Dates:** Employees who receive a promotion and who would be entitled to a step increase in their old classification within six months of the date of promotion shall have their promotional step placement calculated using the higher step placement they would have received had they remained in their former, lower classification.

(Education Code Sections 45260 – 45261)

- E. **Placement After Unpaid Leave of Absence:** Upon return from an unpaid leave of absence, an employee shall be placed on the same step of the range for the class (s)he had achieved prior to taking the leave. Upon return from an unpaid leave of absence, an employee's anniversary date within his/her current classification shall be recalculated to account for the service break.

(Education Code 45260 – 45251)

- F. **Shift Differential:** Employees assigned to work one-half ($\frac{1}{2}$) time or more between the hours of 5 p.m. and 7 a.m., Monday through Friday, shall be paid a monthly rate one step higher than the range for daytime employees. If such shifts normally occur less frequently than five (5) days per week, such higher rate shall be paid only for those days on which the shifts occur.

(Education Code 45181)

1. Employees assigned to night shift work on a continuous basis who are ordered to temporary daytime work for periods not to exceed 10 (ten) working days shall suffer no reduction in compensation as a result of the change. On the eleventh day, the employee shall revert to the daytime rate.

- G. **Salary Adjustment Working Out of Classification:** When an employee is assigned to work out of class as described in 30.2.H, the employee's salary shall be adjusted upward for the entire period worked out of classification.

1. Whenever an employee is assigned to perform all or a majority of the functions and duties of a higher classification, the salary shall be adjusted upward to the salary range of the higher classification, and to the step of that range that will provide the employee a maximum 5% salary increase. An employee may receive less than a

5% increase if the top step of the higher classification's salary range is less than 5% above the employee's regular salary. In the event that the first step of the higher class would provide a pay increase of more than 5%, then the employee will be placed on the first step of that range.

(Education Code Sections 45260 – 45261)

- H. Salary Placement Reclassification:** An employee who is reclassified to a class allocated to a higher salary range shall be placed on the step of the new range which will provide a full step increase.

(Education Code Sections 45260 – 45261)

- I. Compensation for Limited Term/Sub Assignments:** Employees serving in provisional, substitute, or limited term assignments, will normally be compensated at the minimum step for the class. The Personnel Director may authorize salary placement at any step of the classification subject to approval of the appointing authority. Advanced step placement may be made in accordance with the criteria outlined in Rule 170.2.A.

1. Employees serving in substitute assignments will be granted a step increase after 120 days of continuous service in any one position.

2. When a regular employee is given a limited term assignment in a second class in lieu of all or part of the employee's regular appointment, the employee's rate of pay in the second class will normally be the same as the employee's regular rate if the classification is allocated to the same salary grade. In the case that the assignment is in a higher class, the employee shall receive the rate of the higher class which is next above the rate of the employee's current step on the schedule or the first step of the class, whichever is greater.

(Education Code Sections 45260 – 45261)

- J. Salary Placement Transfers:** An employee who transfers from one position to another within the same classification shall retain his/her same salary range and step.

1. An employee who accepts a lateral transfer from one classification to another classification allocated to the same salary range shall retain his/her same salary range and step.

(Education Code Sections 45260-45261)

- K. Salary Placement Demotions:** An employee who accepts a voluntary demotion, or who is involuntarily demoted for cause, shall be placed on the step of the salary range of the lower class that is closest to but not more than the salary step the employee is on in his/her current class.

(Education code Sections 45260 – 45261)

- L. Salary Placement Reinstatement/Reemployment:** A former employee reinstated to his/her previous classification shall be restored to the former step in the salary range

for the class, or if reemployed in a related lower class, to the rate closest to that step to which the employee would be assigned if reinstated to his/her former class.

1. A current employee being reinstated to a former higher class shall be placed at the salary range and step of the higher class in accordance with Merit Rule 170.2.D (Promotional Salary Rule).
2. The former employee shall receive restoration of his/her former anniversary date, deducting time away from the Office and without step advancement credit for the off duty period.
3. The former employee shall receive restoration of any prior longevity steps granted prior to resigning, without longevity step advancement credit for the off duty period.

M. Salary Placement Medical Reassignment: An employee who accepts a medical reassignment to a position in a classification with a lower salary range shall be placed on the step of the range of the lower class that is closest to but not more than the salary step the employee is on in his/her current class.

1. An employee who accepts a medical reassignment to a position in a classification with a higher salary range shall receive no salary increase from such assignment until the employee can be appointed to the higher class in accordance with the rules and procedures on eligibility and appointment.
(Education Code Sections 45260 – 45261)

N. Salary Placement for Retirees & Resigned Employees Returning in Substitute or Limited Term Assignments:

Retirees and former permanent employees who resigned in good standing may be rehired to work in a temporary or substitute assignment in their former classification or in a classification with an equivalent pay rate. They shall be placed on the same salary range and step they held at the time of retirement or resignation, including longevity, if applicable.

Retirees and former employees who perform temporary work in a classification with a lower salary rate than the one they previously held shall be paid at the step on the range of the lower classification that is closest to, but not above, the rate of pay they earned prior to separation. In addition, the retiree or former employee shall be entitled to longevity, if applicable, consistent with the longevity earned prior to retirement.

(Education Code Sections 45260 – 45261)

CHAPTER 180

COMPLAINT PROCEDURE

180.1 PROCEDURES FOR THE ADJUSTMENT OF COMPLAINTS

A. Purposes of the Adjustment Procedure: The purpose of this chapter is to establish an orderly process through which employees may receive timely consideration of their complaints. Because complaints 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 an obligation on the part of the aggrieved employee to make known the existence of his/her complaint and the facts pertaining to the complaint with ten (10) working days after the occurrence of a grievable incident. Employees may use this adjustment procedure to resolve complaints that involve matters arising in the following areas:

1. Personnel Commission Rules and Regulations
2. Provisions of the Education Code relative to Article 6 commencing with Code section 45240, and concluding with Code section 45320

B. Matters Excluded From the Adjustment Procedure: There are certain subjects and matters that are not covered by this grievance procedure:

1. Accusatory charges relating to the moral or professional fitness of an employee. Such charges shall be handled by the Superintendent.
2. Matters specifically reserved for action or review by the Personnel Commission under the Personnel Commission rules. Such matters shall be processed through the Personnel Director to the Personnel Commission.
3. An alleged violation of any provision of a collective bargaining agreement. Such allegations shall be adjudicated through the provisions contained in the collective bargaining agreement.
4. The content of employee evaluation or performance reviews.
5. Examinations of or appointment to positions.
6. Complaints about the subject matter of a rule, policy, or administrative procedure rather than the administration of the rule or procedure. An employee with such a complaint should direct his/her concerns and suggestions for change to the Superintendent or Personnel Director.

C. Adjudicating Body Determined by Subject Matter: The subject matter of a particular complaint will determine whether it will be directed for consideration to the Board of Education, the County Superintendent of Schools, or the Personnel Commission for final determination or decision. Complaints filed on matters within

the jurisdiction of the County Superintendent of Schools or the board of Education shall be adjudicated in accordance with procedures established by the Board and Superintendent.

- D. Complaint Time Limits Considered Maximums:** It is important that complaints be resolved as quickly as possible, therefore the times indicated at each level shall be considered maximums. Time limits may be extended by mutual agreement of both parties.
- E. Complaint Must Be Filed Within Ten (10) Working Days:** A complaint must be filed at step one of this procedure within ten (10) working days of the occurrence of the act or omission giving rise to the grievance.
- F. Definition of Complainant:** A complainant is defined as an employee or employee organization filing a written statement alleging a violation of matters listed in Rule 180.1.A.
- G. Employee Representation:** An employee may have an employee organization represent his/her interests at any level of this grievance procedure.
- H. No Reprisals for Filing of Complaint:** No reprisals of any kind shall be taken by the Office of Education against the complainant by reason of the employee bringing a complaint or participating in resolving a complaint.
- I. Maintenance of Complaint Files:** All records pertaining to complaints filed under this rule shall be maintained by the Personnel Director in the Personnel Commission Office. All grievance records shall be maintained separately from the complainant's personnel file.
- J. Reasonable Release Time:** The complainant and the employee's representative shall be provided reasonable release time, without loss of compensation, to attend complaint resolution meetings.

180.2 STEPS IN THE ADJUSTMENT PROCEDURE

- A. Level 1—Informal Discussion:** The employee shall meet with the department head or program manager to discuss the problem in an attempt to resolve it informally. The manager shall attempt to hold a meeting with the employee within one (1) working day but not later than three (3) working days of the request by the employee. The manager shall consider the facts and provide a decision with supporting reasons within five (5) working days after the meeting.
- B. Level 2—Formal Written Grievance:** If a satisfactory resolution to the problem was not reached through the informal discussion process, the employee may present the problem, in writing, to the appropriate Division Head within ten (10) working days

after conclusion of level 1. The formal complaint must be put in writing and must include: a detailed statement of the problem, information concerning the rule, policy, or procedure allegedly violated, and a statement of the specific remedy sought. The Division Head shall hold a meeting with all parties involved in the dispute within five (5) working days of receipt of the written complaint. The Division Head shall submit a written decision to the employee within ten (10) working days following the meeting.

- C. **Level 3—Classified Personnel Director:** If successful resolution was not reached at level 2, the complaint may be submitted, in writing, to the Classified Personnel Director within (10) working days of receipt of the level 2 decision. The employee shall submit all documentation concerning the complaint to the Classified Personnel Director, along with a written statement outlining reasons why the response from the Division Head was unsatisfactory. The Classified Personnel Director shall hold a conference with parties to the complaint within ten (10) working days of receipt of the complaint. The Classified Personnel Director shall forward a written response to the employee within ten (10) working days following the conference.
- D. **Level 4—Personnel Commission:** If successful resolution was not reached at level 3, the complaint may be submitted, in writing, to the Personnel Commission within ten (10) working days of receipt of the level 3 decision. The employee shall submit all documentation concerning the complaint to the Commission along with a written statement outlining the reasons why the response from the Classified Personnel Director was unsatisfactory. If a timely grievance appeal is filed, the Commission shall hold a hearing to interview appropriate individuals, review evidence, and to permit the submission of oral and written information. The hearing shall be held in open session, unless provisions of the Brown Act require a closed session in certain cases. The deliberations of the Commission that are necessary to make the final decision shall be held in closed session. Within thirty (30) working days after receiving the record, the Commission shall render a decision on the matter. The decision shall be binding on all parties.

(Education Code Sections: 45312, 45260, 45261
Government Code Section 3540 Et Seq.)

CHAPTER 190

PROCEDURES FOR DISCIPLINARY ACTION AND APPEAL

190.1 GENERAL PROVISIONS ON DISCIPLINARY ACTION

- A. **Disciplinary Action Only Pursuant to This Rule:** A permanent classified employee shall be subject to disciplinary action only for cause as prescribed by these Rules and Regulations, and only pursuant to the procedures outlined herein.

Education Code Section 45302

1. Disciplinary action shall not be taken against an employee for any charges based on acts, violations or omissions which occurred prior to the employee's becoming permanent, nor for any acts, violations or omissions which occurred more than two (2) years prior to the date of the filing of the Notice of Proposed Disciplinary Action unless such acts, violations or omissions were concealed or not known to the County Office within the two-year period. Materials in excess of two years may only be used to support a pattern of continued similar infractions.

- B. **Definition of Discipline:** Disciplinary action includes any action taken by the Superintendent whereby a permanent classified employee is deprived of any classification or any incident of any classification, including dismissal, suspension, demotion, or any reassignment that causes a reduction in pay without the employee's voluntary written consent, except a layoff for lack of work or lack of funds. A suspension may be for a period not to exceed thirty (30) assigned working days. Disciplinary action shall be conducted in accordance with procedures set forth in these rules.

Education Codes: 45260 and 45261

- C. **Causes for Disciplinary Action:** Individuals employed in the classified service may be suspended, demoted, reassigned or dismissed for any of the following causes:

1. Incompetency—a pattern of below standard work performance.
2. Inefficiency—the continuing inability or unwillingness to perform the regularly assigned duties and responsibilities of the position.
3. Insubordination—knowingly refusing to perform lawful and reasonably assigned duties or refusing to perform those duties in accordance with established or prescribed procedures; challenging, resisting, defying or demonstrating contempt toward a designated supervisor or other school district official having authority to issue directions and instructions to the employee by the nature of his or her position.
4. Inattention to, or Dereliction of Duties—negligence in the performance of assigned duties.

5. Willful and persistent violation of the Education Code, rules and procedures adopted by the Personnel Commission, Board of Education, or Superintendent, or administrative procedures adopted by a division, department or program.
6. Theft, dishonesty or willful misuse of Office equipment or property for personal gain, for the gain of others, or willful destruction or mishandling of Office property; unauthorized use of County Office or student body property.
7. Repeated unexcused absence or tardiness, abuse of leave privileges or absence without notification
8. Knowingly falsifying or withholding any material information supplied to the Office, including but not limited to, information supplied on application forms and employment records.
9. Possession of opened alcoholic beverage containers on County Office property, drinking alcoholic beverages on Office property, or being intoxicated while on duty.
10. The use or possession, while on duty, of controlled substances, other than those prescribed by a licensed physician, or appearing for work under the effects of illegal or restricted dangerous drugs.
11. Conviction of a narcotics offense as defined in Education Code Section 44011. (Conviction of such an offense shall result in dismissal.)
12. Conviction of a sex offense as defined in Education Code Section 44010. (Conviction of such offense shall result in dismissal.)
13. Conviction of a crime involving moral turpitude.
14. Violation of local, state or federal law which results in cancellation or suspension of a license required for the performance of assigned duties.
15. Abusive, unprofessional conduct, or ethnic, racial, religious, or sexual harassment directed toward an employee, student, or any member of the public.
16. Abandonment of Position - An employee is presumed to have abandoned a position after three (3) consecutive working days without notification or prior authorization, or failure to notify the Office of a valid reason for absence.
17. Failure to return to work or notify the Office of Education within three (3) consecutive working days following an authorized leave of absence without notification or permission except in the case of an emergency.
18. Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment. Accepting anything of value or any

service in exchange for granting any special treatment to another employee or to any member of the public.

19. Failure to obey a subpoena issued by the Personnel Commission and duly served, or any refusal to furnish testimony or documents, other than self-incriminating, at a hearing or investigation before the Commission or Board of Education.
20. Failure to report suspected child abuse as required by law.
21. Advocacy of the overthrow of the government of the United States, or the State of California by force, violence, or other unlawful means.
22. Flagrant disregard of on-the- job safety principles.
23. Defrauding the Office of Education by collecting sick leave or industrial accident/leave pay while working elsewhere for pay during his/her normal scheduled work assignment for the Office of Education.
24. Physical or mental inability to perform the essential functions required of an employee's classification, with or without accommodation.
25. Conviction of a felony or serious crime or a record of one (1) or more convictions which indicate that the person is a poor employment risk for the particular job which the employee holds with Office. A plea, verdict, or finding of guilty, or a conviction following a plea of nolo contendere is to be deemed a conviction within the meaning of these Rules.
26. Any other failure of good conduct tending to injure the public service.
27. Any action that might cause harm to the County Office employees, students or the public. Carrying out a physical attack or assault upon a student, a member of the public, another County Office employee, or a County Office official.
28. Failure to report upon reasonable notice for review of criminal records.

**Education Code Sections 44010, 44011, 45123, 45260, 45261, 45302, 45303, and 45304;
Government Code Sections 1028, 12940 et seq.**

190.2 PROGRESSIVE DISCIPLINE

A. Progressive Discipline - Oral Warning

Generally, except where the misconduct is of such a serious nature that an oral warning is not reasonably justified, a permanent employee of the Classified service whose services are deemed by his/her supervisor to be unsatisfactory shall be informally warned of this fact by his/her supervisor at the earliest opportunity. At this informal meeting, the employee shall be informed of the specific areas of his/her performance which need improvement and, where appropriate,

the supervisor shall prepare a plan for assistance which will help the employee correct any deficiencies and provide for a reasonable time period for improvement. This shall be an informal meeting and no record of it shall be included in the employee's permanent personnel file. Should there be a need for subsequent disciplinary action, records of this meeting may be included with other documentation of deficiencies.

Education Codes: 45260 and 45261

B. Progressive Discipline – Written Warning/Reprimand Written reprimands may be administered as set forth below:

A written reprimand shall state the Rule violated, the acts or omissions in violation, the expectations of conduct or the basis for improvement developed in conjunction with the employee, and, if appropriate, a reasonable time period during which the employee's performance will be reviewed for improvement or attainment of goals.

If the basis for the discipline is performance, the supervisor shall give a reasonable period of time to permit the employee the opportunity to correct the deficiency without incurring further disciplinary action. If the basis for the discipline is misconduct, action may be taken immediately.

There is no right of appeal from a written reprimand. However, within ten working days of receipt of the reprimand, the employee may submit a written response, which will be attached to the written reprimand for placement in the personnel file.

For any of the causes for disciplinary action listed in Rule 190.1 (D), Causes for Disciplinary Actions, any employee may be suspended immediately for not more than 30 assigned working days or may be demoted or dismissed.

Education Codes: 45260 and 45261

C. Progressive Discipline – Suspension

After written reprimand, if the permanent employee continues to violate a cause or causes identified in Rule 190.1 (D), then the employee may be suspended for up to thirty (30) days without pay. The proposed length of suspension shall reasonably relate to the seriousness of the alleged offense.

At the discretion of the County Office, an alternative to a part or all of the suspension may be the employee's participation in an approved employee assistance program. To participate in the employee assistance program the employee must show reasonable justification, enter into and fully comply with a performance improvement plan with his/her supervisor and the County Office, and receive the approval of the Superintendent or designee.

Education Codes: 45260 and 45261

D. Progressive Discipline – Final Step

If the conduct or performance warranted for suspension continues, the employee may be subjected to more severe disciplinary action, including demotion or termination.

Education Codes: 45260 and 45261

190.3 NOTICE OF PROPOSED DISCIPLINARY ACTION

A. No Discipline for Discriminatory Reasons: No employee in the classified service shall be suspended, demoted, dismissed, or in any way discriminated against because of the employee's affiliations, political or religious acts or opinions, race, ethnicity, national origin, age, sex, sexual orientation, marital status, disability, medical condition (as defined in Government Code Section 12926), employee organization membership, except as warranted under Rule No. 190.1.B.

B. No Discipline Without Notice: Prior to implementing disciplinary action, an employee shall receive a "Notice of Proposed Disciplinary Action", and shall be given the opportunity to respond to the charges contained therein. The notice shall be written using language that ensures the employee understands the charge(s) against him/her. A notice stating the charges or grounds for discipline merely in the language of a rule, regulation, or statute, shall be insufficient for the purposes of this rule.

C. Notice Shall Be in Writing and Served on Employee

The Notice of Proposed Disciplinary Action shall be in writing and served in person or by Certified Mail Return Receipt Requested to the employee. This requirement will be deemed to have been met if the Notice of Proposed Disciplinary Action is sent Certified Mail to the last known home address on file in the District Personnel Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the time lines outlined in these Rules. The responsibility for keeping the District informed of a home address is the requirement of the employee. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

D. Contents of Notice of Proposed Disciplinary Action: The written notice of proposed disciplinary action shall contain the following information:

1. The nature of the proposed action (suspension, demotion, dismissal).
2. The specific causes and sections of these rules that the employee is accused of violating.

3. The specific charges, including times, dates, location, and a description of the chargeable actions or omissions.
4. The proposed effective date(s) of the disciplinary action.
5. The employee's right to see and obtain copies of all evidence and documentation supporting the disciplinary action against the employee.
6. The employee's right to a preliminary review with an administrator to respond to the charges prior to final disciplinary action. The employee's response may be given either orally or in writing.
7. The employee's right to representation.

E. Disciplinary Action Reported to Personnel Director: When formal disciplinary action has been approved by the Superintendent, the action and charges shall be reported to the Personnel Director, who shall immediately notify the employee in writing of his/her right to appeal the decision to the Personnel Commission.

1. Notice to the employee shall include a copy of the charges and all materials upon which the charges are based, and a copy of the Merit System Rules governing disciplinary appeals.
2. An employee response form shall accompany the Notice of Proposed Disciplinary Action which shall explain the procedure for filing a response to the charges, and requesting a Skelly Hearing. The completed form shall be submitted to the District Personnel Office by the deadline noted in the Notice of Proposed Disciplinary Action.

190.4 SKELLY HEARING NOTIFICATION & PROCEDURES

A. Action if Skelly Hearing is Not Filed

If the employee does not respond to the charges and request a Skelly Hearing within ten (10) working days as outlined in the Notice of Proposed Disciplinary Action, the Superintendent may approve the proposed disciplinary action.

B. Skelly Hearing Before Appointed Officer

If the employee submits a request for a Skelly Hearing within ten (10) working days after receipt of the Notice of Proposed Disciplinary Action, the employee shall have a right to meet with the designated Skelly Officer, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the Skelly Hearing. The employee shall be allowed to respond to the charges prior to the Skelly Officer's recommendation of disciplinary action to the Superintendent.

C. Right to Skelly Hearing

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

1. The County Office may designate to serve as Skelly Officer an administrator who has the authority and authorization to accept, modify, or rescind the proposed disciplinary action. The administrator may not be a party to the proposed action, either as the supervisor initiating the proposed disciplinary action, or as a witness.
2. The employee shall have the opportunity to respond to all charges. However, the Skelly Hearing is not an evidentiary hearing. The employee will not be allowed to call or examine witnesses. The employee may be represented by legal counsel, union representative, or any other person designated by the employee. If the employee fails to appear, the Skelly Officer may recommend action to the Superintendent.
3. The Skelly Officer shall issue a written decision within five (5) working days after the conclusion of the Skelly Hearing, to either implement the proposed disciplinary action, to modify the proposed disciplinary action, or to rescind and halt the proposed disciplinary action. The Skelly Officer shall not act to provide for a penalty or disciplinary action more severe than that recommended in the Notice of Proposed Disciplinary Action. The written decision of the Skelly Officer shall be filed with the Personnel Commission Office. The Human Resources Office shall be responsible for notification of the employee as to the findings of the Skelly Officer, pursuant to these rules.
4. If the employee requests a Skelly hearing, and at that hearing the employee and County Office representative(s) agree on an alternative course of action pursuant to these Rules, the Skelly agreement shall be in writing. If the agreed alternative action requires Superintendent approval, the Skelly Officer shall recommend to the Superintendent that the alternative action be approved. The Superintendent's decision to accept the alternative action shall be final. If the Superintendent rejects the alternative action, the employee has a right to resume the Skelly Hearing process.
5. The Skelly Officer's decision shall be communicated to the Superintendent for action.
6. An unpaid suspension, demotion or employee dismissal, whatever the case may be, may be implemented only after the Superintendent takes action to approve the recommended discipline.

190.5 NOTICE OF DISCIPLINARY ACTION

- A. The Notice of Disciplinary Action, which is the notification that disciplinary action has been approved by the Superintendent, shall contain statements in ordinary and concise language of:
1. A notification of the action taken by the Superintendent and the nature of the discipline imposed (suspension, demotion, dismissal, etc.).
 2. The specific causes and sections of these Rules that the employee is accused of violating and/or committing and upon which the disciplinary action is based.
 3. The specific charges, a description of the chargeable action(s) or omissions, including times, dates, locations in ordinary and concise language.
 4. The effective date(s) of the disciplinary action.
 5. A copy of charges and documentation the County Office used in its case against the employee.
 6. The employee's right to appeal the disciplinary action to the Personnel Commission within fourteen (14) working days of service of the Notice of Disciplinary Action, and the right to have such a hearing within the timelines specified in these Rules.
 7. A notice that the Commission may sustain, reject, or modify the disciplinary action taken against the employee; and that the Commission may not provide for discipline more stringent than that invoked by the Superintendent.

Education Codes: 45260 and 45261

B. Notification to Personnel Commission

The Superintendent or designee shall notify the Personnel Commission of the Superintendent's decision relative to the disciplinary action. The Personnel Commission shall notify the employee in writing of the results of the Superintendent's action. If the decision of the Superintendent were to approve or modify the proposed disciplinary action as recommended by the Skelly Officer, the Personnel Commission shall notify the employee in writing within ten (10) working days after the notification of the Superintendent's decision. Such notification shall be in the form of a Notice of Disciplinary Action.

C. Appeal Form Shall Accompany Notice of Disciplinary Notice

An appeal form shall accompany the Notice of Disciplinary Action which shall explain the procedure for filing a demand for hearing and a denial of all charges. The appeal form shall be submitted to the Personnel Commission Office by the deadline noted in the Notice of

Disciplinary Action. The employee shall include in the request for appeal his/her current mailing and residency address at which the employee may be contacted, in the event that additional correspondence or notices need to be sent to the employee. The appeal notice filed by the employee shall also contain the name of his/her legal counsel or representative and the address and telephone number of such counsel or representative. The employee shall attach to the appeal form the reasons for the appeal. Appeals can be made only on the following grounds:

1. That the procedures set forth in these Rules and Regulations have not been followed.
2. That the action taken was not in accord with the facts.
3. That the penalty invoked by the District was excessive.
4. That the disciplinary action was made because of affiliations, political or religious beliefs or opinions, race, ethnicity, nation origin, ancestry, sex, age, employee organization membership, marital status or sexual orientation.

Education Codes: 45260 and 45261

D. Notice Shall be in Writing and Served on Employee

The Notice of Disciplinary Action shall be in writing and served in person or by Certified Mail Return Receipt Requested to the employee. This requirement will be deemed to have been met if the Notice of Disciplinary Action is sent Certified Mail to the last known home address on file in the Human Resources Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

Education Codes: 45260 and 45261

E. Action if Appeal is Not Filed

If the employee does not respond and request a Personnel Commission Appeal Hearing within the fourteen (14) calendar day period outlined in the Notice of Disciplinary Action, the action of the Superintendent shall be final and conclusive, and no further appeal rights shall be allowed.

Education Codes: 45260, 45261 and 45305

190.6 APPEAL HEARING BEFORE THE PERSONNEL COMMISSION

- A. **Personnel Commission Hearing:** If the employee submits a request for appeal to the Personnel Commission Office within fourteen (14) calendar days after receipt of the Notice of Disciplinary Action, the employee shall have a right to have an Appeal Hearing before the Personnel Commission. The Commission Appeal Hearing shall be held within a

reasonable amount of time from the date of receipt of the employee's request for appeal. The Personnel Commission may agree to a continuance of the appeal for good cause.

Education Codes: 45260 and 45261

B. Notification of Hearing to Employee

The Personnel Director shall notify the Superintendent and the Personnel Commission upon receipt or lack of receipt of a request for appeal, and shall coordinate the scheduling of the Commission Appeal Hearing if a timely appeal is filed.

1. The Personnel Director shall notify the employee in writing of the time, date, and place of the Commission Appeal Hearing before the Personnel Commission or appointed Hearing Officer. The appeal hearing shall be held within the boundaries of the County Office.
2. A notice of the time and place of hearing shall be given or mailed to each of the parties not less than ten (10) working days prior to the hearing. The ten-day notice of hearing may be waived by agreement of the parties.
3. Notification shall be either in person or sent by Certified Mail Return Receipt Requested. This requirement will be deemed to have been met if the notification of the Commission Appeal Hearing is sent Certified Mail to the last known home address on file in the Human Resources Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

Education Codes: 45260 and 45261

C. General Conduct of Commission Appeal Hearing

At this full evidentiary hearing, the employee shall have the right to present all evidence and testimony on his/her behalf, to examine all evidence submitted by the County Office, hear testimony of the supervisor(s) who initiated the action, and examine and cross-examine all witnesses giving testimony. All hearings before the Personnel Commission shall be in closed session, unless the appealing employee requests an open hearing in his/her request for appeal. The Personnel Commission will provide written notice of the employee's right to open session no later than 24 hours before the hearing. The Personnel Commission Hearing shall be specifically conducted pursuant to these Rules.

D. Right to Representation

The employee may, at his/her option, be represented by legal counsel, union representation, or any other person designated by the employee. If the employee files an

appeal, the employee shall be required to attend the Commission Appeal Hearing, even if the employee's designated representative appears on his/her behalf. If the employee fails to appear, the employee will be deemed to have forfeited his/her rights to further appeal and the Personnel Commission shall allow the Superintendent's disciplinary action to stand.

E. **Pre-Hearing Conference**

Prior to the Personnel Commission's formal hearing, the Personnel Director may hold a pre-hearing conference with the County Office's representative and the appellant's representative or the appellant if the appellant is representing himself or herself. Such pre-hearing conference shall include but not be limited to submission of witness lists, documents required for submission into evidence, and determination as to length of time necessary for the hearing.

F. **Subpoena of Witnesses/Evidence**

The Personnel Commission or its hearing officer may, and shall if requested by either party, subpoena witnesses and/or require the production of records, documents, or other material evidence. The Personnel Director shall issue the subpoenas on behalf of the Commission or its hearing officer. Subpoenas shall be delivered to the requesting party for service.

Requests for subpoenas and a list of witnesses to be called by each party shall be filed with the Personnel Commission Office at least two weeks in advance of the hearing. This will allow the Personnel Commission to secure the release time of employee witnesses prior to the hearing.

Education Codes: 45260, 45261, 45305, 45306 and 45307

G. **Appointment of Hearing Officer**

The Personnel Commission may authorize a hearing officer to conduct any hearing or investigation for which the Commission itself is authorized by the Education Code and/or these Rules to conduct, including disciplinary hearings. Any such hearing officer conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of materials, and cause the deposition of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the Superior Court of this State. The Commission may instruct such hearing officer to present findings or recommendations. The Commission may accept, reject, or amend any of the findings or recommendations of the hearing officer. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation, or upon the results of such supplementary hearings or investigations as the Commission may order.

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

Education Codes: 45260, 45261 and 45312

H. All Hearings Shall Be Recorded

All hearings under the authority of this Chapter shall be electronically recorded in such a manner that a verbatim written transcript can be produced if necessary. If a court reporter is requested for the hearing, the cost of the court reporter shall be equally shared by the parties.

Education Codes: 45260 and 45261

I. Ability to Examine Evidence

Each party shall have the following rights as it relates to examination of witnesses and evidence:

1. To call and examine witnesses
2. To introduce exhibits
3. To cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination
4. To attempt to impeach any witness regardless of which party first called the witness to testify
5. To rebut all evidence presented by the opposing party

Education Codes: 45260 and 45261

J. Appellant May Be Called to Testify

The appellant may be called to testify and be cross-examined just as if he/she had testified on his/her own behalf. Unauthorized or unexcused absence of the appellant whose presence is required at a hearing may be deemed by the Commission to be a withdrawal of the appeal.

K. Admission of Evidence

The hearing need not be conducted according to the technical rules relating to evidence and the examination of witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious business regardless of the existence of any common law or statutory rule which might

cause the evidence to be objected to or ruled out if presented in a criminal or civil procedure before a court of law.

Hearsay evidence may be used for the purpose of explaining or providing supplemental evidence, but shall not be sufficient in and of itself to support a finding by the Personnel Commission or its hearing officer.

Education Codes: 45260 and 45261

L. **Granting of Continuance**

The Personnel Commission or its hearing officer may, prior to or during the hearing, grant a continuance for reason(s) believed to be sufficient or important to reaching a fair and proper conclusion.

M. **Ruling on Objections**

The Personnel Commission or its hearing officer shall rule on all objections raised by either party.

N. **Findings Based on Preponderance of Evidence**

The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented. The findings of the Commission or hearing officer shall be based upon the preponderance of evidence.

O. **Order of Presentation of Evidence**

Each side will be permitted an opening statement, with the County Office's representative first, and for closing arguments, the appellant or his/her representative last. The County Office shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or his/her representative will present his/her witnesses and evidence in defense.

Each side will be allowed to examine and cross-examine witnesses. The Commission or its hearing officer may, at its discretion, exclude witnesses not under examination except for the appellant, County Office representative, the Personnel Director, and their respective counsels or designated representatives.

P. **Sworn Affidavits**

The policy of the Personnel Commission shall be that where possible, all witnesses shall give testimony orally at the hearing. However, if in the opinion of the Commission or its hearing officer, a witness has good and sufficient reason for being unable to be present, written testimony will be accepted under the following conditions:

1. Such evidence shall be submitted by sworn affidavit of the witness. The affidavit shall be confined to a statement of facts bearing on the case and within the knowledge of the witness, and shall not contain any conclusions of the witness, except that a witness who qualifies as an expert may express his/her opinion based upon the facts, which he/she has recited.
2. Copies of all such affidavits shall be filed with the Personnel Commission Office or the hearing officer at least five (5) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.
3. Neither party has objections to the submission of the affidavit(s) into evidence. Either party, upon request, may require the attendance of the witness who has given the sworn affidavit for purposes of cross-examination. A continuance may be necessary in order to secure the attendance of the witness.
4. The Personnel Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

Education Codes: 45260 and 45261

Q. Deliberation and Findings of Hearing Officer

Whether the hearing is held in open or closed session, the hearing officer, if one is appointed by the Personnel Commission, shall deliberate on the evidence presented and administer a determination of his/her recommendations to the Personnel Commission in closed session.

1. The hearing officer shall submit his/her written recommendations and findings of fact to the Personnel Director within a reasonable period of time.
2. Upon receipt of the hearing officer's written recommendations and findings of fact, the Personnel Director shall contact the Chairperson of the Personnel Commission to schedule a meeting of the Commission to consider the findings and recommendations of the hearing officer.
3. Commission staff will notify the appellant, his/her representative and the County Office's representative of the date of the meeting when the Commission will consider its decision on the appeal. Copies of the proposed decision shall be made available upon request to the appellant and representatives after the Commission has received it at a regular Commission meeting.

Education Codes: 45260 and 45261

R. Deliberation of Personnel Commission

Whether the hearing before the Personnel Commission is held in open or closed session, the Commission, after it concludes the hearing, may deliberate its decision(s) in closed session. No persons other than members of the Personnel Commission, its legal counsel, and the Personnel Director, shall be permitted to participate in the deliberations. If the Personnel Director was the administrator initiating the disciplinary action, or if the Personnel Director acted on behalf of the Superintendent in the presentation of the case at any level of the appeal process, or if the Personnel Director served as a witness in the proceedings, the Personnel Director shall also be excluded from the Commission's deliberations.

Education Codes: 45260, 45261, 45266 and 45305

S. Decision of Personnel Commission

The Personnel Commission shall render its judgment as soon after the conclusion of the hearing as possible, and in no event later than thirty (30) days. The decision(s) of the Commission shall be in writing and shall set forth which charges, if any, are sustained and the reasons therefore. The Commission's written decision shall contain findings of fact, a determination of the issues presented, and the penalty imposed (if any).

1. If the disciplinary action is not sustained, the Commission's order shall set forth the effective date that the employee is to be restored or reinstated to his/her former position and/or status. Such date is to be set forth at any time on or after the date that the disciplinary action was invoked. In addition, the Commission shall consider such other matters as it deems necessary and proper to effect a just settlement of the appeal, including, but not limited to:
 - a) The granting of seniority credit for any or all of the off-duty time pending restoration or reinstatement
 - b) Expunge from the employee's personnel file and record any causes or charges that are not sustained by the Commission
2. Copies of the Commission's decision(s) shall be delivered to the parties electronically or transmitted to them by Certified Mail Return Receipt Requested. The requirement for notification of the employee will be deemed to have been met if the decision is sent, Certified Mail, to the last known home address on file in the Human Resources Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.
3. The Personnel Commission may sustain or reject any or all of the charges filed against the employee. The Commission may sustain, modify, or reject the disciplinary action invoked against the employee. However, the Commission may

not invoke more stringent discipline against the employee than that invoked by the Superintendent.

4. If the Commission either sustains a suspension or modifies a dismissal or other disciplinary action, to a suspension, such days of suspension shall be served on working days in which the employee is normally assigned.

Education Codes: 45260, 45261 and 45307

T. The Superintendent Shall Comply with Personnel Commission Decision

Upon receipt of the Commission's written decision, the Superintendent shall forthwith comply with the provisions thereof. When the Superintendent has fully complied with the Commission's decision, it shall so notify the Commission in writing.

If the Superintendent fails and/or refuses to fully comply with the Commission's written decision(s) and order(s) as required by these Rules and Regulations and legal statutes, the Commission shall seek judicial action to ensure compliance.

Education Codes: 45260, 45261 and 45307

U. Obtaining Copies of the Hearing Transcript

The employee or his/her designated representative and the Superintendent may obtain a copy of the transcript under the following conditions:

1. The cost of the transcript and copies if requested, shall be borne by the party making the request.
2. The final cost of the transcript shall be the actual cost of preparation plus any costs associated with photocopying as determined by the Personnel Director.

Education Codes: 45260 and 45261

190.7 MISCELLANEOUS PROVISIONS

A. Health Benefits Maintained Until Appeal Concluded

A classified employee who is subjected to a disciplinary action (as provided in these Rules and Regulations), who is receiving health insurance coverage and would otherwise lose those benefits, shall continue to receive such coverage until the timeliness for filing an appeal has passed or, in the event that the employee files a timely appeal, until all appeal processes contained in these Rules and Regulations have been exhausted.

Education Codes: 45260 and 45261

B. Permanent Employee in Probationary Promotional Position

A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is demoted to his/her former class, does not have the right to appeal such demotion. A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is subjected to disciplinary action that would result in the separation of the employee from the permanent classified service shall have full appeal rights of a permanent classified employee.

Education Codes: 45260, 45261 and 45305

C. Dismissal of Substitute/Limited Term/Provisional/Probationary Employees

A substitute, limited-term, provisional, probationary or other temporary employee may be terminated at any time during his/her assignment without cause and without regard to procedures set forth in this chapter. Employees in such status do not possess right of appeal to the Personnel Commission.

Education Codes: 45260, 45261 and 45305

D. Paid Administrative Leave: The Superintendent may place an employee on paid administrative leave for not more than thirty (30) working days prior to the implementation of any disciplinary action. This action may be necessary while the Office conducts an investigation. The Superintendent may extend an employee's paid administrative leave for increments of up to 30 additional working days, as necessary, to complete investigative procedures.

E. Mandatory Leave Offense: An employee charged with a mandatory leave offense as defined in Education Code Section 44940(a) (Sex/Drug offenses) shall be immediately placed on compulsory leave of absence. The suspension shall continue for not more than ten (10) days after the date of the court judgment. The employee shall continue to be paid by the Office subject to provisions set forth in Education Code Section 44940.5.

F. Immediate Suspension – With Pay

An employee, other than stated in the rule above, may be immediately suspended without loss of compensation pending the initiation and completion of disciplinary action procedures to the Superintendent. The County Office may end the suspension without loss of compensation or take action to suspend without pay in accordance with these Rules as warranted.

Education Codes: 45260 and 45261

G. Removal From Eligibility Lists: Dismissal shall cause removal of the employee's name from all employment lists.

H. Failure to Appeal: Failure to initiate a disciplinary appeal with the Personnel Director within the stipulated time shall make the action of the Superintendent final.

Education Code Sections 45260 and 45261

CHAPTER 200

LAYOFF AND REEMPLOYMENT PROCEDURES

200.1 DEFINITIONS

Bumping Rights: The right of an employee, under certain conditions, to displace an employee with less seniority in a class and for which the employee exercising bumping rights satisfactorily meets the minimum qualifications.

Employee: An employee, for the purpose of this article, is a person who has gained permanency in the classified service.

Layoff: A layoff is a separation from the classified service for lack of work and/or lack of funds.

Reemployment List: A reemployment list, for the purpose of this article, is a list of names in rank order of seniority, of persons who have been laid off from permanent positions by reason of lack of work and/or lack of funds, or who have accepted a voluntary demotion in lieu of layoff. Employees who are laid off are eligible for reemployment without examination in the former class or classes within a period of thirty-nine (39) months following the date of layoff. In certain specific cases of voluntary demotion in classification or reduction in assigned time in lieu of layoff, the period of reemployment is extended by an additional 24 months.

Seniority: Seniority for employees hired after July 1, 1971, shall be all hours in paid status while working in their present classification, plus higher classifications, but excluding overtime. The Superintendent may enter into an agreement with the bargaining unit(s) that defines "length of service" to mean the initial hire date into a regular position as a probationary employee.

Voluntary Demotion: A voluntary demotion is an employee consent to a reduction of hours or to an assignment in a lower classification in lieu of layoff.

Education Code: 45308

200.2 LAYOFF PROCEDURES

A. Reason and Order of Layoff: Classified employees shall be subject to layoff only for lack of work or lack of funds. When it becomes necessary to lay off a classified employee due to the elimination of a classified position, the order of layoff within the class shall be determined by

length of service. The employee who has been employed the shortest time in the class (including time earned as a regular employee in higher classes), shall be laid off first. Reemployment shall be in the reverse order of layoff.

Education Code 45308

- B. Reemployment List:** The names of employees who are laid off shall be placed on a reemployment list for the class from which they were laid off. Names on the reemployment list shall be in relative order of seniority.

Education Code Section 45308

- C. Seniority Computation:** As provided in Education Code Section 45308, “length of service” shall mean hire date as a regular employee. An employee’s seniority hire date shall be established for paid time served beginning in a regular status in each classification in which (s)he serves. Length of service” means all time in paid status including paid holidays, paid leave, or school recess periods. No seniority shall be earned during unpaid periods of separation from service with the County Office. An employee’s hire date shall not be interpreted to mean any service performed prior to entering into a probationary status in the classified service, or service performed by permanent employees in temporary assignments outside the employee’s regular classification.

Education Code Section 45117 and 45308

- D. Layoff Notice:** On or before March 15th, the Superintendent shall provide classified employees with written notice of their layoff due to lack of work or lack of funds. Such notice shall include: 1) a statement indicating that the employee’s services will not be required for the subsequent fiscal year, the reason their services will not be required, and information regarding the employee’s displacement and reemployment rights, 2) a copy of the layoff resolution, 3) a request for hearing form and 4) relevant Education Code sections. All procedural requirements and layoff appeal hearing rights are pursuant to Education Code section 45117, and are outside the jurisdictional ground possessed by the Personnel Commission. After hearing proceedings have concluded, final notice of layoff to impacted classified employees must be served before May 15th. If a

permanent classified employee is not given the notice of layoff and right to a hearing as provided for in Education Code section 45117, the employee shall be deemed reemployed for the ensuing school year.

1. Specially Funded Positions:

The Superintendent shall give classified employees in positions within specially funded programs due to be eliminated at the end of a school year, written notice of layoff on or before April 29th. If the termination date of any specially funded program is other than June 30, the notice shall be given not less than 60 days prior to the effective date of layoff. The written notice shall include: 1) the reason for the layoff, any displacement rights afforded the impacted employee(s), and reemployment rights, 2) the layoff resolution, and 3) relevant Education Code sections. Employees laid off due to the expiration of specially funded programs are not afforded the right to an appeal hearing.

Education Code Section 45117

E. Procedure After Layoff: An employee whose position is eliminated or reduced shall first be placed in a vacant position with equal assigned time in the same class as the employee's former position.

1. If the employee's former position is less than full time, and no vacancy exists in the class with equal assigned time, the employee shall be placed in a vacant position that has additional assigned time in the same class as the employee's former position.

Education code 45308

F. Bumping Rights: If no vacancy exists in the class with equal or additional assigned time, an employee who is laid off from a class shall have the right to bump the least senior employee in the same class, or in a previously held equal or lower class in which they attained permanency, provided that the employee satisfactorily meets the minimum qualifications in all circumstances. Assuming that the employee meets the minimum qualifications, the

following bumping priority shall apply:

1. The employee will be allowed to bump into a position providing an equal assignment in the same class when compared to the employee's former, position, and which is held by the least senior employee.
2. If employee's former position is less than full time and a position with equal assigned time is unavailable, the employee will be allowed to bump into a position providing additional assigned time in the same class as the employee's former position, and which is held by the least senior employee.
3. If the previous options are unavailable, the employee will be allowed to bump into a position in the same class with less assigned time that is closest to the employee's former assigned time, and which is held by the least senior employee. As an alternative, the employee shall have the option of bumping into an equal (1st option) or lower (2nd option) formerly held class in which the employee has achieved permanent status, and which is held by the least senior employee.
4. The employee will repeat the sequence of options outlined in this rule for the equal position first. If no alternative is available in the equal class, the employee will repeat the sequence of options for the lower class.

Education Code Sections 45260, 45261, 45308

G. Voluntary Demotion or Transfer: An employee whose position is eliminated (despite bumping rights) may accept a voluntary demotion to a vacant position in a lower related class not previously held by the employee or may request transfer to a vacant position in an equal class not previously held by the employee, provided that the employee satisfactorily meets the minimum qualifications of the classification. Voluntary demotion or transfer as described herein is contingent on agreement by the appointing authority and approval of the Personnel Commission.

Education Code Sections 45260, 45261, 45308

H. Layoff Versus Temporary Positions: A classified employee may not be laid off if a short-term employee (Substitute or Limited Term employee) is retained to render service in a position of the same class or in a class that the employee is qualified to render, except in circumstances where a short-term employee was hired to render service for a period not exceeding 60 days after which the short-term service may not be extended or renewed.

Education Code Section 45117

I. Acceptance of Substitute or Temporary Employment: An employee who has been laid off and who is on a reemployment list may be employed as a substitute or temporary employee in his/her original class or any other class for which qualified, and such employment shall in no way jeopardize or otherwise affect his/her status or eligibility for reemployment.

Education Code Sections 45260, 45261

J. Refusal of Temporary Employment: Refusal of an offer of limited term employment shall not affect the standing of any employee on a reemployment list.

K. Probationary Employees: The County Office may release employees in probationary status without cause. However, if an employee in probation will achieve permanency in his/her classification at any time between March 15 and June 30, the employee must be laid off pursuant to Education Code section 45117. A probationary employee may receive a layoff notice in the event that a more senior employee subject to layoff due to lack of work or lack of funds exercises, or has the ability to exercise, his/her bumping rights over the probationary employee. However, the probationary employee does not possess the right to an appeal hearing as provided in Education Code section 45117.

Education Code section 45117

200.3 REEMPLOYMENT PROCEDURES

A. Laid Off Employees Placed on Reemployment List: The names of employees laid off pursuant to Rule No. 200.1

shall be placed on the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in order of seniority by these rules.

Education Code Section 45308

- B. Employees with Equal Seniority:** If two or more employees subject to rehire have equal class hire date seniority, then the rehire offer shall be made to the employee with the earliest regular hire date with the County Office.

If the regular hire date is equal, then rehire offer shall be made to the employee with the earliest date of hire with the County Office. If the date of hire is equal, decision shall be made by lot.

Education Code Sections 45260, 45261

- C. Eligible for Reemployment for 39 Months:** An employee laid off because of lack of work or lack of funds shall be eligible for reemployment in the class from which laid off for a period of thirty-nine (39) months and shall be reemployed in preference to new applicants. In addition, the employee shall have the right to participate in promotional examinations within the County Office during the thirty-nine (39) month period.

1. An employee who is reemployed in a new position within a classification in which the employee does not hold permanent status shall serve a probationary period in the new position. An employee who fails to complete the probationary period in the new position shall be returned to the reemployment list for the remainder of the 39-month period, which shall be measured as the time remaining in the 39-month period as of the date of reemployment.

- D. Eligibility for an Additional 24 Months:** An employee who takes a voluntary demotion or voluntary reduction in assigned time in lieu of layoff or to remain in his/her present position rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall retain eligibility to be considered for reemployment for an additional period of up to twenty-four (24) months, provided that the same tests of fitness under

which the employee qualified for appointment to the class shall still apply.

Education Code Section 45298

1. An employee who takes voluntary demotion or voluntary reduction in assigned time in lieu of layoff shall be, at the option of the employee, returned to a position in his/her former class or to a position with increased assigned time as vacancies become available, and without limitation of time. If there is a valid reemployment list, the employee shall be ranked on that list in accordance with his/her proper seniority.

Education Code 45298

E. Retirement in Lieu of Layoff: An employee who is laid off and elects retirement from the Public Employees' Retirement System (PERS) shall be placed on a reemployment list. The County Office shall notify PERS that retirement was due to layoff. Should the employee subsequently accept, in writing, reemployment, the County Office shall maintain the vacancy until PERS has properly processed the request for reinstatement from retirement.

F. Response to Offer of Reemployment: An employee shall have seven (7) working days after receipt of an offer to accept reemployment.

G. Right of Refusal: An employee on a reemployment list may decline three (3) offers of reemployment in his/her former classification. After the third refusal no additional offers need to be made and his/her name shall be removed from the reemployment list.