

CHAPTER 1

DEFINITIONS AND PRELIMINARY STATEMENT

1.1 Definitions

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

ACT or THE ACT:

The Act shall mean those sections of the Education Code of the State of California applying the merit system to classified employees in certain school districts. It shall include all of the provision of Article 6, Chapter 5, Division 3 (Commencing with Education Code 45220).

ADMINISTRATIVE CLASS:

One of the classes meeting the criteria under the Fair Labor Standards Act which exempt incumbents from receiving payment or compensating time off for overtime.

ALLOCATION:

The placement of a class on a salary range or rate.

ANNIVERSARY DATE:

The date upon which an employee is granted an earned salary increment. The anniversary date shall be the first of the month in which the employee completes six months of satisfactory service, or if the completion of the probationary period falls after the fifteenth (15th) of the month, the anniversary date shall be the first (1st) of the following month.

APPEAL:

An appeal of a proposed disciplinary action. (See Chapter 10)

APPLICANT:

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

APPOINTING AUTHORITY or POWER:

The Board of Education of the San Lorenzo Unified School District.

APPOINTMENT:

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

BREAK IN SERVICE:

Severance of an individual's employment relationship with the District. The break in service may be canceled by subsequent reemployment within thirty-nine (39) months.

BUMPING:

The right of an employee under certain conditions, to displace an employee with less seniority in a class.

CANDIDATE:

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

CERTIFICATED SERVICE:

All positions and employees required by law to possess credentials issued by the California Commission on Teacher Credentialing.

CERTIFICATION:

The submission by the Commission of the names of eligibles from an appropriate eligibility list or from some other source of eligibility to the appointing power who will select an eligible.

CLASS:

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

CLASSIFICATION/GROUP:

The act of placing a position in a class/group.

CLASS SPECIFICATION:

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

CLASSIFIED SERVICE:

All positions in the District's service to which the Act applies and which are not excepted by the Act.

Commission:

See Personnel Commission (used interchangeably in these rules.)

DEMOTION:

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

DIFFERENTIAL:

Salary allowance in addition to that basic rate or schedule based on additional skills, responsibilities or night work; or means a reduction in the number of hours required to be actually worked. Also, the size of the interval between salary schedules, salary ranges, rates of related class.

DISCHARGE or DISMISSAL:

Separation from service for cause in accordance with Personnel Commission rules: requires action by the Board of Education.

DISTRICT:

The San Lorenzo Unified School District.

DUAL CERTIFICATION:

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

ELIGIBLE:

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

ELIGIBILITY LIST:

A rank order list of the names of persons who have qualified in a merit system competitive examination.

EMERGENCY APPOINTMENT: (Education Code 45290)

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

EMPLOYEE:

A person who is currently employed or on an authorized leave of absence.

EMPLOYMENT LIST:

A list of names from which certification may be made. Includes eligibility lists, reemployment lists, and lists of persons wish to transfer, demote, be reinstated after resignation, or reduction to limited-term status.

EXAMINATION:

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

FISCAL YEAR:

July first (1st) to June thirty (30).

GOVERNING BOARD:

The Board of Education of the San Lorenzo Unified School District. (Synonymous with appointing authority or power.)

GRIEVANCE:

An employee complaint which alleges a violation of rules of the Commission not including appeals of disciplinary actions or requests for classification study or salary review.

GROUP:

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

HEARING:

Formal proceeding to review a proposed disciplinary action. (See Chapter 10).

HEARING OFFICER:

A qualified person employed by the Personnel Commission to hear and make recommendations on appeals from disciplinary actions.

LAYOFF: (Education Code 45298 & 45308)

Separation from a permanent or probationary position or reduction in assigned hours, days, or work year due to lack of work or lack of funds.

LEAVE OF ABSENCE:

An approved absence from duty, with or without pay, for a prescribed period of time from a class, with the right to return at the expiration of the period.

LIMITED TERM: (Education Code 45286)

A term used in the Education Code to designate employment for periods not to exceed six (6) months or employment during the authorized absence of a permanent employee. (Synonymous with “temporary”.)

LIMITED-TERM EMPLOYEE: (Education Code 45286)

Whenever the appointing power requires the appointment of a person to a position, the duration of which is not to exceed six (6) months, or, in case of an appointment in lieu of an absent employee, is not to exceed the authorized absence of said employee. The appointing power shall submit a request in which the probable duration of the appointment is stated. Eligibles shall be certified in accordance with their position on the appropriate employment list and their willingness to accept appointment to such position as limited-term employees. Limited-term employees shall be subject to such conditions affecting status and tenure during and after such employment as the Commission may by rule determine. The Personnel Commission may, based on a declaration of emergency by the President of the United States or Governor of the State of California, authorize an extension that may not exceed one year. The duties of the extended position must be related to the emergency.

MERIT SYSTEM:

A personnel system in which merit and fitness govern each individual’s selection and progress in the service. (Synonymous, with Civil Service.)

OPEN EXAMINATION:

An examination which is not restricted to persons who are current permanent employees of the District; i.e. may be taken by any person otherwise qualified.

PERFORMANCE EVALUATION:

An evaluation of the work and conduct of an employee. Also refers to the form used for this purpose.

PERMANENT EMPLOYEE: (Education Code 45301)

In reference to district employment status, an employee who has completed an initial probationary period of one hundred thirty (130) days in a class in the classified service. An employee must complete a probationary period in a class in order to attain permanent status in the classified service.

PERSONNEL COMMISSION: (Education Code 45260)

That three (3) member body empowered by the Education Code Sections commencing at 45240 to prescribe and amend such rules as may be necessary to insure the efficiency of the service and selection and retention of employees upon a basis of merit and fitness. The rules shall be binding upon the Governing Board, but shall not restrict the authority of the board pursuant to other sections of this code.

POSITION:

A group of duties and responsibilities assigned by competent authority requiring full or part time employment.

PROBATIONARY PERIOD: (Education Code 45301)

The trial period of one hundred thirty (130) working days of paid service in a class as established by the Personnel Commission pursuant to Education Code 45301, immediately following an original or promotional appointment to a permanent position.

PROFESSIONAL EXPERT:

A person employed in a professional capacity on a temporary basis for a specific 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 permanent employees of the District.

PROVISIONAL APPOINTMENT: (Education Code 45287, 45288, and 45289)

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

RECLASSIFICATION: (Education Code 45285)

The removal of a position or positions from one class and placement into another, usually based on a change in duties, responsibilities, or class concept.

RE-EMPLOYMENT:

A former employee who returns to employment.

RE-EMPLOYMENT LIST:

A list of names of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, or abolishment or reclassification of position, or other reason specified in these rules, and who are eligible for reemployment without examination when a vacancy occurs in their former class for a period of thirty-nine (39) months, arranged in order of their right to reemployment.

REGULAR EMPLOYEE:

An employee who has probationary or permanent status.

REINSTATEMENT:

- A. Reemployment after resignation or layoff within thirty-nine (39) months, in regular or limited-term status, without examination, to a position in the employee's former class, or in a lower related class with restoration of employee benefits, pursuant to Education Code 45309.
- B. Return to employment, by action of the Personnel Commission, of an employee who prevails in a disciplinary action hearing.

RESIGNATION:

A statement, in writing, from an employee terminating his/her employment.

RESTRICTED EMPLOYEE: (Education Code 45105, 45108, 45259)

A person employed in a position properly designated by the Appointing Authority as "restricted" (Education Code 45105, 45108, and 45259) shall be a classified employee for all purposes except that tenure for such a position shall not be considered in computing service required for bumping privileges, or other related seniority benefits incompatible with the temporary or contractual nature of a given program, position, or assignment. Notwithstanding the above, after completion of a six (6) month probationary period a "restricted" employee may qualify by examination for regular classified status according to the provision of Education Code 45105.

RULE OF THREE RANKS: (Education Code 45272)

The scope of choice available to an appointing power in making a selection from an eligibility list refers to selection from among those eligibles having any of the three highest scores who are ready and willing to be appointed to a specific position.

SALARY RANGE:

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

SALARY RATE:

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

SALARY SCHEDULE:

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

SALARY STEP:

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

SEPARATION:

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

SERIES:

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

SUBSTITUTE EMPLOYEE: (Education Code 45103 (N/A to Merit Districts, but can adopt a rule)

A person employed to replace a regular employee who is absent from service. In addition, a substitute may be employed to fill a vacancy not to exceed sixty (60) work days.

SUSPENSION:

Temporary removal of an employee from a position without pay.

TRANSER:

A change of work site.

UNSATISFACTORY SERVICE:

The performance of assigned duties in a manner which is detrimental to the good of the service or the failure to perform them, or the performance of actions while on duty which are detrimental to the good of the service.

WAIVER:

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

WORKWEEK:

Thirty-Seven and one-half (37 ½) hours, usually served in five (5) consecutive days within a seven (7) day cycle, is the regular workweek for the majority of classified employees.

1.2 Preliminary Statement

A. **Statutory Authority for Rules**

The rules contained herein are established pursuant to the authority of the Personnel Commission under Article 6 (commencing with Section 45240) of Chapter 5, Division 3 of the Education Code, and other provisions of the Education Code applicable to school districts that have adopted the merit system.

B. **Interpretation and Application of Rules**

1. The Commission recognized that no set of rules could contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration of their intent; however, specific, applicable provisions of the rules shall not be waived or ignored because of the special circumstances of particular cases. Notwithstanding the foregoing, specific provisions of certain rules may be suspended or amended when such proceedings are necessary to continue the business of the district during a concerted labor action. The Commission is open to responsible suggestions to amend the rules with prospective

application; however, no rule amendment or new rule shall be applied retroactively.

2. If the subject matter and procedure in a rule is within the scope of representation, as defined in Government Code 3543.2, a rule shall be applicable as follows:
 - a. If a collective bargaining contract contains the subject matter and procedure, the rule shall not apply to employees in the unit.
 - b. If a rule prescribes a procedure and a contract does not, the rule shall apply to employees in the unit.

C. Generic Terminology

Singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

D. Judicial Review

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

1.3 Enforcement of Merit System Law (Education Code 45311)

- A. The Commission shall enforce the provisions of the Education Code affecting the Merit System and these Rules. To that end, it may in accordance with the Education Code hold hearings, conduct investigations, administer oaths, subpoena witnesses, and require the inspection of records or information pertinent to investigation. The Commission may, in accordance with the Education Code, authorize a hearing officer or other representative to conduct any hearing or investigation which the Commission is authorized to conduct.
- B. The Commission may instruct such representative to present findings or recommendations. The Commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. 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 hearing or investigation as the Commission may order.

1.4 Additions, Deletions, or Amendments

- A. All proposals, from any source, to amend, delete, or add to these rules will be considered a “first (1st) reading” at the meeting in which they are first presented to the Commission. They will not, unless a critical emergency exists, be acted upon at that meeting. In case of an emergency the Commission will state the nature of the emergency requiring earlier action.

- B. No rule or amendment shall be adopted by the Commission until the exclusive bargaining representative for classified employees and the public school employer have been given reasonable notice of the proposal.
- C. At the “first (1st) reading” the Commission will set a date for Commission action on the proposal, which date shall not be less than two (2) weeks later. It shall also instruct the Chief Personnel Officer to refer the proposal to interested persons or organizations for comment and recommendation.
- D. Insofar as possible, interested parties shall submit their reactions to proposals in writing on or before the stipulated agenda deadline date and shall have the right to present reactions to the Commission orally at the appropriate Commission meeting
- E. In the event of a concerted labor action, new rules, or amendments to existing rules, established or amended for the specific purpose of insuring the continuance of District business during such event shall go into effect upon approval by the Personnel Commission, subject to ratification by the Board of Education of those provisions which require the Board’s concurrence.
- F. Rules of the Personnel Commission requiring the expenditure of Board of Education funds shall be submitted to the Board of Education for concurrence before they become effective.

1.5 Suspension of Rule Provisions

- A. If the Personnel Commission has been advised by the Board of Education or the Superintendent that an actual or imminent concerted labor action has disrupted, or is about to disrupt the business of the District, Commission rule, or the specific provisions of any rule, may be suspended or amended by the Commission for such period of time as determined by the Commission, providing such suspensions or amendments do not conflict with specific provisions of law or existing collective bargaining agreements. Any such suspension or amendment will be limited, insofar as practicable, to classes, organizations or units of employees of the District who are involved in, or affected by, a concerted labor action.
- B. When the Personnel Commission has suspended or amended rules under the provisions of a paragraph A above, it may immediately adopt such emergency rules and amendments to existing rules as it may deem necessary to be applicable during the period of suspension or amendment or regular rules, or until such time as determined by the Commission.

1.6 Distribution of Rules

The rules of the Commission and copies of the Merit System Law (commencing with Education Code Section 45220) shall be made available at each permanent work site where employees report and shall be distributed to high school libraries for loan to employees.

LEGAL REFERENCES

Education Code:

- 45220-45320 Merit System
- 45260 Power of Personnel Commission to Prescribe and Amend Rules

Government Code:

- 3543.2 Scope of Representation

CHAPTER 2

THE PERSONNEL COMMISSION

2.1 Establishment of Commission and Merit System

The San Lorenzo Unified School District has been a Merit System district since 1963. A portion of the Hayward Union High School District unified with the Elementary School District July 1, 1963. The San Lorenzo Unified School District was established as a Merit System District at that time.

2.2 Appointment of Commissioners

Members of the Personnel Commission are appointed by the State Superintendent of Public Instruction who may consider the recommendation of the governing board and other interested parties.

2.3 Terms of Commissioners (Education Code 45247)

By law, the term of each Commissioner is for three years and expires at noon, December first (1st). The term of one Commissioner expires each year. By September first (1st) of each year the Chief Personnel Officer shall notify the governing board of the name and home address of the Commissioner whose term will expire and whether or not he/she will accept reappointment. The notification shall list the appointing authority and indicate that the board must follow the provisions of Education Code Sections 45246 and 45249.

2.4 Officers of the Commission

- A. The officers of the Commission shall be the Chair and Vice-Chair.
- B. The commission shall annually elect one (1) of its members to serve as Chair in December. A special election of the Commission Chair may be held whenever a vacancy occurs.
- C. At the same time and in the same manner, the Commission shall elect one (1) of its members to serve as Vice-Chair.
- D. The Chair shall be the presiding officer at all regular and special meetings of the Commission. In the event of the absence of the Chair, the Vice-Chair shall preside.

2.5 Quorum (Education Code 45245)

Two (2) members shall constitute a quorum for any regular or special meeting of the Commission and the Affirmative vote of two members shall be required to make any motion of the Commission effective.

2.6 Rules of Order of the Commission

The Personnel Commission shall be guided in the conduct of its meeting by Robert's Rules of Order.

2.7 Regular Meetings

- A. The Personnel Commission shall hold its regular meetings on the second Wednesday of each month at a time established by the Commission in the Board of Education conference room.
- B. The Commission may reschedule a regular meeting for some other time, date and/or place as may be ordered by the commission, provided that at least seventy-two (72) hours notice is given to all Commissioners, Administration, and employee representatives and posted on the Commission's official bulletin board. (Government Code Sections 54950 and following)

2.8 Special meetings

Special meetings may be called at any time by the Chairperson and shall be called upon the written request of any two members. If notice is written, it shall be delivered personally or by mail to each member of the commission. Verbal notification is also acceptable if agreed upon by commissioners and each has filed a written waiver. Notice must also be given to each of the following who have filed written requests for such notice: each local newspaper of general circulation, and recognized employee or other organizations. Such notice must be delivered personally or by mail or e-mail (if previously agreed upon) 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 bulleting board. The order shall specify the time and place of the special meeting and business to be transacted. (Government Code 54956)

2.9 Public Meetings

- A. All regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meetings of the Commission, except as provided in Rule 2.10 (closed session). This rule shall not be construed as permitting employees to be absent from duty to attend Commission meetings, unless employees are authorized to do so.
- B. Individual employees, employee organizations, and other interested parties may submit their written views on any matter before the commission and will be provided reasonable opportunity to present their views orally. The Commission will consider their comments and recommendations prior to arriving at a course of action.

2.10 Closed Session

Closed sessions may be held in accordance with the provisions of Government Code 54957 to consider the appointment, employment, evaluation of employment, discipline or dismissal of any employee or employees or to hear complaints or

charges brought against an employee (unless the employee against whom the complaint or charges are made requests a public session). Also, closed sessions may be held in accordance with the provisions of Government Code 54957.6 regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of employees in order to review the District position and instructions to its designated representatives. The Personnel Commission shall also, in compliance with Government Code Section 54957.1, publicly report at the meeting during which closed session is held or at its next meeting, any action taken in closed session and the roll call vote thereon, to appoint, employ, or dismiss a Personnel Commission employee.

2.11 Prohibition of Commissioners Interviewing Privately

Individuals or groups who seek interviews with particular Commissioners as to matters which may later be placed before the Personnel Commission for decision shall be referred to the Commission staff office with the explanation that it is against the policy of the Commission to take up such matters except at open meetings with a majority of the Commission present.

2.12 Agenda and Supporting Data

- A. All agenda items for the next succeeding regular Personnel Commission meeting must be received by the Chief Personnel Officer with a letter of transmittal attached fourteen (14) calendar days prior to the date of the regularly scheduled meeting.
- B. All requests for investigation of personnel problems related to alleged violations of Merit System Law or Personnel Commission Rules brought Before the Commission or the Commission staff shall be made in writing and shall include specific pertinent facts.
- C. Agendas for regular meetings shall be posted at least seventy-two (72) hours before the meeting, and agendas for special meetings shall be posted at least twenty-four (24) hours before the meeting.

2.13 Minutes

The Chief Personnel Officer shall record in the minutes the time and place of each meeting, the names of the Commissioners present, all official acts of the Commission, and the votes of the Commissioners. When requested by him/her, a Commissioner's dissent or approval and his /her reasons shall be recorded. The minutes shall be written and presented for correction and approval at the next regular meeting. The minutes or true copy thereof shall be open to public inspection. Copies of the official minutes shall be distributed to recognized employee organization representatives who have requested them.

2.14 Compensation of Members of Personnel Commission

Each Commissioner shall receive the sum of fifty dollars (\$50.00) for each meeting attended in any one month, including regular, adjourned, or special

meetings, but not to exceed a total of one hundred fifty dollars (\$150.00) a month. (Education Code 45250)

2.15 Status of Commission Employees

The Chief Personnel Office, in his/her capacity as Director of Classified Personnel, and other persons required to carry out the responsibilities of the Commission shall be appointed by and responsible to the Personnel Commission.

2.16 General Duties of the Chief Personnel Officer

- A. The Chief Personnel Officer shall perform all of the duties and carry out all of the functions imposed upon him/her by law and these rules. He/she shall act as secretary to the Commission, shall be free of prejudgment or bias in order to ensure the impartiality of the Commission, and shall issue and receive all notification on its behalf. He/she shall direct and supervise the employees of the Commission and conduct administrative transactions consistent with the law and rules necessary to the proper functioning of the office and staff of the Commission. (Education Code 45266)
- B. The Chief personnel officer shall conduct classification, salary, and rules studies and shall make other investigations as directed by the commission or has he/she deems necessary to his/her responsibilities.
- C. In cases where two (2) 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 Chief Personnel Officer, subject to review by the commission, on appeal.
- D. The Chief Personnel Officer shall keep such records as are necessary for transactions in reference and making reports showing administrative actions, including: records of all examinations, eligible list, records and files and employment, history of each employee, history of each position, classification plan, and correspondence.

2.17 Budget

- A. The chief personnel officer shall prepare and submit to the commission a proposed operating budget for the commission for the next in pursuing fiscal year. The budget shall be submitted no later than the first commission meeting in April.
- B. The commission shall hold the public hearing on its proposed budget no later than May thirtieth (30th) of each year. At the time the commission schedules the public hearing, as required in Education Code 45253, it shall direct the Chief Personnel Officer to forward a copy of the proposed budget to the County Superintendent of schools and notify the Governing Board of the time, date, and place of the public hearing. Board and administration representatives shall be invited to attend the public hearing and present their view on the proposed budget.

- C. Prior to adoption of its budget, the commission will hear and fully consider all comments and suggestions that may be offered by the administration, the Governing Board or other concerned persons or organizations. Efforts shall be made to resolve any differences that may exist between the commission and governing board.
- D. When approved by the Commission, the budget shall then be submitted to the County Superintendent of Schools in accordance with Education code 45253.

2.18 Annual Report

- A. The Chief Personnel Officer shall prepare, as required by Education Code 45266, an annual report of Commission activities. When approved by the Commission, the annual report shall be submitted to the Superintendent/Board of Education.
- B. The report shall be prepared for the Commission’s approval as soon after each fiscal year as possible and no later than a meeting in November. The report shall cover Commission activities for the preceding fiscal year.

2.19 Counsel for the Commission (Education Code 45313)

The counsel of the Governing Board shall aid and represent the Commission in all legal matters, and if legal counsel refuses, the Commission may employ its own attorney and the reasonable cost thereof shall constitute a legal charge against the general funds of the district.

LEGAL REFERENCES

Education Codes:

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| 45244 | Qualification for Membership on Personnel Commission |
| 45246 | Announcement of Recommended Appointees; Public Meeting of the Governing Board |
| 45257 | Terms of Office |
| 45249 | Procedure in School District Adopting Provisions on Effective Date of this Section |
| 45250 | Compensation of Members of Personnel Commission |
| 45252 | Office Accommodation of Personnel Commission |
| 45253 | Annual Budget of Personnel Commission |
| 45255 | Expenditure of Funds for Staff Training |
| 45313 | Attorney for the Commission |

CHAPTER 3

POSITION CLASSIFICATION PLAN

3.1 Positions Included in the Classified Service

- A. The position classification plan shall include the classes adopted by the Commission, as described and defined in the class specifications and interpreted in these rules, the allocation of positions to classes, and the provisions for administration as provided in these rules.

3.2 Positions Exempt From The Classified Service

- A. The Commission shall classify all employees and positions within the jurisdiction of the Board of Education or of the Commission, except those which are exempt from the classified service, as specified in this rule or provisions of the Education Code.
- B. All requests for positions exempt from the classified service shall be subject to appropriate evidence of action or agreement by the Board of Education as required by law.
- C. Education Code Section 45256 specifies that the following are exempt from the classified service:
 - 1. Positions which require certification qualifications,
 - 2. Part-time playground positions (where the employee is not otherwise employed in a classified position),
 - 3. Full-time students employed part-time,
 - 4. Part-time students employed part-time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 of Division 4 of this title and which is financed by state or federal funds,
 - 5. Apprentice positions, and
 - 6. Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the Commission when so designated by the Commission.

3.3 Employment of Professional Experts (45256, 45103)

- A. When a professional expert assignment is to be made, the administration shall submit to the Chief Personnel Officer a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to the assigned employee, nor shall a limited-term position be filled by a professional expert

assignment if the duties and responsibilities fit an existing class for which a re-employment or eligibility list exists.

- B. When the person is known who is to be appointed as a professional expert, name and data relative to the expert's qualification shall be submitted to the Chief Personnel Officer. In order to be exempted from the classified service as a professional expert, an individual must be recognized as such by reputable members of his/her own profession. Evidence of professional qualifications must be presented to the Commission at the time the written request for temporary appointment is made. Authorization for service as a professional expert shall not exceed six months. Additional required service shall be submittal to the Commission for approval.
- C. The Chief Personnel Officer shall make periodic reports on the employment of Professional experts to the Personnel Commission.

3.4 Employment of Community Representatives as Advisors or Consultants (45258)

- A. In addition to the exemptions authorized in Education Code Section 45256, there shall be exempt from the classified service, positions established for the employment of community representatives in advisory or consulting capacities for not more than ninety working days in a fiscal year, provided that:
 - 1. The authorized duties are not those normally assigned to a class of positions in the classified service,
 - 2. The authorized duties are approved by the Personnel Commission in advance of employment, and
 - 3. A regular classified employee of the school district shall not receive a concurrent appointment to such a position.

3.5 "Restricted" Positions in the Classified Service (45105, 45108, 45259)

- A. Positions not requiring certification qualifications created by a governing board of a district under the Manpower Development and Training Act of 1962, the Economic Opportunity Act of 1964, the Elementary and Secondary Education Act of 1965, or Section 11300 or Section 13650 of the Welfare and Institutions Code, any future federal or state legislative enactment, or any other special funding, and which are not a part of the regular school program shall be considered "restricted" as established by Section 45105 or Section 45259 of this code.
- B. Persons employed in such positions shall be classified employees and shall enjoy all of the rights, burdens and benefits accorded other classified employees. Their selection and retention shall be made on the same basis as that of persons selected for positions that are a part of the regular school program.
- C. They shall not acquire permanent status or seniority credit and shall not be eligible for promotion into the regular classified service until they have completed at least 6 months of satisfactory service and have satisfactorily completed an applicable qualifying examination.

3.6 Establishment of Positions/Assignment of Duties (45276)

- A. Governing boards shall fix and prescribe the duties to be performed by all persons in the classified service and other positions not requiring certification qualifications of the school district, except those persons employed as a part of a personnel commission staff as provided in Article 6 (commencing with Education Code Section 45240).
- B. The board may recommend the minimum educational and work experience requirements for classified positions to the personnel commission. Minimum qualifications requirements shall be subject to approval of the Commission.

3.7 Classification Plan

- A. The classification plan shall consist of classes placed in groups according to general occupational nature and listed in a series by specific occupation.
- B. The Commission shall classify all employees' positions in the classified service with due advance notice to all interested parties.

3.8 Definition of Class

- A. A class is defined as a group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be used to designate each position allocated to the class; substantially the same requirements of education, experience, knowledge, and ability are demanded of incumbents; substantially the same tests of fitness may be used in choosing qualified appointees; and the same salary range may be applied with equity.
- B. The Commission shall adopt a position classification plan and may create new classes and abolish, divide, or combine existing classes within the classification plan as the needs of the classified service require.

3.9 Class Specification

- A. For each class established by the Commission, the Chief Personnel Officer shall cause to be maintained in the office of the Commission, in suitable form, official class specifications as approved by the Commission, including:
 - 1. The official class title
 - 2. The basic function of the class summarizing the duties and responsibilities.
 - 3. Distinguishing characteristics, when possible, giving the positions to be included and excluded from each class.

4. A statement of the desirable qualifications for determining the skills, knowledge, abilities, licenses or certificates, and physical traits or characteristics.
 5. Examples of duties to be performed in positions allocated to the class.
 6. The date the class specification was adopted and/or revised.
- B. The Commission may secure the assistance of any competent agency or person outside the District to prepare or assist in the preparation of such class specifications.

3.10 Interpretation of C class Specifications

- A. Class specifications and their various parts are hereby declared to have the following force and effect:
1. The class titles used in the classification plan are to be used as payroll titles and in connection with any personnel record or transaction.
 2. Class specifications 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 for any position. The use of a particular expression or illustration in the examples of duties or responsibilities or other attributes typical or descriptive of the classification does not exclude others not mentioned that are of similar nature.
 3. In determining the class to which any position shall be allocated, the specification for each class is considered in its entirety and in its relation to others in the classification plan, and consideration shall be given to the general and specific duties, the responsibilities and the qualifications required in relation to other classes.
 4. Education and experience patterns represent desirable recruitment qualifications. The education and experience patterns outlined in the class specifications are to serve as guidelines, not as absolutes, for admittance to the examination process for a particular class.
 5. The following personal qualification requirements apply to all classes even though not specifically mentioned in the specification: good physical condition and agility and strength commensurate with the duties of the class; citizenship, integrity, sobriety, initiative, resourcefulness, dependability, good judgment, good moral character and reputation, loyalty, ability to work cooperatively with others, and willingness and ability to assume the responsibilities and to conform to the conditions of work characteristic of the particular employment.

3.11 Classification of New Positions

- A. When a new position is established, the Administrator shall submit a written statement of the duties to be performed and the responsibilities to be assigned to the Chief Personnel Officer for review.
- B. The Chief Personnel Officer shall study the information and shall determine whether the position shall be allocated to an existing class, or whether a new classification shall be created.
- C. If a new classification is required, the Chief Personnel Officer shall submit recommendations as to class specification and an appropriate salary range to the Commission for approval. All positions substantially similar as to duties performed, and responsibilities exercised, and as to qualifications required, shall be allocated to the same class.

3.12 Work Out of Classification (45102, 45110, 45185)

- A. When an employee is required or requested to work out-of-classification, the fact shall be reported in writing by the Supervisor to the Chief Personnel Officer.
- B. When an employee shall be required to perform duties which are not fixed and prescribed for the position by the class specification, or which do not reasonably relate to those fixed for the position, for any period of time, the salary shall be adjusted upward for the entire period. If the assignment is in an equivalent class, the payment of a 5% differential will be made in accordance with unit contracts. If this assignment is in a higher class, the salary adjustment shall be that step of the higher class, whichever salary is greater.

3.13 Changes in Duties of Positions

- A. Any changes in the duties of existing positions shall be promptly reported in writing by supervisors, through proper channels, to the Chief Personnel Officer who shall then consider such changes to determine whether or not the position should be allocated to a different class remain as currently allocated.
- B. If the Chief Personnel Officer finds that a position should be reclassified, such data shall be presented to the Commission for action including class specification, proposed class salary, proposed hierarchy placement, and a determination regarding "gradual accretion" if relevant. The effective date of the reclassification shall be the date determined by the Commission.

3.14 Effect of Classification Changes on Incumbents (45285)

- A. Whenever, as a result of the creation, division, combination, alteration, or abolishment of classes of positions, the allocation of individual positions affects the incumbents of such positions, the Commission shall determine the status of the employees affected in accordance with the following procedures:

1. When all positions in a given class are reallocated to a higher class or responsibility level, the incumbents of the positions who have been in the class for two or more years may be granted status in the higher class, as provided in Section 45285 of the Act, without examination. An incumbent of a position for less than two years must secure status in the higher class by passing a qualifying examination unless his/her present class or the examination he/she took to qualify for the present appointment encompassed the higher class duties, responsibilities or qualifications in which event status may be granted without further examination.

The basis for reclassification of the position must be a gradual accretion of duties and not a sudden change occasioned by a re-organization or the assignment of completely new duties and responsibilities. An employee who has been reclassified with his/her position shall be ineligible for subsequent reclassification with her/her position for a period of at least two years from the initial action.

No position classification or reclassification plan which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the commission until the exclusive bargaining representative and the public school employer of the classified employees who would be affected have been given reasonable notice of the proposed classifications or reclassifications as provided in Education Code Section 45285.5.

2. A qualifying examination under this rule is defined as one in which only incumbents of reallocated positions may compete. They must meet the minimum qualifications, and the examination is rated as "passing" or not passing" rather than relatively. The Commission shall determine those instances when equity and the good of the service require the holding of such examinations.
3. In the event of reallocation of a position to a lower class, the incumbent of such reallocated position shall be transferred to another position in his/her previous class if such position is available anywhere in the classified service. If such position is not available, the incumbent's name shall be placed on the re-employment list for the class or for comparable or lower classes if she/he so requests, in accordance with his/her length of service as computed for layoffs.
4. Incumbents of positions reallocated to a class of the same level shall be granted status in the new class without further examination.

3.15 Review of Positions

The Chief Personnel Officer or staff member, designated by him/her shall study individual positions as necessary to determine proper classification. All positions should be reviewed periodically. The District or employee may request a classification study by submitting a position description along with reasons for the study.

3.16 Designation of Senior Management Positions

- A. Under the provisions of Education Code Sections 45108.5 and 45256.5, the Board of Education may designate up to five positions as senior management of the Classified Service. Employees whose positions are so designated shall be part of the Classified Service; however, they shall not attain permanent status in senior management classes. Senior management positions may include the fiscal advisor to the Superintendent and the highest positions that have District-wide responsibility for formulating policies or administering a principal District program area, as determined by the Board of Education.
- B. Positions designated as senior management of the Classified Service shall be filled from an unranked alphabetical list of persons who have been determined by the Superintendent to meet the minimum qualifications specified by the Personnel Commission.
- C. If a senior management position is abolished in accordance with Education Code Section 45104.5, or the assignment of an incumbent in a senior management position is terminated, with 45 days' notice required by Education Code Section 35031, the employee shall be placed according to the following sequence.
 - 1. In a position in the class to which the employee would be entitled if the position had not been designated as senior management.
 - 2. In a position in a class to which the employee previously held permanent status.
 - 3. Upon approval of the Personnel Commission, in a vacant position that is similar to the employee's former position in the Classified Service.

3.17 Designation of Executive Secretarial Positions (45272)

- A. Upon the request of a majority of the members of the governing board, the Commission may exempt one or more secretarial positions from the classified service (45272).
- B. Exemptions authorized under Education Code Section 45272, Section (b), shall be limited to executive secretarial positions reporting directly to the governing board, the Superintendent, or not more than four principal deputies of the Superintendent, or all of these positions.

- C. 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 service of the district, except he/she shall not attain permanent status in an executive secretarial position.
- D. Positions of executive secretary shall be filled from an unranked list of eligible employees who have been found to be qualified for the positions as specified by the Superintendent and determined by the Personnel Commission.
- E. Any person whose service in an executive secretarial position are discontinued for a cause other than a cause for disciplinary action specified in the Education Code or in a rule of the Personnel Commission shall have the right to return to a position in a classification he/she previously occupied or, if that classification no longer exists, in a similar classification, as determined by the Commission.

LEGAL REFERENCES

Education Codes:

| | |
|---------|---|
| 45104 | Positions Not Requiring Certification Qualifications |
| 45105 | Positions Under Various Acts Not Requiring Certification Qualifications; Classifications |
| 45108 | "Restricted Positions" |
| 45108.5 | Senior Management Employees |
| 45109 | Fixing of Duties |
| 45110 | Inconsistent Duties; Compensation |
| 45112 | Staff Assistants of Field Representatives |
| 45240 | Personnel Commission and Director |
| 45256 | Establishment of Classified Service; Positions Exempted |
| 45256.5 | Senior Management of the Classified Service |
| 45258 | Positions Established for the Employment of Community Representatives in Advisory or Consulting Capacities Exempt from Classified Service |
| 45259 | "Restricted" Employees classification |
| 45263 | Powers and Duties of Personnel Commission Regarding Apprenticeships |
| 45267 | Provisions Applicable to Non-Certificated Personnel Apply as Well to School District with Merit System |
| 45272 | Vacancies in Classified Service |
| 45285 | Reclassification |

CHAPTER 4

RECRUITMENT BULLETINS AND APPLICATIONS

4.1 Vacant Positions and Recruitment

Administrators shall notify the Chief Personnel Officer promptly of a vacant position or anticipated vacancies. Notification should be made in writing to the Classified Personnel Office, giving location, hours, work year, etc. Whenever possible, eligibility lists should be developed prior to the position becoming vacant.

4.2 Pre-Examination Information

The Chief Personnel Officer shall ensure that each examination is job related and properly tests the relative fitness of the candidates.

4.3 Competitive Basis for Examinations

A. Continuous Examinations

1. When there is a shortage of eligibles to fill vacancies in the service in any class, the Chief Personnel Officer may authorize recruitment by continuous examinations.
2. All qualified applicants who have applications on file at the beginning of a continuous examination process for a class shall be notified.
3. The continuous examination shall be promulgated under similar conditions and techniques as previous examinations for the same class and resulting eligibility lists may be merged with previous lists for the class in the relative order of merit of the eligibles.
4. Terminations of continuous examination procedures for any class may be effected by action of the Chief Personnel Officer.

B. Promotional and Open-Competitive Examinations

1. Examinations may be announced as open-competitive, promotional or both.
2. The Chief Personnel Officer, as the needs of the service may require and subject to approval by the Commission, may announce and hold promotional examinations, which shall be limited to District employees in appropriate classes designated by the Chief Personnel Officer.

3. Applicants for promotional examination must meet the established minimum qualifications for the class and their last service report shall have been satisfactory grade or higher. Any probationary, limited term, or provisional appointee who immediately preceding his/her current appointment held permanent status in an eligible class shall be deemed to meet the requirement of permanent status for eligibility to compete in a promotional examination.

The serving of a probationary period shall not, of itself, prevent an employee who meets the requirements of this rule from having his/her name certified from an eligibility list.

4. A promotional candidate is one who has permanent status in the District.

4.4 Compliance With Equal Employment Opportunity Commission Guidelines

Examinations shall be consistent with applicable Equal Employment Opportunity principles.

4.5 Recruitment Bulletins (45300, 45278)

- A. Whenever it is necessary to fill existing or anticipated vacancies in the service, or whenever an eligibility list in any class is about to be terminated in accordance with the provisions of the law and these rules, the Chief Personnel Officer may direct the holding of an examination to provide eligibles. At least 15 working days public notice of such examination shall be given. Posting of transfer opportunities will be in accordance with the number of days specified in the collective bargaining agreement for the appropriate unit.
- B. The recruitment bulletin shall contain the following facts as fixed by the Chief Personnel Officer except where these rules may provide the contrary:
 1. Class title
 2. Salary range and any salary differentials
 3. Summary of duties of the class
 4. Normal assignment for the majority of employees in the class expressed in hours per day and months per year
 5. Minimum qualifications
 6. General summary of the skills, knowledge, abilities and traits to be examined in each test and the relative weights of each test
 7. Last date to file an application and place to file the application
 8. Requirements for licenses, language skills, etc.

9. Veteran's points allowance, if entry examination
 10. Category of examination
 11. Employment requirements such as fingerprinting, TB tests, physical examinations, oath of allegiance, length of probationary period.
- C. Minimum qualifications shall relate to the duties of the class and should permit an adequate field of competition.
 - D. No candidate shall be required to become a resident of the District.
 - E. A candidate shall not be required to possess a license, certification or credential unless the possession of such is required by applicable law.

4.6 Recruitment Program

- A. Recruitment bulletins shall be distributed widely throughout the District and in other potential recruitment areas. Other recruitment efforts may be by publication in daily newspapers in the area, Internet or by special aggressive, imaginative efforts where appropriate.
- B. Notices of promotional examinations shall be widely distributed in all schools and other facilities of the District to assure that eligible employees of the District will become aware of promotional opportunities.

4.7 Notification Cards

- A. The Chief Personnel Officer shall maintain a job interest card system which will allow a person to file his/her name and address to be notified of an examination when it is open for filing.

4.8 Filing of Applications

- A. All applications must be completed as directed upon official application forms of the San Lorenzo Unified School District. Applications must be filed in the Personnel Office of the San Lorenzo Unified School District in accordance with instructions contained in the examination announcement and by the date filing is actually closed. Applicants taking more than one examination shall be required to file a separate and complete application for each examination.
- B. If questions regarding ethnicity or gender are asked, for affirmative action purposes, such questions shall be on a separate attachment to the application, and responses to such questions shall be voluntary.
- C. All applicants must inform Personnel, in writing, of any changes of name, address and telephone number.

4.9 General Qualifications of Applicants

- A. All applicants must be United States citizens or be legally authorized to work in the United States possessing appropriate work permit cards.
- B. All applicants must meet the minimum qualifications and be mentally and physically able to perform the duties of the position for which they are applying. Individuals with disabilities shall be given equal employment opportunity and reasonable accommodation for employment shall be made.
- C. Candidates selected for appointment may be required to pass the medical examination prescribed by the Commission or Chief Personnel Officer. The type of work involved will determine whether or not a pre-employment physical examination is required.
- D. All convictions must be declared on the application.
- E. After selection for employment, candidates will be fingerprinted and are required by law to sign an Oath of Allegiance to the United States. Before beginning work, candidates must submit to the Classified Personnel Office a verification of a Chest X-ray or Tuberculin Test indicating they are free of tuberculosis, such verification must be dated within sixty days prior to employment.
- F. No questions relating to political or religious opinions or affiliations, race, color, national origin or ancestry, or marital status shall be asked of any applicant or any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefore. In addition, there shall be no discrimination on the basis of sexual orientation, sex or age.

4.10 Disqualification of Unfit Applicants, Candidates, and Eligibles

- A. The Chief Personnel Officer may refuse to examine an applicant or after examination may withhold from certification from an eligibility list the name of an applicant for any of the following reasons:
 - 1. Failure to meet the general qualifications as listed in 4.9 may be grounds for disqualification.
 - 2. Refusal to take or sign the Oath of Allegiance shall be grounds for disqualification.
 - 3. Advocacy of overthrow of the Government of the United States (or the State of California) by force, violence or unlawful means shall be grounds for disqualification.
 - 4. Conviction for any of the following are is grounds for disqualification: crime involving moral turpitude or sex offense and some narcotics offenses as outlined in Sections 45304, 44010, 44011. Other convictions may be grounds for disqualification, such

as various felonies, mistreatment of children; misdemeanor of a serious nature.

5. Intentionally making a false statement as to any material fact or practicing any deception or fraud in certification or appointment or in securing eligibility to take the examination shall be grounds for disqualification.
 6. A person's conviction record will be evaluated on the following basis: nature, seriousness and circumstances of the offense and recency of the offense; number of convictions; relationship of the offense to the position applied for, evidence of rehabilitation and maturing including the employment record with respect to job responsibility and duration; truthfulness in admitting the offenses.
 7. Evidence of the habitual use of intoxicating beverages or drugs while on duty/or affecting person's ability to perform work may disqualify a person.
 8. Dismissal or resignation to avoid dismissal for cause which indicates poor performance in the type of work sought may disqualify a person.
 9. Separation for cause from the San Lorenzo Unified School District.
 10. A person may be disqualified for mental or physical inability to perform the duties of the position. Written proof of such condition or disability must be submitted by a physician after a medical examination paid for by the District.
 11. A person may be disqualified for failure to report for duty after accepting an employment offer or for not being available to report for interview or work.
 12. A person may be disqualified for serious or numerous traffic violations when driving is part of the duties of the class.
 13. A person may be disqualified for failure, after due notice, to report promptly for review of any of the above bases for rejection.
 14. Refusal to testify in a hearing before the Commission or the Governing Board.
 15. Other reasons deemed sufficient by the Commission.
- B. The Chief Personnel Officer may limit the number of candidates who may take an open examination to a reasonable number of the most qualified applicants as those qualifications relate to the District's needs. No limitation shall be placed on the number of qualified candidates who may take a promotional examination.

4.11 Application Forms are Property of the District

- A. All applications and examination papers are confidential records of the Commission and will not be returned to the applicants. The Commission shall permit the appointing power or representative to inspect applications of persons being considered for appointment.
- B. The names of the applicants in any examination shall be confidential until they qualify for placement on an eligibility list

4.12 Notice of Approved Application

- A. Examinations for positions in the classified service shall be open to all applicants who meet the requirements of the Act, these rules, and the class specifications. Each applicant whose application has been approved shall be notified a reasonable time in advance of the time and place of the examination, and such notice shall be the applicant's authorization to take the examination. No candidate may be admitted to any examination without such authorization or other satisfactory evidence of filed an acceptable application

4.13 Recruitment and Examination For Business Manager

- A. An open-competitive examination and a promotional examination shall be held at the same time for the classification of Assistant Superintendent of Business in accordance with Education Code Sections 45280 and 45282 and the following provisions.
 - 1. All permanent employees of the District, classified and certificated, who meet the established minimum qualifications, shall be eligible to compete in the examination as promotional candidates.
 - 2. Promotional credits, including seniority credits, if any, shall be equally applicable to both classified and certificated promotional candidates.
 - 3. Eligibility lists resulting from such an open competitive and promotional examination shall be merged according to the order of the examination scores into a single eligibility list, after the scores of each candidate on the promotional list have been adjusted for promotional credits, including seniority credits, if any.
 - 4. The examination for this position shall not be construed to be an entrance level position examination.

LEGAL REFERENCES

Education Codes:

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|-------|--|
| 45111 | Prohibition Against Requiring Classified Employees to Reside Within District |
| 45122 | Physical Examinations |
| 45123 | Employment After Conviction of Sex Offense Or Controlled Substance Offender |
| 45124 | Employment of Sexual Psychopath |
| 45125 | Fingerprinting and Previous Employment |
| 45261 | Subjects of rules |
| 45272 | Vacancies in Classified Service; Promotional Applicants |
| 45276 | Educational and Work Experience Requirements for Classified Positions |
| 45277 | Appointments From Eligibility Lists Where Another Language or Driver's License Is Required |
| 45278 | Written Notice Regarding Tests, Vacancies, and Transfer Opportunities |
| 45280 | Examination for Business Manager |
| 45281 | Competition Through Promotional Examination |
| 45284 | Conditions For Certification For Employment From Open-Competitive Eligibility List Before Exhaustion of Promotional Eligibility List |
| 45291 | Combinations of Successive Eligibility Lists |
| 45292 | Right To Provide Continuous Examinations |
| 45294 | "Veteran Defined" |
| 45295 | "Disabled Veteran Defined" |
| 45296 | Additional Credits For Veterans' Entrance Examinations |
| 45298 | Re-employment And Promotional Examination Preference Of Persons Laid Off: Voluntary Demotions Or Reduction In Time |
| 45300 | Duration of Eligible Lists |
| 49406 | T.B. Examinations |

CHAPTER 5

EXAMINATIONS

5.1 Purpose and Character of Examinations

- A. The purpose of an examination is to provide equal opportunity for all qualified candidates to demonstrate their relative fitness in relationship to the skills, knowledge, abilities and traits required for the class.
- B. All examinations may consist of at least two separate parts. These parts shall be a combination of any of the following: Written tests, oral interviews, either for technical knowledge or for personal characteristics, performance tests, physical ability tests, weighted application forms, supplemental application forms or any tests of skill and ability, technical knowledge, manual skill or physical and mental fitness which in the judgment of the Chief Personnel Officer, after consultation with the appropriate supervisor, are relevant to the work to be performed. The Personnel Commission shall have final approval regarding the testing procedures for each individual examination posted.
- C. It is the intent of the Commission that the most appropriate method of testing be used which is both job related and which has the least adverse impact, with due consideration for factors of time and cost of administration.

5.2 Written Test Preparation and Administration

- A. The best practicable tests should be developed which will provide proper coverage of subjects at an appropriate level of difficulty.
- B. The Chief Personnel Officer shall prepare or cause to be prepared the written examination questions. The assistance of any competent person or agency may be used.
- C. All competitors in any open-competitive or promotional written examination must take the examination on the prescribed date and under the same or similar conditions. In special circumstances, by approval of the Chief Personnel Officer, an alternative date for testing may be arranged that resembles the original testing situation as *closely as possible*.
- D. All necessary explanations will be made to the whole group, and no test questions will be explained to any individual competitors. Examiners are forbidden to explain the meaning of or to make remarks relating to any question that may assist in its solution.

- E. Communication between competitors during the examination is strictly forbidden, and competitors are forbidden to receive aid from one another or to use any unauthorized help in any form. Before the commencement of an examination, competitors will be required to hand to the examiner any printed or written material in their possession that might serve to aid them in the examination, unless such material is expressly permitted as part of the examination process. Evidence of copying or collusion by a competitor may result in the cancellation of the candidate's examination papers and the debarment of the competitor from future examinations. Copies of questions in the examination shall not be made or taken from the examination room.
- F. 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 shall have been marked and rated.
- G. Candidates in any written testing process shall not reveal their identity. Any competitor in any examination who places any identifying mark upon his/her examination papers (other than the identifying mark prescribed at the time of the examination), or who makes any attempt to disclose to others the identity of his/her papers prior to the completion of the examination may be deprived of all benefits under such examination.
- H. A permanent employee who currently holds a position in a clerical classification and who passed a typing/keyboard test at the required speed for the classification they are applying for, shall not be required to retake the typing/keyboard test.

5.3 Notice of Tests

- A. Notice of test dates, examination results, and interview notifications shall be sent to the address listed on the application form or new address pursuant to written notice of changed address. A person who fails for any reason to notify the District of an address or telephone number change is subject to disqualification from another consideration for the position.
- B. Each qualified applicant shall be notified in writing and/or via telephone, of the time and place of the examination. This notification shall be done in a reasonable time in advance of the examination date.

5.4 Use and Selection of Interview Raters (45273)

- A. In any examination the education, experience and personal qualifications of competitors may be rated after a qualifications appraisal interview and such investigations as may be necessary.

- B. The interview shall be conducted and the ratings made by a board of three persons when possible. However, if three are not available then a board of two is acceptable. The board will be composed of persons from the District or another governmental agency or private business who are familiar with and competent in the work of the class for which the examination is being held. In selecting oral board members and in determining the interview site and setting, the Chief Personnel Officer may give consideration to the racial, cultural, and ethnic background of the candidates
- C. The Chief Personnel Officer shall determine the number of interviewers required to conduct each qualifications appraisal interview and shall select and appoint such interviewers. Members of the Governing Board or Personnel Commission shall not serve on an oral examination board. A district employee who is not at the first or second level of supervision over a vacant position in the class for which the examination is held may serve on an oral examination board.
- D. Unless specifically directed to evaluate candidate's technical knowledge and skills, the oral examination board shall confine itself to evaluating general fitness for employment in the class. When the oral examination board is directed to evaluate technical knowledge and skills, at least two members of the board shall be technically qualified in the specified occupational area.
- E. Scores achieved by the candidate on other parts of the examination shall not be made available to the oral examination board. (45273)
- F. The proceedings of all oral examinations shall be electronically recorded. Recordings and the rating sheet of each member of the oral board for each candidate shall be retained for 90 days after establishment of an eligibility list. (45274)
- G. Qualifications appraisal interviews for an examination shall be conducted by the same qualifications appraisal board, but if one or more members of the board is not present during all or part of the proceedings, the board may nevertheless proceed.
- H. If, in the course of an examination, a competitor appears for interview who has a close personal or business relationship, to any interviewer, it shall be the duty of the interviewer and the competitor to reveal such relationship, and the Commission representative shall record such information on the rating sheet of the competitor. Whenever an interviewer is related to a competitor, such interviewer shall be disqualified for the interview for all competitors and shall not be present during the interview or during any discussion about or rating of the competitors.
- I. The panel shall be briefed regarding the duties of the class; skills, knowledge, abilities and traits; examination process; knowledge and abilities to be covered in the panel and use of the interview sheet; interviewing techniques, and scoring methods. Under the supervision of the examiner in charge, a supervisor may be invited to participate in a

briefing to provide the panel with job- related information and organizational structure.

All questions must be job related. No questions shall be asked related to political or religious opinions, union affiliation, race, color, national origin, ancestry, sex, marital status, sexual orientation or disabilities except that any applicant may be asked about his or her physical and mental ability to perform the duties of the position. (American with Disabilities Act)

5.5 Computing Final Scores

- A. All examination papers shall be marked and graded under the direction of the Chief Personnel Officer or the authorized person or agency outside the District employed for this purpose.
- B. Competitors may be required to attain a designated final rating in all parts of examination in order to qualify, or the lowest qualifying mark may be the final score of the lowest candidate chosen to be placed on the eligible list.
- C. Written examinations may be given on either a pass-fail or a ranking basis. The qualifying score on written examinations may be an actual score or an adjusted score based on the difficulty of the examination, the quality of the competition, and the needs of the service. The determination of minimum qualifying scores on written examinations shall be made before any examination papers are identified.
- D. When a competitor is disqualified by two or more members of the qualifications appraisal board, the panelists shall make a record of the reasons for such rating on a rating sheet and this shall be signed by each member.

If the rating of a candidate by the qualifications appraisal board falls below seventy percent (70%), but a majority of the panelists assign a passing rate of seventy percent (70%) or more, the competitor shall be given a final rating of seventy percent (70%).

However, if the majority of the qualifications appraisal board assigns a rating below seventy percent (70%), the competitor shall be disqualified regardless of the fact that his/her average rating may be below seventy percent (70%) or more.

A disqualifying score shall be sixty-nine percent (69%) or below.

- E. A permanent employee of the District who attains a passing score on an open examination shall be given a preferential promotion credit of five (5) points which shall be added to his/her total score. The final credit may also include veteran's preference and disabled veterans preference as provided in the Education Code for entrance examination.
- F. If two or more eligibles attain the same total rating in an examination, they will be ranked equally on the eligibility list.

- G. When the merging of continuous eligibility lists results in identical scores for two or more persons, those people will be ranked equally on the new eligibility list.

5.6 Notice of Results

As soon as the rating of an examination has been scored and the eligibility list established, each candidate shall be notified by first class mail of the results of his/her examination. A copy of the eligibility list shall be posted at a convenient location in the Human Resources Office accessible to all classified employees.

5.7 Protest Period

- A. When notification of examination results is sent to each candidate, the candidate shall also be notified of the test results review day when the candidate's examination results may be inspected. Such review day shall be within ten (10) calendar days after the effective date of the eligibility list. A qualified representative of the Personnel Commission staff shall be available to explain the scores and ratings upon written request. The candidate shall not be permitted to make copies of examination papers.
- B. If a candidate wishes to protest any part of an examination; he/she must submit the protest in writing to the Chief Personnel Officer not later than fifteen (15) calendar days after the establishment of the eligibility list.
 - 1. Such protest shall give reasons upon which the complaint is based, state specifically wherein errors have occurred, and state the remedy requested by the candidate
 - 2. The Chief Personnel Officer shall review and answer all protests of any examination part and shall make any necessary corrections, provided that such corrections are applied uniformly to all candidates. Any candidate who remains dissatisfied may appeal to the Personnel Commission within seven (7) calendar days after notice of the decision of the Chief Personnel Officer was mailed or given to the candidate.
 - 3. An applicant's written claim that extenuating circumstances prevented filing a protest or the appeal within the time limit may be considered, and a reasonable extension may be granted by the Commission.
 - 4. Upon appeal to the Personnel Commission, the appellant may request to review his/her personal interview rating documents and the tape recording of the interview. Such request by the appellant or his/her representative shall be granted as soon as practicable, and the review shall be conducted by a Personnel Commission staff member.

- C. Errors shall be corrected when discovered, regardless of lapse of time after the establishment of an eligibility list. Changes in eligibility lists resulting from corrections of errors shall be reported in the same manner as the original lists.
- D. An appointment made in good faith from an employment list believed to be correct at the time of appointment shall not be invalidated if an error is later discovered in the grading of the examination papers or in the processing of the applications. However, the Chief Personnel Officer shall notify the Personnel Commission in writing of the corrected grade if an appointee is found to be below the passing score for that examination.

5.8 Adoption and Duration of Eligibility Lists

- A. After an examination for any class is completed, the names of successful candidates shall be arranged on the list in the order of their qualifying scores. The eligibility list thus created shall become effective upon approval by the Chief Personnel Officer (pending final approval by the Commission.) The Human Resources Office will act on the eligibility list once the Chief Personnel Officer provides approval. However, it will be the responsibility of the Chief Personnel Officer to provide the Commission with the list of the eligibles within fourteen calendar days. This list will have a signature and date indicating the Chief Personnel Officer's action. At the next regular Commission meeting the Chief Personnel Officer will submit the list of eligibles for approval by the Commission.
- B. The length of time during which such list shall remain in force may be six (6) months to one year unless an extension of time not to exceed a total of two (2) years is authorized by the Commission.
- C. Any person whose name is on the eligibility list at the time of its expiration and who desires remain on an eligibility list for that class *may choose the option of having their previous score utilized for the successive eligibility list. Eligibles who wish to remain on the list will also be offered the opportunity to retest for the successive eligibility list. In the case of a new examination, all eligibles will be required to submit a new application and will be required to compete in the next examination for that class.*

5.9 Confidentiality and Retention of Examination Records

- A. Individual applicants' examination records including answer sheets, title of classification, and rating sheets, shall be retained for three (3) years.
- B. Other records including tests, affirmative action data and eligibility lists shall be retained for a minimum of three (3) years.
- C. These records shall be maintained by the Chief Personnel Officer as confidential personnel records, which are subject to disclosure in accordance with applicable law.

5.10 Availability/Interest Cards

Whenever examinations are not open for filing of applications, individuals may submit job availability/interest cards to the Human Resources Office. These cards will be kept on file and mailed to the individual when the examination filing period is open.

LEGAL REFERENCES

Education Codes:

| | |
|-------|--|
| 44031 | Personnel File Contents and Inspection |
| 45261 | Subjects Of Rules |
| 45272 | Vacancies In Classified Service; Promotional Applicants |
| 45273 | Examinations; examination Boards; Membership Recordings |
| 45274 | Retention and Availability Of Examination Records; Review and Protests |
| 45280 | Examination for Business Manager |
| 45291 | Right to Provide Continuous Examinations |
| 45293 | Questions To Be Asked Candidates; No Discrimination In Appointment |
| 45296 | Additional Credits For Veterans' Entrance Examinations |
| 45300 | Duration of Eligible Lists |
| 45317 | Violation of Article A Misdemeanor: Other Unlawful Acts |
| 45291 | Combinations of Successive Eligibility Lists |

CHAPTER 6

EMPLOYMENT LISTS

6.1 Use of Eligibility Lists

- A. Whenever a position is to be filled the appointing power shall notify the Chief Personnel Officer in advance of the date of the anticipated need and make written request for certification on the form prescribed by the Chief Personnel Officer, stating the classification, tenure and location of the position.
- B. An eligible's name shall not be removed from the eligibility list if he/she accepts a limited-term appointment.
- C. An eligibility list shall be used for full-time, part-time, regular, and limited-term assignments in a class.

6.2 Certification From Employment Lists

- A. Certification from eligibility lists shall be of the first three (3) ranks of available candidates. Names shall be certified for appointment from employment lists in the following sequence:
 - 1. Reemployment List (one name)
(Education Code Sections 45308 & 45309)
 - 2. Voluntary Demotion and Voluntary Reduction in Assigned Time in lieu of layoff List
 - 3. Eligibility list (first three (3) ranks) plus transfer or reinstatement requests. (Education Code Section 45272) unless otherwise specified in the appropriate collective bargaining agreement.
- B. If there are less than three (3) ranks on the eligibility list, the appointing power has a choice of interviewing from the eligibility list or calling for an examination.
- C. If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list for another class (at the same or higher salary level) if the duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled; provided that the Chief Personnel Officer finds that the use of the list is in the best interest of the District and that the necessary skills and knowledge were adequately tested in the examination.
- D. If a position requires proficiency in a foreign language in addition to basic English language skills, certification may be limited to those eligibles successfully passing the examination for that foreign language skill.

6.3 Waiver of Certification

- A. An eligible may for reasons satisfactory to the Chief Personnel Officer waive appointment to a regular position, but after three (3) such waivers the eligible's name shall be removed from the employment list for that class and he or she shall not be eligible for further certification from that list. In extraordinary cases where waivers are caused by circumstances beyond the control of the eligible, the Chief Personnel Officer may restore the eligible to the list on satisfactory explanation of the reason for the waiver.
- B. Whenever an eligible has been certified to the appointing power and such eligible waives appointment, the Chief Personnel Officer shall certify the next highest eligible. If the appointing power has at the same time more than one (1) vacancy in the same class, there shall, if possible, be certified as many names as there are vacancies and one (1) name in addition thereto. The appointing power shall fill the first vacancy by the selection of one (1) of the highest eligibles certified. Every succeeding vacancy shall be filled in like manner by selection in turn from the highest remaining names.

6.4 Removal of Name

- A. If an eligible is certified from the same list three (3) separate times and is passed over by the appointing power on all three (3) certifications in favor of other eligibles certified, his/her name may be permanently removed from the list by the Chief Personnel Officer upon receiving a written statement from the appointing power as to why the eligible was not appointed. The eligible will be informed by the Chief Personnel Officer of the reasons for removal from the list.
- B. When an eligible is appointed to a permanent position, his/her name shall be removed from the eligible list for that class. His/her name shall also be temporarily withheld from certification from any other eligibility list until he/she satisfactorily completes the required probationary period for the class to which appointed. Upon completion of the probationary period, his/her name shall be restored to such eligibility lists in the order of his/her qualifying grades.

6.5 Responsibilities of Eligible

- A. Every eligible shall respond after receiving notice of certification. Notice will be given by telephone call. The personnel office will attempt to contact an eligible for not longer than two (2) working days. If the eligible has an answering machine and the personnel office leaves a message, it is required that the eligible returns the call to acknowledge notification within twenty-four (24) hours. If such notice is not received by the personnel office within these time limits, then, it will be considered a "pass" by the eligible and the next eligible will be contacted.

- B Failure of an eligible to respond within the above stated times will be deemed an automatic waiver of certification, and the Chief Personnel Officer may certify an additional name in lieu of the name of such eligible.
- C. An eligible may at any time have his/her name temporarily withdrawn from the eligibility list and placed upon the inactive list by giving in writing reasons satisfactory to the Chief Personnel Officer. The eligible's name may be restored to the list at the discretion of the Chief Personnel Officer upon written application of the eligible during the period of eligibility.
- D. Every person who has been placed on any eligibility list or re-employment list shall promptly and in writing file with the Commission a correct mailing address to which the Chief Personnel Officer shall direct all notices. Whenever any change in mailing address occurs, the eligible shall promptly notify the office of the Commission, stating the name of list or lists. A person who fails for any reason to notify the District of an address or telephone number change is subject to disqualification from another consideration for the position.

LEGAL REFERENCES

Education Codes:

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|-------|--|
| 45272 | Vacancies in Classified Services Promotional |
| 45275 | Retention and Availability of Examination Records; Review and Protests |
| 45277 | Appointments From Eligibility Lists is Required |
| 45280 | Examination for Business Manager |
| 45282 | Examination for Certain Positions |
| 45284 | Conditions for Certification for Employment From Open Competitive Eligibility List Before Exhaustion of Promotional Eligibility List |
| 45286 | Limited-Term Employees |
| 45290 | Emergency Appointments |
| 45291 | Combination of Successive Eligibility Lists |
| 45309 | Non-Certificated Employees After Resignation |

CHAPTER 7

IN-SERVICE STATUS AND TRANSACTIONS

7.1 Appointments

- A. **Emergency Appointments:** (Education Code 45290) When eligibles are not immediately available and in order to prevent the stoppage of public business when an actual emergency arises, the appointing power may make an emergency appointment of not more than fifteen (15) working days. When such emergency appointment is made, it shall be the duty of the appointing power to notify the Chief Personnel Officer in writing who shall pass on the sufficiency of the reasons and the compliance with the provisions of this rule before any salary can be paid.
- B. **Limited Term Appointments:** (Education Code 45286) Limited-term positions are subject to classification by the Personnel Commission except that the Chief Personnel Officer may classify them subject to later ratification if the good of the service demands expeditious action. The appointing authority may establish positions the duration of which is six (6) months or less; such positions shall be designated "limited term".
1. A substitute assignment may be made not to exceed in duration the authorized absence of the regular employee. Also, a substitute assignment may be made in a lower class related to that of the absent employee if the assigned duties are reduced in level accordingly.
 2. The Personnel Commission shall classify all limited-term positions in the same manner as stated in Chapter 3, Classification.
 3. A permanent employee who accepts a limited-term assignment shall be allowed to return to his/her former position at the expiration of such service.
 4. **Eligibility:** In the absence of an appropriate eligibility list, provisional appointments may be made to limited term positions and substitute assignments subject to the provisions of rule 7.1, D. Provisional Appointments.
 5. **Compensation:** When a regular employee is given a limited term appointment in a second class in lieu of all or part of his/her regular appointment, his/her rate of pay in the second class shall be the rate appropriate to that class which is next above his/her regular rate, if any, but not more than the highest rate applicable to that class. (Education code 45110)
 6. Former regular employees who are reinstated as limited-term employees within thirty-nine (39) months after resignation shall be paid in accordance with Rule 7.7, Reinstatement and Re-employment.

7. All other limited-term employees shall be paid at the hiring rate (first step) for regular appointments in the class.
 8. Regular employees who are serving in a limited-term appointment in a new classification, retain regular status in the class from which they came, and continue to earn and be granted all rights and benefits of regular employees, except that time spent in the limited-term position does not count toward the completion of the probationary period in the classification nor does seniority accrue for the limited term classification.
 9. Regular employees who are serving in a limited-term appointment in a different classification retain regular status in the class from which they came and earn such salary and benefits as all other limited-term employees. Time spent in such limited-term positions does not count toward completion of a probationary period in the classification, nor does seniority accrue during such appointment.
 10. Limited term employees may only receive health and welfare benefits, including sick leave and vacation accrual, under the following conditions:
 - a. The limited term employee must be replacing a regular employee and for a period of not less than six (6) months.
 - b. The regular employee being replaced temporarily must not be receiving health and welfare benefits nor accruing sick leave or vacation credits.
 11. Termination: Limited-term appointments shall be subject to termination at any time in the same manner as a probationary employee.
- C. Probationary Appointments: Appointments from open-competitive eligibility lists or promotional eligibility lists shall be for a probationary period of six (6) months or one hundred thirty (130) working days of paid service, whichever is longer. This probationary period shall not include time served under emergency, provisional or limited-term appointment but shall date from the beginning of service in a permanent position after appointment from a valid eligibility list or from the effective date of the transfer. The probationary period of six (6) months, or one hundred thirty (130) days of paid service, whichever is longer, shall exclude all time during which an employee is on a paid or unpaid leave of absence. No employee shall attain permanent status in the classified service until he/she has completed a probationary period in a class. (Education Code 45301)

NOTE: While an employee is in a probationary status, he/she may apply for any other classified position for which he/she is qualified. However, his/her placement on the eligibility list for other classifications shall be frozen until the employee successfully completes his/her probationary period and has earned permanency.

1. A probationary employee assigned on a part-time, regular basis shall complete his/her probationary period upon serving six (6) months of such part-time service and will acquire permanent service thereby.
 2. A probationary employee may be terminated at any time during the probationary period.
 3. A permanent employee who has vacated his/her position to accept a promotion, and, who is rejected during the probationary period, shall be reinstated to his/her former classification. This means that he/she shall be reinstated to a position in the same classification where there is a vacancy. (It shall be the prerogative of the Chief Personnel Officer where the person is assigned if more than one vacancy exists.) If there is no vacancy then, he/she will displace the person in the classification with the lowest seniority. The person displaced by such reinstatement shall be restored to his/her former classification. (If more than one vacancy exists the Chief Personnel Officer shall have the prerogative of assigning the site.) If no prior position was held by the displaced employee, he/she will be terminated, and his/her name restored to the eligibility list from which appointed. Eligibility placement shall be his/her former placement on the eligibility list. An employee displaced by such reinstatement shall have similar rights.
- D. Provisional Appointments: (Education Code 45287, 45288, 45289) When no eligibility list exists for a position in the classified service, a new employee may receive provisional appointment which may accumulate to a total of ninety (90) working days. A ninety (90)-calendar-day interval shall then elapse during which the person will be ineligible to serve in any full-time provisional capacity.
1. A provisional appointee must meet the minimum qualifications prescribed for the class. The appointing power shall have the appointee submit the qualifications on an application for employment for review and approval by the Chief Personnel Officer.
 2. The services of a provisional appointee who has failed to qualify for a position in the class shall be terminated within fifteen (15) calendar days after the date on which an eligibility list has been established, provided this fifteen day period does not extend beyond the ninety (90) day provisional assignment.
 3. The Personnel Commission may authorize the extension of a provisional employee's assignment for a period not to exceed thirty-six (36) working days provided the following requirements are met:

- a. An examination for the class was completed during the first ninety (90) working days of provisional assignment.
 - b. Evidence satisfactory to the Personnel Commission is presented indicating:
 - (1) That an adequate recruitment effort has been and is being made.
 - (2) That extension of the provisional assignment is necessary to carry on vital functions of the District
 - (3) That the position cannot be satisfactorily filled by use of other employment lists or procedures.
 - 4. No person shall be employed in a full-time provisional capacity for a total of more than one hundred twenty six (126) working days in any one fiscal year.
 - 5. A provisional appointment may be terminated at any time at the discretion of the appointing authority.
- E. Retiree Appointments: Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed for up to one hundred twenty (120) working days or nine hundred sixty (960) hours in any calendar year whenever other eligibles are not available and the retiree's skills or knowledge are needed, or during an emergency to prevent the stoppage of public business.
- 1. The retired person must certify that he/she understands that work is restricted to one hundred twenty (120) working days or nine hundred sixty (960) hours in any calendar year and that continuance in employment is discretionary.
 - 2. For the purposes of this rule "working day" shall mean any day for which pay is received regardless of the number of hours worked (Government Code 21150)

7.2 Leave of Absence Procedures

- A. Procedures: The granting of a leave of absence without pay gives the employee the right to return to a position in his/her classification, but not necessarily the same position, at the expiration of the leave absence or before with the concurrence of the appointing power. The right to return to employment is subject to layoff or dismissal in accordance with applicable law. A physical examination may be required before the employee returns to work.
 - 1. Leave of absence without pay may be granted to a classified employee upon the written request of the employee, the recommendation of appointing power, and the approval of the Administration. An employee shall not be entitled to a leave of

absence as a matter of right. Upon request for a leave of absence signed by the employee and stating with particularity the reason for the leave, the appointing power may either approve or disapprove the request. Leave requests shall, whenever possible, be submitted to the Board for approval prior to the date on which the leave is to be effective.

2. For good cause, a leave of absence without pay may be granted to a probationary employee. The period of probation shall be increased by the total time of such absence.
 3. Leave of absence without pay may be granted for any period not exceeding six months, and may be extended for up to six (6) months with Board approval.
 4. An employee who fails to report for duty without permission from his/her supervisor shall be deemed to be absent without leave.
 5. An employee who fails to return from a leave of absence upon the expiration of an authorized leave shall be deemed to be absent without leave. Absence without leave shall be deemed an automatic resignation.
 6. Upon return to duty following any leave, the employee shall obtain an absence certificate, fill it out in detail, sign it, obtain the signature of his/her immediate supervisor, and submit the certificate to the Human Resources Office.
 7. A physician's certificate may be required for absence due to illness, accident, or quarantine.
 8. All absences due to illness or injury, which arise during a "work stoppage", shall be verified by a physician's statement or other proof of illness.
- B. Bereavement Leave: An employee shall be granted three (3) consecutive working days bereavement leave, or five (5) consecutive working days if travel beyond a five hundred (500) mile radius is required, in the event of the death of a member of his/her immediate family. The following relatives shall be considered as members of the immediate family: spouse, domestic partner, mother, father, step-mother, step-father, sister, brother, son-in law, daughter-in law, grandchild, grandmother, grandfather, of employee, spouse, domestic partner, or any relative, or friend residing in the same household as the employee at the time of death.
1. An employee may be granted up to one (1) day bereavement leave annually to attend the funeral of a close friend or relative.
- C. Child Care Leave: Child care leave may be granted to any employee upon request for a period of up to one (1) school year. Leave shall be without pay or credit toward service and shall not be considered as personal illness.

1. An employee on child care leave of a definite duration of more than thirty (30) days may return to duty prior to the expiration of the leave provided they have notified the appointing power of their intent to return with at least five (5) days notification.
 2. This leave provision may be utilized for adoptions.
- D. Illness or injury in Family: Classified employees are entitled to leave in this category as set forth in collective bargaining agreements and board policy.
- E. Industrial Accident or Illness Leave: Classified employees are entitled to leave for occupational accident or illness as set forth in state laws, applicable collective bargaining agreements and board policy.
- F. Jury Duty/Court Witness Leave: All classified employees shall be granted a jury duty leave of absence with pay by the Chief Personnel Officer when necessarily absent from work because of a call for jury duty as provided in Education Code 44037.
1. Any classified employee receiving a call for jury duty shall notify his/her immediate supervisor as soon as possible after receipt of a letter directing appearance for qualification for jury duty service and/or jury summons.
 2. Subject to the possibility of making reasonable travel arrangements, the employee shall be available to the District for work during the balance of his/her normal working day or week when not required to be in court or elsewhere for jury duty. If the employee's regular assignment is to other than the day shift, the employee shall be absent from duty the same number of hours served as a juror. For example, if an employee working a seven (7) hour night shift serves five (5) hours as a juror, the employee shall only be required to work that number of hours which added to five (5) equals the total shift.
 3. The employee shall submit a certificate from the clerk of the court or authorized officer which indicates the dates of necessary attendance or service for the court.
 4. Employees appearing in court as litigants shall be allowed personal necessity leave.
 5. If absence is occasioned by an official order from another governmental jurisdiction, which has not been brought about through misconduct or connivance on the part of the employee, payment of salary shall be made for any necessary absence of one (1)day or less.
- G. Maternity Leave: Pregnancy leave shall be granted by the District subject to the following conditions:

1. A pregnant employee may continue to work as long as her health will permit as certified by her doctor or other proof acceptable to the District and so long as she can carry out her duties and responsibilities. However, a pregnant employee must, no later than the third month of pregnancy, file a statement from her physician or District-approved medical advisor indicating the estimated date of delivery, that the employee is in good health, and that in the physician's judgment the employee can carry on assigned duties and responsibilities without danger to herself or her child.
2. The use of sick leave for pregnancy-related disability shall be treated the same as any other disability for which sick leave is granted. In order to use sick leave for pregnancy disability, the employee must have been actually rendering paid service to the District immediately prior to the disability.
3. A pregnant employee who wishes to take a personal leave to prepare for childbirth and is physically able to render service to the District may request such a leave without pay for a time mutually agreeable to the employee and the District
- H. Military Leave: Military leave of absence shall be granted and compensated in accordance with Military and Veterans Code Sections 389 and 395. The term "military" as used in this rule is defined as including Army, Navy, Marine, Air force and other armed service of the United States, or as may be otherwise defined by law.
- I. Retraining Leave: In the event that the District contemplates the abolition of positions in the Classified Service and establishment of new positions because of automation, technological improvements, or for any other reason (including those appropriate to the Affirmative Action Program), it may provide for retraining of displaced employees in accordance with the provisions of Education Codes 45380 to 45387 and any rules adopted by the Commission.
- J. Work-Related Absences: Any permanent classified employee, upon giving the immediate supervisor two (2) days' notice, shall be permitted to take any examination and participate in other employment procedures of the District during working hours, without loss of pay or other penalty. If less than two (2) days' notice is given by the employee, permission to participate without loss of pay is subject to approval by the immediate supervisor.

7.3 Transfers

- A. Transfers of permanent classified employees between work sites may be made between positions in the same class or between positions of different classes having substantially similar duties,

responsibilities, and qualifications, the same salary range, and for which the same examination is given.

- B. The Chief Personnel Officer shall accept requests for transfers from permanent classified employees.
 - 1. Request for Transfer by an employee shall be made in writing to the Chief Personnel Officer. In order to be considered for a transfer, permanent employees must respond in writing to each posted position for which they are requesting consideration.
 - 2. When an appropriate vacancy occurs, the names of transfer applicants shall be certified for selection interview together with the names of eligibles, subject to the conditions of Rule 7.3, D.
 - 3. The interviewer shall make the decision by considering, among other factors, the transfer applicant's qualifications, evaluations, and seniority within the classification.
- C. Administrative transfers within a department or between departments shall be requested by the administrative supervisor to the Chief Personnel Officer. Upon request, reasons for any transfer, which is not voluntary, may be discussed with the approving administrator.
 - 1. If more than one vacancy exists, the employee shall be given the opportunity to express his/her preference.
 - 2. The employee should be notified at least five working days prior to the effective date of transfer.
- D. Transfer applicants facing layoff shall be considered prior to considering other transfer applicants.

7.4 Promotion and Demotion Actions

- A. A movement of an employee from a position in one class to a position in a higher class shall be deemed a promotion.
 - 1. Salary placement upon promotion is set forth in Chapter 11, Wage and Salary Provision.
- B. A movement of an employee from a position in one class to a position in a lower class shall be deemed a demotion.
 - 1. Involuntary Demotion: Involuntary demotion (other than demotion in lieu of layoff) is a disciplinary action. Any classified employee may, for disciplinary purposes, be

subject to temporary or permanent demotion with reduction in salary for cause, as defined in Section 10.1 of these rules.

2. Voluntary Demotion: Any permanent employee may request of the Commission a voluntary demotion to a lower related classification, stating the reasons therefore in writing. Upon approval by the appointing authority, the request may be granted by the Commission if there is a vacancy in the classification. (Chapter 9, Layoff, outlines the rights of employees who have taken voluntary demotions in lieu of layoff.)

When the classification to which demotion is proposed is one in which the employee has not served, the Commission may grant reclassification without competitive procedures when:

- (a) Comparison of the employee's present class and the proposed class indicate similarity of duties, qualifications, fields or potential candidates, and examination content.
- (b) The employee possesses the minimum qualifications for the class.

7.5 Vacation

- A. Following completion of six months of continuous service, each classified employee who is employed full time (thirty seven and one half (37 1/2 hours) shall be allowed five (5) working days of credit for vacation with pay. Thereafter, vacation shall be earned at the rate of five-sixths (5/6) of a working day of credit for each month of service.
- B. After four (4) years of service, credit shall be earned at the rate of one and one quarter (1¼) working days for each month of service, or fifteen (15) paid vacation days for twelve (12) months of service (Employees who earn fifteen (15) days of vacation may accumulate a maximum of five (5) days vacation for carryover into the next year).
- C. After eleven (11) years of service, credit shall be earned at the rate of one and two thirds (1 2/3) working days for each month of service, or twenty (20) paid vacation days for twelve (12) months of service.
- D. After (20) twenty years of service, credit shall be earned at the rate of two and one half (2½) days per month of service, or twenty-five (25) paid vacation days for twelve (12) months of service.
- E. Regular part-time employees shall be entitled to vacation benefits on a pro-rated basis. Regular part-time employees shall accrue pro-

rated vacation according to length of service as provided in paragraphs A, B, and C above.

- F. Upon approval of the Chief Personnel Officer, a permanent classified employee may be permitted to interrupt or terminate vacation leave in order to begin illness leave, provided the employee indicates such a need in writing at the earliest practical opportunity. The written request shall include:
 - 1. The basis of the request for change in leave status and supporting documents or certification of illness from a licensed physician or other practitioner;
 - 2. The probable duration of the requested leave.
- G. Upon approval of the Chief Personnel Officer, a permanent classified employee may be permitted to interrupt or terminate vacation leave in order to begin bereavement leave.
- H. Scheduling of Vacation: For annual employees at school sites, vacation may, with the approval of the immediate supervisor, be taken during the summer, winter, and spring recess periods (unless otherwise specified in an appropriate collective bargaining agreement). The employee may be permitted to take all of the earned vacation in one unbroken period if it is desired and the length of the vacation period will cause no problem within the department as determined by the supervisor.
 - 1. A vacation request form should be submitted to the immediate supervisor as far in advance of the vacation date as possible, but no later than two working days prior to the effective date. Approval must be received from the supervisor prior to starting any vacation leave.
 - 2. At the completion of vacation, the employee shall submit an absence certificate covering all days of vacation.
- I. If a District-approved holiday falls within a scheduled vacation period, that day will not be considered a vacation day.
- J. Days of personal necessity chargeable to sick leave may not be used in conjunction with earned vacation simply to extend the vacation period, but may be applied when circumstances are so serious in nature that the employee cannot reasonably be expected to disregard their immediate attention.
- K. Collective Bargaining Agreements and Board Policies may allow additional vacation allocations and/or carryover.

7.6 Resignation

- A. When an employee desires to resign, the employee shall submit a signed district resignation form with an effective date to the Human Resources Office.
- B. A resignation may be withdrawn by the employee at any time prior to acceptance by the Board or designee.
- C. An employee resigning after six months and after permanent status has been granted is entitled to all accrued vacation leave.

7.7 Reinstatement and Re-Employment

- A. **Reinstatement:** A former permanent employee who resigned in good standing may be reinstated in a vacant position in his former class and status within 39 months of the last date of paid service. Also, the employee may be reinstated in a lower related class, if qualified, or in limited-term status in the same or a lower related class. Such actions are discretionary with the appointing authority as reinstatement is not a right, but is a privilege to be granted only on recommendation of the appointing power and approval of the Board.
 - 1. If the class from which a former employee resigned has ceased to exist or has been separated into more than one classification, the employee may be reinstated in any of the new related classifications of the same range for which the former employee is qualified, subject to approval of the Chief Personnel Officer
 - 2. A permanent classified employee who accepts a position in the certificated service of the District or in the classified service under provisional or limited-term appointment in another class shall have the right to reinstatement to his/her former permanent position in the classified service upon termination of the certificated position or the provisional or limited-term appointment.
- B. **Re-employment:** An employee who has taken a voluntary demotion in lieu of layoff may be re-employed in his/her former class or in a related lower class as determined by the Commission, subject to the provisions of Ed. Code 45309, within thirty nine (39) months, provided that the same tests of fitness under which he/she qualified for appointment to the class shall still apply.
- C. **Reinstatement and Re-employment rights:** The former employee shall be restored all the rights, benefits, and burdens of a permanent employee in the class to which restored, including the former step in the current salary range. If restored to a lower class, the salary shall be the rate closest to that of the step to which he/she would be assigned if restored in the former class.

1. If restored to permanent status, accumulated leave and seniority shall be restored as of the date of the separation. To determine the anniversary date for salary adjustments, actual months worked prior to resignation shall be counted and added to months needed to complete the year (12 months).

LEGAL REFERENCES

Education Codes:

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|----------|---|
| 44037 | Unlawful to Encourage Exemption from Jury Duty |
| 45110 | Inconsistent Duties; Compensation |
| 45122 | Physical Examinations |
| 45123 | Employment After Conviction of Sex or Controlled Substances |
| 45124 | Employment of Sexual Psychopath |
| 45125 | Use of Personal Identification Cards, etc. |
| 45192 | Industrial Accident and Illness Leaves |
| 45193 | Leave of Absence for Pregnancy |
| 45196 | Salary Deduction During Sick Leave |
| 45197 | Annual Vacation |
| 45260 | Power of Personnel Commission to Prescribe and Amend Rules |
| 45272 | Vacancies in Classified Service; Promotional Applicants |
| 45286 | Limited-Term Employees |
| 45287 | Provisional Assignment; Extension |
| 45289 | Successive Provisional Appointments |
| 45290 | Emergency Appointments |
| 45301 | Probationary Period for Entry into Permanent Classified Service |
| 45302 | Demotion and Removal from Permanent Classified Service |
| 45309 | Reinstatement of Permanent Non-Certificated Employees After Resignation |
| 45380-87 | Retraining and Study Leave |

Government Codes:

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| 20862.5 | Retirement Credit for Sick Leave |
| 21150 | Reinstatement of Retired Persons |

Military and Veterans Codes:

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| 389 |
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CHAPTER 8

PERFORMANCE EVALUATION

8.1 Frequency of Evaluation

- A. Probationary employees shall be evaluated in accordance with the appropriate collective bargaining agreement or board policy. Prior to the expiration of the probationary period (six (6) months or one hundred thirty (130) days of paid service, whichever is longer) the Chief Personnel Officer or direct supervisor shall notify the employee whether he/she has been elected to permanent status. Nothing contained in this rule shall limit the right to dismiss a probationary employee at any time during the probationary period.
- B. Permanent employees shall be evaluated at least once each year no later than June 1.
- C. Substitute or limited-term employees may be evaluated on an "as needed" basis.
- D. All performance evaluations shall become part of the employee's primary personnel file.

8.2 Procedure to be followed

- A. Performance evaluations shall be made on the forms prescribed by the Human Resources Department. Each employee is to be evaluated by his/her immediate supervisor. The immediate Supervisor shall be designated by the District.
- B. The evaluator shall present the performance evaluation to the employee and discuss it with the employee. The evaluation form shall be signed by the employee to indicate receipt, and the employee shall be given a signed copy. The employee's signature does not indicate agreement or disagreement with the evaluation. When an employee receives a copy of then evaluation, they are required to sign the document, indicating receipt only. By signing the performance evaluation, the employee is confirming that the evaluation has been read and discussed with the evaluator. If the employee wishes to respond to the evaluation, written comments may be submitted within ten (10) working days to the Human Resources Department. Both the evaluation and comments will be filed in the employee's personnel file.
- C. Materials of a derogatory nature shall not be placed in the employee's personnel file without first notifying the employee that such material is to be placed in the file and giving the employee an opportunity to respond in writing within ten (10) working days and, to have such written response attached to the material.

- D. An employee shall have the right to request a written response to any negative marks on the evaluation that were not addressed in the original comments written by the supervisor.
- E. Should an employee question any aspect of his/her performance evaluation, the employee may request in writing a review by the Chief Personnel Officer. This request shall be forwarded no later than seven (7) calendar days after the performance evaluation conference with the evaluator.
- F. An employee may review his/her personnel file by making an appointment with the Chief Personnel Officer

8.3 Special Evaluation

- A. At any time, an evaluator may prepare and present a performance evaluation to an employee.

LEGAL REFERENCES

Education Code:

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|-------|--|
| 44031 | Personnel File Contents and Inspection |
| 45261 | Subject of Rules |
| 45301 | Probationary Period |

Government Code:

3543.2

CHAPTER 9

LAYOFF AND UNEMPLOYMENT

9.1 Definition

A layoff is a separation from a permanent or probationary position or reduction in assigned hours, days, or work year due to lack of work or lack of funds.

9.2 Procedure Regarding Layoff (Education Code 45308)

- A. When classified employees are laid off for lack of work or lack of funds, layoff shall be in inverse order of seniority in the class in which the layoff occurs. The employee who has been employed the shortest time in the class, plus higher classes, shall be considered to have the least seniority, and therefore shall be laid off first.
- B. Employees shall be notified in writing 45 days prior to the date of layoff. The notice shall state the basis for the layoff.

All service in the classification plus higher classifications in the line of promotional classifications shall count as seniority within the classification. Seniority lists shall be submitted to the Personnel Commission for its approval.

- C. The names of employees laid off shall be placed upon the re-employment list for the class from which they were laid off. Names on the re-employment list shall be in the order of seniority.
- D. Upon re-employment, the rights, benefits and burdens acquired by an employee prior to layoff shall be restored.
- E. Bumping: A permanent employee in the classified service who is laid off from a class and who has previous service in an equal or lower class shall have the right to bump an employee with less seniority in that class. Seniority shall include the total of the previous service in the equal or lower class plus service in the class from which layoff occurs and in higher classes.

9.3 Rights of Employees Laid Off (Education Code 45298)

In addition to the procedures and rights prescribed in 9.2, permanent employees in the classified service shall have the following rights.

- A. In lieu of being laid off, an employee may elect voluntary demotion to a vacant position in any class with the same or lower maximum salary in which the employee had previously attained permanent status.

- B. To be considered for voluntary demotion in lieu of layoff, an employee must notify Chief Personnel Officer in writing of such election not later than ten (10) calendar days after receiving notice of layoff.
- C. Any employee displaced (laid off) as a result of such voluntary demotion has the same option of demotion afforded by this rule as if his/her position had been discontinued.
- D. Any employee voluntarily demoted under this rule shall receive the maximum of the salary range in the class to which demoted, provided that such salary is not greater than the salary received in the higher classification at the time of demotion.
- E. The names of employees, who accept voluntary demotion in lieu of layoff, shall be placed on layoff lists for the classes from which they were demoted.
- F. An employee who is laid off may, with Commission approval, elect voluntary demotion to a vacant position in an equal or lower classification in which the employee had not served in a permanent or probationary status, provided the employee possesses the minimum qualifications for the classification.

9.3 Rights of Probationary Employees Laid Off

- A. A probationary employee who is laid off for lack of work or lack of funds and who is re-employed in the same class shall be required to complete the balance of the probationary period or one (1) month of service whichever is greater, in order to attain permanent status.

9.4 Limited-Term Employees

- A. A limited-term employee may be terminated at the completion of the assignment without regard to the procedures set forth in this chapter.

9.5 Eligibility to Compete in Promotional Examinations (Education Code 45298)

- A. Employees on re-employment lists shall be eligible to compete in promotional examinations for which they qualify and shall be given a preferential promotion credit of five (5) points which shall be added to his/her total passing score.

LEGAL REFERENCES

Education Codes:

| | |
|-------|---|
| 45117 | Notice of Layoff Due to Expiration of Specially Funded Program or Bona Fide Reduction or Elimination of Service |
| 45298 | Re-Employment and Promotional Examination Preference of Persons Laid Off; Voluntary Demotions or Reductions in Time |
| 45308 | Order of Layoff and Re-employment; Length of Service |

CHAPTER 10

DISCIPLINARY ACTION AND APPEAL

10.1 Causes for Disciplinary Actions

A. Actions Subject to discipline:

In addition to those prescribed in Education Code Section 45123, 45124, and 45303, or other applicable statutes, the following are causes for disciplinary action.

1. Incompetency.
2. Inefficiency.
3. Insubordination or willful disobedience.
4. Malingering, inattention to or dereliction of duty.
5. Discourteous, abusive, or threatening treatment of the public, employees, or students, including sexual harassment, or any violation of Government Code Section 12940, Paragraph (I)
6. Any willful or persistent violation of the provisions of the Education Code or of written rules, regulations, or procedures adopted or established by the Board of Education, the Personnel Commission, or the administration.
7. Work-related dishonesty, including examination deception or fraud.
8. Appearing for work under the effects of alcohol, drugs or controlled substances, or using alcohol, drugs or controlled substances illegally while on duty.
9. Immoral conduct.
10. Engaging in political activities during assigned duty hours.
11. Conviction by a court of competent jurisdiction of a felony or of a crime involving moral turpitude (sex offenses or narcotics offense). A plea, verdict, or finding of guilty, or conviction following a plea of nolo contendere, is deemed to be a conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Commission may inquire into the circumstances surrounding the commission of the crime in order to determine if the conviction is of an offense involving moral turpitude.

12. One or more criminal convictions where the nature of the crime is such that it would indicate that the employee is a poor employment risk for the particular job which he/she holds with the District
13. Failure to disclose material facts or the making of any false or misleading statement on any application, examination form or other official document of the District.
14. Excessive unexcused absence or tardiness.
15. Abuse of leave privileges, such as unjustified use of illness leave for trivial indispositions, or absence so frequent that the efficiency of the service is impaired.
16. Failure to report upon reasonable notice for review of criminal records.
17. Failure to report upon reasonable notice for health examination.
18. Absence without leave, or abandonment of position. Any employee who fails to report for duty for three consecutive working days without permission from the supervisor shall be deemed absent without leave. Any employee who fails to return from a leave of absence within three working days after file expiration of an authorized leave shall be deemed to have abandoned the position. Such absences without leave shall be deemed an automatic resignation.
19. Failure to progress adequately in a training program which is required for the classification.
20. Active participation by a management or confidential employee in the affairs of an employee organization which is an exclusive representative. "Active participation" shall include holding office in the organization, working for the organization in the capacity of an employee or volunteer, participating in activities designed to increase membership in the organization, and serving on committees established for the purpose of developing, reviewing, or approving the collective bargaining position of the organization or reviewing or approving proposals presented to the Board of Education.
21. Willful or persistent violation of, or failure to enforce, regulations or procedures pertaining to health and safety.
22. Unauthorized use of the personal property of another employee or of the District.
23. Any other failure of good conduct tending to injure the public service.

- B. Substitute, Provisional, Limited-Term Employees: Any substitute, provisional or limited-term employee may be dismissed from such status in Accordance with Rule 4.10, Disqualification of Unfit Applicants, Candidates, Eligibles.

10.2 Procedures for Disciplinary Actions (Education Code 45116, 45304, 45305, 45306, 45307, 45309, 45311, 45312)

Statement of Intent: The purpose of this Commission rule is to provide orderly procedures in processing disciplinary actions. The procedures listed provide protection and guidelines for both the District and the employee within established law and personnel practice. The employee should be informed of the work standards required and warned of offenses prior to the imposition of discipline

A. DEFINITIONS:

1. DAYS - Calendar days unless otherwise designated.
2. DEMOTION (Involuntary Action) - Reduction of an employee from a higher class to a lower class or salary increment for cause as a disciplinary measure.
3. DISMISSAL - Separation from service for cause.
4. DISCIPLINARY ACTION - Suspension, involuntary demotion, or dismissal of an employee for cause.
5. NOTICE OF UNSATISFACTORY SERVICE - A form or letter used as a written reprimand. It has the following uses:
 - a. To notify the employee of unsatisfactory service when a written reprimand is needed. Such use is optional at supervisory discretion.
 - b. To notify the employee of causes and charges for impending disciplinary actions when they are based on unsatisfactory service.
6. PHYSICAL HANDICAP - Includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.
7. SUSPENSION - Temporary removal of an employee from a position for cause without pay, or indefinite removal with pay pending the disposition of criminal charges, pursuant to the Education Code Section 45304.

8. UNSATISFACTORY SERVICE - The performance of assigned duties in a manner which is detrimental to the good of the service, or the failure to perform them, or the performance of actions while on duty, which are detrimental to the good of service.
- B. Before a permanent employee in the classified service may be suspended, demoted or dismissed, the employee shall receive a written notice of intention to impose disciplinary action, which shall include or be accompanied by a statement of the charges upon which the proposed disciplinary action is based. (Education Code 45116)
- C. Within ten (10) working days of the action by the Board of Education on the proposed disciplinary action, the Chief Personnel Officer shall file the charges with the Personnel Commission and notify the employee of such action by personal service or registered or certified mail.
- D. Dismissal shall cause removal of the employee's name from all current eligibility lists.
- E. Failure to make a timely appeal as provided in the Commission Rules shall constitute a waiver of the employee's right to a hearing and shall subject employee to the imposition of disciplinary action by the Board of Education.
- F. Suspension without pay shall not exceed the limitation (thirty (30) days) as prescribed in the Education Code.

10.3 Suspension for Specific Offenses Processed as Involuntary Leave

An employee charged with the commission of any sex offense as defined in Section 44010 or narcotics offense defined in Section 44011 of the Education Code, by complaint, information, or indictment filed in a court of competent jurisdiction, may be suspended as provided for in Section 45304 of the Education Code. An employee who is so suspended has no right to appeal the suspension to the Commission, and therefore, has no right to a hearing.

10.4 Appeal

An employee may appeal to the Personnel Commission within fourteen (14) days of service of the notice of intention to impose disciplinary action, by filing a written answer to such charges and request for a hearing.

10.5 Hearing Procedures

- A. The Personnel Commission may conduct hearings of appeals or may appoint a hearing officer to conduct the hearing and report findings and recommendations to the Commission.
- B. The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and other evidence. It shall base its findings on the preponderance of the evidence.

- C. Upon receipt of a timely appeal, the Personnel Commission shall schedule the hearing after consultation with both parties. Each side will be permitted an opening statement. The Board shall first present witnesses and evidence to sustain its charges and the employee will present witnesses and evidence in defense. Each side will be allowed to examine and cross-examine witnesses. Each side may then present a closing statement.
- D. Both the Board and the employee will be allowed to be represented by legal counsel or other designated representative.
- E. The Commission may, and shall if requested by the Board or the employee, subpoena witnesses and/or require the production of records or other material evidence.
- F. The Commission may, prior to or during a hearing, grant either side a continuance for good cause.
- G. Whether the hearing is held in an open or closed session, the Commission, after it concludes the hearing, may deliberate its decision in closed session. No persons other than members of the Commission, its counsel, and its staff shall be permitted to participate in the deliberations. If its counsel also served as counsel for the Board, he/she shall be barred from the Commission's final deliberations.
- H. The Commission may sustain or not sustain any or all of the charges filed against the employee. It may impose, reject, or modify the proposed disciplinary action sought by the Board but may not impose discipline more severe than that sought by the Board.
- I. The Commission shall render its decision in written form within 15 working days after the hearing. The decision shall be filed by the Commission as public record and given or mailed simultaneously to each party. The decision shall set forth which charges, if any, are sustained and the reasons therefore. The decision shall set forth its effective date.

LEGAL REFERENCES

Education Codes:

| | |
|-------|--|
| 44010 | Sex Offense |
| 45116 | Notice of Disciplinary Action |
| 45304 | Written Charges for Suspension, Demotion, or Dismissal; Provisions for Suspension Pending Determination of Sex Offense or Narcotics (t tense |
| 45306 | Investigation and Hearing on Appeal |
| 45307 | Reinstatement and employee Compensation; Determination of Terms and Conditions; Notification |
| 45311 | Powers of Commission in Conducting Hearings, and Inspecting Records of Governing Board |
| 45312 | Hearings or Investigation by Hearing Officer |
| 45313 | Counsels for the Commission |
| 45123 | Employment .After Conviction of Sex or Controlled Substance Offense; Rehabilitated Controlled Substance Offender |
| 45124 | Employment of Sexual Psychopath |
| 45125 | Use of Personal Identification Cards to Ascertain Conviction of Crime |

Government Codes:

| | |
|-------|--|
| 12926 | Definitions Regarding Unlawful Practices |
| 12940 | |

Health & Safety Codes: Controlled Substances Convictions

| |
|-------------|
| 11054 |
| 11357-11361 |
| 11363 |
| 11364 |
| 11377-11382 |

CHAPTER 11

WAGE AND SALARY PROVISIONS

11.1 Determination of Salary Schedules

- A. The Chief Personnel Officer shall prepare recommendations for the allocation of classes to salary schedules for approval by the Commission. These recommendations shall take into account the following factors:
1. Wages and salaries paid by other governmental agencies which may be in competition with the District in the labor market.
 2. Wages and salaries paid for similar work in private industry in the recruitment area.
 3. The principle of "like pay for like work" within the classified service.
 4. Appropriate differentials between related classes to reflect differences in duties and responsibilities, as established in the classification plan.
 5. Such other information as the commission may require.
- B. Salary Studies
1. A salary study shall be made:
 - a. Whenever a new class is created;
 - b. When directed by the Commission.
 2. Employees, employee representatives, or the administration may request a salary study of a class or classes by directing a written communication to the Commission and setting forth the reasons for the study.
 3. Data obtained in a salary study shall be made available to interested parties, including employee organization representatives. The Chief Personnel Officer shall submit Commission recommendations for salary placement to the Superintendent or designee who may meet and confer with the employee organization representatives. An effort shall be made to resolve all differences. Before changes are submitted to the Board, they shall be reviewed by the employee organization.

C. Salary Recommendations

1. After making its findings, the Commission may present salary recommendations to the Superintendent/Board of Education for approval. The Superintendent/Board of Education may approve, amend, or reject the recommendation, but may not alter the relationships among classes as established by the classification plan.
2. By adoption of this rule, the Board of Education reserves the right to increase or decrease the salaries of classified employees at any time during the school year, pursuant to Education Code Section 45162, in accord with its approval of the recommendations of the Personnel Commission.

D. Appeals of Salary Recommendations

1. An employee or his/her representative may appeal the recommendation of the Chief Personnel Officer in regard to the salary of the employee's class. The employee shall have the opportunity to present his/her case in writing and orally at a regular meeting of the Commission. The administration shall have the same privilege.
2. If the Superintendent/Board of Education desires reconsideration of a salary recommendation, the recommendation may be returned to the Commission, which shall reconsider them at its next meeting. After reconsideration, the Commission will advise the Superintendent/Board of Education of its findings and reasons for the salary placement of the classification in question.

11.2 Salary on Employment

- A. The basic pay plan consists of the salary ranges and the assignment of classes to such ranges as provided in the salary schedules. Each employee shall be paid within the range for his/her class, according to the following provisions, unless otherwise provided in the salary schedules.
- B. The first step in each range is the minimum rate and shall normally be the hiring rate for the class. In cases where it is difficult to secure qualified personnel or a person of unusual qualifications is to be employed, the Commission may approve appointment at a step(s) above minimum.
- C. The Superintendent may appoint management personnel at the most appropriate salary step based upon superior qualifications of the individual. The application of this section to salary placement on employment shall be reviewed by the Personnel Commission at the time of each Annual Report to the Board of Education.

11.3 Anniversary Dates

- A. Employees shall have an annual anniversary date which shall be determined as follows:
 - 1. New employees will become permanent employees after successful completion of a six (6) month or one hundred thirty (130) day probationary period. The completion date of probationary status shall then be established as the anniversary date for subsequent salary step adjustments.
 - 2. When the first day of paid service occurs on the first (1st) through the fifteenth (15th) of the month, the anniversary date is the first (1st) of the month; if the first day of work is the sixteenth (16th) through the end of the month the anniversary date is the first (1st) of the following month. The original employment date shall be used for the purposed of establishing vacation allocation.
- B. Employees who are promoted are probationary in the new position and a new anniversary date is established on date of probationary completion in the same manner as when initially hired.
- C. The Governing Board of the District may withhold such merit salary adjustment for all employees within a class on an annual basis when such action becomes necessary in order to save the best interests of the District.
- D. The anniversary date for determining the amount of longevity pay due an employee who has reached a longevity step shall be the first (1st) of the month if this period of service is completed before the fifteenth (15th) of the month. The years of continuous service shall be calculated from the date of probationary employment. Periods of temporary employment shall not be counted toward longevity pay entitlement.

11.4 Salary Range Changes

- A. Unless provided by special resolution of the Commission, whenever the salary range for a class is changed, the salary of each incumbent in the class on the date the range change was effective shall be adjusted to the step in the revised range that corresponds to the step the employee was receiving in the former range and the employee shall retain the same anniversary date.
- B. When salary range changes become effective the same date as the employee's anniversary date for merit salary adjustment, the employee shall first receive any merit salary adjustment to which the employee is entitled and then receive the corresponding step adjustment.
- C. When salary range changes become effective the same date as an employee's promotion, the salary adjustments shall be made in such order than an employee shall gain the maximum benefit from the adjustments.

11.5 Salary After Position Reallocation

- A. When the Commission divides a class into two or more separate classes or Consolidates two or more classes into a single class and grants status to incumbents, salary eligibility shall be determined as follows:
 - 1. If the salary range of the new class to which an employee's position is allocated is the same or one or more steps higher at the maximum than the employee's class, the employee shall receive the same step in the new class and shall retain his/her anniversary date.
 - 2. If the salary range of the new class to which the position is allocated is one (1) or more steps lower at the maximum, the employee shall continue to receive the same amount the employee received in the former class but not to exceed the maximum step of the range in the new class, unless by special resolution of the Commission a rate above the maximum is authorized and approved by the Board of Education, The employee shall retain his/her anniversary date.

11.6 Compensation Above Maximum

- A. Whenever authorization is made for a salary rate above the maximum step in a salary range change, this over-the-maximum rate will be discontinued when
 - 1. the employee receiving the rate moves to a class with a maximum including his/her rate, or
 - 2. separates from the service, or
 - 3. refuses appointment to a higher class without good reason, or
 - 4. whenever the salary range for the class is increased so that it encompasses the employee's present rate, in which event the rate will be adjusted to the nearest higher amount in the new range.

11.7 Rate on Movement to Class With a Lower Salary Range

- A. An employee who moves to a class with a lower salary range shall normally be placed on the corresponding step in the lower salary range (e.g. 12-C to 10-C). If recommended by the appointing power and approved by the Commission, such employee may receive a higher step in the lower range (e.g. 12-C to 10-E). In exceptional cases the employee may receive a rate above the maximum of the lower range, but the higher step (or rate) shall not result in the employee receiving a higher amount in the lower range than formerly received in the higher range.

11.8 Rate on Movement to Class With a Higher Salary Range

- A. If the higher classification is one (1) or two (2) ranges higher, the employee shall be placed on a step which provides a minimum of a five

percent (5%) increase. If the higher classification is more than two (2) salary ranges higher, the employee shall be placed on a step which provides a minimum of a ten percent (10%) increase. However, in no case shall the increased salary be more than the top step of the new range.

- B. A promoted employee shall be considered probationary in the new position for a period of six (6) full calendar months. The employee shall be advanced to the next salary step following satisfactory completion of the six (6) month probationary period. Additional salary advances shall be effective annually thereafter.
- C. Any employee, who on the anniversary date, moves to a class with a higher salary range, shall first receive any merit salary adjustment to which entitled and then his/her step adjustment under this rule.

11.9 Rate On Reinstatement After Permanent Separation

Upon the recommendation of the appointing power and approval of the Personnel Commission, a former employee who re-enters the service within the period provided in these rules may receive a salary above the minimum, provided that if the reinstatement is to the same class, the salary shall not exceed the same step in the salary range that the employee received at the time of separation.

11.10 Rate On Appointment From Re-employment List

A person who is appointed from a re-employment list to a position in the person's former class or a comparable class shall receive a salary not less than the same step in the salary range as formerly received.

11.11 Rate On Voluntary Demotion

An employee granted a voluntary demotion in accordance with these rules shall be placed upon the same step of the salary range of the lower class that the employee held in the former class. If at a later time and upon approval of the Commission the employee is reinstated to his/her former class the salary placement should be the same as for any other promotion.

11.12 Differential Pay

The swing shift differential shall be twenty five dollars (\$25.00) per month for full-time employees, prorated for part-time employees or in assignment with current Collective Bargaining Agreement.

11.13 Out-of-Class Pay

- A. An employee temporarily assigned to a higher classification who is assigned all of the duties and responsibilities of the higher classification shall, upon approval of the Chief Personnel Officer, be paid for such period at the rate of pay applicable to the higher classification as follows:

1. If the higher classification is one or two (2) salary ranges higher, the employee shall be placed on a step which provides a minimum of a five percent (5%) differential.
2. If the higher classification is more than two (2) salary ranges higher, the employee shall be placed on a step which provides a ten percent (10%) differential. However, in no case shall the increased salary be more than the top step of the new range.
3. The provisions of this section shall not apply to the miscellaneous work that employees may be assigned to do during school vacation periods.
4. The rate of pay for such work shall not be less than the employee's rate of pay in his/her regular position.
5. Employees will receive out-of-class pay beginning with the first day they are assigned to a higher classification.

11.14 Longevity Pay

Employee shall receive longevity in accordance with current collective bargaining agreement or board policy.

11.15 Work Periods and Overtime

- A. The fulltime regular workday and workweek shall be seven and one half (7 ½) hours per day and thirty seven and one half (37 ½) hours per week.

11.16 Holiday Pay

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

- B. Holidays include:

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| Independence Day | Christmas Day |
| Labor Day | Day before or after Christmas Day |
| New Year's Day | (12-Month Employees) |
| Martin Luther King, Jr. Day | Lincoln's Birthday |
| Veteran's Day | Washington's Birthday |
| Thanksgiving Day | Memorial Day |
| Day after Thanksgiving Day | |
| Admission Day (or other day specified by the Board of Education) | |

One day during Spring Break in accordance with the Board Adopted calendar for each school year.

Other Board-approved days

- C. When a holiday falls on Sunday, the following Monday shall be observed as the holiday. When the holiday falls on Saturday, the preceding Friday shall be observed as the holiday.
- D. When an employee is required to work on any of these holidays, he/she shall be paid compensation or given compensatory time off for such work at a rate of not less than his/her normal overtime rate of pay in addition to the regular pay received for the holiday.
- E. Employees shall be granted one personal holiday per school year (non-cumulative) or as specified in the collective bargaining agreement consistent with department scheduling, with two weeks prior approval of the immediate supervisor.

LEGAL REFERENCES

Education Codes:

| | |
|-------------|--|
| 45127 | Workweek |
| 45128 | Overtime |
| 45129 | Compensation Time Off |
| 45130 | Exclusion from Overtime Provisions |
| 45131 | Overtime: Length of Workday |
| 45134 | Age Limits |
| 45135 | Employment of Retired Classified Employees |
| 45136 | Benefits of Probationary & Permanent Part-time Classified Employees |
| 45137 | Fringe Benefits of Part-time Classified Employees |
| 45162 | Salary of Employees Not Requiring Certification Qualifications |
| 45163 | Revision of Salaries, Alternative Methods |
| 45165 | Payment of Compensation of Employees Employed for less than twelve months a year |
| 45166 | Time of Payment of Compensation |
| 45167 | Error in Salary |
| 45168 | Deductions for Dues of Employee Organizations |
| 45169 | Employee Salary Data |
| 45180-45186 | Differential Compensation |
| 45190-45202 | Resignation and Leaves of Absence |
| 45203 | Paid Holidays |
| 45204 | Exclusive Weekend or Holiday Employment |
| 45205 | Holiday in Lieu of Specified Holiday |
| 45206 | Substitute Holiday |
| 45207 | Personal Necessity |
| 45260 | Power of Personnel Commission to Prescribe and Amend Rules |

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|-------|--|
| 45267 | Provisions Applicable to Non-Certificated Personnel as well as to School Districts with Merit System |
| 45268 | Salary Schedule for the Classified Service |
| 45309 | Reinstatement of Permanent Non-Certificated Employees After Resignation Fair Labor Standard Act (Federal Law) |

CHAPTER 12

EMPLOYER-EMPLOYEE RELATIONS

12.1 Definition of Grievance:

A "grievance" is a claim by a classified employee that the District has violated an express provision of these rules and that by reason of such violation, the employee's interests have been adversely affected.

All other matters and disputes of any nature are beyond the scope of this grievance procedure, including but not limited to those matters for which other methods of adjustment may be provided by the District, such as reductions in force; disciplinary actions, examination results, references or procedures; performance evaluations; complaints of one employee about another, and those matters for which other methods of adjustment are provided by the District. Complaints of illegal discrimination are to be handled under appropriate statutory procedures of applicable Board policies.

12.2 Required Informal Discussion.

Before filing a formal written grievance under Step One (1), an employee must attempt to resolve the dispute by presenting the grievance orally to his/her immediate supervisor and discussing it. The written grievance must be filed within the time limits required under Step One (1), whether or not the grievant is able to first discuss it with the supervisor.

12.3 Step One:

Within thirty (30) days after the occurrence of the facts upon which the grievance is based, the grievance must be presented in writing to grievant's immediate supervisor on a form provided by the District, stating the facts surrounding the grievance, identifying the specific written Rule, which is alleged to have been violated, and the remedy requested. The form shall be signed and dated by the grievant. In addition, school based personnel must provide a copy of the completed form to the site administrator. A meeting between the grievant and the immediate supervisor or designee shall take place within ten (10) work days from presentation of the grievance, and the supervisor shall reply in writing within fifteen (15) work days following the meeting.

12.4 Step Two:

If not satisfied, the grievant may, within ten (10) work days after the termination of Step One, present a written grievance appeal to the Superintendent, or designee. The Superintendent or designee shall investigate the details of the grievance and meet with the employee within ten (10) work days from receipt of the grievance to resolve the issue. The Superintendent or designee shall reply in writing within ten (10) days following the meeting.

12.5 Step Three - Personnel Commission:

If the grievant is not satisfied with the decision at Step Two (2), he/she may appeal, in writing, to the Personnel Commission. This request must be made within ten (10) work days after the termination of Step Two (2). The Personnel Commission shall schedule and hold a hearing on the grievance and thereafter issue its written decision. The decision shall contain findings of fact and determination of issues and shall be binding on the parties, subject to judicial review.

12.6 Miscellaneous Provisions:

1. The legal respondent in any grievance shall be the District itself rather than any individual supervisor or administrator.
2. The filing or pendency of a grievance shall not delay or interfere with implementation of any District action during the processing thereof.
3. Processing of a grievance shall not be considered a waiver by the District of the defense that the matter is not grievable or that the grievance should be denied for reasons which do not go to the merits, such as the untimely filing of the grievance.
4. At all grievance meetings under this Rule, the grievant shall be entitled to be accompanied by a representative. A grievant shall also be entitled to represent him/herself, however, a decision/agreement between the parties without the union present shall be forwarded to the union for information. No agreement reached by the parties shall be in conflict with an applicable provision of a negotiated agreement with an exclusive representative.
5. Grievance meetings and hearings will be scheduled by the District at mutually convenient times and places during normal District business hours. Such meetings or hearings will be scheduled so as to minimize interference with regular employee duties. If a grievance meeting or hearing is scheduled during regular duty hours, reasonable employee release time will be provided to the grievant and other employees whose attendance at the hearing is reasonably necessary.
6. If a grievance is not processed by the grievant at any step in accordance with the time limits of this Rule, it shall be deemed withdrawn. If the District fails to respond to the grievance in a timely manner at any step, the expiration of the time limit shall be deemed a denial of the grievance and termination of the step in question and the grievant may proceed to the next step. Time limits and grievance steps may be shortened, extended or waived by written agreement of the parties.
7. A "day" for purpose of the Rule is any day in which the District offices are open.

LEGAL REFERENCES

Education Codes:

45240-45320 Merit System Law

Government Codes:

3540-34493 Meeting and Negotiating in Public
Educational Employment

CHAPTER 13

MISCELLANEOUS

13.1 Public Records And The Public's "Right to Know"

- A. The Legislature, mindful of the right of individuals to privacy, has declared that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.
- B. Public records within the jurisdiction of the Personnel Commission are available for inspection Monday through Friday, excluding holidays. Records are available beginning at eight o'clock (8:00) a.m. and concluding at four thirty (4:30) p.m. to ensure that the custodian of the records is available, it is advisable to schedule an appointment in advance
- C. Public records will be made available to individuals by the following methods:
 - 1. Visual or Aural Inspection - Individuals may visually review public records, listen to tape recordings and copy by hand any information from the documents. Documents may not be removed from the custodian's location.
 - 2. Check Out - Certain reports and lengthy documents may be checked out if copies are available.
 - 3: Free Materials (single copies) - Selected materials that are preprinted for this purpose will be made available free of charge until the supply is exhausted.
 - 4. Reproduction and Payment (single copies) - Single copies of public documents may be reproduced and purchased for twenty-five cents (25¢) per page.

13.2 Confidential Information

- A. Certain types of documents are exempt from disclosure requirements – for example:
 - 1. Test questions, scoring keys and other examinations for employment as provided in Government Code Section 6254 (g) including applications and/or similar files, the disclosure of which would create an invasion of personal privacy.
 - 2. Criminal offender record information of the kind that is provided to school districts through personal identification cards and finger printing processes required in Education Code Section 45125. Only those district employees with a need and right to know for official purposes shall have access to this information.

- B. No information on education, experience and qualifications of an applicant shall be provided to any other applicant without the express written consent of the person whose records are sought, unless ordered by a court. Similarly, information regarding the health, physical condition and any arrest and conviction record of an employee or applicant is privileged information and will be maintained as such.

13.3 Withdrawing or Withholding Certification For Pay

- A. No warrant shall be drawn for the payment of any salary or wage to any employee in the classified service unless the assignment bears the certification of the Chief Personnel Officer that the person named in the assignment has been employed and assigned pursuant to Education Code 45310 and the rules of the commission.
- B. Whenever the Commission, after a public hearing, finds that any appointment has been made in violation of the Education Code or the rules of the Commission 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 Education Code 45310 or the rules of the Commission as they apply to examination procedures shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

13.4 Unlawful Acts

- A. Education Code 45317 provides that any person who willfully or through culpable negligence violates any of the provisions of Merit System Law is guilty of a misdemeanor. It is also unlawful for any person to:
 - 1. Willfully by himself or in cooperation with another person to defeat, deceive, or obstruct any person with respect to his right of examination, application, or employment under this Education Code 45317 or commission rule.
 - 2. Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under this article or commission rule, or to aid in so doing, or make any false representation concerning the same of the person examined.
 - 3. Willfully to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under this Education Code or commission rule.

LEGAL REFERENCES

Education Codes:

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| 41020 | Requirement for Annual Audit |
| 44031 | Personnel File Contents and Inspection |
| 45125 | Use of Personnel Identification Cards to Ascertain Conviction of Crime |
| 45274 | Retention and Availability of Examination Records; Review and Protests |
| 45310 | Certification of Payment; Appointments in Violation of Article of Rules |
| 45317 | Violation of Article a Misdemeanor; Other Unlawful Acts |

Government Codes:

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| 6250-6259 | Inspection of Public Records |
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