

Madera Unified School District  
**PERSONNEL COMMISSION**



**PERSONNEL  
COMMISSION  
RULES**

**Updated: February 15, 2017**

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## CHAPTER 1

### RULE-MAKING AUTHORITY AND DEFINITIONS

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#### 1.1 APPLICATION OF RULES

##### 1.1.1 STATUTORY AUTHORITY FOR THESE RULES:

Article 6 (Merit System) in Chapter 5 of Part 25 in Division 3 of the California Education Code (commencing with Section 45240) provides the Personnel Commission with the right and responsibility for establishing rules and regulations as may be necessary to ensure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness.

1.1.1.1 The Rules and Regulations contained herein are established by the Personnel Commission pursuant to its authority under Education Code Section 45260; as well as other provisions of law made applicable to the classified service.

1.1.1.2 The Rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in sections 3543.2 of the Government Code, and is included in a negotiated agreement between the Governing Board and the unit. Unless pre-empted or superseded by law, existing provisions of the collective bargaining agreement between the District and CSEA Chapter #169 is binding upon the parties until such time that the parties negotiate a change to that agreement. In the event the change is subject to the rules of the Personnel Commission, the negotiated change shall be adopted by the Personnel Commission as a part of its rules.

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

REFERENCE:

1. Education Code Section 45260, 45261
2. Government Code Section 3543.2

##### 1.1.2 INTERPRETATION AND APPLICATION OF THESE RULES:

The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These Rules are to be applied with consideration of their intent. However, specific and applicable provisions of the Rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. In instances where two or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Director-Personnel Commission, subject to appeal to the Personnel Commission. The Commission is open to responsible suggestions to amend rules, which prove to be unclear, or subject to

more than one interpretation. However, no rule amendment or new rule shall have retroactive application.

REFERENCE: Education Code Section 45260

1.1.3 GENERIC TERMINOLOGY:

As used in these Rules, singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

REFERENCE: Education Code Section 45260

1.1.4 SEVERABILITY:

If a judicial review or a change in law causes any portion of these Rules to become invalid or unenforceable, such finding or amendment shall not affect the validity or the enforceability of the other Rules and Regulations.

REFERENCE: Education Code Section 45260

1.1.5 PRINTING AND DISTRIBUTION OF RULES AND REGULATIONS:

The Rules and Regulations of the Personnel Commission shall be printed and distributed to every personnel commissioner and board member of the District. In addition, copies shall be made available in the offices of the Superintendent, each Assistant Superintendent, each work site and one copy in each school. Every certificated and classified administrator/manager shall receive a copy of the Rules. The exclusive representative(s) of the classified employees shall also receive a reasonable number of copies of the Rules. The Rules and Regulations are also available on the District website and the District's email program.

REFERENCE: Education Code Section 45260

1.1.6 SUBJECTS OF RULES:

The Rules and Regulations shall provide for the procedures to be followed as they pertain to the classified service regarding such matters as applications, examinations, eligibility, appointments, promotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job examinations and evaluations, rejection of unfit applicants, and any other matters deemed necessary by the Commission to ensure the efficiency of the classified service and the selection and retention of employees upon a basis of merit and fitness. 45261 Education Code The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs. (b) With respect to those matters set forth in subdivision (a) which are a subject of negotiation under the provisions of Section 3543.2 of the Government Code, such rules as apply to each bargaining unit shall be in accordance with the negotiated agreement, if any, between the exclusive representative for that unit and the public school employer.

REFERENCE: Education Code Sections 45260 and 45261 (a) (b)

1.1.7 EFFECTIVE DATE:

The Rules and Regulations shall be effective the date approved by the Personnel

Commission and shall not have retroactive effects.

## 1.2

### DEFINITIONS

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

ADMINISTRATIVE LEAVE: Leave with pay pending investigation prior to implementation of disciplinary action-

ALLOCATION: The official placing of a position in a given class by the Personnel Commission.

ANNIVERSARY DATE: Anniversary date shall be the first day following an employee's appointment by the Governing Board to a full time or part time regular continuous position in the classified service that has been authorized by the Personnel Commission.

APPEAL: A request for review by an employee relative to an administrative decision of suspension, demotion or dismissal.

APPLICANT: A person who has filed a District application to participate or compete in the District's selection process.

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

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

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

ASSIGNMENT BASIS: The portion of the year for which employment is authorized for a specific position or class.

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

BOARD: The Board of Education or Board of Trustees of a Madera Unified School District.

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

CANDIDATE: A person who has competed in one or more portions of the District's selection process.

CAUSE: The grounds for discipline identified within these Rules as being subject to disciplinary action or offenses enumerated in the law. No disciplinary action may be maintained for any "cause" other than as defined herein.

CERTIFICATED SERVICE: Those persons and positions required by law to

possess credentials issued by the State Department of Education for the State of California.

CERTIFICATION: The submission of names by the Personnel Director, of candidates from an appropriate eligibility list established by the Personnel Commission or from some other source of eligibility, to the appointing power or to the department head authorized to make selections subject to the approval of the appointing power.

CLASS: The definition of "class" for purposes of this agreement are to be a group of classifications relating to the same work in which the employee possesses skills.

CLASSIFICATION: The definition of "classification" for purposes of this agreement will be the specific job title of any position held by a unit member.

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

CLASS SPECIFICATION: A formal statement of duties and responsibilities of the position(s) in the class, illustrated by examples of typical tasks, as well as the qualification requirements for employment in the position(s) in the class.

COMPLAINT: An employee complaint concerning violations or alleged violations of these rules. This term does not apply to appeals from disciplinary actions, requests for classification study or salary review.

CONFIDENTIAL EMPLOYEE: An employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. (ADDED 1/23/14 0 MOTION NO. 26-2013/14)

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

DAY: Means a day in which the District Offices are open.

DEMOTION: A change in assignment of an employee from a position in one class to a position in the same or another class which is allocated to a lower maximum salary rate or status without the employee's written voluntary consent.

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

DISCHARGE or DISMISSAL: Separation from the classified service for cause in accordance with the Rules and Regulations of the Personnel Commission.

DISCIPLINARY ACTION: Includes any action whereby an employee is deprived of any classification or any incident of any classification in which he/she has permanence, including dismissal, suspension, demotion, or any reassignment, without his/her voluntary consent, except a layoff for lack of work or lack of funds.

**DISTRICT:** The Madera Unified School District.

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

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

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

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

**EMPLOYEE:** A person who is employed by the District.

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

**EMPLOYEE ORGANIZATION:** An organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer, as defined in the Government Code in Sections 3540 et seq.

**EMPLOYMENT STATUS:** An employee's present appointment indicating whether employee is probationary, permanent, emergency or temporary (includes limited term and provisional).

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

**EXECUTIVE ASSISTANT:** A position approved by the Personnel Commission and exempt from specific provisions of these Rules in accordance with Education Code Section 45272.

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

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

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

**FULL-TIME POSITION:** A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is equal to or greater than 87 ½ percent of the normally assigned time of the majority of employees in the classified service of the District.

**GOVERNING BOARD:** The Board of Education of the Madera Unified School District (see "Board of Education" and/or "Appointing Authority or Power").

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

**HEARING:** A formal review of evidence, in the presence of the parties involved, in connection with an action affecting an employee and concerning an appeal, which the employee has filed. All hearings are closed unless requested by the appellant to be open.

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

**ILLNESS LEAVE:** Paid or unpaid leave given to an employee because of personal illness or injury.

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

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

**INVOLUNTARY LEAVE:** Leaves of absence resulting from a disciplinary action; a suspension.

**JOB AUDIT:** A personnel job evaluation technique by which a staff analyst may use various combinations of job audit questionnaires, personal interviews, as well as work site observations and conversations, to collect data on the duties, tasks and responsibilities of a position. An independent person/firm can be hired by the Commission to assist in this process.

**JOB TITLE:** The title assigned to a classification by the Personnel Commission. The District may suggest titles for new positions.

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

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

**LIMITED-TERM:** A term used in the Education Code and these rules to designate employment for periods of time not to exceed six (6) calendar months; or employment of a temporary employee to substitute for the authorized absence of a permanent employee.

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

**LOYALTY OATH:** A statement required as mandated for each new employee concerning his support of the United States and California Constitutions. An

alternate district approved form is available if a loyalty oath cannot be signed.

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

**MERIT SYSTEM:** A personnel system in which merit and fitness determines an individual's selection and progress through the classified service.

**PART-TIME POSITION:** A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87 1/2 percent of the normally assigned time of the majority of employees in the classified service of the District.

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

**PERMANENT EMPLOYEE:** An employee who has completed an initial probationary period of one hundred twenty (120) days of paid regular services in the classified service, or two-hundred-sixty (260) days for positions designated by Commission rule as executive, administrative, or supervisory.

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

**PERSONAL NECESSITY LEAVE:** A leave of absence with pay for a limited duration which may be taken for reasons of personal need as specified in the Education Code, Collective Bargaining Agreement, and the Rules and Regulations of the Personnel Commission. Such leave is charged against the employee's earned cumulative sick leave, and is limited to a maximum of seven (7) days per school year.

**PERSONNEL COMMISSION:** A three-member committee established pursuant to the requirements of "The Merit System Act" to administer the Merit System in the Madera Unified School District.

**PERSONNEL DIRECTOR:** (Also referred to as "Director-Personnel Commission".) As used in these Rules, the term refers to the person appointed by the Personnel Commission to act as its designated representative in administering the Merit System under the provisions of law and the Rules and Regulations established by the Personnel Commission.

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

**POSITION:** A classification assigned by a competent authority which requires either full-time or part-time employment of one person on a permanent or limited-term basis.

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

**PROBATIONARY EMPLOYEE:** An employee who has not completed the

required the required probationary period. A trial period of one hundred and twenty (120) days, or two hundred sixty (260) days for executive, administrative, and supervisory employees, of paid service following appointment from an eligibility list.

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

PROMOTION: A change in the assignment of an employee from a position in one class to a position in another class with a higher maximum salary rate following appointment from an appropriate promotional list or include people from an open list.

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

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

PROVISIONAL EMPLOYEE: A person employed while the examination process is being conducted to fill the position for less than 90 consecutive days or 126 days per fiscal year.

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

RECLASSIFICATION: The removal of a position or positions from one class and placement into another as a result of a gradual change in class assignment as a result of a change in duties.

REEMPLOYMENT: Return to employment of a former regular employee who has been laid off. Also applies to former employees of the District who are returned to employment for a limited period of time following their retirement(s).

REEMPLOYMENT LIST: A list of names, in rank order of seniority, of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, abolishment or reclassification of positions, exhaustion of illness or accident leave privileges, or other reasons specified in the Rules and Regulations of the Personnel Commission, and who are eligible for reemployment without examination in their former class or classes within a period of thirty-nine (39) months following the date of layoff.

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

REGULAR EMPLOYEE: An employee who has probationary or permanent status with the District.

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

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

**REINSTATEMENT:** A reappointment of a former permanent employee, within a period of 39 months following the date of his resignation, without examination, to a position in one of the person's former classes or in a related former class.

**RESIGNATION:** A voluntary written statement from an employee notifying the appointing authority of termination of employment.

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

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

**SALARY RANGE:** A series of consecutive salary steps that comprise the rates of pay for a classification. A salary range usually consists of seven (7) steps.

**SALARY RANGE PLACEMENT:** The act of placing a specific classification onto a specified range of the salary schedule or salary matrix.

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

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

**SALARY STEP:** A specific rate in a salary of the consecutive rates that comprise a salary range.

**SALARY SURVEY:** The collection of current wage and salary data for the purpose of determining the prevailing wage for certain types of work. The data is usually secured from other public agencies and from private sector businesses in the labor market area. The term also includes the written report containing the data collected.

**SENIOR MANAGEMENT:** Positions designated by the Board of Education, which meet the requirements of Section 45108.5 of the Education Code.

**SENIORITY:** Status secured by date of hire length of service in a classification for determining the order of layoff when positions within a classification are eliminated.

**SEPARATION:** The ending of all status as an employee with the District including resignation, dismissal, failure to complete probationary period, layoff, or retirement.

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

**STATUS:** The employee's present standing in the classified service.

STEP ADVANCEMENT: Movement to a higher step on the salary range for the class as a result of having served the required number of months in that class during the preceding twelve months until the maximum step has been achieved; the movement to a high salary step shall be in accordance with Section 20.3.6 from the CSEA Bargaining agreement.

SUSPENSION: An enforced absence of an employee without pay for disciplinary purposes.

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

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

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

WAIVER: The voluntary relinquishment by an eligible of a right to be considered for appointment from an employment list to one or more position locations, or for a specified or unlimited period of time not to exceed the limited duration of the employment list.

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

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

### 1.3 VIOLATION OF MERIT SYSTEM LAWS

#### 1.3.1 VIOLATION SHALL BE CRIMINAL:

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

REFERENCE: Education Code Section 45317

#### 1.3.2 OTHER UNLAWFUL ACTS:

In addition to the prohibition on unlawful acts outlined in Rule 1.3.1, it is also unlawful for any person:

1.3.2.1 Willfully, either alone or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to any right of examination, application, or employment under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission.

1.3.2.2 Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or

certified under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission, or to aid in doing, or make any false representation concerning the same of the person examined.

- 1.3.2.3 Willfully to furnish to any person any special or secret information regarding contents of any examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under the Merit System laws of the Education Code or the Rules and Regulations of the Personnel Commission.

REFERENCE: Education Code Section 45317

## CHAPTER 2

### THE PERSONNEL COMMISSION

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#### 2.1 ORGANIZATION OF THE COMMISSION

##### 2.1.1 TERM(S) OF OFFICE AND GENERAL SELECTION PROCEDURES:

The Personnel Commission is composed of three individuals who must be registered voters, reside in the Madera Unified School District, and be "known adherents to the principle of the Merit System." One member of the Commission is appointed by the Board of Education, one member is appointed by the Board of Education upon the recommendation of the classified employee organization which represents the largest number of the District's classified employees, and the third member is appointed by the other two (2) members of the Commission.

2.1.1.1 During a commissioner's term of office, a member of the Personnel Commission shall not be an employee of the Madera Unified School District. (Updated 11/15/12 MOTION NO. 13-2012/13)

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

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

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

##### 2.1.2 SPECIFIC APPOINTMENT PROCEDURES:

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

2.1.2.1 THE BOARD OF EDUCATION'S APPOINTMENT: By September 30th, the Board of Education shall publicly announce the name of the person it intends to appoint or reappoint. At a Board meeting to be held after 30 and within 45 days of the date the Board publicly announced its candidate, the Board shall hold a public

hearing to provide the public, employees, and employee organizations the opportunity to express their views on the qualifications of the person recommended by the Board of Education for appointment. The Board at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

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

2.1.2.2.1 In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on August 15 of the year in which the classified employees' appointment is to be made shall be the one authorized to submit the recommended appointment to the Board of Education for action as required by law and these Rules and Regulations.

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

2.1.2.2.3 In the event that a vacancy is created on the Personnel Commission because of the classified employees' failure to agree upon a nominee, the Board of Education, upon the recommendation of the Director-Personnel Commission, may make an emergency appointment for hiring purposes only until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

2.1.2.3 THE COMMISSIONERS' APPOINTMENT: By September 30th, the appointee of the Board of Education and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint or reappoint. At a Personnel Commission meeting to be held after 30, and within 45 days of the date the Commission publicly announced its candidate, the Commission shall hold a public hearing to provide the public,

employees, employee organizations, and members of the Board of Education the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

2.1.2.3.1 In the event that a vacancy would otherwise exist on the Personnel Commission as of December 1st because of the failure of the Commission to take action on a new appointment, the commissioners' prior appointee shall continue in office and to function as a member of the District's Personnel Commission until such time as the commissioners take the necessary action(s) to appoint a qualified successor and that person is prepared to assume the duties and responsibilities of the position. If the reason for the lack of appointment is an inability to agree upon a joint appointee, the appointment shall be made by the State Superintendent of Public Instruction if no agreement is reached by December 15th.

REFERENCE: Education Code Sections 45245 - 45248

2.1.3 FILLING OF VACANCIES DURING TERM OF OFFICE:

In the event that a vacancy occurs during the term of office of any of the commissioners, a new appointee shall be selected by the original appointing authority to complete the unexpired term in accordance with the procedures noted below. The Director-Personnel Commission shall immediately notify the other commissioners, the Board of Education and the recognized classified employee organization(s) of the name of the commissioner, the effective date of the vacancy, the duration of the unexpired term, the name of the appointing authority, and the procedures to be followed in filling the vacancy.

2.1.3.1 THE BOARD OF EDUCATION'S APPOINTMENT: Within 15 days of notification of the vacancy, the Board of Education shall publicly announce the name of the person it intends to appoint to fill the unexpired term. At a Board meeting to be held after 30, and within 45 days of the date the Board publicly announced its candidate, the Board shall hold a public hearing to provide the public, employees, and employee organizations the opportunity to express their views on the qualifications of the person recommended by the Board of Education for appointment. The Board at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

2.1.3.2 THE CLASSIFIED EMPLOYEES' APPOINTMENT: Within 15 days of notification of the vacancy, the classified employee organization having authority to nominate the classified employees' appointee to the Commission, shall publicly submit the name of the person it wishes to appoint to the Commission to fill the unexpired term.

The Board shall appoint the nominee unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee. **(REVISED MOTION NO. 28-2016/17)**

2.1.3.2.1 In the event that the vacancy goes unfilled because of the classified employees' failure to agree upon a nominee, the Board of Education, upon the recommendation of the Director-Personnel Commission, may make an emergency appointment for hiring purposes only until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

2.1.3.3 **THE COMMISSIONERS' APPOINTMENT:** Within 15 days of notification of the vacancy, the appointee of the Board of Education and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint to fill the vacancy. At a Personnel Commission meeting to be held after 30, and within 45, days of the date the Commission publicly announced its candidate, the Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board of Education the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

2.1.3.3.1 If the commissioners are unable to agree upon a joint appointment within 45 days after the notification of the vacancy, the appointment to fill the unexpired term shall be made by the State Superintendent of Public Instruction. The Director of Classified Personnel shall immediately submit the two nominees for action by the State Superintendent; if such nominees exist.

**REFERENCE:** Education Code Sections 45246(g), 45245 - 45248, 45260

2.1.4 **EMERGENCY APPOINTMENT OF COMMISSIONERS:**

If there are two vacancies on the Personnel Commission notwithstanding these Rules, the Board of Education at the request of the Director-Personnel Commission shall declare that an emergency exists and shall make one interim

appointment to fill a vacancy to insure the continuance of the hiring functions of the Personnel Commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

2.1.4.1 An interim appointee must meet the requirements of Section 45244 of the Education Code and Rule 2.1.1, and be free of the restrictions contained therein.

2.1.4.2 An interim appointment in no event shall be valid for more than 60 calendar days.

REFERENCE: Education Code Sections 45244, 45248, 45246, 45260, and 45261

2.1.5 OFFICERS:

At its first regularly scheduled meeting in December of each year, the Commission shall establish a rotation for members to serve as Chairperson and Vice-Chairperson for a period one (1) year or until such time as their successors are duly elected. The rotation for Chairperson shall be the Commissioner whose term is set to expire the following year. The Vice-Chairperson should be the Commissioner whose term will expire one year after that of the Chairperson. The Commission at this same meeting shall appoint the Director-Personnel Commission as Secretary to the Personnel Commission.

REFERENCE: Education Code Sections 45260 and 45261

2.1.6 QUORUM AND MAJORITY VOTE:

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

2.1.7 COMPENSATION OF COMMISSION MEMBERS:

The Board of Education may authorize payment to the members of the Personnel Commission at the rate of fifty dollars (\$50) per meeting, not to exceed two hundred-fifty dollars (\$250) per month. The Board of Education may authorize the members of the Commission to receive the same health insurance plans of the District as provided members of the Board of Education.

REFERENCE: Education Code Section 45250

2.1.8 EVENTS CAUSING VACANCY BEFORE EXPIRATION OF TERM:

Personnel Commissioners shall be expected to attend all regular and special meetings of the Personnel Commission. If a member is unable to attend a scheduled meeting, the member shall contact the Director-Personnel Commission to inform the Commission of the expected absence. A member of the Personnel Commission shall be deemed to have vacated the seat of the Commission on the happening of any of the following events before the expiration of the prescribed term:

2.1.8.1 The death of the commissioner.

2.1.8.2 An adjudication pursuant to a quo warrant proceeding declaring that the commissioner is physically or mentally incapacitated due

to disease, illness, or accident, and that there is reasonable cause to believe that the commissioner will not be able to perform the duties of the office for the remainder of the term.

- 2.1.8.3 The commissioner's resignation.
- 2.1.8.4 The commissioner's removal from office by a court of competent jurisdiction.
- 2.1.8.5 The commissioner ceasing to meet all the legal requirements to continue to be a commissioner as outlined in Chapter 2.1.1.
- 2.1.8.6 The commissioner's absence exceeding four (4) total regular meetings in a fiscal year, except when prevented by sickness, or excused absence.
- 2.1.8.7 The commissioner's conviction of a felony or of any offense involving a violation of the official duties of a commissioner as required by these Rules and/or the law. A commissioner shall be deemed to have been convicted under this Rule when trial court judgment is entered.
- 2.1.8.8 The decision of a competent tribunal declaring void the commissioner's appointment.
- 2.1.8.9 The commissioner's commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict. In this event, the office shall not be deemed vacant until the order of commitment has become final.

- REFERENCE:
- 1. Government Code Sections 1060 et seq., 1750, 1770, 3000, 3001, 3100, 3753
  - 2. Penal Code Sections 1026, 1368 et seq.
  - 3. Welfare and Institutions Code Sections 5008, 6300 et seq.
  - 4. Education Code Sections 45244, 45245, 45246, and 45247

2.1.9 FILLING A VACATED POSITION:

Upon a Personnel Commission position becoming vacant pursuant to Government Code 1770, the Commission shall be required to declare the position vacant pursuant to this Rule. The Commission and the proposed declaration of vacancy must be listed as an action item on the official published agenda for said meeting. A copy of the agenda must be delivered in the usual and prescribed manner required by these Rules to the Commissioner being subjected to possible removal. The Commission shall solicit input from the Board of Education and the employee organization(s), if any, prior to the final decision. The Director-Personnel Commission shall initiate the necessary legal steps to fill the vacancy as mandated by the Education Code and these Rules and Regulations.

- REFERENCE:
- 1. Government Code Sections 1060 et seq., 1750, 1770, 3000, 3001, 3100, 3753
  - 2. Penal Code Sections 1026, 1368 et seq.
  - 3. Welfare and Institutions Code Sections 5008, 6300 et seq.
  - 4. Education Code Sections 45244, 45245, 45246, and 45247

## 2.2 MEETINGS OF THE COMMISSION

### 2.2.1 REGULAR MEETINGS:

Subject to cancellation or proper change, the Personnel Commission shall meet on every 3rd Thursday of each month at 5:30 p.m. in the Madera Unified School District Board or Conference Room. Whenever the regularly scheduled meeting date happens to fall on a holiday, the Commission shall meet on the next succeeding Tuesday unless the Commission at the prior regular meeting takes an action to designate some other day for its meeting.

2.2.1.1 In cases of emergency, as defined by the Brown Act the Commission may meet at some other time, provided that it provides advance notice to the representatives of the employee organizations and the District's administration as well as being posted on the Commission's official bulletin board in accordance with notice requirements for emergency meetings set forth in the Brown Act.

REFERENCE:

1. Education Code Section 45260
2. Government Code Sections 54952 - 54952.3
3. Government Code Section 54956.5

### 2.2.2 ADJOURNED REGULAR MEETINGS:

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

REFERENCE:

1. Education Code Section 45260
2. Government Code Sections 54952, 54952.3, 54956.5

### 2.2.3 SPECIAL MEETINGS:

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

REFERENCE:

1. Education Code Section 45260
2. Government Code Section 54956

### 2.2.4 PUBLIC MEETINGS:

All regular and special meetings of the Commission shall be open to the public, and all persons shall be permitted to attend any of the meetings. This Rule shall not be construed as authorizing employees to be absent from duty for attendance at Personnel Commission meetings, unless they have specific business before the Commission.

All votes or abstentions to any actions of the Commission during a meeting of the Commission whether in open or authorized closed session shall be recorded in the minutes of the meeting. No secret ballots are permitted.

REFERENCE: 1. Education Code Section 45260  
2. Government Code Sections 54952, 54952.3, 54952.5, 54953

2.2.5 CLOSED SESSIONS:

A closed session may be conducted only during a regular or special meeting of the Personnel Commission that has been called with proper notification. Prior to the holding of a closed session, the Commission shall state the general reason(s) for the closed session and may cite the statutory or other legal authority under which the session is being held. In the closed session, the Commission may consider only those matters covered in its statement of reasons. In the case of a special, an adjourned, or a continued meeting, the statement of reasons shall be made as part of the written meeting notice for such special, adjourned, or continued meeting. In giving the general reason or reasons for holding a closed session, the Commission is not required or authorized to give names or other information which might constitute an invasion of privacy or otherwise unnecessarily divulge protected facts and information for which the closed session is being held.

2.2.5.1 The Commission shall publicly report, in the public portion of the meeting in which the closed session is being held or at its next public meeting, any reportable action taken by the Commission in the closed session and any roll call vote taken on such items as appointment, employment or dismissal of any classified employee arising during the closed session.

2.2.5.1.1 Consideration of appointment, employment, dismissal, or evaluation of an employee.

Any reportable action taken to appoint, employ, dismiss, and accept the resignation of or otherwise affect the employment status of an employee must be reported at a public meeting following the closed session. Such report must include the title of the position and any changes in compensation. The reporting of actions on disciplinary matters may be deferred until the first public meeting following the public meeting following the exhaustion of any administrative remedies.

2.2.5.1.2 Consideration of complaints brought against employees.

2.2.5.1.3 The District's budget, funding priorities and/or available funds are not proper subjects and shall not be matters of a closed session discussion.

2.2.5.2 The Commission may hold closed sessions during any regular or special meeting to consider the appointment, employment, performance evaluation, dismissal, or the hearing of complaints or charges brought against employees by another person or employee unless such employee requests a public hearing. As a condition of holding a closed session on the complaint, formal charges, or a disciplinary matter, the affected employee shall be given a written notice regarding the matter and the right to have a public hearing rather than a closed session; which notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time scheduled to hold the regular or special Commission meeting. If notice is not given as prescribed, any punitive action taken relative to the employee shall be null and void. During the examination of a witness, the Commission may exclude other witnesses even though the hearing is held as part of a public meeting. If a hearing is held in closed session, the Commission may exclude other witnesses as well as the general public while the matter is being investigated. Following the public hearing or closed session, the Commission may deliberate on the matter and reach its decision in a closed session.

2.2.5.3 A violation of the confidentiality of a closed session by a member of the Personnel Commission constitutes a misdemeanor under the provisions of Government Code Sections 1222 and 1770(h). Repeated violation of the confidentiality of a closed session by a commissioner may be considered grounds for removal from office.

REFERENCE: 1. Education Code Sections 35146, 49073, 54957, 54957.1, 54957.2, 54957.6, 54957.7  
2. Government Code Sections 1222, 1770, 3543, 3543.2, 3549.1

## 2.2.6 AGENDA AND SUPPORTING DATA:

At least seventy-two (72) hours prior to every regular meeting, and at least twenty-four (24) hours prior to a special meeting, the agenda shall be provided to the designated representatives of all employee organizations representing classified employees, the Commission members, and the Superintendent of Schools. The agenda(s) will be posted on the Commission's official bulletin board, and distributed to the news media having requested it/them. Each item on the agenda shall contain a brief general description of the item.

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

2.2.6.2 Individual employees, employee organizations, and other interested parties may submit their written views on any item on the agenda, and/or given a reasonable opportunity to present their views orally during the Commission meeting. In reaching its decisions, the Commission has made it a policy to consider all comments and recommendations made in this manner.

2.2.6.3 District personnel, representatives of recognized employee organizations, representatives of the Board of Education, District administrators, or other interested parties may submit items to be placed on a Commission agenda by submitting the items to the Director-Personnel Commission not less than seven (7) calendar days prior to the scheduled Commission meeting at which the item is to be considered.

REFERENCE: Education Code Section 45260

2.2.7

AMENDMENTS, DELETIONS, OR ADDITIONS TO RULES:

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

2.2.7.1 On a first reading, the Personnel Commission will set a date for Commission action on the proposal, which date shall normally be the next regularly scheduled Commission meeting. The Director-Personnel Commission will refer the proposed rule changes to the designated representatives of recognized employee organizations representing the District's classified employees, the Superintendent of Schools, and others who have indicated their interest in such matters in order to provide them with an opportunity to submit their comments or recommendations.

2.2.7.2 Insofar as possible, the interested parties shall submit their reactions and/or recommendations to proposed Rule changes in writing on or before the agenda deadline date (see Personnel Commission Rule 2.2.6). However, those who also want to speak to the item(s) at the Commission meeting will be given that opportunity as provided in Personnel Commission Rule 2.2.6 (Agenda and Supporting Data).

REFERENCE: Education Code Section 45260

2.2.8

MINUTES:

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

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

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

2.2.8.3 Copies of the Commission's minutes shall be distributed to the designated representatives of all employee organizations

representing the District's classified employees, the Commission members, the Board of Education, the Superintendent of Schools, and others who have indicated their interest in such matters.

REFERENCE: Education Code Section 45260

## 2.3 COMMISSION EMPLOYEES

### 2.3.1 STATUS OF COMMISSION EMPLOYEES:

The Director-Personnel Commission and other persons required to carry out the day-to-day responsibilities of the Personnel Commission shall be selected by the Commission. The Commission shall decide on how those employees will be utilized and determine the assigned time of each employee reporting to the Commission. However, the persons so employed shall be a part of the District's classified service and subject to all of the rules, procedures, benefits, and burdens pertinent to the classified service; except as the Commission may specifically direct.

REFERENCE: Education Code Sections 45260 and 45264

### 2.3.2 GENERAL DUTIES OF THE DIRECTOR-PERSONNEL COMMISSION:

The Director-Personnel Commission shall perform all of the duties assigned and carry out all of the functions imposed upon this position by law and these Rules and Regulations. The Director-Personnel Commission shall act as Secretary to the Personnel Commission, and shall issue and receive all notifications on its behalf. The Director-Personnel Commission shall direct and supervise the employees of the Commission, and conduct administrative transactions consistent with the law as well as the proper functioning of the office and staff of the Personnel Commission.

2.3.2.1 In cases where two or more Rules or Regulations appear to be in conflict, or when no Rule provides a clear-cut answer to the problem, the matter shall be decided by the Director-Personnel Commission subject to appeal to the Personnel Commission.

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

## 2.4 COMMUNICATIONS

### 2.4.1 COMMUNICATIONS AND REQUESTS:

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

2.4.1.1 Individuals or groups who wish to present proposals for action by the Commission shall present their requests to the Director-Personnel Commission for placement on the Commission agenda. Although the Personnel Commission may, on occasion, designate one of its members to investigate a specific subject or matter, it is against the policy of the Commission to take up or consider any proposals except at open meetings.

2.4.1.2 Since it is against the policy of the Personnel Commission to take up or consider matters except at open meetings, individuals or groups who seek interviews with particular commissioners regarding matters which may later be placed before the Personnel Commission for consideration, shall be referred to the Commission Office. Such individuals or groups will be asked to put the matter(s) in writing so that they may properly be placed on a Commission agenda.

REFERENCE: Education Code Section 45260

2.5 PERSONNEL COMMISSION BUDGET:

2.5.1 BUDGET:

The Personnel Commission staff shall, prior to the first Commission meeting in April of each year, prepare and submit to the members of the Commission a proposed operating budget for the next ensuing fiscal year.

REFERENCE: Education Code Sections 45253 and 45260

2.5.2 PUBLIC HEARING IN MAY:

After preparation and study, the Commission shall provide for a public hearing on its proposed budget, such hearing to be held not later than May 30 of each year.

REFERENCE: Education Code Sections 45253 and 45260

2.5.3 INPUT SOUGHT:

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

REFERENCE: Education Code Sections 45253 and 45260

2.5.4 ADOPTED BUDGET FORWARDED TO COUNTY SUPERINTENDENT:

Following its adoption of a proposed budget for the ensuing year, the Commission shall then forward its proposed budget to the Madera County Superintendent of Schools for action.

REFERENCE: Education Code Sections 45253 and 45260

2.5.5 COUNTY MAY HOLD PUBLIC HEARING:

If the Board of Education of the District does not feel that its views as expressed during the Commission's public hearing on the budget have been fully considered by the Personnel Commission in the adoption of the budget, the Board may then forward its concerns to the Madera County Superintendent of Schools. The Madera County Superintendent of Schools, upon receipt of the Board's objections or concerns, will schedule a public hearing on the budget concerns.

The public hearing shall be held within the boundaries of the District.  
REFERENCE: Education Code Sections 45253 and 45260

2.5.6 ADOPTION OF BUDGET BY COUNTY:

The County Superintendent may reject the Personnel Commission's adopted budget, but may not amend the budget without the approval of the Commission. In the absence of agreement between the Personnel Commission and the County Superintendent of Schools regarding the amount of money to be budgeted for the Commission's operations, the amount of the prior year's budget, adjusted upward for any salary and fringe benefit increases granted to classified employees by the District, shall determine the amount of the new Personnel Commission budget. However, the items of expenditure within that new budget shall be determined by the Commission.

REFERENCE: Education Code Sections 45253 and 45260

2.5.7 JUDICIAL REVIEW AND RELIEF:

If the Commission's adopted budget is rejected by the County Superintendent of Schools, and the Personnel Commission by majority vote feels that the resulting budget does not provide sufficient funds to adequately carry out the functions of The Merit System Act, the Personnel Commission reserves the right to seek judicial review and relief.

REFERENCE: Education Code Sections 45253 and 45260

2.6 PERSONNEL COMMISSION ANNUAL REPORT:

2.6.1 ANNUAL REPORT:

The Director-Personnel Commission shall prepare an annual report of the Commission's activities. When approved by the Commission, the annual report shall be submitted to the Board of Education at a regular Board meeting for its review.

2.6.1.1 The report shall be prepared for Commission approval as soon as possible after the close of each fiscal year but no later than the Commission's first regularly scheduled meeting in November. The report shall cover the Personnel Commission's activities for the preceding fiscal year.

REFERENCE: Education Code Section 45266

2.7 LEGAL COUNSEL FOR THE PERSONNEL COMMISSION

2.7.1 LEGAL COUNSEL:

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

REFERENCE: Education Code Section 45313

## CHAPTER 3

### POSITION CLASSIFICATION PLAN

**Note: CSEA BARGAINING UNITS - REFER TO Articles XIV of the COLLECTIVE BARGAINING AGREEMENT**

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#### 3.1 THE CLASSIFIED SERVICE

3.1.1 POSITIONS INCLUDED: All positions established by the Board of Education, which are not exempt from the classified service by law shall be a part of the classified service of the District. All employees serving in the District's classified positions shall be classified school employees. The employees and positions shall be known as the Classified Service.

REFERENCE: Education Code Section 45256

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

REFERENCE: Education Code Sections 45256 and 45258

3.1.3 "PART-TIME" DEFINED: A part-time position for the purpose of exemption under Personnel Commission Rule 3.1.2 is a temporary position for which the assigned time, when computed on an hourly, daily, weekly or monthly basis is less than eighty-seven and a half percent (87.5%) time of the normally assigned time for the majority of employees in the classification to which assigned, or the majority of the employees in the classified service, whichever amount of time is the lesser.

REFERENCE: Education Code Sections 45256 and 45260

3.1.4 EFFECT OF EXEMPTION: Any position or employee totally exempted from the classified service by law shall be excluded from the benefits and burdens imposed by these Rules and Regulations, except as otherwise provided by law, the Board of Education, or these Rules and Regulations.

REFERENCE: Education Code Section 44065

3.1.5 PROFESSIONAL EXPERT ASSIGNMENTS - INDEPENDENT CONTRACTORS: Whenever the use of a professional expert assignment is being contemplated, the administration shall submit to the Director-Personnel Commission a description of the project, its duration, and the duties to be performed.

3.1.6 GENERAL DEFINITION: An Independent Contractor is an individual,

company or corporation engaged in an independent business of its own; a separate enterprise or business that performs services on a fee or contractual basis. Individual Independent Contractors must be recognized as professionals requiring advanced degrees and membership in a professional society or professional organization, or persons that have special skills such as artists, musicians, entertainers, persons with professional recognition such as Staff Development Presenter, etc. A person with an employer-employee relationship with the District shall not be an Independent Contractor.

REFERENCE: Education Code Section 45256

- 3.1.7 EMPLOYMENT OF COLLEGE STUDENTS UNDER CERTAIN PROGRAMS: Full-time students employed part-time and 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 Education Code Sections 51760 - 51770, and which is financed by state or federal funds, shall not be part of the classified service. The District may employ such students pursuant to the Education Code. Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

REFERENCE: Education Code Sections 45256, 45260, 45261

## 3.2 GENERAL CLASSIFICATION RULES

- 3.2.1 ASSIGNMENT OF DUTIES: The Board shall prescribe the duties and responsibilities of all positions in the classified service except those in the Commission staff. When the duties being performed by an employee are found to be inconsistent with the duties officially assigned to a specific position, the Director-Personnel Commission shall report the facts to the responsible administrator in order that appropriate action may be taken.

REFERENCE: Education Code Sections 45109, 45241, 45264, and 45276

- 3.2.2 GENERAL CLASSIFICATION PLAN: The Commission shall classify all employees and positions within the jurisdiction of the Board or the Commission, except those positions which the Commission determines are exempt from the Classified Service pursuant to Chapter 3.1.2. The Commission shall maintain a classification plan for all positions. The employees and positions shall be known as the Classified Service. To classify shall include, but not be limited to:

- 3.2.2.1 Allocation of all positions to appropriate classes.
- 3.2.2.2 Arrangement of classes into occupational hierarchies (job families).
- 3.2.2.3 Determination of reasonable percentage relationships between classes within the occupational hierarchies.
- 3.2.2.4 Determination of reasonable percentage relationships between occupational hierarchies.

3.2.2.5 Preparation of written class specifications.

REFERENCE: Education Code Sections 45104, 45105, 45109, 45256

3.2.3 CLASS SPECIFICATIONS: All class specifications shall be considered by reference as a part of these Rules and are included in Appendix A of these Rules. For each class, the Personnel Commission shall establish and maintain a class specification, which shall include:

- 3.2.3.1 The class title.
- 3.2.3.2 A definition of the class, indicating the type of duties and responsibilities, as assigned by the District, and placement within the organizational scheme.
- 3.2.3.3 A statement of distinguishing characteristics which differentiates the class from other related or similar classes.
- 3.2.3.4 A statement of the examples of duties to be performed by persons holding positions allocated to the class. The Commission shall develop this statement from the list of duties presented to it by the Board of Education.
- 3.2.3.5 A statement of the minimum qualifications for service in the particular class. The minimum qualifications may include education, experience, knowledge, skills, abilities, personal and physical traits and characteristics.
- 3.2.3.6 A statement about any license, certificates, or other special requirements for employment or service in the particular class.
- 3.2.3.7 A statement about any physical requirements required of positions in the class.
- 3.2.3.8 A statement about any additional qualifications considered to be so desirable that any person applying for employment who possesses such qualifications may be given additional credit in the evaluation of his/her qualifications, even though such additional qualifications were not listed as a prerequisite.
- 3.2.3.9 Minimum qualifications shall not require a teaching, administrative, or other credential, nor may they require work experience that would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials.
- 3.2.3.10 The title of the class shall be used as the title of all positions in the class on payrolls submitted to the Commission for auditing and in the records and correspondence of the Commission and the Board of Education.

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

3.2.4 INTERPRETATION OF CLASS SPECIFICATIONS: The class specifications and their various parts have the following force and effect:

- 3.2.4.1 The definition and typical tasks are descriptive and explanatory only and not restrictive, indicating the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities, and qualification requirements and do not prescribe what these details shall be in respect to any position.
- 3.2.4.2 The use of a particular expression or illustration as to duties, responsibilities, qualification requirements or other attributes is typical or descriptive of the class and does not exclude others not mentioned but of similar kind and/or quality as determined by the Commission.
- 3.2.4.3 The specification for each class is considered as a whole in determining the class to which any position shall be allocated, giving consideration not to isolated clauses, phrases or words, but to the general duties, responsibilities, specific tasks and qualification requirements as affording a picture of the positions that the class includes.
- 3.2.4.4 Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series in such manner as to maintain a proper relationship in the series in which the class is located and proper differentiation within the group of classes.
- 3.2.4.5 The following personal qualification requirements apply to all classes even though not necessarily specifically mentioned in the specification: freedom from communicable diseases; freedom from physical or mental impairment to perform the duties of the class to the extent under federal and state laws; 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 or work characteristics of the particular position.
- 3.2.4.6 The statement of qualification requirements, when considered with other parts of the specification, is to be used as a guide in the announcement and preparation of tests and in the evaluation of the qualifications of candidates seeking appointment, but does not require a particular form or content of test or testing procedure.

REFERENCE: Education Code Sections 45256, 45260, and 45276

- 3.2.5 CREATION OF NEW POSITIONS: When the Board of Education creates a new position or approves a reorganization that modifies the duties and/or responsibilities of a classification or position, it shall submit the duties officially assigned to the classification/position, in writing, to the Director-Personnel Commission. The Board may recommend minimum educational and work experience requirements for the classification/position. The Director-Personnel Commission shall present recommendations to the Commission for action. The Commission shall:

- 3.2.5.1 Determine if the new position shall be a part of the Classified Service or exempt under Rule 3.1.2.
- 3.2.5.2 Classify the position and determine whether the position should be allocated to an existing class or whether a new class should be established.
- 3.2.5.3 If a new class is recommended, the Director-Personnel Commission shall set forth a proposed class specification setting out the title, duties as established by the Board of Education, qualifications, and other requirements of a class specification. The qualifications approved by the Commission must reasonably relate to the duties assigned to the position by the Board of Education.
- 3.2.5.4 The Commission shall recommend the proper salary placement on the appropriate classified salary schedule.
- 3.2.5.5 The Director- Personnel Commission shall notify the Board of the Commission's action.

REFERENCE: Education Code Sections 45109 and 45256

- 3.2.6 ALLOCATION OF POSITIONS TO EXISTING CLASSES: All positions which substantially consist of comparable duties, responsibilities, and qualifications shall be allocated to the same class.

REFERENCE: Education Code Section 45256

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

REFERENCE: Education Code Sections 45256 and 45285

- 3.2.8 WORKING OUT OF CLASSIFICATION: Each classified employee should be required to perform the duties approved by the Board and classified by the Commission for the class to which the employee is assigned. Classified employees shall not be required to perform duties and responsibilities which are not fixed and prescribed for their positions unless reasonably related to the fixed duties for any period of time which exceeds five (5) working days within a fifteen (15) calendar day period, except as provided by this Rule. An employee may be assigned to work beyond the scope of the duties normally assigned to the employee's position or reasonably related thereto provided that the employee's salary is adjusted as follows:

- 3.2.8.1 When a regular employee in the classified service works in a higher classification for a period of time which exceeds five (5) working days within a fifteen (15) calendar day period, the salary of the employee shall be adjusted upward to the entire period of working out of classification.

- 3.2.8.2 If an employee is required to perform duties which are not allocated to an existing class, the assignment shall be reported to the Director-Personnel Commission in writing so that a review may be conducted to determine the appropriate pay differential for the temporary assignment.
- 3.2.8.3 Request for differential pay for working out of class shall be submitted to the Director-Personnel Commission as soon as possible after the assignment has been made.
- 3.2.8.4 Working out of class assignments are designed for temporary situations and shall not be used to place an employee in a long-term or permanent assignment in a higher or different classification. No employee shall be assigned to work out of class for more than ninety (90) days in one fiscal year or for more than one assignment without the approval of the Personnel Commission. An example of the kind of exemption allowed by the Commission would be the temporary replacement of an employee on a long-term illness leave where the employee is assigned to work out of class for the duration of the absent employee's leave.
- 3.2.8.5 A claim for a pay differential for working out of class may be submitted by the employee or the supervisor. The Director-Personnel Commission will notify the supervisor upon receipt of a claim submitted by an employee.
- 3.2.8.6 A claim for pay differential for working out of class must contain a list of the assigned duties.
- 3.2.8.7 The Director-Personnel Commission shall review the duties assigned to the position and shall determine if the assigned duties are at a higher level and shall recommend an appropriate pay differential consistent with these Rules to the Commission.
- 3.2.8.8 If the Director's review determines that the assigned duties are not at a higher level, the Director shall notify the employee and the appropriate supervisor and present the findings to the Commission at the next regular meeting of the Commission.
- 3.2.8.9 These Rules shall not be construed as permitting an employee to refuse to perform duties legally assigned by authority.

REFERENCE: Education Code Section 45110

- 3.2.9 REVIEW OF POSITIONS: The Director-Personnel Commission shall review the duties and responsibilities of positions as necessary to determine their proper classification and shall cause all positions to be reviewed at least once every five years. If the Director finds that a position or positions should be reclassified, he/she shall advise the Administration of his/her findings. If the Administration verifies the duties of the position, or if the duties are not revised to fit within the current classification, the Director shall report his/her findings to the Personnel Commission for appropriate action. The Director-Personnel Commission

shall also report the findings in cases where the review indicates that a change of classification is unwarranted.

REFERENCE: Education Code Sections 45256 and 45285

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

3.2.10.1 An announcement calling for an examination for a class with position(s) containing special requirements will contain appropriate information and will indicate that successful candidates possessing the special skill will be given preference over other successful candidates, as authorized in Personnel Commission Rule 5.2.4, but only as to those specific positions.

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

3.2.10.4 If a request to designate a position in a class as requiring a special skill is challenged, the Personnel Commission shall cause a proper investigation to be made, and shall consider the findings and all other pertinent data presented by any concerned and responsible source prior to taking final action on the request.

3.2.10.5 Layoffs in classifications with positions established pursuant to this rule shall be conducted pursuant to Chapter 11.

REFERENCE: Education Code Section 45277.

### 3.3 RECLASSIFICATION

3.3.1 RECLASSIFICATION POLICY: The Commission shall maintain a system whereby classification review will be continuous. The Commission will conduct studies as it deems necessary to review classifications and maintain internal alignment in the Classified Service.

3.3.1.1 Refer to Article XIV Classification and Reclassification for CBA language.

REFERENCE: Education Code Sections 45285, and 45285.5

- 3.3.2 EFFECTIVE DATE OF RECLASSIFICATION: Reclassification of a position or positions shall become effective on the date prescribed by the Personnel Commission, but shall not have retroactive effect. Changes in classification and salary resulting from the permanent reclassification of a position(s) shall be effective on the date established by the Personnel Commission.

REFERENCE: Education Code Sections 45285 and 45285.5

- 3.3.3 NOTIFICATION OF RECLASSIFICATION: Notification of a recommendation for the classification or reclassification of a position or employee shall be given to the employee(s) affected, their exclusive representative, the employee's supervisor, and the District Administration before the classification proposal is adopted.

REFERENCE: Education Code Sections 45256, 45260, 45268, 45285, 45285.5

- 3.3.4 RECLASSIFICATION OF VACANT POSITION: If a reclassification occurs to a vacant position, the position shall be filled through normal selection procedures.

- 3.3.5 EFFECTS OF RECLASSIFICATION ON INCUMBENTS: Whenever a position or entire classes of positions are reclassified the rights of incumbents will be determined in accordance with these Rules and Regulations.

3.3.5.1 Reclassification Upward: When all of the positions in a class are reclassified to a higher class, the incumbents of the positions who have been in the class for two (2) or more years may be reclassified by the Commission to the higher class.

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

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

3.3.5.1.3 An employee who has been reclassified shall be ineligible for subsequent

reclassification for a period of at least two (2) years from the date of the reclassification.

3.3.5.1.4 Those incumbents not able to be reclassified with their positions shall have an opportunity to compete in the Personnel Commission's selection process for promotion into the higher class.

3.3.5.2 Reclassification Equal or Lower: When a position or group of positions is reclassified to a class with a lower wage or salary range, the incumbent(s) shall be "Y" rated until such time as the salary in the lower class catches up to the salary at the time of the reclassification.

REFERENCE: Education Code Section 45285

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

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

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

3.3.6.3 The conditions which led to the association of the added duties and responsibilities with the subject position(s).

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

REFERENCE: Education Code Section 45285

3.3.7 EFFECT OF REEMPLOYMENT AND ELIGIBILITY LISTS: The reclassification of all positions in a class automatically changes the mandatory reemployment list (if any) for that class. The Personnel Commission shall also review the appropriateness of the current eligibility list for the class to determine whether or not it should be changed. Salary reallocations of classes shall have no effect on lists unless a specific finding to the contrary is made by the Commission.

3.3.8 SENIORITY OF POSITIONS RECLASSIFIED

3.3.8.1 Any employee who is reclassified transfers their seniority into the new classification.

## APPENDIX A

### CLASS AND CLASSIFICATION ASSIGNMENT AND APPLICABLE SALARY RANGE

<b>CLASS: ACCOUNTING</b>	<b>SALARY RANGE</b>
Account Technician I	19
Account Technician II	23
Account Technician III	26
Account Technician IV	32
Account Technician V	35
Budget/Accounting Analyst	38
Buyer	35

  

<b>CLASS: CHILD NUTRITION</b>	
CN Assistant I	8
CN Assistant II	11
CN Technician	14
CN Manager I	21
CN Manager II	25
CN Supervisor	33

  

<b>CLASS: CLERICAL</b>	
Administrative Assistant I	21
Administrative Assistant II	24
Administrative Assistant III	26
Administrative Assistant IV	34
Benefit Technician III	26
Career Technician	19
CN Cashier	14
Clerk I	14
Clerk II	16
Clerk III	19
Computer Lab Assistant	16
GED/Class Exam Coordinator	19
Human Resources Technician I	21
Human Resources Technician II	35
Library Media Technician I	15
Library Media Technician II	16
Library Media Technician III	18
Receptionist	14
Registrar – Lead	32
Registrar I	23
Registrar II	25
Registrar III	27
Risk Management Technician	31
Secretary	19

<b>CLASS: INFORMATION TECHNOLOGY</b>	<b>SALARY RANGE</b>
Information Technologist Specialist	40
Network Administrator	50
Network Information Systems Specialist	35
Network Specialist II	40
System Information Specialist	35
<b>CLASS: PRINTING SERVICES</b>	
Print Shop Assistant	14
Print Shop Technician I	18
Print Shop Technician II	24
<b>CLASS: INSTRUCTION</b>	
Classroom Aide	8
Classroom Aide – Preschool	8
Computer Lab Assistant	16
Paraprofessional Aide	11
Paraprofessional Aide/Physically Impaired	24
Paraprofessional Aide/Special Needs	13
Paraprofessional Aide – Preschool	8
Spanish Translator – Interpreter	
<b>CLASS: MAINTENANCE &amp; OPERATIONS</b>	
Custodian	18
Custodian/Pool Maintenance	22
Head Custodian I	20
Head Custodian II	22
Head Custodian III	24
Head Custodian IV	30
Head Custodian V	32
Delivery Person (CN & Warehouse)	20
Equipment Manager, Field House	16
Facilities Planning Analyst	50
Food Handler/Delivery	20
Grounds Person I	20
Grounds Person II	25
Grounds Person III, Lead	36
Laundry/Custodian	16
Maintenance I	26
Maintenance II	32
Maintenance III	36
Warehouse Person I	25
Warehouse Person II	35
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## CHAPTER 4

### APPLICATION FOR EMPLOYMENT

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#### 4.1 APPLICATION

##### 4.1.1 FILING OF APPLICATIONS:

All applications for employment shall be made on the official forms furnished by the Commission, either traditional or electronic. Every item shall be answered in full and the application shall be signed by the applicant and filed in the Personnel Commission Office on or before the time and date specified in the official vacancy notice. Electronic Applications may be signed at the exam.

4.1.1.1 Applicants taking more than one examination must file a separate and complete application for each examination unless otherwise directed.

4.1.1.2 For equal employment opportunity and federal/state reporting purposes, questions regarding ethnicity, sex, age, and disability shall be answered on a separate form. Answers to such questions shall be voluntary, and no other information shall be requested relative to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age prior to employment. Questions regarding an applicant's ability to do the job may be asked.

4.1.1.3 The application form shall require that each applicant indicate whether or not he/she has been convicted of a crime. If an applicant states that he/she has been convicted of a crime, then such applicant shall be required to provide the Commission with detailed information pertaining to all convictions on a separate sheet of paper. An applicant may be disqualified based on a conviction as set forth in Rule 4.2.1.

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

REFERENCE: Education Code Sections 45260 and 45272

##### 4.1.2 GENERAL QUALIFICATIONS OF APPLICANTS:

All applicants must possess all requirements that are specified in the qualifications established for the class.

4.1.2.1 Every qualified applicant shall have an opportunity to seek, obtain, and hold permanent employment without discrimination because of actual or perceived race, religious creed, color, national origin, ancestry, mental or physical disability, medical condition (as defined in Government Code Section 12926), veterans status,

pregnancy, employee organization membership or nonmembership and legal activities related thereto, marital status, sex, age (over 40), sexual orientation, or gender identity.

- 4.1.2.2 Residency within the District shall not be a condition for filing applications or offering employment except in the case of restricted positions, which require specific residency.
- 4.1.2.3 No maximum age limit shall be set as a condition for initial or continued employment in the District.
- 4.1.2.4 Disabled persons shall be given equal employment opportunity and reasonable accommodation for job performance in accordance with the provisions of the Americans with Disabilities Act (ADA).

REFERENCE: 1. Education Code Section 45111, 45134, 45260, and 45272  
2. Government Code Sections 12921, 12926 and 12940

#### 4.1.3 EDUCATION SUBSTITUTION AND ACCEPTANCE:

Where college training is required, credit will be given only for work completed in recognized colleges and universities listed in the "Directory of Postsecondary Institutions, Volume 1" published by the U. S. Department of Education, as accredited institutions.

- 4.1.3.1 Credits from an institution not listed in the Directory shall be accepted if such credits are accepted by an accredited institution so listed.
- 4.1.3.2 Where graduation from a four (4) year college or university is required, a degree from a school which this Directory lists as less than a four-year school will not be accepted.
- 4.1.3.3 Credit will be given for work done with an accredited correspondence school, where such work is comparable to that offered by a four-year college or university. Completion of such a correspondence source of study will be considered equivalent to a degree from a regular four-year college or university, and partial completion of such a course of study will be prorated on the basis of percent completed.
- 4.1.3.4 Education beyond high school will be prorated thirty (30) semester units or forty-five (45) quarter units considered equal to one (1) year of experience or one (1) year of school.
- 4.1.3.5 College training shall substitute for experience in those circumstances in which it is possible to establish a direct relationship between such training and duties of the class.
- 4.1.3.6 Specific course work and units within a class will not be eligible for substitution.

#### 4.1.4 EXPERIENCE SUBSTITUTION AND ACCEPTANCE

Appropriate experience will substitute for formal college training in examinations in which it is possible to establish a direct relationship between such experience and the duties of the class.

- 4.1.4.1 Where journey level status is required, completion of apprenticeships, possession of a journey license, or salaries at a journey level will be acceptable evidence of such status if the applicant's work record indicates an appropriate number of years experience in the field.
- 4.1.4.2 In evaluating applications for examination, total qualifying experience will be rounded to the nearest full month.
- 4.1.4.3 In interpreting qualification of promotional candidates, time spent in military service (active) shall be evaluated either as experience in the class from which the candidate left to go into military service or as experience in the service classification -whichever shall be to the candidate's advantage.
- 4.1.4.4 Credit will not be given for experience obtained while working overtime, out-of-class (in a noncompensation status), in relief of a supervisor or while working on a part-time job in addition to a regular full-time job, which also provides qualifying experience.
- 4.1.4.5 When qualifying experience is only part of an applicant's total responsibility on a job, credit will be given only for such portion of time actually involved in the qualifying work.
- 4.1.4.6 Experience requirement shall normally be stated in terms of the employees assigned work year.
- 4.1.4.7 Unpaid volunteer experience may be accepted provided it is equivalent to the required experience and, upon request by the Commission staff, the applicant provides verification from the volunteer agency specifying the period of service, amount of time worked during this period and the duties and responsibilities performed by the volunteer.

REFERENCE: Education Code Sections 45260, 45261, and 45272

## 4.2 DISQUALIFICATION OF APPLICANTS AND CANDIDATES

### 4.2.1 CAUSES FOR DISQUALIFICATION - Applicants:

An applicant may be refused initial admittance to an examination and may be disqualified from further competition for any of the following reasons:

- 4.2.1.1 Failure to meet the general qualifications of Rule 4.1.2.
- 4.2.1.2 Conviction, either by a plea or verdict of guilty or nolo contendere, a court decision of competent jurisdiction of a sex or narcotics offense as defined in Education Code Sections 44010 or 44011.
- 4.2.1.3 Any conviction, other than a sex or narcotics conviction as defined in Education Code Sections, 44010 and 44011, may disqualify an applicant if the criminal conviction(s) is sufficiently serious to

require disqualification from employment. The following factors shall be independently considered in determining whether an applicant's criminal conviction(s) shall disqualify the applicant:

1. Nature, seriousness, and circumstances of the offense(s);
2. Recency of the conviction;
3. Number of convictions;
4. Relationship of the offense(s) to the position for which applicant has applied; and
5. Age of applicant when convicted.

4.2.1.4 Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form.

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

#### 4.2.2 CAUSES FOR DISQUALIFICATION - Candidates:

A candidate may be refused initial admittance to an examination and may be disqualified from further competition for any of the following reasons:

4.2.2.1 A determination that the applicant is a sexual psychopath.

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

4.2.2.3 Obtaining or attempting to obtain either directly or indirectly privileged information regarding test questions or examination content.

4.2.2.4 Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District under these Rules.

4.2.2.5 Previous dismissal from the District.

4.2.2.6 Dishonorable or bad conduct discharge from the Armed Forces of the United States, providing that there is a direct relationship between the offense committed and the job duties.

4.2.2.7 Refusal to furnish testimony, other than self-incriminating, at a hearing or investigation before the Personnel Commission or the Board of Trustees.

4.2.2.8 Medical restrictions which clearly indicate that the applicant or candidate would be unable to perform the essential functions of the job with or without reasonable accommodation or would endanger his/her health and safety or the health and safety of others.

- 4.2.2.9 Attempting to or making contact with any member of the Board of Trustees or the Personnel Commission with the intent of attempting to favorably influence the recruitment, examination, and/or selection process in any way. Exempted from this restriction would be any formal appeal of the recruitment/examination/selection process to the Personnel Commission as a whole by any candidate through the established appeal process.
- 4.2.2.10 Failure, after due notice, to report for review of any of the above causes for disqualification.
- 4.2.2.11 Failure to report for duty after an assignment has been offered and accepted.
- 4.2.2.12 Refusal to take or sign the prescribed Madera Unified Loyalty Oath on the New Employee Form.

REFERENCE: Education Code Sections 45111, 45122, 45123, 45124, 45134, 45260, 45261, and 45303

4.2.3 APPEAL FROM DISQUALIFICATION:

Any applicant, candidate, and/or eligible disqualified based on this Rule 4.2.3.1 shall be notified in writing, indicating the reasons for disqualification and advising the individual that he/she has five (5) working days from receipt of notification to appeal the decision to the Director of Classified Personnel.

- 4.2.3.1 The appeal may be based on either of the following:
  - 4.2.3.1.1 An allegation that the disqualification was based on the employee's actual or perceived race, color, national origin, ancestry, sex, religion, age (over 40), mental or physical disability, veterans status, medical condition, marital status, sexual orientation and pregnancy.
  - 4.2.3.1.2 Arbitrary reasons given for rejection based on the facts.
- 4.2.3.2 Anyone who has appealed a disqualification shall conditionally be permitted to take the examination pending final decision.
- 4.2.3.3 Upon receipt of an appeal, the Director of Classified Personnel shall conduct an investigation. If the decision is in favor of the applicant, the applicant shall be notified in writing and given rights as though the disqualification had not occurred. If the decision is to deny the appeal, the applicant may appeal to the Commission in writing within five (5) working days of notification of the decision.
- 4.2.3.4 Upon receipt of an appeal, the Commission shall conduct a hearing and shall receive evidence and render a decision within 21 calendar days. The preliminary interview process shall be delayed until the Commission renders a decision regarding the appeal. (ADDED 1/23/14 MOTION NO. 26-2013/14) The decision of the

Personnel Commission is final and binding on all parties.

4.2.3.5 Appointments may be made from available eligibles.

REFERENCE: Education Code Sections 45260 and 45261

4.2.4 SUBMITTING PROOF OF VETERAN'S CREDIT:

Any applicant who claims veteran's credit must submit Form DD 214 at the time the employment application is submitted. Failure to submit Form DD 214 at the time of application shall result in no veteran's credits being considered or added to any passing score.

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

4.2.5 APPLICANT'S NAMES NOT TO BE MADE PUBLIC:

The names of applicants or unsuccessful candidates in any of the District's selection processes shall not be made public.

REFERENCE: Education Code Sections 45260 and 45261

4.3 EQUAL EMPLOYMENT OPPORTUNITY

4.3.1 GENERAL STATEMENT:

The Personnel Commission recognizes that the District should make employment decisions that provide equal employment opportunities for all and that the District and the Commission adhere to employment procedures that comply with the District's Board Policy on Equal Employment Opportunity, Section 12940 et seq. of the California Government Code; all California state statutes relating to Equal Employment Opportunity; Department of Fair Employment and Housing Regulations; the Americans with Disabilities Act of 1990; Title VII of the Civil Rights Act and its subsequent amendments; and guidelines approved by the Equal Employment Opportunity Commission.

4.3.2 EQUAL EMPLOYMENT OPPORTUNITY/MERIT SYSTEM:

The Personnel Commission will ensure that all classified personnel actions are conducted without regard to race, color, age (over 40), religious creed, sex, sexual orientation, gender, national origin, Vietnam Era or disabled veteran status, marital status, ancestry, medical condition, and physical or mental disability; ensure employment and promotion decisions are made in a manner to further the principles of equal employment opportunity and Merit System principles.

The Personnel Commission is committed to the support and implementation of the adopted District Equal Employment Opportunity plan. Attention will be specifically directed toward those activities that are within the scope of Commission responsibilities.

4.3.3 POSITION QUALIFICATIONS:

The Personnel Commission will establish essential position qualifications that can be validated as job oriented and do not exclude qualified candidates;

encourage recruitment procedures that are directed toward the fulfillment of equal opportunity, ensure that examinations are valid and ensure that all state and federal laws and administrative regulations are followed regarding personnel functions.

#### 4.3.4

##### DISTRICT'S EQUAL EMPLOYMENT OPPORTUNITY PLAN:

The Personnel Commission encourages the District to: communicate the District's Equal Employment Opportunity plan to employees and the community; require employees to demonstrate a respect for physical, sexual and cultural differences; and provide employees with opportunities to develop and acquire skills, knowledge, and abilities that will enhance performance and opportunities for advancement.

REFERENCE: 1. Government Code 12940, 2. Americans with Disabilities Act of 1990, 3. Equal Employment Opportunity Commission Guidelines, 4. Title VII of the Civil Rights Act of 1964.

## CHAPTER 5

### RECRUITMENT AND EXAMINATIONS

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#### 5.1 RECRUITMENT

##### 5.1.1 ANNOUNCEMENT OF EXAMINATION:

The Personnel Commission shall direct and administer the holding of examinations for the purpose of creating lists for the Classified Service.

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

5.1.1.2 Whenever it is necessary to fill existing or anticipated vacancies and an appropriate eligibility list does not exist (as determined by the Commission). The Personnel Commission shall announce each examination on a Position Announcement, which shall be distributed to all employee work locations for 10 calendar days. (Approved 12/14/11- Motion #32-2011/12). The Director of Classified Personnel may place advertisements in newspapers, trade and business journals, or other media. The Director of Classified Personnel shall make every effort to ensure that recruitment is as broad-based as possible.

5.1.1.3 The Position Announcement shall contain the title of the class and shall include the following:

1. Information concerning the location of employment and other conditions of employment
2. A description of the scope of duties and responsibilities of the class
3. The qualifications and requirements of the class
4. The salary, benefits, and other compensation
5. The closing date for filing applications
6. The types and weights of examinations to be given
7. Such other information as will assist interested persons in fully understanding the nature of the employment and procedures necessary to participate in the examination.
8. Location and assigned work hours.

REFERENCE: Education Code Sections 45260, 45261, 45272, and 45278

5.2 EXAMINATIONS

5-2.1 DETERMINATION OF EXAMINATIONS:

The Personnel Commission shall determine the standards of proficiency to be required for such examination and the examination shall be:

5.2.1.1 Open Competitive and applicable to all internal and external applicants.

5.2.1.2 With the exception of entry level classifications, in-house promotional exams will be conducted first. If sufficient candidates are not available to complete three ranks at the discretion of the Director of Classified Human Resources, Commission staff will move to 5.2.2.

REFERENCE: Education Code Sections 45272, and 45284

5.2.2 OPEN COMPETITIVE EXAMINATIONS:

The entry level classification (class lowest on the salary schedule) with the Classified Service of the District shall always have an open competitive examination and veterans' preference points shall be allowed as specified in Chapters 4-5. These examinations shall be open to all qualified applicants.

5.2.3 CONTINUOUS EXAMINATIONS:

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

5.2.3.1 If an Oral Board interview is required, the interview panel may consist of two persons who may be employees of the District or the Commission, as designated by the Director of Classified Personnel.

5.2.3.2 The resulting eligibility list may be merged with previous lists for the class in relative order of scores of the eligibles.

REFERENCE: Education Code Sections 45273, 45291, and 45292

5.2.4 TYPES OF EXAMINATIONS:

Examinations shall be conducted by the Commission's staff and shall be administered objectively and shall consist of test parts that relate to job performance. The parts may be any or a combination of any of the following:

5.2.4.1 Written examination

5.2.4.2 Practical demonstration of skill

5.2.4.3 Evaluation of training, education, and experience by an Oral Board interview panel; and/or

5.2.4.4 Instructional assistants are required to demonstrate proficiency in basic reading, writing, and mathematics skills up to or exceeding that required for high school seniors.

5.2.4.5 Other tests of fitness determined by the Commission;

REFERENCE: Education Code Sections 45260, and 45273

5.2.5 SCORING AND WEIGHING OF EXAMINATIONS

All examinations parts shall be prepared under the direction of the Director of Classified Personnel who shall determine passing scores and assign relative percentage weights to each part. The procedure for setting percentage weights shall be impartial and shall bear a reasonable relationship to the duties performed.

REFERENCE: Education Code Sections 45260, and 45261

5.2.6 ORAL BOARD EXAMINATION:

If an examination requires the use of an Oral Board interview panel, the Director of Classified Personnel shall assure that the following rules are followed:

5.2.6.1 The oral board panel shall consist of two or more members. One member shall be appointed by the CSEA President. CSEA Representative is defined in the CSEA Collective Bargaining Agreement.

5.2.6.2 An employee of the District or of the Commission may serve on an oral board panel if that employee is not at the first or second level of supervision over a vacant position in the class for which the examination is being held.

5.2.6.3 Unless specifically directed to evaluate candidates' technical knowledge and skills, the oral board panel shall confine itself to evaluating general fitness for employment in the class.

5.2.6.4 When the oral board panel is directed to evaluate technical knowledge and skills, at least two members of the oral board panel shall be technically qualified in the specified occupational areas under examination.

5.2.6.5 Members of the Board of Trustees or Personnel Commission shall not serve on an oral board panel.

5.2.6.6 Oral board proceedings shall be electronically recorded and retained in the Commission Office.

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

5.2.6.8 In no case will an oral or performance examination board be provided with confidential references on employees of the District who are competing in examinations.

5.2.6.9 In oral board panel examinations, ratings accorded competitors

shall be expressed in percentages with 70% being the minimum qualifying rating. Ratings shall be made independently by each oral board member either before or after discussion with other oral board members. Ratings shall be made independently on forms prescribed by the Director of Personnel, which shall be signed by the oral board member and be delivered to the Director of Personnel or his/her representative. All final markings shall be made in pen. When a competitor is disqualified by a member of the oral board panel, the interviewer shall make a record of the reason(s) on the rating sheet.

5.2.6.10 The ratings of the members of the oral board shall be averaged to determine each candidate's final rating. An average score of 70% or higher is required to pass the oral board.

5.2.6.11 The Director of Classified Personnel may set a threshold of less than 70%. This announcement will be made at the time of job posting.

REFERENCE: Education Code Sections 45260, 45261, and 45273

5.2.7 ADMISSION TO EXAMINATION:

Each applicant whose application has been approved shall be notified a reasonable time in advance of the time, date, and place of the examination, and such notice shall be the applicant's authority to take the examination. Each candidate must provide personal identification (with picture I.D.) at time of examination admittance in order to take the test.

REFERENCE: Education Code Sections 45260, and 45261

5.2.8 EXAMINATION PROCEDURES:

Competitors in any written test must take the test on the prescribed date unless approved by the Director of Classified Personnel. The Director of Classified Personnel may only allow an applicant to take a test on a day other than that established for all applicants if the reason is required by law, e.g. religious observance or other extenuating circumstances. This flexibility will apply to written examination for in-house examinations.

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

5.2.8.2 Where written tests are required, they shall be so managed that none of the test papers will disclose the name of any competitor until all papers of all competitors in a given examination have been marked and rated. The only exception to this rule shall be if the Commission maintains a computerized and automated test scoring system (scantron) which will automatically and accurately score the exams of all competitors, and which has built-in safeguards to insure that an individual examination score cannot be falsely altered.

5.2.8.3 A competitor in any examination who places an identifying mark upon test papers other than the identifying mark prescribed at the time of examination, or makes an attempt to disclose to others the

identity of the competitor's papers prior to the completion of the examination may be disqualified.

REFERENCE: Education Code Section 45260, 45261, and 452732

5.2.9 RATING REQUIRED:

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

REFERENCE: Education Code Section 45260, 45261, and 45273

5.2.10 SENIORITY CREDIT:

Seniority credit shall be added to the final passing scores of candidates who have permanency with the District or who are on a valid reemployment list. Seniority credit shall be calculated in the amount of one-half point for each full year of service not to exceed a total of five (5) points. Seniority points shall only be applied to the results of the written examination, regardless of score. If after seniority points are added and the score falls below 70%, the candidate will not proceed to the oral examination process.

5.2.10.1 After the Candidate's oral interview, the candidate shall receive a score from the interview panel.

5.2.10.2 The oral interview score shall be added with the candidates written score divide by two for an average score.

5.2.10.3 Score with a decimal of .5 or greater shall be rounded up; score with a decimal point of less than .5 shall be rounded down.

5.2.10.4 Example 79.5% rounded up to 80%, 79.4% round down to 79%.

5.2.10.5 After the completion of the averaging of the candidates score and addition of the candidate veteran's preference points, the candidate shall have obtained a minimum score of 70% in-order to be placed in a ranking.

5.2.10.6 Failure of a candidate to obtain an average score of 70% after the averaging of the candidates written, and oral score and the addition of his or her veteran's preference points shall eliminate the candidate from the selection process.

REFERENCE: Education Code Sections 45260, 45261, and 45272

5.2.11 VETERAN'S PREFERENCE:

Veterans not previously employed by the District, with 30 days or more of service who become eligible for appointment by attaining the passing mark established for the examination, shall be allowed an additional credit of five (5) points and disabled veterans shall be allowed an additional credit of ten (10) points, which shall be added to the percentages attained in the examinations by the veterans.

After commission staff has averaged the results of the written and oral examination scores, veterans' points will be added to this average score.

- 5.2.11.1 “Veteran” as used in this rule means any person who has served in the United States armed forces in time of war, or national emergency declared by the President of the United States of America, and who has been discharged or released under conditions other than dishonorable, proof of which shall be submitted to the Commission. “Armed forces” means the United States Air Force, Army, Navy, Marine Corps, or Coast Guard.
- 5.2.11.2 “Disabled Veteran” as used in this rule means any veteran, as defined in rule 5.2.11.1, who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the armed forces. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.
- 5.2.11.3 Veteran's preference shall be granted for initial employment only with submission of DD214 form showing discharge status by the filing deadline.
- 5.2.11.4 Five-point preference is given to those honorably separated veterans (this means an honorable or general discharge) who served on active duty (not active duty for training) in the Armed Forces:
- during any war (this means a war declared by Congress, the last of which was World War II);
  - during the period April 28, 1952, through July 1, 1955;
  - for more than 180 consecutive days, any part of which occurred after January 31, 1955, and before October 15, 1976;
  - during the Gulf War period beginning August 2, 1990, and ending January 2, 1992; or
  - for more than 180 consecutive days, any part of which occurred during the period beginning September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last day of Operation Iraqi Freedom; or
  - in a campaign or expedition for which a campaign medal has been authorized, such as El Salvador, Lebanon, Granada, Panama, Southwest Asia, Somalia, and Haiti.
- 5.2.11.5 Medal holders and Gulf War veterans who originally enlisted after September 7, 1980, or entered on active duty on or after October 14, 1982, without having previously completed 24 months of continuous active duty, must have served continuously for 24 months or the full period called or ordered to active duty.

- 5.2.11.6 Effective on October 1, 1980, military retirees at or above the rank of major or equivalent, are not entitled to preference unless they qualify as disabled veterans.
- 5.2.11.7 Ten-point preference is given to: those honorably separated veterans who 1) qualify as disabled veterans because they have served on active duty in the Armed Forces (including training service in the Reserves or National Guard) at any time and have a present service-connected disability or are receiving compensation, disability retirement benefits, or pension from the military or the Department of Veterans Affairs; or 2) are Purple Heart recipients.

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

5.2.12 NOTICE OF FINAL SCORE:

Candidate's who qualify, shall be notified by the Personnel Commission's staff within fifteen (15) working days after completion of the examination of their standing on the eligibility list. Candidates who do not qualify shall be notified within fifteen (15) working days after completion of the examination.

REFERENCE: Education Code Sections 45260, and 45261

5.2.13 VIOLATION OF THESE EXAMINATION RULES/LAW:

Whenever the Personnel Commission, after a public hearing, finds that any appointment has been made in violation of the Education Code provisions of the merit system, or these Rules as they apply to examination procedures, the Commission may order that no salary warrant shall thereafter be drawn to the employee so appointed after the date of the order, and such violation shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

REFERENCE: Education Code Sections 45310, and 45311

5.3 REVIEW AND PROTEST OF EXAMINATION:

5.3.1 RETENTION OF ALL EXAMINATION RECORDS:

Examination records, including test answer sheets, tape recordings of oral board proceedings and the rating sheets of each member of an oral interview panel shall be retained by the Personnel Commission for a period of two (2) years.

REFERENCE: Education Code Section 45274

5.3.2 EXAMINATION RECORDS SHALL BE CONFIDENTIAL:

Examination records shall be confidential. Records, such as identifiable ratings of oral panel members and confidential references of previous employers shall not be available for review except in response to a lawfully issued subpoena or as required by law. Exceptions: Commissioners & Commission staff will be privy to this information based on business necessity.

REFERENCE: Education Code Section 45274

5.3.3 AVAILABILITY FOR REVIEW:

Remaining examination records (excluding test questions) such as written test answers, tapes and scores of the candidate or eligible shall be available for review only by the candidate or representative. The candidate or representative may not review the records of another person. Review of test segments shall be made during the five (5) working days following notification. At the time of review the candidate may protest in writing, any part of the examination, outlining the basis for the protest and stating the remedy sought. No candidate may remove or copy information from the examination materials. Failure to request a review or file a protest with the Director of Classified Personnel within five (5) working days forfeits the candidate's right to appeal that portion of the selection process.

REFERENCE: Education Code Section 45274

5.3.4 FAILURE TO FILE PROTEST:

Failure to review or file a protest with the Director of Classified Personnel within the review period shall constitute a waiver of the right to appeal that part of the selection process.

REFERENCE: Education Code Section 45260, and 45261

5.3.5 DIRECTOR OF CLASSIFIED PERSONNEL SHALL REVIEW ALL PROTESTS:

The Director of Classified Personnel shall review and act upon all protests. The Director may allow more than one (1) answer to a question or may disqualify a question if the protest is valid. If a protest results in any change, the test papers of all candidates will be reviewed and rescored accordingly. If necessary, the Director will consult with subject matter experts to make a final determination on the protest. The candidates appealing will remain confidential.

5.3.6 APPEAL TO COMMISSION:

The Director of Classified Personnel shall inform the candidate who has submitted the protest of his/her decision within ten (10) working days and at the same time shall notify the Personnel Commission. That decision shall be in writing and served in person or by certified mail (Return Receipt Requested) to the applicant. This requirement will be deemed to have been met if the Director's decision is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the applicant to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. The employee is responsible for keeping the District informed of a home address. For purposes of this rule, if a notice is properly mailed, it shall be deemed effective on the second working day following the postmark date of the notice. The Director of Classified Personnel should rule against the protest, that decision may be appealed to the Personnel Commission. However, the filing of such an appeal shall not stop or otherwise delay the selection (examination) process unless so ordered by the Personnel Commission. All correspondence mailed to applicants under this rule shall also be mailed to the Personnel Commissioners.

5.3.6.1 Appeals to the Personnel Commission shall be submitted in writing to the Personnel Commission Office within five (5) working

days of receipt of the decision of the Director of Classified Personnel.

- 5.3.6.2 The Personnel Commission shall hold a hearing to hear the appeal of the applicant. The decision of the Personnel Commission shall be in writing and served on the applicant. The decision of the Personnel Commission shall be final and binding on all parties.

## CHAPTER 6

### ELIGIBILITY FOR EMPLOYMENT

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#### 6.1 SECTION 6. ELIGIBILITY LISTS

##### 6.1.1 ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS:

After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable. The completed list constitutes an eligibility list for that class upon signature by the Director of Classified Personnel. All eligibility lists will be ratified by the Personnel Commission.

6.1.1.1 Unless specifically authorized in these Rules, all appointments to positions in the Classified Service shall be made from eligibles whose names appear on eligibility lists. The Director of Classified Personnel shall be responsible for establishing eligibility lists as a result of examinations authorized by these Rules.

REFERENCE: Education Code Sections 45260, 45261, and 45272

##### 6.1.2 CONTENTS OF ELIGIBILITY LIST:

An eligibility list shall contain:

- A. The names of all eligibles in final rank order of total examination scores.
- B. The weighted total score.
- C. The expiration date of each person's eligibility for merged lists.
- D. The signature of the Director of Classified Personnel or designee attesting to the accuracy of the information on the eligibility list.
- E. The date the list was ratified or approved by the Personnel Commission.

REFERENCE: Education Code Sections 45260, 45261, and 45272

##### 6.1.3 CERTIFICATION BY PERSONNEL COMMISSION:

All eligibility lists shall be certified by the Commission.

6.1.3.1 The Director of Classified Personnel may submit eligibility lists for ratification and approval by the Commission subsequent to certification from the list. Appointments may be made from available eligibles.

6.1.3.2 The rule of Three Ranks will apply for all certifications.

REFERENCE: Education Code Sections 45260, 45261, and 45272

TYPES OF ELIGIBILITY:

Appointments to position shall be made from:

6.1.4.1 Eligibility Lists: In order of precedence:

6.1.4.1.1 Reemployment: A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, voluntarily demoted in lieu of layoff, lost their positions because of abolishment or reclassification of positions, exhaustion of illness or accident leave, or return from military duty under conditions set forth in these rules. These eligibles shall take precedence over all other persons eligible for appointment.

Order of Certification from Reemployment List

Held Previous Status

6.1.4.1.1.1 Before a position is filled from an active Eligibility List, the Personnel Commission will determine if that position can be filled by someone from the Reemployment List. The most senior individual on the Reemployment list shall be returned to any vacancy that occurs in the position from which they were laid off. Employees, who are on the Reemployment List because of layoff or because of having their work hours reduced, shall, based on seniority, return to a vacant position within their same job classification with increased hours, up to the number of hours previously worked. Increased hours can be more than the employee worked prior to the reduction, provided that an opportunity has been given to current active employees within that classification to first fill the position internally.

Tucker

If a vacancy occurs in any classification with different responsibilities other than the position from which the individual was laid off, the individual may apply for the position. Upon meeting the position qualifications and completing the testing processes as established by the Commission, the individual shall have an automatic preference over outside candidates. Placement in the top **three rankings** is not required in this instance. Placement on the Eligibility list is all that is required. If more than one person from the Re-employment list applies for a position under Tucker, the hiring authority will select from any of the Reemployment names certified by the Personnel Commission. (Approved 9/15/14 – Motion No. 9-2014/15, Document No. 5-2014/2015)

REFERENCE: Education Code Sections 45272, 45298

No Previous Status/ Same Salary and Range

6.1.4.1.1.2 If a vacancy occurs in any other position within the same job family (as listed in addendum “C” of the CBA attachment) and that position has the identical salary range as the position laid off from, that individual will be notified of the opportunity to be tested for the

open vacancy. In order of seniority, starting with the most senior, individuals will be notified and if that person desires placement and has never served in that position, they will be tested to determine if they are qualified for the position. Individuals who pass the examination will be placed in the open position within their class based on seniority. Previous employment within the position will not require testing.

6.1.4.1.1.3 No Previous Status/Lower Salary Range in Same Job Family  
If a vacancy occurs in any position within the same job family (as listed in addendum "C" of the CBA attachment) and that position has a lower salary range as the position laid off from, that individual will be notified of the opportunity to be tested for the open vacancy. In order of seniority, starting with the most senior, individuals will be notified and if that person desires placement, they will be tested to determine if they are qualified for the position. Individuals who pass the examination will be placed in the open position within their class based on seniority. Previous employment within the position will not require testing.

6.1.4.1.1.4 Return to lower Classification in Class Series  
Individuals, who held status in a higher level position and come back to a lower classification within their class (Ex. Administrative Assistant III to Administrative Assistant II, I, or Head Custodian IV to Head Custodian III/ II /I) will not be required to test for the lower classification.

6.1.4.1.1.5 If after exhausting all reemployment and reinstatement lists and after transfer requests have been considered, the position is still vacant; the position will be posted for all current MUSD employees. Former employees on a reemployment list who were not eligible for placement under reemployment rules will be mailed an announcement of all MUSD classified openings.

6.1.4.1.1.6 If there are not sufficient eligibles on the list an open recruitment will be conducted. (Sections 6.1.4.1.1- 6.1.4.1.1.6 added Motion #26-2012/13 - February 25, 2013)

REFERENCE: Education Code Sections 45260 and 45261

6.1.4.2 Other methods to fill positions:

6.1.4.2.1 TRANSFER - Refer to Collective Bargaining Agreement (CBA) Article XI

6.1.4.2.2 Internal and External: A list of eligibles resulting from an examination of all qualified applicants. Eligibility list candidates will be certified by rank (ties of final scores will be ranked together.)

6.1.4.2.3 Former Employees: To be eligible, a former regular permanent employee who resigned in good standing shall

make a written request to the District's Human Resources Office within 39 months from last day of employment to be considered for any classification in which they have achieved regular permanent status. Upon approval by the District, the request shall be forwarded to the Director of Classified Personnel. That person's name will appear on the certified requisition and will not count toward the number of ranks submitted to the hiring authority. A former employee may waive twice without penalty. The third waiver will constitute removal from the reemployment list.

REFERENCE: Education Code Section 45309

6.1.5 DURATION OF ELIGIBILITY LISTS:

An eligibility list shall be in effect for a period of six months or one year, unless otherwise determined by the Director of Classified Personnel, and may be extended for up to an additional year by the Commission. The duration of the eligibility list shall be noted on the job announcement for the examination. When merging lists or continuous recruitment, names of successful competitors may be added to eligibility lists by the Director of Classified Personnel.

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

6.1.5.2 Incomplete Certificates: Hiring authority given option to interview.

REFERENCE: Education Code Sections 45260, 45261, and 45300

6.1.6 MERGER OF ELIGIBILITY LISTS:

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

6.1.6.1 When lists are merged under this Rule, the earlier list shall be terminated one year after its establishment and those eligibles' names shall be removed from the consolidated list, except when the earlier list is extended.

6.1.6.2 A competitor who participates in an examination during their eligibility on an earlier eligibility list for the same classification shall utilize their new scores when the lists are merged. The higher score will always be used.

REFERENCE: Education Code Sections 45260, 45261, 45291, and 45300

6.1.7

REEMPLOYMENT LISTS:

There shall be established for each class, as necessary, a reemployment list which shall take precedence over all other employment lists in filling vacant positions. This list shall contain the names of all regular classified employees who have been laid off or demoted from any position because of lack of work or lack of funds, abolishment or reclassification of position, exhaustion of illness or accident leave or return from military duty as set forth herein.

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

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

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

6.1.8

TERMINATION OF ELIGIBILITY LISTS:

An eligibility list is automatically terminated at the end of the period as established on the job announcement unless extended by the Commission.

6.1.8.1 An eligibility list may be terminated by the Director of Classified Personnel prior to its expiration when there are fewer than three (3) ranks of eligibles remaining on the list. Candidates on such lists shall be notified of the proposed termination.

REFERENCE: Education Code Section 45300

6.1.9

ELIGIBILITY AFTER APPOINTMENT:

An eligibility list shall be used for full-time, part-time, regular provisional and limited-term assignments in the class.

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

6.1.10

REMOVAL OF NAMES FROM ELIGIBILITY LISTS:

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

A. Failure to respond within five (5) working days from the date of certification of employment letter of an inquiry regarding availability for employment.

- B. Any of the causes listed in Section 4.2.2
- C. Failure to respond for a scheduled interview after certification.
- D. Refusing an employment offer after having been properly certified as eligible and available for the appointment.
- E. A written request by the eligible for removal.
- F. Failure by the applicant to keep their address and telephone number information current with the Personnel Commission.

REFERENCE: Education Code Sections 45260, and 45261

6.1.11 NOTIFICATION TO ELIGIBLE OF REMOVAL FROM LIST:

The Commission shall notify the eligible of the action and the reasons therefore and shall provide the person with the opportunity to appeal the decision to the Commission within five (5) working days of notification. The decision of the Commission shall be final.

REFERENCE: Education Code Sections 45260, and 45261

6.2 CERTIFICATION FROM EMPLOYMENT LISTS

6.2.1 APPOINTING AUTHORITY:

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

6.2.2 RULE OF THREE RANKS:

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

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

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.2.3 CERTIFICATION AND APPOINTMENT FROM ELIGIBILITY LISTS:

6.2.3.1 The Director of Classified Personnel shall determine the availability of eligibles and shall certify the names of all eligibles whom are ready and willing to accept appointment to a position to be filled.

6.2.3.2 The appointing authority or a representative of the appointee shall, within five (5) working days following the interview, make a selection from the persons presented and shall notify the Director of Classified Personnel who shall see that the necessary employment procedures are carried out. This five day period may be extended by the Director of Classified Personnel.

6.2.3.3 If a candidate who was declared eligible for appointment to a position fails to keep an interview appointment or declines the appointment, the appointing authority may fill the vacancy from the remaining eligibles or may request certification of additional eligibles.

REFERENCE: Education Code Sections 88080, 88081, 88091, 88096

6.2.4 PROCEDURE WHEN FEWER THAN THREE RANKS REMAIN

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

6.2.4.2 If the appointing authority does not interview from the current list with less than 3 eligibles, the current valid eligibility list and new eligibility lists are merged and the appointing authority must then select from the top 3 ranks.

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.2.5 CERTIFICATION OF ADDITIONAL ELIGIBLES:

If an eligible who has been certified, refuses appointment or fails to respond for an interview, the appointing authority shall notify the Director of Classified Personnel. When a request for additional eligibles is made, the Director of Classified Personnel shall:

- A. Certify additional eligibles as required.
- B. Remove the names of eligibles who failed to report for interviews or who refused appointment from the eligibility list.
- C. Investigate the matter at his/her discretion to determine that any appointment refusal is in fact voluntary.
- D. Request authorization from the Commission to refuse further certification should the investigation determine that refusal of appointment by an eligible is in fact not voluntary.

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.2.6 FAILURE TO MAKE APPOINTMENT:

If, after having the certified list for thirty 30 calendar days, the hiring manager

fails to make a selection from the top three ranks of eligibles, the Director of Classified Personnel shall direct that the position be vacated immediately (if there is a provisional or limited term employee assigned to fill the vacancy), and remain vacant until such time as the eligibility list for that class expires. Exceptions to this rule may be made by the Director of Classified Personnel upon a showing of extraordinary circumstances and must be ratified by the Personnel Commission at its next regular meeting.

REFERENCE: Education Code Sections 45260, 45261, and 45272

## 6.2.7

### DUTIES OF ELIGIBLES:

It shall be the duty of every eligible to respond promptly after receiving notice of certification. The eligible will be expected to respond within five (5) working days from the date notification is mailed. Failure to respond within the above stated time may result in removal from the eligibility list.

6.2.7.1 Eligibles are required to keep the Personnel Commission Office informed as to current home address and telephone numbers where they can be reached to schedule employment interviews. Failure to keep the Personnel Commission Office informed will result in the eligible being removed from the eligibility list.

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

6.2.7.1.2 Notification may be made by telephone, registered or certified mail.

6.2.7.1.3 The appointing authority may allow a period longer than two (2) weeks at its discretion.

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

REFERENCE: Education Code Sections 45260, 45261, and 45272

## 6.2.8

### CONFIDENTIALITY OF TEST SCORES:

Test scores shall be considered confidential information and release of information shall be limited to:

6.2.8.1 After approval by the Personnel Commission, eligibility lists showing the relative ranking of each candidate without showing the specific percentage scores.

6.2.8.2 Only information relating to eligibles that have been certified shall be released to the appointing authority.

6.2.8.3 Only information pertaining to an eligibles own scores and current position on the list shall be released to the eligible or his/her

representative.

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

## CHAPTER 7

### APPOINTMENT TO CLASSIFIED POSITIONS

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#### 7.1 PROCEDURES FOR APPOINTMENT

##### 7.1.1 PROCEDURES FOR SELECTION:

Excluding reinstatement list; the appointing authority shall interview the top three ranks certified from an appropriate employment or eligibility list. Appointments shall be made from eligibles having the first three (3) ranks of eligibles on the list whom are ready and willing to accept the position(s).

Once the hiring authority has made a selection, he/she shall complete the Manager's Hiring Recommendation Form, and, following the appropriate signatures, the Manager's Hiring Recommendation Form will be forwarded to the director of Human Resources, for approval of the selection. Once approved, the Director of Human Resources will provide a copy of the Manager's Hiring Recommendation Form to the Director of Classified Personnel.

REFERENCE: Education Code Sections 45161, and 45272

##### 7.1.2 APPOINTMENT:

Upon selection, each prospective employee shall receive the official offer of employment by Human Resources conditional upon meeting pre-employment conditions with ultimate approval action by the Board of Trustees. The offer shall include the time and date to report for duty and the salary at time of hire. Appointment to the position shall be subject to review by the Personnel Commission, approving that the employee was hired pursuant to these Rules and the Education Code and the Board of Trustees action to employ as the employer, except for Commission positions.

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

REFERENCE: Education Code Sections 45260, and 45261

##### 7.1.3 DISCRIMINATION PROHIBITED:

No applicant or eligible certified for appointment shall be discriminated against because of his/her actual or perceived political or religious beliefs or affiliations, race, color, national origin or ancestry, sex, age (over 40), marital status, employee organization membership or non-membership and legal activities related thereto, physical or mental disability, medical condition, sexual

orientation, or gender identity. No questions shall be asked relating to these matters during the selection and interview stages of employment.

REFERENCE: 1. Education Code Section 45293  
2. Government Code Sections 12900 et seq.

7.1.4 NEPOTISM:

The Commission's Rule governing the employment of immediate family in classified positions is intended to establish an exclusion regarding supervisor/subordinate relationships.

7.1.4.1 No person shall be appointed or assigned to a position in any department in which such person's immediate relative holds a position, when such employment would result in any of the following: a. A supervisor-subordinate relationship; b. The employees have job duties which require performance of shared duties on the same or related work assignment; c. Both employees have the same immediate supervisor.

7.1.4.2 For purpose of this Rule, immediate family or relative shall include the father, mother, mother-in-law, father-in-law, grandparents, or grandchild of the supervisor/administrator or his/her spouse, as well as the spouse's son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, or any person residing in the immediate household of the supervisor/administrator.

REFERENCE: Government Code Section 12940

7.2 PROVISIONAL APPOINTMENT

7.2.1 REASONS FOR PROVISIONAL APPOINTMENT:

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

7.2.1.1 No eligibility list exists for the class or;

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

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

7.2.2 LENGTH OF PROVISIONAL APPOINTMENT:

A provisional appointment may accumulate to a total of ninety (90) working days. In no case may a person be employed in a provisional assignment for a total of more than 126 working days in any fiscal year.

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

7.2.3 EXTENSION OF PROVISIONAL APPOINTMENT:

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

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

7.2.3.2 Satisfactory evidence is presented indicating:

7.2.3.2.1 Adequate recruitment effort has been and is being made.

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

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

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

7.2.4 SUCCESSIVE 90 DAY APPOINTMENTS:

In the absence of an appropriate eligibility list, successive ninety (90) working day appointments may be made to a position for a period not exceeding the 126 working day limitation when:

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

7.2.4.2 The position is part time.

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

REFERENCE: Education Code Sections 45287, 45288, and 45289

7.2.5 QUALIFICATIONS OF PROVISIONAL APPOINTEES:

Provisional appointees must meet the qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be made by the Director of Classified Personnel prior to appointment.

REFERENCE: Education Code Sections 45260, and 45261

7.2.6 STATUS OF PROVISIONAL EMPLOYEES:

To be eligible for appointment to a regular position, the provisional appointee must qualify by competitive examination for a place on the eligibility list.

7.2.6.1 Time served in provisional status shall not be counted as credit toward permanency or completion of the probationary period for the class in which the provisional appointment is made or provide the person with any other vested rights in the position or class.

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

7.2.7 TERMINATING PROVISIONAL APPOINTMENT:

The services of a provisional appointee shall be terminated within twenty (20) working days after the date on which a list is certified to the hiring authority. A provisional appointment may be terminated at any time, at the discretion of the appointing authority. Provisional appointments are employed at-will and can be terminated without cause.

REFERENCE: Education Code Sections 45260, and 45261

7.3 SPECIAL APPOINTMENTS

7.3.1 PROCEDURE FOR EMERGENCY APPOINTMENT:

If it should become necessary in time of an actual emergency to fill positions in the Classified Service to prevent the stoppage of public business, the Board of Trustees, through its authorized management representatives, may make emergency appointments without reference to eligibility lists, for a period not to exceed fifteen (15) working days.

7.3.1.1 When such emergency appointments are made, it shall be the duty of the Board of Trustees to provide the Director of Personnel of Classified Personnel with written information outlining the date of appointment and nature of duties performed, giving a statement justifying the emergency nature of such appointments, and any other additional information requested by the Director.

REFERENCE: Education Code Section 45290

7.4 LIMITED-TERM APPOINTMENTS

7.4.1 PROCEDURE FOR ESTABLISHMENT OF LIMITED –TERM POSITIONS:

When a limited-term position is established, the appointing authority shall notify the Personnel Commission Office in writing of the hours per week, starting date and length of the assignment.

7.4.1.1 A limited-term appointment may be in the same class as that of the absent employee or the duties may be reduced in level and the appointment may be made to a lower class.

REFERENCE: Education Code Sections 45286-45290

7.4.2 ELIGIBILITY FOR APPOINTMENT:

Limited-term appointments shall be made from eligibility lists and employment lists.

7.4.2.1 When no eligible is available to accept a limited-term position, the Director of Classified Personnel is authorized to make a provisional appointment to the limited-term position. The Director of Classified Personnel may accept the recommendation of the appointing authority needing a limited term position.

REFERENCE: Education Code Sections 45286-45290

7.4.3 POSITIONS DEFINED:

Positions established to perform duties which are not expected to exceed six (6) months. Limited Term Appointments Defined- The appointment of an individual to fill a position, the duration of which is to not exceed six (6) months, or, in the case of an appointment in lieu of an absent employee, is not to exceed the authorized absence of said employee shall be designated as Limited Term Appointments. Individuals selected to these temporary appointments shall be certified from established employment lists.

REFERENCE: Education Code Section 45286

7.4.4 COMPENSATION FOR LIMITED-TERM/SUBSTITUTE ASSIGNMENTS:

When a regular employee is given a limited-term appointment in a higher class in lieu of all or part of the employee's regular appointment, the rate of pay in the second class shall be the rate of that class which is next above the employee's regular rate, and which will provide at least 5% salary increase, but not more than the highest rate applicable to that class.

7.4.4.1 Former employees who accept a limited-term assignment in their previous class shall be placed on the step of the salary schedule closest to their last regular rate of pay. Former employees who accept a limited-term assignment to positions in other classifications shall be placed on the first step of the salary range for that class.

7.4.4.2 All other limited-term employees shall be paid at step 1 of class for regular appointments in the class.

REFERENCE: Education Code Sections 45286-45290, and 45309

7.4.5 RIGHTS AND BENEFITS DURING LIMITED-TERM ASSIGNMENTS:

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

7.4.5.1 No credit toward completion of probation shall accrue from service

in a limited-term appointment.

REFERENCE: Education Code Sections 45260, 45261, 45286-45290, and 45309

7.4.6 TERMINATION OF LIMITED-TERM APPOINTMENT:

A limited-term appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority. The appointing authority shall immediately notify the Director of Classified Personnel when a limited-term assignment is being terminated.

7.4.6.1 A limited-term employee is an at-will employee and may be dismissed without cause.

REFERENCE: Education Code Sections 45260, and 45261

7.4.7 LEAVE TO SERVE IN EXEMPT, PROVISIONAL/LIMITED-TERM POSITION:

Any permanent classified employee who accepts an assignment within the District to an exempt, provisional or limited-term position shall, during such assignment, be considered as serving in his/her regular position, and such assignment shall not be considered to be a separation from service.

7.4.8 VOLUNTARY RETURN TO REGULAR POSITION:

Such employee may, with the approval of the appointing authority, voluntarily return to his/her regular position or to a position in the class of his/her permanent status prior to the completion of service in the exempt, provisional or limited-term assignment.

REFERENCE: Education Code Sections 45260, and 45261

7.5 EMPLOYMENT OF PERS RETIREES AND VOLUNTEERS

7.5.1 GENERAL POLICY ON RETIREES:

Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed in accordance with Personnel Commission rules. The retired person must be informed that employment is restricted by PERS guidelines in any calendar year with the District.

REFERENCE: Education Code Section 45135; Government Code Section 21220 et seq

7.5.2 COMPENSATION OF RETIREES:

A retired employee under authority of this Rule shall be entitled only to the appropriate salary earned including overtime compensation.

7.5.2.1 Retired employees appointed to positions in their last permanent classification shall be placed on the step of the salary schedule closest to their last rate of pay (excludes differential pay). Retired

personnel appointed to positions in any other class shall be placed on the first step of the appropriate range on the salary schedule.

7.5.3 ASSIGNMENT:

A retired employee under this Rule is not subject to reinstatement to PERS nor does the compensation period provide for retirement allowance adjustment.

7.5.3.1 The appointing authority shall certify to the Director of Classified Personnel that a retired employee employed under this Rule meets the provisions of this Rule and the combined calendar year employment will not exceed 960 hours.

7.5.4 VOLUNTEER AIDES:

Volunteer aides may be assigned non-instructional work and shall be under the immediate supervision of a certificated employee. No classified positions may be abolished to use volunteer aides in lieu thereof.

REFERENCE: Education Code Sections 35021, 35212, and 45349

7.5.5. DEFINITION: SUMMER SCHOOL/EXTENDED WORK-YEAR ASSIGNMENTS  
(Approved MOTION NO. 65-2011/12)

A. When the Board of Education establishes temporary classified positions during the Period before/after the regular academic school year (e.g. summer school) or during other break periods (e.g. winter recess) during the school year, those positions shall be offered to regular employees of the District, who desire such employment. Only in the event of insufficient applications from current District employees will persons not employed by the district be offered to compete for the positions. In such instances, qualifications for examination, in accordance with standard classified personnel selection procedures shall be applicable.

B. A "Summer Assignment" constitutes employment of a classified employee in the same job classification as their regular year assignment/work.

C. Personnel Commission staff will disseminate information regarding summer school employment opportunities to school sites/departments by means of memorandum, bulletin posting, district-wide email notification, as well as, make the information and application process available via online on the Personnel Commission webpage of the District website.

7.5.6. ELIGIBILITY FOR SUMMER ASSIGNMENTS

A. Classified employees interested in summer assignment employment must submit a '*Classified Summer Employment Application*' to the Personnel Commission office pursuant to the requirements and deadlines established. Applications shall be time and date stamped at the time of receipt. Applications shall not be accepted after the announced deadline, provided a sufficient applicant pool exists to staff available summer school/extended work year assignments.

B To qualify for a summer assignment, an employee must meet the following criteria:

- a) Must have the most recent performance evaluation as “meets standards” or higher;
- b) Be able and willing to work during the **entire** summer assignment.
- c) Meet the qualifications established for the class to which the appointment is to be made.
- d) Complete all relevant information accurately on the Summer Employment Application, as consideration for summer assignments may in part be based on the qualification attributes listed on the form.

C. Employees accepting summer school assignments are expected to be present for each day of summer school. Those who have vacation plans that would require an absence of more than three (3) days in the course of the summer assignment shall not be selected for summer school assignments ahead of employees who are able and willing to work the entire duration of the assignment.

#### 7.5.7. APPOINTMENT TO SUMMER ASSIGNMENTS

A. Appointment to summer assignment positions shall be on the basis of seniority (except as noted below) among employees requesting summer/recess period employment.

a. Selection for summer school positions shall begin at the top of these classification seniority lists and the selection to fill positions shall continue down the list until all positions are filled.

B. In case of equal seniority, selection of the best qualified applicants in the district on the basis of the applicant's area of competence, experience in the appropriate classification and related classifications, performance evaluations, attendance record, and length of service with the district shall be considered to break ties.

C. In the event that an available summer assignment requires specific skills, specialized training and/or experience, then only those with such attributes will be considered within a pool of employees.

D. Should a summer school assignment be offered and then withdrawn based on insufficient program enrollment, such that the staffing need is eliminated or decreased, the employee will be reinstated back on the seniority list for consideration for other available summer assignments.

E. If there are insufficient employees in the class, appointment shall be made on the basis of seniority of employees who are qualified to perform the duties of the position, as determined by the Director, Classified Human Resources.

## CHAPTER 8

### COMPENSATION AND PAY PRACTICES

**Note: CSEA BARGAINING UNITS - REFER TO Articles V and VI of the COLLECTIVE BARGAINING AGREEMENT**

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#### 8.1 DETERMINATION OF SALARY SCHEDULES/PAY RATES

8.1.1 FIXING ANNUAL SALARY SCHEDULES: The Education Code authorizes the Board of Education to fix the annual salary schedules for all classified employees and other employees not requiring certification qualifications employed by the District unless otherwise prescribed.

8.1.1.1 The Education Code requires the Board of Education, not later than the date prescribed for approval of the publication budget of every year, to fix the salary schedule for the ensuing school year for all classified employees. Any action taken by the Board of Education must be in compliance with the Personnel Commission's Rules and Regulations.

REFERENCE: Education Code Section 45261

8.1.2 BOARD MAY INCREASE SALARY SCHEDULE: The Board of Education may increase the salary schedule for classified employees at any time during the fiscal year and will consider increases and/or decreases resulting from the classification or reclassification of positions as approved by the Commission.

REFERENCE: Education Code Section 45261

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

REFERENCE: Education Code Section 45241

8.1.4 COMMISSION SHALL RECOMMEND SALARY SCHEDULES TO BOARD: The Director-Personnel Commission shall prepare recommendations for classified salary schedules for approval by the Personnel Commission. The salary schedule(s) approved by the Personnel Commission shall be presented to the Board of Education. The Commission's recommended salary schedule may take into account the following factors:

8.1.4.1 The wages and salaries paid by other school Districts in the recruitment area.

8.1.4.2 The principle of like pay for like work within the classified services.

8.1.4.3 Differential pay for those employees required to work an early morning or late evening shift.

8.1.4.4 Differential pay to those employees required to perform duties of a distasteful, dangerous or unique nature.

8.1.4.5 Such other information as the Commission may require.

REFERENCE: Education Code Sections 45256 and 45268

8.1.5 BOARD'S ACTION ON SALARY SCHEDULE RECOMMENDATIONS: The Board of Education may approve, amend, or reject the salary schedule recommendations of the Personnel Commission, but may not alter the relationships and salary range placements of the classes as established by the Personnel Commission until the Personnel Commission is first given the right to comment on the changes.

REFERENCE: Education Code Section 45268

8.1.6 COMMISSION SHALL DETERMINE SALARY RANGE PLACEMENTS: The Personnel Commission shall set reasonable relationships between the various classifications. The Commission may make modifications to the relationships as part of its statutory obligations after the District Administration and any exclusive bargaining agent that represents impacted employees have had an opportunity to comment on the modifications. The Personnel Commission adopted schedule of relationships for all classifications is contained in Appendix A, which by reference is incorporated as a part of these Rules and Regulations.

REFERENCE: Education Code Section 45261

## 8.2 APPLICATION OF SALARY SCHEDULES

8.2.1 INITIAL SALARY PLACEMENT: All new regular classified employees shall be paid in accordance with the salary range established for the class to which assigned. The hiring rate will normally be the first step of the salary range. However, a new employee may be provided with advanced step placement up to step 3 upon a recommendation from the appointing authority and approval by the Director of Classified Personnel based upon such factors as:

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

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

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

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

Hiring above the 3<sup>rd</sup> step will require approval by the Personnel Commission.

REFERENCE: Education Code Sections 45260 and 45261

- 8.2.2 SALARY PLACEMENT OF TEMPORARY EMPLOYEES: Salary placement of temporary, substitute, and limited-term employees will be at 3.5% below the first step of the appropriate salary range.

REFERENCE: Education Code Sections 45260 and 45261

- 8.2.3 STEP ADVANCEMENT: New classified employees who have completed at least six (6) months of satisfactory service by July 1<sup>st</sup> of the year of employment are eligible for their first step advancement in the salary schedule.

New employees hired after January 1<sup>st</sup> but not later than April 1<sup>st</sup> are eligible to receive their first step advancement on January 1<sup>st</sup>, and the second step advancement on the following July 1<sup>st</sup>. All step advancements thereafter shall be granted annually on July 1<sup>st</sup>.

- 8.2.3.1 Merit salary adjustments shall not be granted automatically, but must be based upon satisfactory performance by the employee as shown by his/her last service evaluation.

- 8.2.3.2 The employee shall be notified by his/her immediate supervisor of any denial of a salary step advancement in writing with the reasons for the denial.

REFERENCE: Education Code Sections 45260 and 45261

- 8.2.4 "Y" RATING INCUMBENTS: By special resolution of the Personnel Commission, the effects of downward range adjustments may be mitigated by a policy of "Y" rating the impacted incumbent's current hourly salary until the new lower salary range hourly rate catches up to the incumbent's salary. The impact of this policy would mean that an incumbent so "Y" rated would receive no general cost of living or normally entitled salary step increase until his/her old higher hourly rate was matched and/or exceeded by the new lower hourly rate.

- 8.2.4.1 Whenever the Personnel Commission gives authorization to "Y" rate an incumbent, the rate will be discontinued when the employee receiving the rate is promoted or separates from the service. It will also be discontinued whenever the salary range for the class is increased so that it encompasses the employee's present rate, in which event the employee's salary rate will be adjusted to the nearest highest amount in the new range.

REFERENCE: Education Code Sections 45260, 45261

- 8.2.5 PROMOTIONAL SALARY RATE: In determining the salary for an employee who is promoted, the following procedure shall be used:

- 8.2.5.1 The new salary step placement shall be to a step in the new range that gives approximately a 2-1/2 percent increase.

- 8.2.5.2 When computing salary for promotional step placement, employees who had been receiving shift differential pursuant to

these Rules and will no longer due to the promotion shall have their "present monthly salary" for the purposes of calculating the new promotional salary step placement include any shift differential they had been receiving in the lower class.

REFERENCE: Education Code Sections 45260 and 45261

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

8.2.6.1 When the employee's paid status credit since returning when combined with any previous service time earned prior to the unpaid leave but after the last Salary Adjustment Anniversary date increase, add up to the equivalent of one year's service credit for purposes of step advancement.

8.2.6.2 Credit for step advancement shall accrue during leaves of absence for military within the District, and any paid leaves of absence (e.g. illness, vacation, industrial accident/illness, etc.).

REFERENCE: Education Code Sections 45260, 45261, 45309

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

REFERENCE: Education Code Sections 45260, 45261, and 45309

8.2.8 SALARY PLACEMENT UPON FAILING PROBATIONARY PERIOD: An employee who is demoted to their former class during the probationary period shall be placed on the step of the former range and retain the former anniversary date they held prior to promotion.

REFERENCE: Education Code Sections 45260, 45261, and 45309

8.2.9 PLACEMENT WHEN REEMPLOYED OR REINSTATED: When an employee is reemployed or reinstated following a resignation, layoff, or other separation from employment, the employee shall be placed on the same step of the range for the class which he/she had achieved prior to the separation, including any change(s) in rate or range applicable to the employee's class; except that step advancement within the range shall be granted under the following conditions:

8.2.9.1 When the employee's paid status credit is combined with any previous service time earned prior to the employment separation, but after the last Salary Adjustment Anniversary Date increase, adds up to the equivalent of one year's service

credit, the employee is eligible for step advancement.

REFERENCE: Education Code Sections 45260, 45261, and 45309

- 8.2.10 SUMMER/RECESS PERIOD SALARY PLACEMENT: A classified employee shall for services performed during summer or any other recess period, receive on a pro-rata basis not less than the compensation and benefits which are applicable to the classification during the regular academic year for the position filled.

REFERENCE: Education Code Sections 45260, 45261, and 45309

- 8.2.11 PLACEMENT WHEN ASSIGNED SUBSTITUTE/TEMP POSITION: See Rule 7.4.4.

### 8.3 DIFFERENTIAL/LONGEVITY PAY PRACTICES

- 8.3.1 DIFFERENTIAL COMPENSATION: The Personnel Commission shall, insofar as it is possible to do so, determine the practices relating to morning and night shift salary differentials in surrounding public schools in which it must compete for employees for its classified staff, and shall consider the advisability of recommending comparable salary differentials for its classified staff, and make recommendations to the Board of Education regarding differential pay.

REFERENCE: Education Code Section 45181

- 8.3.2 TEMPORARY ASSIGNMENT: An employee receiving differential compensation pursuant to these Rules shall not lose such compensation if the employee is temporarily assigned to a position not entitled to such compensation. (5 working days or less)

REFERENCE: Education Code Sections 45185, 45260, and 45261

- 8.3.3 LONGEVITY: The district agrees to provide an additional monthly stipend during the months of service as follows:

.022 of the employee's salary for completion of 10 years in MUSD  
.032 of the employee's salary for completion of 15 years in MUSD  
.042 of the employee's salary for completion of 20 years in MUSD  
.052 of the employee's salary for completion of 25 years in MUSD  
.062 of the employee's salary for completion of 30 years in MUSD

The percentages are not cumulative. The employee must have completed the year to receive the longevity percentage.

- 8.3.4 COMPUTATION OF REGULAR PAY: When computing the regular pay for a classified employee the calculation shall be in the following order:

- 8.3.4.1 The employee's appropriate salary range and step shall be considered the employee's base salary.

8.3.4.2 Added to the base salary shall be any longevity, or other credits which the employee may be entitled to, such as educational credits or bilingual.

REFERENCE: Education Code Sections

## CHAPTER 9

### COMPLAINT PROCEDURE

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#### 9.1 PROCEDURE FOR THE ADJUSTMENT OF COMPLAINTS

9.1.1 PURPOSE OF COMPLAINT PROCEDURE: The purpose of this chapter is to establish an orderly process through which employees may receive timely consideration of their complaints. It is also the intent of this chapter to emphasize the need for employee complaints to be submitted through established channels and for resolution of complaints at the lowest possible level. Employees may utilize this chapter to seek adjustment of complaints arising in the following areas:

9.1.1.1 Established Commission Rules and Regulations.

9.1.1.2 Established provisions of the Education Code noted in Section 45261: applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of the merit system.

9.1.1.3 Complaints against employees of the Personnel Commission or the District.

REFERENCE: Education Code Sections 45260 and 45261

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

9.1.2.1 An alleged violation of any provision of a collective bargaining agreement. Such allegations shall be adjudicated through the provisions contained in the collective bargaining agreement.

9.1.2.2 An alleged disciplinary action. If formal disciplinary action has been initiated, it shall be adjudicated through the disciplinary action appeal process contained in Chapter 10.

9.1.2.3 Complaints about the content of a Commission Rule, Administrative Regulations, Board Policy, law, or administrative practice. Any employee with such a complaint should direct his/her concerns and suggestions for change through the administrative channels to the responsible authority.

9.1.2.4 Examinations of or appointment to positions.

REFERENCE: Education Code Sections 45260 and 45261

9.1.3 ADJUDICATING BODY DETERMINED BY SUBJECT MATTER: The subject matter of a particular complaint will determine whether it will be directed for consideration to the Board of Education or the Personnel Commission. for final determination or decision. Generally, complaints dealing with established Board Policies or Administrative Rules will be adjudicated by the Board of Education and those dealing with established Commission Rules and Regulations, and the Education Code will be handled by the Personnel Commission. Complaints regarding medical examinations, x-rays, and criminal records shall first go through District administrative channels.

REFERENCE: Education Code Sections 45260 and 45261

9.1.4 COMMISSION STAFF WILL LEND ASSISTANCE: At any stage in the procedure, the services of the Personnel Commission's staff will be available to all parties to provide requested information and to assist in the settlement of the problems.

9.1.5 APPROVAL BY DIRECTOR-PERSONNEL COMMISSION: If any settlement at steps 1, 2, or 3 of any complaint covered by these procedures is reached without the involvement of the Commission or Director-Personnel Commission, the Director-Personnel Commission, shall be informed of all proceedings, receive copies of all communications submitted in the case, and be notified of the proposed settlement and have an opportunity to comment on it prior to finalization:

9.1.5.1 When the complaint involves any Personnel Commission Rule or Regulation.

9.1.5.2 When the complaint involves any Personnel Commission administrative procedure.

9.1.5.3 When the complaint involves any Personnel Commission or District employee.

9.1.5.4 When the complaint involves any alleged violation of the subjects noted in Education Code 45261.

9.1.5.5 Any matter touching upon the authority or responsibilities of the Personnel Commission or, the application of Merit System laws and procedures.

REFERENCE: Education Code Sections 45260 and 45261

9.1.6 COMPLAINT TIME LIMITS SHALL BE CONSIDERED MAXIMUMS: It is important that complaints be resolved as promptly as possible, therefore the times indicated at each level shall be considered as maximums. Time limits may be extended by mutual agreement.

9.1.7 COMPLAINT MUST BE FILED WITHIN 15 WORKING DAYS: A complaint must be filed at step 1 of this procedure within fifteen (15) working days of the occurrence of the violation or infraction, or within fifteen (15) working days of

when the complaining party could reasonably have known of the occurrence of the act or omission giving rise to the complaint.

- 9.1.8 DEFINITION OF COMPLAINANT: A complainant is defined as an employee, employees, applicant, or any recognized classified employee organization filing a complaint involving one of the subjects covered by Rule 9.1.1.2
- 9.1.9 EMPLOYEE REPRESENTATION: Any employee may have an employee organization represent his/her interests at any level of this complaint procedure.
- 9.1.10 NO REPRISALS FOR FILING OF COMPLAINT: No reprisals of any kind shall be taken by the District against the complainant or any representative of the complainant by reason of his/her bringing a complaint or participating in a complaint.
- 9.1.11 REASONABLE RELEASE TIME: The complainant and/or his/her representative shall be provided reasonable release time, without loss of compensation, to attend conferences or hearings described in this Chapter.
- 9.1.12 MAINTENANCE OF COMPLAINT FILES: Records pertaining to complaints filed under this Chapter shall be maintained in the Personnel Commission Office. All complaint records shall be maintained separately from the complainant and/or his/her representative's personnel files.
- 9.1.13 LEVEL ONE - INFORMAL: The complainant shall meet with the immediate supervisor to discuss the potential complaint in an attempt to resolve it informally. The immediate supervisor shall attempt to hold a conference within two (2) working days of the request by the employee for a conference. The immediate supervisor shall consider the facts and provide a written decision with supporting reasons within five (5) working days after the informal conference.
- 9.1.14 LEVEL TWO - FORMAL WRITTEN COMPLAINT: If successful resolution was not reached at the discussion level and the employee chooses to pursue a complaint, the employee must submit the complaint in writing to the immediate supervisor within ten (10) working days of the conclusion of the informal step at level 1. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, and a statement of the specific remedy sought. The immediate supervisor shall hold a conference with all interested parties on the complaint within five (5) working days of receipt. The supervisor shall submit a written response to the complainant within ten (10) working days after the conference.
- 9.1.15 LEVEL THREE - DEPARTMENT/SITE ADMINISTRATOR: If the complaint is not satisfactorily adjusted by the immediate supervisor, the complaint may be submitted in writing to the appropriate highest level administrator in the department/site chain of authority within ten (10) working days of receipt of the level 1 decision, or if the immediate supervisor has failed to respond, within ten (10) working days after the level 1 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy, or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence,

the reasons why the response from the Level 2 supervisor was unsatisfactory, and a statement of the specific remedy sought. The administrator shall hold a conference with all interested parties regarding the complaint within five (5) working days of receipt of the complaint. The administrator shall submit a written response to the complainant within ten (10) working days following the conference.

9.1.16

LEVEL FOUR - SUPERINTENDENT/DIRECTOR-PERSONNEL COMMISSION:

In the event that a Board Policy or Administrative Rule is the issue of the complaint, the Superintendent or designee shall be the level 3 administrator. All other complaints shall be submitted to the Personnel Commission, Director-Personnel Commission. If successful resolution was not reached at level 3, the complaint may be submitted in writing to the Superintendent or the Personnel Commission Director as dictated by this Chapter, within ten (10) working days of receipt of the level 3 decision, or if the department/site administrator has failed to respond, within ten (10) working days after the level 3 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy, or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the level 3 department/site administrator was unsatisfactory, and a statement of the specific remedy sought. The appropriate administrator shall hold a conference with all interested parties regarding the complaint within ten (10) working days of receipt of the complaint. The appropriate administrator shall submit a written response to the complainant within ten (10) working days following the conference.

9.1.17

LEVEL FIVE - BOARD/PERSONNEL COMMISSION: In the event that a Board Policy or Administrative Regulation is the issue of the complaint, the Board shall be the level 4 hearing body. All other complaints shall be submitted to the Personnel Commission. If successful resolution was not reached at level 3, the complaint may be submitted in writing to the Board of Education or the Personnel Commission as dictated by this Chapter, within ten (10) working days of receipt of the level 3 decision, or if the appropriate level 3 administrator has failed to respond, within ten (10) working days after the level 3 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy, or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the level 3 administrator was unsatisfactory, and a statement of the specific remedy sought. If timely complaint appeal is filed, the appropriate official body shall hold a complaint hearing to hear witnesses, take evidence, and permit the submission of oral and written arguments in the case. (When the complaint goes to the Personnel Commission for hearing, the involved parties shall follow the Personnel Commission Rule 10.5). This hearing shall be held in open session unless provisions of the Brown Act permit and/or require a closed session of either the Board of Education or the Personnel Commission. The deliberations of the Board or Commission that are necessary to make the final decision and ruling shall be held in closed session. Within a reasonable time after receiving the record, the official body hearing the case shall render a decision on the matter. Either party may request an extension of thirty (30) working days for good cause. The decision of the official body shall be final and binding on all parties.

REFERENCE: Education Code Sections 45260 and 45261

## CHAPTER 10

### PROCEDURES FOR DISCIPLINARY ACTION AND APPEAL

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- 10.1 GENERAL PROVISIONS ON DISCIPLINARY ACTIONS
- 10.1.1 DISCIPLINARY ACTION ONLY PURSUANT TO THIS RULE: A permanent classified employee shall be subject to disciplinary action only for cause as prescribed by these Rules and Regulations, and only pursuant to the procedures outlined herein.
- REFERENCE: Education Code Sections 45260, 45261, and 45302
- 10.1.2 TIME LIMITS ON DISCIPLINARY ACTION: Disciplinary action shall not be taken against an employee for any charges based on acts or omissions which occurred prior to the employee's becoming permanent, nor for any acts or omissions which occurred more than two (2) years prior to the date of the filing of the Notice of Proposed Disciplinary Action unless such acts or omissions were concealed or not known to the District within the two year period.
- REFERENCE: Education Code Sections 45260 and 45261
- 10.1.3 DEFINITION OF DISCIPLINE: Disciplinary action includes any action whereby a permanent classified employee is deprived of any classification or any incident of any classification, including dismissal, suspension, demotion, or any reassignment that causes a reduction in pay without the employee's voluntary written consent, except a layoff for lack of work or lack of funds. A suspension may be for a period not to exceed thirty (30) assigned working days.
- REFERENCE: Education Code Sections 45260 and 45261
- 10.1.4 All classified employees shall serve a probationary period of 120 actual working days, excluding long-term leaves of absence, following their employment. Any classified employee who voluntarily accepts or is promoted to different classification shall serve a probationary period of 120 actual working days, excluding long-term leaves, in a new classification. Probationary employees may be disciplined and terminated during probation without cause and without a hearing.
- 10.1.5 Each employee who successfully completes the probationary period shall be classified as a permanent employee. Permanent employees may be disciplined only for cause as provided herein.
- 10.1.6 Substitute and short-term employees, employed and paid for less than seventy five percent (75%) of a school year, part-time playground personnel, apprentices, professional experts employed on a temporary basis for a specific project, full-time students employed part-time in any college work-study program, shall not be part of the classified service and may be disciplined and terminated without cause and without a hearing.

- 10.1.7 “Discipline” includes demotion, reduction of compensation, suspension without pay, involuntary reassignment and termination, but shall not include layoff for lack of work or lack of funds.

REFERENCE: 1. Education Code Sections 212.5, 230, 44010, 44011, 45123, 45260, 45261, 45302, 45303, and 45304  
2. Government Code Section 1028, 12940 et seq.  
3. Penal Code Section 261  
4. Health and Safety Code Sections 11054, 11056, 11355-11361, 11363-11368, 11377-11382, 11550

10.1.8 SUPERINTENDENT AUTHORITY

Notwithstanding any other provision of these rules, the Superintendent or his/her designee shall have the authority to immediately suspend and remove from service any employee whose continued presence on the job would threaten the safety of persons or district property.

10.2 NOTICE OF PROPOSED DISCIPLINARY ACTION

10.2 Grounds for Discipline:

Any of the following causes may subject an employee to disciplinary action:

1. Incompetence or inefficiency.
2. Failure to meet or maintain job qualifications and proficiencies.
3. Failure to possess or retain necessary licenses or failure to pass required tests.
4. Insubordination: Including but not limited to refusal to perform assigned work or carry out directions of authorized District personnel.
5. Carelessness or negligence in the performance of duty or in the care or use of District property.
6. Discourteous, offensive, or abusive conduct or language toward other employees, pupils, or the public.
7. Dishonesty
8. Drinking alcoholic beverages on the job, being intoxicated on the job, or reporting for work while intoxicated.
9. Addiction to the use of narcotics or a restricted substance, use of narcotics or restricted substances while on the job, or reporting to work while under the influence of a narcotic or restricted substance.
10. Engaging in political activity on the job or during assigned hours of employment.

11. Conviction of any crime involving moral turpitude.
12. Conviction of a felony.
13. Being charged with the commission of a sex offense as defined in Education Code Section 44010.
14. Being charged with the commission of a narcotics offense as defined in Education Code Section 44011.
15. Absence without leave or repeated tardiness.
16. Abuse of leave privileges.
17. Falsification or misrepresentation of information to the District.
18. Persistent violation of or refusal to obey the rules and regulations of the Governing Board or of the statutes, rules, or regulations of the federal, state, or local governments.
19. Offering anything of value or any service in exchange for special treatment in connection with the employee's job or employment, or accepting anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
20. Any conduct bringing disrespect or injury to the District.
21. Abandonment of position.
22. Excessive absenteeism.
23. Advocating the overthrow of federal, state, or local government by force, violence or other unlawful means.
24. Knowing membership in the Communist Party.
25. Physical or mental incapacity.
26. Harassment of co-workers or supervisors.

10.2.1 NO DISCIPLINE WITHOUT NOTICE: No disciplinary action may be taken against a permanent classified employee until the employee has received a "Notice of Proposed Disciplinary Action" and the employee has had an opportunity to respond to the charges. The exception to this Rule is in the case of action taken in accordance with Rules 10.1.8.

REFERENCE: 1. Education Code Sections 45260 and 45261

10.2.2 CONTENTS OF NOTICE OF PROPOSED DISCIPLINE: The Notice of Proposed Disciplinary Action shall contain in ordinary and concise language the following:

- 10.2.2.1 The nature of the proposed action (suspension, demotion, dismissal, etc).
- 10.2.2.2 The specific causes for the disciplinary action and sections of these Rules citing specific rules or procedures that the employee is accused of violating.
- 10.2.2.3 The specific acts or omissions which establish the causes for disciplinary action, including times, dates, and locations, in ordinary and concise language.
- 10.2.2.4 The proposed effective date(s) of the disciplinary action.
- 10.2.2.5 The employee's rights to see and obtain copies of all evidence and documentation used to support the District's case against the employee.
- 10.2.2.6 The employee's right to representation.
- 10.2.2.7 The employee's right to respond to the charges before the Superintendent or designee to dispute the charges and/or proposed action.
- 10.2.2.8 The employee's right to a reasonable amount of time off with pay to respond to the charges.

REFERENCE: Education Code Sections 45260, 45261, and 45305

- 10.2.3 NOTICE SHALL USE READILY UNDERSTOOD LANGUAGE: The charges outlined in the "Notice of Proposed Disciplinary Action" shall be written so clearly that the employees will know the exact complaint(s) and charge(s) against him/her, such that the employee can respond to them.

REFERENCE: Education Code Sections 45116, 45260 and 45261

- 10.2.4 APPEAL FORM SHALL ACCOMPANY DISCIPLINARY NOTICE: An employee response form shall accompany the Notice of Proposed Disciplinary Action which shall explain the procedure for filing responding to the charges. The form shall be submitted to the District Personnel Office by the deadline noted in the Notice of Proposed Disciplinary Action.

REFERENCE: Education Code Sections 45260 and 45261

- 10.2.5 DISCIPLINARY NOTICE SENT TO DIRECTOR-PERSONNEL COMMISSION: The Notice of Proposed Disciplinary Action shall be delivered to the Personnel Commission Office. The district Human Resources Office shall have the responsibility of ensuring that the Notice of Proposed Disciplinary Action is delivered to the employee pursuant to Chapter 10.

REFERENCE: Education Code Sections 45260 and 45261

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

REFERENCE: Education Code Sections 45260 and 45261

10.3 PRELIMINARY SKELLY HEARING

10.3.1 ACTION IF APPEAL IS NOT FILED: If the employee does not respond to the charges within the ten (10) working day period outlined in the Notice of Proposed Disciplinary Action, the Superintendent or designee shall recommend to the Board that the proposed disciplinary action be approved. The Board shall have the power to either accept, lessen, or reject the recommendation of the Superintendent. The Board shall not act to provide for a penalty or disciplinary action more severe than that recommended by the Superintendent.

REFERENCE: Education Code Sections 45260 and 45261

10.3.2 SKELLY HEARING BEFORE SUPERINTENDENT: If the employee submits a request to respond to the charges within ten (10) working days after receipt of the Notice the employee shall have a right to meet with the Superintendent or designee, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the appeal process. The employee shall be allowed to respond to the charges prior to the Superintendent's recommendation of disciplinary action to the Board.

REFERENCE: Education Code Sections 45260 and 45261

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

REFERENCE: Education Code Sections 45260 and 45261

- 10.3.4 DESIGNEE FOR SUPERINTENDENT: If the Superintendent is unable or unwilling to serve as the preliminary appeal-hearing officer, the Superintendent may assign a designee. That designee shall be an administrator who has the authority and authorization to accept, modify, or rescind the proposed disciplinary action. The administrator may not be a party to the proposed action, either as the supervisor initiating proposed disciplinary action, or as a witness.

REFERENCE: Education Code Sections 45260 and 45261

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

REFERENCE: Education Code Sections 45260 and 45261

- 10.3.6 RIGHT TO REPRESENTATION: The employee may be represented by legal counsel, union representative, or any other person designated by the employee so long as such person is not a witness or party named in the same proceeding. If the employee fails to appear, the Superintendent may recommend action to the Board of Education.

REFERENCE: Education Code Sections 45260 and 45261

#### 10.4 SKELLY HEARING DECISION AND NOTICE

- 10.4.1 SUPERINTENDENT OR DESIGNEE'S DECISION: The Superintendent or designee shall issue a written decision within five (5) working days after the conclusion of the Skelly Hearing, to either implement the proposed disciplinary action, to modify the proposed disciplinary action, or to rescind and halt the proposed disciplinary action. The Superintendent or designee shall not act to provide for a penalty or disciplinary action more severe than that recommended in the Notice of Proposed Disciplinary Action. The written decision of the Superintendent or designee shall be filed with the Personnel Commission Office. The District Human Resources Office shall be responsible for notification of the employee as to the findings of the Superintendent, pursuant to Rule 10.4.2.

10.4.1.1 If the employee requests a hearing with the Superintendent or designee, and at that hearing the employee and Superintendent agree on an alternative course of action pursuant to Rule 10.4.1.1, this agreement shall be in writing. If the agreed alternative action requires Board action, the Superintendent shall recommend to the Board that the alternative action be approved. The employee's acceptance and the Board's approval of the decision to accept the alternate course of action shall be binding to both parties and not subject to appeal.

10.4.1.2 An unpaid suspension may be implemented (notwithstanding 10.1.9) after the employee has either waived his/her right to a Skelly Hearing or after the Superintendent, or his designee, renders a decision.

10.4.1.3 The Superintendent's or designee's decision shall be communicated to the Board of Education.

REFERENCE: Education Code Sections 45260 and 45261

10.4.2 CONTENTS OF NOTICE OF DISCIPLINARY ACTION: The Notice of Disciplinary Action, which is the notification that disciplinary action has been approved by the Board of Education, shall contain statements in ordinary and concise language of:

10.4.2.1 The nature of the disciplinary action taken (suspension, demotion, dismissal, etc.).

10.4.2.2 The specific causes and sections of these Rules that the employee is accused of violating and upon which the disciplinary action is based.

10.4.2.3 The specific charges, a description of the chargeable action(s) or omissions, including times, dates, locations in ordinary and concise language.

10.4.2.4 The effective date(s) of the disciplinary action.

10.4.2.5 A copy of charges and documentation to support the District's case against the employee.

10.4.2.6 The employee's right to representation.

10.4.2.7 A copy of the action taken by the Board of Education.

10.4.2.8 The employee's right to appeal the disciplinary action to the Personnel Commission within fourteen (14) working days of service of the Notice of Disciplinary Action, and the right to have such a hearing within the timelines specified in these Rules.

10.4.2.9 A notice that the Commission may sustain, reject, or modify the disciplinary action taken against the employee; and that the Commission may not provide for discipline more stringent than that invoked by the Board of Education.

10.4.2.10 The employee's right to request the Personnel Commission to issue subpoenas for witnesses or other material evidence.

REFERENCE: Education Code Sections 45260 and 45261

10.4.3 APPEAL FORM SHALL ACCOMPANY DISCIPLINARY NOTICE: An appeal form shall accompany the Notice of Disciplinary Action which shall explain the procedure for hearing and the signing and filing of which shall constitute a demand for hearing and a denial of all charges. The appeal form shall be submitted to the Personnel Commission Office by the deadline noted in the Notice of Disciplinary Action. The employee shall include in the appeal his/her current mailing and residency address at which the employee may be contacted,

in the event that additional correspondence or notices need to be sent to the employee. The appeal notice filed by the employee shall also contain the name of his/her legal counsel or representative and the address and telephone number of such counsel or representative. The employee shall attach to the appeal form the reasons for the appeal. Appeals can be made only on the following grounds:

10.4.3.1 That the procedures set forth in these Rules and Regulations have not been followed.

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

10.4.3.3 That the penalty invoked by the District was excessive.

REFERENCE: Education Code Sections 45260 and 45261

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

REFERENCE: Education Code Sections 45260 and 45261

10.4.5 ACTION IF APPEAL IS NOT FILED: If the employee does not respond and request a Personnel Commission Appeal Hearing within the fourteen (14) calendar day period outlined in the Notice of Disciplinary Action, the action of the Board of Education shall be final and conclusive, and no further appeal rights shall be allowed.

10.4.6 NOTIFICATION TO PERSONNEL COMMISSION: The Superintendent or designee shall notify the Personnel Commission of the Board of Education's decision relative to the disciplinary action. The Personnel Commission shall notify the employee in writing of the results of the Board's action. If the action of the Board was to reject all disciplinary action, the Personnel Commission shall notify the employee in writing within five (5) working days after notification of the Board's decision. If the decision of the Board of Education were to continue or modify the proposed disciplinary action, the Personnel Commission shall notify the employee in writing within five (5) working days after the notification of the Board's decision. Such notification shall be in the form of a Notice of Disciplinary Action.

REFERENCE: Education Code Sections 45260, 45261, and 45305

10.5 APPEAL HEARING BEFORE PERSONNEL COMMISSION: If the employee submits an appeal notice to the Personnel Commission Office within fourteen (14) calendar days after receipt of the Notice of Disciplinary Action, the employee shall have a right to have an Appeal Hearing before the Personnel Commission. The Commission Appeal Hearing shall be held within reasonable days of receipt

of the employee's appeal notice by the Personnel Commission Office. The Personnel Commission may agree to a thirty (30) working day extension for good cause.

REFERENCE: Education Code Sections 45260 and 45261

10.5.1 NOTIFICATION OF HEARING TO EMPLOYEE: The Director-Personnel Commission shall notify the District and the Personnel Commission upon receipt or lack of receipt of an appeal notice, and shall coordinate the scheduling of the Commission Appeal Hearing if a timely appeal is filed.

10.5.1.1 The Director-Personnel Commission shall notify the employee in writing within fifteen (15) working days of the timely filing of an appeal notice, of the time, date, and place of the Commission Appeal Hearing before the Personnel Commission. The employee will be notified of their right to hold the hearing in open session.

10.5.1.2 A notice of the time and place of hearing shall be given or mailed to each of the parties not less than ten (10) working days prior to the hearing. The ten-day notice of hearing may be waived by agreement of the parties.

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

REFERENCE: Education Code Sections 45260 and 45261

10.5.2 GENERAL CONDUCT OF COMMISSION APPEAL HEARING: At this full evidentiary hearing, the employee shall have the right to present all evidence and testimony on his/her behalf, to examine all evidence submitted by the District, hear testimony of the supervisor(s) who initiated the action, and examine and cross-examine all witnesses giving testimony. All hearings before the Personnel Commission shall be in closed session, unless the appealing employee requests an open hearing in his/her appeal notice. The Personnel Commission will provide written notice of the employee's right to open session no later than 24 hours before the hearing. The Personnel Commission Hearing shall be specifically conducted pursuant to Chapter 10.5.

10.5.3 RIGHT TO REPRESENTATION: The employee may, at his/her option, be represented by legal counsel, union representation, or any other person designated by the employee so long as such person is not a witness or party named in the same proceeding. If the employee files an appeal, the employee shall be required to attend the Commission Appeal Hearing, even if the employee's designated representative appears on his/her behalf. If the employee fails to appear, the employee will be deemed to have forfeited his/her

rights to further appeal and the Personnel Commission shall allow the Board of Education's disciplinary action to stand.

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

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

10.5.4.1.1 Requests for subpoenas shall be filed with the Personnel Commission Office at least five (5) working days prior to the date of the hearing.

10.5.4.2 LIST OF WITNESSES: A list of witnesses to be called by each party and a list of persons authorized to attend the hearing shall be submitted to the Personnel Commission Office at least five (5) working days prior to the date of the hearing. This will allow the Personnel Commission to secure the release time of employee witnesses prior to the hearing.

REFERENCE: Education Code Sections 45260, 45261, 45305, 45306, 45307

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

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

REFERENCE: Education Code Sections 45260, 45261 and 45312

10.5.6 COMMISSION SHALL DETERMINE TIME AND PLACE OF HEARING: Upon receipt of the appeal notice, the Personnel Commission shall determine the date, time, and place of the hearing on appeal. The appeal hearing shall be held within the boundaries of the District.

REFERENCE: Education Code Sections 45260 and 45261

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

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

REFERENCE: Education Code Sections 45260 and 45261

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

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

10.5.9.1 To call and examine witnesses.

10.5.9.2 To introduce exhibits.

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

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

10.5.9.5 To rebut all evidence presented by the opposing party.

REFERENCE: Education Code Sections 45260 and 45261

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

10.5.11 ADMISSION OF EVIDENCE: The hearing need not be conducted according to the technical rules relating to evidence and the examination of witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious business; regardless of the existence of any common law or statutory rule which might cause the evidence to be objected to or ruled out if presented in a criminal or civil procedure before a court of law.

10.5.11.1 Hearsay evidence may be used for the purpose of explaining or providing supplemental evidence, but shall not be sufficient in and

of itself to support a finding by the Personnel Commission or its hearing officer unless it would be admissible over objection in a civil action in a court of law. Employee evaluations, which are not based on facts and are based on undocumented charges, may not be introduced as evidence.

- 10.5.11.2 The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence may be excluded.

REFERENCE: Education Code Sections 45260 and 45261

- 10.5.12 RIGHT TO BE REPRESENTED: The Board of Education and the appellant shall be allowed to be represented by legal counsel or other designated representatives.
- 10.5.13 GRANTING OF CONTINUANCE: The Personnel Commission or its hearing officer may, prior to or during the hearing, grant a continuance for reason(s) believed to be sufficient or important to reaching a fair and proper conclusion.
- 10.5.14 RULING ON OBJECTIONS: The Personnel Commission or its hearing officer shall rule on all objections raised by either party.
- 10.5.15 FINDINGS BASED ON PREPONDERANCE OF EVIDENCE: The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented. The findings of the Commission or hearing officer shall be based upon the preponderance of evidence.
- 10.5.16 ORDER OF PRESENTATION OF EVIDENCE: Each side will be permitted an opening statement, District's representative first, and closing arguments, appellant or his/her representative last. The District shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or his/her representative will present his/her witnesses and evidence in defense.
- 10.5.17 EXAMINATION OF WITNESSES: Each side will be allowed to examine and cross-examine witnesses.
- 10.5.17.1 The Commission or its hearing officer may, at its discretion, exclude witnesses not under examination except for the appellant, District representative, the Director-Personnel Commission, and their respective counsels or designated representatives.
- 10.5.18 SWORN AFFIDAVITS: The policy of the Personnel Commission shall be that where possible, all witnesses shall give testimony orally at the hearing. However, if in the opinion of the Commission or its hearing officer, a witness has good and sufficient reason for being unable to be present, written testimony will be accepted under the following conditions:
- 10.5.18.1 Such evidence shall be submitted by sworn affidavit of the witness. The affidavit shall be confined to a statement of facts bearing on the case and within the knowledge of the witness.

- 10.5.18.2 Copies of all such affidavits shall be filed with the Personnel Commission Office or the hearing officer at least five (5) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.
- 10.5.18.3 Neither party has objections to the submission of the affidavit(s) into evidence. Either party, upon request, may require the attendance of the witness who has given the sworn affidavit for purposes of cross-examination. A continuance may be necessary in order to secure the attendance of the witness.
- 10.5.18.4 The Personnel Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

REFERENCE: Education Code Sections 45260 and 45261

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

10.5.19.1 The hearing officer shall submit his/her written recommendations and findings of fact to the Director-Personnel Commission within a reasonable period of time.

10.5.19.2 Upon receipt of the hearing officer's written recommendations and findings of fact, the Director-Personnel Commission shall contact the Chairperson of the Personnel Commission to schedule a meeting of the Commission to consider the findings and recommendations of the hearing officer.

10.5.19.3 In all cases assigned to a hearing officer, a proposed decision shall be prepared in a form to be adopted by the Commission as its decision in the case. Commission staff will notify the appellant, his/her representative and the District's representative of the date of the meeting when the Commission will consider its decision on the appeal. Copies of the proposed decision shall be made available upon request to the appellant and representatives after the Commission has received it at a regular Commission meeting. If either representative believes that the Commission should give further consideration to the decision, he/she shall submit a written request to the Personnel Commission with a copy to the opposing representative detailing reasons for further consideration and the remedy sought. The hearing officer may be present during the consideration of the case by the Commission and, at its request, may advise the Commission. The Commission may accept, reject, or amend any of the findings or recommendations in the proposed decision. Any rejections or amendment shall be based either on a review of the transcript of the hearing or investigation, or upon the results of such supplemental hearing or investigation as the Commission may order. If a further investigation or hearing is ordered, the Commission may decide the case itself or may

refer the case to the same or another hearing officer for the purpose of taking additional evidence. If the case is referred to a hearing officer, he shall file another proposed decision.

REFERENCE: Education Code Sections 45260 and 45261

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

REFERENCE: Education Code Sections 45260, 45261, 45266, and 45305

- 10.5.21 DECISION OF PERSONNEL COMMISSION: The Personnel Commission shall render its judgment as soon after the conclusion of the hearing as possible. The decision(s) of the Commission shall be in writing and shall set forth which charges, if any, are sustained and the reasons therefore.

10.5.21.1 The Commission's written decision(s) shall contain findings of fact, a determination of the issues presented, and the penalty imposed (if any). The findings may be stated in the language of the pleading or included by reference thereto.

10.5.21.2 If the disciplinary action is not sustained, the Commission's order shall set forth the effective date that the employee is to be restored or reinstated to his/her former position and/or status; such date to be set forth at any time on or after the date that the disciplinary action was invoked.

10.5.21.3 Copies of the Commission's decision(s) shall be delivered to the parties personally or transmitted to them by Certified Mail Return Receipt Requested. The requirement for notification of the employee will be deemed to have been met if the decision is sent, Certified Mail, to the last known home address on file in the Human Resources Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

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

REFERENCE: Education Code Sections 45260 and 45261

10.5.22 BOARD SHALL COMPLY WITH COMMISSION DECISION: Upon receipt of the Commission's written decision the Board of Education shall forthwith comply with the provisions thereof. When the Board of Education has fully complied with the Commission's decision, it shall so notify the Commission in writing.

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

REFERENCE: Education Code Sections 45260, 45261, and 45307

10.5.23 COMMISSION ACTION: The Personnel Commission may sustain or reject any or all of the charges filed against the employee. The Commission may sustain, modify, or reject the disciplinary action invoked against the employee. However, the Commission may not invoke more stringent discipline against the employee than that invoked by the Board of Education should it sustain any or all of the Board's charges.

REFERENCE: Education Code Sections 45260, 45261, and 45307

10.5.24 DECISION SHALL INCLUDE CONSIDERATION OF JUST SETTLEMENT: Following its determination of the facts and findings relative to the disciplinary action invoked against the employee, the Commission shall consider such other matters as it deems necessary and proper to effect a just settlement of the appeal, including, but not limited to:

10.5.24.1 The granting of seniority credit for any or all of the off-duty time pending restoration or reinstatement.

10.5.24.2 Expunge from the employee's personnel file and record any causes or charges that are not sustained by the Commission.

REFERENCE: Education Code Sections 45260, 45261, and 45307

10.5.25 OBTAINING COPIES OF THE HEARING TRANSCRIPT: The employee or his/her designated representative and the Board of Education or its designated representative may obtain a copy of the transcript under the following conditions:

10.5.25.1 The cost of the transcript and copies if requested, shall be born by the party making the request.

10.5.25.2 The request shall be in writing and a cash deposit made in an amount determined by the Director-Personnel Commission prior to preparation, which shall not be less than the estimated cost of transcribing the hearing record.

10.5.25.3 The final cost of the transcript shall be the actual cost of preparation plus the cost of making copies as determined by the Director-Personnel Commission.

10.5.25.4 The transcript shall only be released upon payment in full. When the deposit is greater than the actual costs of the document

(including the making of copies), the remainder shall be refunded to the party.

REFERENCE: Education Code Sections 45260 and 45261

10.5.26 DISQUALIFICATION OF HEARING OFFICER OR COMMISSIONER: A hearing officer or Personnel Commission member shall voluntarily disqualify himself/herself and withdraw from any appeal in which he/she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or Personnel Commission member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.

10.5.26.1 If the Personnel Commission determines that there are sufficient grounds for disqualification, it may elect to disqualify the hearing officer or Personnel Commission member.

10.5.26.2 Where the disqualification request concerns a Personnel Commission member, the issue shall be determined by the other members of the Commission. However, no Commission member shall withdraw voluntarily or be subject to disqualification if his/her disqualification would prevent the existence of a quorum qualified to act in that particular appeal.

REFERENCE: Education Code Sections 45260 and 45261

10.5.27 COUNSEL FOR THE PERSONNEL COMMISSION: The Personnel Commission may seek and appoint legal counsel as part of its appeal and investigatory hearing duties. To avoid any conflict of interest, the legal counsel shall not be the same counsel representing the Board of Education, nor shall the Board and the Commission be represented by members of the same legal firm in a hearing held pursuant to these Rules and Regulations. All reasonable costs associated with the use of such legal counsel by the Personnel Commission in hearings shall constitute a legal charge against the Board of Educations' general funds, whether or not the money or costs for legal services appear in the Commission's budget.

REFERENCE: Education Code Sections 45260, 45261, and 45313

## CHAPTER 11

### LAYOFF AND REEMPLOYMENT PROCEDURES

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#### 11.1 LAYOFF PROCEDURES

##### 11.1.1 REASONS FOR LAYOFF:

The layoff of classified employees shall only occur for a lack of work or a lack of funds, and only in accordance with the rules and regulations of the Personnel Commission and in accordance with Education Code Section 45298 and 45308.

##### Ratification of layoff list

Commission and HR staff will share joint responsibility in the preparation of layoff lists as well as identifying the affected employees displacement and reemployment rights. Layoff lists shall be certified at a regular or special meeting of the commission. The Superintendent or designee shall use the ratified list to affect layoff.

##### 11.1.1.1 DEFINITIONS OF TERMS

The definition of "class" for purposes of this agreement are to be a group of classifications relating to the same work in which the employee possesses skills.

The definition of "classification" for purposes of this agreement will be the specific job title of any position held by a unit member.

"Length of service" means seniority shall be calculated by "date of hire" by the District into a bargaining unit "classification" within the "class".

"Date of Hire" means the first date in paid status in a "classification". Substitute service is not counted.

"Reemployment list" means a list of names of persons arranged in order of their right to reemployment, who have been laid off from permanent positions by reason of lack of work, lack of funds, abolishment or reclassification of position, or who take a voluntary demotion or voluntary reduction in assigned time in lieu of layoff or other reasons specified in these rules and who are eligible for reemployment without examination in their former class.

REFERENCE: Education Code Sections 45298 and 45308

##### 11.1.2 LAYOFF DEFINITION:

As used in this rule, the following term has the following meaning:

11.1.2.1 “Layoff” means layoff from employment or reduction in assigned time per day, week, month, or year.

REFERENCE: Education Code Sections 45298 and 45308

11.1.3 LAYOFF RESOLUTION BY BOARD:

11.1.3.1 Before any layoff notice can be issued, the Board shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by classification and assigned time. The layoff resolution shall be signed by the Clerk of the Board, and a copy shall be attached to each layoff notice.

11.1.3.2 No regular employee shall be laid off from any position while employees serving under limited-term or provisional appointment are retained in positions of the same class unless the regular employee declines the limited-term or provisional assignment.

11.1.3.3 The District shall notify the affected classified employees in writing a minimum of forty-five (45) calendar days prior to the date of any layoff for lack of work or funds. The notice to the affected employee shall specify the reason for the layoff and be given by personal delivery or by certified mail to the last known home address of the employee on file in the Human Resources office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

11.1.3.4 A notice of layoff shall contain the following items:

1. The reason for the layoff
2. The employee's displacement rights, if any
3. The employee's reemployment rights
4. The name and classification of the employee designated for layoff
5. A statement that the employee may have a right to unemployment insurance
6. A statement that the employee has a right to continue insurance at their own expense

11.1.3.5 ADVANCE NOTIFICATION TO EXCLUSIVE REPRESENTATIVE: If any of the impacted positions are represented by a collective bargaining exclusive representative, the District Administration and the exclusive representative shall meet in advance of layoff notices being sent out to review the proposed layoff.

REFERENCE: Education Code Sections 45117, 45260, and 45261

#### 11.1.4

#### ORDER OF LAYOFFS:

- 11.1.4.1 In the event of layoff, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class plus higher classes shall be laid off first. Regular classified employees who have been laid off shall have the right of reemployment. Reemployment shall be in the reverse order of layoff.
- 11.1.4.2 “Length of service” means seniority shall be calculated by “date of hire” by the District into a bargaining unit “classification”. “Date of Hire” means the first date in paid status in a “classification”. Substitute service is not counted
- 11.1.4.3 Time spent on leave without pay shall be counted when computing seniority for no more than (1) year and all time spent on approved leaves with pay or military leave, illness, maternity, family care, or industrial accident leave shall count toward seniority accrual. In the event an employee returns to work following any other unpaid leave or absence, no further seniority shall be accrued for the time not worked.
- 11.1.4.4 Time served prior to a break in service shall not be counted in computing seniority unless the employee is reinstated, reemployed in regular status, or appointed in regular status from an eligibility list within thirty-nine (39) months after layoff.
- 11.1.4.5 When reclassification results in the merger of two or more classes or the separation of a class into two or more classes, seniority of a continuing regular employee whose former class has been abolished shall be counted from the date determined by the Personnel Commission to be the date the incumbent started regularly and continuously to perform the duties identified as the basis for the reclassification. Such a determination shall be made at the time that the reclassification is approved.
- 11.1.4.6 When all or a portion of the positions in a class is reclassified to a class on the same salary range, the extent of seniority credit to be granted incumbents of affected positions shall be determined by the Personnel Commission. The Commission will base its decision on the amount of seniority credit to be granted on the following factors and others that are pertinent to the case:
- 11.1.4.6.1 The date of any change in the class description for the employee's former or new class.
  - 11.1.4.6.2 The date of any pertinent change in the classification plan.
  - 11.1.4.6.3 The date of any significant change in assigned duties or responsibilities as evidenced by requests for reclassification, and approval of the request for

reclassification.

11.1.4.6.4 Any date that will serve to establish the approximate date the employee first started performing the duties or responsibilities that provided the basis for reclassification of the position.

11.1.4.7 An employee transferred or reclassified from one class to a higher class shall not be credited in the new class with seniority accumulated in the class from which transferred, except as provided in 11.1.4.4.

11.1.4.8 When it is necessary to break a tie in seniority for the purpose of determining which employee is to be laid off or reassigned, the employee to be retained shall be the one who:

11.1.4.8.1

1. Has the greater total seniority with the District.
2. If a tie still remains the determination shall be made by lottery to be determined at the time by California School Employee Association #169 and Madera Unified School District.

REFERENCE: Education Code Section 45308

11.1.5 BUMPING AND DISPLACEMENT RIGHTS:

An 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 a less senior employee in that equal or lower class. No regular employee shall be laid off from any position while employees serving under limited-term or provisional appointment are retained in positions of the same class unless the regular employee declines the limited-term or provisional assignment.

11.1.5.1 An employee whose position is eliminated or reduced shall first be placed in a vacant position with an equal assignment in the same class when compared with the employee's current position.

11.1.5.2 If the previous option is unavailable, the employee shall be placed in a vacant position that has additional assigned time in the same class when compared with the employee's current position.

11.1.5.3 If the previous option is unavailable, the employee will be allowed to bump into a position providing an equal or lower assignment in the same class when compared with the employee's current position, and which is occupied by a less senior employee.

11.1.5.4 If the previous option is unavailable, the employee shall also have the option of bumping into an equal or lower class previously held as a regular classified employee, that will provide at least the same or lower assigned time as the employee's current position.

11.1.5.5 When a permanent position is to be reduced in assignment time per day, week, month or year, the incumbent shall have the right to transfer to any vacant position in the class which is not greater in assigned time than his/her former position. If a vacant, permanent position of equal time is not available, the incumbent may bump the incumbent of a position with equal time who has the least seniority in the class; provided that he/she has greater seniority.

11.1.5.6 When bumping occurs, it shall be any vacant position within that "classification" or next lowest "classification" within the class. When no vacant position is available, bumping shall occur to the least senior position within the "classification". Reassignment (bumping) into a lower or equal "classification" or position not previously held will require proof of skills and competency for that "classification". For purposes of this section to allow bumping into a position in which status was not previously held, "classification" shall include all positions listed in Appendix "A" (see Chapter 3, p 35-37)

REFERENCE: Education Code Sections 45260, 45261, and 45308

11.1.6 VOLUNTARY DEMOTION:

Displacement into a lower class shall be considered a voluntary demotion and salary placement shall be in accordance with the Rules on Salary on Demotion. An employee, after having had the opportunity to exercise all rights guaranteed under this policy, who must be laid off and placed on a reemployment list will be selected first in reverse order of layoff for the first opening occurring in any class in which that employee had seniority for a period of up to thirty-nine (39) months. The following rules shall also apply.

11.1.6.1 If an employee is on any eligibility list and is laid off, that employee shall retain that position on such list until reemployed, selected, or expiration of the list.

11.1.6.2 Employees on reemployment lists shall be eligible to compete in promotional examinations for which they qualify.

11.1.6.3 Laid off employees do not accumulate seniority credit while on the reemployment lists.

REFERENCE: Education Code Sections 45260, 45261, and 45308

11.1.7 VOLUNTARY DEMOTION IN LIEU OF LAYOFF:

An employee who has accepted demotion in lieu of layoff has the right to be reemployed, in accordance with seniority rules, in a vacant position in the employee's former class within thirty-nine (39) months after demotion. Intervening reassignments to other classes shall not abrogate that right. If the employee has not been reemployed in that former class within (39) months, eligibility shall be retained for appointment to a vacant position in that class without examination for an additional twenty-four (24) months, provided that the same test of fitness under which the employee qualified for appointment to the

class shall still apply.

11.1.7.1 A permanent classified employee who will suffer a layoff for lack of work or lack of funds despite bumping rights, may be offered a transfer to a vacant position in an equal class or a voluntary demotion to a vacant position in a lower class, providing the employee is deemed qualified to perform the duties thereof as determined by the Director-Personnel Commission.

11.1.7.2 Any transfers which are being considered by exercising the options provided herein shall be made only after consideration of any permanent employees who have had an application for transfer on file.

11.1.7.3 A transfer from a position in one class to a position in another related class shall first be approved by the Director-Personnel Commission. Determination of whether classes are sufficiently related to permit transfer between them shall be based on the similarity of 1) duties; 2) minimum qualifications; and 3) examination content. Training, skills and experience as it relates to this position and school/district program.

The extent to which the two classes must be comparable may depend on additional factors

11.1.7.4 When additional hours are assigned to a regular employee the assignment shall be offered to the employee in the same class with the highest placement on the reemployment list providing the employee has more seniority than the employee given the additional hours.

REFERENCE: Education Code Sections 45260, 45261, and 45308

11.1.8 PERIOD FOR LATERAL TRANSFER:

A permanent employee who transfers to a position in a class in which the employee has not previously completed a probationary period shall be considered probationary in that class for the standard probationary period outlined in these rules. At any time during this probationary period, the employee may be returned (transferred) to a former class without right of appeal. Any seniority earned by a probationary employee who is returned or transferred to a former class shall be credited to that former class.

REFERENCE: Education Code Sections 45260 and 45261

11.1.9 PERMANENT EMPLOYEE RIGHTS AND PRIVILEGES:

11.1.9.1 The rights and privileges described above apply to a regular employee who has:

11.1.9.1.1 Been laid off.

11.1.9.1.2 Been bumped by a person with greater seniority to avoid layoff

- 11.1.9.1.3 Been displaced from a class because of reclassification of a position.
- 11.1.9.1.4 Taken voluntary demotion to remain in the same position after reclassification
- 11.1.9.1.5 Accepted demotion, transfer, or reduction in status in lieu of layoff from the District
- 11.1.9.1.6 Returned from leave of absence and could not be assigned in the same class.
- 11.1.9.1.7 Failed to complete a probationary period in a class and could not be assigned in a class in which permanency had previously been achieved.
- 11.1.9.1.8 Accepted a reduction in assignment or time.
- 11.1.9.1.9 Accepted reduction in hours of employment because of the lack of bumping rights and placement opportunity.
- 11.1.9.1.10 Exhausted all paid and unpaid illness, industrial illness, or industrial accident leave and does not return to duty.

11.1.9.2 When any of the conditions described in Rule 11.1, above, exist, a reemployment list shall be established. A reemployment list may be established for a class, for positions on a specific assignment basis, for full time positions, or for a combination thereof. A reemployment list shall be used before any other means of filling a vacancy in the class or category for which the list was established. Reemployment rights exist for 39 months, except that an employee who takes a voluntary demotion or reduction in assigned time in lieu of layoff shall have an additional 24 months.

11.1.9.3 A laid off employee shall retain rank on any eligibility list on which his/her name appears.

11.1.9.4 A permanent employee who has been laid off from the District shall continue to be a promotional candidate in examinations during the 39-month reemployment period.

REFERENCE: Education Code Sections 45260, 45261 and 45308

11.1.10 CERTIFICATION FROM A REEMPLOYMENT LIST:

Reemployment Rights

Unit members laid off because of lack of work or lack of funds are eligible to reemployment for a period of thirty-nine (39) months and shall be employed in preference to new applicants.

Unit member(s) who take voluntary demotions or voluntary reductions in lieu of layoff or to remain in their present position(s) rather than there classified or reassigned, shall be granted the same rights as persons laid off and shall retain eligibility to be considered for reemployment for an additional period of twenty-four (24) months; provided that the same tests of fitness under which they qualified for appointment to the class still apply.

Unit member(s) who take voluntary demotions or voluntary reductions in assigned time, in lieu of layoff shall be, at the option of the unit member(s), returned to a position in their former class or to positions with increased assigned time in accordance with their proper seniority as ranked on a valid reemployment list.

Unit members on a re-employment list may be reemployed in a vacant position within Addendum "C" (lower classification) in the CSEA CBA . If they did not hold status in that position, the Personnel Commission shall determine if they meet the requirements of that position.

Unit members on a reemployment list who refuse (3) offers of employment of a position equal to their previous position, hours and salary range shall be removed from the reemployment list. If unit members accept a job offer less in hours or contracted days unit members will continue to be on the reemployment list and have an additional 24 months added to make a total of 63 months on the reemployment list.

11.1.10.1 Persons shall be certified from a reemployment list in the reverse order of layoff, provided that the person is willing and able to report for duty on the effective date of the appointment or within 14 days after the offer of reemployment has been made, whichever is later. In cases of limited term appointments, the former employee must be willing and able to report for duty on the effective date of the appointment, or the employee will be considered unavailable for the appointment.

11.1.10.2 A name may be removed from a reemployment list only for the following causes:

- 11.1.10.2.1 Conviction of a crime or crimes which would be sufficient to support dismissal of a permanent employee.
- 11.1.10.2.2 Conduct which would cause dismissal under the provisions of Section 45303 of the Education Code.
- 11.1.10.2.3 Making false statements or omitting a statement as to any material fact on an application form or health advisory form.
- 11.1.10.2.4 Dismissal for cause from employment subsequent to layoff.
- 11.1.10.2.5 Employee removed from list shall be accorded a statement of reasons and the right to a hearing before the Personnel Commission. Written notice of

removal and the reason therefore shall be provided to the employee, who shall be afforded and notified of appeal rights as those provided in Chapter 5.3.7.

11.1.10.2.6 A person whose name appears on a reemployment list may be given a medical examination prior to certification. Subject to the conditions described below, the employee may be considered unable to report for duty and may be passed over in the order of certification until the prescribed standards are met.

11.1.10.2.6.1 The standards applied in the medical examination shall be no more stringent than those that would be applied to a continuing employee to determine fitness for duty.

11.1.10.2.6.2 No person shall be withheld from reemployment because of a health or medical condition that existed prior to layoff or because of a normal progressive deterioration of such medical or physical condition. Such a person may be placed on illness leave or other appropriate leave after reemployment, if necessary. While on such leave, the employee shall receive seniority credit for the purpose of retention in case of future layoff. Failure to obtain a District-approved medical examination as directed at the time of layoff shall be sufficient reason to deny the benefits of this paragraph.

11.1.10.2.6.3 Written notice of no approval and the reason therefore shall be provided to the employee, who shall be afforded and notified of appeal rights identical to those provided in Chapter 5.3.6.

11.1.10.2.6.4 If a former employee cannot meet legal requirements to perform the prescribed duties of the class of reemployment, his/her name shall be withheld from certification until those requirements are met.

REFERENCE: Education Code Sections 45260, 45261 and 45308

11.1.11 PROBATIONARY EMPLOYEE RIGHTS:

Should a probationary employee be laid off without fault or delinquency on

his/her part before completion of the probationary period, the person's name shall be restored to the eligibility list.

REFERENCE: Education Code Sections 45260, 45261

## 11.2 LEAVE OF ABSENCE PRIOR TO LAYOFF

11.2.1 When a layoff because of lack of funds or lack of work is about to occur, the division concerned shall, insofar as practicable, determine which classes will be affected. A list of such classes shall be furnished to both the Human Resources Division and the Personnel Commission.

11.2.2 Any regular employee who has received notice of impending layoff may be given a leave of absence, at the discretion of the division head, from or after the date of such notice until the effective date of layoff.

11.2.3 Recession of the notice of impending layoff shall cancel all leaves granted under this Chapter. Employees in executive/administrative and supervisory classes shall be allowed 28 days in which to return to employment; employees in other classes shall be allowed 14 days in which to return to employment.

REFERENCE: Education Code Sections 45260, 45261 and 45308

## 11.3 P.E.R.S. RETIREMENT IN LIEU OF LAYOFF:

Regular employees who have at least five (5) years service credit under the Public Employees' Retirement System and are fifty (50) years of age or older, may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reduction in assigned time. Such employees shall complete and submit a form to the Public Employees' Retirement System. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with the Rules within this Chapter. If the District makes an offer of reemployment, the retired person shall be allowed sufficient time to request reinstatement with the Public Employees' Retirement System.

If the unit member is subsequently subject to reemployment, and accepts in writing, within three (3) calendar days, the appropriate vacant position, the District/Personnel Commission shall maintain the vacancy until the Board of Administration of the Public Employees' Retirement System has properly processed his/her request for reinstatement from retirement

### 11.3.1 Notification of Reemployment Openings

Any employee who is laid off and is subsequently eligible for reemployment shall be notified in writing by the Personnel Commission Office of an opening; such notice shall be sent by certified mail to the last address given the District by the employee, and a copy shall be sent to the Madera Unified School's Chapter #169 of the California School Employees Association by the District, which shall acquit the District of its notification responsibility.

REFERENCE: Education Code Sections 45260 and 45261

**CHAPTER 12**  
**RESIGNATIONS**

MADERA UNIFIED SCHOOL DISTRICT PERSONNEL COMMISSION APPROVED MOTION NO. 6-2009/10 DATED: 03/25/10 DOCUMENT NO. 06-2009/10
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12.1        RESIGNATION PROCEDURES

12.1.1     RESIGNATION DURING PROBATIONARY PERIOD:

A person who resigns while in good standing during his/her probationary term may be returned to his/her original place on the eligibility list at the discretion of the Commission.

REFERENCE: Education Code Sections 45260 and 45261

12.1.2     RESIGNATION AND EFFECT ON ELIGIBILITY LISTS:

A resignation relates only to the specific position from which the employee resigns and does not impair his/her rights on other eligibility lists, except that if his/her name is on any promotional eligibility list, it shall be removed from any such list.

REFERENCE: Education Code Section 45260

12.1.3     PROCEDURE FOR RESIGNATION OF EMPLOYEE:

Whenever an employee desires to resign from the District, he/she shall present his/her resignation in writing to their immediate supervisor or the Human Resources Office. The resignation letter shall indicate the last day in paid status of the resigning employee and the reasons for the resignation. The Human Resources Office or the Director-Personnel Commission shall conduct an exit interview with the employee.

REFERENCE: Education Code Sections 45260 and 45261

12.1.3     TWO WEEK NOTICE OF RESIGNATION:

Classified employees are requested to provide the District with at least two (2) weeks notice. Management classified employees are requested to provide at least four (4) weeks notice to the District.

REFERENCE: Education Code Sections 45260 and 45261

12.1.4     ACCEPTANCE OF RESIGNATION:

No resignation of a classified employee shall be considered final until accepted by the Board of Education.

REFERENCE: Education Code Sections 45260, 45261, and 45201

REFERENCE: Education Code Sections 45201, 45260, and 45261

12.1.5     RETIREMENT UNDER P.E.R.S.:

Classified employees working over 1000 hours per year (approximately 4 hours per day) will be covered by the Public Employees' Retirement System and Social Security. Employees wishing to retire under this system are required to submit appropriate retirement applications to the Public Employees' Retirement System. Forms will be available in the Human Resources Office.

REFERENCE: Education Code Sections 45260 and 45261

12.2 HEALTH BENEFIT CONTINUATION UPON RESIGNATION

12.2.1 C.O.B.R.A. HEALTH CONTINUATION REQUIREMENTS:

Under federal law employees and their families are provided a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where coverage under the health plan would otherwise end. The cost of the insurance will be at the employee's expense.

REFERENCE: 1. Section 2201 of the Public Health Service Act, 42 U.S.C. § 300bb-1  
2. Education Code Sections 45260 and 45261

12.2.2 EMPLOYEE CONTINUATION UPON REDUCTION ON LAYOFF:

A classified employee who is covered by the District's health plans has the right to continuation coverage as outlined in these Rules if the employee loses his/her group health coverage because of a reduction in hours of employment, or the termination of his/her employment for reasons other than disciplinary cause of these Rules and Regulations.

REFERENCE: 1. Section 2203 of the Public Health Service Act, 42 U.S.C. § 300bb-3  
2. Education Code Sections 45260 and 45261

12.2.3 SPOUSE COVERAGE:

The spouse of an employee covered by the District's health plans has the right to choose continuation coverage if the employee loses group health coverage for any of the following reasons:

12.2.3.1 The death of the employee.

12.2.3.2 A termination of the covered employee's employment for reasons other than disciplinary cause as outlined in Chapter 10 of these Rules and Regulations, or a reduction in the covered employee's hours of employment with the District that results in a loss of health benefits.

12.2.3.3 Divorce or legal separation from the employee.

12.2.3.4 The employee becomes eligible for Medicare.

REFERENCE: 1. Section 2203 of the Public Health Service Act, 42 U.S.C. § 300bb-3

## 2. Education Code Sections 45260 and 45261

### 12.2.4 DEPENDENT CHILD COVERAGE:

The dependent child of an employee covered by the District's health plans has the right to choose continuation coverage if the employee loses group health coverage for any of the following reasons:

- 12.2.4.1 The death of an employee covered by the plans.
- 12.2.4.2 The termination of a covered employee's employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations with the District, or reduction in a covered employee's hours of employment with the District which results in a loss of health benefits.
- 12.2.4.3 A covered employee's divorce or legal separation.
- 12.2.4.4 A covered employee becomes eligible for Medicare.
- 12.2.4.5 The dependent ceases to be a "dependent child."

REFERENCE: 1. Section 2203 of the Public Health Service Act, 42 U. § 300bb-3  
2. Education Code Sections 45260 and 45261

### 12.2.5 RESPONSIBILITY TO NOTIFY DISTRICT IN STATUS CHANGE:

The qualified beneficiary is required to notify the District of a divorce, legal separation, or a dependent child ceasing to be a dependent child under the District's health plans. Such notice must be provided within 60 days after the date of such event.

REFERENCE: 1. Section 2206 of the Public Health Service Act, 42 U.S. C. § 300bb-6  
2. Education Code Sections 45260 and 45261

### 12.2.6 DISTRICT SHALL SEND NOTIFICATION OF RIGHTS:

Upon the occurrence of one of the qualifying events identified in Rules 12.2.2 through 12.2.4, the District shall provide written notice to the qualified beneficiary (covered employee, spouse or dependent) of such qualified beneficiary's eligibility to elect continuation coverage under the District's health plans. Such notice shall be provided within 14 days of any qualifying event described in Rule 12.2.2, and within 14 days from the date on which the District is properly notified of any qualified event described in Rule 12.2.3 or 12.2.4. The qualified beneficiary shall then have 60 days from the date on which coverage terminates under the District's applicable health plan by reason of such qualifying event to notify the District, in writing, that such qualified beneficiary is electing to receive continuation coverage.

REFERENCE: 1. Sections 2205 and 2206 of the Public Health Service Act, 42 U.S.C. § 300bb-5, 300bb-6

12.2.7 FAILURE TO ACCEPT CONTINUATION:

If an employee or eligible party eligible under these Rules for health benefits continuation coverage either opts not to accept coverage or fails to indicate that coverage is desired within the stated time lines in these Rules, the right to continue to participate in the District's group health insurance plans will be terminated.

REFERENCE: 1. Section 2205 of the Public Health Service Act, 42 U.S.C. § 300bb-5  
2. Education Code Sections 45260 and 45261

12.2.8 REQUIREMENT TO PROVIDE SIMILAR COVERAGE:

If an employee or eligible party chooses continuation coverage, the District is required to give health benefit continuation coverage which, as of the time coverage is provided, is identical to the coverage provided under the health plans to similarly situated employees or to family members with respect to whom a qualifying event has not occurred.

REFERENCE: 1. Section 2202(1) of the Public Health Service Act, 42 U.S.C. § 300bb-2  
2. Education Code Sections 45260 and 45261

12.2.9 LENGTH OF CONTINUATION COVERAGE PROVIDED:

Upon a qualifying event, a qualified beneficiary eligible to receive continuation coverage under the District's health plans may elect to receive continuation coverage for a certain maximum coverage period. If the loss of coverage was a result of a termination of employment or a reduction in hours for reasons other than disciplinary cause, the maximum coverage period is eighteen (18) months from the date of the qualifying event. If the loss of coverage was a result of death, divorce, legal separation, loss of dependent status, or eligibility for Medicare, the maximum coverage period is thirty-six (36) months from the date of the qualifying event.

If the qualified beneficiary loses group health coverage as a result of a termination of employment or reduction in hours of the covered employee, the maximum coverage period may be cut short for any of the following reasons:

12.2.9.1 The District no longer provides group health coverage to any of its employees.

12.2.9.2 The premium for the continuation coverage is not paid on a timely basis with respect to the qualified beneficiary.

12.2.9.3 The qualified beneficiary becomes covered under another group health plan that does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary.

12.2.9.4 The qualified beneficiary becomes entitled to Medicare.

- REFERENCE: 1. Section 2202(2) of the Public Health Service Act, 42 U.S.C. § 300bb-2  
2. Education Code Sections 45260 and 45261

12.2.10 NO EVIDENCE OF INSURABILITY NECESSARY:

A qualified beneficiary is not required to prove insurability to choose continuation coverage.

- REFERENCE: 1. Section 2202(4) of the Public Health Service Act, U.S.C. § 300bb-2  
2. Education Code Sections 45260 and 45261

12.2.11 PAYMENT OF PREMIUM:

The qualified beneficiary receiving continuation coverage under the District's health plans is required to pay 102% of the applicable premium for the period of such coverage. The "applicable premium" means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee). Failure to pay the premium within 30 days of the date on which such premium payment is due will result in a termination of the continuation coverage.

- REFERENCE: 1. Section 2202(3) of the Public Health Service Act, 42 U.S.C. § 300bb-2  
2. Education Code Sections 45260 and 45261

12.2.12 INDIVIDUAL CONVERSION PLANS:

At the conclusion of the continuation coverage eligibility period, the employee or eligible party will be allowed to enroll in an individual conversion health plan provided under health plans offered by the District.

- REFERENCE: 1. Section 2202(5) of the Public Health Service Act, 42 U.S.C. § 300bb-2  
2. Education Code Sections 45260 and 45261