

Ventura Unified
SCHOOL DISTRICT



Personnel Commission **RULES & REGULATIONS** for the Classified Service

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CHAPTER 10

RULE-MAKING AUTHORITY AND DEFINITIONS

10.1 AUTHORITY AND APPLICATION OF RULES

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

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

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

REFERENCE: 1. Education Code Sections 45241 and 45260
 2. Government Code Section 3543.2

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 However, specific and applicable provisions of the rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases.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

REFERENCE: 1. Education Code Section 45260

10.1.3 **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: 1. Education Code Sections 73 - 74, 45260

10.1.4 **JUDICIAL REVIEW:** 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 or regulations.

REFERENCE: 1. Education Code Section 6, 45260

10.1.5 **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 worksite and 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 copy of the rules.

REFERENCE: 1. Education Code Section 45260

10.1.6 **SUBJECTS OF RULES:** The rules and regulations shall provide for the procedures to be followed by the Board of Education 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 insure the efficiency of the classified service and the selection and retention of employees upon a basis of merit and fitness.

REFERENCE: 1. Education Code Sections 45260 - 45261

10.2 DEFINITIONS

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

ALLOCATION: The official placing of a position in a given class by the Personnel Commission, and the assignment of a class title to the position, or the assignment of a class to a salary schedule or rate.

ANNIVERSARY DATE: The date on which an employee is granted an earned salary increment, based on his/her longevity with the District.

APPEAL: A protest by an employee relative to an administrative action actually or potentially detrimental to the employee.

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

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

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

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

ASSIGNMENT BASIS: The portion of the year and hours per day 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 his immediate family or household.

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

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

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

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

CERTIFICATION: The submission of names, by the Director of Classified Human Resources, 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: (Also referred to as "Classification") A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be assigned by the Personnel Commission to designate each position allocated to the group.

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

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

CLASS SPECIFICATION: (Sometimes referred to as a "Class Description" or "Classification 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.

COMMISSION: A three (3) member committee established pursuant to the requirements of "The Act", to establish rules and regulations to govern the classified service of the school district, to oversee the personnel management function related to the classified service, and to regulate the actions of the Board of Education and/or Administration in carrying out the requirements of "The Act" and the rules and regulations of the Commission.

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

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

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

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

DISTRICT: The Ventura Unified School District.

DUAL CERTIFICATION: A procedure which provides for simultaneous certification of open and promotional candidates in accordance with the examination scores attained by the candidates.

DUTIES STATEMENT: A listing of the duties assigned to an individual position or class of positions.

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

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

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

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

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

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

EXEMPT CLASSIFIED: Refers to those positions and employees exempt from the regular classified service as provided in The Act.

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 eighty-seven and a half percent (87.5%) of an eight (8) hour per day, twelve (12) month per year assignment in the classified service of the District.

GOVERNING BOARD: The Board of Education in the Ventura Unified School District ("Appointing Authority or Power").

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

GROUP: A number of classes related in duties and responsibilities as set forth in the list of classes promulgated by the Personnel Commission. Also known as "series" or "families" of classes.

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

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

ILLNESS: Any pronounced deviation from a normal healthy state, which makes it disadvantageous to the District and/or detrimental to the employee for the employee to be at work.

ILLNESS LEAVE: Paid or unpaid leave given to an employee because of personal illness or injury. Illness leave (known as sick leave) may also be used for specified personal emergencies of limited duration.

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 Personnel Commission analyst uses 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.

LAYOFF: Separation from a permanent position because of the lack of work, or lack of funds, or because the position has been abolished or reclassified, or because an employee has exhausted all leave rights and privileges and is still unable to work following an illness or injury. A layoff shall also include any reduction in hours of employment or assignment to a class or grade lower than that in which the employee has probationary or permanent status, voluntarily consented to by the employee, in order to avoid interruption of employment by layoff.

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

LIMITED TERM: A term used in the Education Code (and these rules) to designate employment for periods of time not to exceed six (6) calendar months, or employment of a temporary employee to substitute during 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 period of time of six (6) months or less, and who has been placed in the limited term position from an appropriate eligibility list.

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

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

MERIT SYSTEM: A personnel management system in which comparative merit and fitness govern each 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 eighty-seven and a half percent (87.5%) of the normally assigned time of the majority of employees in the classified service.

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

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

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

PERSONAL NECESSITY LEAVE: A leave of absence with pay for a limited duration which may be taken for reasons of personal need; as specified in the Education Code and the Rules and Regulations of the Personnel Commission. Such leave is charged against the employee's earned cumulative sick leave bank, and is limited to a maximum of six (6) days per school year.

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

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

PERSONNEL STAFF: As used in these rules, the term applies to those persons employed by the Personnel Commission to carry out the day-to-day operations of the Personnel Commission.

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

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

PRIVILEGE: A benefit that is discretionary (which may or may not be granted); in contrast to a right (which must be granted).

PROBATIONARY PERIOD: A trial period of one-hundred-thirty (130) days, or two-hundred-sixty (260) days for executive/administrative/supervisory employees, of paid service (excluding days absent for illness or injury) following appointment to a permanent position from an appropriate eligibility list.

PROBATIONER: An employee who has not completed the required probationary period.

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 base salary rate.

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

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

PROVISIONAL EMPLOYEE: A person temporarily employed in the absence of an appropriate eligibility list while the selection (testing) process is being conducted to fill the position.

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

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

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

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

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

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

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

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

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

RESIGNATION: Voluntary termination by an employee of his/her 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.

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

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

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

SALARY RANGE: A series of consecutive salary steps that comprise the rates of pay for a classification. A salary range usually consists of five (5) steps.

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

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 range, exclusive of any differentials. One of the consecutive rates that comprise a salary range, and paid on an hourly, or monthly basis. Also referred to as the "base" salary step.

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.

SENIORITY: Status secured by length of service (in a classification) to which certain rights attach; including, but not limited to, determining the order of layoff when positions within a classification are eliminated.

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

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

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

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

SUBSTITUTE EMPLOYEE: A person who is temporarily occupying a regular position during the absence of the incumbent (also referred to as a "Limited-term" or "Provisional" Employee).

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

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

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

UNSATISFACTORY SERVICE: The performance of assigned duties and responsibilities in a manner which is considered detrimental to the good of the District, or the failure to perform them adequately; or the performance of actions detrimental to the good of the District while not on duty.

VETERANS' CREDIT: Points for military or related service rendered during time of war or national emergency, and which are to be added to the final passing score of such person or persons competing in an "open examination" for an entry level classification.

WAIVER: The voluntary relinquishing (by an eligible) of a right to be considered for appointment from an employment list to one or more positions.

REFERENCE: 1. 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

10.3

VIOLETION OF MERIT SYSTEM LAWS

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

REFERENCE: 1. Education Code Section 45317

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

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

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

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

REFERENCE: 1. Education Code Section 45317

CHAPTER 20

THE PERSONNEL COMMISSION

20.1 ORGANIZATION OF THE COMMISSION

20.1.1 **TERM(S) OF OFFICE AND GENERAL SELECTION PROCEDURES:** The Personnel Commission is composed of three individuals who must be registered voters, reside within the boundaries of the Ventura 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.

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

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

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

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

20.1.2 **SPECIFIC APPOINTMENT PROCEDURES:** On or about September 1st of each year, the Director of Classified Human Resources 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.

20.1.2.1 **The Board of Education's Appointments:** 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.

20.1.2.2 **The Classified Employees' Appointment:** When a vacancy in a position nominated by the classified employees will occur, the classified employees shall submit the name of its nominee to the governing board at least 30 days before the date on which the vacancy will occur. The Board shall appoint the nominee to be effective on the date on which the vacancy would occur, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee.

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

20.1.2.2.2 In the event that the classified employees have no exclusive representative, the Director of Classified Human Resources 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.

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

(Rev. 20.1.2.2: 10/1/19)

20.1.2.3 **The Commissioners' Appointment:** By September 30th, the appointee of the Board of Education and the appointee of the classified employees (or the appointee of the Executive Officer of the State Personnel Board if that is the situation) 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.

20.1.2.3.1 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 Executive Officer of the State

Personnel Board if no agreement is reached by December 15th.

- REFERENCE:**
1. Education Code Sections 45244 - 45248
 2. Government Code Section 1302

20.1.3 **FILLING OF VACANCIES DURING TERM OF OFFICE:**
Appointment to vacancies occurring subsequent to the initial appointment shall be made by the original appointing authority either for a new full term or to fill an unexpired term. The procedures required in California Education Code Sections 45245 and 45246 shall be followed in the appointment and recommendation for appointment to fill vacancies occurring subsequent to the initial appointments.

The Director of Classified Human Resources shall inform the appointing authority that a vacancy has occurred. It shall then be the appointing authority's responsibility to formally announce that a vacancy has occurred, and shall then take the appropriate steps to fill the vacancy in accordance with California Education Code.

(Rev. 20.1.3: 5/21/20)

- REFERENCE:**
1. Education Code Sections 45244 - 45248

20.1.4 **EMERGENCY APPOINTMENT OF COMMISSIONERS:**
Notwithstanding these rules, the Board of Education at the request of the Director of Classified Human Resources shall declare that an emergency exists and shall make an interim appointment to fill a vacancy or vacancies to insure the continuance of the functions of the Personnel Commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

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

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

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

20.1.5 **OFFICERS:** At its first regularly scheduled meeting in December, the Commission shall elect one of its members to serve as Chairperson and another of its members to serve as Vice Chairperson to serve a term of one (1) year.

The Secretary to the Personnel Commission shall be the Director of Classified Human Resources.

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

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

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

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

- REFERENCE:**
1. Education Code Sections 45250 and 45260

20.1.8 **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 of Classified Human Resources 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:

- 20.1.8.1** The death of the commissioner.
- 20.1.8.2** An adjudication pursuant to a quo warranto 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.
- 20.1.8.3** The commissioner's resignation.
- 20.1.8.4** The commissioner's removal from office by a court of competent jurisdiction.

- 20.1.8.5** The commissioner ceasing to meet all the legal requirements to continue to be a commissioner as outlined in Rule #20.1.1.
- 20.1.8.6** The commissioner's ceasing to discharge the duties of the office for a period of three consecutive months, except when prevented by sickness.
- 20.1.8.7** The commissioner's absence exceeding four (4) total regular meetings in a fiscal year, except when prevented by sickness.
- 20.1.8.8** 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.
- 20.1.8.9** The decision of a competent tribunal declaring void the commissioner's appointment.
- 20.1.8.10** 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 Section 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 and 45245

- 20.1.9** **REMOVAL OF COMMISSIONER FOR CAUSE BY COMMISSION:** Unless one of the causes for vacating a commissioner's position is ordered by a court of competent jurisdiction, the Commission shall be required to declare the position vacant pursuant to this rule. The Commission may declare a position vacant pursuant to Rule #20.1.8 only by majority vote of the Commission. Such action must be taken at a regular or special meeting of 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 (except in cases of a decedent). The Commission shall solicit input from the Board of Education and the employee organization(s), if any, prior to the final vote. If the majority of the commissioners votes to declare a seat vacant, the Commission shall direct the Director of Classified Human Resources to so inform the removed commissioner in writing. The Director of Classified

Human Resources 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 Section 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

20.2 MEETINGS OF THE COMMISSION

20.2.1 REGULAR MEETINGS: Subject to cancellation or proper change, the Personnel Commission shall meet on the 3rd Wednesday of each month at a time and place announced at a prior meeting in the Ventura Unified School District Education Service Center, 255 West Stanley Avenue, Ventura, California. Whenever the regularly scheduled meeting date happens to fall on a holiday, the Commission shall (at a prior regular meeting) take an action to designate another date for its meeting.
(Rev. 9/8/04, 1/19/05, 10/17/12)

20.2.1.1 In cases of emergency, the Commission may meet at some other time and/or place, provided that at least seventy-two (72) hours notice is given to representatives of the employee organizations and the District's administration as well as being posted on the Commission's official bulletin board.

- REFERENCE:**
1. Education Code Section 45260
 2. Government Code Section 54952 - 54952.3
 3. Government Code Section 54956.5

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

- REFERENCE:**
1. Education Code Section 45260
 2. Government Code Sections 54952, 54952.3, and 54956.5

20.2.3 SPECIAL MEETINGS: Special meetings may be called at any time by the Commission Chairperson or by the written request of any member of the Personnel Commission. Written notice for any such meeting shall be delivered personally or by mail to each member of the Commission. A written notice of such meeting shall also be provided to any of the

following persons or organizations if they have filed written requests to be notified of the dates and times of the Commission meetings: each local newspaper of general distribution, radio or television stations, as well as representatives of any recognized employee organization or group. Such notice must be delivered personally or by mail at least seventy-two (72) 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 that meeting.

- REFERENCE:**
1. Education Code Section 45260
 2. Government Code Section 54956

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

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

20.2.5 **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 or after holding a closed session, the Commission shall state the general reasons (s) for the closed session and may cite the statutory or other legal authority under which the session is/was being held. In the closed session, the Commission may consider only those matters covered in its 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.

20.2.5.1 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 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.

20.2.5.2 The following are legally authorized exceptions to the open meeting requirement:

20.2.5.2.1 Appointment, employment, dismissal, or evaluation of employees.

20.2.5.2.2 Consideration of complaints brought against employees.

20.2.5.2.3 Consideration of matters affecting national security.

20.2.5.2.4 Consideration of legal matters coming within the purview of the attorney/client relationship.

20.2.5.2.5 Discussions relative to negotiations, conciliation, mediation, or other matters affecting classified employee labor relations as provided for in Government Code Section 3500 et seq. A meeting on this item may only be held if the Commission has a representative involved in the negotiating process. If the Commission has no representative and is not conducting negotiations itself, it cannot hold a closed session relative to discussing matters within the scope of negotiations.

20.2.5.3 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 adverse 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.

20.2.5.4 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, and 54957.7
 2. Government Code Sections 1222, 1770, 3543, 3543.2, and 3549.1

20.2.6 **AGENDA AND SUPPORTING DATA:** Insofar as possible, at least seventy-two (72) hours prior to every regular or special Commission 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.

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

20.2.6.2 Individual employees, employee organizations, and other interested parties may submit their written views on any item on the agenda, except for those matters listed in Personnel Commission Rule #20.2.5 (Closed Sessions), and/or given a reasonable opportunity to present their views orally during the Commission meeting. In reaching its decisions, the Commission makes it a policy to consider all comments and recommendations made to it in this manner.

20.2.6.3 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 of Classified Human Resources not less than seven (7) calendar days prior to the scheduled Commission meeting at which the item is to be considered.

- REFERENCE:**
1. Education Code Section 45260

20.2.7

AMENDMENTS, DELETIONS, OR ADDITIONS TO RULES: Prior to adoption, proposals to amend, delete, or add to these rules and regulations shall normally be given two reading by the Personnel Commission. However, due to extenuating circumstances or pressing timelines, and upon a recommendation by the Director of Classified Human Resources, the Personnel Commission may waive the second reading.

Rules and regulations may be adopted by a majority vote of all members of the Personnel Commission.

The development of the Personnel Commission's Rules and Regulations shall include the following basic steps:

1. The Personnel Commission and/or the Director of Classified Human Resources shall identify the need for a new rule or regulation or revision of an existing rule and regulation. The need may arise from things such as, but not limited to a change in law, a new district vision statement, new goals within the classified service, educational research or trends, an incident that has arisen within the classified service or district, a recommendation or request from staff, or other good reason or cause.
2. As needed, the Director of Classified Human Resources shall gather pertinent data to fully inform the Personnel Commission about a particular issue (i.e. input from staff, district administration, recognized employee organizations representing the District's classified employees and the public, related district policies, sample rules and regulations from other districts or agencies, fiscal data and other useful information.)
3. The Personnel Commission may hold discussions during a public Personnel Commission meeting to gain an understanding of the issue and provide initial direction to the Director of Classified Human Resources.
4. The Personnel Commission or Director of Human Resources may request that legal counsel review the draft rule or regulation as appropriate.
5. The Director of Classified Human Resources shall develop and present a draft rule or regulation for a first reading at a public Personnel Commission meeting. The Director of Classified Human Resources will refer the proposed rule changes to the designated representatives of recognized employee organizations representing the District's classified employees, the Superintendent, and others (who have indicated their interest in such matters) in order to provide them with an opportunity to submit their comments or recommendations. At its second reading, the Personnel Commission may take action on the proposed policy.

6. The Personnel Commission may waive the second reading and may take action on the proposed policy after a first reading if deemed appropriate, or may require an additional reading if necessary before taking action.
7. Insofar as possible, the interested parties shall submit their reactions and/or recommendations to proposed rule changes in writing on or before the stipulated agenda deadline date (see Personnel Commission Rule #20.2.6). 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 #20.2.6 (Agenda and Supporting Data).

(Rev. 20.2.7: 12/19/19)

REFERENCE: 1. Education Code Section 45260

20.2.8

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

20.2.8.1

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

20.2.8.2

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

20.2.8.3

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: 1. Education Code Section 45260

20.3 COMMISSION EMPLOYEES

20.3.1 **STATUS OF COMMISSION EMPLOYEES:** The Director of Classified Human Resources and other persons required to carry out the day-to-day responsibilities of the Personnel Commission shall be selected by the Commission, and shall be employees of the Personnel Commission. The Commission shall decide on how those employees will be utilized and determine the assigned time of each employee reporting to the Commission, as well as the compensation to be paid the employees. 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: 1. Education Code Sections 45260 and 45264

20.3.2 **GENERAL DUTIES OF THE DIRECTOR OF CLASSIFIED HUMAN RESOURCES:** The Director of Classified Human Resources 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 of Classified Human Resources shall act as Secretary to the Personnel Commission, and shall issue and receive all notifications on its behalf. The Director of Classified Human Resources shall direct and supervise the employees of the Commission, and conduct administrative transactions consistent with the law as well as the proper functioning of the office and staff of the Personnel Commission.

20.3.2.1 The Director of Classified Human Resources of Ventura Unified School District shall also perform all Board related functions of administering the classified personnel management program, and shall serve as the advisor to the Superintendent and the Board of Education on classified personnel matters.

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

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

20.4 COMMUNICATIONS

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

20.4.1.1 Individuals or groups who wish to present proposals for action by the Commission shall present their requests to the Director of Classified Human Resources 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 (public) meetings.

20.4.1.2 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: 1. Education Code Section 45260

20.5 PERSONNEL COMMISSION BUDGET

20.5.1 **BUDGET:** The Personnel Commission 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: 1. Education Code Sections 45253 and 45260

20.5.2 **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 the first regular Commission meeting in May (of each year).

REFERENCE: 1. Education Code Sections 45253 and 45260

20.5.3 **INPUT SOUGHT:** Prior to the public hearing on its budget, the Personnel Commission shall forward a copy of its proposed budget to the Board of 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: 1. Education Code Sections 45253 and 45260

20.5.4 **ADOPTED BUDGET FORWARD TO COUNTY SUPERINTENDENT:** Following its adoption of a budget for the ensuing year, the Commission shall then forward its adopted budget to the Ventura County Superintendent of Schools for action, not later than May 31, of each year.

REFERENCE: 1. Education Code Sections 45253 and 45260

20.5.5 **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 Ventura County Superintendent of Schools. The Ventura County Superintendent, 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: 1. Education Code Sections 45253 and 45260

20.5.6 **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: 1. Education Code Sections 45253 and 45260

20.5.7 **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 Act, the Personnel Commission reserves the right to seek judicial review and relief.

REFERENCE: 1. Education Code Sections 45253 and 45260

20.6 PERSONNEL COMMISSION ANNUAL REPORT

20.6.1 ANNUAL REPORT: The Director of Classified Human Resources 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.

20.6.1.1 The report shall be prepared for Commission approval not 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: 1. Education Code Section 45266

20.7 LEGAL COUNSEL FOR THE PERSONNEL COMMISSION

20.7.1 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 general funds, whether or not the money-costs for such legal services appear in the Commission's budget.

REFERENCE: 1. Education Code Section 45313

CHAPTER 30

POSITION CLASSIFICATION PLAN

30.1 THE CLASSIFIED SERVICE

30.1.1 **POSITIONS INCLUDED:** All positions established by the Board of 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.

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

REFERENCE: 1. Education Code Sections 44065, 44066, 44068, 44069, 45103, 45104, 45105, 45105.1, 45106, 45108, 45256, 45256.5, and 45259

30.1.2 **EXEMPTION FROM THE CLASSIFIED SERVICE:** Positions required by law to have certification qualifications, part-time playground positions, full-time day students employed part-time, part-time students employed part-time in any college work-study program or in a 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 provided that the Commission has agreed to designate such persons as professional experts, shall be exempt from the classified service.

REFERENCE: 1. Education Code Sections 44065, 44066, 44068, 44069, 45103, 45204, 45205, 45205.1, 45106, 45108, 45256, 45256.5, 45257, 45258, 45259, 51760, 51760.3, and 51764.

30.1.3 **PART-TIME DEFINED:** A part-time position for the purpose of exemption under Personnel Commission Rule #30.1.2 is a temporary position for which the assigned time, when computed on a 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: 1. Education Code Sections 45256 and 45260

30.1.4 **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: 1. Education Code Sections 44065, 45103, 45105.1, 45106, 45256, 45257, 45258, and 45260

30.1.5 **PROFESSIONAL EXPERT ASSIGNMENTS:** Whenever the use of a professional expert assignment is being contemplated, the administration shall submit to the Director of Classified Human Resources a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to the employee so assigned, nor shall a limited-term position be filed by the assignment of a professional expert if the duties and responsibilities to be performed by the person fit an existing class for which a reemployment or an eligibility list exists.

30.1.5.1 When the person is known who is to be employed as a professional expert, the person's name as well as the data relative to his/her qualifications shall be submitted to the Director of Classified Human Resources. In order to be exempted from the classified service as a professional expert, an individual must be recognized as such by reputable members of his/her own profession. Evidence of professional qualifications must be presented to the Personnel Commission at the time that the written request for such temporary appointment is made. The duration of the authorization for a person to serve as a professional expert shall be determined by the Commission, based upon the request of the Board of Education. However, authorization for service as a professional expert shall not exceed six (6) months. Unless the Commission approves an extension of the assignment, the total period of the original assignment and extension shall not exceed twelve (12) months.

REFERENCE: 1. Education Code Sections 45256 and 45260

30.1.6 **RESTRICTED POSITIONS:** If specially-funded programs of the District are required, as a part of such program, to employ persons based on criteria that limits the privilege of all citizens to compete for employment in such positions, those positions shall be classified as "restricted." The selection and retention of employees in such positions shall be made on the same basis as that of persons selected and retained

in positions that are a part of the regular school program, except that persons employed in the following "restricted" classifications need not participate in the same type of selection processes as other similar non-restricted positions.

30.1.6.1 **Exempt From Certain Rights:** Persons employed in "Restricted" positions shall be classified employees for all purposes except:

30.1.6.1.1 They shall not attain permanent status.

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

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

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

30.1.6.3 **Prohibited Uses:** Funds derived from laws enacted to provide transitional employment in public service positions for unemployed or under employed persons shall not be expended for work that:

30.1.6.3.1 Would otherwise have been performed at federal, state, or local expense;

30.1.6.3.2 Would result in a decrease in the employment which would otherwise be available;

30.1.6.3.3 Would result in the displacement of members of the classified service, including partial displacement, such as reduction in the hours of non-overtime work or wages or employment benefits or;

30.1.6.3.4 Would impair the existing rights of probationary and permanent members of the classified service.

REFERENCE: 1. Education Code Sections 45105, 45105.1, 45108, 45259, 45260, and 45261

30.1.7 **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: 1. Education Code Sections 45256, 45260, 45261, and 51760 - 51770

30.2 GENERAL CLASSIFICATION RULES

30.2.1 **ASSIGNMENT OF DUTIES:** The Board shall prescribe the duties and responsibilities of all positions in the classified service except those on 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 of Classified Human Resources shall report the facts to the responsible administrator in order that appropriate action be taken.

REFERENCE: 1. Education Code Sections 45100, 45104, 45105, 45105.1, 45109, 45240, 45241, 45264, and 45266

30.2.2 **THE GENERAL CLASSIFICATION PLAN:** The Commission shall classify all employees and positions within the jurisdiction of the Board or the Commission, except those positions which the Commission

determines are exempt from the Classified Service pursuant to Rule #30.1.2. The Commission shall maintain a classification plan for all positions in the Classified Service, organized by class series and occupational hierarchy. The Commission may create new classes and abolish, divide, or combine existing classes within the classification plan as the needs of the Classified Service require as determined by the Commission. For purposes of this rule, classification shall include, but not be limited to:

- 30.2.2.1 Allocation of all positions to appropriate classes.
- 30.2.2.2 Arrangement of classes into occupational hierarchies (job families).
- 30.2.2.3 Determination of reasonable percentage relationships between classes within the occupational hierarchies.
- 30.2.2.4 Determination of reasonable percentage relationships between occupational hierarchies.
- 30.2.2.5 Preparing written class specifications.

REFERENCE: 1. Education Code Sections 45100, 45104, 45105, 45105.1, 45109, 45241, and 45256

30.2.3 **CLASS SPECIFICATIONS:** All class specifications shall be considered by reference as a part of these rules. For each class, the Personnel Commission shall establish and maintain a class specification which shall include:

- 30.2.3.1 The class title.
- 30.2.3.2 A definition of the class, indicating the type of duties and responsibilities and placement within the organizational scheme.
- 30.2.3.3 If appropriate, a statement of distinguishing characteristics which differentiates the class from other classes in the job series.
- 30.2.3.4 A statement of the representative duties 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.
- 30.2.3.5 A statement of the minimum qualifications for service in the particular class. The minimum qualifications shall

be based upon knowledge, skills, abilities, personal and physical traits and characteristics.

- 30.2.3.6 A statement about any license, certificates, or other special requirements for employment or service in the particular class.
- 30.2.3.7 A statement about any physical requirements required of positions in the class.
- 30.2.3.8 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.
- 30.2.3.9 Minimum qualifications shall not require a teaching, administrative, or other credential, nor may they require work experience which would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials.
- 30.2.3.10 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: 1. Education Code Sections 45256, 45260, 45273, 45276, 45277, 45285, and 45285.5

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

- 30.2.4.1 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.
- 30.2.4.2 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.

- 30.2.4.3** 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.
- 30.2.4.4** 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.
- 30.2.4.5** The following personal qualification requirements apply to all classes even though not necessarily specifically mentioned in the specification: good health and freedom from work related disabling defects and communicable diseases; good physical condition and agility and strength commensurate with the duties of the class; integrity; sobriety; industriousness; initiative; resourcefulness; dependability; good judgment; good moral character and reputation; loyalty; ability to work cooperatively with others; and willingness and ability to assume the responsibilities and to conform to the conditions of work characteristics of the particular position.
- 30.2.4.6** 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: 1. Education Code Sections 45256, 45260, 45273, 45276, 45277, 45285, and 45285.5

30.2.5 **CREATION OF NEW POSITIONS:** When the Board of Education creates a new position it shall submit the duties officially assigned to the position, in writing, to the Director of Classified Human Resources. The Board may recommend minimum requirements for the position. The Director of Classified Human Resources shall present recommendations to the Commission for action. The Commission shall:

- 30.2.5.1** Determine if the new position shall be a part of the Classified Service or exempt under Rule #30.1.2.

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

30.2.5.3 If a new class is recommended, the Director of Classified Human Resources shall set forth a proposed class specification setting out the title, duties, 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.

30.2.5.4 The Commission shall designate the proper salary placement on the appropriate classified salary schedule.

30.2.5.5 The Commission shall direct the Director of Classified Human Resources to notify the Board of the Commission's action.

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

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

30.2.7 **CHANGES IN DUTIES OF POSITIONS:** Any substantial change in the duties of existing positions shall be promptly reported in writing to the Director of Classified Human Resources, 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 of Classified Human Resources shall submit recommendations to the Personnel Commission for action.

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

30.2.8 **WORKING OUT OF CLASSIFICATION:** Each classified employee shall 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 by

the Board of Education for any period of time which exceeds five (5) working days within a fifteen (15) calendar day period, except as provided by this rule. An employee may be worked beyond the scope of the duties normally assigned to that employee's position provided that the employee's salary is adjusted as follows:

- 30.2.8.1** 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 for the entire period of working out of classification.
- 30.2.8.2** Whenever an employee is allowed to assume or is required to perform all or the majority of the functions and duties of a higher classification, the salary shall be adjusted upward to the salary range of the higher classification, and then to the step of that range that will provide the employee at least a 5.7% salary increase. An employee may receive less than a 5.7% increase if the top step of the higher classification's salary range is less than 5.7% above the employee's regular salary. In that instance the employee shall be placed at said top step and the employee shall not be entitled to further compensation.
- 30.2.8.3** If an employee is required to perform duties which are not allocated to an existing class, the assignment shall be reported to the Director of Classified Human Resources in writing so that a review may be conducted to determine the appropriate pay differential for the temporary assignment.
- 30.2.8.4** Requests for differential pay for working out of class shall be submitted to the Director of Classified Human Resources as soon as possible after the assignment has been made.
- 30.2.8.5** Working out of class assignments are designed for temporary situations and shall not be used to place an employee in a permanent assignment in a higher or different classification.
- 30.2.8.6** The Director of Classified Human Resources 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 for approval.

30.2.8.7 If the Director of Classified Human Resources'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.

30.2.8.8 These rules shall not be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.

REFERENCE: 1. Education Code Sections 45110, 45256, 45260, 45285, and 45285.5

30.2.9 **REVIEW OF POSITIONS:** The Director of Classified Human Resources 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 of Classified Human Resources shall also report the findings in cases where the review indicates that a change of classification is unwarranted.

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

30.2.10 **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 Board of Education 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 the special requirement.

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

30.2.10.2 An announcement calling for an examination for a class with position(s) containing special requirements will contain appropriate information and will indicate that successful candidates possessing the special skill will be

given preference over other successful candidates, but only as to those specific positions.

30.2.10.3 When a vacancy occurs in a position which has approved special skill requirements, the position shall maintain the requirement for the special skill unless the Board of Education certifies that the special skill is no longer required for the position.

30.2.10.4 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.

30.2.10.5 Layoffs in classifications with positions established pursuant to this rule shall be conducted pursuant to Rule #200.1.

REFERENCE: 1. Education Code Sections 45104, 45105, 45105.1, 45109, 45241, 45256, and 45277

30.3 RECLASSIFICATION

30.3.1 **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.

30.3.1.1 The only basis for reclassification of a position shall be a significant change in job duties. Recommendations for reclassification will be made by the Director of Classified Human Resources including a determination as to whether the change is the result of a gradual accretion of duties or reorganization. The Commission shall be the final approving authority.

30.3.1.2 Requests for a reclassification study of an existing position shall be presented in writing to the Director of Classified Human Resources, together with a statement setting forth the reasons for the request. Requests for the reclassification study of a position may be initiated by an employee, the District Administration, or a recognized employee organization. Requests initiated by an employee or an employee organization shall include a listing of duties and a statement indicating the reasons the employee feels a reclassification is justified.

Requests initiated by the District Administration shall include the above information as well as a statement by the employee's supervisor verifying the authorized duties of the position.

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

30.3.2 **EFFECTIVE DATE OF RECLASSIFICATION:** Reclassification of a position or positions shall become effective on the date prescribed by the Personnel Commission, but shall not have retroactive effect. Changes in classification and salary resulting from the permanent reclassification of a position(s) shall be effective no later than whichever of the following dates is applicable: The first of the month following the Personnel Commission approval of the reclassification, provided the employee is eligible to be reclassified with the position without examination as specified in these rules; or the first of the month following the date on which the employee becomes fully qualified for the position by successfully completing all parts of the selection procedure.

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

30.3.3 **NOTIFICATION OF RECLASSIFICATION:** Notification of a recommendation for the classification or reclassification of a position or employee shall be given to the employee(s) affected, their exclusive representative, the employee's supervisor, and the District Administration before the classification proposal is adopted, by inclusion as an agenda item at a regular or special meeting of the Personnel Commission.

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

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

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

30.3.5 **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.

30.3.5.1 **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 with their positions.

(Rev. 10/15/03)

30.3.5.1.1 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.

(Rev. 10/15/03)

30.3.5.1.2 In order for an incumbent to be reclassified with the position, 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 made by the Personnel Commission.

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

(Rev. 10/15/03)

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

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

- 30.3.5.2.1 The right to bump a less senior employee in the same class pursuant to bumping procedures outlined in the layoff provisions of these rules.
- 30.3.5.2.2 The right to bump a less senior employee in any equal or lower class in which the incumbent formerly served, pursuant to bumping procedures outlined in the layoff provisions of these rules.
- 30.3.5.2.3 The right to be demoted or to transfer, without examination to the class to which his/her position is reclassified.
- 30.3.5.2.4 The employee may choose to transfer, demote, or exercise bumping rights at the employee's option, and his/her choice shall not affect the employee's rights under Personnel Commission Rule #30.3.8.

REFERENCE: 1. Education Code Sections 45256, 45260, 45268, 45285, and 45285.1

30.3.6 **DEFINITION OF GRADUAL ACCRETION:** For purposes of these guidelines, three (3) or more years of regular service shall be interpreted to mean assignment for at least three (3) complete years within the assignment basis of the class or position. Determination as to gradual accretion will be based on an analysis of data to be supplied by the division or school, as well as the Personnel Commission staff, regarding the following guideline factors:

- 30.3.6.1 The nature and scope of each identified change in duties and responsibilities.
- 30.3.6.2 The exact or approximate date the incumbent began the performance of the newly acquired duties and responsibilities.
- 30.3.6.3 The conditions which led to the association of the added duties and responsibilities with the subject position(s).
- 30.3.6.4 Evidence of the employee's performance of the added duties and responsibilities.

REFERENCE: 1. Education Code Sections 45256, 45260, 45268, 45285, and 45285.1

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

REFERENCE: 1. Education Code Sections 45256, 45260, 45268, 45285, and 45285.1

30.3.8 **REEMPLOYMENT LISTS FOR DISPLACED INCUMBENTS:** Any displacement of a regular employee resulting from a reclassification of a position, positions, or a class of positions, shall be considered as a layoff for lack of work, and an appropriate reemployment list will be established in accordance with these rules. These rules shall be followed in all instances of reclassification; whether or not it results in an upgrading, downgrading, lateral class movement, bumping, or a complete displacement of incumbents.

30.3.8.1 Persons laid off or who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff because of a reclassification are eligible for reemployment for a period of thirty-nine (39) months, and shall be reemployed in preference to new applicants. In addition, such laid-off persons have the right to participate in promotional examinations within the District during that thirty-nine month period.

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

30.4 SENIOR MANAGEMENT EXEMPTIONS

30.4.1 **BOARD MAY DESIGNATE POSITIONS AS SENIOR MANAGEMENT:** The Board of Education may adopt a resolution designating certain positions as senior management of the classified service. Notwithstanding the provisions of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code (The Rodda Act), the decision of the Board of Education shall not be deemed a matter subject to negotiation with any exclusive certified employee organization. The decision of the Board to make a position senior management shall be subject to review by the Public Employment Relations Board.

30.4.1.1 No position funded in whole or in part by the Personnel Commission shall be made a part of the senior management of the classified service.

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

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

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

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

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

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

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

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

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

30.4.4.2 If the District has 10,000 to 25,000 units of average daily attendance (ADA), inclusive, three positions.

30.4.4.3 If the District has 25,001 to 50,000 units of average daily attendance (ADA), inclusive, four positions.

30.4.4.4 If the District has more than 50,000 units of average daily attendance (ADA), five positions.

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

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

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

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

30.4.6.1 The position shall be filled from an unranked eligibility list developed by the Personnel Commission and arrived at by competitive examination(s) as determined by the Commission. The examination shall include test segments that will allow the candidates to demonstrate managerial ability.

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

30.4.6.3 The Personnel Commission shall determine the minimum qualifications for the position designated senior management, taking particular note of managerial ability necessary to successfully perform in the position and that the final eligibility list shall be unranked rather than ranked.

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

30.4.7 **IMPACT OF SENIOR MANAGEMENT DESIGNATION ON INCUMBENTS:** Any classified employee already serving in a position

which is subsequently designated senior management of the classified service shall retain all rights, burdens and benefits of employment in the classified service, including the right to obtain or retain permanency. The incumbent's eventual successor in the position shall not be entitled to permanency rights in the senior management position.

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

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

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

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

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

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

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

these Rules and Regulations except as expressly allowed by statute.

- 30.4.9.3** In the event the Board of Education determines that an employee in the senior management of the classified service is not to be reelected or reemployed as such upon the expiration of the employee's term, he/she shall be given written notice thereof by the Board of Education at least 45 calendar days in advance of the expiration of the employee's term.
- 30.4.9.4** In the event the Board of Education fails to reelect or reemploy an employee as a member of the senior management of the classified service and the written notice required in Rule #30.4.9.3 has not been given, the employee shall be deemed reelected for a term of the same length as the one just completed, and under the same terms and conditions of employment (including compensation).
- 30.4.9.5** The notice not to reelect or reemploy an employee who is a member of the senior management of the classified service shall be in writing and served in person or by certified mail (Return Receipt Requested) to the employee. This requirement will be deemed to have been met if the Notice Not to Reelect or Reemploy is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. The responsibility for keeping the District informed of a home address is the requirement of the employee. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.
- 30.4.9.6** If the senior management employee is placed on a management salary schedule in lieu of being given a contract, the rules of the Personnel Commission relating to salary movement shall apply, except that the senior management employee shall receive the first step advancement normally granted after the completion of a probationary period at the same interval as if he/she had completed that period.
- 30.4.9.7** In the event of nonreelection of a senior management employee who is not on a contract, but who is placed on

a salary schedule, the rules of the Personnel Commission dealing with notice for disciplinary action shall apply.

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

30.5 EXECUTIVE SECRETARY EXEMPTIONS

30.5.1 BOARD MAY REQUEST EXEMPTIONS FOR EXECUTIVE SECRETARIES: Upon the request of a majority of the members of the Board of Education, the Board may request that the Personnel Commission consider exempting certain executive secretary positions from specific provisions of the Education Code and these Rules and Regulations. The Personnel Commission shall have the power to grant or not grant such a request. The granting of waivers by the Personnel Commission shall be considered only if the Commission determines that it is in the best interests of the District, and not detrimental to the philosophy, intent, and purpose of the merit system. If a waiver is granted, it shall only be done pursuant to these rules and regulations.

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

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

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

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

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

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

- 30.5.4.1** The position shall be filled from an unranked eligibility list developed by the Personnel Commission and arrived at by competitive examinations(s) as determined by the Commission.
- 30.5.4.2** The appointing authority shall have the right to interview all eligible candidates certified by the Commission from the unranked list.
- 30.5.4.3** The Personnel Commission shall determine the minimum qualifications for the position designated executive secretary, taking particular note of the qualifications necessary to perform successfully at this level, and that the final eligibility list shall be unranked rather than ranked.

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

- 30.5.5** **IMPACT OF EXECUTIVE SECRETARY DESIGNATION ON INCUMBENTS:** Any classified employee already serving in a position which is subsequently designated executive secretary by the Personnel Commission shall retain all rights, burdens and benefits of employment in the classified service, including the right to obtain or retain permanency. The incumbent's eventual successor in the position shall not be entitled to permanency rights in the executive secretary position.

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

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

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

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

- 30.5.7.1** In the event the Board of Education determines that an employee serving in an exempt executive secretarial position is not to continue in that position (except for disciplinary causes as outlined in the Education Code or

these Rules and Regulations), the impacted employee shall be given written notice thereof by the Board of Education at least 45 calendar days in advance of the last day in paid status in the exempt position.

30.5.7.2

The notice not to continue to employ a person who is serving in an exempt executive secretary position shall be in writing and served in person or by certified mail (Return Receipt Requested) to the employee. This requirement will be deemed to have been met if the Notice To Discontinue Executive Secretary Service is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. The responsibility for keeping the District informed of a home address is the requirement of the employee. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of the receipt.

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

CHAPTER 40

APPLICATION FOR EMPLOYMENT

40.1 APPLICATION

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

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

40.1.1.2 For affirmative action and federal/state reporting purposes, questions regarding ethnicity, sex, age, and handicapping condition shall be placed 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, handicapping condition, medical condition, marital status, sex or age prior to employment. This form shall be kept separate from any application materials.

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

REFERENCE: 1. Education Code Sections 45260 and 45272

40.1.2 **GENERAL QUALIFICATIONS OF APPLICANTS:** Applicants must be permanent residents of, or must otherwise prove their right to work in the United States and must possess all other requirements that are specified in the qualifications established for the class. Every applicant must be mentally and physically competent to perform the duties of the position for which applying.

40.1.2.1 Every qualified applicant shall have an opportunity to seek, obtain, and hold permanent employment without discrimination because of race, religious creed, color, national origin, ancestry, handicapping condition, medical condition (as defined in Government Code Section 12926), employee organization membership or non-membership and legal activities related thereto, marital status, sex, sexual orientation, or age.

- 40.1.2.2 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.
- 40.1.2.3 No maximum age limit shall be set as a condition for initial or continued employment in the District.
- 40.1.2.4 Disabled persons shall be given equal employment opportunity and reasonable accommodation for employment shall be made where practicable.

- REFERENCE:**
- 1. Education Code Sections 45111, 45122, 45123, 45124, 45134, 45260, and 45272
 - 2. Labor Code Section 2805
 - 3. Government Code Sections 12921 and 12926

40.2 DISQUALIFICATION OF APPLICANTS AND CANDIDATES

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

- 40.2.1.1 Failure to meet the general qualifications of Rule #40.1.2.
- 40.2.1.2 Advocacy of the overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
- 40.2.1.3 Conviction, either by a plea of guilty or nolo contendere, a court decision or a jury verdict to a charge of a sex or narcotics offense as defined in Education Code Sections 44010 or 44011.
- 40.2.1.4 A history of drug addiction without acceptable evidence of rehabilitation.
- 40.2.1.5 Conviction, either by a plea of guilty or nolo contendere, a court decision or a jury verdict of a felony or serious crime or a record of one or more convictions which would indicate that the person is a poor employment risk. A conviction record will be evaluated on the following basis; nature, seriousness and circumstances of the offense(s); age of the person at the time and recency of the offense; number of convictions; relationship of the offense to the position applied for; evidence of rehabilitation and maturing including the employment record with respect to job responsibility and

duration; truthfulness in admitting to the offenses; person's attitude; and the duties of the class.

- 40.2.1.6** Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form.
- 40.2.1.7** Practicing any deception or fraud in connection with an examination or to secure employment.
- 40.2.1.8** Obtaining or attempting to obtain either directly or indirectly, privileged information regarding test questions or examination content.
- 40.2.1.9** Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District under these rules.
- 40.2.1.10** Previous dismissal from the District.
- 40.2.1.11** A record of unsatisfactory service within the District, supported by documentation in the employees permanent file, as evidenced by a disciplinary action, a need to improve, unsatisfactory job performance notice or a resignation in lieu of dismissal.
- 40.2.1.12** Dishonorable discharge from the Armed Forces of the United States.
- 40.2.1.13** Refusal to furnish testimony, other than self-incriminating, at a hearing or investigation before the Personnel Commission or the Board of Education.
- 40.2.1.14** Unsatisfactory health conditions which clearly indicate that the applicant or candidate would be unable to perform the duties of the job or would endanger his/her health and safety and/or the health and safety of others.
- 40.2.1.15** Attempting to or making contact with any member of the Board of Education 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.
- 40.2.1.16** Failure, after due notice, to report for review any of the above causes for disqualification.

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

REFERENCE: 1. Education Code Sections 45111, 45122, 45123, 45124, 45134, 45260, 45261, and 45303

40.2.2 **APPEAL FROM DISQUALIFICATION:** Any applicant, candidate, and/or eligible disqualified based on Rule #40.2 shall be notified in writing, indicating the reasons for disqualification and advising the individual that he/she has four (4) working days from receipt of notification to appeal the decision to the Director of Classified Human Resources.

40.2.2.1 Anyone who has appealed a disqualification shall conditionally be permitted to take the examination pending final decision.

40.2.2.2 Upon receipt of an appeal, the Director of Classified Human Resources shall conduct an investigation. If the decision is in favor of the applicant, he/she shall be notified 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 within five (5) working days after being notified.

40.2.2.3 Upon receipt of an appeal, the Commission shall conduct a hearing and shall receive evidence and render a decision within fourteen (14) calendar days. If the Commission's decision is in favor of the applicant, he/she shall be given rights as though the rejection had not occurred. The decision of the Personnel Commission is final and binding on all parties.

40.2.2.4 Appointments may be made from available eligibles pending final decision on the appeal (unless ordered otherwise by the Personnel Commission), and shall not be changed even though the outcome is in the appellant's favor, unless such appointments were fraudulently made.

REFERENCE: 1. Education Code Sections 45111, 45122, 45123, 45124, 45134, 45260, 45261, and 45303

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

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

40.2.4 **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. However, eligibility lists may be posted showing the relative ranking of applicants on final and certified eligibility lists, so long as the final scores of each candidate are not shown on the posted lists.

REFERENCE: 1. Education Code Sections 45260 and 45261

CHAPTER 50

RECRUITMENT AND EXAMINATIONS

50.1 RECRUITMENTS

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

50.1.1.1 No examination announcement may be made and no part of any examination may be held for a new position until the Board has properly designated the position duties and the Commission has completed the position classification including the establishment of minimum qualifications. (Note: A newly-created position is one which does not have a previously separate existence.)

50.1.1.2 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 the appropriate vacancy announcement form which shall be distributed to all employee work sites and community locations for at least fifteen (15) working days. It shall be the responsibility of each site administrator or department head to insure that all vacancy announcements are posted in an area where all employees shall have access to them. The Director of Classified Human Resources shall determine the appropriateness and may place advertisements in newspapers, trade and business journals or other media. The Director of Classified Human Resources shall insure that community agencies and organizations dealing with women, minorities, and the handicapped are notified of each examination.

50.1.1.3 The vacancy announcement shall contain the title of the class and shall include the following:

50.1.1.3.1 Information concerning the purpose of the examination.

50.1.1.3.2 A description of the scope of duties and responsibilities of the class.

50.1.1.3.3 The qualifications and requirements of the class.

- 50.1.1.3.4 The salary, benefits, and other compensation.
 - 50.1.1.3.5 The closing date for filing applications.
 - 50.1.1.3.6 The general content of the examination and the types of tests to be given, to include test dates when possible.
 - 50.1.1.3.7 Such other information as will assist interested persons in fully understanding the nature of the employment and procedures necessary to participate in the examination.
- 50.1.1.4 When a position is posted for recruitment and special skills are either desired or required that information shall be noted on the recruitment announcement.
- 50.1.1.4.1 **Required Special Skills:** When a position requires a special shorthand or transcription skills, demonstration of the possession of said skill shall be a minimum qualification for the successful completion of the testing process. Having been successful in the testing process, the candidate shall have noted on the resulting eligibility list that he/she possesses the skill and shall be certified for available positions which require the skill above other eligibles with higher scores who have not indicated through the testing process that they possess the skill, pursuant to Section 60.2.12 of these rules.
 - 50.1.1.4.2 **Desirable Skills:** When a position is identified as desiring a special skill, such as the ability to speak, read, and write a second language or to utilize shorthand or transcription skills, demonstration of the possession of said skill shall not be a minimum qualification for the successful completion of the testing process. Candidates who have been successful in the testing process, shall have noted on the resulting eligibility list that he/she possesses the skill but shall not be

certified for available positions which list the skill as desirable above other eligibles with higher scores who have not indicated through the testing process that they possess the skill. In the situation of a desirable skill Section 60.2.12 of these rules will not apply.

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

50.2 EXAMINATIONS

50.2.1 **DETERMINATION OF EXAMINATIONS:** The Director of Classified Human Resources shall determine the standards of proficiency to be required for each examination and determine whether the examination shall be:

50.2.1.1 Open Competitive

50.2.1.2 Promotional

50.2.1.3 Promotional and Open Competitive with the promotional list taking precedence

50.2.1.4 Dual Certification

REFERENCE: 1. Education Code Sections 45272 and 45284

50.2.2 **OPEN COMPETITIVE EXAMINATIONS:** Entry level classifications with the Classified Service of the District shall always have an open competitive examination and veterans' preference points shall be allowed as specified in Rule #50.2.15. These examinations shall be open to all qualified applicants.

50.2.3 **PROMOTIONAL EXAMINATIONS:** Where it has been determined by the Director of Classified Human Resources that an adequate field of competition exists within the District and examinations can reasonably be expected to result in at least three qualified ranks of eligibles, the field of competition may be limited to promotional applicants.

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

50.2.3.2 Performance evaluations and employee development appraisals prepared by the immediate supervisor and reviewed by the employee, may be considered in evaluating an employee's general fitness for promotion.

REFERENCE: 1. Education Code Sections 45103, 45260, 45261, and 45272

50.2.4 **PROMOTIONAL AND OPEN COMPETITIVE EXAMINATIONS:** Where it has been determined by the Director of Classified Human Resources that an adequate field of promotional applicants does not exist or there is doubt as to its adequacy, the Director may advertise the examination among employees and the general public.

50.2.4.1 Applicants shall be considered as a group in determining passing scores on the examination.

50.2.4.2 This examination procedure shall result in a promotional and an open eligibility list. The promotional eligibility list shall take precedence when certifying eligibles. When the promotional eligibility list does not contain sufficient ranks of eligibles (defined as having fewer than three eligible and available ranks), certification of additional ranks shall then be made from the open list.

REFERENCE: 1. Education Code Sections 45103, 45260, 45261, and 45272

50.2.5 **DUAL CERTIFICATION:** An examination may be held under merged promotional and open competitive procedures. The resulting eligibility list shall consist of promotional and open competitive candidates merged on one eligibility list. Scores on this type of list shall include all applicable veterans' preference points for open candidates and seniority credit points for promotional candidates (See Rule #50.2.14).

REFERENCE: 1. Education Code Sections 45282 and 455284

50.2.6 **CONTINUOUS EXAMINATIONS:** The Commission may provide for the continuous examination of applicants for both open and promotional examinations. The Director of Classified Human Resources 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.

REFERENCE: 1. Education Code Section 45292

- 50.2.9.4 Members of the Board of Education or Personnel Commission shall not serve on interview panels.
- 50.2.9.5 Interviews shall be electronically recorded and filed in the Commission Office.
- 50.2.9.6 Scores achieved by the candidate on other parts of the examination shall not be made available to the interview panel.
- 50.2.9.7 In no case will an oral or performance examination board be provided with confidential references on candidates who are competing in examinations.
- 50.2.9.8 In interview panel examinations, ratings accorded competitors shall be expressed in percentages with 70% being the minimum qualifying rating. Ratings shall be made independently by each interviewer either before or after discussion with other interviewers. Ratings shall be made on forms prescribed by the Director of Classified Human Resources, which shall be signed by the interviewer and be delivered to the Director of Classified Human Resources or his/her representative. When a competitor is disqualified by a member of the Qualifications Appraisal Interview Board, the interviewer shall make a record of the reason(s) on the rating sheet.
- 50.2.9.9 The ratings of the several members of the Qualifications Appraisal Interview Board shall be averaged to determine each candidate's final rating. If the majority of the rating panel gives a candidate a score of at least 70%, but the final averaged score is below 70%, the candidate shall be given a final rating of 70%. If the majority of the rating panel gives a candidate a score below 70%, but the final averaged score is above 70%, the candidate shall be disqualified regardless of the fact that his/her average rating may be 70% or more. If the panel consists of only two raters, the final score shall be the average of the two raters.

REFERENCE: 1. Education Code Sections 45260 and 45273

50.2.10 **EVALUATION OF TRAINING AND EXPERIENCE:** If a part of the examination is an evaluation of the applicants' training and experience, the evaluation shall be individually and independently conducted by at least two members of a committee other than the interview panel. The scores of all applicants shall be listed in rank order.

The Director of Classified Human Resources shall determine and weight the passing scores of the training and experience evaluation.

REFERENCE: 1. Education Code Section 45260

50.2.11 **ADMISSION TO EXAMINATION:** Admission to an examination shall be by a valid examination pass for those examinations where application materials are submitted at the time of the exam, or by inclusion in a listing of qualified applicants for those examinations where applications have been submitted and evaluated prior to the examination. No candidate may be admitted to any examination without this authorization. In addition, each candidate must provide personal identification (with picture I.D.) at time of examination admittance in order to take the test.

REFERENCE: 1. Education Code Sections 45260 and 45261

50.2.12 **EXAMINATION PROCEDURES:** Competitors in any written test must take the test on the prescribed date unless prior approval of the Director of Classified Human Resources has been obtained. Alternate test dates/times shall only be approved in cases of emergency or severe hardship, as determined by the Director of Classified Human Resources.

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

50.2.12.2 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 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.

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

50.2.12.4 A candidate who is unsuccessful in an examination may not retake the examination for the same classification for a period of 30 calendar days.
(Rev. 50.2.12.4: 12/19/19)

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

50.2.13 **RATING REQUIRED:** Candidates will 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: 1. Education Code Sections 45260, 45261, and 45273

50.2.14 **SENIORITY CREDIT:** In Dual Certification examinations, seniority credit shall be added to the final passing scores of candidates who have permanency with the District or who are on a valid reemployment list. A full year's credit shall be granted to employees whose regular position is assigned on less than a full calendar year basis or less than an eight hour day. Seniority credit rights shall be considered as having been lost when the services of an employee have been terminated for a period of 39 months or more. Seniority credit shall be at the rate of .25 point for each full year of service, up to a maximum of 5.0 points.

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45281

50.2.15 **VETERAN'S PREFERENCE:** A veteran, as defined in this rule, shall mean an individual who has served at least thirty (30) days of active duty in the Army, Navy, Marine Corps, Air Force, National Guard, or Coast Guard between the dates listed below:

- World War I.....April 6, 1917 to November 11, 1918
- World War II.....December 7, 1941 to December 31, 1946
- Korea.....June 27, 1950 to January 31, 1955
- Viet Nam.....August 4, 1964 to May 7, 1975

50.2.15.1 Veterans, except disabled veterans, shall have an additional five (5) points added to their final score in entry-level examinations on an open eligibility list.

50.2.15.2 Disabled veterans shall have an additional ten (10) points added to their final score in entry-level examinations on an open eligibility list. A disabled veteran is an individual classified by the U.S. Veteran's Administration to be ten percent (10%) or more disabled as a result of service in the Armed Forces of the United States.

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

50.2.16 **NOTICE OF FINAL SCORE:** Each candidate who qualifies, shall be notified by the Personnel Commission's staff within fifteen (15) working days after completion of the examination of his/her standing on the eligibility list. Candidates who do not qualify shall be notified within fifteen (15) working days after completion of the examination.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

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

50.3 REVIEW AND PROTEST OF EXAMINATIONS

50.3.1 **RETENTION OF ALL EXAMINATION RECORDS:** Examination records, including test answer sheets, tape recordings of interviews and the rating sheets of each member of an oral interview panel shall be retained by the Personnel Commission for a period of three (3) years.

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

50.3.2 **EXAMINATION RECORDS SHALL BE CONFIDENTIAL:** All papers submitted by candidates in the course of an examination process are the property of the Personnel Commission and shall be confidential. Records, such as identifiable ratings of oral panel members and confidential references of previous employers shall not be available for review.

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

50.3.3 **AVAILABILITY FOR REVIEW:** Remaining examination records, such as papers, tapes and scores of the candidate or eligible shall be available for review only by the candidate or eligible or his/her representative. The candidate or eligible or his/her representative may not review the records of another person. Except under conditions of a formal protest, examinations shall not be available for review. No candidate or representative may remove or copy information from the examination materials.

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

50.3.4 **EXAMINATION PROTEST:** Protest forms shall be available at all examination processes. These forms shall be for the purpose of protesting the inclusion or content of any examination question and/or section. Failure to file a protest as described in Rule #50.3.4.1 shall constitute a waiver of the right to appeal that part of the selection process.

50.3.4.1 Protest forms must be filed within 24 hours of the ending of the examination. The Director of Classified Human Resources shall review and act upon all protests. If the protest results in any change, the test papers of all applicants shall be reviewed and re-rated.

50.3.5 **APPEAL TO COMMISSION:** The Director of Classified Human Resources shall inform the candidate who has submitted the protest of his/her decision. That decision shall be in writing and served in person or by certified mail (Return Receipt Requested) to the applicant. This requirement will be deemed to have been met if the Director of Classified Human Resources'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 timeliness outlined in these rules. The responsibility for keeping the District informed of a home address is the requirement of the applicant. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt. Should the Director of Classified Human Resources 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.

50.3.5.1 Appeals to the Personnel Commission shall be submitted in writing to the Personnel Commission Office within three (3) working days of receipt of the decision of the Director of Classified Human Resources.

50.3.5.2 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 using the procedures outlines in Rule #50.3.5. The decision of the Personnel Commission shall be final and binding on all parties.

REFERENCE: 1. Education Code Sections 45260 and 45261

CHAPTER 60

ELIGIBILITY FOR EMPLOYMENT

60.1 ELIGIBILITY LISTS

60.1.1 **ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS:** After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable. The completed list constitutes an eligibility list for that class.

60.1.1.1 All appointments to positions in the Classified Service shall be made from eligibles whose names appear on eligibility lists. The Director of Classified Human Resources shall be responsible for establishing eligibility lists as a result of examinations authorized by these rules.

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

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

60.1.2.1 The type of eligibility list—open, promotional, open and promotional or dual certification.

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

60.1.2.3 The weighted total score.

60.1.2.4 The dates of each part of the examination and the weight assigned to that part of the examination.

60.1.2.5 The expiration date of each person's eligibility.

60.1.2.6 The date the list was established.

REFERENCE: 1. Education Code Sections 45260 and 45261

60.1.3 **TYPES OF ELIGIBILITY:** Appointments to position shall be made from:

60.1.3.1

Eligibility Lists: In order of preference:

60.1.3.1.1 *Reemployment:* A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, or exhaustion of benefits when the employee has been certified as medically able to return to work without restriction. These eligibles shall take precedence over all other persons eligible for appointment.

60.1.3.1.2 *Promotional:* A list of eligibles resulting from an examination limited to qualified permanent employees only.

60.1.3.1.3 *Promotional and Open Competitive:* Separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.

60.1.3.1.4 *Dual Certification:* One list of eligibles resulting from a single examination including seniority credit and/or veteran's credit points.

60.1.3.1.5 *Open Competitive:* A list of eligibles resulting from an examination open to all qualified applicants.

60.1.3.2

Requests: Other methods of filling positions include:

60.1.3.2.1 *Transfer:* Employees who have requested appointment to a vacant position in the same or related classification. (See Rule #110.1.9)

60.1.3.2.2 *Reinstatement:* Former employees who have requested reinstatement to a vacant position in a class in which they held permanent status. (See Rule #110.3)

60.1.3.2.3 *Demotion:* Employees who have requested assignment to a vacant position in a lower classification. (See Rule #110.2)

REFERENCE: 1. Education Code Sections 45260 and 45261

60.1.4 **DURATION OF ELIGIBILITY LISTS:** An eligibility list shall be in effect for a period of one year, unless exhausted, and may be extended for an additional year by the Commission. Names of successful competitors may be added to eligibility lists by the Director of Classified Human Resources.

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

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

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

60.1.5 **MERGER OF ELIGIBILITY LISTS:** If a new examination for a class is given during the first year of the life of an existing list, the examination shall be sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles. The new list shall then be merged with the existing list with eligibles ranked in the order of examination score, plus additional points where applicable. Promotional lists shall be merged only with promotional lists.

60.1.5.1 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.

60.1.5.2 All candidates on an eligibility list which is terminated shall be notified at the time a new examination is scheduled for the class. Each candidate may retake the examination if a period of ninety (90) days has elapsed since the candidate last took the examination. Notification is not required when an eligibility list expires.

REFERENCE: 1. Education Code Sections 45160 and 45291

60.1.6 **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.

- 60.1.6.1** An employee who requires a leave of absence for military duty and those who are ordered, pursuant to the laws of the United States, to serve in any civilian war effort or war industry, shall have their names placed over all other names on the reemployment list in the class which they leave.
- 60.1.6.2** The life of the reemployment list for persons laid off shall be thirty-nine (39) months. Employees returning from military leave shall be eligible for reemployment for a period not to exceed six (6) months after discharge.
- 60.1.6.3** Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall retain eligibility for reemployment for an additional period of twenty-four (24) months, provided the same tests of fitness under which they qualified for appointment still apply, as determined by the Personnel Commission.

- REFERENCE:**
1. Education Code Section 45298
 2. Military and Veterans Code 395.1 and 395.3

60.1.7 **TERMINATION OF ELIGIBILITY LISTS:** An eligibility list is automatically terminated one (1) year from the date of its approval unless extended by the Commission, except that lists established under Rule #60.1.4.1 shall terminate six (6) months from the date of approval.

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

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

REFERENCE: 1. Education Code Section 45300

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

REFERENCE: 1. Education Codes Sections 45260, 45261, 45278, 45286, and 45300

60.1.9 **WAIVERS OF CERTIFICATION:** An eligible may make himself unavailable for certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by filing a definitive statement in the Personnel Commission Office.

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

60.1.9.2 An available eligible may waive certification twice without penalty. At the time a third waiver is made by an eligible, the eligible will be informed that, upon filing the third waiver, his/her name will be removed from the eligibility list per Rule #60.1.10.

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

60.1.10 **REMOVAL OF NAMES FROM ELIGIBILITY LISTS:** The name of an eligible may be removed from an eligibility list by the Director of Classified Human Resources for any of the following reasons:

60.1.10.1 Failure to respond within five (5) business days following the mailing of an inquiry regarding availability for employment.

60.1.10.2 Any of the causes listed in Rule #40.2.

60.1.10.3 Failure to respond for a scheduled interview after certification.

60.1.10.4 Termination of employment (Promotional Eligibility List only).

60.1.10.5 Three (3) waivers of certification during the life of the eligibility list, except that waivers relating to limited-

term appointments should not be counted for the purpose of this rule.

60.1.10.6 Refusing an employment offer after having been properly certified as eligible and available for the appointment.

60.1.10.7 A written request by the eligible for removal.

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

60.1.11 **NOTIFICATION TO ELIGIBLE OF REMOVAL FROM LIST:** The Director of Classified Human Resources shall notify the eligible of the action and the reasons therefor and shall provide the person with the opportunity to appeal the decision within five (5) working days of notification. The decision of the Commission shall be final.

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

60.2 CERTIFICATION FROM EMPLOYMENT LISTS

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

60.2.2 **ORDER OF PRECEDENCE IN FILLING VACANCIES:** Certification for filling vacancies in the Classified Service shall be made in the following order:

60.2.2.1 **Reemployment List:** Persons previously laid off because of lack of work, lack of funds or exhaustion of medical leave privileges shall be assigned to vacant positions in order of seniority.

60.2.2.2 **Transfer/Voluntary Demotion/Reinstatement/Applicable Eligibility List:** Should an active reemployment list not exist, all qualified, permanent employees who request transfer, or voluntary demotion, or qualified former employees who request reinstatement shall be certified in addition to the top three ranks of eligibles from appropriate eligibility lists.

REFERENCE: 1. Education Code Section 45272

60.2.3 **RULE OF THREE RANKS:** Eligibles shall be placed on the eligibility list in rank order according to their score on the examination. The final

scores of candidates shall be rounded to the nearest whole percent. All eligibles with the same percentage score shall be placed in the same rank. Certification from the list shall be the first three (3) ranks of eligibles who are ready and willing to accept the positions to be filled.

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

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

60.2.4 **CERTIFICATION & APPOINTMENT FROM ELIGIBILITY LISTS:** When a new position is to be filled, the appointing authority shall notify the Director of Classified Human Resources of the date of anticipated need. The employment request shall state the duties, class title, hours and location of employment and other pertinent information required by the Director of Classified Human Resources.

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

60.2.4.2 The Director of Classified Human Resources shall determine the availability of eligibles and shall certify the names of all eligibles who are ready and willing to accept the position. Certification shall be in accordance with Rule #60.2.2 and #60.2.3.

60.2.4.3 The Administrator concerned shall, within three (3) working days of the interview, make a selection from the persons presented and shall notify the Director of Classified Human Resources who shall see that the necessary employment procedures are carried out.

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

60.2.4.5 In the event that there is more than one authorized position in the class to be filled, the Director of Classified Human Resources may certify additional ranks of eligibles to allow approximately two more candidates than the number required to fill the number of vacancies.

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

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

60.2.5.1 When fewer than three (3) ranks of eligibles are available for certification, the available eligibles may be certified. However, the appointing authority may request a complete list of three (3) ranks—in which case a new eligibility list must be established.

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

60.2.6 **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 Human Resources. When a request for additional eligibles is made, the Director of Classified Human Resources shall:

60.2.6.1 Certify additional eligibles as required.

60.2.6.2 Remove the names of eligibles who failed to report for interviews or who refused appointment from the eligibility list.

60.2.6.3 Investigate the matter at his/her discretion to determine that any appointment refusal is in fact voluntary.

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

60.2.7 **WITHHOLDING NAMES FROM CERTIFICATION:** The name of an eligible may be withheld from certification by the Director of Classified Human Resources when the eligible:

60.2.7.1 Expresses unwillingness or inability to accept appointment.

60.2.7.2 Fails to respond within five (5) working days following the mailing of written inquiry regarding availability.

60.2.7.3 Cannot be reached in time for appointment when immediate temporary employment is required.

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

60.2.7.5 Any reason listed in Rule #40.2.

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

60.2.8 **FAILURE TO MAKE APPOINTMENT:** Should the appointing authority fail to make a selection from the top three ranks of eligibles as certified by the Director of Classified Human Resources, the Director of Classified Human Resources shall direct that the position be vacated (if there is a temporary person assigned to fill the vacancy), and remain vacant until such time as the eligibility list for that class expires.

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

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

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

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

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

60.2.10 **CERTIFICATION FROM LIST FOR ANOTHER CLASS:** If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list for another class at the same or higher salary level if the duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled, provided that the Director of Classified Human Resources finds, subject to approval by the Commission, that the use of the list is in the best interest of the District and that the necessary skills and knowledges were adequately tested in the examination.

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

60.2.11 **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.

60.2.11.1 Eligibles are required to keep the Personnel Commission Office informed as to current home address and telephone numbers where they can be reached to schedule employment interviews. Failure to keep the Personnel Commission Office informed could result in the eligible being bypassed on the eligibility list as unreachable. In that event, the Director of Classified Human Resources shall send a letter inquiring as to continued availability and interest. Failure to respond pursuant to these rules will result in removal from the eligibility list.

60.2.11.2 An eligible who has been selected for a permanent position and is unable or unwilling to report by the end of two (2) full weeks (one full month in the case of management classes) may be considered to have refused appointment and the appointing authority may request certification of additional eligibles.

60.2.11.2.1 The date of the offer of appointment shall be the date on which the eligible is notified by the Director of Classified Human Resources of selection.

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

60.2.11.2.3 The appointing authority may allow a period longer than two weeks (or one full month in the case of management classes) at its discretion.

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

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

60.2.12 **SELECTIVE CERTIFICATION:** If a position within a classification requires a special skill, license, or language requirement, pursuant to Rule #30.2.10, the Director of Classified Human Resources shall determine which eligibles possess the required skill, license, or language and shall certify the names of the first three (3) ranks of eligibles who

meet the special requirements. If there are insufficient eligibles who meet the special requirements and who are ready and willing to accept the position, a provisional appointment may be made, pending completion of a recruitment and examination process to fill the position.

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

60.2.13 **CONFIDENTIALITY OF LISTS:** Eligibility lists shall be considered confidential information and release of information on lists shall be limited to:

60.2.13.1 Posting eligibility lists showing the relative ranking of each candidate without showing the specific percentage scores.

60.2.13.2 Only information relating to eligibles who have been certified shall be released to the appointing authority.

60.2.13.3 Only information pertaining to an eligible's own scores and current position on the list shall be released to the eligible or his/her representative.

60.2.13.4 Such other persons as specifically ordered by the Personnel Commission.

REFERENCE: 1. Education Code Sections 45260, 45261, 45272, and 45274

60.2.14 **CERTIFICATION OF RELATIVES:** The name of an eligible may be withheld from certification by the Director of Classified Human Resources when:

60.2.14.1 The eligible is a member of the Board of Education, or a member of the Personnel Commission.

60.2.14.2 The eligible is a relative of an employee who is the immediate supervisor, second-level supervisor, or a lead to the vacant position.

60.2.14.3 The eligible would occupy a position which serves as the immediate supervisor, second-level supervisor, or a lead to a position held by a relative.

60.2.14.4 For purposes of this rule, the definitions as outlined in Rule #70.1.4.3 shall apply to the certification of relatives.

(Rev. 60.2.14: 3/21/18)

REFERENCE: 1. Education Code Sections 45260, and 45261
2. Government Code Section 1091.5

CHAPTER 70

APPOINTMENT TO CLASSIFIED POSITIONS

70.1 PROCEDURES FOR APPOINTMENT

70.1.1 **PROCEDURES FOR SELECTION:** The appointing authority shall interview eligibles certified from appropriate employment or eligibility lists. A selection shall be required when sufficient eligibles are certified for a given vacancy to total three (3) ranks of eligibles.

REFERENCE: 1. Education Code Sections 45160 and 45272

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

70.1.2.1 The prospective employee shall be allowed two (2) weeks to report for duty after an offer of employment to a permanent position has been made or one (1) month in the case of management 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: 1. Education Code Sections 45260 and 45261

70.1.3 **DISCRIMINATION PROHIBITED:** No applicant or eligible certified for appointment shall be discriminated against because of his/her actual or perceived race, religious creed, color, national origin, ancestry, handicapping condition, medical condition (as defined in Government Code Section 12926), employee organization membership or non-membership and legal activities related thereto, marital status, sex, sexual orientation, gender or age. No questions shall be asked relating to these matters during the selection and interview stages of employment.
(Rev. 10/19/05, 3/15/06)

REFERENCE: 1. Education Code Sections 45260, 45261, and 45293

70.1.4 **EMPLOYMENT OF RELATIVES**

The Personnel Commission is committed to rules and regulations in support of classified employment and advancement based on qualifications and merit, and does not discriminate in favor of or in opposition to the employment of relatives. The potential for favoritism as well as the perception of favoritism can degrade staff morale; can incite public distrust; and is an obstacle to teamwork, effectiveness, and quality performance.

The following guidelines regarding employment of relatives are intended to maintain an atmosphere free of the appearance of favoritism, promote employment decisions and conduct in the work setting that avoid a conflict of interest, and are consistent with the purposes of the merit system.

70.1.4.1 No person shall be employed in any position, nor shall an employee be transferred, assigned to or remain at a work location in any position in which:

70.1.4.1.1 The person would be the immediate supervisor or second-level supervisor of a relative, or in which the person's immediate supervisor or second-level supervisor would be a relative; or

70.1.4.1.2 The person would function as a lead worker to a relative, or in which the person's lead would be a relative.

70.1.4.2 This policy applies to all current employees and eligibles for employment.

70.1.4.3 Definitions (for the purpose of this rule)

70.1.4.3.1 "Relative" includes the following relationships by blood, marriage or adoption: spouse or domestic partner; father, father-in-law, mother, mother-in-law, grandparent, grandchild, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, aunt, uncle, niece, or nephew; also included is any person residing in the household of the employee/eligible.

70.1.4.3.2 "Lead worker or lead" is an incumbent that functions in a lead capacity

(regardless of job title) whose primary responsibility is to manage the workflow for a position or group of positions responsible for working on a project or specific assignment basis. A lead assigns tasks, schedules work, provides work direction and guides the daily working arrangements for a specified employee or group of employees, reviews work for conformance to standards, and maintains communication with the supervisor regarding goals and progress of projects or specific assignments.

(Rev. 70.1.4: 3/21/18)

- REFERENCE:**
1. Education Code Sections 45260 and 45261
 2. Government Code section 1091.5
 3. Government Code Section 3513

70.2 PROVISIONAL APPOINTMENT

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

70.2.1.1 No eligibility list exists for the class or;

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

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

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

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

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

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

70.2.3.2 Satisfactory evidence is presented indicating:

70.2.3.2.1 Adequate recruitment effort has been and is being made.

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

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

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

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

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

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

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

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

70.2.5 **QUALIFICATIONS OF PROVISIONAL APPOINTEES:** Insofar as possible provisional appointees shall meet the qualifications for the classification stated in the class specification. The appropriateness of

qualifications shall be made by the Director of Classified Human Resources prior to appointment.

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

70.2.6 **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.

70.2.6.1 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.

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

70.2.7 **TERMINATING PROVISIONAL APPOINTMENT:** The services of a provisional appointee shall be terminated within fifteen (15) working days after the date on which certification for interview from an eligibility list has been made. A provisional appointment may be terminated at any time, at the discretion of the appointing authority.

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

70.3 SPECIAL APPOINTMENTS

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

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

requested by the Director so that an appropriate decision may be made under this rule.

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

70.3.2 **CONDITIONAL APPOINTMENT:** Temporary appointments in an existing class, not to exceed thirty (30) days, may be made in lieu of an appointment to fill a new position pending the classification of the new position by the Commission. Salary shall be determined by the Director of Classified Human Resources subject to ratification by the Personnel Commission.

REFERENCE: 1. Education Code Sections 45260 and 45261

70.3.3 **SUMMER, INTERSESSION AND OTHER RECESS PERIOD ASSIGNMENTS:** When the Board establishes temporary positions during the recess period between the regular September to June school year, during the intersession period of year-round schools, or during other recess periods during the school year (including summer school positions), those positions shall be offered to regular employees of the District not regularly employed during these periods. Appointment to these positions shall be on the basis of seniority in the class to which the position has been allocated by the Personnel Commission (except as noted below) among employees requesting summer/intersession/recess period employment. 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 of Classified Human Resources.

70.3.3.1 The first priority to fill a School Office Manager vacancy during a summer, intersession, or other recess period shall go to the current School Office Manager assigned to that site that has applied for summer, intersession or other recess period work. If the site School Office Manager does not apply for a vacancy at his/her site, then the seniority process outlined in Rule #70.3.3 shall apply.

70.3.3.2 The first priority for filling Paraeducator vacancies during a summer, intersession, or other recess period shall be according to the following:

70.3.3.2.1 Paraeducators shall be placed by seniority within the specific program of the summer or intersession classroom or among those paraeducators who possess a required skill (i.e. Bilingual, Special

Day Class, SED, HI, SLI, VI, LH, CH, Resource)

70.3.3.2.2 If there are insufficient Paraeducators available within the specific program, placement will be made on the basis of seniority within the classification.

70.3.3.2.3 Under no circumstances will a Paraeducator be assigned to a classroom requiring specific skills unless that Paraeducator has demonstrated through the processes established by the Personnel Commission that he/she possesses the specific skill required.

70.3.3.2.4 All other placements will be made on the basis of seniority in the classification at the end of the most recent regular session.

70.3.3.3 Compensation for summer, intersession or other recess period appointments shall be as follows:

70.3.3.3.1 When the summer/intersession/recess appointment is in the same classification as the employee's regular assignment, compensation shall be at the same range and step as the regular assignment.

70.3.3.3.2 When the summer/intersession/recess appointment is in a different classification than the employee's regular assignment, compensation shall be at the step of the range for the classification of the summer/intersession/recess assignment which is closest to that of the employee's regular assignment but shall not exceed the top step of the range for the class.

70.3.3.3.3 Determination of salary rate shall be based on the range and step of the regular assignment exclusive of any differentials.

70.3.3.3.4 Summer/intersession/recess period appointments shall be considered as limited term assignments and not as part of an employee's regular assignment.

Working out-of-classification provisions shall not apply to these assignments.

REFERENCE: 1. Education Code Sections 45102, 45260, and 45261

70.4 LIMITED TERM AND SUBSTITUTE APPOINTMENTS

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

70.4.1.2 Positions established to replace temporarily absent employees shall be designated limited term/substitute positions.

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

70.4.2 PROCEDURE FOR ESTABLISHMENT OF LIMITED TERM AND LIMITED TERM/SUBSTITUTE POSITIONS: When a limited term position is established, the appointing authority shall notify the Personnel Commission Office in writing of the hours, starting date and length of the assignment. Establishment of limited term positions shall be subject to approval of the Director of Classified Human Resources, and ratified by the Board of Education.

70.4.2.1 A limited term appointment may not exceed six (6) months. A limited term/substitute assignment may not exceed the duration of the absence of a regular employee. The appointment may be in the same class as that of the absent employee or the duties may be reduced in level and the appointment may be made from a lower class, if the Director of Classified Human Resources determines that the appropriate classification of the duties to be assigned is of a lower class.

70.4.2.2 Limited term positions shall be classified by the Director of Classified Human Resources.

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

70.4.3 ELIGIBILITY FOR APPOINTMENT: Limited term and limited term/substitute appointments shall be made from eligibility lists and employment lists.

70.4.3.1 If an eligible is appointed from an eligibility list to a limited term or limited term/substitute position, the

individual shall continue to be eligible for substitute or limited term appointments in the same or a related lower class after the eligibility list has expired. The same privilege of continued eligibility shall apply to a former employee who has resigned in good standing and has accepted a limited term appointment within thirty-nine (39) months after resignation.

70.4.3.2 When no eligible is available to accept a limited term or limited term/substitute position, the Director of Classified Human Resources is authorized to certify applicants or candidates for appointment.

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

70.4.4 **COMPENSATION FOR LIMITED TERM/SUBSTITUTE ASSIGNMENTS:** When a regular employee is given a limited term appointment in a higher class in addition to or in lieu of all or part of his/her regular appointment, the rate of pay in the higher class shall be the rate for working out of classification pursuant to Section 170.2.10

70.4.4.1 All other limited term and limited term/substitute employees shall be paid on the first step of the salary range applicable to the class in which they are working.

REFERENCE: 1. Education Code Sections 45260, 45261, 45286 - 45290, and 45309

70.4.5 **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.

70.4.5.1 No credit toward acquiring permanent status with the District nor in any classification shall accrue from service in a limited term or limited term/substitute appointment.
(Rev. 4/20/05)

REFERENCE: 1. Education Code Sections 45260, 45261, 45286 - 45290, and 45309

70.4.6 **TERMINATION OF LIMITED TERM APPOINTMENT:** A limited term or limited term/substitute appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority. The

appointing authority shall immediately notify the Personnel Commission Office when a limited term assignment is being terminated.

70.4.6.1 A limited term or limited term/substitute employee may be dismissed for cause. When the appointing authority dismisses the employee, the Director of Classified Human Resources shall be notified in writing of the cause for the dismissal. The Director of Classified Human Resources may investigate the matter and may remove that person's name from all employment lists.

REFERENCE: 1. Education Code Sections 45260 and 45261

70.5 EMPLOYMENT OF PERS RETIREES AND VOLUNTEERS

70.5.1 **GENERAL POLICY ON RETIREES:** Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed up to 960 hours per calendar year. The retired person must be informed that employment is restricted to 960 hours in any calendar year and continuance in employment is at the discretion of the District.

REFERENCE: 1. Education Code Section 45135
2. Government Code Section 21150 et seq

70.5.2 **COMPENSATION OF RETIREES:** A retired employee under authority of this rule shall be entitled only to the appropriate salary earned including overtime compensation.

70.5.2.1 The rate of pay for retired employees appointed to positions in their last permanent classification shall be that assigned to the same step of the salary range they were on at the time of retirement (excludes differential pay). Retired personnel appointed to positions in any other class shall be placed on the step of the range on the salary schedule to which the classification in which the retiree is working is allocated and which is closest to the salary rate assigned to the range and step the retiree was on at the time of retirement (exclusive of any differential pay).

70.5.2.2 "Last rate of pay" for purposes of this rule shall exclude longevity, night shift, professional growth, language or other differentials.

REFERENCE: 1. Education Code Sections 45260 and 45261

70.5.3 **ASSIGNMENT:** A retired employee employed under this rule is not subject to reinstatement to PERS nor does the compensation period provide for retirement allowance adjustment.

70.5.3.1 The appointing authority shall certify to the Director of Classified Human Resources 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.

REFERENCE: 1. Education Code Sections 45260 and 45261

70.5.4 **EMPLOYMENT OF VOLUNTEERS:** Volunteers may be assigned non-instructional work which serves to assist certificated personnel. They shall be under the immediate supervision of certificated personnel. No classified positions may be abolished to use volunteer aides in lieu thereof.

REFERENCE: 1. Education Code Sections 35021, 35212, and 45349

CHAPTER 80

EMPLOYMENT REQUIREMENTS

80.1 PHYSICAL EXAMINATIONS

80.1.1 **T.B. EXAMINATIONS:** A new employee shall present evidence that he/she has submitted to an examination within the past sixty (60) days to determine that he/she is free of active tuberculosis, by a physician or surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This examination shall consist of an approved intradermal tuberculin test, which, if positive, shall be followed by an X-ray of the lungs. The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. If a new employee is transferring employment from one school or school district (including private and parochial schools) to this district, the sixty (60) days requirement above will be waived if the new employee can produce a certificate as provided for in Section 3450 of the California Health and Safety Code which shows that the employee was examined within the past four years and was found to be free of communicable tuberculosis. This requirement can also be met if it is verified by the school previously employing the new employee that it has such a certificate on file and a copy of such certificate is forwarded to the Classified Human Resources Office. For new employees, evidence of compliance with the requirements of this section must be on file in the Classified Human Resources Office prior to the first day in paid status.

80.1.1.1 Subsequent to employment, employees who are skin test negative shall be required to undergo the foregoing examination at least once each four (4) years, or more often if directed by the Board of Education, upon the recommendation of the local health officer, for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required, and a referral shall be made within thirty (30) days of completion of the examination to the local health officer to determine the need for follow-up care.

80.1.1.2 The Director of Classified Human Resources may exempt, for a period not to exceed sixty (60) days following termination of the pregnancy, a pregnant employee from the requirement that a positive

intradermal tuberculin test be followed by an X-ray of the lungs.

80.1.1.3 Preemployment tuberculin test costs are paid for or reimbursed by the District. The District shall reimburse or cause to provide the exam at its own cost for all continuing employees.

80.1.1.4 The Personnel Commission reserves the right to designate a particular clinic or hospital where the test will be administered.

- REFERENCE:**
1. Education Code Sections 45122, 45160, and 49406
 2. Health and Safety Code Section 3450
 3. Administrative Code, Title 5, Section 5505

80.1.2 **MEDICAL EXAMINATIONS:** Individuals appointed to a position in the Classified Service, or as a substitute, limited-term, temporary, provisional, or exempt employee may be required to pass a job related physical examination prior to initial appointment. Promotional eligibles who have been offered employment in a classification possessing different physical requirements may also be required to undergo a medical examination as determined by the Personnel Commission. The examination will be administered after the initial offer of employment but prior to actual finalization of the appointment. The examination shall be administered by a physician chosen by the District. The determination of the kind and extent of the examination shall be determined by the Personnel Commission. Costs associated with this physical shall be borne by the District.

80.1.2.1 The District's physician shall determine the ability of the applicant, candidate, or eligible to perform the prescribed duties of the class in which he/she shall be employed, and shall notify the Director of Classified Human Resources of the medical findings.

80.1.2.2 If the District's physician proposes to disqualify the individual, the doctor shall provide the Director of Classified Human Resources with a statement describing the specific condition and the limitations that have resulted in the individual's disqualification.

80.1.2.3 In consultation with the District's physician, the Director of Classified Human Resources shall make a determination if reasonable accommodation can be made for the individual. If the determination is that reasonable accommodation can be made, the appointment shall be made. If the determination is that reasonable accommodation is not possible, the individual will be so notified by the Director of Classified Human Resources

and informed of appeal rights to the Personnel Commission.

REFERENCE: 1. Education Code Sections 45122 and 45160

80.1.3 **RETURN TO WORK AND UNSCHEDULED EXAMS:** An employee may be required to undergo a physical examination at any time there is deemed to be reasonable cause by the District Administration, subject to review by the Director of Classified Human Resources.

80.1.3.1 Every employee returning from illness/injury leave of absence will be required to submit to a medical evidence to verify sufficient recovery to return to the employee's regularly assigned duties, without restrictions.

REFERENCE: 1. Education Code Sections 45122 and 45160

80.1.4 **SCHOOL BUS DRIVER MEDICAL EXAMINATIONS:** In addition to any other examination that may be required by these rules, Bus Drivers must have a valid medical card as required by state law. The District shall arrange for and reimburse the costs of the Bus Drivers' examination for District employees.

REFERENCE: 1. Education Code Sections 45122 and 45160

80.1.5 **APPEAL TO THE COMMISSION:** Any rejection for medical reasons of an eligible or of an employee who has been on leave of absence may be appealed to the Personnel Commission.

80.1.5.1 The appeal process shall be conducted pursuant to Personnel Commission Rule #40.2.2.

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

80.1.5.3 The Commission, based on evidence submitted and the advice of medical experts to the Commission, shall determine whether or not the denial of appointment or return from leave shall be sustained. The decision of the Commission shall be final and binding on all parties.

REFERENCE: 1. Education Code Sections 45122 and 45160

80.2 CRIMINAL RECORDS

80.2.1 **FINGERPRINTING:** Every new employee shall submit to a criminal records check in accordance with prescribed procedures or shall forfeit eligibility for employment. The Classified Human Resources Office will notify each such employee where and when to report for fingerprinting. Fingerprinting and clearance of criminal records must be completed before the first day of employment. The cost of any fingerprinting shall be borne by the District.
(Rev. 3/15/06)

REFERENCE: 1. Education Code Section 45125

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

80.2.2.1 The criminal records report from the California Bureau of Criminal Identification and Investigation and/or the Federal Bureau of Investigation will be reviewed together with the person's application form. If there is a criminal record which was undisclosed and not reviewed prior to employment, the Director of Classified Human Resources may order the dismissal of the employee.

80.2.2.2 If an employee is to be dismissed because of information disclosed on the criminal records report, the employee shall be removed from all eligibility lists.

80.2.2.3 The Director of Classified Human Resources shall notify the eligible or employee of the action taken and the reasons therefore and shall provide the person with an opportunity to appeal the decision in writing within five (5) calendar days of notification. If an appeal is filed, the Personnel Commission shall conduct an appeal hearing using the procedures outlined in Rule #40.2.2. The decision of the Commission shall be final and binding on all parties.

REFERENCE: 1. Education Code Sections 45125, 45260 and 45261

80.3 OTHER EMPLOYMENT REQUIREMENTS

80.3.1 **INCOME TAX WITHHOLDING FORM:** New employees shall submit the W-4 form for both State and Federal taxes to the Classified Human Resources Office at the time of employment.

REFERENCE: 1. Education Code Sections 45260 and 45261

80.3.2 **RETIREMENT APPLICATION:** New employees shall submit a completed retirement application form for the Public Employees Retirement System (PERS) to the Classified Human Resources Office at the time of employment. This rule shall apply only to those employees entitled to retirement benefits.

REFERENCE: 1. Education Code Sections 45260 and 45261

80.3.3 **SOCIAL SECURITY NUMBER:** New employees shall submit their social security number to the Classified Human Resources Office at time of employment.

REFERENCE: 1. Education Code Sections 45260 and 45261

80.3.4 **LOYALTY OATH:** All new employees must sign a loyalty oath as required by Article XX, Section 3 of the California State Constitution and the Education Code. The loyalty oath shall be administered in the Classified Human Resources Office at time of initial employment. Refusal to sign the loyalty oath shall cause the initial employment offer to be withdrawn.

REFERENCE: 1. Education Code Sections 7000 - 7006, and 45160
2. California State Constitution, Article XX, Section 3

80.3.5 **VERIFICATION OF RIGHT TO WORK STATUS:** All individuals employed after November 1, 1986 are required to provide proof of their right to work in the United States and for the District. An Individual's right to work is a minimum qualification for employment with the District. The Personnel Commission directs its Director of Classified Human Resources to insure that all employees hired after the above date are legally entitled under Federal law to work for the District.

80.3.5.1 No individual shall be allowed to be placed in paid status without having on file with the Classified Human Resources Office sufficient documentation as required by Federal law as to that individual's right to work for the District.

80.3.5.2 No proof will be required until after an initial offer of employment has been made by the Classified Human Resources Office. Every individual will be required to provide verification as required in this rule.

80.3.5.3 An individual unable to provide verification of his/her right to work in this country and for the District pursuant to this rule, shall have his/her name removed from the eligibility list(s), and shall not be placed on the payroll of the District.

80.3.6 **REQUIREMENT TO NOTIFY DISTRICT OF ANY STATUS CHANGE:** Employees shall notify the Classified Human Resources Office whenever their status changes, such as new address, new telephone number, marital status (for health and welfare benefits), increase or decrease in the number of dependents (health and welfare benefits and tax purposes), name of person(s) to notify in case of emergency, etc.

REFERENCE: 1. Education Code Sections 45260 and 45261

80.3.7 **FILING OF REQUIRED LICENSES OR CERTIFICATES:** Some classifications may require the employee to possess certain licenses and/or certificates. Every new employee must file copies of all licenses and/or certificates required as a condition of employment with the Classified Human Resources Office. As these licenses and/or certificates are renewed, copies of them must also be filed in the Classified Human Resources Office within ten (10) working days of receipt by the employee.

REFERENCE: 1. Education Code Sections 45260 and 45261

80.3.8 **REQUIRED TRAINING OR INSERVICING OF EMPLOYEES:** Any classified employee who is required by the District to attend training/in-service sessions or otherwise engage in training of any kind in order to continue employment shall receive his/her regular rate of pay (or overtime rate of pay if required by these rules) and be reimbursed for registration fees and supplies authorized and purchased for the training.

REFERENCE: 1. Education Code Sections 45260 and 45261

CHAPTER 90

EMPLOYMENT STATUS

90.1 CERTIFICATION OF PAYROLLS

90.1.1 **CERTIFICATION OF PAYROLLS:** No person shall be appointed to a position in the Classified Service unless the assignment order is certified by the Director of Classified Human Resources. The Director of Classified Human Resources shall certify that the assignment has been made in accordance with these rules and the provisions of the Education Code.

90.1.1.1 The Director of Classified Human Resources shall audit all changes of status for classified employees. The Director shall certify that all changes are in accordance with existing laws and these rules.

90.1.1.2 The Director of Classified Human Resources shall make periodic audits of all payrolls and, if the Director finds assignments that are not in accordance with existing law(s) or the Rules and Regulations of the Personnel Commission, he/she shall immediately notify the Superintendent of any irregularities and attempt to resolve these problems.

REFERENCE: 1. Education Code Sections 45169, 45260, 45310, and 45311

90.1.2 **NONCOMPLIANCE WITH ORDER OF DIRECTOR OF CLASSIFIED HUMAN RESOURCES:** If any irregularities are unsolved within a reasonable time period, the Director of Classified Human Resources shall have the authority to submit a notice of withdrawal of his/her certification to both the District and County Superintendent of Schools and order that payment be stopped. Notice of such violation shall also be made upon such payroll or service report, and such notice shall serve as an official notification to the Board of Education and the Office of the County Superintendent of Schools that the drawing, signing, or issuing of any warrant on the County Treasurer or other disbursing officer of the County or the school district for payment of salary or other compensation to such person named is unlawful.

REFERENCE: 1. Education Code Sections 45169, 45260, 45261, 45310, and 45311

90.2 EMPLOYEE ASSIGNMENT

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

90.2.1.1 The employee's class specification.

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

90.2.1.3 Work location and the duty hours, prescribed work week and work year.

90.2.1.4 The terms and conditions of the probationary period, including performance evaluation procedures.

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

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

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

90.2.3 **CHANGE OF ASSIGNMENT:** The District shall have the right to assign and reassign daily hours of work and shifts with the consent of the employee, to meet the operational needs of the District. When such a change is made, the employee's supervisor shall notify the employee and the Director of Classified Human Resources in writing at least five (5) working days prior to the effective date of the change.

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

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

REFERENCE: 1. Education Code Sections 45260 and 45261

90.3

PROBATIONARY STATUS

90.3.1 **INITIAL PROBATIONARY PERIOD:** Each new employee appointed from an eligibility list shall serve an initial probationary period of 130 days of paid regular service in one classification in the Classified Service (excluding days absent for illness or injury). For positions designated by the Personnel Commission in Section 100.2.6 as executive, administrative, or supervisory, the probationary period shall be 260 days of paid regular service in one classification in the Classified Service (excluding days absent for illness or injury).

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

REFERENCE: 1. Education Code Section 45301

90.3.2 **COMPLETION OF INITIAL PROBATION:** Each probationary classified employee shall be evaluated three (3) times during the probationary period as required in these rules.

90.3.2.1 A classified employee shall be given written notice when disqualified from probationary status prior to the date on which the probationary period ends.

90.3.2.2 An employee may be suspended and dismissed at any time for cause as stated in these rules.

90.3.2.3 An employee may be disqualified from probationary status for unsatisfactory work performance as stated in these rules.

90.3.2.4 A probationary employee who is to be disqualified for unsatisfactory work performance may be allowed the opportunity to resign in lieu of disqualification prior to Board action.

90.3.2.5 A new employee who is suspended or dismissed during the initial probationary period shall be notified in writing by the Director of Classified Human Resources of the action taken and the reasons therefore. The employee shall not have the right of appeal.

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

90.3.2.7

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

REFERENCE: 1. Education Code Sections 45256, 45260, 45261, 45269, 45270, 45272, 45281, 45301, 45302, and 45305

90.3.3

SUBSEQUENT PROBATION FOR PERMANENT EMPLOYEES:

A permanent classified employee who has been promoted or laterally transferred as defined in Rule #110.1.1 to a related class shall serve a new probationary period in the class before attaining permanency in that class.

REFERENCE: 1. Education Code Sections 45256, 45260, 45261, 45269, 45270, 45272, 45281, 45301, 45302, and 45305

90.4

PERMANENCY

90.4.1

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

REFERENCE: 1. Education Code Section 45301

90.4.2

RIGHTS/BENEFITS/BURDENS OF PERMANENT EMPLOYEE:

Every permanent classified employee shall be entitled to all the rights, benefits, and burdens conferred by law, the Personnel Commission's Rules and Regulations, or by action of the Board for classified employees of like classification including a vested right to his/her position. A permanent classified employee may be removed only for cause or due to layoff.

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

CHAPTER 100

HOURS OF EMPLOYMENT AND OVERTIME

100.1 WORK SCHEDULES

100.1.1 **WORKWEEK:** The workweek of classified employees shall consist of five (5) consecutive days of eight (8) hours per day. These rules shall not be construed to restrict the extension of a regular workday or workweek on an overtime basis when such is necessary to carry on the business of the District.

100.1.1.1 The District may establish a workday of less than eight (8) hours per day and a workweek of less than forty (40) hours for some or all of its classified positions.

100.1.1.2 When the District determines that a classified employee is to be assigned a workweek which includes Saturday or Sunday, the District shall notify the employee in writing and secure the employee's consent. Classified employees shall not be required to work Saturday or Sunday, if they certify in writing that the assignment conflicts with religious beliefs or practices.

REFERENCE: 1. Education Code Sections 45127 and 45132

100.1.2 **10-HOUR WORKDAY:** The District may establish a 10-hour-per-day, 40-hour, four consecutive day workweek for all, or certain classes of its employees, or for employees within a class when, by reason of the work location and duties actually performed by such employees, their services are not required for a workweek of five consecutive days. This provision may only be implemented if the establishment of such a workweek has the concurrence of the concerned employee, class of employees, or classes of employees. If the impacted employees are represented by an exclusive bargaining representative, the concurrence must be ascertained through that employee organization.

REFERENCE: 1. Education Code Section 45132

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

REFERENCE: 1. Education Code Sections 45260 and 45261

100.1.4 **ADJUSTMENT OF ASSIGNED TIME:** Any classified employee who works an average of thirty (30) minutes or more per day in excess of the employee's regular part-time assignment (defined for this rule as less than eight hours per day) for a period of twenty (20) consecutive working days or more shall have their regular assignment adjusted upward to reflect the longer hours, effective with the next pay period.

100.1.4.1 If an employee's average paid time for a part-time assignment (defined for this rule as less than eight hours per day), excluding overtime, exceeds the employee's minimum assigned time by 50 minutes or more per working day in any quarter (three consecutive month period), the hours paid per day for compensable leaves of absence and holidays in the succeeding quarter shall be equivalent to the average paid per working day in the preceding quarter, excluding overtime.

REFERENCE: 1. Education Code Sections 45136, 45137, 45260, and 45261

100.1.5 **DECREASES IN ASSIGNED TIME:** A District initiated decrease in the assigned hours per day, hours per week, days per year, or months per year of an existing regular position shall be considered a layoff for lack of work or lack of funds. All District initiated decreases in assigned time shall be performed in accordance with the layoff procedures in these rules.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45308

100.1.6 **BENEFITS FOR POSITIONS LESS THAN 8 HOURS/12 MONTHS:** All employees assigned less than eight (8) hours per day and/or less than twelve (12) months per year shall be entitled to sick leave and all other benefits conferred by law on classified employees. These employees shall be entitled to all leaves and benefits granted by these rules, the law, or the Board of Education. These benefits shall be provided on at least a prorated basis.

REFERENCE: 1. Education Code Sections 45132, 45260, and 45261

100.1.7 **MEAL PERIODS:** All employees who are scheduled to work over five (5) consecutive hours per day shall be assigned an unpaid, uninterrupted meal period of at least thirty (30) minutes scheduled at or near the midpoint of each work shift or as near a normal meal time as possible. Meal periods shall be unpaid time. If the total work period per day of the

employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the District and employee.

- REFERENCE:**
1. Education Code Sections 45260 and 45261
 2. California Labor Code 512(a)

100.1.8 **REST PERIODS:** Each employee who works in an assignment of at least three and one half (3.5) hours shall be granted a rest period of fifteen (15) minutes.

100.1.8.1 Employees shall be granted rest periods which, insofar as practicable, shall be in the middle of each work period, but scheduled no later than prior to the last hour of the employee's work day.

100.1.8.2 The time for the break shall be mutually agreed upon between the employee and their supervisor.

100.1.8.3 Rest periods shall not be cumulative and shall not be used to shorten the working day or lengthen a lunch period.

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

100.1.9 **SPLIT SHIFT ASSIGNMENTS:** The District shall have the right to assign classified employees to a split shift as part of a regular assignment. The periods between split shifts shall be unpaid. Bonafide scheduled meal periods of at least 30 minutes as required under these rules shall not be considered a split shift and shall be considered as unpaid time.

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

100.1.10 **ADDITIONAL HOURS FOR PART-TIME EMPLOYEES:** When additional hours are assigned to a part-time position on a permanent basis, the assignment shall first be offered to the current incumbent.

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

100.2 OVERTIME AND RELATED MATTERS

100.2.1 **OVERTIME:** All overtime hours as defined in this rule shall be compensated at the rate of pay equal to time and one-half (1-1/2) the regular rate of pay of the employee for all hours worked in an overtime status. Overtime is defined to include any time worked in excess of eight

(8) hours in any one day or on any one shift, or in excess of forty (40) hours in any calendar week, whether such hours are worked prior to the commencement of a regularly assigned starting time or subsequent to the assigned quitting time.

100.2.1.1 If the District establishes a workday of less than eight (8) hours but seven (7) hours or more, and a workweek of less than forty (40) hours but thirty-five (35) hours or more for all of its classified employees or for certain classes of classified positions, all time worked in excess of the established workday or workweek shall be deemed to be overtime.

100.2.1.2 All hours worked by an employee on any holiday designated by these rules, the law, or the Board of Education shall be compensated at the overtime rate of pay in addition to regular pay received for that day.

100.2.1.3 When a four-day workweek, 10-hour day is established by the District, the overtime rate shall be paid for all hours worked in excess of ten (10) hours per day, or forty (40) hours per week. Work performed on the fifth, sixth, and seventh days shall be compensated for at the overtime rate of pay.

100.2.1.4 For purposes of defining the regular rate of pay in order to determine the proper overtime rate, the District shall take the employee's hourly rate of pay, and add any differential rates, premium rates, or longevity increments received by the employee in order to arrive at the employee's regular rate of pay for calculating overtime.

100.2.1.5 For purposes of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence shall be considered as time worked by the employee.

REFERENCE: 1. Education Code Sections 45128, 45131, 45132 and 45160

100.2.2 **COMPENSATORY TIME OFF (CTO):** Employees shall have the option to elect to take compensatory time off in lieu of cash compensation for overtime work up to an annual total of 40 regular hours (60 CTO hours at time and one-half). Any overtime above the 40 hours (60 hours at time and one-half) may be granted as CTO only with the written approval of the supervisor. Such election shall be submitted in writing to the immediate supervisor within five (5) working days following the day the overtime is worked. Scheduling of the particular time to be taken off as compensatory time off shall be subject to mutual agreement between the employee and the supervisor.

- 100.2.2.1 A written record of overtime worked and compensatory time taken off shall be maintained by the Payroll Office.
- 100.2.2.2 Approximately May 1 of each year, the District shall notify each employee of their current credit balance of CTO. All CTO hours that have not been used by June 30 of any year shall be paid to the employee in form of a cash payment.
- 100.2.2.3 Compensatory time is earned at the regular or overtime rate. When the hours worked trigger the requirement for overtime compensation, pursuant to Rule #100.2.1, the compensatory time off in lieu of cash shall be at the rate of time and one-half (1-1/2).
- 100.2.2.4 Compensatory time off may be accumulated up to an annual total of 160 regular hours (240 CTO hours at time and one-half).

REFERENCE: 1. Education Code Section 45129

100.2.3 **ASSIGNMENT OF OVERTIME:** Overtime will be offered on a rotating basis to those employees within a department who have filed a notice of availability for overtime, with the intent being to equalize, as much as possible, the distribution of overtime within the classification.

Overtime shall be offered in the following order:

- 100.2.3.1 to employees within the classification in which the overtime is needed;
- 100.2.3.2 to employees whose classifications include similar or related duties to those of the classification in which the overtime is needed;
- 100.2.3.3 to employees who are determined by the Supervisor offering the overtime to have the skills required to do the necessary work.

REFERENCE: 1. Education Code Sections 45260 and 45261

100.2.4 **CALL BACK TIME:** Whenever an employee is called back to duty by his/her supervisor or designee after the conclusion of the normal work shift, the employee shall receive a minimum of two (2) hours pay at the appropriate salary rate.

REFERENCE: 1. Education Code Sections 45260 and 45261

100.2.5 **CALL IN TIME:** Whenever an employee is called to work by his/her supervisor or designee on a day which is not a regularly scheduled work day, the employee shall receive a minimum of two hours pay at the appropriate salary rate.

REFERENCE: 1. Education Code Sections 45260 and 45261

100.2.6 **EXEMPTION FROM OVERTIME:** Positions or classes of positions designated supervisory, administrative, or executive by the Commission may be exempted from the overtime provisions of these rules. To be exempted from overtime, positions or classes of positions must clearly and reasonably be management positions. The classes of established positions listed on the Classified Management Salary Schedule as well as classified positions on an individual contract are clearly and reasonably management positions. The duties, flexibility of hours, salary, benefit structure, and authority of these classes are of such a nature that they should be set apart from positions subject to overtime and will not be unreasonably discriminated against as a result of this exemption.

Notwithstanding this rule, if an exempt employee is required to work on any District paid holiday, the employee shall be paid, in addition to the regular pay received for the holiday, at the rate of one and one-half (1 ½) times the employee's regular rate of pay, or given compensatory time off. An exempt employee who chooses to work on any District paid holiday is not entitled to receive such compensation or compensatory time off.

(Rev. 2/18/98, 3/21/01, 7/23/14, 5/23/19)

REFERENCE: 1. Education Code Sections 45130, 45260, and 45261

CHAPTER 110

TRANSFER OF EMPLOYEES

110.1 TRANSFER

110.1.1 **DEFINITION OF TRANSFER:** For purposes of this rule, a vacancy shall occur when a new position is created or an existing position becomes vacant. There are two different types of transfers impacting classified employees:

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

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

REFERENCE: 1. Education Code Sections 45260 and 45261

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

110.1.2.1 An employee who is about to be transferred shall be notified in writing by his/her immediate supervisor at least five (5) working days prior to the effective date of the transfer. The reasons for the transfer shall be clearly spelled out in detail to the employee in this notice.

110.1.2.2 An employee may request a conference regarding the reasons for an involuntary transfer. Upon such a request the District will comply prior to the effective date of the transfer.

110.1.2.3 Employees shall not be transferred for punitive, preferential, or disciplinary reasons except as allowed under the disciplinary action provisions of these rules and regulations.

110.1.2.4 Involuntary transfers to or from shifts paying a differential shall only be done for disciplinary reasons except as allowed in Personnel Commission Rule #60.2.13.

110.1.2.5 Employees may appeal involuntary transfers through the Commission's grievance procedure.

110.1.3 **LATERAL TRANSFER:** Transfer from a position in one class to a position in another related class shall first be approved by the Director of Classified Human Resources. 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. The extent to which the two classes must be comparable may depend on additional factors. In general more latitude is allowed as an employee's length of service with the District increases; when the request for lateral transfer is based on layoff or reclassification. The employee must meet the minimum qualifications for the class.

REFERENCE: 1. Education Code Sections 45260 and 45261

110.1.4 **PROBATIONARY PERIOD FOR LATERAL TRANSFERS:** A permanent employee who transfers to a position in a class in which the employee has not previously completed a probationary period shall be considered probationary in that class for the standard probationary period outlined in Section #90.3.1 of these rules. At any time during this probationary period, the employee may be returned (transferred) to his/her former class without right of appeal except for those rights provided for all other probationary employees in Personnel Commission Rule #90.3. However, if such transfer to the former class would result in a layoff, demotion, or reduction in assigned time, the employee may appeal such action in the same manner as any other permanent classified employee.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

REFERENCE: 1. Education Code Sections 45260 and 45261

110.1.6 **SENIORITY CREDIT:** Position shall have no adverse impact upon the employee's seniority. Under Personnel Commission rules, a transferred employee retains full seniority where both positions are within the same class. Where the transfer is to a position in a lateral class, the employee will begin earning seniority in the lateral class upon the effective date of the transfer but shall maintain seniority in his/her previous class.

110.1.7 **TRANSFER SHALL NOT ALTER EFFECTS OF LAYOFFS:** A transfer shall not be used as a device for altering the effects of impending layoffs, except as provided for elsewhere in these rules and regulations.

REFERENCE: 1. Education Code Sections 45260 and 45261

110.1.8 **POSTING OF TRANSFER NOTICES:** Transfer notices shall be distributed whenever a vacancy occurs. The vacancy notice will be posted pursuant to the procedures outlined in Rule #50.1.

REFERENCE: 1. Education Code Sections 45260 and 45261

110.1.9 **SUBMISSION OF REQUEST FOR TRANSFER:** An employee may request a transfer to a vacant position by submitting a Request to Transfer to the Personnel Commission Office no later than the closing date for those vacancies advertised in the Transfer Notice. Consideration shall be given to all requests for transfer which are properly submitted.

110.1.9.1 A classified employee may submit at any time a written request for transfer to the Personnel Commission Office to be held on file for transfer consideration. This transfer request shall remain in force for the remainder of the current school or fiscal year unless withdrawn by the employee. The Director of Classified Human Resources shall have the right to periodically purge the transfer lists of those employees who are no longer interested in transfer, have terminated with the District, or have had their transfer requests honored. Such requests on file prior to the close of any transfer posting period shall be considered as if they had been received during the posting period.

REFERENCE: 1. Education Code Sections 45260 and 45261

110.1.10 **CERTIFICATION OF NAMES TO INTERVIEW:** The Director of Classified Human Resources shall certify and submit to the appropriate administrator or supervisor the names on the transfer list and the first three ranks from the appropriate eligibility list. The super-

visor/administrator shall choose from the individuals certified to fill the vacancy.

- 110.1.11** **NOTIFICATION OF TRANSFER SELECTION:** The department supervisor shall notify the Director of Classified Human Resources of his/her recommendation for selection within three (3) working days after completion of the interviews. The selected transfer candidate shall be released by his/her other site/department within ten (10) working days of the date of selection, unless otherwise agreed to by all parties. The effective date of transfer shall be communicated in writing to all parties by the Director of Classified Human Resources.

REFERENCE: 1. Education Code Sections 45260 and 45261

110.2 DEMOTIONS

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

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

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

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

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

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

110.2.1.6 A permanent employee may only be dismissed for cause after an involuntary demotion. The employee shall have the right to appeal the decision to the Personnel Commission pursuant to the procedures outlined in Section 190.5 of these Rules.

REFERENCE: 1. Education Code Section 45272

110.2.2 **INVOLUNTARY DEMOTION:** Involuntary demotion is a disciplinary action for cause and is subject to the disciplinary procedures in these Rules.

110.2.2.1 A permanent employee who has been promoted or reclassified to a higher class, or transferred to a new class may be involuntarily returned to his/her former class, during the probationary period, due to unsatisfactory work performance, pursuant to the disciplinary procedures in these rules.

110.2.2.2 An employee who has been demoted as a form of discipline will be required to serve a probationary period in the lower classification unless he/she has previously attained permanent status in the lower classification.
(Rev. 10/15/97)

110.2.2.3 Should the employee fail to pass the probationary period in the lower classification, the employee shall not have the right to return to the higher classification from which he/she was demoted. (See Rule #110.3.2)
(Rev. 10/15/97)

110.2.2.4 Salary placement upon involuntary demotion shall be in accord with these rules.

110.2.2.5 A permanent employee may only be dismissed for cause after an involuntary demotion. The employee shall have the right to appeal the decision to the Personnel Commission pursuant to the procedures outlined in Section 190.5 of these Rules.

REFERENCE: 1. Education Code Sections 45302 and 45304

110.3 RESTORATIONS

110.3.1 **RESTORATION OF FORMER EMPLOYEE:** A former permanent employee who resigned in good standing may be reinstated to a vacant position in his/her former class and status within thirty-nine (39) months of the last date of his/her paid service. In addition, the former employee

may be reemployed to a vacant position in a lower-related class (as determined and approved by the Personnel Commission), if qualified (as determined and approved by the Personnel Commission), or in a limited-term status in the same or lower class. Such employment actions are discretionary with the appointing authority.

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

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

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

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

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

110.3.3.2 A current employee being reinstated to a former higher class would be placed at the salary range of the higher class and then to the step required in these rules if the employee was receiving a promotion.

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

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

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

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

CHAPTER 120

EMPLOYEE PERSONNEL FILES

120.1 PERSONNEL FILES

120.1.1 **MAINTENANCE OF FILE:** The Personnel Commission shall maintain an official employee personnel file for each classified employee.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.1.2 **INSPECTION OF PERSONNEL FILES BY EMPLOYEE:** An employee shall have the right to inspect his/her personnel file upon request. Such inspection shall take place during normal business hours, and with the approval of the supervisor. The employee shall be permitted to review his/her personnel file during a time when he/she is not required to render service to the District unless it is impossible to arrange the review during off-duty hours and the employee has the written permission of his/her supervisor to be absent from work for a specified period of time. An employee shall have access to all material in his/her personnel file, except that such material subject to inspection shall not include confidential ratings, reports or records which were:

120.1.2.1 Obtained prior to the person's employment.

120.1.2.2 Prepared by identifiable examination committee members.

120.1.2.3 Obtained in connection with a promotional examination.

REFERENCE: 1. Education Code Sections 45260, 45261, and 44031
2. Labor Code Section 1198.5
3. Government Code Section 6250

120.1.3 **INSPECTION BY OTHERS:** The employee personnel file shall be available for inspection by the employee and his/her official representative (with written approval from the employee). The inspection of the personnel file by an individual other than the employee (or his official representative) shall only be allowed when actually necessary in the proper administration of the District's affairs or the supervision of the employee.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.1.4 **PERSONNEL FILE LOG MAINTAINED:** The Director of Classified Human Resources shall keep a log indicating the persons who have examined a personnel file as well as the date such examinations were made. Such log will be kept in the employee's file and will be available along with the employee's personnel file for inspection by the employee or the employee's official representative (with written authorization from the employee). District employees who need access to personnel files in the normal course of their duties shall not be required to log use of files. (Example: Personnel Commission clerical staff members placing correspondence or completed evaluation forms in an employee's personnel file would not be required to log use of the files.)

REFERENCE: 1. Education Code Sections 45260 and 45261

120.1.5 **DEROGATORY INFORMATION:** Information of a derogatory nature, except material referred to in Rules #120.1.2.1 - #120.1.2.3, shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. The affected employee shall be furnished with a copy of the proposed material five (5) work days prior to it being placed in that employee's official personnel file. An employee shall have the right to enter, and have attached to any such derogatory statement, his/her own comments thereon.

REFERENCE: 1. Education Code Sections 44031, 45260, and 45261

120.1.6 **SIGNATURE/DATE REQUIRED:** Any person who places written material or drafts written material for placement in an employee's personnel file shall sign the material and signify the date on which such material was drafted. Any written materials placed in a personnel file shall indicate the date of such placement.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.1.7 **APPEAL OF PLACEMENT OF MATERIAL IN FILE:** An employee may appeal the placement of derogatory information in the personnel file through the Personnel Commission's grievance procedure as outlined in Rule #180. The timeline for appealing shall coincide with the time limits outlined in Rule #180. The only cause for appeal shall be a claim that a law, rule of the Personnel Commission, or contract section has been violated.

REFERENCE: 1. Education Code Sections 45260 and 45261

120.1.8 **REMOVAL OF DEROGATORY MATERIAL:** If the Commission sustains a grievance the derogatory material shall be removed from the

employee's personnel file. In no other instance shall derogatory information be removed from the personnel file. At the point that any grievance is not sustained by the Commission or the time period for filing a grievance related to derogatory information has passed without the filing of a grievance, the derogatory material shall be considered a Class 1 - Permanent Record, and shall not be removed.

- REFERENCE:**
1. Education Code Sections 35253, 45031, 45260, and 45261
 2. Administrative Code Section 16023

CHAPTER 130

PERFORMANCE EVALUATIONS

130.1 GENERAL POLICY

130.1.1 **POLICY STATEMENT:** The employee performance evaluation report serves as an important tool for both management and employees in the task of insuring quality and efficient work performance. The following rules provide the performance rating standards and procedures which shall be used in connection with eligibility for advancement, promotion, demotion, and dismissal from the Classified Service, as well as other decisions relative to members of the Classified Service. Such evaluation reports shall be one means by which a member of the Classified Service can learn how his/her supervisor feels about the quantity and quality of the work being performed by the employee and have the opportunity to discuss the matter with the supervisor. In addition, the completion and review of the evaluation report with the employee affords the supervisor an opportunity to review the employee's performance with him/her in an effort to correct work deficiencies, recognize the employee's accomplishments, set goals and objectives, and/or encourage the person to greater efforts in the performance of his/her duties and responsibilities.

REFERENCE: 1. Education Code Sections 45260 and 45261

130.1.2 **ADMINISTRATION OF PERFORMANCE APPRAISAL SYSTEM:** The Director of Classified Human Resources shall be charged with administering the performance appraisal system of the District for all members of the Classified Service. The Director of Classified Human Resources shall be responsible for insuring that all evaluations are properly completed and included in employees' personnel files.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

130.1.3.1 **Probationary Employees:** Shall be evaluated at the end of the second, fourth and before the end of the sixth month of service.

130.1.3.2 **Probationary Management Employee (Supervisory, Administrative or Executive):** Shall be evaluated at

the end of the third, seventh, and eleventh months of service.

130.1.3.3 **Permanent Employees:** Employees who have achieved permanent status in their classification and whose most recent performance evaluation was rated as “Satisfactory” shall be evaluated at least every second year within 30 days of their anniversary date. Permanent employees whose most recent evaluation was rated “Needs Improvement” or “Not Satisfactory” shall be evaluated annually within 30 days of their anniversary date.

130.1.3.4 **Permanent Management Employee (Supervisory, Administrative or Executive):** Management employees who have achieved permanent status in their classification shall be evaluated annually, and completed evaluations are due by June 30th of each year.

130.1.3.5 **Special Evaluations:** An employee may be given a special evaluation at any time during employment if deemed necessary by the supervisor to document either outstanding or unsatisfactory performance by an employee.

The completed evaluation shall be returned to the Classified Human Resources Office.

(Rev. 130.1.3.2: 3/15/06)

(Rev. 130.1.3: 3/20/19)

REFERENCE: 1. Education Code Sections 45260 and 45261

130.1.4 **EVALUATION RATER:** Each employee is to be rated by his/her immediate supervisor. The ratings shall be made in a joint conference between the employee and supervisor. In cases where the employee is assigned to more than one department or site, the employee shall receive separate evaluations for each assignment.

REFERENCE: 1. Education Code Sections 45260 and 45261

130.1.5 **EVALUATION FORMS:** Performance evaluations shall be made on forms prescribed by the Personnel Commission.

REFERENCE: 1. Education Code Sections 45260 and 45261

130.1.6 **EVALUATION MEETING:** In completing the performance evaluation form, the supervisor shall have a conference with the employee. Together, the supervisor and employee will analyze the

employee's strong points and the areas in which improvement may be made. Such meeting shall be held during the employee's normal working time and without loss of pay. The meeting shall be scheduled by the supervisor to allow adequate time for a discussion with and by the employee.

REFERENCE: 1. Education Code Sections 45260 and 45261

130.1.7 **DOCUMENTATION:** All evaluations which contain negative comments about the employee's performance shall include substantiating documentation such as times, dates, witnesses, if any, and locations of negative and less than satisfactory performance. Areas of suggested improvement shall have goals to strive for and possible ways to meet those goals.

REFERENCE: 1. Education Code Sections 45260 and 45261

130.1.8 **SPECIFIC RECOMMENDATIONS FOR IMPROVEMENT:** Any negative evaluations shall include specific recommendations for improvements and provisions for assisting the employee in implementing any recommendations made.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

REFERENCE: 1. Education Code Sections 45260 and 45261

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

130.1.10.1 One copy to the employee being evaluated.

130.1.10.2 One copy to the supervisor performing the evaluation.

130.1.10.3 One copy to the Classified Human Resources Office for inclusion in the employee's personnel file.

REFERENCE: 1. Education Code Sections 45260 and 45261

130.1.11 **EMPLOYEE ATTACHMENTS TO EVALUATION:** The employee shall have five (5) working days from the date of the final evaluation meeting to submit to the Classified Human Resources Office the employee's written comments and/or documentation evidence to refute or rebut any derogatory rating or comments in the evaluation form. Any employee submissions shall be attached to the evaluation prior to placement in the employee's personnel file.

REFERENCE: 1. Education Code Sections 45260 and 45261

130.1.12 **APPEAL OF PERFORMANCE EVALUATIONS:** An employee may grieve the evaluation through the Personnel Commission's grievance procedure (as outlined in Rule #180) only on the grounds that these rules and regulations have been violated in the preparation, documentation, and completion of the performance rating form.

REFERENCE: 1. Education Code Sections 45260 and 45261

CHAPTER 140

VACATIONS

140.1 VACATIONS

140.1.1 RATIO FOR EARNING VACATION/REGULAR EMPLOYEES: Regular classified employees, or a regular employee temporarily assigned to a provisional or limited term assignment, shall earn vacation on a fiscal year basis at the rate of:

<u>Year of Employment</u>	<u>Full Time</u>
1st year through 4th year	12 days/year
5th year through 9th year	15 days/year
10th year through 14th year	17 days/year
15th year and up	20 days/year

Employees who work less than full time accrue vacation according to the same schedule, but prorated on the actual hours worked.

140.1.2 RATIO FOR EARNING VACATION/MANAGEMENT EMPLOYEES: Regular classified supervisory/management employees as designated by the Personnel Commission shall earn vacation on a fiscal year basis at the rate of twenty-two (22) days per year.

140.1.3 VACATION RATE OF PAY: All vacation shall be paid at the employee's regular rate of pay in his/her regular classification at the time the vacation is used, including any longevity, differential, or stipend payments.

140.1.4 VACATION CREDIT FOR PARTIAL MONTH: Full vacation leave for a given month is credited if an employee is in paid status for ten (10) or more of the working days in the month.

140.1.5 VACATION EARNED DURING PAID STATUS: Vacation is earned at all times that an employee is in a paid status including working time, paid holidays, all paid leaves of absence, and when serving in a limited-term or provisional capacity.

140.1.6 PROBATIONARY EMPLOYEES VACATION RIGHTS:

140.1.6.1 Probationary nonmanagement employees shall not have a right to use earned vacation until the completion of the 130-day probationary period and/or achievement of permanent status with the District, whichever occurs first.

140.1.6.2 A probationary management employee shall not be eligible to take vacation until completion of 130 days of paid service, or achievement of permanent status with the District. Unless a probationary management employee has permanent status with the District, the employee may only use vacation time that has been earned.

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

(Rev. 140.1.6: 8/9/17)

140.1.7 **VACATION SCHEDULING FOR LESS THAN TWELVE MONTH EMPLOYEES:** Regular employees who work less than twelve (12) months may take their earned vacation during the Winter and/or Spring recesses. In the event an employee is entitled to more days vacation than are available during the Winter and Spring recesses, pay will be granted for the necessary additional days to which the individual is entitled. Should an employee be entitled to less days than are available at Winter and/or Spring recesses, the difference due the District will be made by personal deduction on the individual's paycheck.

Employees whose salary is equalized shall have accrued vacation credit paid in a lump sum at the close of the fiscal year and this will constitute their final paycheck for the fiscal year.

140.1.8 **VACATION SCHEDULING FOR TWELVE MONTH EMPLOYEES:** An employee assigned twelve (12) months per year shall take vacation at a time convenient to both the employee and supervisor.

140.1.8.1 In determining the vacation schedule for individual departments, the supervisor shall give employees the choice of times available on the basis of seniority.

140.1.9 **CREDITING OF VACATION TO EMPLOYEE'S ACCOUNT:** At the beginning of each fiscal year (July 1) each permanent management employee shall be granted, in advance, the number of vacation days expected to be earned that fiscal year as stipulated in Section 140.1.2 of these rules.

Permanent nonmanagement employees shall have vacation time credited on a monthly basis on the last day of the month in which the time was earned as stipulated in Section 140.1.1.

140.1.10 **UNEARNED VACATION UPON TERMINATION:** When a classified employee terminates and has been granted vacation which was not yet earned at the time of termination of the employee's services, the District shall deduct from the employee's severance check the full

amount of salary which was paid for such unearned days of vacation taken.

- 140.1.11** **EARNED VACATION UPON TERMINATION:** When a classified employee terminates, the employee shall be entitled to lump sum compensation for all earned and unused vacation, at their regular rate of pay, except that employees who have not achieved permanent status with the District shall not be entitled to such compensation.
- 140.1.12** **VACATION CARRY-OVER:** A twelve (12) month employee may carry over accumulated vacation which results in current credit equal to the employee's current year's vacation entitlement plus five (5) days. Accumulations over this amount will not be allowed and any excess vacation will be paid for in cash. Upon approval of the Director of Classified Human Resources, with ratification by the Personnel Commission, carry over of vacation time may exceed this amount if there are compelling reasons for doing so.
- 140.1.13** **VACATION POSTPONEMENT:** Vacation may, with the approval of the District, be taken any time during the school year. If the employee is not permitted to take his/her annual vacation, the amount not taken shall accumulate for use in the next year or be paid for in cash.
- 140.1.14** **VACATION HOLIDAYS:** If a District-approved holiday falls within a scheduled vacation, the employee shall not be charged a vacation day for the holiday.
- 140.1.15** **INTERRUPTION OF VACATION:** Permanent classified employees may interrupt or terminate vacation leave to begin another type of paid leave without a return to active service, provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption or termination to the Director of Classified Human Resources.

REFERENCE: 1. Education Code Sections 45190, 45197, 45260, and 45261

CHAPTER 150

LEAVES OF ABSENCE

150.1 GENERAL PROVISIONS

- 150.1.1** **DEFINITION OF LEAVE OF ABSENCE:** A leave of absence is an authorization for a regular employee to be absent from duty for a specific period of time for an approved purpose.
- 150.1.2** **GUARANTEE OF RIGHT TO POSITION UPON RETURN:** The granting of a paid or unpaid leave of absence of six (6) months or less for a twelve-month employee or one (1) semester for a school-year employee shall guarantee the employee the right to return to his/her same position.
- 150.1.3** **RIGHTS TO POSITION FOR LEAVES OVER SIX (6) MONTHS:** The granting of a paid or unpaid leave of absence of more than six (6) months shall guarantee the employee the right to return to a position of equal status in the employee's same classification. However, the assignment may be in a different department or location.
- 150.1.4** **AUTHORIZED LEAVE IS NOT A BREAK IN SERVICE:** A paid leave, unpaid illness leave or industrial leave, or military leave shall not constitute a break in service.
- 150.1.5** **CONTINUATION OF ALL BENEFITS DURING PAID LEAVES:** An employee on a paid leave of absence shall continue to accrue all benefits to which entitled as a regular employee.
- 150.1.6** **HEALTH COVERAGE MAY CONTINUE DURING ABSENCES:** An employee, who is otherwise eligible for district-paid health insurance shall continue to receive such benefits during all periods of paid leaves, and in some instances is covered by the Family and Medical Leave Act for some portion of unpaid leaves as included in the Act. An employee who is absent as the result of a district-approved unpaid leave shall be allowed to maintain his/her health insurance benefits by remitting monies to the District to cover the necessary costs of such insurance.
- 150.1.7** **CANCELLATION OF VOLUNTARY LEAVES:** The Board may cancel any voluntary leave of absence for good cause by giving the absent employee due notice. Due notification shall allow sufficient time for the employee to return to work, but shall not be less than five (5) working days.
- 150.1.8** **FAILURE TO REPORT FOR DUTY AFTER LEAVE EXPIRES:** Failure to report for duty within three (3) working days after a leave expires or has been canceled (pursuant to Rule #150.1.7) shall be

considered abandonment of position and the employee may be terminated by the Board. Termination for abandonment shall be deemed termination for cause and treated as a disciplinary action.

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

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

150.1.11 **ABSENCE REPORTS NOTED ON TIME SHEETS:** All absences shall be identified on the employee's monthly time sheets with the appropriate identification codes and reasons. These time sheets shall be signed by the employee and supervisor and returned to the Payroll Department.

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

150.1.13 **ORDER OF AVAILABLE LEAVES FOR ILLNESS OR INJURY:**
An employee who is absent for any reason related to illness or injury shall utilize available leaves in the following order:

150.1.13.1 Industrial Accident and Illness Leave (if applicable).

150.1.13.2 Accrued and advanced sick leave.

150.1.13.3 50% extended illness leave.

150.1.13.4 Other available paid leave time may be used to supplement additional sick leave paid at 50% at the election of the employee.

150.1.14 **LEAVES NOT GRANTED AS A MATTER OF RIGHT:** Upon request for a leave of absence signed by the employee and stating the reason for the leave, the supervisor may recommend either to approve or disapprove the request. The request shall be submitted to the Director of Classified Human Resources for approval. The Director of Classified Human Resources, acting for the District and the Personnel Commission, shall approve or disapprove the request based upon its compliance with the law and these rules and regulations.

150.1.15 **VERIFICATION OF LEAVES:** The District shall have the right to require pursuant to applicable sections of these rules, collective

bargaining agreements, Board policies and procedures or other laws and codes, verification of all leaves requested and taken by an employee. An employee's inability or refusal to provide reasonable verification shall be grounds for denying the requested leave of absence.

REFERENCE: 1. Education Code Sections 45260 and 45261

150.2 SICK LEAVE

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

150.2.1.1 Physical or mental inability to perform the usual and customary duties of the position due to illness, injury, or exposure to contagious disease.

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

150.2.2 **NUMBER OF SICK LEAVE DAYS PER YEAR:** Every regular classified employee shall earn one (1) day of sick leave per full month of paid status to a maximum of twelve (12) days per year.

150.2.2.1 To qualify for a full month of paid status, the employee must be in a paid status for 50% of the working days during the month.

150.2.3 **SICK LEAVE SHALL BE EARNED HOURS:** Employees shall earn sick leave based on accrual by hours. (Example: A four-hour employee earns four hours of sick leave in a given month.) The pay for that earned sick leave shall be determined based upon Rule #150.2.4.

150.2.4 **PAY RATE FOR SICK LEAVE:** Employees shall earn sick leave based on the formula outlined in Rule #150.2.2. When an employee takes sick leave, pay for that sick leave shall be the same pay the employee would have received had the employee worked.

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

150.2.6 **PROBATIONARY EMPLOYEES' USE OF SICK LEAVE:** New probationary employees may not use more than six (6) days of paid sick leave during their initial probationary period. New probationary management classified employees may not use more than six (6) days of paid sick leave during the first six (6) months of their initial twelve (12)-month probationary period. This rule shall not apply to those regular

classified employees who have previously completed a probationary period in a lower or equal classification in the District.

150.2.7 **SICK LEAVE GIVEN IN ADVANCE AT START OF FISCAL YEAR:** At the beginning of each fiscal year, the sick leave account of the employee shall be increased by the number of days of paid sick leave which would normally be earned in the ensuing fiscal year.

150.2.7.1 An employee's sick leave advance allotment shall be adjusted should a change in the employee's assignment alter the amount of sick leave which the employee can earn. (Example: Going from a 10-month to a 12-month assignment.)

150.2.8 **NOTIFICATION OF ABSENCE:** In order to receive compensation for sick leave, the employee must notify his/her immediate supervisor prior to the start of the employee's working day if possible, but not later than the first working hour of the first day of absence; unless conditions make such notification impossible. The burden of proof regarding the impossible conditions shall be upon the employee. The District has a 24-hour answering service. Employees may call this number at any time to report illness. It is always preferable to call direct to the supervisor, but the 24-hour service is available for night or emergency use.

150.2.9 **NOTIFICATION OF RETURN TO WORK:** In order to allow the District the opportunity to make arrangements for the return of an absent employee (such as terminating the services of a substitute), the employee shall notify his/her immediate supervisor of his/her impending return as soon as possible, but not later than one day preceding the day on which the employee is to return to work. If an employee fails to notify his/her supervisor and a substitute has been assigned to work for the day when the employee returns to work, the employee may be sent home for the day without being paid for that day.

150.2.10 **DOCTOR'S NOTE MAY BE REQUIRED:** The District may require a doctor's statement for any illness absence of three or more consecutive days under the following conditions:

150.2.10.1 The employee has used Sick Leave, including Personal Necessity Leave, in excess of one (1) day a month during the immediately preceding one (1) through twelve (12) months;

150.2.10.2 The employee has used Sick Leave, including Personal Necessity Leave, in excess of one (1) day a month during the immediately preceding thirteen (13) through twenty-four (24) months; and

150.2.10.3 The employee has accrued less than twenty days of sick leave.

150.2.11 **DOCTOR'S NOTE REQUIRED FOR ABSENCES OVER FIVE (5) DAYS:** An employee who is absent over five (5) working days shall present the District with a doctor's statement outlining the nature and/or duration of the illness, injury or exposure to a contagious disease, as well as the date on which the employee can be expected to return to work. Such doctor's statement shall be submitted to the District prior to the employee's return to work

150.2.12 **SUBMISSION OF DOCTORS' NOTES:** Doctor's report and/or clearance to return to work shall be submitted to the Personnel Commission Office.

150.2.13 **GENERAL DISTRICT RIGHT TO REQUIRE MEDICAL EXAM:**
The District agrees to provide the full cost of any medical examination ordered by the District as a condition of employment or continued employment. Such exam shall be performed by a physician named by the District and selected by the employee from a panel of three provided by the District. In the event a panel of three physicians in a specific medical area is not available within a 100 mile radius of the District office, the District may provide a list of less than three. The District shall not be obligated to provide a list of physicians for the examinations required by law, such as the tuberculosis test and the bus drivers license examination.

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

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

150.3 50% EXTENDED SICK LEAVE

150.3.1 **EXTENDED SICK LEAVE:** All regular classified employees who have exhausted all accrued and advanced sick leave shall receive extended sick leave benefits subject to the following conditions:

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

150.3.1.2 Extended benefits shall be limited to 100 work days in each fiscal year.

150.3.1.3 These 100 days shall be exclusive and in addition to all other paid and compensable leaves such as vacation, industrial accident/illness leave, holidays, etc.

150.3.2 **USED AFTER EXHAUSTION OF ALL OTHER PAID LEAVES:**
After entitlement to all regular sick leave, accumulated compensatory time off, vacation, and other paid time available has been exhausted, an employee who is still absent from his/her employment shall begin to draw on the employee's 100 days of leave pursuant to Rule #150.1.13 and 150.3.

150.3.3 **USE EXTENDS INTO NEXT FISCAL YEAR:** If on June 30, or at the end of the school year for employees who work fewer than twelve months in a year, the employee has not exhausted the 100 days of extended sick leave for a continuous illness of a serious nature, the employee may, with proper medical verification, request that the balance of the 100 days be extended into the next year. This extension, if granted, does not entitle the employee to a new bank of fully paid sick leave nor to a new 100 days until the employee returns to work. The employee may not return to work at the termination of the extended leave until his/her doctor certifies that the employee has recovered from the illness and may return to his/her regular and customary duties.

150.3.4 **VERIFICATION OF ILLNESS:** All rules governing verification of illness absences outlined in Rule #150.2 shall also apply to any absences taken under this rule.

150.3.5 **ABSENCE NOTIFICATION:** All rules governing absence notification outlined in Rule #150.2 shall also apply to any absences taken under this rule.

REFERENCE: 1. Education Code Sections 45136, 45137, 45190, 45191, 45193, 45195, 45196, 45196.5, 45200, 45203, 45260, and 45261

150.4 INDUSTRIAL ACCIDENT/ILLNESS LEAVE

150.4.1 **SIXTY (60) DAYS OF FULL PAID LEAVE:** All regular classified employees shall be entitled to this leave. An eligible classified employee who is absent from duty for causes which are district related industrial accident, injury, or illness, shall be entitled to not more than sixty (60) working days for each industrial injury, accident, or illness. If the full sixty (60) working days will overlap into the next fiscal year, the employee shall be entitled only to that amount remaining at the end of the fiscal year in which the accident, injury, or illness occurred. Such leave is non-accumulative and may be taken only during those periods when the employee would normally have been in a paid status.

150.4.2 **REPORTING OF INJURY:** In the case of an industrial accident or injury, the employee must report the incident to his/her supervisor the same day whenever possible. All injuries not reported the same day require justification for the delay.

150.4.2.1 When an employee is absent from his/her duties due to an industrial accident or illness, the employee shall notify his/her supervisor or principal, within the first day of absence, that the injury is industrial and submit a statement from a licensed physician.

150.4.2.2 The supervisor shall complete the District's Industrial Accident/Illness Report and send it within forty-eight (48) hours of the employee's notification to the Risk Management Department.

150.4.3 **LEAVE COMMENCES ON FIRST DAY:** An industrial accident or illness leave shall commence on the first day of absence and shall be reduced by one day for each day of authorized absence.

150.4.4 **WORKERS' COMPENSATION CHECK ENDORSED TO DISTRICT:** During a leave taken under Rule #150.4, the employee shall endorse to the District the temporary disability indemnity checks (Workers' Compensation) received on account of his/her industrial accident or illness. The District, in turn, shall issue the employee appropriate salary warrants for payment of the employee's full salary and shall deduct normal retirement and other authorized contributions.

150.4.5 **USE OF SICK LEAVE AFTER EXHAUSTION OF SIXTY (60) DAYS:** Upon exhaustion of the industrial accident/illness leave, the employee shall be entitled to use sick leave provided in Rule #150.2. This leave shall commence on the date of termination of the industrial leave of absence. Provided the employee continues to receive temporary disability indemnity, the employee may elect to take as much of accumulated sick leave which when added to his/her temporary disability indemnity (Workers' Compensation check), will result in a payment to the employee of not more than his/her full salary. (Example: An employee has a temporary disability indemnity equal to one-third normal salary. The District pays the employee full salary and deducts two-thirds of a day of sick leave from the employee's accumulated sick leave account.)

150.4.6 **USE OF OTHER LEAVES AFTER EXHAUSTION OF SICK LEAVE:** After all accumulated sick leave has been exhausted an employee will be paid from any compensatory time off the employee may have accumulated. If no compensatory time off is accumulated or has been exhausted, the employee will then use accrued vacation credit. If no vacation credit is available or has been exhausted, the employee will then begin to use the 50% extended illness leave provided in Rule #150.3. The use of leaves outlined in this section shall be governed by the coordinated use of temporary disability benefits outlined in Rule #150.4.5.

150.4.7 **EMPLOYEE MUST REMAIN IN STATE OF CALIFORNIA:** An employee receiving benefits under the provisions of this rule shall,

during the period of the leave, remain within the State of California unless out-of-state travel is authorized by the Board of Education. An employee may appeal rejection of this request to the Personnel Commission.

- 150.4.8** **PLACEMENT ON REEMPLOYMENT LIST AT EXHAUSTION OF LEAVES:** When all available paid or unpaid leaves of absence have been exhausted, and if the employee is still not medically able to assume the duties of his/her position, he/she shall (if not voluntarily placed in another position) be placed on a reemployment list for a period of 39 months. When the employee is medically able to return to work during this 39-month period, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other candidates, except for a reemployment list established because of a layoff for lack of work or lack of funds, in which case he/she shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a reemployment list, as provided herein, and who has been medically released for return to duty, and who fails to accept an appropriate assignment, shall be dismissed. An appropriate assignment for purposes of this rule shall be defined as a position in the previous class having the same or greater number of assigned hours per day, days per week, and months per year.
- 150.4.9** **ABOLISHMENT OF PREVIOUS CLASSIFICATION:** If the employee's classification has been abolished during his/her absence, and the employee has been released to return, the employee shall be placed in a vacant position in a comparable classification for which the employee is qualified as determined by the Director of Classified Human Resources.
- 150.4.10** **RETURN TO SERVICE AFTER INDUSTRIAL LEAVE:** An employee shall be permitted to return to service after an industrial accident or illness leave only upon presentation of a release from the District appointed physician and/or the employee's treating physician. These releases must certify that the employee is able to return to his/her duties. Employees with only partial releases shall have a determination made, based upon the medical restrictions and limitations placed on the employee, whether or not the employee will be able to return based upon any "reasonable accommodation" considerations. Such determination shall be made by the Director of Classified Human Resources working in concert with the employee's supervisor and the Risk Manager.
- 150.4.11** **ABSENCES NOT CONSIDERED A BREAK IN SERVICE:** Any paid leave under this rule shall not be considered a break in service and the employee, while on such leaves, shall continue to accrue seniority credit.

REFERENCE: 1. Education Code Sections 45190, 45192, 45260, and 45261

150.5 TRANSFER OF SICK LEAVE

150.5.1 TRANSFER OF SICK LEAVE FROM ANOTHER DISTRICT:

Any classified employee of another school district, county superintendent's office, community college, or other public school agency deemed a school district by California law, who was not terminated from that agency for cause, who accepts employment with the District within one (1) calendar year (from the date of the termination of employment with the other agency) shall be allowed to transfer his/her accumulated sick leave from that agency to this district. In order to effectuate the transfer of the accumulated sick leave, the newly-hired employee shall request the Payroll Department to secure the necessary information from the former school agency for review and inclusion in the employee's sick leave accumulation bank.

REFERENCE: 1. Education Code Sections 45202, 45260, and 45261

150.6 UNPAID ILLNESS LEAVE

150.6.1 ONE (1) YEAR UNPAID LEAVE: A permanent classified employee, who has exhausted all paid leaves and who continues to be absent due to illness or injury may be granted an additional one (1) year unpaid leave of absence upon recommendation of the Director of Classified Human Resources and approval of the Board of Education.

150.6.2 FACTORS THAT MUST BE CONSIDERED: Prior to granting or not granting this leave the following factors shall be considered:

150.6.2.1 The likelihood that the employee will be able to return to regular duties at the conclusion of the leave.

150.6.2.2 The length of service and work record of the employee.

150.6.2.3 The employee's previous leave history and attendance record.

150.6.2.4 The number of positions in the employee's class.

150.6.2.5 The uniqueness of the duties performed, and the availability of a substitute.

150.6.3 RIGHT TO RETURN TO CLASSIFICATION: The granting of an unpaid leave of absence under this rule shall guarantee the employee the right to return to his/her former classification, and to a position with the same basic assigned number of hours and days per year of employment.

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

150.7 BEREAVEMENT LEAVE

150.7.1 **FIVE (5) TO SIX (6) DAYS OF PAID LEAVE:** In the event of the death of a member of the immediate family, an employee shall be granted necessary leave of absence, not to exceed five (5) days, and an additional one (1) day for out-of-state travel or necessary travel beyond 400 miles of the District (as measured by the shortest land route). Additional days of absence beyond those described herein may be provided under the terms of Personal Necessity Leave provisions contained in Rule #150.8. Employees granted bereavement leave under this rule shall suffer no deduction from their salary, nor shall such leave be deducted from leave granted by other sections of these rules or the Education Code.

150.7.2 **DEFINITION OF IMMEDIATE FAMILY:** Members of the immediate family are defined as the mother, father, grandmother, grandfather, grandchild, great-grandmother, great-grandfather, or a great-grandchild of the employee or of the spouse or the domestic partner of the employee, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee or of the spouse of the employee, or anyone with a similar relationship to the domestic partner of the employee, or any relative of the employee or the employee's spouse or domestic partner who resides in the household of the employee. Upon request of the District, the employee shall provide proof of the relative's residence in the employee's household. For the purpose of identifying an immediate family relationship, a domestic partnership shall be defined as a partnership officially registered with the Office of the Secretary of State of California and a copy of such registry must be on file in the employee's permanent personnel file in the Classified Human Resources Office.
(Rev. 10/19/05, 7/23/14)

REFERENCE: 1. Education Code Sections 45194, 45260, and 45261

150.8 PERSONAL NECESSITY LEAVE

150.8.1 **USE UP TO TEN (10) DAYS:** An employee may use, at their election, not more than ten (10) days accumulated sick leave earned pursuant to Education Code Section 45207 in any school year, in the following cases of personal emergency:

150.8.1.1 Death of a member of the immediate family as defined in Rule #150.7, when rights to bereavement leave outlined in Rule #150.7 have been exhausted.

- 150.8.1.2 Accident involving the employee or their property, or property of a member of the employee's immediate family as defined in Rule #150.7.
- 150.8.1.3 Illness, surgery, or childbirth involving a member of the employee's immediately family as defined in Rule #150.7.
- 150.8.1.4 Appearance in court or before any administrative tribunal as a litigant or party or witness under subpoena or any order made with jurisdiction.
- 150.8.1.5 In recognition of certain religious holidays of major significance, upon application to and with the approval of the Director of Classified Human Resources.
- 150.8.1.6 Attendance at weddings or graduations that occur within the immediate family.
- 150.8.1.7 Attendance at the funeral of someone other than immediate family.
- 150.8.1.8 Other absences of a personal necessity nature or business which may only be handled during an employee's normal working hours
- 150.8.1.9 Personal necessity leave is not to be used for the purpose of vacation or for the purpose of employment outside the Ventura Unified School District.

(Rev. 150.8.1: 4/23/18; 5/23/19)

- 150.8.2 **NOTIFICATION OF LEAVE USAGE:** Classified employees desiring to use such leave shall submit their request to their supervisor at least three (3) working days in advance of the anticipated absence, except in emergencies or unexpected events. In such cases, the employee shall apply as soon as possible. The general reason for the personal necessity shall be clearly stated on the request and on the monthly time sheet.
- 150.8.3 **PERSONAL NECESSITY LEAVE NOT CUMULATIVE:** Personal necessity leave is noncumulative. Employees are limited in each fiscal year to the amount of usage outlined in Rule #150.8.1.

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

150.9 PREGNANCY DISABILITY LEAVE

- 150.9.1 **ENTITLED TO ALL SICK LEAVE BENEFITS:** Regular female classified employees who must be absent from their duties because of

pregnancy or convalescence following childbirth shall be entitled to utilize all regular and extended sick leave benefits to which they may be entitled under these rules. Absence due to maternity that is not medically required can be granted pursuant to Rule #150.10.

150.9.2 **SICK LEAVE DURING MEDICALLY CERTIFIED ABSENCE:**
Paid leave, including regular sick leave and extended sick leave may be used for the period of absence medically certified by the employee's attending physician and approved by the Director of Classified Human Resources.

150.9.3 **CERTIFICATION OF LAST DAY ABLE TO WORK:** An employee may continue in active employment as late in her pregnancy as she desires and is approved by her physician.

150.9.4 **RELEASE TO RETURN TO WORK:** Prior to returning to work, the employee must present to the Personnel Commission Office, a release to return to work without limitations, from the treating physician. In addition, the Director of Classified Human Resources may require that the employee be examined by a District appointed physician to confirm the employee's ability to return to work.

REFERENCE: 1. Education Code Sections 45193, 45260, and 45261

150.10 UNPAID CHILD REARING LEAVE

150.10.1 **GRANTING OF UNPAID CHILD REARING LEAVE:** An unpaid child rearing leave may be granted to an employee within the timelines outlined in this rule. Periods of absence related to maternity which are medically required and/or disabling are covered by Rule #150.9.

150.10.2 **ELIGIBILITY AND TIMELINES FOR LEAVE:** A regular classified employee who is the natural or adoptive parent of a child shall be entitled to an unpaid child rearing leave, when medical disability is not a factor, to extend a maximum period of one (1) year beyond the birth of the child or the completion of the appropriate adoption procedures.

150.10.3 **ESTABLISHMENT OF BEGINNING/END DATES:** The employee is expected to establish a beginning and ending date for the child rearing leave with his/her supervisor as far in advance of the start of the child rearing leave as possible in order to plan for a temporary replacement.

150.10.4 **EMPLOYEE MAY RETURN EARLIER:** An employee who has been granted an unpaid child rearing leave may return early from that leave with at least a five (5) working-days notice to the Personnel Commission Office.

REFERENCE: 1. Education Code Sections 45260 and 45261

150.11 JURY DUTY LEAVE

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

150.11.2 **RETURN FROM JURY DUTY:** An employee who has received leave of absence for jury duty shall be available for work during hours when his/her presence is not required in court.

150.11.3 **NOTIFICATION OF JURY LEAVE:** Any request for jury duty leave shall be made by attaching the official court summons to jury service to the monthly time sheet form for forwarding to the Payroll Office.

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

150.12 RELEASE TIME FOR PERSONNEL ACTIVITIES

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

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

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

150.13 MILITARY LEAVE

150.13.1 **ALL REGULAR EMPLOYEES GRANTED MILITARY LEAVE:** Regular classified employees under official orders, who are called to active duty in the Armed Services of the United States of America

(including the Coast Guard) shall be granted military leave of absence for the period of service.

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

150.13.3 **THIRTY (30) DAYS LEAVE WITH PAY:** Regular classified employees shall be granted full pay for the first thirty (30) calendar days of the leave. Employees on military leave shall be granted salary advancement and shall continue to accrue seniority for purposes of layoff. No other fringe benefits, such as sick leave or vacation shall accrue during any unpaid portion of the leave.

150.13.4 **OFFICIAL ORDERS MUST BE SUBMITTED:** In order for a paid leave of absence to be granted the employee must submit to the Director of Classified Human Resources his/her official orders to active duty or reserve duty, stating the dates to report to duty.

150.13.5 **RETURN FROM MILITARY LEAVE:** Upon return from military leave the employee shall be reinstated to his/her same regular position or an equal position in the same class.

REFERENCE:

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

150.14 VOTER LEAVE OF ABSENCE

150.14.1 **TIME OFF TO VOTE:** If a voter does not have sufficient time outside of his/her working hours within which to vote at any general, direct primary, or presidential primary election, the employee may, without loss of pay, take off as much time as will, when added to his/her voting time outside his/her working hours, enable the employee to vote.

150.14.2 **TIME OFF WILL NOT EXCEED TWO (2) HOURS:** Members of the classified service of the District who are registered to vote and have reason to believe that they will be denied the opportunity to vote because of their scheduled work hours or the length of their work day as scheduled for the day of the election shall be allowed as much time off at the beginning or the end of the work day (without loss of pay or other penalty) that when combined with the employees' personal time (outside of working hours) will allow them the opportunity to vote. However, such time off shall not exceed two (2) hours.

150.14.3 **MAY NOT BE USED FOR OTHER PURPOSES:** Although the District wants its employees to become registered voters and to exercise

their rights to vote, and encourages all of its employees to do so, the Personnel Commission does not intend to allow time off under this rule to be used for any other purpose. Therefore, it is the responsibility of the employee who is requesting the time off to vote to show that he/she needs time off in order to be able to vote in the election, to show that he needs the amount of time being requested, and to present proof of having used the time for purposes of voting by providing the ballot stubs upon his/her return.

150.14.4 **ADVANCE NOTICE IF POSSIBLE:** Except in cases of emergency or unforeseen circumstances, employees shall provide their supervisors with advance notice of the need for time off to vote. The burden of proof as to the emergency of unforeseen circumstances shall rest upon the employee.

REFERENCE: 1. Education Code Sections 45136, 45137, 45190, 45260, and 45261

150.15 LEAVE TO SERVE IN EXEMPT/TEMP/LIMITED-TERM JOB

150.15.1 **LEAVE TO SERVE IN EXEMPT/TEMP/LIMITED-TERM POSITION:** Any permanent classified employee who accepts an assignment within the District to an exempt, temporary, or limited-term position shall, during such assignment, be considered (for status purposes) as serving in his/her regular position, and such assignment shall not be considered to be a separation from service.

150.15.2 **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, temporary, or limited-term assignment. Failure to complete the required service in the exempt, temporary, or limited-term assignment, unless approved as specified herein, could constitute abandonment of position and may be grounds for a disciplinary action.

REFERENCE: 1. Education Code Sections 45260 and 45261

150.16 LEAVES OF ABSENCE WITHOUT PAY

150.16.1 **WHEN GRANTED:** Leaves of absence without pay may be granted to a permanent classified employee upon written request of the employee, and the approval of the District, subject to the restrictions and conditions outlined in this rule.

150.16.2 **LENGTH OF LEAVE:** Leave of absence without pay may be granted for any period not exceeding one (1) year, except that leave of absence

for military service shall be granted as provided by the Education Code and the Military and Veterans code and leave of absence for service in the Peace Corps, of the Red Cross, or the Merchant Marines during time of national emergency, may be granted for a period not to exceed twenty-four (24) months.

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

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

150.16.3.2 For reasons already enumerated in Chapter 150 of these rules.

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

150.16.4 **RIGHT TO RETURN:** The granting of a leave of absence without pay gives the employee the right to return to his/her position, if the leave is for a period of one semester or less, in the case of a less than twelve (12) month employee, or six (6) months in the case of a twelve (12) month employee. In cases of an unpaid leave of absence of a greater length of time the District will return the employee to a position in his/her same classification and with the same number of hours and days per year at the expiration of his/her leave of absence, provided that he/she is physically and legally capable of performing the duties. The District will maintain an open position at the same number of hours and days per year for placement of the employee upon return from an unpaid leave of absence.

150.16.5 **CANCELLATION OF UNPAID LEAVE OF ABSENCE:** The Governing Board may, for good cause, cancel any leave of absence by giving the absent employee due notification in person or by Certified Mail. The employee may appeal the cancellation to the Personnel Commission which shall investigate and hear the appeal. The appeal by the employee will stay the cancellation directive of the Governing Board until action by the Personnel Commission which shall be final and binding.

150.16.6 **FILLING VACANCY:** When a leave of absence without pay is granted it shall be understood that the vacancy thus caused may be filled for the duration of the leave only, and that the position is being held open for the employee who is on leave, pursuant to the limitations outlined in Rule #150.16.4.

150.16.7 **REPORT OF REINSTATEMENT:** Report of the employee's return to work at or before the expiration of a leave of absence without pay, shall be made directly to the Director of Classified Human Resources, prior to the employee returning. At the same time, notice to the employee who

has been filling the position temporarily shall be made by the Director of Classified Human Resources.

150.16.8 **FAILURE TO RETURN:** Failure to report for duty after the deadline for returning from a leave, shall be considered abandonment of position and subject the employee to disciplinary action up to and including termination from employment. The employee may present evidence to the Director of Classified Human Resources to show why the failure to return was excusable, and if found acceptable to the Director of Classified Human Resources, the employee shall be reinstated with no further action. Termination under this section shall be subject to the same due process rights as any other dismissal for cause.

150.16.9 **COUNTING TIME FOR SENIORITY OR SALARY ADJUSTMENT:** Time spent on leave of absence without pay of over five (5) working days shall not count towards seniority except in the areas of military leave, illness leave, maternity leave (child-rearing leave), and industrial accident/illness leave. Time spent on leave of absence without pay shall not count towards merit salary adjustments (step increases). Before an employee receives a salary adjustment the employee must serve the required service time.

150.16.10 **UNPAID LEAVES OF FIVE (5) DAYS OR LESS:** A voluntary informal unpaid leave of absence may be granted by the immediate supervisor for a period of five (5) working days or less without approval of the Director of Classified Human Resources. However, this unpaid leave must be reported on the employee's time sheet.

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

CHAPTER 160

HOLIDAYS

160.1 HOLIDAYS

160.1.1 HOLIDAYS FOR CLASSIFIED EMPLOYEES: All regular classified employees shall be entitled to the following paid holidays which occur during their assigned work year, subject to eligibility provisions of this rule:

- 160.1.1.1 Independence Day (July 4)
- 160.1.1.2 Labor Day
- 160.1.1.3 Veteran's Day
- 160.1.1.4 Thanksgiving Day
- 160.1.1.5 Day After Thanksgiving Day
- 160.1.1.6 Christmas Eve (December 24)
- 160.1.1.7 Christmas Day (December 25)
- 160.1.1.8 December 26 (Board Holiday)
- 160.1.1.9 New Year's Eve (December 31)
- 160.1.1.10 New Year's Day (January 1)
- 160.1.1.11 Martin Luther King Day
- 160.1.1.12 Lincoln's Day
- 160.1.1.13 Washington's Day
- 160.1.1.14 Spring Vacation Day
- 160.1.1.15 Memorial Day

(Rev. 10/16/96)

REFERENCE: 1. Education Code Sections 45203, 45260, and 45261

160.1.2 **PAYMENT FOR HOLIDAYS DURING NONWORK PERIODS:**
Employees who are not normally assigned to duty during the holidays of Christmas Eve, Christmas, New Year's Eve, New Year's Day, and Spring Vacation Day shall be paid for those holidays providing they were in paid status during the workday of their normal assignment immediately preceding or succeeding the holiday period.

160.1.3 **GOVERNOR/PRESIDENT DECLARED HOLIDAYS:** In addition to the holidays listed in Rule #160.1.1, all regular classified employees shall be entitled to a paid holiday for every day officially declared by the President of the United States or the Governor of the State of California as a public fast, thanksgiving or holiday, pursuant to Education Code Section 37220, or any day declared a holiday by the Board of Education.

REFERENCE: 1. Education Code Sections 1318, 37220, 45203, 45260, and 45261

160.1.4 **OTHER PAID HOLIDAYS:** All regular classified employees shall be entitled to a paid holiday for any day declared a holiday by the Board of Education of this District pursuant to Education Code Sections 1318 or 37222 for classified or certificated employees.

REFERENCE: 1. Education Code Sections 1318, 37222, 45203, 45260, and 45261

160.1.5 **RATE OF PAY FOR HOLIDAYS:** Any day defined as a holiday by these rules shall be paid at the normal rate of pay the employee would have received had the employee worked that day.

REFERENCE: 1. Education Code Sections 45260 and 45261

160.1.6 **OVERTIME PAY FOR WORKING HOLIDAYS:** Regular classified employees who work on a holiday shall be paid their regular pay for the holiday, pursuant to Rule #160.1.5, plus their regular overtime rate (time and one-half) for all hours worked on the holiday.

REFERENCE: 1. Education Code Sections 45203, 45260, and 45261

160.1.7 **HOLIDAY ELIGIBILITY:** A regular classified employee shall be entitled to any holiday falling under these rules, provided the employee is in a paid status during any portion of his/her scheduled working days either immediately preceding or succeeding the holiday.

160.1.7.1 A regular classified employee of the District who is not normally assigned to work during student recess periods during the normal school term shall be paid for any holiday that falls within the recess, provided the employee was in a paid status during any portion of his/her scheduled working days either immediately preceding or succeeding the recess period.

REFERENCE: 1. Education Code Sections 45203, 45260, and 45261

160.1.8 **WEEKEND HOLIDAYS:** When a holiday falls on a Saturday, the holiday shall be observed on the preceding workday not a holiday. When a holiday falls on a Sunday, the holiday shall be observed on the succeeding workday not a holiday.

REFERENCE: 1. Education Code Sections 45203, 45260, and 45261

160.1.9 **HOLIDAYS FOR EMPLOYEES WITH NON-TRADITIONAL WORK WEEKS:** A regular classified employee assigned to a work week other than Monday through Friday (i.e., Tuesday through Saturday, etc.) shall be provided a substitute holiday when the regular holiday falls on a day on which the employee is not normally assigned to work.

REFERENCE: 1. Education Code Sections 45206, 45260, and 45261

160.1.10 **TEACHER IN-SERVICE DAY:** Notwithstanding the adoption of separate work schedules for the certificated and classified services, on any day during the regular school term when pupils would otherwise be in attendance but are not and for which certificated personnel receive regular pay, classified employees shall also receive regular pay whether or not they are required to report for duty that day.

REFERENCE: 1. Education Code Sections 45203, 45260, and 45261

CHAPTER 170

COMPENSATION AND PAY PRACTICES

170.1 DETERMINATION OF SALARY SCHEDULES/PAY RATES

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

170.1.1.1 The Board of Education shall, not later than the date prescribed by the Education Code for approval of the publication budget of every year, fix the salary schedule for the ensuing school year for all classified employees. The Board of Education may, at the time, include an increase in such salary schedule, all or part of which increase is conditional upon the actual receipt by the District of anticipated revenue from all sources. If the revenue actually received is less than that anticipated, the Board of Education may, at any time during the school year, reduce such salary schedule by an amount not to exceed the amount which was granted subject to the receipt of such revenues.

170.1.1.2 Any action taken by the Board of Education pursuant to this rule must be in compliance with the Personnel Commission's Rules and Regulations, and if impacted employees belong to a bargaining unit, the Board of Education must comply with any legal duty to meet and negotiate on the salary schedule as provided in the Government Code.

REFERENCE: 1. Education Code Sections 45160, 45260, 45261, 45262, and 45267

170.1.2 BOARD MAY ADJUST SALARY SCHEDULE: The Board of Education may adjust the salary schedule for classified employees at any time during the fiscal year and shall adopt increases and/or decreases resulting from the classification or reclassification of positions as approved by the Commission.

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

170.1.3 **BOARD MAY NOT DISMISS EMPLOYEE DUE TO RECLASS:**
The provisions of these rules shall not be construed to permit the Board of Education to dismiss an employee due to the reclassification of a position or class of positions unless otherwise authorized by law or these rules.

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

170.1.4 **BOARD MAY DELAY ADOPTION OF SALARY SCHEDULE:** If the Board is unable to comply with the provisions of Rule #170.1.1 due to collective bargaining negotiations or because a salary study is being conducted, the Board may, prior to final adoption of the District's budget either reserve the right to adjust salaries upon completion of the study and/or negotiations or adopt an interim salary schedule as provided in Education Code Section 45163.

REFERENCE: 1. Education Code Sections 45163, 45260 and 45261

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

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

170.1.6 **COMMISSION SHALL RECOMMEND SALARY SCHEDULES TO BOARD:** The Director of Classified Human Resources 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:

170.1.6.1 The wages and salaries paid for similar work in private industry in the recruitment area.

170.1.6.2 The wages and salaries paid by other governmental agencies in the recruitment area.

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

170.1.6.4 Such other information as the Commission may require.

REFERENCE: 1. Education Code Sections 45256, 45260, 45261, and 45268

170.1.7 **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 (salary range placements and percentage relationships) between and amongst classes as established by the Personnel Commission.

REFERENCE: 1. Education Code Sections 45256, 45260, 45261, and 45268

170.1.8 **COMMISSION SHALL DETERMINE SALARY RANGE PLACEMENT:** The Personnel Commission shall determine the salary range placement of every position and classification within the Classified Service of the District pursuant to its obligation to set reasonable relationships between and amongst the various classifications. The Commission may make modifications to the range placement as part of its statutory obligations only after consultations with the District Administration and any exclusive bargaining agent that might represent impacted employees. The Personnel Commission adopted schedule of range placements for all classifications is contained in Appendix A, which by reference is incorporated as a part of these rules and regulations.

REFERENCE: 1. Education Code Sections 45162, 45256, 45260, and 45261

170.2 APPLICATION OF SALARY SCHEDULES

170.2.1 **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 be the first step of the salary range. However, a new employee may be provided with advanced step placement by the Personnel Commission based upon such factors as:

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

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

170.2.1.3 If an advanced step placement is approved, all current employees in the class shall be advanced to that step.

REFERENCE: 1. Education Code Sections 45260 and 45261

170.2.2 **SALARY PLACEMENT OF TEMPORARY EMPLOYEES:** Salary placement of temporary, substitute, and limited-term employees who are not regular classified employees of the District will be at the first step of the salary range for the classification. Classified retirees of the District shall be compensated pursuant to Rule #70.5.

REFERENCE: 1. Education Code Sections 45260 and 45261

170.2.3 **STEP ADVANCEMENT:** When a probationary or permanent employee accepts a regular position on the first step of the salary range, a merit salary adjustment shall be granted to Step 2 upon successfully completing the probationary period outlined in these rules. If the completion of this period of satisfactory service is completed after the fifteenth of the month the salary adjustment shall be the first of the following month. Additional step adjustments shall be made on an annual basis on the employee's anniversary date, provided the employee has received a satisfactory rating during the period.

170.2.3.1 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.

170.2.3.2 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. The denial may be appealed to the Personnel Commission through its complaint/grievance procedure outlined in these rules. The decision of the Personnel Commission shall be final and binding on all parties.

170.2.3.3 The date an employee is first placed in a permanent position in the Classified Service shall be the employee's employment date. This shall also be the initial anniversary date. The anniversary date, however, may change during the course of an employee's employment with the District due to such things as unpaid leaves of absence, breaks in service or other factors as determined by law or these rules.

170.2.3.4 An employee must have been in paid status for a minimum of 75% of his/her assigned work year to qualify for an annual step advancement.

REFERENCE: 1. Education Code Sections 45260 and 45261

170.2.4 **SALARY RANGE CHANGES:** Unless otherwise provided by special resolution of the Personnel Commission, whenever the salary range for a class is changed upward, the salary of each incumbent in the class on the date the change was effective shall be adjusted to the higher range and then to that step of the higher range that will provide an increase in the base hourly rate of pay. Whenever the salary range for a class is changed downward, the salary of each incumbent in the class on the date the change was effective shall be adjusted to the lower range and then to that step of the lower range that provides a base hourly rate as close to the former higher salary without exceeding the former higher salary. The employee's original anniversary date will remain unchanged unless so ordered by the Commission.

REFERENCE: 1. Education Code Sections 45260 and 45261

170.2.5 **"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 incumbents' current hourly salary until the new lower salary range hourly rate catches up to the incumbents'. 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.

170.2.5.1 Whenever the Personnel Commission gives authorization to "Y" rate an incumbent, the rate will be discontinued when the employee receiving the rate is promoted, separates from the service, or refuses appointment to a higher class. 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: 1. Education Code Section 45260 and 45261

170.2.6 **PROMOTIONAL SALARY RATE:** Whenever possible, an employee who is promoted shall be placed at the salary step on the new range which provides a minimum increase of 5.7% of the employee's current

salary. In no instance shall that placement be higher than Step 5 of the range for the new classification.

170.2.6.1 When computing salary for promotional step placement, employees who had been receiving a shift differential or assigned to a position designated as confidential pursuant to these rules and will no longer be receiving a shift differential, or be working in a confidential position due to the promotion shall have their "present monthly salary" for purposes of calculating the new promotional salary step placement include any shift/confidential differential they had been receiving in the lower class.

170.2.6.2 For purposes of this article "present monthly salary" shall be the base rate on the salary schedule (i.e., Steps 1 through 5 of the range), exclusive of longevity increments, which are a percentage applied to the base rate. Longevity increments shall be applied to the new base salary.

(Rev. 170.2.6: 8/26/20)

REFERENCE: 1. Education Code Sections 45260 and 45261

170.2.7 **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:

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

170.2.7.2 The law and/or these rules provided that credit for advancement shall accrue during such leave(s) of absence.

170.2.7.3 Credit for step advancement shall accrue during leaves of absence for military service, to serve in limited-term positions within the District, and any paid leaves of

absence (e.g., illness, vacation, industrial accident/illness, etc.).

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

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

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

170.2.9 **PLACEMENT WHEN REEMPLOYED OR REINSTATED:** When an employee is reemployed following layoff, or reinstated according to these rules following 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.

170.2.9.1 The employee's anniversary date shall be adjusted for any break in service.

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

170.2.10 **PLACEMENT WHEN ASSIGNED SUBSTITUTE/TEMP POSITION:** Regular probationary or permanent employees of the District who substitute in a higher classification shall be compensated for working out of classification as required by Rule #30.2.8.

170.2.10.1 When an employee accepts an additional substitute or limited-term assignment in his/her regular classification, he/she shall receive the same rate of pay as in the regular assignment except that any special stipends which may apply only to the regular assignment and not to the substitute or limited-term assignment shall not be paid.

170.2.10.2 When an employee accepts a substitute or limited-term assignment in a lower classification, he/she shall be paid at the step on the lower salary range which is closest to, but not greater than, their regular salary rate.

REFERENCE: 1. Education Code Sections 45110, 45256, 45260, 45261, 45268, 45285, and 45285.5

170.3 DIFFERENTIAL/LONGEVITY PAY PRACTICES

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

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

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

REFERENCE: 1. Education Code Sections 45181, 45182, 45184, 45260, and 45261

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

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

170.3.3 **SHIFT DIFFERENTIAL:** Service time for night work will be paid at premium time of 2.9% applied to the employee's regular salary for that classification. Shift differential shall be paid to a nonmanagement employee who works 50% or more of their regular shift after 5:00 p.m.

170.3.3.1 An employee who receives a shift differential premium on the basis of his/her work hours shall suffer no reduction in pay, including differential when assigned to a day shift for 20 or fewer work days.

170.3.3.2 Assignment to positions with shift differential shall be done pursuant to Rule #60.2.13.

REFERENCE: 1. Education Code Sections 45180 - 45186, 45260, and 45261

170.3.4 **CONFIDENTIAL DIFFERENTIAL:** All classified positions designated as confidential by the Board of Education, pursuant to Government Code Section 3540.1, shall receive a differential equal to 5.03% of the employees regular rate of pay. Employees filling positions designated confidential must, in the course of their regular duties, have regular access to, or possess information relating to, the District's confidential employer-employee relations positions and proposals. The Board of Education's determination to make a position "confidential" shall be subject to review by the Personnel Commission, as the inappropriate or indiscriminate designation of a position as confidential could distort the internal alignment between and amongst classifications and positions as designated and determined by the Commission. The Personnel Commission shall not have the right to overturn the Board's designation of a position as confidential, but shall have the right to approve or disapprove the granting of the confidential differential as either appropriate or inappropriate for the duties assigned.
(Rev. 2/19/03)

REFERENCE: 1. Education Code Sections 45180 - 45186, 45256, 45260, 45261, and 45268
2. Government Code Section 3540.1

170.3.5 **LONGEVITY COMPENSATION:** The District shall provide long service employees longevity pay. All regular classified employees who meet the service eligibility requirements outlined below shall be entitled and shall receive longevity increments. Movement from one longevity step to another shall occur on the employee's anniversary date for the year indicated for eligible employees in accordance with the following schedule:
(Rev. 2/19/03)

	<u>MANAGEMENT</u>	<u>REPRESENTED/ CONFIDENTIAL</u>
170.3.5.1 Upon completion of the 4 th year	n/a	0.95%
170.3.5.2 Upon completion of the 9 th year	2.9%	3.85%
170.3.5.3 Upon completion of the 14 th year	5.88%	6.83%
170.3.5.4 Upon completion of the 19 th year	8.95%	9.90%
170.3.5.5 Upon completion of the 24 th year	12.11%	13.06%

Longevity percentages shall be applied to the employee's base salary (range and step).

REFERENCE: 1. Education Code Sections 45260 and 45261

170.3.6 **COMPUTATION OF RATE OF PAY:** The rate of pay for a classified employee shall be calculated as follows:

- 170.3.6.1** The employee's appropriate salary range and step shall be considered the employee's base salary.
- 170.3.6.2** Calculated on the base salary and added to it shall be any longevity the employee may be entitled to pursuant to Rule #170.3.5.
- 170.3.6.3** Calculated on the base salary and added to it shall be any confidential differential the employee may be entitled to pursuant to Rule #170.3.4.
- 170.3.6.4** Calculated on the base salary and added to it shall be any shift differential the employee may be entitled to pursuant to Rule #170.3.3.
- 170.3.6.5** Calculated on the base salary and added to it shall be any other stipends or differentials as determined by these rules and/or Personnel Commission actions.

REFERENCE: 1. Education Code Sections 45180 - 45186, 45260, and 45261

170.4 SPECIAL PAY PRACTICES

170.4.1 **PAYROLL ERRORS:** Any payroll error resulting in insufficient payment for a classified employee shall be corrected, and a supplemental check issued. Payment shall be arranged between the employee and the Payroll office.

REFERENCE: 1. Education Code Sections 45167, 45260, and 45261

170.4.2 **MILEAGE:** Employees who are required to use their own automobiles in performance of their duties and employees who are assigned to more than one (1) school per day shall be reimbursed for all such travel at the current rate of reimbursement as determined by the District for all driving done between arrival at the first location at the beginning of their workday, and the location at the completion of their workday.

REFERENCE: 1. Education Code Sections 44032, 45260, and 45261

170.4.3 **MEAL AND OVERNIGHT EXPENSES:** Any classified employee who, as a result of a work assignment, must be lodged away from home overnight, shall be reimbursed by the District for reasonable costs of such lodging. Any classified employee who, as a result of a work assignment, incurs expenses for meals for the employee, shall be reimbursed by the District for reasonable cost of such meals. The District shall reimburse the employee for lodging and/or meal expenses within thirty (30) working days upon receipt of a valid expense claim in the Accounting Department.

REFERENCE: 1. Education Code Sections 44032, 45260, and 45261

170.4.4 **UNIFORMS:** The cost of the purchase, lease, or rental of uniforms, equipment, identification badges, and cards required and authorized by the District shall be borne by the District. Any authorized expenses incurred for the above by a classified employee, pursuant to this rule, shall be reimbursed to the employee within thirty (30) working days upon receipt of a valid expense claim in the Accounting Department.

REFERENCE: 1. Education Code Sections 45138, 45260, and 45261

170.4.5 **TOOLS/EQUIPMENT:** The District shall provide all tools, equipment, and supplies reasonably necessary to classified employees for performance of employment duties.

170.4.5.1 Notwithstanding the above rule, a classified employee may provide tools and equipment as allowed by this rule. When an employee wishes to provide tools or equipment for use at the District, the employee shall obtain written permission from the employee's immediate supervisor, which permission shall include a declared value.

170.4.5.2 The District, if it allows employees to use personal tools and equipment, shall provide a safe place to store the tools and equipment. In addition, the District shall pay for any authorized tools or equipment lost, stolen, or damaged, or for the replacement cost of the tools or equipment resulting from normal wear and tear. If stolen, a police report shall be filed by the employee, and the District shall provide release time for the employee to file the report.

170.4.5.3 Any expenses incurred for the above by a classified employee or any necessary replacement by the District, pursuant to this rule, shall be reimbursed/replaced to the employee within thirty (30) working days upon receipt of a valid expense claim in the Accounting Department.

REFERENCE: 1. Education Code Sections 45260 and 45261

170.4.6 **REPLACING OR REPAIRING EMPLOYEES' PROPERTY:** The District shall fully compensate all classified employees for damage to personal property required in the line of duty. Line of duty means required attendance, at any work station of the school district or in assigned work or supervision at any official function of the school district.

170.4.6.1 The personal property eligible for cost of replacement or repairing is defined to include items normally expected to be brought to work by an employee such as: prescription eyeglasses, hearing aids, dentures, watches, clothing or shoes, wallets or purses, etc. Other personal property could be included if it is brought to work with the written permission of the employee's immediate supervisor, which permission shall include a declared value. By the way of example, items that would not normally be reimbursed except with prior written permission would include televisions, tape recorders or radios, computers, calculators, etc.

170.4.6.2 Reimbursement to the employee for damage to personal property will occur when such property is damaged in the line of duty without fault of the employee and if the employee has exercised reasonable care. If the property is damaged beyond repair, or stolen, the value of such property will be paid based on District policy. If stolen, a police report shall be filed by the employee, and the District shall provide release time for the employee to file the report.

170.4.6.3 Any expenses incurred for the above by a classified employee or any necessary replacement by the District, pursuant to this rule, shall be reimbursed/replaced to the employee within thirty (30) working days upon receipt of a valid expense claim in the Accounting Department.

REFERENCE: 1. Education Code Sections 45260 and 45261

170.4.7 **SAFETY EQUIPMENT:** If, in the opinion of the District, or any safety committee authorized by the District, the employment duties of a classified employee require use of any equipment or gear to insure the safety of the employee or others, the District shall furnish such equipment or gear, or reimburse the employee for the full cost of procuring such.

REFERENCE: 1. Education Code Sections 45260 and 45261

CHAPTER 180

GRIEVANCE PROCEDURE

180.1 PROCEDURE FOR THE ADJUSTMENT OF GRIEVANCES

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

180.1.1.1 Established Commission Rules and Regulations.

180.1.1.2 Established Board Policies.

180.1.1.3 Administrative Procedures.

180.1.1.4 Established provisions of the Education Code.

180.1.1.5 Complaints against other employees.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

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

180.1.2.2 An alleged violation of the disciplinary action section of these rules and regulations, if formal disciplinary action has been initiated, shall be adjudicated through the disciplinary action appeal process contained in Rule #190.

180.1.2.3 Complaints about the subject matter of a rule, regulation, policy, law, or administrative procedure. Any employee with such a complaint should direct his/her suggestions

for change through administrative channels to the responsible authority.

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

180.1.3 **ADJUDICATING BODY DETERMINED BY SUBJECT MATTER:**

The subject matter of a particular complaint or grievance will determine whether it will be directed for consideration to the Board of Education or to the Personnel Commission. When there is a question as to which official body may consider the complaint, the Director of Classified Human Resources will decide the official body to review the appeal. Generally, complaints and grievances dealing with established Board policies 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.

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

180.1.4 **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.

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

180.1.5 **APPROVAL OF DIRECTOR OF CLASSIFIED HUMAN RESOURCES:**

If any settlement of any grievance covered by these procedures is reached without the involvement of the Commission or Director of Classified Human Resources, the Director of Classified Human Resources 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. All settlements of any grievance covered by these procedures must be approved by the Director of Classified Human Resources under the following circumstances:

- 180.1.5.1** When the grievance involves any Personnel Commission rule or regulation.
- 180.1.5.2** When the grievance involves any Personnel Commission administrative procedures.

- 180.1.5.3** When the grievance involves any Personnel Commission employee.
- 180.1.5.4** When the grievance involves any alleged violation of the Education Code.
- 180.1.5.5** When the grievance involves any matter touching upon the authority of the Personnel Commission or the merit system.

REFERENCE: 1. Education Code Sections 45260 and 45261

180.1.6 **GRIEVANCE TIME LIMITS SHALL BE CONSIDERED MAXIMUMS:** It is important that grievances be resolved as quickly as possible, therefore the times indicated at each level shall be considered as maximums. Time limits may be extended by mutual agreement of both parties.

REFERENCE: 1. Education Code Sections 45260 and 45261

180.1.7 **GRIEVANCE MUST BE FILED WITHIN THIRTY (30) WORKING DAYS:** A grievance must be filed at Level One of this procedure within thirty (30) working days of the occurrence of the violation or infraction, or within thirty (30) working days of when the grieving party could reasonably have known of the occurrence of the act or omission giving rise to the grievance.

REFERENCE: 1. Education Code Sections 45260 and 45261

180.1.8 **DEFINITION OF GRIEVANT:** A grievant is defined as an employee, employees, applicant, or employee organization filing a complaint or grievance involving one of the subjects covered by Rule #180.1.1.

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

180.1.9 **EMPLOYEE REPRESENTATION:** Any employee may have an employee organization represent his/her interests at any level of this grievance procedure.

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

180.1.10 **NO REPRISALS FOR FILING OF GRIEVANCE:** No reprisals of any kind shall be taken by the District against the grievant or any representative of the grievant by reason of his/her bringing a grievance or participating in a grievance.

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

180.1.11 **REASONABLE RELEASE TIME:** The grievant and/or his/her representative shall be provided reasonable release time, without loss of compensation, to attend grievance conferences or hearings.

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

180.1.12 **MAINTENANCE OF GRIEVANCE FILES:** All records pertaining to grievances filed under this rule shall be maintained by the Director of Classified Human Resources in the Classified Personnel Commission Office. All grievance records shall be maintained separately from the grievant's and/or his/her representative's personnel files.

REFERENCE: 1. Education Code Sections 45260 and 45261

180.1.13 **LEVEL ONE—INFORMAL:** The grievant shall meet with the immediate supervisor or the moving party of the action being grieved to discuss the potential grievance in an attempt to resolve it informally. The immediate supervisor or moving party shall attempt to hold a conference within two (2) working days of the request by the employee for a conference. The immediate supervisor or moving party shall consider the facts and provide a decision with supporting reasons within five (5) working days after the informal conference.

180.1.14 **LEVEL TWO—FORMAL WRITTEN GRIEVANCE:** If successful resolution was not reached at the discussion level and the employee chooses to pursue a grievance he/she must submit the grievance in writing to the immediate supervisor or moving party within ten (10) working days of the conclusion of the informal step and Level 1. The written grievance shall be a clear, concise statement of the grievance, including the rule, regulation, policy, or procedure allegedly violated, attachment of all relevant evidence and documentation (including previous level grievance correspondence), and a statement of the specific remedy sought. The immediate supervisor or moving party shall hold a conference with all interested parties on the complaint within five (5) working days of receipt. The supervisor or moving party shall submit a written response to the grievant within ten (10) working days after the conference.

180.1.15 **LEVEL THREE—DEPARTMENT/SITE ADMINISTRATOR:** If the grievance is not satisfactorily adjusted by the immediate supervisor or moving party or the immediate supervisor or moving party fails to respond during the time limit, the grievance 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 2 decision, or if the immediate supervisor or moving party has failed to respond within ten (10) working days after the Level 2 response deadline. The written grievance shall be a clear, concise statement of the grievance, including the rule, regulation, policy, or procedure allegedly violated, attachment of all relevant evidence and documentation (including previous level grievance 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 grievance. The administrator shall submit a written response to the grievant within ten (10) working days following the conference.

180.1.16 **LEVEL FOUR—SUPERINTENDENT/DIRECTOR OF CLASSIFIED HUMAN RESOURCES:** In the event that a Board policy or procedure is the issue of the grievance, the Superintendent shall be the Level 4 administrator. All other grievances shall be submitted to the Director of Classified Human Resources. If successful resolution was not reached at Level 3, the grievance may be submitted in writing to the Superintendent or to the Director of Classified Human Resources as dictated by this rule, 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 grievance shall be a clear, concise statement of the grievance, including the rule, regulation, policy, or procedure allegedly violated, attachment of all relevant evidence and documentation (including previous level grievance 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 grievance. The appropriate administrator shall submit a written response to the grievant within ten (10) working days following the conference.

180.1.17 **LEVEL FIVE—BOARD/PERSONNEL COMMISSION:** In the event that a Board policy or procedure is the issue of the grievance, the Board shall be the Level 5 hearing body. All other grievances shall be submitted to the Personnel Commission. If successful resolution was not reached at Level 4, the grievance may be submitted in writing to the Board of Education or to the Personnel Commission as dictated by this rule, within ten (10) working days of receipt of the Level 4 decision, or if the appropriate Level 4 administrator has failed to respond, within ten

(10) working days after the Level 4 response deadline. The written grievance shall be a clear, concise statement of the grievance, including this rule, regulation, policy, or procedure allegedly violated, attachment of all relevant evidence and documentation (including previous level grievance correspondence), the reasons why the response from the Level 4 administrator was unsatisfactory, and a statement of the specific remedy sought. If a timely grievance appeal is filed, the appropriate official body shall hold a grievance hearing to hear witnesses, take evidence, and permit the submission of oral and written arguments in the case. 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 thirty (30) working days after receiving the record, the official body hearing the case shall render a decision on the matter. The decision of the official body shall be final and binding on all parties.

REFERENCE: 1. Education Code Sections 45260 and 45261

CHAPTER 190

PROCEDURES FOR DISCIPLINARY ACTION AND APPEAL

190.1 GENERAL PROVISIONS ON DISCIPLINARY ACTIONS

190.1.1 **DISCIPLINARY ACTION ONLY PURSUANT TO THIS RULE:** A permanent classified employee shall be subject to disciplinary action only for reasonable cause as prescribed by these rules and regulations, and only pursuant to the procedures outlined herein.

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

190.1.2 **TIME LIMITS ON DISCIPLINARY ACTION:** In the disciplinary process the following general guidelines regarding to timelines shall be applicable:

190.1.2.1 No disciplinary action shall be taken against an employee based on documentation in the employee's permanent personnel file which is in excess of two (2) years of age.

190.1.2.2 Failure to meet deadlines outlined in this section shall not result in the discontinuance of the disciplinary action except for the deadlines identified in the following:

190.1.2.2.1 Section 190.3.6 (Notification by the Director of Human Resources of the right of the employee to request a Skelly hearing). If this timeline is not met the disciplinary action against the employee shall be terminated.

190.1.2.2.2 Section 190.5.7 (the employee's filing of an appeal before the Personnel Commission) If the employee does not meet this timeline, he/she will be deemed to have waived his/her right to appeal the decision of the Board of Education to the Personnel Commission, or to any court, with the decision of the Board of Education in the disciplinary action being deemed final.

(Rev. 12/17/97)

REFERENCE: 1. Education Code Sections 45260 and 45261

190.1.3 **PROHIBITED ACTS RELATED TO DISCIPLINE:** No employee shall be suspended, demoted, dismissed, subjected to any form of disciplinary action, sexually harassed, or in any way discriminated against because of the employee's affiliations, race, color, national origin, age, marital status, sex, sexual orientation, handicapping condition, ancestry, employee organization membership or non-membership and legal activities related thereto, medical condition (as defined in Government Code Section 12926), or religious or political beliefs or acts, except as legally provided in Rule #190.1.5.

REFERENCE: 1. Education Code Sections 45260 and 45261
 2. Government Code Section 12926

190.1.4 **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 for disciplinary reasons, without the employee's voluntary written consent, except a layoff for lack of work or lack of funds.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.1.5 **CAUSES FOR DISCIPLINARY ACTION:**
(Rev. 5/16/01)

190.1.5.1 The following causes shall be grounds for disciplinary action and shall be subject to the progressive discipline procedures outlined herein:

190.1.5.1.1 Unsatisfactory Performance—A pattern of below standard work performance.
(Rev. 12/17/97)

190.1.5.1.2 Inefficiency—The inability to perform the assigned duties of the position.

190.1.5.1.3 Insubordination—Knowingly refusing to perform reasonably assigned duties.

190.1.5.1.4 Inattention to or Dereliction of Duty—A pattern of continued neglect or dereliction in the performance of assigned duties.

- 190.1.5.1.5** Willful and persistent violation of the Education Code, of the Personnel Commission Rules and Regulations, or written policies or procedures adopted by the District or a department.
- 190.1.5.1.6** Engaging in legally prohibited political activities during assigned hours of duty.
- 190.1.5.1.7** Active participation by a management or confidential employee in the affairs of an employee organization that is an exclusive representative. Actual participation shall include holding office in the organization, working for the organization in the capacity of an employee or volunteer, participating in activities designed to increase membership in the organization, and serving on committees established for the purpose of developing, reviewing or approving proposals.
- 190.1.5.1.8** Repeated unexcused absence or tardiness.
- 190.1.5.1.9** Abuse of leave.
- 190.1.5.1.10** Unauthorized use of District or student body assets or property.
- 190.1.5.1.11** Being under the influence of alcohol while on duty.
- 190.1.5.1.12** Verbal abuse of a pupil, a member of the public, another District employee, or a District official.

- REFERENCE:**
1. Education Code Sections 212.5, 230, 44010, 44011, 45260, 45261, 45302, 45303, and 45304
 2. Government Code Section 1028
 3. Penal Code Section 261
 4. Health and Safety Code Sections 11054, 11056, 11357 - 11361, 11363 - 11364, and 11377 - 11382

- 190.1.5.2** The following causes shall be grounds for disciplinary action and due to the nature of the misconduct shall not be subject to the full progressive discipline procedures outlined herein:

190.1.5.2.1 Knowingly falsifying or withholding any material information supplied to the District, including but not limited to, information supplied on application forms and employment records.

190.1.5.2.2 Possession of opened alcoholic beverage containers on District property, drinking alcoholic beverages on District property, or being intoxicated while on duty.

190.1.5.2.3 Drugs on the job.
(Rev. 2/16/00)

190.1.5.2.3.1 Unlawfully possessing, using, selling or otherwise furnishing or being under the influence of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code while on duty or on school property.

190.1.5.2.3.2 Unlawfully offering, arranging or negotiating to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code while on duty or on school property.

190.1.5.2.4 Arrested, being formally charged, and convicted of a sex offense as defined in Education Code Section 44010.

Conviction of such offense shall result in dismissal.

190.1.5.2.5 Arrested, being formally charged, and convicted of a narcotics offense as defined in Education Code Section 44011. Conviction of such offense shall result in dismissal.

190.1.5.2.6 Use of language likely to result in violence or verbally threatening violence on a pupil, a member of the public, another District employee, or a District official.

190.1.5.2.7 Physically attacking a pupil, a member of the public, another District employee, or a District official.

190.1.5.2.8 Abandonment of Position—Absence of three (3) consecutive working days without notification or permission (and failure to notify the District of a valid or acceptable reason for absence).

190.1.5.2.9 Failure to return to work or notify the District within three (3) working days following an authorized leave of absence except in the case of dire emergency.

190.1.5.2.10 Failure to report for a health examination required and/or ordered by the District.

190.1.5.2.11 The uninsurability of an employee to drive a District vehicle when such is a requirement of the employee's position. Upon notification or confirmation by the District, discipline under this section shall be handled in the following manner.

190.1.5.2.11.1 The District shall attempt to reassign the employee within the same class or to a vacant position in a related class (with the approval of the

Commission) not requiring operation of a motor vehicle.

190.1.5.2.11.2 If reassignment is not possible, then the employee may be demoted to a vacant position, pursuant to these rules and regulations.

190.1.5.2.11.3 If a position does not exist for a demotion to be accomplished, then the employee may be dismissed, pursuant to these rules and regulations.

190.1.5.2.12 Violation of local, state, or federal law which results in cancellation or suspension of a license required for the performance of assigned duties.

190.1.5.2.13 Dishonesty, theft, willful misuse for personal gain, willful destruction or mishandling of District property.

190.1.5.2.14 Willful or persistent violation of, or failure to enforce, regulations or procedures pertaining to health and safety.

190.1.5.2.15 All forms of abuse or discrimination prohibited under federal, state or local laws including but not limited to: ethnic, racial, religious, or sexual harassment of another.

190.1.5.2.16 Failure to obey a subpoena issued by the Personnel Commission and duly served, or any refusal to furnish testimony, other than self-incriminating, or documents at a hearing or investigation before the Commission or Board of Education.

- 190.1.5.2.17** Failure to report upon reasonable notice for review of criminal records.
- 190.1.5.2.18** Advocacy of the overthrow of the federal, state, or local government by force, violence, or other unlawful means.
- 190.1.5.2.19** Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.
- 190.1.5.2.20** Conviction of a felony or serious crime or a record of one (1) or more convictions which indicate that the person is a poor employment risk for the particular job which the employee holds in the District. A plea, verdict, or finding of guilty, or a conviction following a plea of nolo contendere is to be deemed a conviction within the meaning of these rules.
- 190.1.5.2.21** Intentionally and knowingly disclosing to any person any information expressly designated to be "confidential" by California law, federal law, or duly adopted, written Board policy of the district.
(Rev. 5/16/01, 12/19/01)
- 190.1.5.2.22** Failure to maintain required certifications, licenses or other minimum qualifications of the employee's classification.
(Rev. 11/20/13)

- REFERENCE:**
1. Education Code Sections 212.5, 230, 44010, 44011, 45260, 45261, 45302, 45303, and 45304
 2. Government Code Section 1028
 3. Penal Code Section 261
 4. Health and Safety Code Sections 11054, 11056, 11357 - 11361, 11363 - 11364, and 11377 - 11382

190.1.5.3 The following cause shall be grounds for disciplinary action and may be subject to the progressive discipline procedures outlined herein, depending on the severity and nature of the misconduct:

190.1.5.3.1 Any other failure of good conduct tending to injure the public service.

- REFERENCE:**
1. Education Code Sections 212.5, 230, 44010, 44011, 45260, 45261, 45302, 45303, and 45304
 2. Government Code Section 1028
 3. Penal Code Section 261
 4. Health and Safety Code Sections 11054, 11056, 11357 - 11361, 11363 - 11364, and 11377 - 11382

190.1.6 **PROGRESSIVE DISCIPLINE—ORAL WARNING:** Generally, except where the misconduct is of such a serious nature, as defined in Section 190.1.5.2 and 190.1.5.3, that an oral warning is not reasonably justified, a permanent employee of the Classified service whose services are deemed by his/her supervisor to be unsatisfactory shall be informally warned of this fact by his/her supervisor at the earliest opportunity. At this informal meeting, the employee shall be informed of the specific areas of his/her service which need improvement and, where appropriate, the supervisor shall prepare a plan for assistance which will help the employee correct any deficiencies and provide for a reasonable time period for improvement. This shall be an informal meeting and no record shall be included in the employee's permanent personnel file of this meeting at this time. Should there be a need for subsequent disciplinary action, records of this meeting may be included with other documentation of deficiencies.

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

190.1.7 **PROGRESSIVE DISCIPLINE—WRITTEN WARNING:** Generally, except where the misconduct is of such a serious nature, as defined in Section 190.1.5.2 and 190.1.5.3, that a written warning is not reasonably justified, and except in situations where an immediate suspension is justified under provisions of these rules, a permanent employee whose work performance or conduct is of such character as to incur discipline shall first be specifically warned in writing by the immediate supervisor. Such written warning shall state the rule violated, the acts or omissions in violation, a recommended performance improvement plan developed in conjunction with the employee, and a reasonable time period during which the employee's performance will be reviewed for improvement or attainment of goals. The supervisor shall give a reasonable period of time to permit the employee the opportunity to correct the deficiency

without incurring disciplinary action. This written warning shall be included in the employee's official personnel file.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.1.8 **PROGRESSIVE DISCIPLINE—SUSPENSION:** After written warning, if the permanent employee continues to violate a cause treated in Rule #190.1.5 above, then the employee may be suspended for up to thirty (30) days without pay. The proposed length of suspension shall reasonably relate to the seriousness of the alleged offense.

190.1.8.1 An alternative to a part or all of the suspension may be the employee's participation in an approved employee assistance program. Allowable reasons for participation in the employee assistance program are limited to the following causes for disciplinary action: 190.1.5.1.1, 190.1.5.1.4, 190.1.5.1.9, 190.1.5.1.12, 190.1.5.2.2, 190.1.5.2.3, and 190.1.5.2.7 (except involving a student). To participate in the employee assistance program the employee must show reasonable justification, enter into a performance improvement plan with his/her supervisor and the District, and receive the approval of the District Superintendent.
(Rev. 10/17/07)

REFERENCE: 1. Education Code Sections 45260 and 45261

190.1.9 **PROGRESSIVE DISCIPLINE—FINAL STEP:** If the behavior warranting action under Rule #190.1.7 and #190.1.8 continues the employee may be subjected to other forms of disciplinary action, including demotion or termination.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.1.10 **IMMEDIATE SUSPENSION WITHOUT PAY:**

190.1.10.1 An employee shall be immediately suspended if charged with the commission of any sex offense or narcotics offense referred to in Education Code Sections 44010, 44011, and 45304, and the suspension shall continue for not more than ten (10) days after the date of the entry of the court judgement. Any employee so suspended shall continue to be paid his/her regular salary during the period of suspension if the employee furnishes to the District a suitable bond, or other security acceptable to the District, as a guarantee that the employee will repay

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

190.1.10.2 A permanent employee may be immediately suspended with loss of compensation if the Superintendent or his/her designee has determined there is a danger to the health, safety, and well being of the employee, students, fellow employees, or District property.

REFERENCE:

1. Education Code Sections 44010, 44011, 44940.5, 45260, 45261, 45302, 45303, and 45304
2. Penal Code Section 261
3. Health and Safety Code Sections 11054, 11056, 11357 - 11361, 11363 - 11364, and 11377 - 11382

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

REFERENCE:

1. Education Code Sections 45260, 45261, and 45305

190.1.12 **SUSPENSION/DISMISSAL OF PROBATIONARY EMPLOYEES:** A probationary employee may be suspended or dismissed at anytime during his/her probationary period pursuant to Section 90.3.2 of these rules.

REFERENCE:

1. Education Code Sections 45256, 45260, 45261, 45269, 45270, 45272, 45281, 45301, 45302, and 45305

190.1.13 **BURDEN OF PROOF:** The burden of proof in all hearings and proceedings under these rules shall remain with the District, and any rule, regulation, policy, practice, or procedure to the contrary shall be void.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.1.14 **APPLICATION TO EMPLOYEES OF THE PERSONNEL COMMISSION:** For the purposes of this section "the Personnel Commission" shall replace "the Board of Education" and "the District" and "the Director of Classified Human Resources" shall replace "the Superintendent" for individuals employed by the Personnel Commission. For Personnel Commission employees the appeal of disciplinary action imposed by the Personnel Commission shall be before a Hearing Officer and the decision of the Hearing Officer shall be the final disposition of the appeal. The Personnel Commission shall adopt and abide by the decision of the Hearing Officer.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.2 NOTICE OF PROPOSED DISCIPLINARY ACTION

190.2.1 **NO DISCIPLINE WITHOUT NOTICE:** No permanent regular classified employee may be subjected to disciplinary action until the employee has received a notice of the proposed disciplinary action, and the employee has had an opportunity to respond to the charges.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.2.2 **CONTENTS OF NOTICE OF PROPOSED DISCIPLINE:** A notice of proposed disciplinary action is the notification that disciplinary action will be recommended to the Board of Education and shall contain statements in ordinary and concise language of:

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

190.2.2.2 The specific causes and sections of these rules that the employee is accused of violating, or a statement in clear, ordinary, and concise language as to any changes or amendments, if any, to the causes of action contained in the proposed disciplinary action previously received. The statement shall indicate that the previously received notice of proposed disciplinary action is incorporated by reference as a part of this notification, with the exceptions outlined in the notification.

190.2.2.3 The specific charges, including times, dates, location, and a description of the chargeable actions or omissions in ordinary and concise language or a statement in clear, ordinary, and concise language as to any changes or

amendments, if any, to the specific charges contained in the proposed disciplinary action previously received. The statement shall indicate that the previously received notice of proposed disciplinary action is incorporated by reference as a part of this notification, with the exceptions outlined in the notification.

- 190.2.2.4 The proposed effective date(s) of the disciplinary action.
- 190.2.2.5 The employee's rights to see and obtain copies of all documentation to support the District's case against the employee.
- 190.2.2.6 The employee's right to representation.
- 190.2.2.7 The employee's right to request a hearing to dispute the charges and/or proposed action within five (5) working days of service of notice, and the right to have such a hearing within the timelines specified in these rules.
- 190.2.2.8 The employee's right to respond to charges either orally or in writing at this hearing.

(Rev. 4/17/02)

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

190.2.3 **NOTICE MUST USE READILY UNDERSTOOD LANGUAGE:**
The charges outlined in the notice of proposed disciplinary action must be written so that the employee will know the complaint(s), charge(s), and actions taken against him/her, and may respond to them. A notice of proposed disciplinary action that solely restates one or more causes or grounds for disciplinary action established by any rule, regulation, or statute in the language of the rule, regulation, or statute alone and which does not provide clarification, is insufficient for any purpose.

REFERENCE: 1. Education Code Sections 45116, 45260, and 45261

190.2.4 **DISCIPLINARY NOTICE SENT TO DIRECTOR OF CLASSIFIED HUMAN RESOURCES:** The notice of proposed disciplinary action shall be delivered to the Personnel Commission Office. The Director of Classified Human Resources shall have the responsibility of insuring that the notice of proposed disciplinary action is delivered to the employee pursuant to Rule #190.2.5.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

REFERENCE: 1. Education Code Sections 45260 and 45261

190.3 SKELLY HEARING

190.3.1 **ACTION IF APPEAL IS NOT FILED:** If the employee does not respond and request a Skelly Hearing within the five (5) working day period outlined in the notice of proposed disciplinary action, the Superintendent 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: 1. Education Code Sections 45260 and 45261

190.3.2 **SKELLY HEARING:** If the employee requests an appeal within five (5) working days after receipt of the notice, the employee shall have a right to have a Skelly Hearing before the supervisor or other official who can effectively recommend that the proposed action be taken or aborted, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the appeal process. The Skelly Hearing shall be held prior to a recommendation of disciplinary action to the Superintendent, and shall be held within ten (10) working days of the receipt of the request for appeal, unless the parties agree to an extension of this timeline.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.3.3 **NOTIFICATION OF HEARING TO EMPLOYEE:** The Director of Classified Human Resources shall notify the appropriate District administrator upon receipt or lack of receipt of an appeal notice, and shall coordinate the scheduling of the Skelly Hearing if a timely appeal is filed. The Director of Classified Human Resources shall notify the employee in writing of the time, date, and place of the Skelly Hearing. Notification shall be either in person or sent by certified mail (Return Receipt Requested). This requirement will be deemed to have been met if the notification of the Skelly Hearing is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.3.4 **EMPLOYEE SHALL HAVE OPPORTUNITY TO REFUTE CHARGES:** The employee shall have the opportunity to refute all charges and shall be allowed to present any evidence or information he/she may have which would cause the disciplinary recommendation to be modified or rejected at the Skelly Hearing.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

REFERENCE: 1. Education Code Sections 45260 and 45261

190.3.6 **SKELLY HEARING DECISION:** The District official who holds the Skelly Hearing shall issue a written decision within five (5) working days after the conclusion of the Skelly Hearing, to either uphold the proposed disciplinary action, to modify the proposed disciplinary action, or to rescind and halt the proposed disciplinary action. The written decision shall be filed with the Personnel Commission Office. The Director of Classified Human Resources shall be responsible for

notification of the employee as to the findings, pursuant to Rule #190.4.2. Such notification shall be made within five (5) working days of receipt of the Skelly Hearing decision by the Director of Classified Human Resources. Unless the parties have mutually agreed to an extension of the timelines noted herein, failure to meet the deadlines of this section shall result in the termination of the disciplinary action against the employee.

(Rev. 10/15/97)

190.3.6.1 If the employee requests a Skelly hearing and at that hearing the employee and the District official agree on an alternative course of action pursuant to Rule #190.1.8.1, this agreement shall be in writing. If the agreed alternative action requires Board action, the recommendation to the Board shall be the alternative action. The Board's decision to accept or reject the alternative action shall be final.

190.3.6.2 If the decision of the administrator holding the Skelly Hearing is to proceed with disciplinary action against the employee, the Superintendent shall be provided with a recommendation for disciplinary action. The Superintendent shall review the case and all supporting evidence, make any inquiry deemed necessary, and either return the recommendation to the originating administrator with his/her direction to abort the disciplinary action or prepare a recommendation to the Board of Education to suspend, demote or dismiss the employee.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.3.7 **PERMANENT EMPLOYEE IN PROBATIONARY PROMOTIONAL POSITION:** A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is subjected to disciplinary action that would result in the separation of the employee from the permanent classified service shall have full appeal rights as if the employee had completed permanency in his/her present class.

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

190.4 APPEAL HEARING BEFORE BOARD

190.4.1 **APPEAL TO THE BOARD OF EDUCATION:** If the decision of the Superintendent is to recommend or modify the proposed disciplinary

action, the employee may appeal the proposed action to the Board of Education pursuant to these rules.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.4.2 **NOTIFICATION OF SUPERINTENDENT'S DECISION:** The permanent classified employee, upon notification that the Superintendent has ordered that the proposed disciplinary action (or some form thereof) proceed, may request a Board Appeal Hearing. Such notification shall be made within five (5) working days of receipt of the Superintendent's decision by the Director of Classified Human Resources. The notification from the Director of Classified Human Resources shall include:

190.4.2.1 A copy of the Superintendent's written decision.

190.4.2.2 A statement as to the penalty being proposed by the Superintendent.

190.4.2.3 The proposed effective date(s) of disciplinary action.

190.4.2.4 A statement in clear, ordinary, and concise language as to any changes or amendments, if any, to the notice of proposed disciplinary action previously received. In addition, the statement shall indicate that the previously received notice of proposed disciplinary action is incorporated by reference as a part of this notification, with the exceptions outlined in the notification.

190.4.2.5 The employee's right to request a Board Appeal Hearing before the Board of Education of the District to dispute the charges and/or proposed action within five (5) working days of service of notice, and the right to have such a hearing within the timelines specified in these rules.

190.4.2.6 Notification of the employee's right to be represented at the hearing before the Board of Education by a representative of his/her choice.

(Rev. 4/17/02)

REFERENCE: 1. Education Code Sections 45260 and 45261

190.4.3 **NOTIFICATION MUST BE IN WRITING AND SERVED ON EMPLOYEE:** The notification of the Superintendent's decision to forward the recommendation for disciplinary action to the Board will 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 notification is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.4.4 **APPEAL FORM MUST ACCOMPANY NOTIFICATION:** Information must accompany the notification of recommended disciplinary action which shall explain the procedure for a hearing, and the signing and filing of which shall constitute a demand for a hearing before the Board of Education, and a denial of all charges. The appeal form must be received in the Personnel Commission Office by the deadline noted in the notice of recommended disciplinary action. If the request for the appeal is not received in the Personnel Commission Office by the deadline stated in the notice to the employee, the employee shall be deemed to have waived all rights to the hearing.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.4.5 **ACTION IF APPEAL IS NOT FILED:** If the employee does not submit a request for a Board Appeal Hearing within the five (5) working day period outlined in the notification of the recommended disciplinary action pursuant to these rules, the Superintendent 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: 1. Education Code Sections 45260 and 45261

190.4.6 **APPEAL HEARING BEFORE BOARD OF EDUCATION:** If the employee submits an appeal notice to the Personnel Commission Office within five (5) working days after receipt of the notification of the recommended disciplinary action, the employee shall have a right to have an Appeal Hearing before the Board of Education, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the appeal process to the Board. The Board Appeal Hearing

shall be held within twenty (20) working days of receipt of the employee's appeal notice by the Personnel Commission Office.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.4.7 **NOTIFICATION OF HEARING TO EMPLOYEE:** The Director of Classified Human Resources shall notify the Superintendent upon receipt or lack of receipt of an appeal notice, and shall coordinate the scheduling of the Board Appeal Hearing if a timely appeal is filed. The Director of Classified Human Resources shall notify the employee in writing of the time, date, and place of the Board Appeal Hearing before the Board of Education. 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 Board Appeal Hearing is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

REFERENCE: 1. Education Code Sections 45260 and 45261

190.4.9 **BOARD APPEAL HEARING DECISION:** The Board of Education shall have the right to deliberate its decision in closed session. The Board of Education shall either approve the recommended disciplinary action, modify and approve a disciplinary action, postpone the proposed disciplinary action, or reject the proposed disciplinary action. If the Board takes action to implement some form of disciplinary action, the effective date shall be determined by the Board of Education in its decision, which shall not be earlier than the working day following the conclusion of the Board Appeal Hearing. The Board of Education shall not act to provide for a penalty or disciplinary action more severe than that recommended in the notification of the recommended disciplinary

action. The action of the Board shall be announced in open session of the Board with a roll call vote of the members of the Board. The written decision of the Board of Education shall be filed within two (2) working days with the Personnel Commission Office.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.5 FILING FOR APPEAL HEARING BEFORE COMMISSION

190.5.1 APPEAL TO PERSONNEL COMMISSION: If the decision of the Board of Education at the Board Appeal Hearing is to impose or modify the proposed disciplinary action, the permanent employee may appeal the action to the Personnel Commission, pursuant to these rules.

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

190.5.2 NOTIFICATION BY DIRECTOR OF CLASSIFIED HUMAN RESOURCES: Upon notification by the Board of Education of its decision relative to the proposed disciplinary action, the Director of Classified Human Resources shall notify the employee in writing of the results of the Board Appeal Hearing. If the action of the Board was to reject all disciplinary action, the Director of Classified Human Resources 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 at the Board Appeal Hearing was to continue or modify the proposed disciplinary action, the Director of Classified Human Resources 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: 1. Education Code Sections 45260, 45261, and 45305

190.5.3 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:

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

190.5.3.2 The specific causes and sections of these rules that the employee is accused of violating and upon which the disciplinary action is based or a statement in clear, ordinary, and concise language as to any changes or amendments, if any, to the causes of action contained in the proposed disciplinary action previously received.

The statement shall indicate that the previously received notice of proposed disciplinary action is incorporated by reference as a part of this notification, with the exceptions outlined in the notification.

- 190.5.3.3** The specific charges, including times, dates, location, and a description of the chargeable actions or omissions in ordinary and concise language or a statement in clear, ordinary, and concise language as to any changes or amendments, if any, to the specific charges contained in the proposed disciplinary action previously received. The statement shall indicate that the previously received notice of proposed disciplinary action is incorporated by reference as a part of this notification, with the exceptions outlined in the notification.
- 190.5.3.4** The effective date(s) of the disciplinary action.
- 190.5.3.5** A copy of all documentation to support the District's case against the employee.
- 190.5.3.6** The employee's right to representation.
- 190.5.3.7** The employee's right to appeal the disciplinary action to the Personnel Commission within ten (10) 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.
- 190.5.3.8** A statement that the Commission may sustain, reject, or modify the disciplinary action taken against the employee.
- 190.5.3.9** The employee's right to respond to charges either orally or in writing.
- 190.5.3.10** The employee's right to request the Personnel Commission to subpoena witnesses.

(Rev. 4/17/02)

REFERENCE: 1. Education Code Sections 45260 and 45261

190.5.4 **NOTICE MUST USE READILY UNDERSTOOD LANGUAGE:**
The charges outlined in the notice of disciplinary action must be written so that the employee will know the complaint(s), charge(s), and actions taken against him/her, and respond to them. A notice of disciplinary action that solely restates one or more causes or grounds for disciplinary action established by any rule, regulation, or statute in the language of

the rule, regulation, or statute alone and which does not provide clarification, is insufficient for any purpose.

REFERENCE: 1. Education Code Sections 45116, 45260, and 45261

190.5.5 **APPEAL FORM MUST ACCOMPANY DISCIPLINARY NOTICE:**

A form must 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 must be received in the Personnel Commission Office by the deadline noted in the notice of disciplinary action. The employee must 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 must also contain the name of his/her legal counsel or representative (if known at the time of the appeal) and the address and telephone number of such counsel or representative. The employee must attach to the appeal form the reasons for the appeal. If the request for the appeal is not received in the Personnel Commission Office by the deadline stated in the notice to the employee, the employee shall be deemed to have waived all rights to the hearing. Appeals can be made only on the following grounds:

190.5.5.1 That the procedures set forth in these rules and regulations have not been followed.

190.5.5.2 That the disciplinary action was taken because of unlawful discrimination against the employee based on but not limited to the employee's affiliations, race, color, national origin, age, marital status, sex, sexual orientation, handicapping condition, ancestry, employee organization membership or nonmembership and legal activities related thereto, medical condition (as defined in Government Code Section 12926), or religious or political beliefs or acts, except as legally provided in Rule #190.1.5.

190.5.5.3 That there has been an abuse of discretion on the part of the District.

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

190.5.5.5 That the penalty invoked by the District was excessive.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.5.6 **NOTICE MUST 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 Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.5.7 **ACTION IF APPEAL IS NOT FILED:** If the employee does not request a Personnel Commission Appeal Hearing within the ten (10) working day period outlined in the notice of disciplinary action as per 190.5.5, the action of the Board of Education shall be final and conclusive, and no further appeal rights shall be allowed.

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

190.5.8 **APPEAL HEARING BEFORE PERSONNEL COMMISSION:** If the employee's request for an appeal notice is received in the Personnel Commission Office within ten (10) working 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 Personnel Commission shall, at its next regularly scheduled meeting, determine whether to hear the appeal itself or to assign the appeal to a Hearing Officer and shall, if hearing the appeal itself, determine the date and time of the Appeal Hearing, which shall, whenever practicable, be held within thirty (30) calendar days of the Personnel Commission meeting. If the appeal is to be assigned to a Hearing Officer, the Personnel Commission shall delegate the establishment of the time and date of the hearing to the Director of Classified Human Resources, working with the schedule of the Hearing Officer selected. A different timeline may be agreed to by the parties involved. If the request for the appeal is not received in the Personnel Commission Office within the ten (10) working day period, the employee shall be deemed to have waived all rights to the hearing.
(Rev. 12/17/97, 3/18/98)

REFERENCE: 1. Education Code Sections 45260 and 45261

190.5.9 **NOTIFICATION OF HEARING TO EMPLOYEE:** The Director of Classified Human Resources 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.

190.5.9.1 The Director of Classified Human Resources shall notify the employee in writing within ten (10) working days of the Personnel Commission meeting at which the hearing date and time were established, of the time, date, and place of the Commission Appeal Hearing before the Personnel Commission.
(Rev. 12/17/97)

190.5.9.2 The employee must be given at least ten (10) working days from the date of personal service, delivery, or attempted delivery by the U.S. Postal Service to prepare for the hearing.

190.5.9.3 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 Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.5.10 **GENERAL CONDUCT OF COMMISSION APPEAL HEARING:**
The employee shall have the right to appeal the disciplinary action to the Personnel Commission and be heard in his/her own defense. 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 Hearing shall be specifically conducted pursuant to Rule #190.6.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

REFERENCE: 1. Education Code Sections 45260 and 45261

190.5.12 **EXTENSION OF TIMELINES:** The timelines as detailed in this section may be extended upon agreement by the parties involved.

190.6 **PERSONNEL COMMISSION APPEAL HEARING PROCEDURES**

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

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

190.6.2 **APPOINTMENT OF HEARING OFFICER:** The Personnel Commission may appoint a hearing officer to conduct any hearing or investigation which the Commission itself is authorized by the Education Code and/or these rules to conduct, including disciplinary action. 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 disposition of witnesses to be taken in the manner prescribed by law for like dispositions in civil cases in the superior court of this state. 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.

190.6.2.1 The Commission may employ by contract or as professional experts or otherwise any such hearing officer.

190.6.2.2 When the Personnel Commission elects to engage a Hearing Officer to hear the appeal, the Hearing Officer shall be selected either by having the parties involved agree on a mutually acceptable Hearing Officer in a meeting called by the Director of Classified Human Resources or by a process of alternately striking names from a list of Hearing Officers provided by the State Mediation Service or a similar such agency which provides neutral arbitrators for this purpose. The District shall strike the first name, the appellant shall strike the second name. This process shall continue until only one name remains.

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

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

REFERENCE: 1. Education Code Sections 45260 and 45261

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

190.6.4.1 The Personnel Commission or either party may request that the hearing be recorded by a court reporter, in which case the party making the request shall bear the cost. If both parties make such a request, the cost shall be equally shared by the parties.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

190.6.5.1 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.

190.6.5.1.1 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.

190.6.5.1.2 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 shall be excluded.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

REFERENCE: 1. Education Code Sections 45260 and 45261

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

190.6.7.1 To call and examine witnesses.

190.6.7.2 To introduce exhibits.

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

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

190.6.7.5 To rebut all evidence presented by the opposing party.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.8 **APPELLANT MAY BE CALLED TO TESTIFY:** If the appellant does not elect to testify on his/her own behalf, the appellant may still be called to testify and be cross-examined just as if he/she had testified on his/her own behalf.

REFERENCE: 1. Education Code Sections 45260 and 45261
 2. California Evidence Code Section 772

190.6.9 **RIGHT TO BE REPRESENTED:** The Board of Education and the appellant shall be allowed to be represented by legal counsel or other designated representatives.

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

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

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.11 **RULING ON OBJECTIONS:** The Personnel Commission or its hearing officer shall rule on all objections raised by either party.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.12 **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.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.13 **ORDER OF PRESENTATION OF EVIDENCE:** Each side will be permitted an opening statement (Board's representative first) and closing arguments (appellant or his/her representative last). The Board shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or his/her representative will present his/her witnesses and evidence in defense.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.14 **EXAMINATION OF WITNESSES:** Each side will be allowed to examine and thoroughly cross-examine witnesses.

190.6.14.1 The Commission or its hearing officer may, at its discretion, exclude witnesses not under examination except for the appellant, District representative, the Director of Classified Human Resources, and their respective counsels or designated representatives.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

190.6.15.1 Requests for subpoenas must be filed with the Personnel Commission Office at least 72 hours prior to the date of the hearing.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.16 **LIST OF WITNESSES:** A list of witnesses to be called by each party shall be submitted to the Personnel Commission Office at least 24 hours prior to the date of the hearing. This will allow the Personnel Commission to secure the release time of employee witnesses prior to the hearing.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.17 **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:

190.6.17.1 Such evidence must be submitted by sworn affidavit or declaration of the witness. The affidavit or declaration shall be confined to a statement of facts bearing on the

case and within the knowledge of the witness, and shall not contain any conclusions of the witness, except that a witness who qualifies as an expert may express his/her opinion based upon the facts which he/she has recited.

190.6.17.2 Copies of all such declarations or affidavits must be filed with the Personnel Commission Office or the hearing officer and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.

190.6.17.3 The Personnel Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

190.6.18.1 The hearing officer shall submit his/her written recommendations and findings of fact to the Director of Classified Human Resources within thirty (30) calendar days following the conclusion of the hearing unless an extension is agreed to by the Personnel Commission or its designee.

190.6.18.2 Upon receipt of the hearing officer's written recommendations and findings of fact, the Director of Classified Human Resources 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.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.19 **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) or may review and deliberate the report of the hearing officer in closed session. No persons other than members of the Personnel Commission, its legal counsel, and the Director of Classified Human Resources, shall be permitted to participate in the deliberations. The Director of Classified Human Resources shall not advise or make

recommendations to the Personnel Commission regarding any disciplinary action appealed under these rules, if the Director of Classified Human Resources is the party who brought the action against the employee.

REFERENCE: 1. Education Code Sections 45260, 45261, 45266, and 45305

190.6.20 **DECISION OF PERSONNEL COMMISSION:** The Personnel Commission shall render its judgement as soon after the conclusion of the hearing as possible, but no later than thirty (30) calendar days following the conclusion of the hearing. The decision(s) of the Commission shall be in writing and shall set forth which charges, if any, are sustained and the reasons therefor.

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

190.6.20.2 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.

190.6.20.3 Copies of the Commission's decision(s) shall be delivered to the parties personally or transmitted to them by certified mail (Return Receipt Requested). This requirement for notification of the employee will be deemed to have been met if the decision is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the 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.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.21 **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.

190.6.21.1 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 insure compliance.

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

190.6.22 **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.

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

190.6.23 **DECISION MUST 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:

190.6.23.1 Compensation of the employee for all or part of the legitimate expenses incurred in pursuit of the appeal. If such a finding is made, the expenses ordered paid by the Commission shall be a legitimate and legal draw upon the general funds of the District and the Board of Education.

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

190.6.23.3 Transfer or other change of the employee's work location.

190.6.23.4 Expunction from the employee's personnel file and record of any and all causes, charges that are not sustained by the Commission, and/or disciplinary actions.

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

190.6.24 **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:

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

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

190.6.24.3 The final cost of the transcript shall be the actual cost of preparation plus the cost of making copies as determined by the Director of Classified Human Resources.

190.6.24.4 The transcript shall only be released upon payment in full. When the deposit is greater than the actual costs of the document (including the making of copies), the remainder shall be refunded to the party.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.25 **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.

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

190.6.25.2 Where the disqualification request concerns a Personnel Commission member, the issue shall be determined by the other members of the Commission.

REFERENCE: 1. Education Code Sections 45260 and 45261

190.6.26 **COUNSEL FOR THE PERSONNEL COMMISSION:** The Personnel Commission may, if it so desires, 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 Education's general funds, whether or not the money or costs for legal services appear in the Commission's budget.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45313

CHAPTER 200

LAYOFF AND REEMPLOYMENT PROCEDURES

200.1 LAYOFF PROCEDURES

200.1.1 **REASON FOR LAYOFF:** The layoff of classified employees shall only occur for a lack of work or a lack of funds, and only in accordance with the Rules and Regulations of the Personnel Commission. Any effects of layoff that may be negotiated by and between the District and any recognized exclusive representative shall be in addition to these rules and regulations. Any agreement between the District and a recognized exclusive representative may not provide for less than the mandated employee protections and procedures outlined in this chapter.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45308

200.1.2 **ORDER OF LAYOFF:** Length of service (seniority as prescribed herein) shall be the only criterion used to effect layoffs. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus equal and higher classes (as determined by the Personnel Commission), shall be laid off first. Reemployment shall be in the reverse order of layoff. "Length of Service" shall be defined to include the hire date of that employee as a regular probationary or permanent employee in the class, plus any service in equal or higher classes.

200.1.2.1 The Personnel Commission shall grant length of service credit for time spent on unpaid leaves in the following areas: military leave, illness leave, maternity leave, and industrial accident/illness leave.

200.1.2.2 Except as noted in Rule #200.1.2.1 above, all unpaid leaves of more than five (5) working days shall not count towards earning "length of service" seniority credit. Employees taking leaves over five (5) working days shall have their classification hire date adjusted on a day for day basis for the duration of the unpaid leave.

200.1.2.3 If two or more employees subject to layoff have equal class hire date seniority, then the preference shall be given to the employee with the earliest regular hire date in the District. If regular hire date is equal, the preference shall be given to the employee with the earliest District hire date. If District hire date is equal, the decision shall be made by lot.

REFERENCE: 1. Education Code Sections 45101, 45260, 45261, and 45308

200.1.3 **BUMPING RIGHTS:** An employee in the classified service who is laid off shall have the right to bump the least senior employee in the same class. If there is no option for bumping within the same class and the employee has achieved permanent status in an equal or lower class, the employee shall have the right to bump the least senior employee in that equal or lower class. Seniority for purposes of bumping shall include the total of the previous service in the equal or lower class, plus service in the class from which layoff occurs and in higher classes. In the event of a layoff the following bumping priority will apply:

200.1.3.1 An employee laid off from his/her present class may bump into a position in the same class if they hold more seniority than another employee in the same class. The employee's placement shall be determined by bumping:

- a) A vacant position with the same number of hours per day.
- b) The least senior employee with the same number of hours per day.
- c) The least senior employee with the next existing greater number of hours per day.
- d) The least senior employee with the next existing fewer number of hours per day.
- e) The least senior employee with the same number of days per year.
- f) The least senior employee with the next existing greater number of days per year.
- g) The least senior employee with the net existing fewer number of days per year.

The employee shall be placed in the first position for which they qualify in the a,b,c,d,e,f,g sequence above.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45308

200.1.4 **SITE SENIORITY:** If a position in a classification is eliminated or reduced at a site or department which has multiple positions at that site with similar assigned times, the least senior employee in that classification with those assigned hours will be bumped from the site before more senior employees in that classification and assigned hours are impacted. Example: A site has four (4) Instructional Assistants that are each three (3) hours per day. If one three (3) hour position is eliminated at that site, the least senior of the four (4) Instructional Assistants at that site will be bumped. The impact of the displacement

could include placement in a vacant position of equal or greater assigned time, or possibly layoff pursuant to these rules and regulations.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45308

200.1.5 **VOLUNTARY DEMOTION OR TRANSFER:** A permanent classified employee who will suffer a layoff for lack of work or funds despite his or her bumping rights may accept a voluntary demotion to a vacant position in a lower class or transfer to an equal class, providing that the employee is deemed to be qualified to perform the duties thereof by the Personnel Commission.

REFERENCE: 1. Education Code Sections 45260 and 45261

200.1.6 **LAYOFF VERSUS TEMPORARY POSITIONS:** No regular classified employee shall be laid off from any position while employees serving temporary appointments are retained in positions of the same class, unless the regular employee refuses assignment to the temporary position.

REFERENCE: 1. Education Code Sections 45260 and 45261

200.1.7 **ACCEPTANCE OF SUBSTITUTE OR TEMPORARY EMPLOYMENT:** An employee who has been laid off for lack of funds or lack of work and who is on a reemployment list may be employed as a substitute or temporary employee in his/her original class or any other class for which qualified (as determined by the Personnel Commission), and such employment shall in no way jeopardize or otherwise affect his/her status or eligibility for reemployment.

REFERENCE: 1. Education Code Sections 45260 and 45261

200.1.8 **REFUSAL OF TEMPORARY EMPLOYMENT:** Refusal of an offer of limited-term employment shall not affect the standing of any employee on a reemployment list.

REFERENCE: 1. Education Code Sections 45260 and 45261

200.1.9 **SALARY PLACEMENT AFTER DEMOTION OR TRANSFER:** A classified employee who accepts a demotion in lieu of a layoff shall be placed at the salary range of the lower class, and then to that step of the lower range that comes closest to the employee's hourly salary rate in the higher classification without being more than the previous hourly salary rate.

200.1.9.1 A classified employee who accepts a lateral transfer to an equal class shall be placed on the same salary range and step as the previous position.

REFERENCE: 1. Education Code Sections 45260 and 45261

200.1.10 **NOTICE OF LAYOFF:** The District shall notify the affected classified employees in writing a minimum of thirty (30) 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 Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: 1. Education Code Sections 45117, 45260, and 45261

200.1.11 **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 to review the proposed layoff. A copy of each layoff notice will be sent to the exclusive representative.

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

200.1.12 **CONTENTS OF LAYOFF NOTICE:** Any notice of layoff shall include the following:

200.1.12.1 The reason for the layoff.

200.1.12.2 The employee's displacement rights, if any.

200.1.12.3 The employee's reemployment rights.

200.1.12.4 The right to an exit interview with the Director of Classified Human Resources, during working hours with a representative of the exclusive representative (if applicable to the position) present.

200.1.12.5 The name and classification of the employee designated for layoff.

200.1.12.6 A statement that the employee may have a right to unemployment insurance.

REFERENCE: 1. Education Code Sections 45117, 45260, and 45261

200.1.13 **LAYOFF RESOLUTION BY BOARD OF EDUCATION:** Before any layoff notice can be issued, the Board of Education shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced. The layoff resolution shall be signed by the Clerk of the Board of Education.

REFERENCE: 1. Education Code Sections 45260 and 45261

200.2 REEMPLOYMENT PROCEDURES

200.2.1 **LAI D OFF EMPLOYEES PLACED ON REEMPLOYMENT LIST:** The names of regular classified employees laid off pursuant to Rule #200.1 shall be placed upon the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in order of seniority as defined by these rules.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45298

200.2.2 **EMPLOYEES WITH EQUAL SENIORITY:** If two or more employees subject to rehire have equal class hire date seniority, then the rehire offer shall be made to the employee with the earliest regular hire date in the District. If regular hire date is equal, the rehire offer shall be made to the employee with the earliest District hire date. If District hire date is equal, the decision shall be made by lot.

REFERENCE: 1. Education Code Sections 45101, 45260, 45261, and 45308

200.2.3 **ELIGIBLE FOR REEMPLOYMENT FOR 39 MONTHS:** Laid off employees are eligible for reemployment in the class from which laid off for a thirty-nine (39) month period from the date of the actual layoff and shall be employed in the reverse order of layoff. Their reemployment shall take precedence over any other type of employment, defined or undefined, in these rules. In addition, they shall have the right to apply for promotional and transfer positions and use their seniority therein for a period of thirty-nine (39) months following layoff. Upon written request to the Personnel Commission Office, an employee on a reemployment list shall be notified of promotional and/or transfer opportunities.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45298

200.2.4 **ELIGIBILITY FOR AN ADDITIONAL 24 MONTHS:** Regular employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be, at the employee's option, returned to a position in their former class or to positions in accordance with their seniority on any valid reemployment list with increased assigned time as vacancies become available within a sixty-three (63) month period following the actual date of layoff.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45298

200.2.5 **P.E.R.S. RETIREMENT IN LIEU OF LAYOFF AND REEMPLOYMENT:** Regular employees who have a least five (5) years service credit under the Public Employees Retirement System and are fifty (50) years of age or older, may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reductions in assigned time. Such employees shall, prior to the effective date of the proposed layoff, complete and submit a form to the Public Employees Retirement System. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with this regulation. If the District makes an offer of reemployment, and the Personnel Commission Office receives a written acceptance of the offer within two (2) working days of the written offer of reemployment, the retired person shall be allowed sufficient time to terminate his/her retired status with the Public Employees Retirement System.

REFERENCE: 1. Education Code Sections 45115, 45260, and 45261

200.2.6 **ESTABLISHMENT AND MAINTENANCE OF SENIORITY LISTS:** The Personnel Commission shall establish and maintain a seniority list indicating an employee's hire date.

REFERENCE: 1. Education Code Sections 45260 and 45261

200.2.7 **OFFER OF REEMPLOYMENT AND ACCEPTANCE:** An employee who is laid off and is subsequently determined by the Personnel Commission to be eligible for reemployment based upon his/her seniority shall be notified by the Personnel Commission by telephone, but if he/she cannot be reached, will be notified in writing by the Personnel Commission of an opening. Such notice shall be sent by certified mail to the last known home address of the employee on file in the Personnel Commission Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the 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.

200.2.7.1 A regular employee shall notify the Personnel Commission Office of his intent to accept or refuse reemployment within five (5) working days following the mailing of the reemployment notice. If the employee accepts reemployment, the employee must report to work within ten (10) working days following the mailing of the reemployment notice. An employee given notice of reemployment need not accept the reemployment to maintain the employee's eligibility on the reemployment list, provided the employee notified the Personnel Commission Office in writing within five (5) working days from receipt of the reemployment notice.

REFERENCE: 1. Education Code Sections 45260, 45261, and 45298

CHAPTER 210

SEPARATION FROM SERVICE

210.1 SEPARATION PROCEDURES

(Rev. 4/19/06)

210.1.1 **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: 1. Education Code Sections 45260 and 45261

210.1.2 **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: 1. Education Code Sections 45260

210.1.3 **PROCEDURE FOR SEPARATION OF EMPLOYEE:** Whenever an employee desires to separate from his/her employment with the District, he/she shall complete a separation form provided by the Personnel Commission and present this separation form to the Personnel Commission Office. The separation form shall indicate the last day in paid status of the separating employee and the reasons for the separation. The Director of Classified Human Resources shall insure that an exit interview is conducted with the employee, and that the separation is presented to the Personnel Commission for ratification at the first regularly scheduled meeting after the actual date of the separation and to the Board of Education for ratification after action by the Commission.

210.1.3.1 In the absence of the separation form, an employee's written or verbal statement that he/she intends to separate from the employment of the District will be sufficient.

REFERENCE: 1. Education Code Sections 45260 and 45261

210.1.4 **TWO WEEK NOTICE OF SEPARATION:** 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: 1. Education Code Sections 45260 and 45261

210.1.5 **ACCEPTANCE OF SEPARATION:** The separation of a classified employee shall be considered final upon presentation to and acceptance by the Personnel Commission Office.

REFERENCE: 1. Education Code Section 45260 and 45261

210.1.6 **RETIREMENT UNDER P.E.R.S:** Classified employees working over 1000 hours per year (approximately 4 hours per day) are 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.

REFERENCE: 1. Education Code Sections 45260 and 45261

210.2 HEALTH BENEFIT CONTINUATION UPON SEPARATION

210.2.1 **C.O.B.R.A. HEALTH CONTINUATION REQUIREMENTS:** Under federal law, the District is required to offer employees and their families the opportunity for a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where coverage under the health plan would otherwise end. Health insurance continuation shall be offered pursuant to these rules.

REFERENCE: 1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
2. Education Code Sections 45260 and 45261

210.2.2 **EMPLOYEE CONTINUATION UPON REDUCTION OR LAYOFF:** A classified employee and eligible dependents who are covered by the District's health plans shall have the right to continuation coverage pursuant to C.O.B.R.A. regulations 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 as outlined in Rule #190 of these rules and regulations).

REFERENCE: 1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
2. Education Code Sections 45260 and 45261

210.2.3 **SPOUSE/DOMESTIC PARTNER COVERAGE:** The spouse or domestic partner of an employee covered by the District's health plans shall have the right to choose continuation coverage for up to thirty-six (36) months if the spouse or domestic partner loses group health coverage for any of the following reasons:

210.2.3.1 The death of the employee.

210.2.3.2 Divorce or legal separation from the employee.

REFERENCE: 1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
2. Education Code Sections 45260 and 45261

210.2.4 **DEPENDENT CHILD COVERAGE:** The dependent child of an employee covered by the District's health plans shall have the right to choose continuation coverage for up to thirty-six (36) months if the dependent loses group health coverage for any of the following reasons:

210.2.4.1 The death of a parent covered by the plans.

210.2.4.2 The dependent ceases to be a "dependent child."

REFERENCE: 1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
2. Education Code Sections 45260 and 45261

210.2.5 **RESPONSIBILITY TO NOTIFY DISTRICT OF STATUS CHANGE:** The classified employee or eligible party has the responsibility to inform the District of a divorce, legal separation, dissolution of a domestic partnership, or a child losing dependent status under the District's health plans.

REFERENCE: 1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
2. Education Code Sections 45260 and 45261

210.2.6 **DISTRICT SHALL SEND NOTIFICATION OF RIGHTS:** When the District is notified about one of the circumstances outlined in Rule #210.2.2 - #210.2.4, the District shall notify the eligible party (employee, spouse, dependents) in writing of the right to choose continuation coverage. The eligible party shall have 60 days from the date of losing coverage because of the events outlined in Rule #210.2.2 -

#210.2.4 to inform the District in writing that continuation coverage is desired.

- REFERENCE:**
1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
 2. Education Code Sections 45260 and 45261

210.2.7 **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 timelines in these rules, the right to continue to participate in the District's group health insurance plans will be terminated.

- REFERENCE:**
1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
 2. Education Code Sections 45260 and 45261

210.2.8 **REQUIREMENT TO PROVIDE SIMILAR COVERAGE:** If an employee or eligible party chooses continuation coverage, the District shall be 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.

- REFERENCE:**
1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
 2. Education Code Sections 45260 and 45261

210.2.9 **LENGTH OF CONTINUATION COVERAGE PROVIDED:** The eligible employee and eligible dependents shall be afforded the opportunity to maintain coverage, except as noted below. This coverage shall continue for up to 18 months, unless the employee or eligible party is determined to be disabled by the Social Security Administration within that eighteen- month period. If such a determination is made by the Social Security Administration an extension of coverage for 11 months is provided, for a total of 29 months. Eligibility for continuation coverage is canceled if the employee is terminated for disciplinary reasons. The required continuation coverage may be cut short for any of the following reasons.

- 210.2.9.1** The District no longer provides group health coverage to any of its employees.
- 210.2.9.2** The premium for the continuation coverage is not paid by the employee or the eligible party.

210.2.9.3 The employee or eligible party becomes an employee covered under another group plan, unless that other plan contains a pre-existing condition limitation which excludes the employee or eligible party from coverage under the new plan due to a pre-existing condition.

210.2.9.4 The employee or eligible party becomes eligible for Medicare.

210.2.9.5 The divorced spouse of a covered employee subsequently remarries and is covered under the new spouse's group health plan.

- REFERENCE:**
1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
 2. Education Code Sections 45260 and 45261

210.2.10 **NO EVIDENCE OF INSURABILITY NECESSARY:** An employee or eligible party shall not be required to prove insurability to choose continuation coverage.

- REFERENCE:**
1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
 2. Education Code Sections 45260 and 45261

210.2.11 **PAYMENT OF PREMIUM:** The employee or eligible party shall pay the full premium for the health benefit continuation coverage, plus an additional charge of 2% for administrative expenses.

- REFERENCE:**
1. Federal Public Law 99-272, Title C—Consolidated Omnibus Budget Reconciliation Act
 2. Education Code Sections 45260 and 45261

CHAPTER 220

(Rev. 4/23/14)

PROFESSIONAL GROWTH

220.1 DEFINITION

The intent of this incentive-based professional growth program is to encourage employees to voluntarily gain increased knowledge and skills which enhance their ability to perform the work of the school district, to provide an opportunity for advancement to new positions; or to provide the employee with an awareness of the importance of increased efficiency needed to fulfill his/her role in the total education of students in the Ventura Unified School District. This program is not intended to restrict in any way the training and self-improvement efforts a classified employee may undertake on his/her own initiative. However, such training shall be considered as applicable to a professional growth increment only if it meets the requirements specified by this policy and implementing regulations of the committee. This is an award type program based upon the accumulation of points which will eventually translate into a professional growth stipend.

220.2 PROCEDURES

220.2.1 **REVIEW COMMITTEE:** The Professional Growth Committee, hereinafter referred to as the Committee, shall meet at least quarterly to review applications for professional growth points.

220.2.2 **SELECTION/COMPOSITION OF COMMITTEE:** The Committee shall consist of:

Three (3) representatives appointed by the Association plus three (3) representatives appointed by the District including the Assistant Director, Classified Human Resources being a permanent member of the committee.

220.2.3 **TENURE OF COMMITTEE**

220.2.3.1 Because of the technical nature of committee responsibility, turnover on the committee shall be kept at a minimum. Terms of committee members shall begin in July and end in June. A Chair and a Secretary shall be appointed by the Committee.

220.2.3.2 Should a vacancy occur on the Committee, VCEA shall fill the vacancy by appointment for those positions which VCEA originally appointed.

220.2.4 **DUTIES OF COMMITTEE**

- 220.2.4.1** Review policies and procedures.
- 220.2.4.2** Evaluate activities for professional growth points.
- 220.2.4.3** Provide the Payroll Department with a listing of those employees who have earned Professional Growth increments for the fiscal year.

220.3 **STANDARDS AND GUIDELINES FOR PARTICIPATION IN THE PROFESSIONAL GROWTH POINT PROGRAM**

- 220.3.1** Points may be earned through participation in any of the following:
 - 220.3.1.1** College courses, adult school course, trade and business school courses.
 - 220.3.1.2** Committee approved workshops, training, orientation, and in-service.
 - 220.3.1.3** Institute lecture programs and conducting institute classes.
 - 220.3.1.4** Attendance at educational conferences.
 - 220.3.1.5** Leadership activities in county, state and national educational organizations and in professional organizations.
 - 220.3.1.6** Correspondence, on-line and video courses.
 - 220.3.1.7** Other Committee approved coursework.
- 220.3.2** The subject matter of the course must relate to the position currently occupied by the employee, or should meet the requirements for career development.
- 220.3.3** All professional growth candidates taking courses must obtain a passing grade of "C" or better; a certificate of satisfactory completion of a course, or a grade of "Pass" in a course which does not provide a letter grade, in order to receive credit points for the coursework.
- 220.3.4** Employees must submit evidence of satisfactory completion of coursework within one calendar year from the date of the completion of the coursework in order to receive professional growth points for that coursework.

- 220.3.5 Points will not be given to an employee who is on leave from the district to become a full-time or part-time student.
- 220.3.6 If credit has previously been awarded, courses may not be repeated unless special permission is granted by the Committee. Such repeat courses must contain different subject matter.
- 220.3.7 Course work must be verified by transcript or certificate. All other work must be verified as acceptable and approved by the Committee no later than July 31 of each year in order to receive a professional growth increment for that fiscal year.
- 220.3.8 Courses not offering semester or quarter units, and other types of educational courses for which the Committee has granted approval, will receive points based on total hours of participation. For such courses and/or activities a certificate or signed documentation verifying satisfactory completion must be submitted with the Professional Growth Application.
- 220.3.9 Credit for hours of participation in District-sponsored workshops, orientation, in-services educational conferences, institute lecture programs, and other similar programs approved by the Committee and credit for conducting such programs shall have points equated as follows:

The following chart illustrates the value of each hour of such credit:

<u>No. of Hours</u>	<u>Points @.0625</u>	<u>Points @.0750</u>
1.0	.0625	.0750
2.0	.1250	.1500
3.0	.1875	.2250
4.0	.2500	.3000
5.0	.3125	.3750
6.0	.3750	.4500
7.0	.4375	.5250
8.0	.5000	.6000
9.0	.5625	.6750
10.0	.6250	.7500
11.0	.6875	.8250
12.0	.7500	.9000
13.0	.8125	.9750
14.0	.8750	1.0500
15.0	.9375	1.1250
16.0	1.0000	1.2000

220.3.10 Sixteen (16) hours shall equal one (1) professional growth point. Fifteen (15) professional growth points shall equal one (1) professional growth increment.

220.4 ELIGIBILITY FOR PARTICIPATION IN THE PROFESSIONAL GROWTH PROGRAM

220.4.1 All regularly employed, classified employees who are in active, paid status with the Ventura Unified School District shall be eligible to participate in the Professional Growth Program.

220.5 GENERAL RULES AND REGULATIONS FOR PROFESSIONAL GROWTH INCREMENTS

220.5.1 One (1) professional growth increment may be granted annually in the maximum amount of \$200 per school year, not to exceed five (5) such increments in the maximum amount of \$1,000.

220.5.2 Increments shall be granted beginning with the fiscal year following the earning of fifteen (15) professional growth points.

220.5.3 Subsequent earned increments, not exceeding four, may be granted in the maximum amount of \$200 each. Such increments shall be superimposed on the preceding increments(s) to which the employee is entitled, but shall be awarded not more frequently than once every two fiscal years.

220.5.4 Professional growth recipients may elect to have the professional growth increment payable in one lump-sum payment on or about August 31 of each year or to have the increment equalized, based on their regular number of salary payments annually. Earned increments shall be paid in addition to the employee's regular salary, and shall be subject to customary payroll deductions.

220.5.5 An employee must be in paid status to receive the professional growth increment he/she has been earned, and such payments will end when his/her employment is terminated for any reason.

220.5.6 Credit will only be given for professional growth activities completed while not in a paid, active employment status on the July 1 following the completion of the first year on the job after returning from the leave of absence. Credit will not be given for any professional growth activities completed prior to the employee's beginning date of employment.

220.5.7 Records concerning the Professional Growth Program shall be maintained by the Classified Human Resources Office.

220.5.8 Permanent employees who are promoted or transferred to a new classification may earn increment points while in probationary status in the new classification.

220.6 **QUALIFICATION FOR INITIAL PROFESSIONAL GROWTH INCREMENT**

220.6.1 Increment points applicable to the initial professional growth increment may be allowed retroactively provided the points were earned after the beginning date of employment and the candidate was actively and regularly employed by the Ventura Unified School District at the time the points were earned.

220.6.2 If more than the necessary number of points is earned for any of the second, third, fourth, or fifth professional growth increments, the excess number will be carried over to the next succeeding increment.

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