

CHAPTER I

RULE-MAKING AUTHORITY AND DEFINITIONS

1.1 APPLICATION OF RULES

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

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

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

REFERENCE: 1. Education Code Section 45260
2. Government Code Section 3543.2

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 However, specific and applicable provisions of the Rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases.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

REFERENCE: Education Code Section 45260

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

REFERENCE: Education Code Section 45260

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

REFERENCE: Education Code Section 45260

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

1.1.5.1 Copies of Article 6 of Chapter 5 of Part 25 of the California Education Code (commencing with Section 45240) shall also be printed and given the same distribution as noted in Section 1.1.5 above.

REFERENCE: Education Code Section 45260

1.1.6 SUBJECTS OF RULES: The Rules and Regulations shall provide for the procedures to be followed as they pertain to the classified service regarding such matters as applications, examinations, eligibility, appointments, promotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job examinations and evaluations, rejection of unfit applicants, and any other matters deemed necessary by the Commission to ensure the efficiency of the classified service and the selection and retention of employees upon a basis of merit and fitness.

REFERENCE: Education Code Sections 45260 and 45261

1.1.7 EFFECTIVE DATE: The Rules and Regulations shall be effective the date approved by the Personnel Commission and shall not have retroactive effects.

1.2 DEFINITIONS

ACT or THE ACT: The Act shall mean those sections of the Education Code of the State of California. 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.

ANNIVERSARY DATE: The date on which an employee is first granted an earned salary increment, and the first day of the month next following completion of the required period of service for step advancement.

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

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

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

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

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

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

BEREAVEMENT LEAVE: A paid leave of limited duration granted to an employee upon the death of a member of the employee's immediate family 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 competed in one or more portions of the District's selection process.

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

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

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

CLASS: (Sometimes 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." Classification means that each position in the classification shall have a designated title, minimum qualifications, and placement on the appropriate salary schedule. Each position in the classification shall have regular minimum number of assigned hours per day, days per week, and months per year as established by the Board of Education.

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

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

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

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

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

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

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

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

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

DISTRICT: The Torrance Unified School District.

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

DUTIES STATEMENT: A listing of the specific duties assigned to an individual position. It is sometimes referred to as a "position description" or "class description."

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

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

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

EMPLOYEE: A person who is employed by the District.

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

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

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

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

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

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

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

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

FULL-TIME POSITION: A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is equal to or greater than eighty-seven and a half percent (87.5%) of the normally assigned time of the majority of employees in the classified service of the District.

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

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

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

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

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

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

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

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

JOB AUDIT: A personnel job evaluation technique by which a staff analyst may use various combinations of job audit questionnaires, personal interviews, as well

as work site observations and conversations, to collect data on the duties, tasks and responsibilities of a position.

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

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

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

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

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

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

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

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

PART-TIME POSITION: A position for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 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 quality of the work performed by a person employed in the District's classified service.

PERMANENT EMPLOYEE: An employee who has completed an initial probationary period of one hundred thirty (130) days of paid regular services 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 Commission rule as executive, administrative, or supervisory.

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

PERSONAL NECESSITY LEAVE: A leave of absence with pay for a limited duration which may be taken for reasons of personal need as specified in the Education Code, Collective Bargaining Agreement, and the Rules and

Regulations of the Personnel Commission. Such leave is charged against the employee's earned cumulative sick leave, and is limited to a maximum of six (6) days per school year.

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

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

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

POSITION: A 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.

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

PROBATIONARY PERIOD: A trial period of one hundred and thirty (130) days, or two hundred sixty (260) days for executive, administrative, and supervisory employees, of paid service (excluding days absent while on leave) following appointment 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 salary rate following appointment from an appropriate promotional list.

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

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

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

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

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

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

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

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

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

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

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

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

RESIGNATION: A voluntary statement in writing from an employee requesting to be terminated from employment.

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

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

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

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

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

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

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

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

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

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

SEPARATION: The ending of all status as an employee with the District including resignation, dismissal, layoff, or retirement.

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

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

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

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 having the same salary range, or to a position in a similar or related class having the same salary range.

VETERAN: Any person who has served in the United States armed forces in time of war, or national emergency declared by the President of the United States of America, and who has been discharged or released under conditions other than dishonorable, proof of which shall be submitted to the Commission at the time of examination. "Armed Forces" means the United States Air Force, Army, Navy, Marine Corps, or Coast Guard.

DISABLED VETERAN: Any veteran, as defined herein, who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the armed forces. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

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

employment list.

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

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

1.3 VIOLATION OF MERIT SYSTEM LAWS

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

REFERENCE: Education Code Section 45317

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

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

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

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

REFERENCE: Education Code Section 45317

CHAPTER 2

THE PERSONNEL COMMISSION

2.1 ORGANIZATION OF THE COMMISSION

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

2.1.1.1 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 Torrance Unified School District.

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

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

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

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

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

qualifications of the person recommended by the Board of Education for appointment. The Board at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

2.1.2.2 THE CLASSIFIED EMPLOYEES' APPOINTMENT: By November 1, the classified employee organization having authority to nominate the classified employees' appointee to the Commission shall submit to the Board the name of the person it wishes to appoint to the Commission. The Board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee, to be effective on the date on which the vacancy would occur. Amended 8/16/94

2.1.2.2.1 In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on August 15 of the year in which the classified employees' appointment is to be made shall be the one authorized to submit the recommended appointment to the Board of Education for action as required by law and these Rules and Regulations. Amended 8/16/94

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

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

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

appointment. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

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

REFERENCE: Education Code Sections 45245 - 45248

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

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

2.1.3.2 THE CLASSIFIED EMPLOYEES' APPOINTMENT: Within 15 days of notification of the vacancy, the classified employee organization having authority to nominate the classified employees' appointee to the Commission, shall publicly submit the name of the person it wishes to appoint to the Commission to fill the unexpired term. At a board meeting to be held after 30, and within 45, days of the date the employees' nominee was submitted to the Board, the Board shall hold a public hearing to provide the public, employees, Board, District Administration, and employee organizations the opportunity to express their views on the qualifications of the person nominated by the classified employee organization for appointment. The Board shall appoint the

nominee unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee.

2.1.3.2.1 If the Board and the classified employees are unable to agree upon a nominee because the Board has made a legitimate claim as to the lack of mandated qualifications of the nominee or the classified employee organization has refused to submit a nominee within 30 days of notification of the vacancy, the State Superintendent of Public Instruction shall, within thirty (30) days, make the necessary appointment.

2.1.3.2.2 In the event that the classified employees of the District are represented by one or more recognized employee organizations, the employee organization which represents the largest number of the District's classified staff on August 15 of the year in which the classified employees' original appointment was made shall be the one authorized to submit the recommended appointment to the Board of Education for action as required by law and these Rules and Regulations. Amended 8/16/94

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

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

2.1.3.3 THE COMMISSIONERS' APPOINTMENT: Within 15 days of notification of the vacancy, the appointee of the Board of Education and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint to fill the vacancy. At a Personnel Commission meeting to be held after 30, and within 45, days of the date the Commission publicly announced its candidate, the Commission shall hold a public hearing to provide the public, employees, employee organizations, and members of the Board of Education the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The Commission at that time may make its appointment or may make

a substitute appointment or recommendation without further notification or public hearing.

2.1.3.3.1 If the commissioners are unable to agree upon a joint appointment within 45 days after the notification of the vacancy, the appointment to fill the unexpired term shall be made by the State Superintendent of Public Instruction.

REFERENCE: Education Code Sections 45245 - 45248, 45260

2.1.4 EMERGENCY APPOINTMENT OF COMMISSIONERS: If there are two vacancies on the Personnel Commission notwithstanding these Rules, the Board of Education at the request of the Director-Personnel Commission shall declare that an emergency exists and shall make one interim appointment to fill a vacancy to insure the continuance of the hiring functions of the Personnel Commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

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

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

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

2.1.5 OFFICERS: At its first regularly scheduled meeting in December of each year, the Commission shall elect one of its members to serve as Chairperson and another of its members to serve as Vice-Chairperson for a period of one (1) year or until such time as their successors are duly elected. The Commission at this same meeting shall elect the Director-Personnel Commission as Secretary to the Personnel Commission.

REFERENCE: Education Code Sections 45260 and 45261

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

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

REFERENCE: Education Code Section 45250

2.1.8 EVENTS CAUSING VACANCY BEFORE EXPIRATION OF TERM: Personnel Commissioners shall be expected to attend all regular and special meetings of the Personnel Commission. If a member is unable to attend a scheduled meeting, the member shall contact the Director-Personnel Commission to inform the Commission of the expected absence. A member of the Personnel Commission shall be deemed to have vacated the seat of the Commission on the

happening of any of the following events before the expiration of the prescribed term:

- 2.1.8.1 The death of the commissioner.
- 2.1.8.2 An adjudication pursuant to a quo warrant proceeding declaring that the commissioner is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the commissioner will not be able to perform the duties of the office for the remainder of the term.
- 2.1.8.3 The commissioner's resignation.
- 2.1.8.4 The commissioner's removal from office by a court of competent jurisdiction.
- 2.1.8.5 The commissioner ceasing to meet all the legal requirements to continue to be a commissioner as outlined in Chapter 2.1.1.
- 2.1.8.6 The commissioner's absence exceeding four (4) total regular meetings in a fiscal year, except when prevented by sickness, or excused absence.
- 2.1.8.7 The commissioner's conviction of a felony or of any offense involving a violation of the official duties of a commissioner as required by these Rules and/or the law. A commissioner shall be deemed to have been convicted under this Rule when trial court judgment is entered.
- 2.1.8.8 The decision of a competent tribunal declaring void the commissioner's appointment.
- 2.1.8.9 The commissioner's commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict. In this event, the office shall not be deemed vacant until the order of commitment has become final.

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

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

- REFERENCE:
- 1. Government Code Sections 1060 et seq., 1750, 1770, 3000, 3001, 3100, 3753

2. Penal Code Sections 1026, 1368 et seq.
3. Welfare and Institutions Code Sections 5008, 6300 et seq.
4. Education Code Sections 45244, 45245, 45246, and 45247

2.2 MEETINGS OF THE COMMISSION

2.2.1 REGULAR MEETINGS: Subject to cancellation or proper change, the Personnel Commission shall meet on the 1st and 3rd Tuesday of each month at 4:30 p.m. in the Torrance Unified School District Board or Conference Room. Whenever the regularly scheduled meeting date happens to fall on a holiday, the Commission shall meet on the next succeeding Tuesday unless the Commission at the prior regular meeting takes an action to designate some other day for its meeting. Amended 1-1-04. Amended 5-13-14.

2.2.1.1 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 and the District's website.

REFERENCE:

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

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

REFERENCE:

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

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

REFERENCE:

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

2.2.4 PUBLIC MEETINGS: All regular and special meetings of the Commission shall be open to the public, and all persons shall be permitted to attend any of the meetings. This Rule shall not be construed as authorizing employees to be

absent from duty for attendance at Personnel Commission meetings, unless they have specific business before the Commission.

All votes or abstentions to any actions of the Commission during a meeting of the Commission whether in open or authorized closed session shall be recorded in the minutes of the meeting. No secret ballots are permitted. Amended 10/18/94

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

2.2.5 CLOSED SESSIONS: A closed session may be conducted only during a regular or special meeting of the Personnel Commission that has been called with proper notification. Prior to the holding of a closed session, the Commission shall state the general reason(s) for the closed session and may cite the statutory or other legal authority under which the session is being held. In the closed session, the Commission may consider only those matters covered in its statement of reasons. In the case of a special, an adjourned, or a continued meeting, the statement of reasons shall be made as part of the written meeting notice for such special, adjourned, or continued meeting. In giving the general reason or reasons for holding a closed session, the Commission is not required or authorized to give names or other information which might constitute an invasion of privacy or otherwise unnecessarily divulge protected facts and information for which the closed session is being held. Amended 10/18/94

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

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

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

However, any action taken to appoint, employ, dismiss, accept the resignation of or otherwise affect the employment status of an employee must be reported at a public meeting following the closed session. Such report must include the title of the position and any changes in compensation. The reporting of actions on disciplinary matters may be deferred until the first public meeting following the public meeting following the exhaustion of any administrative remedies. Amended 10/18/94

2.2.5.2.2 Consideration of complaints brought against employees.

The Commission will consider such matters in open session 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 (against whom charges or complaints are brought) requests that the matter be considered in a closed session. 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 his/her right to have the matter heard in closed session rather than an open session; which notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time scheduled to hold the regular or special Commission meeting. If notice is not given as prescribed, any punitive action taken relative to the employee shall be null and void. During the examination of the complainant or 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. Amended 10/1/8/94

2.2.5.2.3 Consideration of matters affecting national security.

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

The Commission has the right to consider any legal matter(s) within the scope of the attorney/client privilege. This exception, though not expressed in the Brown Act, was found by the California Appellate Court to be implied by the Act (The Sacramento Newspaper Case). According to the Court, "There is a public entitlement to the effective use of legal counsel in civil litigation. Effective aid is impossible if opportunity for confidential legal advice is banned."

Amended 10/18/94

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

2.2.5.3 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 punitive action taken relative to the employee shall be null and void. During the examination of a witness, the Commission may exclude other witnesses even though the hearing is held as part of a public meeting. If a hearing is held in closed session, the Commission may exclude other witnesses as well as the general public while the matter is being investigated. Following the public hearing or closed session, the Commission may deliberate on the matter and reach its decision in a closed session.

2.2.5.4 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, 54957.7
2. Government Code Sections 1222, 1770, 3543, 3543.2, 3549.1

2.2.6 AGENDA AND SUPPORTING DATA: At least seventy-two (72) hours prior to every regular 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. Each item on the agenda shall contain a brief general description of the item. Amended 10/18/94

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

2.2.6.2 Individual employees, employee organizations, and other interested parties may submit their written views on any item on the agenda, except for those matters listed in Personnel Commission Rule 2.2.5, and/or given a reasonable opportunity to present their views orally during the Commission meeting. In reaching its decisions, the Commission has made it a policy to consider all comments and recommendations made in this manner.

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

REFERENCE: Education Code Section 45260

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

2.2.7.1 On a first reading, the Personnel Commission will set a date for

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

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

REFERENCE: Education Code Section 45260

2.2.8 MINUTES: The Director-Personnel Commission, in his/her capacity as Secretary to the Personnel Commission, shall record in the minutes the time and place of each Personnel Commission meeting, the names of the Commissioners present, all official acts of the Commission, and the votes or abstentions of the Commissioners. When requested by a Commissioner, the Director-Personnel Commission shall record that Commissioner's approval or dissent and any expressed reasons therefore. Amended 10/18/94

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

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

2.2.8.3 Copies of the Commission's minutes shall be distributed to the designated representatives of all employee organizations representing the District's classified employees, the Commission members, the Board of Education, the Superintendent of Schools, and others who have indicated their interest in such matters.

REFERENCE: Education Code Section 45260

2.3 COMMISSION EMPLOYEES

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

REFERENCE: Education Code Sections 45260 and 45264

2.3.2 GENERAL DUTIES OF THE DIRECTOR-PERSONNEL COMMISSION: The Director-Personnel Commission shall perform all of the duties assigned and carry

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

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

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

2.4 COMMUNICATIONS

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

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

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

REFERENCE: Education Code Section 45260

2.5 PERSONNEL COMMISSION BUDGET:

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

REFERENCE: Education Code Sections 45253 and 45260

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

REFERENCE: Education Code Sections 45253 and 45260

2.5.3 INPUT SOUGHT: Prior to the public hearing on its budget, the Personnel Commission shall forward a copy of its proposed budget to the Board of

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

REFERENCE: Education Code Sections 45253 and 45260

- 2.5.4 ADOPTED BUDGET FORWARDED TO COUNTY SUPERINTENDENT: Following its adoption of a proposed budget for the ensuing year, the Commission shall then forward its proposed budget to the Los Angeles County Superintendent of Schools for action.

REFERENCE: Education Code Sections 45253 and 45260

- 2.5.5 COUNTY MAY HOLD PUBLIC HEARING: If the Board of Education of the District does not feel that its views as expressed during the Commission's public hearing on the budget have been fully considered by the Personnel Commission in the adoption of the budget, the Board may then forward its concerns to the Los Angeles County Superintendent of Schools. The Los Angeles County Superintendent of Schools, upon receipt of the Board's objections or concerns, will schedule a public hearing on the budget concerns. The public hearing shall be held within the boundaries of the District.

REFERENCE: Education Code Sections 45253 and 45260

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

REFERENCE: Education Code Sections 45253 and 45260

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

REFERENCE: Education Code Sections 45253 and 45260

- 2.6 PERSONNEL COMMISSION ANNUAL REPORT:

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

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

preceding fiscal year.

REFERENCE: Education Code Section 45266

2.7 LEGAL COUNSEL FOR THE PERSONNEL COMMISSION

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

REFERENCE: Education Code Section 45313

CHAPTER 3

POSITION CLASSIFICATION PLAN

3.1 THE CLASSIFIED SERVICE

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

REFERENCE: Education Code Section 45256

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

REFERENCE: Education Code Sections 45256 and 45258

- 3.1.3 "PART-TIME" DEFINED: A part-time position for the purpose of exemption under Personnel Commission Rule 3.1.2 is a temporary position for which the assigned time, when computed on an hourly, daily, weekly or monthly basis is less than eighty-seven and a half percent (87.5%) time of the normally assigned time for the majority of employees in the classification to which assigned, or the majority of the employees in the classified service, whichever amount of time is the lesser. Amended 4/6/99

REFERENCE: Education Code Sections 45256 and 45260

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

REFERENCE: Education Code Section 44065

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

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

REFERENCE: Education Code Section 45256

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

REFERENCE: Education Code Sections 45256, 45260, 45261, 51760- 51770

3.2 GENERAL CLASSIFICATION RULES

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

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

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

3.2.2.1 Allocation of all positions to appropriate classes.

3.2.2.2 Arrangement of classes into occupational hierarchies (job families).

3.2.2.3 Determination of reasonable percentage relationships between classes within the occupational hierarchies.

3.2.2.4 Determination of reasonable percentage relationships between occupational hierarchies.

3.2.2.5 Preparation of written class specifications.

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

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

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

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

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

- 3.2.4.1 The definition and typical tasks are descriptive and explanatory only and not restrictive, indicating the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities, and qualification requirements and do not prescribe what these details shall be in respect to any position.
- 3.2.4.2 The use of a particular expression or illustration as to duties, responsibilities, qualification requirements or other attributes is typical or descriptive of the class and does not exclude others not mentioned but of similar kind and/or quality as determined by the Commission.
- 3.2.4.3 The specification for each class is considered as a whole in determining the class to which any position shall be allocated, giving consideration not to isolated clauses, phrases or words, but to the general duties, responsibilities, specific tasks and qualification requirements as affording a picture of the positions that the class includes.
- 3.2.4.4 Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series in such manner as to maintain a proper relationship in the series in which the class is located and proper differentiation within the group of classes.
- 3.2.4.5 The following personal qualification requirements apply to all classes even though not necessarily specifically mentioned in the specification: freedom from communicable diseases; freedom from physical or mental impairment to perform the duties of the class to the extent under federal and state laws; dependability; good judgment; good moral character and reputation; loyalty; ability to work cooperatively with others; and willingness and ability to assume the responsibilities and to conform to the conditions or work characteristics of the particular position. Amended 4/6/99 and 4/3/07
- 3.2.4.6 The statement of qualification requirements, when considered with other parts of the specification, is to be used as a guide in the announcement and preparation of tests and in the evaluation of the qualifications of candidates seeking appointment, but does not require a particular form or content of test or testing procedure.

REFERENCE: Education Code Sections 45256, 45260, and 45276

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

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

REFERENCE: Education Code Sections 45109 and 45256

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

REFERENCE: Education Code Section 45256

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

REFERENCE: Education Code Sections 45256 and 45285

- 3.2.8 WORKING OUT OF CLASSIFICATION: Each classified employee should be required to perform the duties approved by the Board and classified by the Commission for the class to which the employee is assigned. Classified employees shall not be required to perform duties and responsibilities which are not fixed and prescribed for their positions unless reasonably related to the fixed duties for any period of time which exceeds five (5) days within a fifteen (15) calendar day period, except as provided by this Rule. An employee may be assigned to work beyond the scope of the duties normally assigned to the employee's position or reasonably related thereto provided that the employee's salary is adjusted as follows: Amended 4/6/99

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

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

REFERENCE: Education Code Section 45110

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

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

REFERENCE: Education Code Sections 45256 and 45285

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

3.2.10.1 The Commission shall have the right to designate a differential salary rate to compensate incumbents in such special positions for their special skills. Such differential rates shall correspond to the salary schedule percentages between ranges (i.e. 2.5%, 5.0%, 7.5%, etc.).

3.2.10.2 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, as authorized in Personnel Commission Rule 5.2.4, but only as to those specific positions.

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

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

3.2.10.5 Layoffs in classifications with positions established pursuant to this rule shall be conducted pursuant to Chapter 20.

REFERENCE: Education Code Section 45277.

3.2.11 CONFIDENTIAL DIFFERENTIAL: The Board of Education pursuant to Government Code Section 3540.1 may designate certain positions confidential. 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. The Board of Education's determination to make a position "confidential" is subject to review by the Personnel Commission. The Personnel Commission does not have the right to overturn the Board's designation of a position as confidential, but has the right to inform the Board of its position regarding classification and relationships.

3.2.11.1 The Commission shall have the right to designate a differential salary rate to compensate incumbents in such confidential positions for the uniqueness of the position.

REFERENCE: 1. Education Code Sections 45241 and 45256
2. Government Code Sections 3540.1 and 3543.4

3.3 RECLASSIFICATION

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

3.3.1.1 The period between January 15 and February 15 is designated as the window period for review of request for reclassification. During the open period any classified employee may request a review of the employee's position. Upon making a request to the Personnel Commission the employee will be provided a position questionnaire approved by the Personnel Commission Office not later than the last working day prior to February 15. Deadline for return of reclassification request form is February 15.

3.3.1.2 The Personnel Commission will provide the District Human Resources Office with a copy of the completed questionnaire by February 20. The District shall review and comment on the questionnaire and return to the Commission prior to March 20.

3.3.1.3 Each request for review shall be analyzed by the Personnel Commission staff and a written preliminary report provided to the Commission prior to April 15. The preliminary report will be distributed and shall be reviewed prior to the second regular meeting in May by the Commission, the employee, employee organizations, and the District. All parties will have an opportunity to make oral or written remarks and comments regarding the preliminary report at a meeting of the Personnel Commission to be held in May.

The reports and comments will be considered and a final report submitted to the Commission prior to the second regular meeting of the Personnel Commission in June. Following the submission of the final report, the Personnel Commission will take appropriate action.

3.3.1.4 The basis for reclassification of a position shall be the gradual accretion or growth of duties. Recommendations

as to gradual accretion will be made by the Director-Personnel Commission. The Commission shall be the final approving authority.

- 3.3.1.5 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: Education Code Sections 45285, and 45285.5

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

REFERENCE: Education Code Sections 45285 and 45285.5

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

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

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

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

- 3.3.5.1 Reclassification Upward: When all of the positions in a class are reclassified to a higher class, the incumbents of the positions who have been in the class for two (2) or more years may be reclassified by the Commission to the higher class.
Amended 1-1-04.

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

Personnel Commission with the position.
Amended 1-1-04.

- 3.3.5.1.2 In order for an incumbent to be reclassified to the higher class, the basis for the reclassification of the position must be the gradual accretion of duties and not a sudden change occasioned by a reorganization or the assignment of completely new duties and responsibilities. Determination as to the gradual accretion of duties will be on the basis of the guidelines provided by the Rules and Regulations of the Personnel Commission.
- 3.3.5.1.3 An employee who has been reclassified shall be ineligible for subsequent reclassification for a period of at least two (2) years from the date of the reclassification. Amended 1-1-04.
- 3.3.5.1.4 Those incumbents not able to be reclassified with their positions shall have an opportunity to compete in the Personnel Commission's selection process for promotion into the higher class.

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

REFERENCE: Education Code Section 45285

3.3.6 DEFINITION OF GRADUAL ACCRETION: For purposes of these guidelines, two (2) or more years of regular service shall be interpreted to mean assignment for at least two (2) complete years within the class or position. Determination as to gradual accretion will be based on an analysis of data to be supplied by the division or school, as well as the Personnel Commission staff, regarding the following guideline factors:
Amended 1-1-04.

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

REFERENCE: Education Code Section 45285

3.3.7 EFFECT OF REEMPLOYMENT AND ELIGIBILITY LISTS: The reclassification of all positions in a class automatically changes the mandatory reemployment list (if any) for that class. The Personnel Commission shall also review the appropriateness of the current eligibility list for the class to determine whether or not it should be changed. Salary reallocations of classes shall have no effect on lists unless a specific finding to the contrary is made by the Commission. Amended 4/6/99

3.3.8 SENIORITY OF POSITIONS RECLASSIFIED

3.3.8.1 Any employee who is reclassified transfers their seniority into the new classification. Amended 4/6/99

3.4 OCCUPATIONAL HIERARCHIES

3.4.1 The Personnel Commission hereby establishes the following:

3.4.1.1 That the Classified Service is hereby divided into occupational hierarchies.

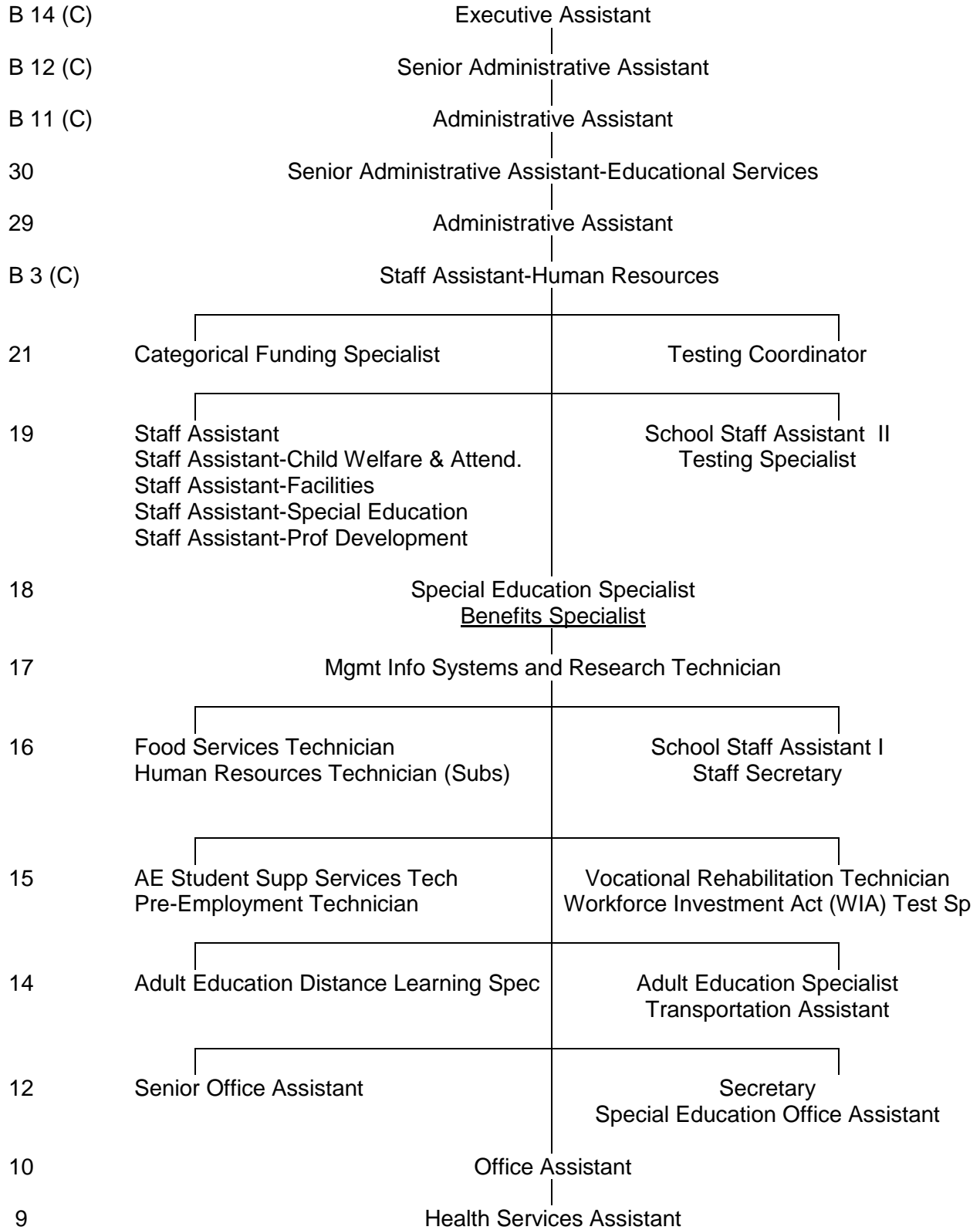
3.4.1.2 That hierarchies are, in turn, subdivided into class series. Class series are developed by vertically separating closely related classes into multiple levels. For example, Food Services Supervisor, Cook, Food Services Satellite Operator, and Food Services Assistant might comprise a food services series. The number of levels in a series is dependent upon class definitions. The number of levels within a class series should reflect substantive differences between jobs, which can be specifically defined. Amended 4/6/99

3.4.1.3 Changes in salary schedules should not be made in such a manner that the salary for a subordinate position could exceed the amount paid that position's supervisor or so compact the salary schedule as to make promotions undesirable. Classification decisions, including salary placement, must be made with consideration given to the Classified Service as a whole; not just the impact on one classification or one occupational series. Amended 4/6/99

3.4.2 With the foregoing rules and guidelines in mind, the Commission hereby establishes the following occupational hierarchies:
(See following pages)

CLERICAL SERIES

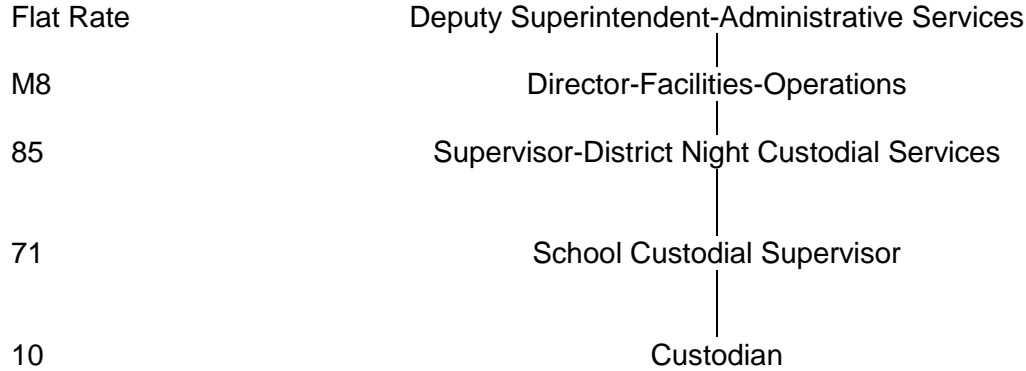
Salary Range



The solid lines indicate the normal career paths (upward and downward)

FACILITIES MAINTENANCE/CUSTODIAL SERIES

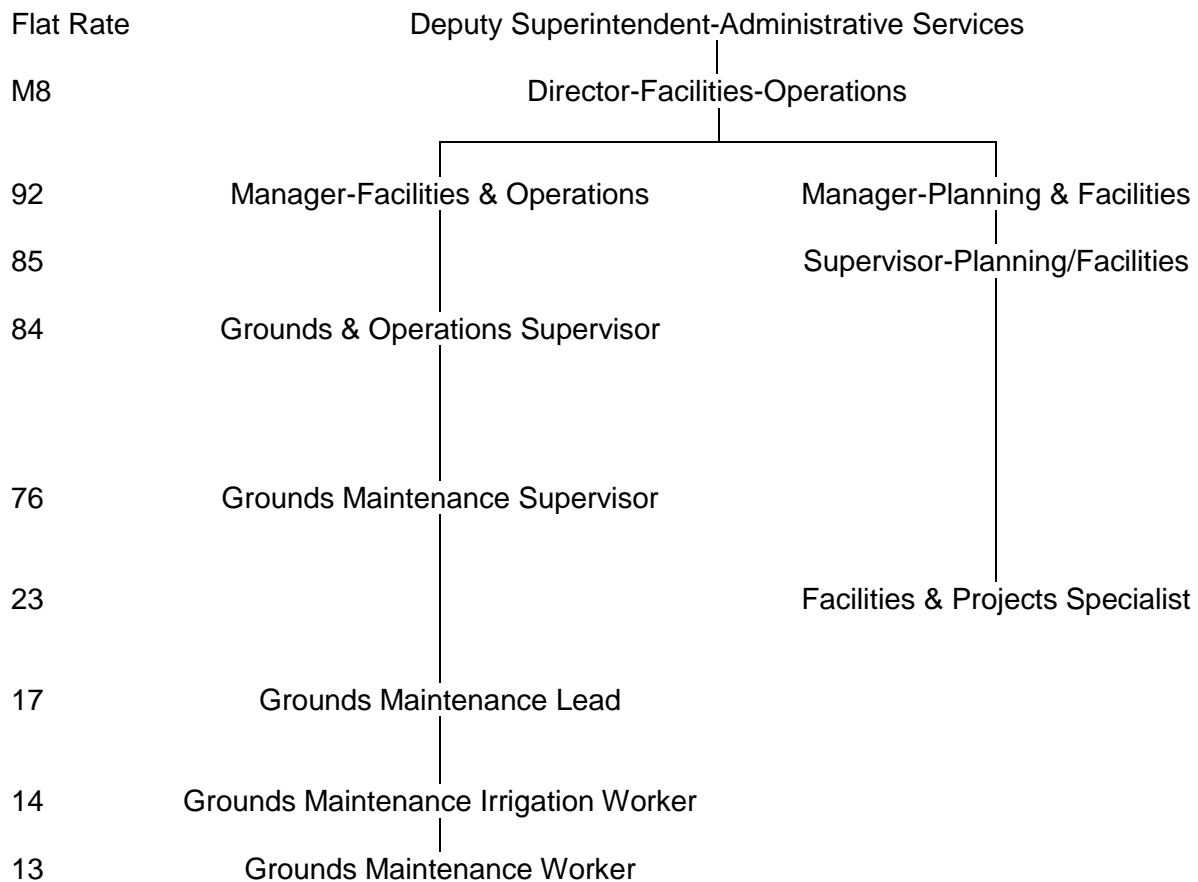
Salary Range



The solid lines indicate the normal career paths (upward and downward)

FACILITIES MAINTENANCE/GROUNDS/PLANNING SERIES

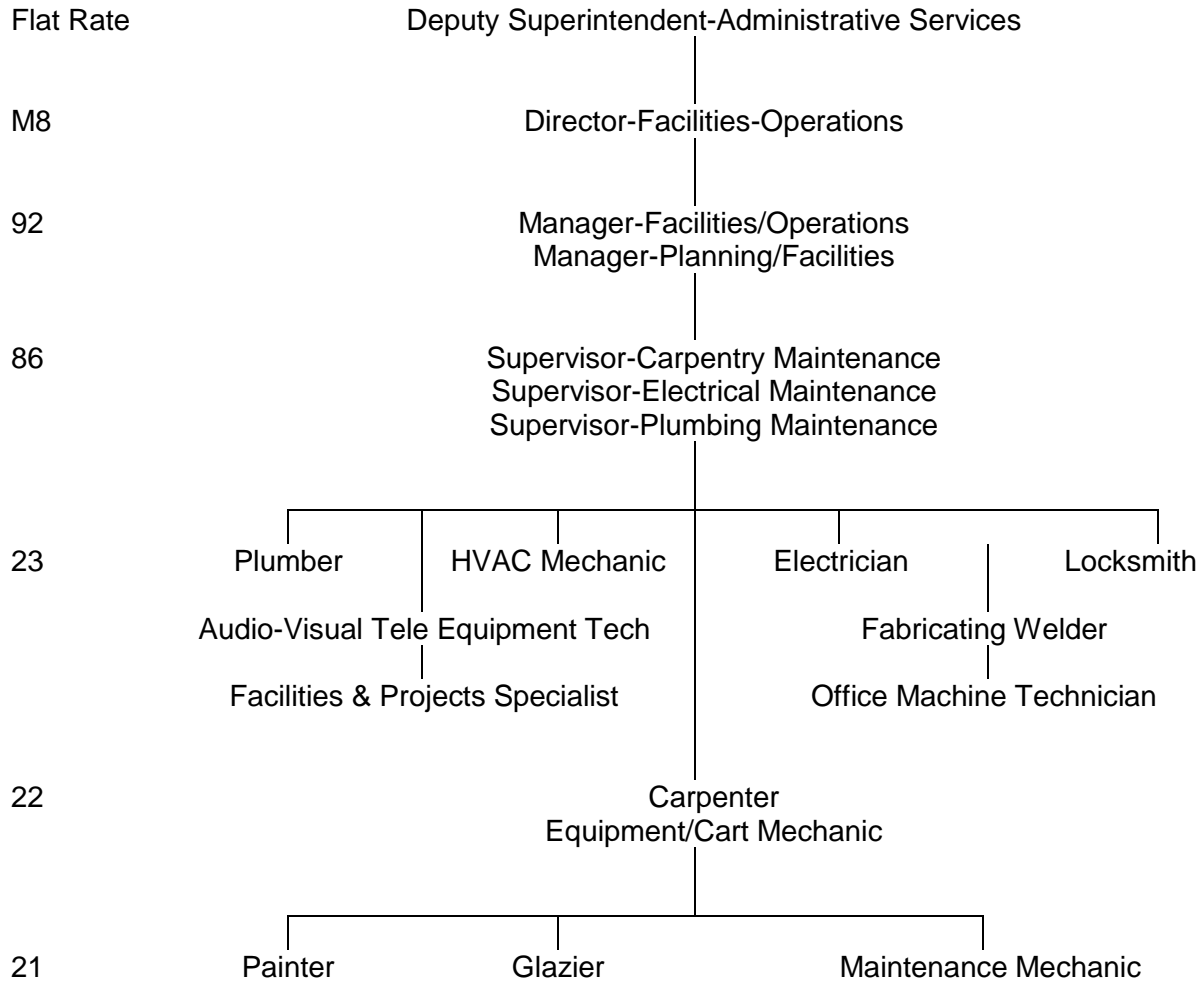
Salary Range



The solid lines indicate the normal career paths (upward and downward)

FACILITIES MAINTENANCE /TECHNICAL SERIES

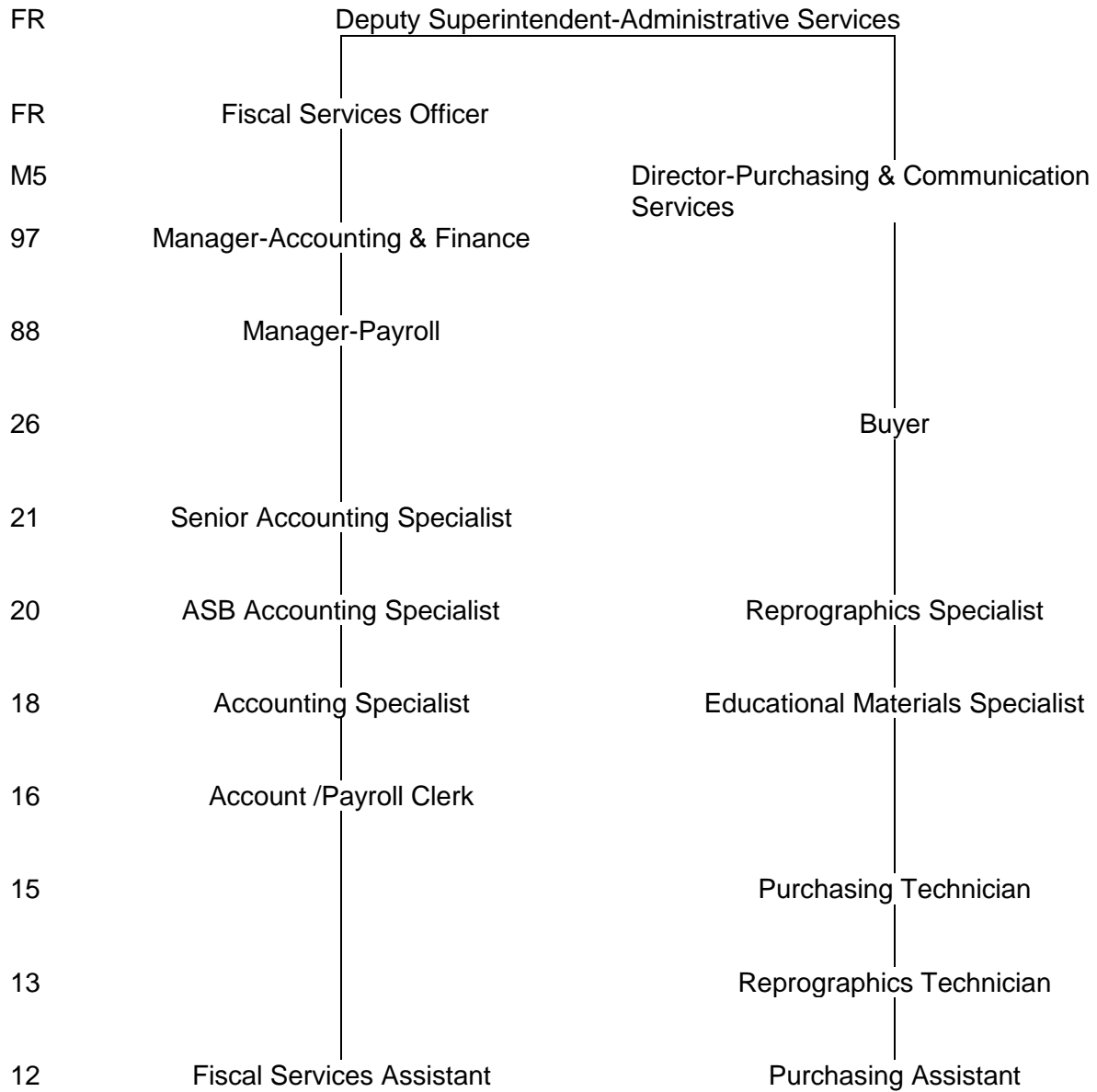
Salary Range



The solid lines indicate the normal career paths (upward and downward)

FISCAL SERVICES / PURCHASING SERIES

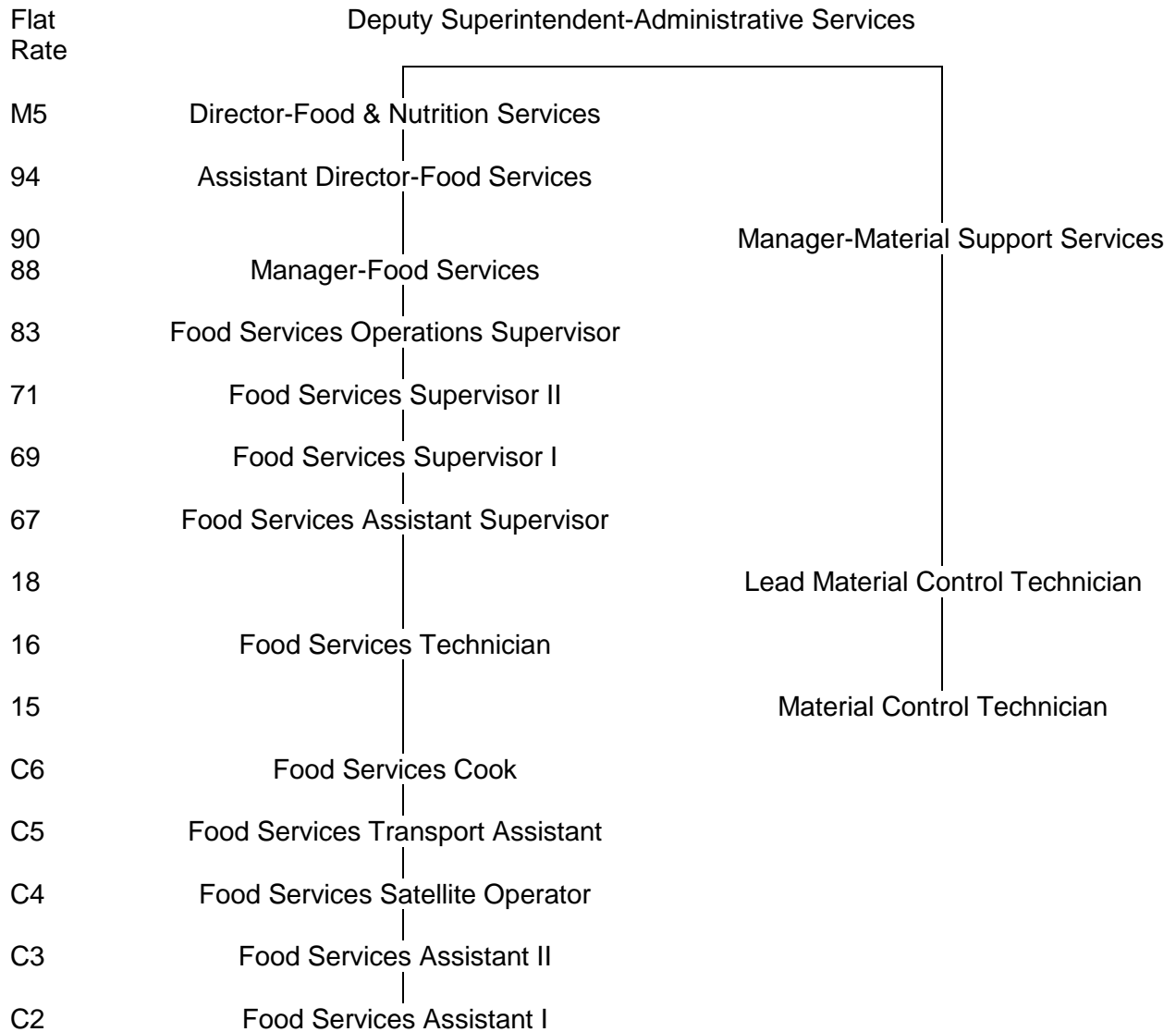
Salary Range



The solid lines indicate the normal career paths (upward and downward)

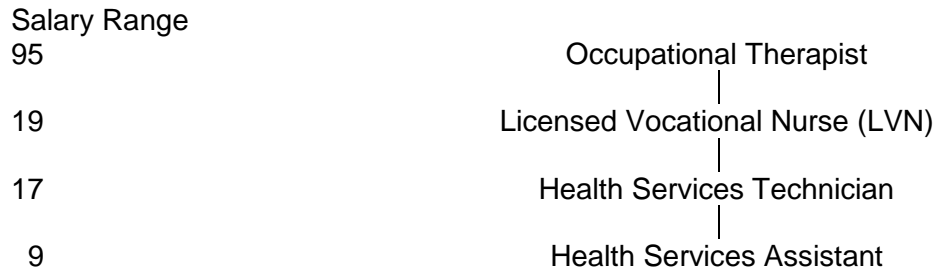
FOOD SERVICES / WAREHOUSE SERIES

Salary Range



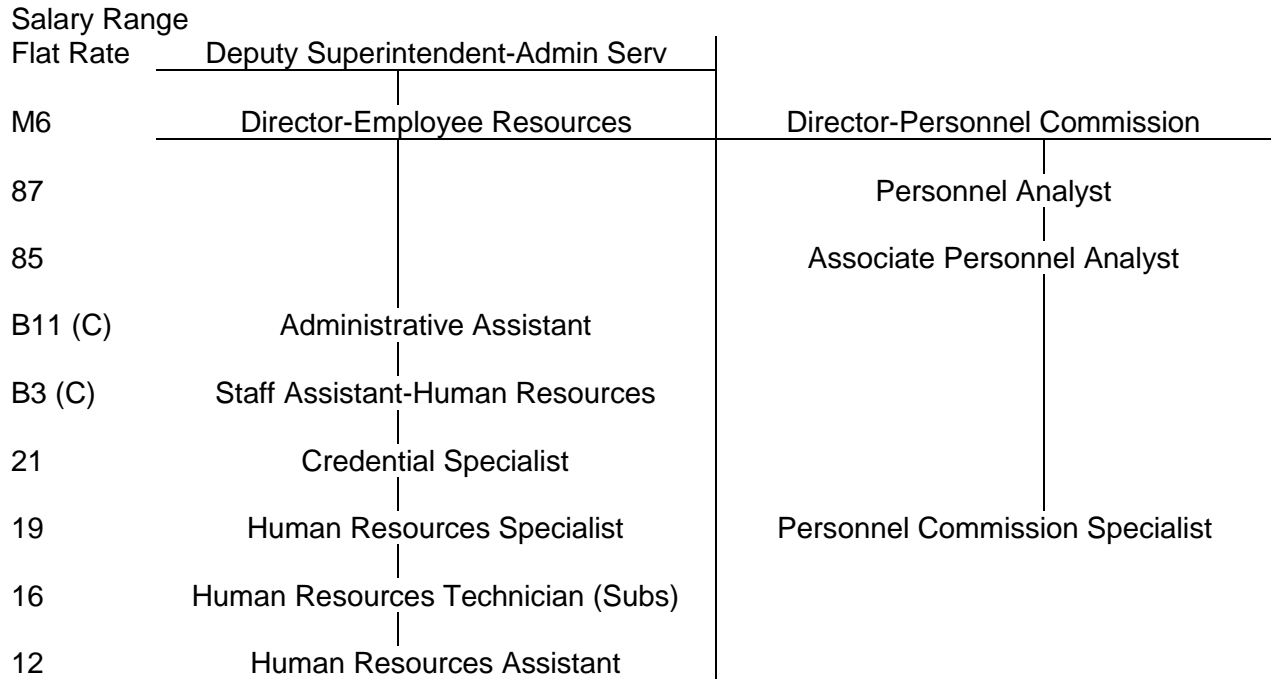
The solid lines indicate the normal career paths (upward and downward)

HEALTH SERVICES SERIES



The solid lines indicate the normal career paths (upward and downward)

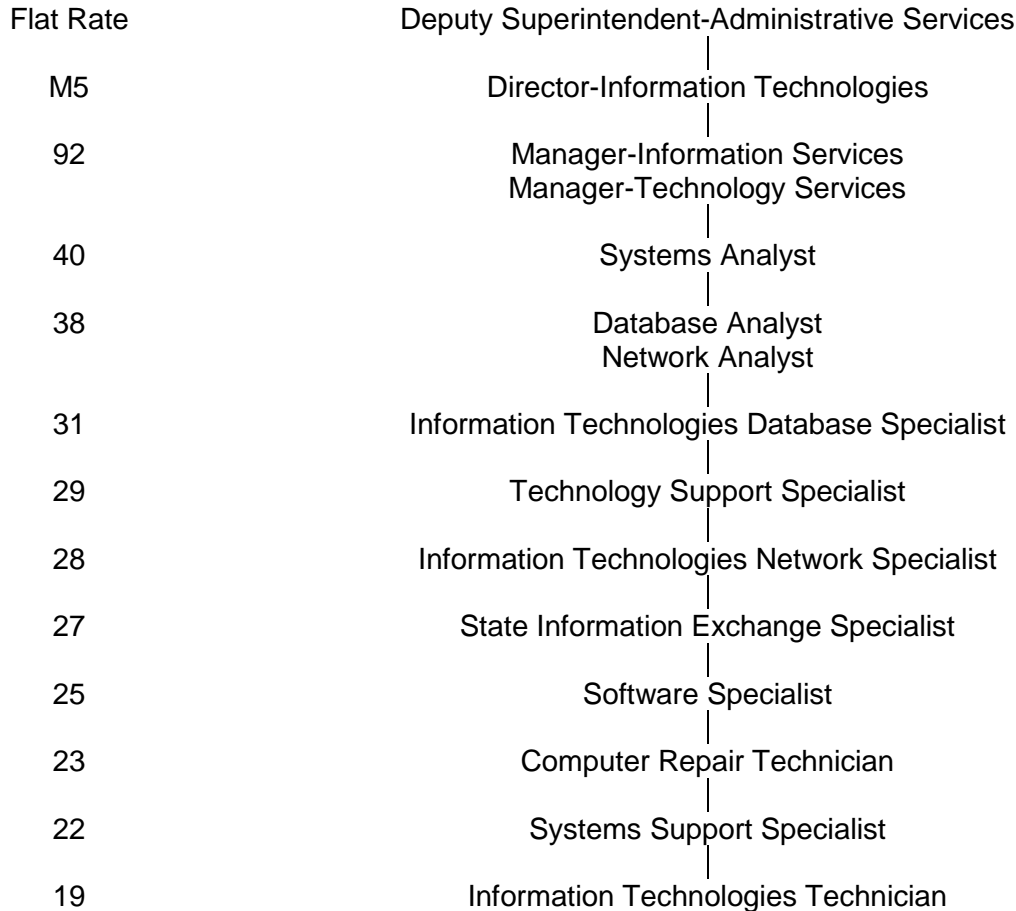
HUMAN RESOURCES/PERSONNEL COMMISSION SERIES



The solid lines indicate the normal career paths (upward and downward)

INFORMATION TECHNOLOGY SERIES

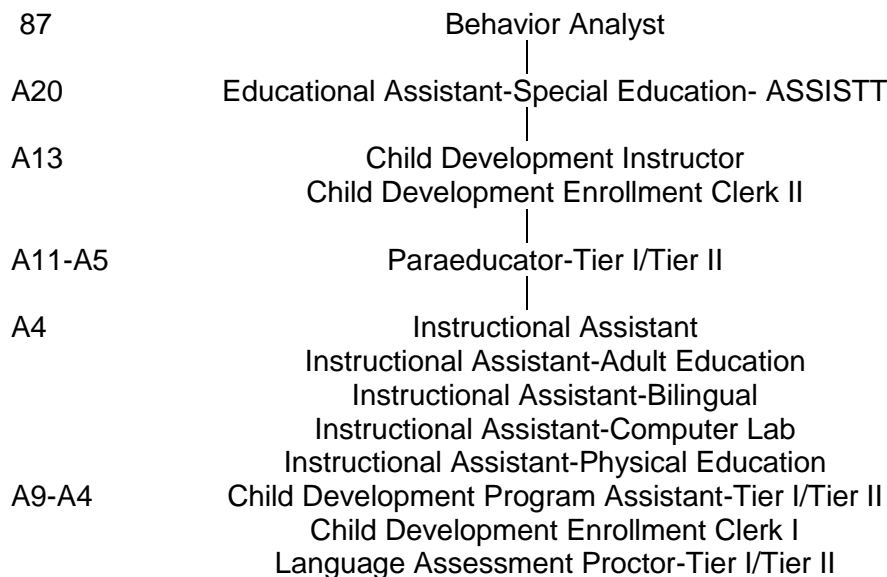
Salary Range



The solid lines indicate the normal career paths (upward and downward)

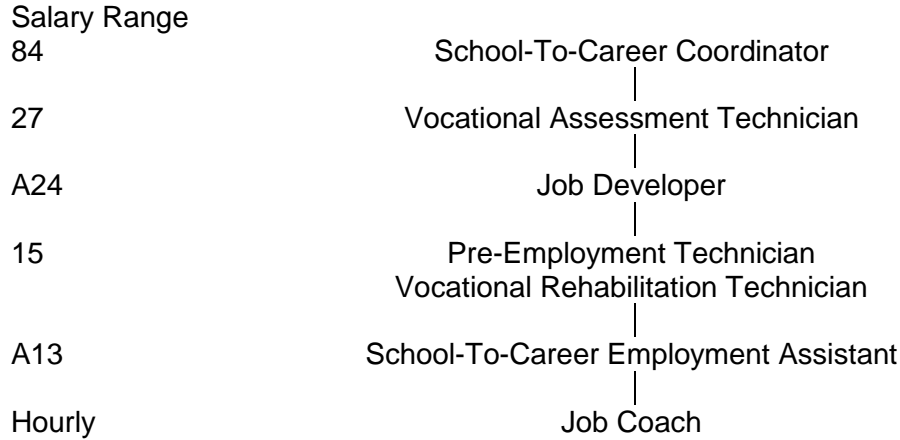
INSTRUCTIONAL SUPPORT SERIES

Salary Range



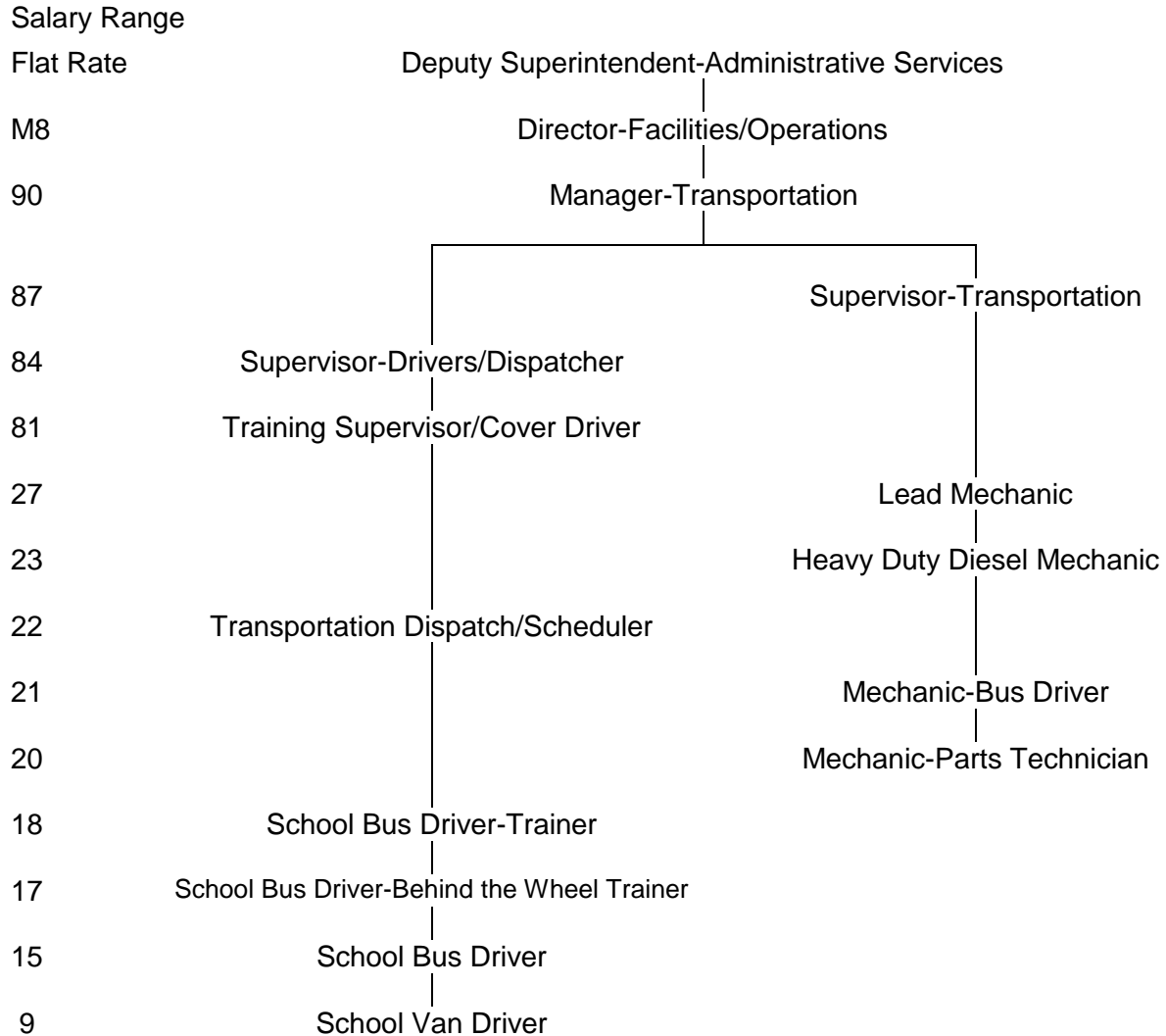
The solid lines indicate the normal career paths (upward and downward)

SCHOOL-TO-CAREER SERIES



The solid lines indicate the normal career paths (upward and downward)

TRANSPORTATION SERVICES SERIES



The solid lines indicate the normal career paths (upward and downward)

NON-SERIES

Salary Range

98	Energy Educator/Manager
96	Public Information Officer
84	High School Site Supervisor
80	Risk Management Analyst
40	Student Attendance Specialist (SARB)
32	Pupil Support Specialist
17	Management Information Systems & Research Technician
A8	Campus Security

No career patterns with Torrance Unified School District

CHAPTER 4

APPLICATION FOR EMPLOYMENT

4.1 APPLICATION

4.1.1 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 shall be signed by the applicant and filed in the Personnel Commission Office on or before the time and date specified in the official vacancy notice.

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

4.1.1.2 For reporting purposes, questions regarding ethnicity, sex, age, and disability, and other protected categories under federal and state laws shall be answered on a separate form. Answers to such questions shall be voluntary, and no other information shall be requested relative to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, age or other protected categories under federal and state laws prior to employment. Questions regarding an applicant's ability to do the job may be asked. Amended 5/18/99 and 4/3/07

4.1.1.3 The application form shall require that each applicant indicate whether or not he/she has been convicted of a crime. If an applicant states that he/she has been convicted of a crime, then such applicant shall be required to provide the Commission with detailed information pertaining to all convictions on a separate form. An applicant may be disqualified based on a conviction as set forth in Rule 4.2.1 to the extent permitted by law. Amended 5/18/99

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

REFERENCE: Education Code Sections 45260 and 45272

4.1.2 GENERAL QUALIFICATIONS OF APPLICANTS: All applicants must possess all other requirements that are specified in the qualifications established for the class. Amended 5/18/99, 12/2/03

4.1.2.1 Every qualified applicant shall have an opportunity to seek, obtain, and hold permanent employment without discrimination because of race, religious creed, religious dress and/or grooming practices, color, national origin, ancestry, disability, medical condition, employee organization membership or non-membership and legal activities related thereto, marital status, sex, lactating employees, age, sexual orientation, or gender identity or other protected categories under federal and state laws (as defined in Government Code Section 12926)

- 4.1.2.2 Residency within the District shall not be a condition for filing applications or offering employment except in the case of restricted positions, which require specific residency.
- 4.1.2.3 No maximum age limit shall be set as a condition for initial or continued employment in the District.
- 4.1.2.4 Applicants with disabilities protected under the law shall be given equal employment opportunity. Amended 4/3/07

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

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

- 4.1.3.1 Credits from an institution not listed in the Directory shall be accepted if such credits are accepted by an accredited institution so listed.
- 4.1.3.2 Where graduation from a four (4) year college or university is required, a degree from a school which this Directory lists as less than a four-year school will not be accepted.
- 4.1.3.3 Credit will be given for work done with an accredited correspondence school, where such work is comparable to that offered by a four-year college or university. Completion of such a correspondence source of study will be considered equivalent to a degree from a regular four-year college or university, and partial completion of such a course of study will be prorated on the basis of percent completed.
- 4.1.3.4 Education beyond high school will be prorated with thirty (30) semester units or forty-five (45) quarter units considered equal to one (1) year of experience or one (1) year of school. Credits in excess of the equivalent of two (2) years, in order to be credited, must be in upper division work.
- 4.1.3.5 College training shall substitute for experience in those circumstances in which it is possible to establish a direct relationship between such training and duties of the class.
- 4.1.3.6 Specific course work and units within a class will not be eligible for substitution. Amended 10/5/94

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

- 4.1.4.1 Where journey level status is required, completion of apprenticeships, possession of a journey license, or salaries at a journey level will be acceptable evidence of such status if the

applicant's work record indicates an appropriate number of years experience in the field.

- 4.1.4.2 In evaluating applications for examination, total qualifying experience will be rounded to the nearest full month.
- 4.1.4.3 In interpreting qualification of promotional candidates, time spent in military service (active) shall be evaluated either as experience in the class from which the candidate left to go into military service or as experience in the service classification whichever shall be to the candidate's advantage.
- 4.1.4.4 Credit will not be given for experience obtained while working overtime, out-of-class (in a non-compensation status), in relief of a supervisor or while working on a part-time job in addition to a regular full-time job, which also provides qualifying experience.
- 4.1.4.5 When qualifying experience is only part of an applicant's total responsibility on a job, credit will be given only for such portion of time actually involved in the qualifying work.
- 4.1.4.6 Experience requirement shall normally be stated in terms of full-time work.
- 4.1.4.7 Unpaid volunteer experience may be accepted provided it is equivalent to the required experience and, upon request by the Commission staff, the applicant provides verification from the volunteer agency specifying the period of service, amount of time worked during this period and the duties and responsibilities performed by the volunteer.
- 4.1.4.8 Part-time volunteer or paid experience will be credited only in proportion to the hours worked as they equate to a normal full-time week. Amended 10/5/94

REFERENCE: Education Code Sections 45260, 45261, and 45272

4.2 DISQUALIFICATION OF APPLICANTS AND CANDIDATES

- 4.2.1 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:
 - 4.2.1.1 Failure to meet the general qualifications of Rule 4.1.2.
 - 4.2.1.2 Advocacy of the overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
 - 4.2.1.3 Conviction, either by a plea or verdict of guilty or nolo contendere, a court decision of a sex or narcotics offense as defined in Education Code Sections 44010 or 44011.

- 4.2.1.4 A history of drug addiction without acceptable evidence of rehabilitation to the extent consistent with federal and state laws.
Amended 4/3/07
- 4.2.1.5 Any conviction, other than a sex or narcotics conviction as defined in Education Code Sections 44010 and 44011, may disqualify an applicant if the criminal conviction(s) is sufficiently serious to require disqualification from employment. The following factors shall be considered in determining whether an applicant's criminal conviction(s) shall disqualify the applicant:
1. Nature, seriousness, and circumstances of the offense(s)
 2. Recency of the conviction
 3. Number of convictions
 4. Relationship of the offense(s) to the position for which applicant has applied
 5. Age of applicant when convicted
- Amended 5/18/99
- 4.2.1.6 A determination that the applicant is a sexual psychopath.
- 4.2.1.7 Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form.
- 4.2.1.8 Practicing any deception or fraud in connection with an examination or to secure employment.
- 4.2.1.9 Obtaining or attempting to obtain either directly or indirectly, privileged information regarding test questions or examination content.
- 4.2.1.10 Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District under these Rules.
- 4.2.1.11 Previous dismissal from the District to the extent permitted by federal and state laws.
- 4.2.1.12 A record of unsatisfactory service within the District as evidenced by a disciplinary action, a work improvement notice, unsatisfactory job performance notice, or a resignation in lieu of dismissal.
- 4.2.1.13 Dishonorable discharge from the Armed Forces of the United States.
- 4.2.1.14 Refusal to furnish testimony, other than self-incriminating testimony, at a hearing or investigation before the Personnel Commission or the Board of Education.
- 4.2.1.15 Unsatisfactory health conditions which clearly indicate that the applicant or candidate would be unable to perform the essential functions of the job with or without reasonable accommodation or would endanger his/her health and safety or the health and safety of others to the extent permitted under federal and state laws.
Amended 5/18/99 and 4/3/07

- 4.2.1.16 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.
- 4.2.1.17 Failure, after due notice, to report for review of any of the above causes for disqualification.
- 4.2.1.18 Failure to report for duty after an assignment has been offered and accepted to the extent permitted under federal and state laws.

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

4.2.2 APPEAL FROM DISQUALIFICATION: Any applicant, candidate, and/or eligible disqualified based on Rule 4.2 shall be notified in writing, indicating the reasons for disqualification and advising the individual that he/she has four (4) days from receipt of notification to appeal the decision to the Director of Classified Personnel.

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

4.2.2.2 Upon receipt of an appeal, the Direction-Personnel Commission shall conduct an investigation. If the decision is in favor of the applicant, the applicant 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) days after being notified. Amended 5/18/99

4.2.2.3 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, the applicant shall be given rights as though the rejection had not occurred. The decision of the Personnel Commission is final and binding on all parties. Amended 5/18/99

4.2.2.4 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: Education Code Sections 45260 and 45261

4.2.3 SUBMITTING PROOF OF VETERAN'S CREDIT: Any applicant who claims veteran's credit must submit DD Form 214 at the time of the employment application and at the time of the examination. Failure to submit DD Form 214 at the time of application shall result in no veteran's credits being considered or added to any passing score.

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

- 4.2.4 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.

REFERENCE: Education Code Sections 45260 and 45261

4.3 EQUAL EMPLOYMENT OPPORTUNITY

- 4.3.1 GENERAL STATEMENT: The Personnel Commission recognizes that the District should make employment decisions that provide equal employment opportunities for all. Amended 5/18/99

- 4.3.2 EQUAL EMPLOYMENT OPPORTUNITY/MERIT SYSTEM: The Personnel Commission will: ensure that all classified personnel actions are conducted without regard to race, color, age, religious creed, religious dress and/or grooming practices, sex, lactating employees, sexual orientation, sexual identity, national origin, Vietnam Era or disabled veteran status, marital status, ancestry, medical condition, physical handicap or disability; or any other protected categories under federal and state law; ensure employment and promotion decisions are made in a manner to further the principles of equal employment opportunity and Merit System principles. Amended 5/18/99, 4/3/07

- 4.3.3 POSITION QUALIFICATIONS: The Personnel Commission will: establish essential position qualifications that can be validated as job oriented and as such do not exclude qualified candidates; encourage recruitment procedures that are directed toward the fulfillment of equal opportunity and ensure that examinations are valid. Amended 5/18/99

CHAPTER 5

RECRUITMENT AND EXAMINATIONS

5.1 RECRUITMENT

5.1.1 ANNOUNCEMENT OF EXAMINATION: The Personnel Commission shall direct and administer the holding of examinations for the purpose of creating lists for the Classified Service.

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

5.1.1.2 Whenever it is necessary to fill existing or anticipated vacancies and an appropriate eligibility list does not exist (as determined by the Commission) the Personnel Commission shall announce each examination on an Employment Opportunities Bulletin, which shall be distributed to all employee work locations and community locations for at least ten (10) days. The Director-Personnel Commission may place advertisements in newspapers, trade and business journals or other media. The Director-Personnel Commission shall make every effort to notify community agencies and to ensure that organizations dealing with protected groups are notified of "open" or "open and promotional" examinations.

5.1.1.3 The Employment Opportunity Bulletin shall contain the title of the class and shall include the following:

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

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

5.1.1.3.3 The qualifications and requirements of the class.

5.1.1.3.4 The salary, benefits, and other compensation.

5.1.1.3.5 The closing date for filing applications.

5.1.1.3.6 The general content of the examination and the types of tests to be given.

5.1.1.3.7 Such other information as will assist interested persons in fully understanding the nature of the employment and procedures necessary to participate in the examination.

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

5.2 EXAMINATIONS

5.2.1 DETERMINATION OF EXAMINATIONS: The Personnel Commission shall determine the standards of proficiency to be required for such examination and determine whether the examination shall be:

5.2.1.1 Open Competitive

5.2.1.2 Promotional

5.2.1.3 Promotional and Open Competitive with the Promotional list taking precedence

5.2.1.4 Merged Promotional and Open Competitive

REFERENCE: Education Code Sections 45272 and 45284

5.2.2 OPEN COMPETITIVE EXAMINATIONS: The entry level classification (class lowest on the salary schedule) with the Classified Service of the District shall always have an open competitive examination and veterans' preference points shall be allowed as specified in Chapter 5.2.15. These examinations shall be open to all qualified applicants.

5.2.3 PROMOTIONAL EXAMINATIONS: Where an adequate field of competition exists within the District and examinations can reasonably be expected to result in three qualified ranks of eligibles, the field of competition may be limited to promotional applicants.

5.2.3.1 Promotional examinations shall be restricted to probationary and permanent employees of the District and former employees on a valid reemployment list who meet the qualifications of the class. Probationary employees (defined as those employees who hold no permanency in any classification in the District) may take the exam but will not be able to be selected off of the promotional eligibility list until completion of their probationary period.

5.2.3.2 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: Education Code Sections 45260, 45261, and 45272

5.2.4 PROMOTIONAL AND OPEN COMPETITIVE EXAMINATIONS: Where an adequate field of promotional applicants does not exist or there is doubt as to its adequacy, the Director-Personnel Commission may advertise the examination among employees and the general public.

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

5.2.4.2 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 willing employees), certification of additional ranks shall then be made from the open list. Example: Only two eligible employees are on the promotional list and there is a valid open list. The two eligible employees on the promotional list will be merged with the existing open list and any veteran's and seniority points will be added to the eligible employees promotional list scores (with the total rounded to the nearest whole percent). The appointing authority will then interview the top three ranks of willing and able candidates off the newly combined Promotional/Open List.

REFERENCE: Education Code Sections 45260, 45261, and 45272

- 5.2.5 MERGED EXAMINATIONS: Upon the recommendation of the Director-Personnel Commission, when an open competitive examination and a promotional examination for a particular class are held at the same time, the Commission may, prior to the examination, authorize certification for employment of candidates from the open competitive eligibility list before the promotional eligibility list has been exhausted, if the candidate on the open list has a higher score before adjustment for preferential credits than the score of the highest available candidate on the promotional list after seniority credit has been added. Amended 6/1/99

REFERENCE: Education Code Section 45284

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

5.2.6.1 If a Qualifications Appraisal interview is required, the interview panel may consist of two persons who may be employees of the District or the Commission, as designated by the Director-Personnel Commission.

5.2.6.2 A candidate who is unsuccessful in an examination may not retake the examination for the same classification for a period of 90 calendar days.

REFERENCE: Education Code Sections 45273 and 45292

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

5.2.7.1 Written examination

5.2.7.2 Practical demonstration of skill

5.2.7.3 Evaluation of applicants' training and experience submitted on application materials

5.2.7.4 Evaluation of training, education, and experience by a qualifications

appraisal interview panel

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

5.2.7.6 Other tests of fitness determined by the Commission

REFERENCE: Education Code Sections 45260 and 45273

5.2.8 SCORING AND WEIGHING OF TESTS: All examinations parts shall be prepared under the direction of the Director-Personnel Commission who shall determine passing scores and assign relative percentage weights to each part. The procedure for setting percentage weights shall be impartial.

REFERENCE: Education Code Sections 45260 and 45261

5.2.9 QUALIFICATIONS APPRAISAL INTERVIEW EXAMINATIONS: If an examination requires the use of a Qualifications Appraisal interview panel, the Director-Personnel Commission shall assure that the following rules are followed:

5.2.9.1 The panel shall consist of two or three persons and at least two persons are necessary to perform screening.

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

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

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

5.2.9.5 Members of the Board of Education or Personnel Commission shall not serve on an interview panel.

5.2.9.6 Interviews shall be electronically recorded and filed in the Commission Office.

5.2.9.7 Scores achieved by the candidate on other parts of the examination shall not be made available to the interview panel.

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

5.2.9.9 In interview panel examinations, ratings accorded competitors shall be expressed in percentages with 70% being the minimum qualifying rating. Ratings shall be made independently by each

interviewer either before or after discussion with other interviewers. Ratings shall be made on forms prescribed by the Director-Personnel Commission, which shall be signed by the interviewer and be delivered to the Director-Personnel Commission or his/her representative. All final markings shall be made in pen. 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.

- 5.2.9.10 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: Education Code Sections 45260 and 45273

- 5.2.10 EVALUATION OF TRAINING AND EXPERIENCE: If a part of the examination is an evaluation of the applicant's 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-Personnel Commission shall determine and weigh the passing scores of the training and experience evaluation.

REFERENCE: Education Code Section 45260

- 5.2.11 ADMISSION TO EXAMINATION: Each applicant whose application has been approved shall be notified a reasonable time in advance of the time, date, and place of the examination, and such notice shall be the applicant's authority to take the examination. Each candidate must provide personal identification (with picture I.D.) at time of examination admittance in order to take the test. Amended 6/1/99

REFERENCE: Education Code Sections 45260 and 45261

- 5.2.12 EXAMINATION PROCEDURES: Competitors in any written test must take the test on the prescribed date unless approved by the Director-Personnel Commission.

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

5.2.12.2 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.

5.2.12.3 A competitor in any examination who places an identifying mark upon test papers other than the identifying mark prescribed at the time of examination) or makes an attempt to disclose to others the identity of the competitor's papers prior to the completion of the examination may be disqualified.

REFERENCE: Education Code Section 45260, 45261, and 45273

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

REFERENCE: Education Code Section 45260, 45261, and 45273

5.2.14 SENIORITY CREDIT: Seniority credit shall be added to the final passing scores of candidates who have permanency with the District or who are on a valid reemployment list. 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 so long as the employee works more than 50% of the hours of the majority of the employees in the classified service. Seniority credit shall be considered as having been lost when the employee has been separated from employment for a period of 39 months or more. The following is the schedule of longevity credits allowed: Amended 10/5/94 and 6/1/99

5.2.14.1 .5 point for service through the first year but less than two years of service.

5.2.14.2 1.0 point after completion of the second full year of service but less than three years of service.

5.2.14.3 1.5 points after completion of the third full year of service but less than four years of service.

5.2.14.4 2.0 points after completion of the fourth full year of service but less than five years of service.

5.2.14.5 2.5 points after completion of the fifth full year of service but less than six years of service.

5.2.14.6 3.0 points after completion of the sixth full year of service and all years thereafter.

REFERENCE: Education Code Sections 45260, 45261 and 45272

5.2.15 VETERAN'S CREDIT: Veteran's Credit is provided as follows: A veteran's credit is available for an individual who has served at least thirty (30) days of active duty in the United States Air Force, Army, Navy, Marine Corps, or Coast Guard between the dates listed below:

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

Persian Gulf....August 2, 1990 to February 28, 1992 Amended 10/5/94

Global War on Terrorism....September 11, 2001 to present Amended 4/3/07

5.2.15.1 In the case of all entrance examinations, only veterans with 30 days or more of service who become eligible for appointment by attaining the passing mark established for the examination, shall be allowed an additional credit of 5 points, which shall be added to the percentages, attained in the examinations by the veterans. Veterans shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentages attained by them in examinations after the credit of 5 points, or 10 points in the case of disabled veterans, is added. Veteran's credit is not available for examinations other than entrance examinations.

5.2.15.4 Veteran's preference shall be granted for initial employment

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

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

REFERENCE: Education Code Sections 45260 and 45261

5.2.17 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 after the date of the order, and such violation shall constitute grounds for the dismissal of the employee or employees guilty of such violation. Amended 6/1/99

REFERENCE: Education Code Sections 45310 and 45311

5.3 REVIEW AND PROTEST OF EXAMINATION:

5.3.1 RETENTION OF ALL EXAMINATION RECORDS: Examination records, including test answer sheets, tape recordings of interviews and the rating sheets of each member of an oral interview panel shall be retained by the Personnel Commission for a period of one (1) year.

REFERENCE: Education Code Section 45274

5.3.2 EXAMINATION RECORDS SHALL BE CONFIDENTIAL: Examination records shall be confidential. Records, such as identifiable ratings of oral panel members and confidential references of previous employers shall not be available for review.

REFERENCE: Education Code Section 45274

5.3.3 AVAILABILITY FOR REVIEW: Examination records shall not be available to the public or to any person for any purpose not directly connected with the examination and shall be considered confidential but shall, within reasonable time limits, be made available to a candidate or his or her representative.

REFERENCE: Education Code Section 45274

5.3.4 REVIEW OF RESULTS: Review of test segments shall be made during the five (5) days following notification. At the time of review the candidate may protest in writing, any part of the examination, outlining the basis for the protest and stating the remedy sought. No candidate may remove or copy information from the examination materials.

REFERENCE: Education Code Section 45274

5.3.5 FAILURE TO FILE PROTEST: Failure to review or file a protest with the Director-Personnel Commission within the review period shall constitute a waiver of the right to appeal that part of the selection process.

REFERENCE: Education Code Section 45260 and 45261

5.3.6 DIRECTOR-PERSONNEL COMMISSION SHALL REVIEW ALL PROTESTS: The Director-Personnel Commission shall review and act upon all protests. The Director may allow more than one (1) answer to a question or may disqualify a question if the protest is valid. If a protest results in any change, the test papers of all candidates will be reviewed and rescored accordingly.

5.3.7 APPEAL TO COMMISSION: The Director-Personnel Commission shall inform the candidate who has submitted the protest of his/her decision and notify the Personnel Commission. That decision shall be in writing and served in person or by certified mail (Return Receipt Requested) to the applicant. This requirement will be deemed to have been met if the Director's decision is sent certified mail to the last known home address on file in the Personnel Commission Office. Failure of the applicant to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. The 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-Personnel Commission rule against the protest, that decision may be appealed to the Personnel Commission. However, the filing of such an appeal shall not stop or otherwise delay the selection (examination) process unless so ordered by the Personnel Commission. All correspondence mailed to applicants shall also be mailed to the Personnel Commissioners.

5.3.7.1 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-Personnel Commission.

5.3.7.2 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 as outlined in Chapter 5.3.7. The decision of the Personnel Commission shall be final and binding on all parties.

5.3.7.3 In promotional examinations for classes for which continuous examination procedures have not been authorized, the review and protest period shall be held prior to regular appointment from the eligibility list.

REFERENCE: Education Code Section 45274

CHAPTER 6

ELIGIBILITY FOR EMPLOYMENT

6.1 ELIGIBILITY LISTS

6.1.1 ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS: After an examination, the names of successful competitors shall be arranged in the order of examination score plus additional points when applicable. The competed list constitutes an eligibility list for that class after approved by the Commission.

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

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.1.2 CONTENTS OF ELIGIBILITY LIST: An eligibility list shall contain:

6.1.2.1 The type of eligibility list: open, promotional, open and promotional with the promotional list taking precedence, or merged promotional and open competitive.

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

6.1.2.3 The adjusted scores of each part of the examination and the weighted total score.

6.1.2.4 The expiration date of each person's eligibility.

6.1.2.5 The signature of the Director-Personnel Commission or designee attesting to the accuracy of the information on the eligibility list.

6.1.2.6 The date the list was ratified or approved by the Personnel Commission.

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.1.3 CERTIFICATION BY PERSONNEL COMMISSION: All eligibility lists shall be certified by the Commission at the first reasonable opportunity.

6.1.3.1 The Director-Personnel Commission may submit eligibility lists for ratification and approval by the Commission subsequent to certification from the list. Appointments may be made from available eligibles pending final decision on the protest and/or appeal and shall not be changed even though the outcome is in the appellant's favor, unless the Commission has ordered it otherwise.

REFERENCE: Education Code Sections 45260 and 45261

6.1.4 TYPES OF ELIGIBILITY: Appointments to position shall be made from:

6.1.4.1 Eligibility Lists: In order of preference:

- 6.1.4.1.1 Reemployment: A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, voluntarily demoted in lieu of layoff, lost their positions because of abolishment or reclassification of positions, exhaustion of illness or accident leave, or return from military duty under conditions set forth in these rules. These eligibles shall take precedence over all other persons eligible for appointment. Amended 6/15/99
- 6.1.4.1.2 Promotional: A list of eligibles resulting from an examination limited to qualified permanent employees only.
- 6.1.4.1.3 Promotional and Open Competitive: Separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.
- 6.1.4.1.4 Merged Promotional and Open Competitive: One list of eligibles resulting from a single examination including seniority credit and/or veteran's credit points.
- 6.1.4.1.5 Open Competitive: A list of eligibles resulting from an examination open to all qualified applicants.

6.1.4.2 Other methods to fill positions:

- 6.1.4.2.1 Transfer: Employees who have requested appointment to a vacant position in the same or related classification. (See Chapter 11.1.10)
- 6.1.4.2.2 Reinstatement: Former employees who have requested reinstatement to a vacant position in a class in which they held permanent status. (See Chapter Sections 11.1.10 and 11.3.1)
- 6.1.4.2.3 Reinstatement: To be eligible for reinstatement former employees shall make a written request to the District's Human Resources Office within 39 months from last day of employment status. Upon approval by the District, the request shall be forwarded to the Personnel Commission if a position is not available. Amended 2/4/97

REFERENCE: Education Code Sections 45260 and 45261

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

6.1.5.1 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.

6.1.5.2 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 merged by the Director-Personnel Commission. Amended 4/3/07

REFERENCE: Education Code Sections 45260, 45261, and 45300

6.1.6 MERGER OF ELIGIBILITY LISTS: If a new examination for a class is given during the 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.

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

6.1.6.2 All candidates on an eligibility list which is terminated 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: Education Code Sections 45260, 45261, 45291, and 45300

6.1.7 REEMPLOYMENT LISTS: There shall be established for each class, as necessary, a reemployment list which shall take precedence over all new applicants in filling vacant positions. This list shall contain the names of all regular classified employees who have been laid off or demoted from any position because of lack of work or lack of funds, abolishment or reclassification of position, exhaustion of illness or accident leave or return from military duty as set forth herein. Amended 6/15/99

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

6.1.7.2 The life of the reemployment list 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.

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

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

- 6.1.8 TERMINATION OF ELIGIBILITY LISTS: An eligibility list is automatically terminated one (1) year from the date of its approval unless extended by the Commission, except that lists established under Rule 6.1.5.1 shall terminate six (6) months from the date of approval.

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

6.1.8.2 An eligibility list may be terminated by the Director-Personnel Commission prior to its expiration when no eligible is available for appointment to a specific permanent position in a class. 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-Personnel Commission will continue to certify three ranks by merging the remaining promotional employees onto the open lists, adding any veteran's and seniority points allowed under these Rules, and then rounding the score to the nearest whole percentage point. The Director-Personnel Commission will then certify the top three ranks of those willing and able eligibles from the newly combined promotional/open lists to the appointing authority for selection. Amended 4/3/07

REFERENCE: Education Code Section 45300

- 6.1.9 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 a part-time assignment shall continue to be eligible for full-time employment, and an eligible who accepts limited-term assignments shall continue to be eligible for regular employment.

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

- 6.1.10 WAIVERS OF CERTIFICATION: An eligible may become 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. Eligibles may revise or withdraw their unavailability. Amended 6/15/99

6.1.10.1 Eligibles who have made themselves unavailable shall not be certified.

6.1.10.2 An available eligible may waive certification without penalty.

REFERENCE: Education Code Sections 45260 and 45261

6.1.11 REMOVAL OF NAMES FROM ELIGIBILITY LISTS: The name of an eligible may be removed from an eligibility list by the Director-Personnel Commission for any of the following reasons:

6.1.11.1 Failure to respond within five (5) days from the date of mailing of an inquiry regarding availability for employment.

6.1.11.2 Any of the causes listed in Chapter 4.2.

6.1.11.3 Failure to respond for a scheduled interview after certification.

6.1.11.4 Termination of employment (Promotional Eligibility List only).

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

6.1.11.6 A written request by the eligible for removal.

6.1.11.7 Failure by the applicant to keep their address and telephone number information current with the Personnel Commission.
Amended 2/4/97

REFERENCE: Education Code Sections 45260 and 45261

6.1.12 NOTIFICATION TO ELIGIBLE OF REMOVAL FROM LIST: The Commission shall notify the eligible of the action and the reasons therefore and shall provide the person with the opportunity to appeal the decision to the Commission within five (5) days of notification. The decision of the Commission shall be final.

REFERENCE: Education Code Sections 45260 and 45261

6.2 CERTIFICATION FROM EMPLOYMENT LISTS

6.2.1 APPOINTING AUTHORITY: The appointing authority shall be the Board of 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.

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

6.2.2.1 Reemployment List: Persons previously laid off because of lack of work, lack of funds, abolishment or reclassification of position, or exhaustion of medical leave or return from military duty under conditions set forth in these rules shall be assigned to vacant positions in order of seniority. Amended 6/15/99

6.2.2.2 Voluntary Demotion/Lateral Transfer/Reinstatement: All qualified persons requesting increase or decrease in hours, voluntary

demotion, lateral transfer or reinstatement shall be considered to fill vacant positions. Amended 6/15/99

6.2.2.3 Promotional Eligibility List: When the vacancy is not filled through the procedures listed in 6.2.2.1 or 6.2.2.2 above, the top three (3) ranks of available eligibles shall be certified.

6.2.2.4 Open Competitive List: When the vacancy cannot be filled from the promotional list, the top three (3) ranks of available eligibles on the open competitive list shall be certified.

REFERENCE: Education Code Section 45272

6.2.3 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.

6.2.3.1 For classes approved for continuous testing, certification shall be made at the time the Director-Personnel Commission can first reasonably certify three ranks of eligibles to the appointing authority.

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.2.4 CERTIFICATION AND APPOINTMENT FROM ELIGIBILITY LISTS:

6.2.4.1 The Director-Personnel Commission shall determine the availability of eligibles and shall certify the names of all eligibles who are ready and willing to accept appointment to a position to be filled. Certification shall be in accordance with Rules 6.2.2 and 6.2.3.

6.2.4.2 The appointing authority or a representative of the appointee shall, within five (5) days of the interview, make a selection from the persons presented and shall notify the Director-Personnel Commission who shall see that the necessary employment procedures are carried out. Amended 2/4/97 and 6/15/99

6.2.4.3 If a candidate who was declared eligible for appointment to a position fails to keep an interview appointment or declines the appointment, the appointing authority may fill the vacancy from the remaining eligibles or may request certification of eligibles in accordance with Rule 6.2.6.

6.2.4.4 In the event that there is more than one authorized position in the class to be filled, the Director-Personnel Commission may certify additional ranks of eligibles to allow approximately two more ranks than the number required to fill the number of vacancies.

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

6.2.5 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 merged promotional/open and then the open competitive lists to allow a choice among three (3) ranks of eligibles.

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

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.2.6 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-Personnel Commission. When a request for additional eligibles is made, the Director-Personnel Commission shall:

6.2.6.1 Certify additional eligibles as required.

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

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

6.2.6.4 Request authorization from the Commission to refuse further certification should the investigation determine that refusal of appointment by an eligible is in fact not voluntary.

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.2.7 WITHHOLDING NAMES FROM CERTIFICATION: The name of an eligible may be withheld from certification by the Director-Personnel Commission when the eligible:

6.2.7.1 Expresses unwillingness or inability to accept appointment.

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

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

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

6.2.7.5 Any reason listed in Chapter 4.2

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

6.2.8 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-

Personnel Commission, the Director-Personnel Commission 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: Education Code Sections 45260, 45261, and 45272

6.2.9 RESTORATION TO ELIGIBILITY LIST: When the Director-Personnel Commission 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 subject to ratification by the Commission, under the following circumstances:

6.2.9.1 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 Commission that the applicant is now willing and able to accept an appointment.

6.2.9.2 When the withholding or removal was for a reason listed in Chapter 4.2 and the defect or reason for ineligibility has since been corrected.

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.2.10 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-Personnel Commission 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 knowledge were adequately tested in the examination.

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.2.11 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) days from the date notification is mailed. Failure to respond within the above stated time may result in removal from the eligibility list.

6.2.11.1 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-Personnel Commission 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.

6.2.11.2 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.

6.2.11.2.1 The date of the offer of appointment shall be the date on which the eligible is notified by the Director-Personnel Commission of selection.

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

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

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

REFERENCE: Education Code Sections 45260, 45261, and 45272

6.2.12 SELECTIVE CERTIFICATION: If a position within a classification requires a special skill, license, or language requirement, pursuant to Rule 3.2.10, the Director-Personnel Commission 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: Education Code Sections 45260, 45261, 45272, and 45277

6.2.13 CONFIDENTIALITY OF TEST SCORES: Test scores shall be considered confidential information and release of information shall be limited to:

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

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

6.2.13.3 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.

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

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

CHAPTER 7

APPOINTMENT TO CLASSIFIED POSITIONS

7.1 PROCEDURES FOR APPOINTMENT

7.1.1 PROCEDURES FOR SELECTION: The appointing authority shall interview the top three ranks certified from an appropriate employment or eligibility list. Appointments shall be made from eligibles having the first three (3) ranks on the list who are ready and willing to accept the position(s). Amended 11/15/94

REFERENCE: Education Code Sections 45160, 45161 and 45272

7.1.2 APPOINTMENT: Upon selection, each prospective employee shall receive the official offer of employment by Human Resources conditional upon meeting pre-employment conditions and pending approval action by the Board of Education. The offer shall include the time and date to report for duty and the salary at time of hire. Appointment to the position shall be subject to review by the Personnel Commission, approving that the employee was hired pursuant to these Rules and the Education Code and the Board of Education action to employ as the employer, except for Commission positions. Amended 11/15/94, 5/4/99

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

REFERENCE: Education Code Sections 45260 and 45261

7.1.3 DISCRIMINATION PROHIBITED: No applicant or eligible certified for appointment shall be discriminated against because of his/her political or religious beliefs religious dress and/or grooming practices or affiliations, race, color, national origin or ancestry, sex, age, lactating employees, marital status, employee organization membership or nonmembership and legal activities related thereto, physical or mental disability, medical condition, sexual orientation, or gender identity or other protected categories under federal and state laws. No questions shall be asked relating to these matters during the selection and interview stages of employment. Amended 11/15/94, 5/4/99, 12/2/03

REFERENCE: 1. Education Code Section 45293
2. Government Code Sections 12941, 12926 and 12940

7.1.4 NEPOTISM: The Commission's Rule governing the employment of immediate family in classified positions is intended to establish a minimum exclusion regarding supervisor/subordinate relationships. Amended 11/15/94

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

duties on the same or related work assignment; c. Both employees have the same immediate supervisor. Amended 5/4/99

7.1.4.2 For purpose of this Rule, immediate family or relative shall include the father, mother, grandparents, or grandchild of the supervisor/administrator or his/her spouse, registered domestic partner as well as the spouse's son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, or any person residing in the immediate household of the supervisor/administrator. Amended 11/15/94, 4/3/07

REFERENCE: Government Code Section 12940;
Education Code Section 45260

7.2 PROVISIONAL APPOINTMENT

7.2.1 REASONS FOR PROVISIONAL APPOINTMENT: The appointing authority may make a provisional appointment when the Director-Personnel Commission certifies that:

7.2.1.1 No eligibility list exists for the class or;

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

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

7.2.2 LENGTH OF PROVISIONAL APPOINTMENT: A provisional appointment may accumulate to a total of ninety (90) working days. In no case may a person be employed in full-time provisional assignments for a total of more than 126 working days in any fiscal year. Amended 11/15/94

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

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

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

7.2.3.2 Satisfactory evidence is presented indicating:

7.2.3.2.1 Adequate recruitment effort has been and is being made.

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

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

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

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

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

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

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

REFERENCE: Education Code Sections 45287, 45288, and 45289

7.2.5 QUALIFICATIONS OF PROVISIONAL APPOINTEES: Provisional appointees must meet the qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be made by the Director-Personnel Commission prior to appointment.

REFERENCE: Education Code Sections 45260 and 45261

7.2.6 STATUS OF PROVISIONAL EMPLOYEES: To be eligible for appointment to a regular position, the provisional appointee must qualify by competitive examination for a place on the eligibility list.

7.2.6.1 Time served in provisional status shall not be counted as credit toward permanency or completion of the probationary period for the class in which the provisional appointment is made or provide the person with any other vested rights in the position or class.
Amended 11/15/94

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

7.2.7 TERMINATING PROVISIONAL APPOINTMENT: The services of a provisional appointee shall be terminated within twenty (20) 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. Provisional appointments are employed at-will and can be terminated without cause. Amended 11/15/94, 5/4/99

REFERENCE: Education Code Sections 45260 and 45261

7.3 SPECIAL APPOINTMENTS

7.3.1 PROCEDURE FOR EMERGENCY APPOINTMENT: If it should become necessary in time of actual emergency to fill positions in the Classified Service to prevent the stoppage of public business, and persons on eligibility lists are not available, the Board, through its authorized management representatives, may request the Director-Personnel Commission to make emergency appointments without reference to eligibility lists, for a period not to exceed fifteen (15) working

days. The Director-Personnel Commission shall comply with the request if appropriate.

7.3.1.1 When such emergency appointments are to be made by the Director-Personnel Commission, 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: Education Code Section 45290

7.3.2 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-Personnel Commission subject to ratification by the Personnel Commission.

REFERENCE: Education Code Sections 45260, and 45261

7.3.3 SUMMER AND OTHER RECESS PERIOD ASSIGNMENTS: When the Board establishes temporary positions during the recess period between the regular September to June school year, 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 (except as noted below) among employees requesting summer/recess period employment in the class to which the position has been allocated by the Personnel Commission. If there are insufficient employees in the class, appointment shall be made on the basis of seniority of employees who are qualified to perform the duties of the position, as determined by the Director-Personnel Commission.

7.3.3.1 The first priority to fill a school secretary vacancy during a summer or other recess period shall go to the current school secretary assigned to that site that has applied for summer or other recess period work. If the site school secretary does not apply for a vacancy at the site, then the seniority process outlined in Chapter 7.3.3 shall apply.

7.3.3.2 The first priority to fill an Instructional Assistant vacancy during a summer recess period shall go to the assistant that is on regular assignment to the teacher that has been assigned to teach the summer school class. If the assistant does not apply for the summer school vacancy then the seniority process outlined in Chapter 7.3.3 shall apply.

7.3.3.3 The first priority to fill a Campus Security vacancy during a summer recess period shall go to the individuals that are on regular assignment at that specific high school site based upon classification seniority. If Campus Security individuals assigned to the high school do not apply for the summer school vacancy then

the seniority process outlined in Chapter 7.3.3 shall apply.
Amended 1/9/96

REFERENCE: Education Code Section 45261

7.4 LIMITED-TERM / SUBSTITUTE APPOINTMENTS

7.4.1 POSITIONS DEFINED: Positions established to perform duties which are not expected to exceed six (6) months and appointments in lieu of an absent employee shall be designated limited-term positions.

REFERENCE: Education Code Section 45286

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

7.4.2.1 A limited-term appointment may not exceed six (6) months. A substitute assignment may not exceed the duration of the absence of a regular employee. The appointment may be in the same class as that of the absent employee or the duties may be reduced in level and the appointment may be made to a lower class.

7.4.2.2 Limited-term positions shall be classified by the Director-Personnel Commission and shall be subject to ratification by the Personnel Commission.

REFERENCE: Education Code Sections 45286 - 45290

7.4.3 ELIGIBILITY FOR APPOINTMENT: Limited-term and substitute appointments shall be made from eligibility lists and employment lists.

7.4.3.1 If an eligible is appointed from an eligibility list to a substitute or limited-term position, the individual shall continue to be eligible for substitute or limited term appointments in the same or 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.

7.4.3.2 When no eligible is available to accept a substitute or limited- term position, the Director-Personnel Commission is authorized to certify applicants or candidates for appointment.

REFERENCE: Education Code Sections 45286 - 45290

7.4.4 COMPENSATION FOR LIMITED-TERM/SUBSTITUTE ASSIGNMENTS: When a regular employee is given a limited-term appointment in a higher class in lieu of all or part of the employee's regular appointment, the rate of pay in the second class shall be the rate of that class which is next above the employee's regular

rate, and which will provide at least a 2 1/2% salary increase, but not more than the highest rate applicable to that class. Amended 11/15/94, 5/4/99

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

7.4.4.2 Limited-term/substitute employees in the Instructional Assistant series and the Clerical/Secretarial series shall be paid on the following basis:

7.4.4.2.1 Limited-term/substitute employees in the Instructional Assistant series shall be paid at the rate of pay as described in Section 7.4.4. Amended 5/4/99

7.4.4.2.2 Limited-term/substitute employees in the Clerical series shall be paid at step I of the Office Assistant salary range. Long-term assignments of more than ten consecutive days in the same position shall be paid at step I of the salary range for the Clerical class in which the employee is working commencing on the eleventh consecutive day.

7.4.4.3 All other limited-term employees shall be paid at step 1 of class for regular appointments in the class. Amended 5/4/99

REFERENCE: Education Code Sections 45286 - 45290, and 45309

7.4.5 RIGHTS AND BENEFITS DURING LIMITED-TERM ASSIGNMENTS: Regular employees who are serving in limited-term assignments while retaining regular status in another class shall continue to earn and be granted all rights and benefits of a regular employee.

7.4.5.1 No credit toward completion of probation shall accrue from service in a limited-term or substitute appointment.

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

7.4.6 TERMINATION OF LIMITED-TERM APPOINTMENT: A limited-term or 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.

7.4.6.1 A limited-term or substitute employee is an at-will employee and may be dismissed without cause. Amended 5/4/99

REFERENCE: Education Code Sections 45260, and 45261

7.4.7 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 as serving in his/her regular position, and such assignment shall not be considered to be a separation from service. Added 5/4/99

- 7.4.8 VOLUNTARY RETURN TO REGULAR POSITION: Such employee may, with the approval of the appointing authority, voluntarily return to their regular position or to a position in the class of their 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. Added 5/4/99

REFERENCE: Education Code Sections 45260 and 45261

7.5 EMPLOYMENT OF PERS RETIREES AND VOLUNTEERS

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

REFERENCE:

1. Education Code Section 45135
2. Government Code Section 21220 et seq

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

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

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

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

- 7.5.4 EMPLOYMENT OF VOLUNTEER ASSISTANTS: Volunteer assistants may be assigned noninstructional 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 assistants in lieu thereof.

The non-teaching volunteer assistant shall not be an employee of the school district and shall serve without compensation of any type or other benefits accorded to employees of the district. Amended 4/3/07

REFERENCE: Education Code Sections 35021, and 45349

CHAPTER 8

MINIMUM PREEMPLOYMENT REQUIREMENTS

8.1 HEALTH EXAMINATIONS

8.1.1 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. The examination shall be 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 (Mantoux), or if the skin test is positive the employee shall submit to an x-ray of the lungs, or if the employee has previously tested positive, the employee shall submit to 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 District. For new employees, evidence of compliance with the requirements of this section must be on file prior to the first day in paid status.

8.1.1.1 Subsequent to employment, and as a condition of continued employment with the District, employees are 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. Amended 1/17/95

8.1.1.2 The District may exempt, for a period not to exceed 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.

8.1.1.3 Pre-employment tuberculin test costs are paid for by the District. The District shall provide the skin test and/or x-ray exam at District cost for all continuing employees. Amended 1/17/95

8.1.1.4 The District reserves the right to designate a particular clinic or hospital where the test will be administered.

REFERENCE: 1. Education Code Sections 45122, 45260, 45261, and 49406

8.1.2 MEDICAL EXAMINATIONS: Every individual appointed to a position in the Classified Service, or exempt from the classified service shall 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 job-related medical examination as determined by the District. The examination will be administered after the initial conditional offer of employment prior to 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 District and may include a psychological examination. Costs associated with this examination shall be borne by the District. The medical examination shall be related to the duties as approved in the class specifications. Amended 7/6/99

8.1.2.1 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 District of the findings. Reasonable accommodations may be made pursuant to federal and state laws. Amended 7/6/99, 4/3/07

8.1.2.2 If the District's physician proposes to disqualify the individual, the doctor shall provide the District with a statement describing the specific condition, the limitations that have resulted in the individual's disqualification and the specific duties the applicant cannot perform.

8.1.2.3 In consultation with the District's physician, the District shall make a determination if reasonable accommodation can be made for the individual pursuant to federal and state laws. If the determination is that reasonable accommodation can be made, the appointment shall be made. If the determination is that reasonable accommodation cannot be made, the individual will be so notified by the District and informed of appeal rights to the Personnel Commission. Amended 7/6/99, 4/3/07

REFERENCE: Education Code Sections 45122, 45260 and 45261

8.1.3 RETURN TO WORK AND UNSCHEDULED EXAMS: An employee may be required to undergo a physical (including a psychological) examination at any time there is deemed to be reasonable cause by the District Administration. Amended 7/6/99

8.1.3.1 Every employee returning from illness/injury leave of absence may be required to submit to a medical examination to verify sufficient fitness to return to the employee's regularly assigned duties. Amended 4/3/07

REFERENCE: Education Code Sections 45122, 45160 and 45161

8.1.4 SCHOOL BUS DRIVER MEDICAL EXAMINATIONS: In addition to any other examination that may be required by these Rules, school bus drivers must have a valid medical card as required by State Law. The District shall arrange for and reimburse the costs of the school bus drivers' examination for District employees.

REFERENCE: Education Code Sections 45122, 45260 and 45261

8.1.5 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.

- 8.1.5.1 The appeal process shall be conducted pursuant to Personnel Commission in Chapter 2.2.1.
- 8.1.5.2 The District may employ outside medical experts to give an advisory opinion. Amended 4/3/07
- 8.1.5.3 The Commission, based on evidence submitted and the advice of medical experts, 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: Education Code Sections 45122, 45260 and 45261

8.2 CRIMINAL RECORDS

- 8.2.1 FINGERPRINTING: Every new employee shall submit to a criminal records check in accordance with prescribed procedures or shall forfeit eligibility for employment. The District will notify each such employee where and when to report for fingerprinting, which shall take place prior to employment. The cost of any fingerprinting shall be borne by the District.

REFERENCE: Education Code Section 45125

- 8.2.2 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.

- 8.2.2.1 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 persons' application form. If there is a criminal record, which was undisclosed and not reviewed prior to employment, the District shall order the dismissal of the employee to the extent permitted under federal and state laws.

- 8.2.2.2 If an employee is dismissed because of information disclosed on the criminal records report, the employee shall be removed from all eligibility lists to the extent permitted under federal and state laws.

- 8.2.2.3 The District 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) days of notification. If an appeal is filed, the Personnel Commission shall conduct an appeal hearing using the procedures outlined in Chapter 4.2.2. The decision of the Commission shall be final and binding on all parties.

REFERENCE: Education Code Section 45125, 45260, and 45261

8.3 PREEMPLOYMENT REQUIREMENTS

- 8.3.1 INCOME TAX WITHHOLDING FORM: New employees shall submit the W-4

form for both State and Federal taxes to the Payroll Office at the time of employment.

8.3.2 PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) APPLICATION: New employees shall submit a completed application form to the District at the time of employment. This rule shall apply only to those employees entitled to retirement benefits.

8.3.3 SOCIAL SECURITY NUMBER: New employees shall submit their social security number to the District at time of employment.

8.3.4 LOYALTY OATH: All new employees must take and subscribe to an oath or affirmation of loyalty as required by Article XX, Section 3 of the California State Constitution and the Education Code. Refusal to sign the loyalty oath shall cause the initial employment offer to be withdrawn.

REFERENCE 1. Education Code Sections 45260, and 45261
2. California State Constitution, Article XX

8.3.5 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.

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

8.3.5.2 No proof will be required until after an initial offer of employment has been made by the District. Every individual will be required to provide verification as required in this rule.

8.3.5.3 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.

8.3.6 REQUIREMENT TO NOTIFY DISTRICT OF ANY STATUS CHANGE: Employees shall notify the District whenever their status changes, such as new address, new telephone number, marital or registered domestic partner_status for health and welfare benefits, increase or decrease in the number of dependents for health and welfare benefits and tax purposes, name of person(s) to notify in case of emergency, etc. Amended 4/3/07

8.3.7 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 District. As these licenses and/or certificates are renewed, copies of them must also be filed in the District within ten (10) working days of receipt by the employee.

8.3.8

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: Education Code Sections 45260 and 45261

CHAPTER 9

EMPLOYMENT STATUS

9.1 EMPLOYEE ASSIGNMENTS

9.1.1 CERTIFICATION OF ASSIGNMENTS: The Director-Personnel Commission shall certify that all persons appointed to a position in the classified service are appointed in accordance with these Rules and Regulations.

9.1.1.1 All changes of status for classified employees shall be in accordance with these Rules and Regulations.

9.1.2 PAYROLL REVIEW: The Director-Personnel Commission shall make a periodic review of the classified payroll roster; the roster shall include names, titles, periods for which payments are to be made, and rates of pay. If, upon review of a payroll report, it is found that any person named thereon has been employed in violation of any provision of the Merit System Act or these Rules and Regulations, notice of such violation shall be reported to the District and the Personnel Commission. Whenever the Commission, after a public hearing, finds that any appointment has been made in violation of Rules and Regulations of the Commission as they apply to examination procedures, the Commission may order that no salary warrant thereafter be drawn to the employee so appointed for services rendered after said order. Any violation of this article or the Rules and Regulations of the Commission as they apply to examination procedures shall constitute grounds for dismissal of the employee or employees guilty of such violations.

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

9.2 EMPLOYEE ASSIGNMENT

9.2.1 ASSIGNMENT DATA: Upon initial employment and upon each change in classification thereafter, each classified employee shall be furnished two copies of the following:

9.2.1.1 The employee's class specification.

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

9.2.1.3 Work location, duty hours, prescribed work week, and work year.

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

9.2.1.5 One copy shall be retained by the employee and the other copy shall be signed and dated by the employee and returned to his/her supervisor.

The provisions of this section do not apply to short-term, limited-term, or provisional employees, as defined herein. Amended 4/3/07

REFERENCE: Education Code Section 45169

- 9.2.2 CHANGE OF ASSIGNMENT: The District shall have the right to assign and reassign daily hours of work and shifts to meet the operational needs of the District. When such a change is made, for more than five (5) days, the employee's supervisor shall notify the employee and the Director-Personnel Commission in writing stating the effective date of the change.

REFERENCE: Education Code Sections 45169, 45260, and 45261

9.3 PROBATIONARY STATUS

- 9.3.1 INITIAL PROBATIONARY PERIOD: Each new employee appointed from an eligibility list shall serve an initial probationary period of six months or 130 days, whichever is longer, of paid service in one classification in the classified service excluding days absent while on leave; these new employees shall be evaluated prior to the end of the third and fifth month of service. For positions designated by the Personnel Commission 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 while on leave; these new employees shall be evaluated prior to the end of the third, eighth and eleventh months of service. Amended 4/3/07

- 9.3.1.1 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: Education Code Section 45301

- 9.3.2 COMPLETION OF INITIAL PROBATION: Each probationary classified employee shall be evaluated during the probationary period as required by the Personnel Commission.

- 9.3.2.1 A probationary classified employee who is to be dismissed shall be given written notice of termination from probationary status prior to the date on which the probationary period ends.

- 9.3.2.2 A probationary employee may be suspended and dismissed at any time without cause and without a right of appeal.

REFERENCE: Education Code Sections 45270, 45301, 45302, and 45305

- 9.3.3 SUBSEQUENT PROBATION FOR PERMANENT EMPLOYEES: A permanent classified employee who has been promoted, or laterally transferred to a related class shall serve a new probationary period in the class before attaining permanency in that class. Amended 1-1-04.

- 9.3.3.1 During such new probationary period, the employee shall be returned to a position in his/her former class, which is equivalent to the one held prior to the change in classification. Amended 8/3/99 and 4/3/07.

- 9.3.3.2 The person to be so returned shall be notified in writing of the impending action and the reasons for it.

REFERENCE: Education Code Sections 45260 and 45261

9.4 PERMANENCY

9.4.1 PERMANENT STATUS: Upon successful completion of the prescribed initial probationary period outlined in Chapter 9.3.1, a classified employee shall be deemed to be a part of the permanent classified service.

REFERENCE: Education Code Section 45301

9.4.2 RIGHTS/BENEFITS/BURDENS OF PERMANENT EMPLOYEES: Every permanent classified employee shall be entitled to all rights, benefits, and burdens conferred by law, the Personnel Commission's Rules and Regulations, or by action of the Board of Education for classified employees in the same or like classification. A permanent classified employee may only be removed for cause or as a result of layoff because of a lack of work or lack of funds. Amended 12/13/94 and 8/3/99

9.5 MUTUALLY AGREED EMPLOYMENT STATUS AND CLASSIFICATION CHANGE

9.5.1 MUTUALLY AGREED EMPLOYMENT STATUS AND CLASSIFICATION CHANGE: When the Director-Personnel Commission determines, and the Personnel Commission approves, an employee may be appointed without competitive examination to a vacant position in a class other than one for which the employee was examined if:

9.5.1.1 The employee requests the change of classification in writing.

9.5.1.2 The appointing authority approves the change of classification in writing.

9.5.1.3 The employee has completed a probationary period.

9.5.1.4 The employee has the minimum qualifications of the class to which the class change is requested, and is capable of satisfactorily performing the essential duties of the new class.

9.5.1.5 The change of class does not result in an immediate pay increase.

9.5.1.6 The seniority of the employee in the class to which a move is requested and higher classes is greater than that of any person on a reemployment list for the class to which the move is requested.

9.5.1.7 The class change is for the efficiency of the service.

9.5.2 PROBATION REQUIREMENTS: If **all** of the above conditions are met, then an employee shall not be required to serve another probationary period in the employee's new class unless the employee is serving a probationary period on the date of effectiveness of the class change. If the employee is on probation at the time of the class change, then Rule 9.3.3 (Subsequent Probation For Permanent Employees) shall apply, with credit granted for any probation time

served in the class from which the employee was in at the time of the effectiveness of the change. Adopted 9/18/01

REFERENCE: Education Code Sections 2, 45260, 45261, and 45279

CHAPTER 10

HOURS OF EMPLOYMENT AND OVERTIME

BARGAINING UNIT MEMBERS REFER TO CONTRACT

10.1 WORK SCHEDULES

10.1.1 WORKWEEK: The workweek of classified employees shall consist of five (5) consecutive days of eight (8) hours per day or forty (40) hours per week. These Rules shall not be construed to restrict the extension of a regular workday or workweek when such is necessary to carry on the business of the District. Unless exempted by the Board and approved by the Personnel Commission, the extension of the workday shall be on an overtime basis. Extensions of the workweek shall be on an overtime basis. Amended 1/17/95 and 8/3/99

10.1.1.1 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.

10.1.1.2 When the District determines that a classified employee may be assigned a workweek which includes Saturday or Sunday, the District shall notify the employee in writing. Amended 8/3/99, 4/3/07

10.1.1.3 The District may establish a nine (9) hour per day, eighty (80) - hour biweekly work schedule for some positions or classes of positions, based upon the needs of the District and/or the desires of its classified employees. Amended 1/17/95

10.1.1.4 The District may establish a ten (10) hour per day, forty (40) hour, four (4) consecutive day workweek for some positions or classes of positions, based upon the need of the District and/or the desires of its classified employees. Amended 1/17/95

REFERENCE: Education Code Sections 45127, and 45132

10.1.2 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.

10.1.3 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 his/her regular assignment adjusted upward to reflect the longer hours, effective with the next pay period. If there are other part-time (as defined in this Rule) classified employees in the same class at the work site of the employee, the position shall be declared vacant and filled pursuant to Chapter 10.1.9.

10.1.3.1 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 compensatory 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. Amended 4/3/07

REFERENCE: Education Code Section 45137

- 10.1.4 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: Education Code Section 45308

- 10.1.5 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 who work 20 hours or more per week 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: Education Code Section 45136

- 10.1.6 MEAL PERIODS: All employees who are scheduled to work over six (6) consecutive hours per day shall be assigned an unpaid, uninterrupted meal period of at least thirty (30) minutes to a maximum of one (1) hour. The meal period shall be assigned at or about the midpoint of each work shift. This provision does not apply to employees working six hours or less, or assigned to a split shift. Amended 4/3/07

REFERENCE: Education Code Section 45180

- 10.1.7 REST PERIODS: Each employee shall be allowed a fifteen (15) minute rest period during any four (4) hour working period, which is not interrupted by a meal period or similar break. Such rest period must be taken at the assigned work site, unless prior approval has been obtained from the immediate supervisor.

10.1.7.1 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.

REFERENCE: Education Code Sections 45260 and 45261

- 10.1.8 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 so long as the period of unpaid time exceeds

one (1) hour or more. Split shifts of one (1) hour or less shall be paid at the appropriate regular or overtime rate of pay. Bonafide scheduled meal periods of at least 30 minutes but no more than one hour as required under these Rules shall not be considered a split shift and shall be considered as unpaid time.
Amended 4/3/07

10.1.9 ADDITIONAL HOURS FOR REGULAR EMPLOYEES: When additional hours are assigned to a regular employee the assignment shall be offered to the employee in the same class with the greatest seniority. If the senior employee declines the assignment, it shall be offered to the remaining employees in the class in descending order of seniority.

10.1.10 ADDITIONAL HOURS FOR PART-TIME EMPLOYEES (INSTRUCTIONAL ASSISTANTS ONLY): When additional hours are assigned to a part-time instructional assistant position or a full time instructional assistant position less than 12 months on a permanent basis, the assignment shall be offered to the most senior part-time employee or full-time employee in the same class at that site. If the senior employee declines the assignment, it shall be offered to the remaining employees in the class at the site in descending order of seniority.
Amended 8/3/99

REFERENCE: Education Code Sections 45260 and 45261

10.2 OVERTIME AND RELATED MATTERS

10.2.1 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, (unless exempted as set forth in 10.1.1) 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.

10.2.1.1 For employees who are assigned to work an average of four (4) hours per day during the regular work week, all hours worked beyond the workweek of five (5) consecutive days shall be compensated at the overtime rate commencing on the sixth and seventh day of work. For employees who are assigned to work an average of less than four (4) hours per day during the regular workweek, all hours worked beyond eight (8) hours on the sixth day shall be compensated at the overtime rate, and all hours worked on the seventh day shall be compensated at the overtime rate.

10.2.1.2 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.

10.2.1.3 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: Education Code Sections 45128, 45131, and 45203

10.2.2 ASSIGNMENT OF OVERTIME: Overtime work shall be equitably assigned among all qualified classified employees who are in the same class, the same organizational unit, and the same work location. In assigning overtime the supervisor may consider:

10.2.2.1 Special skills and/or training required for an employee to perform the specific work and

10.2.2.2 The availability of regular part-time classified employees to perform the required work.

REFERENCE: Education Code Sections 45260 and 45261

10.2.3 CALL BACK TIME: Whenever an employee is called back to duty or required to return to duty by his/her supervisor or designee after the conclusion of the normal work shift, and after the employee has left the work location, the employee shall receive a minimum of two (2) hours pay or pay for the hours worked at the appropriate salary rate, whichever is greater.

REFERENCE: Education Code Sections 45260 and 45261

10.2.4 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 (2) hours pay or pay for the hours worked at the appropriate salary rate, whichever is greater.

REFERENCE: Education Code Sections 45260 and 45261

10.2.5 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 below 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 (1-1/2) times the employee's regular rate of pay.

REFERENCE: Education Code Section 45130

10.2.6 EXEMPT POSITIONS ARE:

Manager-Food Services

Manager – Payroll

Manager - Material Support Services
Manager – Transportation
Manager - Information Services
Manager – Facilities & Operations
Manager – Planning/Facilities
Manager-Technology Services
Assistant Director – Food Services
Public Information Officer
Manager – Accounting and Finance
Energy Educator/Manager
Director – Purchasing & Communication Services
Director – Food & Nutrition Services
Director – Information Technologies
Director - Employee Resources
Director – Personnel Commission
Director – Facilities-Operations
Fiscal Services Officer
Deputy Superintendent-Administrative Services

Amended 1/17/95, 2/4/97, 6/3/03, 9/2/03, 4/3/07, 4/1/13

REFERENCE: Education Code Section 45130

CHAPTER 11

TRANSFER OF EMPLOYEES

BARGAINING UNIT MEMBERS REFER TO CONTRACT

11.1 TRANSFER

11.1.1 DEFINITION OF VACANCY: For purposes of this Rule, a vacancy shall occur when a new position is created or an incumbent of a position terminates employment with the District.

DEFINITION OF TRANSFER:

11.1.1.1 A transfer is a relocation of an employee to the same class in a different department or job site or to a related classification within the same salary range.

REFERENCE: Education Code Sections 45260 and 45261

11.1.2 VOLUNTARY TRANSFER: Transfer requests may be granted at any time, subject to the availability of positions and the qualifications of the applicant. Employees who have requested a transfer shall be given first consideration for a transfer based upon, but not limited to seniority, job performance, qualifications, and the needs of the District.

REFERENCE: Education Code Sections 45260 and 45261

11.1.2.1 Denial of a Transfer: An employee denied transfer may request, in writing, and shall be granted a meeting with the administrator who made the decision to deny the transfer. Following such meeting(s), an employee may request and shall receive written rationale for the denial of the transfer request. A copy of the written response shall become part of the employee's personnel file.

REFERENCE: Education Code Sections 45260 and 45261

11.1.3 ADMINISTRATIVE ASSIGNMENT (INVOLUNTARY TRANSFER): The Superintendent or designee, subject to the approval of the Board of Education, retains the right in accordance with these Rules to transfer staff at any time such assignment is in the best interest of the District. The employee shall be provided an official copy of the transfer notice within five (5) days.

REFERENCE: Education Code Sections 45260 and 45261

11.1.3.1 Conference To Discuss Involuntary Transfer: An employee who has been involuntarily transferred may, within five (5) days after receiving written notification, request and shall be granted a conference with the appropriate administrator to discuss the administrative reassignment. An employee may also request a written rationale for the administrative assignment and the benefits

that would accrue to the District as a result of the transfer. A copy of the written rationale shall become part of the employee's personnel file.

REFERENCE: Education Code Sections 45260 and 45261

- 11.1.4 LATERAL TRANSFER: An employee may request voluntary transfer or be administratively assigned from his/her position to another position in a related class. The determination of whether classes are sufficiently related to permit transfer between them shall be made by the Director-Personnel Commission. The following factors shall be considered in determining whether classes are sufficiently related: 1) duties, 2) minimum qualifications, and 3) examination content. The extent to which two classes are comparable may depend on additional factors deemed appropriate by the Personnel Commission.

REFERENCE: Education Code Sections 45260 and 45261

- 11.1.5 PERIOD FOR LATERAL TRANSFER: A permanent employee who transfers to a position from a class in which the employee has not previously completed a probationary period shall be considered probationary in the new class for the standard probationary period outlined in Chapter 9.3.1 of these Rules. At any time during this probationary period, the employee may be returned (transferred) to his/her former class without the right of appeal.

REFERENCE: Education Code Sections 45260 and 45261

- 11.1.6 NO ADVERSE EFFECT 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 these Rules.

REFERENCE: Education Code Sections 45260 and 45261

- 11.1.7 SENIORITY CREDIT: Transfers shall have no adverse impact upon the employee's seniority. When transfers are between positions in the same class, the employee shall retain his/her full seniority in that class. Amended 1/17/95

REFERENCE: Education Code Sections 45260 and 45261

- 11.1.8 POSTING OF VACANCY NOTICES: Vacancy notices shall only be required to be distributed if there is no current and valid eligibility list in existence. In such instances, the vacancy notice will be posted pursuant to the procedures outlined in Chapter 5.1.

REFERENCE: Education Code Sections 45260 and 45261

- 11.1.9 SUBMISSION FOR REQUEST FOR TRANSFER: An employee may request a transfer to a vacant position by submitting a request for transfer on the approved form to the Personnel Commission Office no later than the closing date for those vacancies advertised in Classified Position Announcement(s).

REFERENCE: Education Code Sections 45260 and 45261

11.1.10 CERTIFICATION OF NAMES TO INTERVIEW: The Director-Personnel Commission shall maintain a transfer and reinstatement list. Whenever the appointing authority requests an eligibility list to fill an existing vacancy in a classification, the Director-Personnel Commission shall also submit the appropriate transfer and reinstatement list (if any). The appointing authority may fill a vacant position by either a selection from the transfer and reinstatement list or eligibility list.

REFERENCE: Education Code Sections 45260 and 45261

11.1.11 APPEAL RIGHTS: An employee may utilize the Personnel Commission complaint procedure if the employee believes that the procedure for transfer has not been followed in accordance with these Rules. The complaint procedure shall not be available to challenge the District's right to transfer or deny a transfer in accordance with these Rules.

REFERENCE: Education Code Sections 45260 and 45261

11.2 DEMOTIONS

11.2.1 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. Demotion requests shall be in accordance with Chapter 11.1.10.

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

11.2.2 INVOLUNTARY DEMOTION: An involuntary demotion is a disciplinary action and, as such, is subject to the disciplinary procedures in these Rules and Regulations. Amended 1/17/95

11.2.2.1 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 without cause and without right of appeal. Amended 1/17/95 and 9/7/99

11.2.2.2 Salary placement for employees who are involuntarily returned shall be to their former range and appropriate step. Amended 1/17/95 and 9/7/99

REFERENCE: Education Code Sections 45260 and 45261

11.3 RESTORATIONS

11.3.1 RESTORATION OF FORMER EMPLOYEE: A former permanent employee who resigns 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. Resignation in good standing shall be determined by the Personnel Commission. In addition, the former employee may be reemployed to a vacant position in a lower-related class 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: Education Code Sections 45260 and 45261

- 11.3.2 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: Education Code Sections 45260 and 45261

- 11.3.3 EFFECTS OF REINSTATEMENT: Reinstatement or reemployment of a current or former employee as a permanent employee shall have the following effects:

11.3.3.1 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.

11.3.3.2 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.

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

11.3.3.4 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.

11.3.3.5 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: Education Code Sections 45260, 45261, and 45309

CHAPTER 12

EMPLOYEE PERSONNEL FILES

BARGAINING UNITS REFER TO CONTRACT

12.1 PERSONNEL FILES

12.1.1 MAINTENANCE OF FILE: Personnel files will be kept in the Human Resources Office.

12.1.2 INSPECTION OF PERSONNEL FILES BY EMPLOYEE: All personnel information concerning an employee is confidential. An employee shall have the right to inspect his/her personnel file upon request provided that the request is made at a time when the employee is not actually required to render services to the District. An employee shall have access to all material in his/her personnel file, except that such materials subject to inspection shall not include confidential ratings, reports or records which were:

12.1.2.1 Obtained prior to the person's employment.

12.1.2.2 Prepared by identifiable examination committee members.

12.1.2.3 Obtained in connection with a promotional examination.

REFERENCE: Labor Code Section 1198.5, Education Code Sections 45260, 45261, and 44031.

12.1.3 INSPECTION BY OTHERS: Only those persons with a "need to know" or "right to know" may access an employee's personnel file. An employee may authorize in writing, a representative to review their file.

REFERENCE: Education Code Sections 45260 and 45261

12.1.4 SIGNATURE/DATE REQUIRED: Written material placed in an employee's personnel file shall be signed and dated by the person originating the document. (See Chapter 13.1.9).

REFERENCE: Education Code Sections 45260 and 45261

12.1.5 PERSONNEL FILE LOG MAINTAINED: The Human Resources Office shall keep a log indicating the persons who have examined a personnel file as well as the date such examinations were made. Such log and the employee's personnel file shall be available 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: Human Resources 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: Education Code Sections 45260 and 45261

12.1.6 DEROGATORY INFORMATION: Information of a derogatory nature, shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. Such review shall take place during normal business hours and without loss of pay to the employee. The affected employee shall be furnished with a copy of the proposed material ten (10) 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. Amended 4/3/07

REFERENCE: Education Code Sections 44031, 45260 and 45261

12.1.7 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 Chapter 18. The timeline for appealing shall coincide with the time limits outlined in Chapter 18. The only cause for appeal shall be a claim that the District has failed to follow procedures set forth in these Rules. Amended 4/3/07

REFERENCE: Education Code Sections 45260 and 45261

12.1.8 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 Permanent Record, and shall not be removed.

REFERENCE: Education Code Sections 45260 and 45261

CHAPTER 13

PERFORMANCE EVALUATIONS

BARGAINING UNITS REFER TO CONTRACT

13.1 GENERAL POLICY

13.1.1 POLICY STATEMENT: The immediate supervisors have the responsibility for evaluating each employee assigned to their department. The evaluation shall cover the major areas of the employee's responsibilities and duties. Unsatisfactory evaluations require an explanation of unsatisfactory performance and specific suggestions for improvement.

REFERENCE: Education Code Sections 44031, 45260 and 45261

13.1.2 ADMINISTRATION OF PERFORMANCE APPRAISAL SYSTEM: The District shall administer a performance appraisal system for all members of the classified service.

REFERENCE: Education Code Sections 45260 and 45261

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

13.1.3.1 Probationary Employees: See 9.3.1.

13.1.3.2 Permanent Employees: Permanent employees shall be evaluated each year.

13.1.3.3 Special Evaluations: An employee may be given a special evaluation at any time during employment if deemed necessary by the supervisor. (See paragraph 13.1.9).

REFERENCE: Education Code Sections 45260 and 45261

13.1.4 EVALUATION RATER: Each employee is to be evaluated by his/her immediate supervisor. In cases where the employee is assigned to more than one department, site, and/or classification, the employee shall receive separate evaluations for each assignment.

13.1.4.1 Designated supervisory employees shall rate and sign the formal evaluation form. Supervisors may receive input from employees having a lead function over the employee to be evaluated.

REFERENCE: Education Code Sections 45260 and 45261

13.1.5 EVALUATION FORMS: Performance evaluations shall be made on forms prescribed by the District.

REFERENCE: Education Code Sections 45260 and 45261

13.1.6 EVALUATION MEETING: In completing the performance evaluation form, the supervisor shall have a conference with the employee. The meeting shall be scheduled by the supervisor to allow time for a discussion with the employee. (See Chapter 3.2.3 Class Specification).

REFERENCE: Education Code Sections 45260 and 45261

13.1.7 SPECIFIC RECOMMENDATIONS FOR IMPROVEMENT: Any below standard evaluations shall include recommendations for improvement and provisions for assisting the employee in implementing any recommendations made.

REFERENCE: Education Code Sections 45260 and 45261

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

13.1.8.1 One copy to the employee being evaluated.

13.1.8.2 One copy to the supervisor performing the evaluation.

13.1.8.3 One copy for inclusion in the employee's personnel file.

REFERENCE: Education Code Sections 45260 and 45261

13.1.9 DEROGATORY INFORMATION: Employees shall be provided with copies of derogatory written material ten (10) days before it is placed in the employee's personnel file. The employee shall be given an opportunity during normal working hours and without loss of pay to initial and date the material and to prepare a written response to such material. The employee shall obtain approval from the immediate supervisor of such opportunity in advance but not later than five (5) days into the ten (10) day grace period. The written response shall be attached to the material and placed in the personnel file. Amended 10/5/99, 4/3/07

REFERENCE: Education Code Sections 44031, 45260 and 45261

13.1.10 APPEAL OF PROCESS: An employee may use the complaint procedure as outlined in Chapter 18 only on the grounds that these Rules and Regulations have been violated in the preparation, and completion of the performance rating form. There is no appeal of the content of any performance evaluation. Amended 10/5/99

REFERENCE: Education Code Sections 45260 and 45261

CHAPTER 14

VACATIONS

BARGAINING UNITS REFER TO CONTRACT

14.1 VACATIONS

14.1.1 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 as approved by the Board of Education. The Board of Education provides that an employee earns vacation on a monthly basis at the rate of:

<u>Fiscal Year of Employment</u>	<u>Days per Month</u>
1st year through 3rd year	1
4th year through 9th year	1.25
10th year through 15th year	1.50
16th year and up	1.75

14.1.2 RATIO FOR EARNING VACATION/MANAGEMENT, SUPERVISORY & CONFIDENTIAL EMPLOYEES: Classified management, supervisory and confidential employees shall earn vacation as approved by the Board of Education. The Board of Education provides that management employees earn vacation on a monthly basis at the rate of: Amended 1-1-04

<u>Vacation Allowance Per Year</u>	<u>Days per Month</u>
All Classified Management	2
All Confidential	2
All Supervisory	2 at the beginning of the 21 st year of service in the District

14.1.3 VACATION RATE OF PAY: All vacation shall be paid at the employee's regular rate of pay earned in his/her permanent classification including any longevity.

14.1.4 PART-TIME EMPLOYEES: Regular employees working less than full time shall earn vacation benefits in direct proportion to full-time employees.

14.1.5 VACATION CREDIT FOR PARTIAL MONTH: An employee in paid status for fifty percent (50%) or more of the working days in the month shall receive vacation credit for that month.

14.1.6 PROBATIONARY EMPLOYEES VACATION RIGHTS: Probationary employees shall not have a right to take vacation until the completion of six (6) months of employment.

- 14.1.7 VACATION SCHEDULING FOR LESS THAN 12 MONTH EMPLOYEE: Regular employees who work less than twelve (12) months shall 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, the difference due the District will be made by deduction on the individual's paycheck.
- 14.1.8 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 the supervisor. The employee shall be allowed to take all earned vacation in one unbroken period if it is the employee's wish to do so.
- 14.1.8.1 In determining the vacation schedule for individual departments, the supervisor shall give employees the choice of times available on the basis of seniority.
- 14.1.9 CREDITING OF VACATION TO EMPLOYEE'S ACCOUNT: At the beginning of each fiscal year (July 1), Instructional Assistants may be granted in advance the number of vacation days expected to be earned that fiscal year as stipulated in Section 14.1.1 or 14.1.2 of these rules.
- 14.1.10 UNEARNED VACATION UPON TERMINATION: When a classified employee terminates and had 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 final check the full amount of salary which was paid for such unearned days of vacation taken.
- 14.1.11 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 completed six (6) months of employment in regular status shall not be entitled to such compensation.
- 14.1.12 VACATION CARRY-OVER: Accumulated vacation time for the twelve-month employee must be taken before June 30 of each year after the first fiscal year. The superintendent or designee, for the convenience of the District, may extend the time during which earned vacation may be utilized by not more than one year's accumulation.
- 14.1.13 VACATION HOLIDAYS: If a District-approved holiday falls within a scheduled vacation, the employee shall not be charged a vacation day for the holiday.
- 14.1.14 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 at the option of the governing board.

REFERENCE: Education Code Sections 45190 and 45197

CHAPTER 15

LEAVES OF ABSENCE

BARGAINING UNITS REFER TO CONTRACT

- 15.1 GENERAL PROVISIONS
- 15.1.1 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.
- 15.1.2 RIGHT TO POSITION UPON RETURN: An employee granted a paid or unpaid leave of absence for six (6) months or less has the right to return to the position held at the time the leave was granted.
- 15.1.3 RIGHTS TO POSITION FOR LEAVES OVER SIX MONTHS: An employee granted a paid or unpaid leave of absence of more than six (6) months shall have the right to return to a position of equal status in the same classification held at the time the leave was granted. However, the assignment may be in a different department and/or a different work location. In no event shall the assignment be on a different work shift from that of the previous assignment without the written authorization of the returning employee. Amended 3/21/95
- 15.1.4 AUTHORIZED LEAVE IS NOT A BREAK IN SERVICE: Industrial accident/illness leave, other paid leave, military leave, and unpaid illness leaves shall not constitute a break in service. Amended 3/21/95
- 15.1.5 CANCELLATION OF VOLUNTARY LEAVES: The Board may cancel any voluntary leave of absence to the extent consistent with federal and state laws for good cause by giving the absent employee due notice. Due notification shall allow sufficient time for the employee to return to work. Amended 4/3/07
- 15.1.6 FAILURE TO REPORT FOR DUTY AFTER LEAVE EXPIRES: Failure to report for duty within three (3) days after all available leaves have expired or has been canceled shall be considered abandonment of position and the employee will be terminated to the extent permitted under federal and state laws. Such termination shall be considered as termination for cause and treated in the same manner as any other disciplinary action. Amended 3/21/95, 4/3/07
- 15.1.7 ABSENT EMPLOYEES MAY NOT ACCEPT GAINFUL EMPLOYMENT: An employee, while on a leave of absence (paid or unpaid) from the District, may not and shall not accept other gainful employment except ordered military service, without the express prior approval of the Board of Education. Amended 3/21/95
- 15.1.8 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:
- 15.1.8.1 Industrial Accident and Illness Leave (if applicable).

- 15.1.8.2 Accrued and advanced sick leave.
- 15.1.8.3 Compensatory time off (if applicable) *Added 3/21/95*
- 15.1.8.4 Accrued or credited vacation days (by request of employee).
- 15.1.8.5 Extended illness leave at differential pay; the difference between the regular rate of pay and that received by a substitute.
- 15.1.8.6 Unpaid leave (if approved) *Added 3/21/95*

15.1.9 LEAVES NOT GRANTED AS A MATTER OF RIGHT: An employee shall not be entitled to a leave of absence as a matter of right. Upon request for a leave of absence signed by the employee and stating the reason for the leave, the appointing authority may approve or disapprove the request. Any denial of a leave may be appealed through the Commission's complaint procedure.

15.1.10 VERIFICATION OF LEAVES: The District shall have the right to require verification of all leaves requested and taken by an employee.

15.1.11 EMPLOYEE REQUIRED TO MAINTAIN LICENSES AND CERTIFICATES: Any required license or certificate held by the employee at the time a leave (paid or unpaid) is granted must be maintained and valid at the time the employee returns to active service with the District. *Added 3/21/95*

If the employee does not have the license or certification, the employee may be placed on unpaid leave of absence until the license or certificate is received or the employee may be terminated. *Added 10/5/99*

15.1.12 HOLIDAY PAY - PAID LEAVE OF ABSENCE: 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 to which the employee is entitled by law or the provisions of these Rules and Regulations. *Added 3/21/95*

REFERENCE: Education Code Sections 45260 and 45261

15.2 SICK LEAVE

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

- 15.2.1.1 Physical or mental inability to perform the usual and customary duties of the position due to illness, injury, or for legally established quarantine.
- 15.2.1.2 A visit to a licensed physician, dentist, medical practitioner, psychologist or other therapist for examination, treatment, consultation, or therapy.

15.2.2 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 12 days per year.

- 15.2.2.1 To qualify for a full month of paid status, the employee must be in a paid status for fifty percent (50%) or more of the work days during the month.
- 15.2.3 PAY RATE FOR SICK DAYS: Employees shall earn sick days based on the formula outlined in Rule 15.2.2. When an employee takes a day of sick leave, pay for that day of sick leave shall be the same pay the employee would have received had the employee worked that day.
- 15.2.4 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.
- 15.2.5 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. This rule shall not apply to those regular classified employees who have previously completed a probationary period in the District.
- 15.2.6 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.
- 15.2.6.1 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.
- 15.2.7 NOTIFICATION OF ABSENCE: In order to receive compensation for sick leave, the employee shall notify his/her immediate supervisor or designee 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 and/or lack of practicality make such notification impossible, in which case, notification must be made as soon as practicable. The burden of proof regarding the impossible conditions shall be upon the employee. If the employee is going to be absent more than one day, the employee must notify the supervisor or designee of the number of days of expected absence. Amended 10/5/99, 4/3/07
- 15.2.8 NOTIFICATION OF RETURN TO WORK: An employee on leave shall notify his/her immediate supervisor, or the District Human Resources Office of his/her impending return as soon as possible, but not later than 3:00 p.m. of the work day preceding the day on which the employee is to return to work. If an employee fails to notify his/her supervisor 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.
- 15.2.9 DOCTOR'S NOTE MAY BE REQUIRED: The District may require the employee to present a statement from a state-licensed physician verifying the nature and/or duration of the illness. In addition, the District may send an employee to a District appointed physician for examination at the District's expense.
- 15.2.10 DOCTOR'S RELEASE REQUIRED AFTER HOSPITALIZATION OR EXTENDED ILLNESS: An employee returning from surgery, illness requiring hospitalization or extended illness regardless of the duration of the absence may be required to provide medical verification of fitness to fully perform all the duties of his/her assigned position. Extended illness is more than 10 days. Amended 10/5/99

- 15.2.11 SUBMISSION OF DOCTORS' NOTES: Doctor's report and/or clearances to return to work shall be submitted to the Human Resources Office.
- 15.2.12 GENERAL DISTRICT RIGHT TO REQUIRE MEDICAL OR PSYCHOLOGICAL EXAM: The District shall have the right to have an employee examined by a state-licensed physician, at District expense, whenever there is a question as to the employee's physical, mental, or emotional ability to perform the duties and/or responsibilities of his/her position; regardless of whether or not the employee has claimed or received paid benefits under the provisions of these Rules and Regulations.
- 15.2.13 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. Amended 9/8/09
- REFERENCE: Education Code Sections 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45196.5, 45200, 45203, 45260, and 45261
- 15.3 EXTENDED SICK LEAVE
- 15.3.1 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:
- 15.3.1.1 Extended sick leave shall be paid at the difference between the employee's regular rate of pay and that paid a substitute actually employed to fill his/her position during his/her absence. not to exceed 100 workdays. If no substitute is employed, full pay shall be granted for the remainder of the period. The 100 workday period shall commence with the first day of extended absence. During this period, full pay shall be given for accumulated sick leave, vacation and holidays. A person recommended to take the place of an absent employee and not on an eligibility list shall first be approved by the Personnel Commission or the Director-Personnel Commission. Amended 10/5/99
- 15.3.1.2 Extended sick leave shall be limited to 100 workdays in each fiscal year. At the beginning of a fiscal year, 100 workdays shall be credited to the employee's account, whether or not the employee is currently drawing benefits subject to this Rule.
- 15.3.1.3 These 100 workdays shall be exclusive and in addition to all other paid and compensable leaves such as vacation, industrial accident/illness leave and holidays.
- 15.3.2 USE AFTER EXHAUSTION OF ALL OTHER PAID LEAVES: After entitlement to all regular sick leave, 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 15.3.1.

- 15.3.3 USE EXTENDS INTO NEXT FISCAL YEAR: In the event that the entitlement to extended sick leave is not exhausted at the end of the present fiscal year, and the employee continues to be sick or disabled, the employee shall be entitled to receive the new regular and extended sick leave benefits available for that fiscal year.
- 15.3.4 VERIFICATION OF ILLNESS: All rules governing verification of illness absences outlined in Rule 15.2 shall also apply to any absences taken under this Rule.
- 15.3.5 ABSENCE NOTIFICATION: All rules governing absence notification outlined in Chapter 15.2 shall also apply to any absences taken under this Rule.
- REFERENCE: Education Code Sections 45136, 45137, 45190, 45191, 45193, 45195, 45196, 45196.5, 45200, 45203, 45260, and 45261
- 15.4 INDUSTRIAL ACCIDENT/ILLNESS LEAVE
- 15.4.1 60 DAYS OF FULL PAID LEAVE: All regular and permanent classified employees who have completed six months of paid service shall be entitled to this leave. An eligible classified employee who is absent from duty from causes which are District related industrial accident, injury, or illness shall be entitled to not more than sixty (60) working days in any one (1) fiscal year 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 noncumulative and may be taken only during those periods when the employee would normally have been in a paid status.
- 15.4.2 REPORTING OF INJURY: In the case of an industrial accident or injury, the employee shall report the incident to his/her supervisor the same day, whenever possible. All injuries not reported the same day require justification for the delay.
- 15.4.2.1 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 of an injury that is industrial and submit an Absence Notification Form signed by the employee and accompanied by a statement from a licensed physician. The supervisor or principal, after countersigning the Absence Notification Form, shall attach it to employee's monthly time sheet and clearly indicate on this report that the absence is due to an industrial accident or illness.
- 15.4.2.2 The supervisor shall complete the District's Industrial Accident/Illness Report and send it as soon as possible to the District department charged with processing workers' compensation claims.
- 15.4.3 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.
- 15.4.4 WORKERS' COMPENSATION CHECK ENDORSED TO DISTRICT: During a leave taken under Rule 15.4, 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.

- 15.4.5 USE OF SICK LEAVE AFTER EXHAUSTION OF 60 DAYS: Upon exhaustion of the industrial accident/illness leave, the employee shall be entitled to use sick leave provided in Chapter 15.2. 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 1/3rd normal salary. The District pays the employee full salary and deducts 2/3rds of a day of sick leave from the employee's accumulated sick leave account).
- 15.4.6 USE OF OTHER LEAVES AFTER EXHAUSTION OF SICK LEAVE: After all accumulated sick leave has been exhausted an employee will then use accrued compensatory time. If no compensatory time is available, or has been exhausted, the employee then may begin to use accrued vacation credit. If no vacation credit is available or has been exhausted, the employee may then begin to use the extended illness leave provided in Rule 15.3. The use of leaves outlined in this section shall be governed by the coordinated use of temporary disability benefits outlined in Rule 15.4.5. Amended 4/3/07
- 15.4.7 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.
- 15.4.8 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, and on the same approximate shift.

15.4.8.1 ACTION UPON EXHAUSTION OF LEAVES OF ABSENCE FOR EMPLOYEES ELIGIBLE FOR DISABILITY RETIREMENT

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, the District shall apply for disability retirement on behalf of the employee in accordance with California Government Code Section 21153. The employee shall remain employed while the Public Employees Retirement System (PERS) determines whether the employee qualifies for disability retirement. If PERS retires the employee, his/her employment is ended at the time of retirement. At that time, the District, pursuant to the Education Code, will place the employee on a 39-month reemployment list. If during the 39-month period following the effective date of the disability retirement, 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. However, to be reemployed, the employee would have to seek reinstatement from retirement from PERS. If such reinstatement is granted, the employee can exercise his/her rights to return to work in a vacant position in his/her class. 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, and on the same approximate shift. Amended 1-1-04.

REFERENCES: Education Code Section 45192 and Government Code Section 21153

15.4.9 ABOLISHMENT OF PREVIOUS CLASSIFICATION: If the employee's class 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 class for which the employee is qualified as determined by the Director-Personnel Commission and approved by the Personnel Commission.

15.4.10 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. The release shall certify that the employee is able to return to his/her position without restrictions or limitations. If the medical release limits the work activities of the employee, the District shall determine if a reasonable accommodation can be made. An employee who is medically released to return to work and who fails to accept an appropriate assignment shall be dismissed. Amended 10/5/99

15.4.11 ABSENCES NOT CONSIDERED A BREAK IN SERVICE: Any leave under this Rule, either paid or unpaid, shall not be considered a break in service and the employee, while on such leaves, shall continue to accrue seniority credit.

REFERENCE: Education Code Sections 45190, 45192, 45260, and 45261

15.5 TRANSFER OF SICK LEAVE

15.5.1 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 for one year or more, 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 Human Resources office to secure the necessary information from the former school agency.

REFERENCE: Education Code Sections 45202, 45260, and 45261

15.6 UNPAID ILLNESS LEAVE

15.6.1 SIX MONTH UNPAID LEAVE: A permanent classified employee, who has exhausted all paid leaves and who continues to be absent due to nonindustrial illness or injury may be granted an additional six (6) month unpaid leave of absence upon recommendation of the Superintendent, and approval of the Board of Education. This leave may be extended for one additional six (6) month period.

15.6.2 FACTORS TO BE CONSIDERED: The following factors may be considered:

15.6.2.1 The likelihood that the employee will be able to return to regular duties at the conclusion of the leave.

15.6.2.2 The length of service and work record of the employee.

15.6.2.3 The employee's previous leave history and attendance record.

15.6.2.4 The number of positions in the employee's class.

15.6.2.5 The uniqueness of the duties performed, and the availability of a substitute.

15.6.2.6 Other reasons as may be deemed appropriate by the Board.

15.6.3 RIGHT TO RETURN TO CLASS: 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 months of employment, with the same approximate assigned shift.

REFERENCE: Education Code Sections 45195, 45260 and 45261

15.7 BEREAVEMENT LEAVE

15.7.1 FIVE TO EIGHT 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) working days, and an additional three (3) working days for out-of-state travel or necessary travel of 500 miles in-state travel. Additional days of absence beyond those described herein may be provided under the terms of Personal Necessity Leave provisions contained in Rule 15.8. 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. Amended 4/3/07

REFERENCE: Administrative Rule 4161.2

- 15.7.2 DEFINITION OF IMMEDIATE FAMILY: Members of the immediate family are defined as the mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, registered domestic partner, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee or of the spouse or registered domestic partner of the employee, or any relative who has been living in the immediate household of the employee. Amended 4/3/07

REFERENCE: Education Code Sections 45194, 45260, and 45261

15.8 PERSONAL NECESSITY LEAVE

- 15.8.1 USE UP TO SEVEN DAYS: An employee may use, at his/her election, not more than seven (7) days accumulated sick leave benefits in any school year, in the following cases of emergency: Amended 3/21/95

15.8.1.1 Death of a member of the immediate family as defined in Rule 15.7, when rights to bereavement leave outlined have been exhausted.

15.8.1.2 Accident involving his/her person or property, or property of a member of the employee's immediate family as defined in Rule 15.7, of such a nature that the immediate presence of the employee is required during his/her working day.

15.8.1.3 Illness involving a member of the employee's immediate family as defined in Rule 15.7, of such a nature that the presence of the employee is required during his/her working day.

15.8.1.4 Appearance in court or before any administrative tribunal as a litigant, witness under subpoena, or party, or any order made with jurisdiction.

15.8.1.5 In any other situations of urgency as judged acceptable to the District.

- 15.8.2 NOTIFICATION OF LEAVE USAGE: Classified employees desiring to use such leave shall submit their request at least three (3) 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 employee shall complete an Absence Notification Form and have the supervisor approve the requested personal necessity usage. The general reason for the personal necessity shall be clearly stated on the Absence Notification Form. The maximum length of leave allowed for permissive personal necessity reasons as

outlined in Rule 15.8.1.5 shall not exceed four (4) days.

- 15.8.3 PERSONAL NECESSITY NOT CUMULATIVE: Personal necessity leave is noncumulative. Employees are limited in each fiscal year to the amount of usage outlined in Rule 15.8.1.

REFERENCE: Education Code Sections 45207, 45260, and 45261

- 15.9 PREGNANCY/MATERNITY DISABILITY LEAVE: Amended 3/21/95

- 15.9.1 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 15.14 and federal and state laws. Amended 4/3/07

- 15.9.2 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.

- 15.9.3 CERTIFICATION OF LAST DAY ABLE TO WORK: Prior to the eighth month of pregnancy, the employee shall furnish the District a medical certificate stating the last date on which she will be able to work, accompanied by a verification of her disability.

- 15.9.4 RELEASE TO RETURN TO WORK: Prior to returning to work, the employee shall present to the District a release to return to work without limitations from the treating physician. In addition, the District may require that the employee be examined by a District appointed physician to confirm the employee's ability to return to work.

REFERENCE: Education Code Sections 45193, 45260, and 45261

- 15.10 JURY DUTY LEAVE

- 15.10.1 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.

- 15.10.2 RETURN FROM JURY DUTY: An employee shall return to work from jury duty if the employee can do so and complete at least two (2) hours work during the employee's regular assigned hours, allowing for travel and a thirty (30) minute meal period if the normal meal period was not provided by the court. In no event shall an employee be expected to put in more time, when combining jury duty hours (including travel time) and regular work hours, than his/her regular number of assigned hours. The exception to the rule would be if the District required the employee to work additional hours beyond the employee's regular number of assigned hours per day and compensated the employee for the additional hours at his/her regular or overtime rate as appropriately determined by these Rules and Regulations.

15.10.3 NOTIFICATION OF JURY DUTY: Any request for jury duty leave shall be made by completing a Certificate of Absence Form and attaching the official court summons to jury service to said form for forwarding to the Human Resources Office.

15.10.4 OFFICIAL ACKNOWLEDGMENT: In order for a paid leave to be granted as provided in the above sections, the employee shall submit an official acknowledgement of service to the Payroll Office via his/her manager/supervisor. The acknowledgement letter shall contain the dates the employee was required to report for service and the amount of Jury Duty Compensation.

REFERENCE: Education Code Sections 44037, 45260, and 45261

15.11 WITNESS LEAVE

15.11.1 WITNESS LEAVE OF ABSENCE: A leave of absence to respond to an official order from another governmental jurisdiction other than as a litigant for reasons not brought about through the connivance or misconduct of the employee may be granted to all regular classified employees without loss of pay. Any compensation, excluding reimbursements for meals, mileage, and parking allowances, received by an employee as a result of being a witness shall be remitted to the District.

15.11.2 RETURN FROM WITNESS LEAVE: An employee shall return to work from witness leave if the employee can do so and complete at least two (2) hours work during his/her regular assigned hours, allowing for travel and a thirty (30) minute meal period if the normal meal period was not provided by the court or other governmental agency. In no event shall an employee be expected to put in more time, when combining witness duty hours including travel time and regular work hours, than his/her regular number of assigned hours. The exception to the rule would be if the District required the employee to work additional hours beyond his/her regular number of assigned hours per day and compensated the employee for the additional hours at his/her regular or overtime rate as appropriately determined by these Rules and Regulations.

15.11.3 NOTIFICATION OF WITNESS LEAVE: Any request for witness leave shall be made by completing an Absence Notification Form and attaching the official subpoena to said form for forwarding to the Human Resources Office.

REFERENCE: Education Code Sections 44036, 44037, 45260, and 45261

15.12 MILITARY LEAVE

15.12.1 ALL REGULAR EMPLOYEES GRANTED MILITARY LEAVE: Military leave is granted pursuant to federal and state laws. Amended 3/21/95, 4/3/07

15.12.2 THIRTY DAYS LEAVE WITH PAY: Regular classified employees who have been employed by the District (or has prior active military service) for at least one (1) full year shall be granted full pay for the first thirty (30) calendar days of military leave provided in the above section; however, such paid leave time shall be limited to a maximum of thirty (30) calendar days in any fiscal year in accordance

with CA Military and Veterans Code. Regular classified employees with less than a year of service with the District or active military service who are called to active military service or active reserve duty shall be granted military leave without pay. No fringe benefits, such as sick leave, vacation, or health insurance shall accrue or be paid for any unpaid portions of leave provided in accordance with the above section. Classified employees who are in an "inactive duty" status who participate in weekend, day or evening military activities are not covered by the provisions of this rule and, therefore, not entitled to any components provided by this rule. Amended 3/21/95

15.12.3 OFFICIAL ORDER/LETTER: In order for a paid leave to be granted as provided in the above sections, the employee shall submit his/her official orders/letter to Human Resources via his/her supervisor/manager. The orders must contain the date that the employee is required to report for active service or active reserve duty, and the projected duration of such service. Amended 3/21/95

15.12.4 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. If the employee was on probationary status prior to taking military leave, his or her probationary period shall be completed upon return. Amended 4/3/07

REFERENCE:

1. Education Code Sections 45190, 45260, and 45261
2. California Military and Veterans Code Sections 389, 395, 395.01-395.05, 395.1-395.4

15.13 EXEMPT/TEMP/LIMITED-TERM POSITION

15.13.1 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 as serving in his/her regular position, and such assignment shall not be considered to be a separation from service.

15.13.2 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: Education Code Sections 45260 and 45261

15.14 RELEASE TIME FOR DISTRICT PERSONNEL-RELATED ACTIVITIES

15.14.1 RELEASE TIME TO TAKE DISTRICT EXAMINATIONS: A regular classified employee shall be permitted to take any District examination administered by the Personnel Commission during the employee's regular working hours without deduction of pay or other penalty. Such paid release time shall be valid only with written authorization to take the examination signed by the Director-Personnel Commission or his/her designee. The employee shall provide his/her supervisor or manager with notice of the need for release time at least two (2) days prior to

the date of the District examination. Added 3/21/95

- 15.14.2 RELEASE TIME FOR DISTRICT INTERVIEWS: A regular classified employee shall be provided with release time to participate in interviews for District promotions or transfers during his/her regular working hours without deduction of pay or other penalty. The employee shall provide his/her supervisor with notice of the need for release time as soon as possible after notification by the Personnel Commission Office of the interview time.

Added 3/21/95

- 15.14.3 ATTENDANCE AT DISTRICT BOARD/COMMISSION MEETINGS: A classified employee of the District shall be provided with release time without deduction of pay or other penalty in order to attend any Board of Education or Personnel Commission meeting at which a recommendation or action is being considered which would affect the employee's status, classification or salary. The employee shall provide his/her supervisor with notice of the need for release time at least twenty-four (24) hours prior to the scheduled meeting. The employee shall be notified at least two hours prior to the scheduled meeting. Added 3/21/95, 4/3/07

REFERENCE: Education Code Sections 45260, 45261 and 45272

15.15 LEAVES OF ABSENCE WITHOUT PAY

- 15.15.1 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 Chapter.

- 15.15.2 LENGTH OF LEAVE: Leave of absence without pay may be granted for any period not exceeding six (6) months, but may be extended for six (6) months with the approval of the Board of Education.

- 15.15.3 REASONS: A leave of absence may be granted an employee provided the employee meets all other requirements set forth in this rule:

15.15.3.1 An employee who desires to attend an educational institution or to enter training to improve the quality of his/her service to the District. Amended 10/5/99

15.15.3.2 For reasons deemed satisfactory to the District and the Commission.

- 15.15.4 RIGHT TO RETURN: The granting of a leave of absence without pay gives the employee the right to return to his/her position at the expiration of the leave of absence, or before, with the concurrence of the appointing authority and/or in conformance with procedures contained in Chapter 15 of these Rules and Regulations, if such a position still exists.

- 15.15.5 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.

- 15.15.6 REPORT OF REINSTATEMENT: Report by the employee of their return to work shall be made at or before the expiration of a leave of absence without pay shall be made to the District and made prior to the employee returning. At the same time, notice to the employee who has been filling the position temporarily shall be made.
- 15.15.7 FAILURE TO RETURN: Failure to report for duty within three (3) days 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.
- 15.15.8 COUNTING TIME FOR SENIORITY OR SALARY ADJUSTMENT: Time spent on leave of absence without pay of over five (5) days shall not count toward seniority except in the areas of military leave, illness leave, and industrial accident/illness leave. Time spent on leave of absence without pay shall not count towards step increases. Before an employee receives a salary adjustment the employee must serve the required service time.
- REFERENCE: Education Code Sections 45122, 45136, 45137, 45190, 45191, 45193, 45195, 45196.5, 45198, 45199, 45260, and 45261
- 15.16 ABSENCE DUE TO EPIDEMICS OR EMERGENCIES
- 15.16.1 ABSENCE DUE TO EPIDEMICS OR EMERGENCIES: An employee shall be paid his/her regular salary for any period during which the employee's place of employment is closed because of quarantine, epidemics, or other conditions involving the health or safety of employees provided that the employee is ready, able and willing to perform his/her customary or other reasonable and suitable duties. During this period, the District shall endeavor to assign the employee to work elsewhere.
- REFERENCE: Education Code Sections 45260 and 45261
- 15.17 VOTER LEAVE OF ABSENCE Added 3/21/95
- 15.17.1 TIME OFF TO VOTE: If an employee/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, request and shall receive as much time off as will, when added to his/her voting time outside of working hours, enable the employee to vote. However, the amount of time allowable for such purpose shall not exceed two (2) hours.
- 15.17.2 MAY NOT BE USED FOR OTHER PURPOSES: The District wants its employees to become registered voters and to exercise the right to vote, and encourages all of its employees to do so. However, the time off granted shall be used only to exercise the right to vote and for no other purpose. Therefore, the employee requesting the time off to vote shall be responsible for providing evidence that he/she is eligible to vote and can demonstrate both the need and the amount of time required to exercise his/her right to vote.
- 15.17.3 ADVANCE NOTICE REQUIRED: Except in cases of emergency or unforeseen circumstances, an employee requesting compensated time off to vote shall

provide his/her immediate supervisor with advance notice of the need and duration of the amount of time off needed to vote. The burden of proof as to emergency or unforeseen circumstances shall rest with the employee.

REFERENCE: Education Code Sections 45136, 45190, 45260 and 45261

15.18 LEAVE OF ABSENCE FOR STUDY Added 3/21/95

15.18.1 STUDY LEAVE (S): Every regular classified employee who has completed seven (7) consecutive years of service in regular status with the District (at the time application for such leave is made) shall be eligible to apply for a leave of absence for purposes of study. The granting of such leave shall be entirely discretionary with the District. However, once a study leave has been granted and taken, the employee taking the leave shall not again be eligible for such leave until the employee has completed an additional period of seven (7) consecutive years from the date of completion of the previous study leave.

15.18.2 TIME LIMITS FOR STUDY LEAVES: A study leave can be scheduled for any period of time to a total maximum of one (1) year leave of absence. With the approval of the District, the periods of time for the study leave need not be consecutive. However, the total period of the leave (to the maximum period of one year) must be completed within a period of three (3) years from the initial date of the start of the leave.

15.18.3 A STUDY LEAVE IS NOT A BREAK IN SERVICE: Any leave granted and taken in accordance with this section shall not constitute a break in service for any purpose, but the leave time shall not count toward eligibility for a future study leave. However, if the leave period is not continuous, any services performed (time worked) for the District between the leave intervals shall be credited toward completion of the time necessary to establish future study leave eligibility.

15.18.4 NO COMPENSATION: An employee on study leave shall not be compensated while on leave unless a separate written agreement exists addressing services the employee shall provide while on leave and the amount of compensation to be received therefrom. Added 10/5/99, 4/3/07

REFERENCE: Education Code Sections ~~45136, 45137~~, 45190, 45260, 45261, 45380, 45381, 45382, 45383, 45384, 45385, 45386 and 45387

15.19 LEAVE OF ABSENCE FOR RETRAINING Added 3/21/95

15.19.1 RETRAINING LEAVE: In the event that the Board of Education contemplates the abolition of positions in the Classified Service and the creation of new positions because of automation, technological improvement, or for any other reason, the District may provide for retraining of displaced employees only in accordance with these Rules and Regulations (Section 15.19).

15.19.2 ELIGIBILITY FOR RETRAINING LEAVE: To be eligible for a retraining leave, a classified employee must:

- A. Have served at least three (3) consecutive years of employment with the District at the time application is made for such leave
- B. Be serving in a position which the District contemplates abolishing

- C. Show that the retraining will clearly benefit the District
- D. Indicate a willingness to undergo the prescribed training program
- E. Indicate a willingness to serve in the employ of the District for at least two (2) years after the successful completion of the training or retraining program

15.19.3 DISTRICT SHALL PRESCRIBE TRAINING PROGRAM: The District shall prescribe the training/retraining program, and may provide the program internally or designate the institute or other place where the program is to be given.

15.19.4 NO COMPENSATION: An employee on retraining leave shall not be compensated while on leave unless a separate written agreement exists addressing services the employee shall provide while on leave and the amount of compensation to be received therefrom. Added 10/5/99, 4/3/07

REFERENCE: Education Code Sections 45136, 45137, 45190, 45260, 45261, 45380, 45381, 45382, 45383, 45384, 45385, 45386 and 45387

15.20 FAMILY CARE LEAVE (UNPAID): Added 3/21/95

15.20.1 GRANTING OF LEAVE: The District shall grant family care leave to eligible classified employees, without discrimination, under the Family and Medical Leave Act and/or the California Family Rights Act.

15.20.2 ELIGIBILITY: A classified employee who has been regularly employed by the District for twelve or more months for a total of 1250 hours immediately preceding the requested leave shall be eligible for family care leave. Amended 10/5/99

15.20.3 REASONS FOR LEAVE: Family care leave may be requested and granted for the following reasons:

- A. Birth of the employee's child.
- B. Placement of a child with the employee in connection with adoption procedures instituted by the employee or adult dependent child, as evidenced by a valid court order granting guardianship of the person to the employee or employee's spouse or registered domestic partner living in the same household as employee and adult dependent. Amended 4/3/07
- C. Serious illness of the employee's child. For purposes of this Rule, "child" shall be interpreted to mean the biological, adopted, or foster child, a stepchild, or legal ward of the employee, or a child for which the employee has standing "In Loco Parentis" having the legal right to act in place of the parent; provided that the "child" has not yet attained the age of 18 years.
- D. Serious health condition of the employee's parent or spouse. "Serious Health Condition" shall be interpreted to mean: an illness, injury, impairment or physical condition or mental condition which warrants or requires the participation of the employee in providing necessary care or supervising the person receiving such care during the period of treatment, when such care is being provided in either: (1) Inpatient care in a hospital, hospice, or residential health care facility; or (2) Continuing supervision of person receiving treatment under direction of a health care provider. Serious health condition does not include leave due to an employee's

15.20.4 CONDITIONAL REQUIREMENTS

- A. If an employee's need for a family care leave is foreseeable, the employee shall give the District reasonable advance notice.
- B. If leave is needed for a planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision in such a manner as to avoid disruption of District operations; subject to the health care provider's approval.
- C. In submitting a request for a leave to care for a child, spouse, or parent who has a serious health condition, the employee should submit a certification from the health care provider regarding the condition of the person requiring the care. The District may require the employee to submit such a certification as a condition for granting the leave requested.

15.20.4.1 The certification of a child, spouse, registered domestic partner or parent's serious health condition shall include the date on which the serious health condition began; the probable duration of the condition and/or need for continued care; an estimate of the amount of time the health care provider believes the employee needs to care for the person requiring such care; a clear statement that the serious health condition warrants the participation of the family member to provide care during a period of treatment, or to provide supervision of the person requiring care. In the event that additional leave time is needed when the time estimated by the health care provider expires, the employee shall provide a recertification in accordance with the provisions noted above. Amended 4/3/07

15.20.4.2 The certification of an employee's serious health condition shall include the date on which the serious health condition commenced, the probable duration of the condition, and a statement that the employee is unable to function in his or her job due to the condition. Amended 4/3/07

- D. As a part of the approved leave, the employee may elect or be required by the District to use his/her accrued vacation time, or other available paid or unpaid leave time.

15.20.5 EMPLOYEE RIGHTS

- A. The employee shall retain his/her status during the period of the leave, and the leave shall not constitute a break in service for purposes of longevity, seniority, or any employee benefit plan.
- B. The employee shall continue to be entitled to participate in any health benefit, pension, or retirement plans, or any supplemental unemployment benefit plan, to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose.
- C. If, however, the employee fails to return from leave as scheduled, for reasons other than a serious health condition for which leave under this

rule is available or other circumstances beyond the employee's control, then the Board of Education may seek reimbursement of all premiums paid during the period of leave. Amended 4/3/07

15.20.6 DURATION AND TIMING OF LEAVE: Family care leave may be taken in one or more incremental periods, mutually agreed to by the District and the employee, not to exceed a total of 12 workweeks within a twelve (12) month period, unless otherwise agreed to by the employee and the District. A 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken. Amended 10/5/99

15.20.7 NO DISCRIMINATION: The District shall not refuse to hire or promote, and shall not discharge, fire, suspend, expel, or discriminate against any employee because he/she exercises a right to family care leave or because he/she gives testimony related to his/her or another person's leave request in an inquiry into family leave rights.

15.20.8 REINSTATEMENT FOLLOWING LEAVE: An employee who has been granted a family care leave of absence shall be reinstated, upon returning from such leave, in the same or a comparable position to that held prior to the start of the leave.

REFERENCE: 1. Education Code Sections 45260 and 45261
2. Government Code 12945, 12945.2 and 29 U.S.C. 2600, et seq.

CHAPTER 16

HOLIDAYS

BARGAINING UNITS REFER TO CONTRACT

BOARD APPROVED HOLIDAYS FOR CLASSIFIED EMPLOYEES

New Year's Day
Martin Luther King Day
Lincoln Day
Washington Day
Memorial Day
Independence Day
Labor Day
Veterans' Day
Thanksgiving Day
Day After Thanksgiving
Christmas Eve (in lieu of Admissions Day)
Christmas Day
New Year's Eve

16.1 HOLIDAYS

16.1.1 HOLIDAY PAY: A regular employee shall receive full pay for those holidays listed in Section 45203 of the Education Code or for those days designated as holidays in lieu of the regular holidays in accordance with Section 45205 or Section 45206.5 of the Education Code and for days declared to be holidays by the Board of Education under the following conditions:

16.1.1.1 The employee must be in paid status during any portion of the last working day of his assignment preceding the regular holiday, or the designated in lieu holiday, or during any portion of the first working day of his assignment following the regular holiday, or the designated in lieu holiday. He will receive full pay for the regular holiday or the designated in lieu holiday, if the first day of his assignment is a regular holiday or a designated in lieu holiday, and he has been in paid status during any portion of the next following working day, or if the last day of his assignment is a regular holiday or a designated in lieu holiday, and he has been in paid status during any portion of the last working day preceding the holiday. A person shall not be entitled to holiday pay if his assignment terminates on a day immediately preceding a regular holiday or a designated in lieu holiday, or if he is initially employed on a day immediately succeeding a regular holiday or a designated in lieu holiday. However, if an employee meets the paid status requirement for a regular holiday, but would not meet the paid status requirement for a designated in lieu holiday, he shall be entitled to the regular holiday.

16.1.1.2 A legal holiday that occurs during the winter recess shall be paid as a holiday if the employee was in paid status on the last day that

school was in session or on the first day of the school session after the recess.

REFERENCE: Education Code Sections 37220, 45203, 45205, 45260, 45261

- 16.1.2 HOLIDAYS OCCURRING DURING VACATION: When a holiday occurs during an employee's vacation or a paid leave of absence, except military leave, the holiday shall be paid as a holiday and not charged against vacation or leave benefits.

REFERENCE: Education Code Sections 37220, 45203, 45205, 45260, 45261

- 16.1.3 MULTIPLE ASSIGNMENTS: A regular classified employee serving on multiple assignments shall receive pay for holidays in each assignment independently, according to his status in each particular assignment.

REFERENCE: Education Code Sections 37220, 45203, 45205, 45260, 45261

- 16.1.4 WEEKEND HOLIDAYS: When a holiday falls on the first day of an employee's weekend, the preceding day shall be treated as the holiday. When a holiday falls on the second day of an employee's weekend, the following day shall be treated as the holiday. The two days that employees are not regularly required to work when they are assigned on a typical workweek will be considered their "weekend".

REFERENCE: Education Code Sections 37220, 45203, 45205, 45260, 45261

- 16.1.5 OVERTIME PAY FOR WORKING HOLIDAYS: Regular employees, except those in management classes, who are required to work on holidays (excluding those on Saturday or Sunday) shall, in addition to the pay to which they are entitled under this Rule, be paid or provided compensating time off, as follows:

16.1.5.1 Time and one-half for work on regular holidays, except that if a holiday is designated in lieu of the regular holiday, work on the in lieu holiday shall be so compensated and work on the regular holiday shall be compensated at straight time.

16.1.5.2 Time and one-half for work on a regular holiday for which an "in lieu" holiday has been designated, only for those employees who would be entitled to the regular holiday, but would not be entitled to the "in lieu" holiday.

REFERENCE: Education Code Sections 37220, 45203, 45205, 45260, 45261

- 16.1.6 OVERTIME: Whenever a classified employee is required to work on a designated holiday, the employee shall be paid at the rate of time and one-half (1-1/2) for all hours worked on the holiday in addition to the amount of money which the employee would have received had the employee not worked during the holiday. Amended 3/21/95

REFERENCE: Education Code Sections 37220, 45203, 45205, 45260, 45261

16.2 HOLIDAYS FOR NONTRADITIONAL 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. Added 3/21/95

REFERENCE: Education Code Sections 45206, 45260, 45261

16.3 LIMITED TERM OR SUBSTITUTE EMPLOYEE: A substitute, limited term or other temporary employee shall not be entitled to paid holidays or other holiday compensation.

16.3.1 TEMPORARY ASSIGNMENT: A permanent or probationary employee serving in a temporary assignment (limited-term substitute or provisional) shall be entitled to paid holidays and other holiday compensation the same as any other regular classified employee (see Personnel Commission Rules and Regulations, Chapter 16.1.1.1). Added 3/21/95

16.3.2 LONG-TERM ASSIGNMENT: A person employed to fill a long-term temporary assignment (limited-term substitute or provisional) shall be entitled to paid holidays or holiday compensation under the following conditions:

16.3.2.1 A "long-term" assignment refers to work performed in a single position for more than twenty (20) consecutive days.

16.3.2.2 The holiday(s) for which the person is to be compensated occur(s) during the working period following the twenty-first (21) day in the same position.

16.3.2.3 The person worked the last scheduled work day before the holiday and the first scheduled work day following the holiday.
Added 3/21/95

REFERENCE: Education Code Sections 45203, 45260 and 45261

CHAPTER 17

COMPENSATION AND PAY PRACTICES

BARGAINING UNITS REFER TO CONTRACTS

17.1 DETERMINATION OF SALARY SCHEDULES/PAY RATES

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

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

REFERENCE: Education Code Section 45261

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

REFERENCE: Education Code Section 45261

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

REFERENCE: Education Code Section 45241

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

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

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

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

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

17.1.4.5 Such other information as the Commission may require.

REFERENCE: Education Code Sections 45256 and 45268

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

REFERENCE: Education Code Section 45268

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

REFERENCE: Education Code Section 45261

17.2 APPLICATION OF SALARY SCHEDULES

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

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

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

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

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

REFERENCE: Education Code Sections 45260 and 45261

17.2.2 SALARY PLACEMENT OF TEMPORARY EMPLOYEES: Salary placement of temporary, substitute, and limited-term employees will be at the first step of the appropriate salary range. Exceptions to this rule may be made using the same criteria outlined in Rule 17.2.1 and approved pursuant to Rule 17.2.2. Classified retirees of the District shall be compensated pursuant to Rule 7.5.

17.2.2.1 Clerical/secretarial temporary employees shall be paid at step 1 of the salary range allocated to an Office Assistant or up to the level for which qualified, not to exceed the position assigned. If a particular temporary employee is assigned to work more than ten (10) continuous days in one position, these temporary employee's salary placement will be modified to step 1 of the proper range of the classification in which assigned.

17.2.2.2 All Instructional Assistant temporary employees shall be paid at step 1 of the salary range allocated to a regular Instructional Assistant.

REFERENCE: Education Code Sections 45260 and 45261

17.2.3 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 first working day of the month the salary adjustment shall be the first of the following month. The date of the first salary adjustment after employment is known as the Anniversary Date. After reaching the Anniversary Date, merit salary adjustments shall be made on an annual basis, provided the employee has received a satisfactory rating during the period.

17.2.3.1 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.

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

REFERENCE: Education Code Sections 45260 and 45261

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

17.2.4.1 Whenever the Personnel Commission gives authorization to "Y" rate an incumbent, the rate will be discontinued when the employee receiving the rate is promoted or separates from the service. It will also be discontinued whenever the salary range for the class is increased so that it encompasses the employee's

present rate, in which event the employee's salary rate will be adjusted to the nearest highest amount in the new range.

REFERENCE: Education Code Sections 45260, 45261

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

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

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

REFERENCE: Education Code Sections 45260 and 45261

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

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

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

REFERENCE: Education Code Sections 45260, 45261, 45309

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

REFERENCE: Education Code Sections 45260, 45261, and 45309

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

REFERENCE: Education Code Sections 45260, 45261, and 45309

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

17.2.9.1 When the employee's paid status credit is combined with any previous service time earned prior to the employment separation, but after the last anniversary date increase, adds up to the equivalent of one year's service credit, the employee is eligible for step advancement.

REFERENCE: Education Code Sections 45260, 45261, and 45309

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

REFERENCE: Education Code Sections 45260, 45261, and 45309

17.2.11 PLACEMENT WHEN ASSIGNED SUBSTITUTE/TEMP POSITION: See Rule 3.2.8.

17.3 DIFFERENTIAL/LONGEVITY PAY PRACTICES

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

REFERENCE: Education Code Section 45181

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

REFERENCE: Education Code Sections 45185, 45260, and 45261

17.3.3 ANNIVERSARY INCREMENT: Regular full-time classified employees who have completed ten (10), fifteen (15) and twenty (20) years of accredited service in a paid status shall receive a monthly anniversary increment as stipulated on the salary schedule. The employee must have been in a paid status for seventy-five (75) percent of his/her period of annual employment to earn a year of accredited service. The employee will start earning the anniversary increment on the first working day of the month beginning the 10th, 15th and 20th year of accredited

service. Regular part-time classified employees shall receive anniversary increments prorated at the same ratio as the regular work hours per day or days per week to eight (8) hours per day, forty (40) hours per week. Reinstatement rights as defined in Board Policy 626.1, Reinstatement, shall apply to the establishment of eligibility for anniversary increments. Prior to August 19, 1974, an employee who had resigned and was reinstated within five (5) years would be able to count prior service in establishing eligibility for anniversary increments. The break in service of an employee reinstated after August 19, 1974, may not exceed thirty-nine (39) months to establish accredited service for anniversary increments. Amended 1-1-04.

The Board of Education has approved longevity for classified employees as follows:

- 17.3.3.1 Commencing the 10th service year - amount determined by Board annually.
- 17.3.3.2 Commencing the 15th service year - amount determined by Board annually.
- 17.3.3.3 Commencing the 20th service year - amount determined by Board annually.

FOR MANAGEMENT, SUPERVISORY & CONFIDENTIAL EMPLOYEES:

- 17.3.3.4 Commencing the 10th service year - amount determined by Board annually.
- 17.3.3.5 Commencing the 15th service year - amount determined by Board annually.
- 17.3.3.6 Commencing the 20th service year - amount determined by Board annually.
Amended 2/4/97

REFERENCE: Education Code Sections 45260 and 45261

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

- 17.3.4.1 The employee's appropriate salary range and step shall be considered the employee's base salary.
- 17.3.4.2 Added to the base salary shall be any longevity the employee may be entitled.

REFERENCE: Education Code Sections 45180 - 45186, 45260, 45261

CHAPTER 18

COMPLAINT PROCEDURE

18.1 PROCEDURE FOR THE ADJUSTMENT OF COMPLAINTS

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

- 18.1.1.1 Established Commission Rules and Regulations.
- 18.1.1.2 Established Board Policies. (See Board Policy 664)
- 18.1.1.3 Administrative Procedures. (See Board Policy 664)
- 18.1.1.4 Established provisions of the Education Code.
- 18.1.1.5 Complaints against other employees of the District.
Amended 4/18/95

REFERENCE: Education Code Sections 45260 and 45261

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

- 18.1.2.1 An alleged violation of any provision of a collective bargaining agreement. Such allegations shall be adjudicated through the provisions contained in the collective bargaining agreement.
Amended 4/18/95
- 18.1.2.2 An alleged disciplinary action. If formal disciplinary action has been initiated, it shall be adjudicated through the disciplinary action appeal process contained in Chapter 19.
- 18.1.2.3 Complaints about the subject matter contained in a rule, regulation, policy, law, or administrative procedures. Any employee with such a complaint should direct his/her concerns and suggestions for change through the administrative channels to the responsible authority. Amended 4/18/95
- 18.1.2.4 The content of employee evaluation or performance reviews.
Added 11/2/99
- 18.1.2.5 A reclassification, layoff, transfer, denial or reinstatement or denial of a step increase. Added 10/99

REFERENCE: Education Code Sections 45260 and 45261

- 18.1.3 ADJUDICATING BODY DETERMINED BY SUBJECT MATTER: The subject matter of a particular complaint will determine whether it will be directed for consideration to the Board of Education or the Personnel Commission for final determination or decision. Generally, complaints dealing with established Board Policies or Administrative Rules will be adjudicated by the Board of Education and those dealing with established Commission Rules and Regulations, and the Education Code will be handled by the Personnel Commission. Complaints regarding medical examinations, x-rays, and criminal records shall first go through District administrative channels. See Chapter 22.

REFERENCE: Education Code Sections 45260 and 45261

- 18.1.4 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.

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

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

18.1.5.2 When the complaint involves any Personnel Commission administrative procedure.

18.1.5.3 When the complaint involves any Personnel Commission employee.

18.1.5.4 When the complaint involves any alleged violation of the Education Code.

18.1.5.5 Any matter touching upon the authority or responsibilities of the Personnel Commission or, the application of Merit System laws and procedures. Amended 4/18/95

REFERENCE: Education Code Sections 45260 and 45261

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

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

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

- 18.1.8 DEFINITION OF COMPLAINANT: A complainant is defined as an employee, employees, applicant, or any recognized classified employee organization filing a complaint involving one of the subjects covered by Rule 18.1.1. Amended 4/18/95
- 18.1.9 EMPLOYEE REPRESENTATION: Any employee may have an employee organization represent his/her interests at any level of this complaint procedure.
- 18.1.10 NO REPRISALS FOR FILING OF COMPLAINT: No reprisals of any kind shall be taken by the District against the complainant or any representative of the complainant by reason of his/her bringing a complaint or participating in a complaint. Amended 4/18/95
- 18.1.11 REASONABLE RELEASE TIME: The complainant and/or his/her representative shall be provided reasonable release time, without loss of compensation, to attend conferences or hearings described in this Chapter.
- 18.1.12 MAINTENANCE OF COMPLAINT FILES: Records pertaining to complaints filed under this Chapter shall be maintained in the Personnel Commission Office. All complaint records shall be maintained separately from the complainant and/or his/her representative's personnel files.
- 18.1.13 LEVEL ONE - INFORMAL: The complainant shall meet with the immediate supervisor to discuss the potential complaint in an attempt to resolve it informally. The immediate supervisor shall attempt to hold a conference within two (2) days of the request by the employee for a conference. The immediate supervisor shall consider the facts and provide a written decision with supporting reasons within five (5) days after the informal conference.
- 18.1.14 LEVEL TWO - FORMAL WRITTEN COMPLAINT: If successful resolution was not reached at the discussion level and the employee chooses to pursue a complaint, the employee must submit the complaint in writing to the immediate supervisor within ten (10) days of the conclusion of the informal step at level 1. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, and a statement of the specific remedy sought. The immediate supervisor shall hold a conference with all interested parties on the complaint within five (5) days of receipt. The supervisor shall submit a written response to the complainant within ten (10) days after the conference.
- 18.1.15 LEVEL THREE - DEPARTMENT/SITE ADMINISTRATOR: If the complaint is not satisfactorily adjusted by the immediate supervisor, the complaint may be submitted in writing to the appropriate highest level administrator in the department/site chain of authority within ten (10) days of receipt of the level 1 decision, or if the immediate supervisor has failed to respond, within ten (10) days after the level 1 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy, or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the Level 2 supervisor was unsatisfactory, and a

statement of the specific remedy sought. The administrator shall hold a conference with all interested parties regarding the complaint within five (5) days of receipt of the complaint. The administrator shall submit a written response to the complainant within ten (10) days following the conference.

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

18.1.17 LEVEL FIVE - BOARD/PERSONNEL COMMISSION: In the event that a Board Policy or Administrative Regulation is the issue of the complaint, the Board shall be the level 4 hearing body. All other complaints shall be submitted to the Personnel Commission. If successful resolution was not reached at level 3, the complaint may be submitted in writing to the Board of Education or the Personnel Commission as dictated by this Chapter, within ten (10) days of receipt of the level 3 decision, or if the appropriate level 3 administrator has failed to respond, within ten (10) days after the level 3 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy, or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the level 3 administrator was unsatisfactory, and a statement of the specific remedy sought. If timely complaint appeal is filed, the appropriate official body shall hold a complaint hearing to hear witnesses, take evidence, and permit the submission of oral and written arguments in the case. (When the complaint goes to the Personnel Commission for hearing, the involved parties shall follow the Personnel Commission Rule 19.5). This hearing shall be held in open session unless provisions of the Brown Act permit and/or require a closed session of either the Board of Education or the Personnel Commission. The deliberations of the Board or Commission that are necessary to make the final decision and ruling shall be held in closed session. Within a reasonable time after receiving the record, the official body hearing the case shall render a decision on the matter. Either party may request an extension of thirty (30) days for good cause. The decision of the official body shall be final and binding on all parties.

REFERENCE: Education Code Sections 45260 and 45261

CHAPTER 19

PROCEDURES FOR DISCIPLINARY ACTION AND APPEAL

19.1 GENERAL PROVISIONS ON DISCIPLINARY ACTIONS

19.1.1 DISCIPLINARY ACTION ONLY PURSUANT TO THIS RULE: A permanent classified employee shall be subject to disciplinary action only for cause as prescribed by these Rules and Regulations, and only pursuant to the procedures outlined herein.

REFERENCE: Education Code Sections 45260, 45261, and 45302

19.1.2 TIME LIMITS ON DISCIPLINARY ACTION: Disciplinary action shall not be taken against an employee for any charges based on acts or omissions which occurred prior to the employee's becoming permanent, nor for any acts or omissions which occurred more than two (2) years prior to the date of the filing of the Notice of Proposed Disciplinary Action unless such acts or omissions were concealed or not known to the District within the two year period.

REFERENCE: Education Code Sections 45260 and 45261

19.1.3 DEFINITION OF DISCIPLINE: Disciplinary action includes any action whereby a permanent classified employee is deprived of any classification or any incident of any classification, including dismissal, suspension, demotion, or any reassignment that causes a reduction in pay without the employee's voluntary written consent, except a layoff for lack of work or lack of funds. A suspension may be for a period not to exceed thirty (30) assigned days.

REFERENCE: Education Code Sections 45260 and 45261

19.1.4 CAUSES FOR DISCIPLINARY ACTION: The following causes shall be grounds for disciplinary action:

19.1.4.1 Incompetency

19.1.4.2 Inefficiency: the continuing inability or unwillingness to perform the regularly assigned duties and responsibilities of the position.
Amended 9/5/95

19.1.4.3 Insubordination: knowingly refusing to perform lawful and reasonably assigned duties or refusing to perform those duties in accordance with established or prescribed procedures; challenging, resisting, defying or demonstrating contempt toward a designated supervisor or other school district official having authority to issue directions and instructions to the employee by the nature of his or her position. Amended 9/5/95 & 2/4/97

19.1.4.4 Inattention to or dereliction of duty: dereliction in the performance of assigned duties and responsibilities. Amended 9/5/95

- 19.1.4.5 Any willful or persistent violation of the Education Code, or Personnel Commission Rules and Regulations, or the procedures adopted by the District or a department when such procedures are made known to the employees in writing. Amended 9/5/95
- 19.1.4.6 Knowingly falsifying or withholding any material information supplied to the District, including but not limited to, information required on application forms and employment records, or other official documents of the District.
- 19.1.4.7 Use or possession of alcoholic beverages on District property, or appearing for work under the effects of alcohol. "On District property" shall also include District vehicles. Amended 9/5/95
- 19.1.4.8 The use or possession of illegal controlled substance or restricted dangerous drugs, other than that prescribed by a state licensed physician or appearing for work under the effects of illegal or restricted dangerous drugs. Amended 9/5/95
- 19.1.4.9 Convicted of a sex offense as defined in Education Code Section 44010. Conviction of such offense shall result in dismissal. Amended 9/5/95
- 19.1.4.10 Convicted of a narcotics offense as defined in Education Code Section 44011. Conviction of such offense shall result in dismissal. Amended 9/5/95
- 19.1.4.11 Engaging in political activities during assigned hours of duty. "Engaging in political activities" shall be defined to include door-to-door campaigning; placing campaign literature in/on vehicles on District facilities, parking lots, or adjacent streets, telephone solicitation or contacts; use of District time or materials for reproduction of campaign literature or materials; and, engaging fellow employees, students, or others in a discussion or debate regarding any candidate for public office or ballot measure. "During assigned working hours" shall be defined to include any and all time an employee is scheduled to be at his/her work site and/or engaged in District business and for which the employee is compensated by the District; including paid rest break. Amended 9/5/95
- 19.1.4.12 Conviction of a felony or a crime involving moral turpitude. A plea, verdict, or finding of guilty or a conviction following a plea of nolo contendere, is deemed to be a conviction. Amended 12/7/99
- 19.1.4.13 Discourteous, abusive, or threatening treatment of the public, employees, or students, including discriminatory harassment; or malicious engagement in reprisals by managers or supervisors against employees, applicants, candidates, or eligibles who file a written complaint pursuant to Government Code Section 53297 regarding gross mismanagement or a significant waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. Amended 9/5/95

- 19.1.4.14 Repeated unexcused absence or tardiness, abuse of leave privileges or absence without notification.
- 19.1.4.15 Abandonment of Position - Absence of three (3) consecutive days without notification or permission (and failure to notify the District of a valid or acceptable reason for absence).
- 19.1.4.16 Failure to return to work or notify the District within three (3) consecutive days following an authorized leave of absence without notification or permission except in the case of dire emergency.
- 19.1.4.17 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's insurance carrier, discipline under this section shall be handled in the following manner: Amended 9/5/95
 - 19.1.4.17.1 The District shall attempt to reassign the employee within the same class or to a vacant position in a related class not requiring operation of a motor vehicle with the approval of the Commission.
 - 19.1.4.17.2 If reassignment is not possible, then the employee may be demoted, pursuant to these Rules and Regulations.
 - 19.1.4.17.3 If a position does not exist for a demotion to be accomplished, then the employee may be dismissed, pursuant to these Rules and Regulations.
- 19.1.4.18 Violation of local, state, or federal law which results in cancellation or suspension of a license required for the performance of assigned duties.
- 19.1.4.19 Dishonesty, theft, willful misuse for personal gain, willful destruction or mishandling of District property, unauthorized use of District or student body property.
- 19.1.4.20 Unlawful harassment pursuant to federal and state laws. Amended 4/3/07
- 19.1.4.21 Failure to obey a subpoena issued by the Personnel Commission and duly served, or any refusal to furnish testimony or documents, other than self-incriminating, at a hearing or investigation before the Commission or Board of Education.
- 19.1.4.22 Advocacy of the overthrow of the federal, state, or local government by force, violence, or other unlawful means.

- 19.1.4.23 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.
- 19.1.4.24 Conviction of a felony or misdemeanor or a record of one (1) or more misdemeanors, which convictions 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.
- 19.1.4.25 Any other failure of good conduct tending to injure the public service.
- 19.1.4.26 Any action that might cause harm to the District's employees, students or the public. Carrying out a physical attack or assault upon a student, a member of the public, another District employee, or a District official, except in self-defense (as supported by facts and other information submitted).
Amended 9/5/95
- 19.1.4.27 Any action/activity that interferes with the effective operation of the District.
- 19.1.4.28 Any action or lack of action which may cause harm to a student.
Added 9/5/95
- 19.1.4.29 Defrauding the District by collecting sick leave or industrial accident/illness leave pay while working elsewhere for pay during his/her normal scheduled work assignment with the District.
- 19.1.4.30 Physical or mental inability to perform the tasks assigned to employee's classification to the extent permissible under federal and state laws. Amended 12/7/99, 4/3/07
- 19.1.4.31 Failure to submit to involuntary drug testing requirements for classifications requiring a commercial drivers license or designated as safety-sensitive by state or federal courts.
- 19.1.4.32 Any conduct creating "a discriminatory, intimidation, ridicule, and abusive work environment" whether or not the loss of tangible job benefits is determined. Amended 9/5/95
- 19.1.4.33 Working overtime without authorization. Amended 12/7/99

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

- 19.1.5 PROGRESSIVE DISCIPLINE - WRITTEN WARNING/REPRIMAND:
Written reprimands may be administered as set forth below: Amended 12/7/99
- 19.1.5.1 Written warning shall state the Rule violated, the acts or omissions in violation, the basis for improvement 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. Amended 12/7/99
- 19.1.5.2 If the basis for the discipline is performance, the supervisor shall give a reasonable period of time to permit the employee the opportunity to correct the deficiency without incurring further disciplinary action. If the basis for the discipline is misconduct, action may be taken immediately. Amended 12/7/99
- 19.1.5.3 There is no right of appeal from a written warning or reprimand. However, within ten days of receipt of the reprimand, the employee may submit a written response, which will be attached to the written warning or reprimand for placement in the personnel file. Amended 12/7/99
- 19.1.5.4 For any of the causes for disciplinary action listed in Rule 19.1.4, Causes for Disciplinary Actions, any employee may be suspended immediately for not more than 30 assigned days or may be demoted or dismissed.

REFERENCE: Education Code Sections 45260 and 45261

- 19.1.6 PROGRESSIVE DISCIPLINE - SUSPENSION: An employee may be terminated, or suspended not to exceed (30) assigned days without pay. The proposed length of suspension shall reasonably relate to the seriousness of the alleged offense. Amended 12/7/99

REFERENCE: Education Code Sections 45260 and 45261

- 19.1.7 PROGRESSIVE DISCIPLINE - FINAL STEP: The employee may be subjected to more severe disciplinary action, including demotion or termination. Amended 12/7/99

REFERENCE: Education Code Sections 45260 and 45261

- 19.1.8 A COMPULSORY LEAVE OF ABSENCE: An employee may be immediately placed on a compulsory leave of absence without pay if charged with the commission of any sex offense or narcotics offense referred to in Education Code Sections 44010, 44011, and 45304, and the mandatory leave of absence shall continue for not more than ten (10) days after the date of the entry of the court judgment. The compulsory leave of absence may be extended beyond such ten (10) day period if the governing board gives notice within such ten (10) day period that it will dismiss the employee thirty (30) days after the service of the notice, unless the employee demands a hearing. Any employee on a compulsory leave of absence shall continue to be paid his/her regular salary during the period of absence if the employee furnishes the District a suitable bond, or other security acceptable to the Board of Education, as a guarantee that

the employee will repay the District the amount of salary so paid to him/her during the period of mandatory leave of absence in case the employee is convicted of such charges, or the employee does not return to service after such period of absence. If the judgment 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 compulsory leave of absence, provided the employee returns to service after such period of absence. Amended 9/5/95

REFERENCE: 1. Education Code Sections 45302, 45303, and 45304
2. Penal Code Section 261

19.1.9 IMMEDIATE SUSPENSION - WITH PAY: An employee, other than stated in Rule 19.1.8 above, may be immediately suspended without loss of compensation pending the initiation and completion of disciplinary action procedures to the Board of Education. The District may end the suspension without loss of compensation or take action to suspend without pay in accordance with these Rules as warranted.

REFERENCE: Education Code Sections 45260 and 45261

19.1.10 DISMISSAL OF SUBSTITUTE /LIMITED-TERM/PROVISIONAL EMPLOYEES: A substitute, limited-term, provisional, probationary or other temporary employee may be terminated at any time during his/her assignment without cause and without regard to procedures set forth in this chapter.

REFERENCE: Education Code Sections 45260, 45261 and 45305

19.1.11 PERMANENT EMPLOYEE IN PROBATIONARY PROMOTIONAL POSITION: A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is demoted to his/her former class, does not have the right to appeal such demotion. A permanent classified employee who has not served the full probationary period for the class to which promoted, and who is subjected to disciplinary action that would result in the separation of the employee from the permanent classified service shall have full appeal rights as if the employee had completed permanency in his/her present class. Amended 12/7/99

REFERENCE: Education Code Sections 45260, 45261 and 45305

19.1.12 BURDEN OF PROOF: The burden of proof in disciplinary hearings is the District's. The standard is preponderance of the evidence. Amended 12/7/99

REFERENCE: Education Code Sections 45260 and 45261

19.1.13 PROHIBITED ACTS RELATIVE TO DISCIPLINE: No employee shall be suspended, demoted, dismissed, subjected to any other form of disciplinary action, harassment, or in any way discriminated against because of the employee's race, color, gender, national origin, marital status, disabling or handicapping condition, ancestry, sexual orientation, sexual identity, employee organization membership or nonmembership and legal activities related thereto,

medical condition to the extent permitted by federal and state laws, or religious or political beliefs or acts. Amended 12/7/99, 4/3/07

REFERENCE: 1. Education Code Sections 45260 and 45261
2. Government Code 12926

19.1.14 HEALTH BENEFITS MAINTAINED UNTIL APPEAL CONCLUDED: A classified employee who is subjected to a disciplinary action (as provided in these Rules and Regulations), who is receiving health insurance coverage and would otherwise lose those benefits, shall continue to receive such coverage until the timeliness for filing an appeal has passed or, in the event that the employee files a timely appeal, until all appeal processes contained in these Rules and Regulations have been exhausted. Amended 9/5/95

REFERENCE: Education Code Sections 45260 and 45261

19.2 NOTICE OF PROPOSED DISCIPLINARY ACTION

19.2.1 NO DISCIPLINE WITHOUT NOTICE: No disciplinary action may be taken against a permanent classified employee until the employee has received a "Notice of Proposed Disciplinary Action" and the employee has had an opportunity to respond to the charges. The exception to this Rule is in the case of action taken in accordance with Rules 19.1.8 or 19.1.9 above.

REFERENCE: 1. Education Code Sections 45260 and 45261

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

19.2.2.1 The nature of the proposed action (suspension, demotion, dismissal, etc).

19.2.2.2 The specific causes for the disciplinary action and sections of these Rules citing specific rules or procedures that the employee is accused of violating. Amended 9/5/95

19.2.2.3 The specific acts or omissions which establish the causes for disciplinary action, including times, dates, and locations, in ordinary and concise language. Amended 12/7/99

19.2.2.4 The proposed effective date(s) of the disciplinary action.

19.2.2.5 The employee's rights to see and obtain copies of all evidence and documentation used to support the District's case against the employee. Amended 9/5/95

19.2.2.6 The employee's right to representation.

19.2.2.7 The employee's right to respond to the charges before the Superintendent or designee to dispute the charges and/or proposed action.

19.2.2.8 The employee's right to a reasonable amount of time off with pay to respond to the charges.

REFERENCE: Education Code Sections 45260, 45261, and 45305

19.2.3 NOTICE SHALL USE READILY UNDERSTOOD LANGUAGE: The charges outlined in the "Notice of Proposed Disciplinary Action" shall be written so clearly that the employees will know the exact complaint(s) and charge(s) against him/her, such that the employee can respond to them. A "Notice of Proposed Disciplinary Action" stating one or more causes shall be insufficient for such purpose. Amended 9/5/95 and 12/7/99

REFERENCE: Education Code Sections 45116, 45260 and 45261

19.2.4 APPEAL FORM SHALL ACCOMPANY DISCIPLINARY NOTICE: An employee response form shall accompany the Notice of Proposed Disciplinary Action which shall explain the procedure for filing responding to the charges. The form shall be submitted to the District Personnel Office by the deadline noted in the Notice of Proposed Disciplinary Action. Amended 9/5/95

REFERENCE: Education Code Sections 45260 and 45261

19.2.5 DISCIPLINARY NOTICE SENT TO DIRECTOR-PERSONNEL COMMISSION: The Notice of Proposed Disciplinary Action shall be delivered to the Personnel Commission Office. The district Human Resources Office shall have the responsibility of ensuring that the Notice of Proposed Disciplinary Action is delivered to the employee pursuant to Chapter 19.2.5.

REFERENCE: Education Code Sections 45260 and 45261

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

REFERENCE: Education Code Sections 45260 and 45261

19.3 PRELIMINARY SKELLY HEARING

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

Superintendent. The Board shall not act to provide for a penalty or disciplinary action more severe than that recommended by the Superintendent.

REFERENCE: Education Code Sections 45260 and 45261

- 19.3.2 SKELLY HEARING BEFORE SUPERINTENDENT: If the employee submits a request to respond to the charges within ten (10) working days after receipt of the Notice the employee shall have a right to meet with the Superintendent or designee, and the effective date of the proposed disciplinary action shall be stayed pending the outcome of the appeal process. The employee shall be allowed to respond to the charges prior to the Superintendent's recommendation of disciplinary action to the Board. Amended 12/7/99

REFERENCE: Education Code Sections 45260 and 45261

- 19.3.3 NOTIFICATION OF SKELLY HEARING TO EMPLOYEE: The District Human Resources Office shall notify the Superintendent, or designee upon receipt or lack of receipt of a request for a Skelly hearing, and shall coordinate the scheduling of the Skelly Hearing. The District Human Resources Office shall notify the employee in writing of the time, date, and place of the Skelly Hearing before the Superintendent. Notification shall be either in person or sent by Certified Mail (Return Receipt Requested). This requirement will be deemed to have been met if the notification of the Preliminary Appeal Hearing is sent Certified Mail to the last known home address on file in the District Human Resources Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these Rules. For purposes of this Rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt. Amended 12/7/99

REFERENCE: Education Code Sections 45260 and 45261

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

REFERENCE: Education Code Sections 45260 and 45261

- 19.3.5 EMPLOYEE SHALL HAVE OPPORTUNITY TO RESPOND TO CHARGES: The employee shall have the opportunity to respond to all charges. The Skelly Hearing is not an evidentiary hearing. The employee will not be allowed to call or examine witnesses. Amended 12/7/99

REFERENCE: Education Code Sections 45260 and 45261

- 19.3.6 RIGHT TO REPRESENTATION: The employee may be represented by legal counsel, union representative, or any other person designated by the employee. If the employee fails to appear, the Superintendent may recommend action to the Board of Education. Amended 12/7/99

REFERENCE: Education Code Sections 45260 and 45261

19.4 SKELLY HEARING DECISION AND NOTICE

19.4.1 SUPERINTENDENT OR DESIGNEE'S DECISION: The Superintendent or designee shall issue a written decision within five (5) working days after the conclusion of the Skelly Hearing, to either implement the proposed disciplinary action, to modify the proposed disciplinary action, or to rescind and halt the proposed disciplinary action. The Superintendent or designee shall not act to provide for a penalty or disciplinary action more severe than that recommended in the Notice of Proposed Disciplinary Action. The written decision of the Superintendent or designee shall be filed with the Personnel Commission Office. The District Human Resources Office shall be responsible for notification of the employee as to the findings of the Superintendent, pursuant to Rule 19.4.2.
Amended 12/7/99

19.4.1.1 If the employee requests a hearing with the Superintendent or designee, and at that hearing the employee and Superintendent agree on an alternative course of action pursuant to Rule 19.1.7.1, this agreement shall be in writing. If the agreed alternative action requires Board action, the Superintendent shall recommend to the Board that the alternative action be approved. The Board's decision to accept or reject the alternative action shall be final.

19.4.1.2 An unpaid suspension may be implemented (notwithstanding 19.1.9) after the employee has either waived his/her right to a Skelly Hearing or after the Superintendent, or his designee, renders a decision. Amended 12/7/99

19.4.1.3 The Superintendent's or designee's decision shall be communicated to the Board of Education. Amended 12/7/99

REFERENCE: Education Code Sections 45260 and 45261

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

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

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

19.4.2.3 The specific charges, a description of the chargeable action(s) or omissions, including times, dates, locations in ordinary and concise language. Amended 9/5/95 and 12/7/99

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

- 19.4.2.5 A copy of charges and documentation to support the District's case against the employee.
- 19.4.2.6 The employee's right to representation.
- 19.4.2.7 A copy of the action taken by the Board of Education.
- 19.4.2.8 The employee's right to appeal the disciplinary action to the Personnel Commission within fourteen (14) working days of service of the Notice of Disciplinary Action, and the right to have such a hearing within the timelines specified in these Rules.
- 19.4.2.9 A notice that the Commission may sustain, reject, or modify the disciplinary action taken against the employee; and that the Commission may not provide for discipline more stringent than that invoked by the Board of Education. Amended 9/5/95
- 19.4.2.10 The employee's right to request the Personnel Commission to issue subpoenas for witnesses or other material evidence.

REFERENCE: Education Code Sections 45260 and 45261

19.4.3 APPEAL FORM SHALL ACCOMPANY DISCIPLINARY NOTICE: An appeal form shall accompany the Notice of Disciplinary Action which shall explain the procedure for hearing and the signing and filing of which shall constitute a demand for hearing and a denial of all charges. The appeal form shall be submitted to the Personnel Commission Office by the deadline noted in the Notice of Disciplinary Action. The employee shall include in the appeal his/her current mailing and residency address at which the employee may be contacted, in the event that additional correspondence or notices need to be sent to the employee. The appeal notice filed by the employee shall also contain the name of his/her legal counsel or representative and the address and telephone number of such counsel or representative. The employee shall attach to the appeal form the reasons for the appeal. Appeals can be made only on the following grounds:
Amended 9/5/95

- 19.4.3.1 That the procedures set forth in these Rules and Regulations have not been followed.
- 19.4.3.2 That the action taken was not in accord with the facts.
- 19.4.3.3 That the penalty invoked by the District was excessive.

REFERENCE: Education Code Sections 45260 and 45261

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

notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

REFERENCE: Education Code Sections 45260 and 45261

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

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

REFERENCE: Education Code Sections 45260, 45261, and 45305

19.5 APPEAL HEARING BEFORE PERSONNEL COMMISSION: If the employee submits an appeal notice to the Personnel Commission Office within fourteen (14) calendar days after receipt of the Notice of Disciplinary Action, the employee shall have a right to have an Appeal Hearing before the Personnel Commission. The Commission Appeal Hearing shall be held within reasonable days of receipt of the employee's appeal notice by the Personnel Commission Office. The Personnel Commission may agree to a thirty (30) calendar day extension for good cause.

REFERENCE: Education Code Sections 45260 and 45261

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

19.5.1.1 The Director-Personnel Commission shall notify the employee in writing within fifteen (15) calendar days of the timely filing of an appeal notice, of the time, date, and place of the Commission Appeal Hearing before the Personnel Commission.

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

19.5.1.3 Notification shall be either in person or sent by Certified Mail Return Receipt Requested. This requirement will be deemed to

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

REFERENCE: Education Code Sections 45260 and 45261

19.5.2 GENERAL CONDUCT OF COMMISSION APPEAL HEARING: At this full evidentiary hearing, the employee shall have the right to present all evidence and testimony on his/her behalf, to examine all evidence submitted by the District, hear testimony of the supervisor(s) who initiated the action, and examine and cross-examine all witnesses giving testimony. All hearings before the Personnel Commission shall be in closed session, unless the appealing employee requests an open hearing in his/her appeal notice. The Personnel Commission will provide written notice of the employee's right to open session no later than 24 hours before the hearing. The Personnel Commission Hearing shall be specifically conducted pursuant to Chapter 19.5. Amended 4/3/07

19.5.3 RIGHT TO REPRESENTATION: The employee may, at his/her option, be represented by legal counsel, union representation, or any other person designated by the employee. 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.

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

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

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

19.5.4.2 LIST OF WITNESSES: A list of witnesses to be called by each party and a list of persons authorized to attend the hearing shall

be submitted to the Personnel Commission Office at least five (5) calendar days prior to the date of the hearing. This will allow the Personnel Commission to secure the release time of employee witnesses prior to the hearing.

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

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

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

REFERENCE: Education Code Sections 45260, 45261 and 45312

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

REFERENCE: Education Code Sections 45260 and 45261

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

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

REFERENCE: Education Code Sections 45260 and 45261

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

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

- 19.5.9.1 To call and examine witnesses.
- 19.5.9.2 To introduce exhibits.
- 19.5.9.3 To cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examinations(s).
- 19.5.9.4 To attempt to impeach any witness regardless of which party first called the witness to testify.
- 19.5.9.5 To rebut all evidence presented by the opposing party.

REFERENCE: Education Code Sections 45260 and 45261

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

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

19.5.11.1 Hearsay evidence may be used for the purpose of explaining or providing supplemental evidence, but shall not be sufficient in and of itself to support a finding by the Personnel Commission or its hearing officer unless it would be admissible over objection in a civil action in a court of law.

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

REFERENCE: Education Code Sections 45260 and 45261

19.5.12 RIGHT TO BE REPRESENTED: The Board of Education and the appellant shall be allowed to be represented by legal counsel or other designated representatives.

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

19.5.14 RULING ON OBJECTIONS: The Personnel Commission, its counsel, or its hearing officer shall rule on all objections raised by either party.

19.5.15 FINDINGS BASED ON PREPONDERANCE OF EVIDENCE: The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of the evidence and testimony presented. The findings of the Commission or hearing officer shall be based upon the preponderance of evidence.

19.5.16 ORDER OF PRESENTATION OF EVIDENCE: Each side will be permitted an opening statement, District's representative first, and closing arguments, appellant or his/her representative last. The District shall be first in presenting its witnesses and evidence in an effort to support its charges, and then the appellant or his/her representative will present his/her witnesses and evidence in defense.

19.5.17 EXAMINATION OF WITNESSES: Each side will be allowed to examine and cross-examine witnesses.

19.5.17.1 The Commission or its hearing officer may, at its discretion, exclude witnesses not under examination except for the appellant, District representative, the Director-Personnel Commission, and their respective counsels or designated representatives.

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

19.5.18.1 Such evidence shall be submitted by sworn affidavit of the witness. The affidavit shall be confined to a statement of facts bearing on the case and within the knowledge of the witness, 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.

19.5.18.2 Copies of all such affidavits shall be filed with the Personnel Commission Office or the hearing officer at least five (5) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such affidavits.

19.5.18.3 Neither party has objections to the submission of the affidavit(s) into evidence. Either party, upon request, may require the attendance of the witness who has given the sworn affidavit for purposes of cross-examination. A continuance may be necessary in order to secure the attendance of the witness.

19.5.18.4 The Personnel Commission or hearing officer may reject any such affidavit submitted which fails to comply with any of the foregoing conditions.

REFERENCE: Education Code Sections 45260 and 45261

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

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

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

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

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

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

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

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

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

- 19.5.21.2 If the disciplinary action is not sustained, the Commission's order shall set forth the effective date that the employee is to be restored or reinstated to his/her former position and/or status; such date to be set forth at any time on or after the date that the disciplinary action was invoked.
- 19.5.21.3 Copies of the Commission's decision(s) shall be delivered to the parties, their counsel or other representative personally or transmitted to them by Certified Mail Return Receipt Requested. The requirement for notification of the employee will be deemed to have been met if the decision is sent, Certified Mail, to the last known home address on file in the Human Resources Office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification. For purposes of this Rule, if a notice is mailed, the second calendar day following the postmark date of the notice shall be considered to be the official date of receipt.
- 19.5.21.4 If the Commission either sustains a suspension or modifies a dismissal, or other disciplinary action, to a suspension, such days of suspension shall be served on working days in which the employee is normally assigned.

REFERENCE: Education Code Sections 45260 and 45261

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

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

REFERENCE: Education Code Sections 45260, 45261, and 45307

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

REFERENCE: Education Code Sections 45260, 45261, and 45307

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

- 19.5.24.1 The granting of seniority credit for any or all of the off-duty time pending restoration or reinstatement.
- 19.5.24.2 Expunge from the employee's personnel file and record any causes or charges that are not sustained by the Commission.

REFERENCE: Education Code Sections 45260, 45261, and 45307

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

- 19.5.25.1 The cost of the transcript and copies if requested, shall be borne by the party making the request.
- 19.5.25.2 The request shall be in writing and a cash deposit made in an amount determined by the Director-Personnel Commission prior to preparation, which shall not be less than the estimated cost of transcribing the hearing record.
- 19.5.25.3 The final cost of the transcript shall be the actual cost of preparation plus the cost of making copies as determined by the Director-Personnel Commission.
- 19.5.25.4 The transcript shall only be released upon payment in full. When the deposit is greater than the actual costs of the document (including the making of copies), the remainder shall be refunded to the party.

REFERENCE: Education Code Sections 45260 and 45261

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

- 19.5.26.1 If the Personnel Commission determines that there are sufficient grounds for disqualification, it may elect to disqualify the hearing officer or Personnel Commission member.
- 19.5.26.2 Where the disqualification request concerns a Personnel Commission member, the issue shall be determined by the other members of the Commission. However, no Commission member shall withdraw voluntarily or be subject to disqualification if his/her disqualification would prevent the existence of a quorum qualified to act in that particular appeal.

REFERENCE: Education Code Sections 45260 and 45261

19.5.27 COUNSEL FOR THE PERSONNEL COMMISSION: The Personnel Commission may seek and appoint legal counsel as part of its appeal and investigatory

hearing duties. To avoid any conflict of interest, the legal counsel shall not be the same counsel representing the Board of Education, nor shall the Board and the Commission be represented by members of the same legal firm in a hearing held pursuant to these Rules and Regulations. All reasonable costs associated with the use of such legal counsel by the Personnel Commission in hearings shall constitute a legal charge against the Board of Educations' general funds, whether or not the money or costs for legal services appear in the Commission's budget.

REFERENCE: Education Code Sections 45260, 45261, and 45313

CHAPTER 20

LAYOFF AND REEMPLOYMENT PROCEDURES

20.1 LAYOFF PROCEDURES

20.1.1 REASONS FOR LAYOFF: The layoff of classified employees shall only occur for a lack of work or a lack of funds, and only in accordance with the rules and regulations of the Personnel Commission and in accordance with Education Code Section 45298 and 45308. 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 office and a recognized exclusive representative may not provide for less than the mandated employee protections and procedures outlined in this rule. Amended 5/2/95

REFERENCE: Education Code Sections 45298 and 45308

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

- A. "Reemployment list" means a list of names of persons arranged in order of their right to reemployment, who have been laid off from permanent positions by reason of lack of work, lack of funds, abolishment or reclassification of position, or who take a voluntary demotion or voluntary reduction in assigned time in lieu of layoff or other reasons specified in these rules, and who are eligible for reemployment without examination in their former class.
- B. "Layoff" means layoff from employment or reduction in assigned time per day, week, month, or year. Amended 5/2/95

REFERENCE: Education Code Sections 45298 and 45308

20.1.3 LAYOFF RESOLUTION BY BOARD:

- A. Before any layoff notice can be issued, the Board shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by classification and assigned time. The layoff resolution shall be signed by the Clerk of the Board, and a copy shall be attached to each layoff notice.
- B. No regular employee shall be laid off from any position while employees serving under limited-term or provisional appointment are retained in positions of the same class unless the regular employee declines the limited-term or provisional assignment.
- C. The District shall notify the affected classified employees in writing a minimum of sixty (60) calendar days prior to the date of any layoff for lack of work or funds. The notice to the affected employee shall specify the reason for the layoff and be given by personal delivery or by certified mail to the last known home address of the employee on file in the Human Resources office. Failure of the employee to retrieve delivered mail, or

respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt. Amended 11-6-12.

D. A notice of layoff shall contain the following items:

1. The reason for the layoff
2. The employee's displacement rights, if any
3. The employee's reemployment rights
4. The right to an exit interview with the Director-Personnel Commission during working hours, with a representative of the exclusive representative (if applicable to the position) present
5. The name and classification of the employee designated for layoff
6. A statement that the employee may have a right to unemployment insurance
7. A statement that the employee has a right to continue insurance at their own expense

E. ADVANCE NOTIFICATION TO EXCLUSIVE REPRESENTATIVE: If any of the impacted positions are represented by a collective bargaining exclusive representative, the District Administration and the exclusive representative shall meet in advance of layoff notices being sent out to review the proposed layoff. A copy of each layoff notice will be sent to the exclusive representative. Amended 5/2/95

REFERENCE: Education Code Sections 45117, 45260, and 45261

20.1.4

ORDER OF LAYOFFS:

20.1.4.1a. In the event of layoff, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class plus higher classes shall be laid off first. Regular classified employees who have been laid off shall have the right of reemployment. Reemployment shall be in the reverse order of layoff. Human Resources staff shall prepare a layoff list by class and it shall be certified at a regular or special meeting of the Commission. The Superintendent or designee shall use the ratified list to affect the remainder of this Rule.

20.1.4.1b. Service credit shall be determined by hire date excluding hours paid on an overtime basis in the class and includes:

Regular assigned time in any higher class, or assigned time of a permanent employee to an exempt, limited term or temporary position.

Time on paid leave.

Time spent on leave without pay shall not be included when computing seniority, but all time spent on approved leaves with pay or military leave, illness, maternity, family care, or industrial accident leave shall count toward seniority accrual. In the event an employee returns to work following any other unpaid leave or absence, no

further seniority shall be accrued for the time not worked.

Time served by permanent employees in restricted status if the employee qualified for regular status without a break in service.

- 20.1.4.2 Service credit shall include time on paid leave, family leave, illness leave, maternity leave, industrial accident leave, or military leave.
- 20.1.4.3 Time served prior to a break in service shall not be counted in computing seniority unless the employee is reinstated, reemployed in regular status, or appointed in regular status from an eligibility list within thirty-nine (39) months after layoff.
- 20.1.4.4 When reclassification results in the merger of two or more classes or the separation of a class into two or more classes, seniority of a continuing regular employee whose former class has been abolished shall be counted from the date determined by the Personnel Commission to be the date the incumbent started regularly and continuously to perform the duties identified as the basis for the reclassification. Such a determination shall be made at the time that the reclassification is approved.
- 20.1.4.5 When all or a portion of the positions in a class is reclassified to a class on the same salary range, the extent of seniority credit to be granted incumbents of affected positions shall be determined by the Personnel Commission. The Commission will base its decision on the amount of seniority credit to be granted on the following factors and others that are pertinent to the case:
 - 20.1.4.5.1 The date of any change in the class description for the employee's former or new class.
 - 20.1.4.5.2 The date of any pertinent change in the classification plan.
 - 20.1.4.5.3 The date of any significant change in assigned duties or responsibilities as evidenced by requests for reclassification, and approval of the request for reclassification.
 - 20.1.4.5.4 Any date that will serve to establish the approximate date the employee first started performing the duties or responsibilities that provided the basis for reclassification of the position.
- 20.1.4.6 An employee transferred or reclassified from one class to a higher class shall not be credited in the new class with seniority accumulated in the class from which transferred, except as provided in 20.1.4.4.
- 20.1.4.7 When it is necessary to break a tie in seniority for the purpose of determining which employee is to be laid off or reassigned, the employee to be retained shall be the one who:
 - 20.1.4.7.1 Has the greater total seniority with the District.
 - 20.1.4.7.2 In case the tie remains selection shall be by who had the

higher rank on the eligibility list from which the tied employees were appointed. Amended 5/2/95

REFERENCE: Education Code Section 45308

20.1.5 BUMPING AND DISPLACEMENT RIGHTS: An employee in the classified service who is laid off from a class, and who has previous service in an equal or lower class, shall have the right to bump a less senior employee in that equal or lower class. No regular employee shall be laid off from any position while employees serving under limited-term or provisional appointment are retained in positions of the same class unless the regular employee declines the limited-term or provisional assignment.

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

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

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

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

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

20.1.5.6 If no such option is available, he/she may bump the employee with the least seniority among those occupying positions of less time than the original position and greater time than the reduced position; provided that he/she has greater seniority. An employee so bumped shall have similar bumping rights. The employee will repeat the sequence of options outlined in this Rule for the equal class position first. If no alternative is available in the equal class, the employee will repeat the sequence of options outlined in this Rule for the lower class. Amended 5/2/95

REFERENCE: Education Code Sections 45260, 45261, and 45308

20.1.6 VOLUNTARY DEMOTION: Displacement into a lower class shall be considered a voluntary demotion and salary placement shall be in accordance with the Rules on Salary on Demotion. An employee, after having had the opportunity to

exercise all rights guaranteed under this policy, who must be laid off and placed on a reemployment list will be selected first in reverse order of layoff for the first opening occurring in any class in which that employee had seniority for a period of up to thirty-nine (39) months. The following rules shall also apply.

- 20.1.6.1 If an employee is on any eligibility list and is laid off, that employee shall retain that position on such list until reemployed, selected, or expiration of the list.
- 20.1.6.2 Employees on reemployment lists shall be eligible to compete in promotional examinations for which they qualify.
- 20.1.6.3 Laid off employees do not accumulate seniority credit while on the reemployment lists.

REFERENCE: Education Code Sections 45260, 45261, and 45308

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

- 20.1.7.1 A permanent classified employee who will suffer a layoff for lack of work or lack of funds despite bumping rights, may be offered a transfer to a vacant position in an equal class or a voluntary demotion to a vacant position in a lower class, providing the employee is deemed qualified to perform the duties thereof as determined by the Director-Personnel Commission.
- 20.1.7.2 Any transfers which are being considered by exercising the options provided herein shall be made only after consideration of any permanent employees who have had an application for transfer on file.
- 20.1.7.3 A transfer from a position in one class to a position in another related class shall first be approved by the Director-Personnel Commission. Determination of whether classes are sufficiently related to permit transfer between them shall be based on the similarity of 1) duties; 2) minimum qualifications; and 3) examination content. 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, reclassification, or health or; when the employee meets the minimum qualifications for the class.
- 20.1.7.4 When additional hours are assigned to a regular employee the assignment shall be offered to the employee in the same class with the highest placement on the reemployment list providing the employee has more seniority than the employee given the additional hours.

REFERENCE: Education Code Sections 45260, 45261, and 45308

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

REFERENCE: Education Code Sections 45260 and 45261

20.1.9 PERMANENT EMPLOYEE RIGHTS AND PRIVILEGES:

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

20.1.9.1.1 Been laid off.

20.1.9.1.2 Been bumped by person with greater seniority to avoid layoff.

20.1.9.1.3 Been displaced from a class because of reclassification of a position.

20.1.9.1.4 Taken voluntary demotion to remain in the same position after reclassification.

20.1.9.1.5 Accepted demotion, transfer, or reduction in status in lieu of layoff from the District.

20.1.9.1.6 Returned from leave of absence and could not be assigned in the same class.

20.1.9.1.7 Failed to complete a probationary period in a class and could not be assigned in a class in which permanency had previously been achieved.

20.1.9.1.8 Accepted a reduction in assignment or time.

20.1.9.1.9 Accepted reduction in hours of employment because of the lack of bumping rights and placement opportunity.

20.1.9.1.10 Exhausted all paid and unpaid illness, industrial illness, or industrial accident leave and does not return to duty.

20.1.9.2 When any of the conditions described in Rule 20.1, above, exist, a reemployment list shall be established. A reemployment list may be established for a class, for positions on a specific assignment basis, for full time positions, or for a combination thereof. A reemployment list shall be used before any other means of filling a vacancy in the class or category for which the list was established.

Reemployment rights exist for 39 months, except that an employee who takes a voluntary demotion or reduction in assigned time in lieu of layoff shall have an additional 24 months.

- 20.1.9.3 A laid off employee shall retain rank on any eligibility list on which his/her name appears.
- 20.1.9.4 A permanent employee who has been laid off from the District shall continue to be a promotional candidate in examinations during the 39-month reemployment period.

REFERENCE: Education Code Sections 45260, 45261 and 45308

20.1.10 CERTIFICATION FROM A REEMPLOYMENT LIST:

- 20.1.10.1 Persons shall be certified from a reemployment list in the reverse order of layoff, provided that the person is willing and able to report for duty on the effective date of the appointment or within 14 days after the offer of reemployment has been made, whichever is later. In cases of limited term appointments, the former employee must be willing and able to report for duty on the effective date of the appointment, or the employee will be considered unavailable for the appointment.
- 20.1.10.2 A name may be removed from a reemployment list only for the following causes:
 - 20.1.10.2.1 Conviction of a crime or crimes which would be sufficient to support dismissal of a permanent employee.
 - 20.1.10.2.2 Conduct which would cause dismissal under the provisions of Section 45303 of the Education Code.
 - 20.1.10.2.3 Making false statements or omitting a statement as to any material fact on an application form or health advisory form.
 - 20.1.10.2.4 Dismissal for cause from employment subsequent to layoff.
 - 20.1.10.2.5 Employee removed from list shall be accorded a statement of reasons and the right to a hearing before the Personnel Commission. Written notice of removal and the reason therefore shall be provided to the employee, who shall be afforded and notified of appeal rights as those provided in Chapter 5.3.7.
- 20.1.10.3 A person whose name appears on a reemployment list may be given a medical examination prior to certification. Subject to the conditions described below, the employee may be considered unable to report for duty and may be passed over in the order of certification until the prescribed standards are met.
 - 20.1.10.3.1 The standards applied in the medical examination

shall be no more stringent than those that would be applied to a continuing employee to determine fitness for duty.

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

20.1.10.3.3 Written notice of nonapproval and the reason therefore shall be provided to the employee, who shall be afforded and notified of appeal rights identical to those provided in Chapter 5.3.7.

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

REFERENCE: Education Code Sections 45260, 45261 and 45308

20.1.11 PROBATIONARY EMPLOYEE RIGHTS: Should a probationary employee be laid off without fault or delinquency on his/her part before completion of the probationary period, the person's name shall be restored to the eligibility list.

REFERENCE: Education Code Sections 45260, 45261

20.2 LEAVE OF ABSENCE PRIOR TO LAYOFF

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

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

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

REFERENCE: Education Code Sections 45260, 45261 and 45308

20.3

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

REFERENCE: Education Code Sections 45260 and 45261

CHAPTER 21

RESIGNATIONS

21.1 RESIGNATION PROCEDURES

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

REFERENCE: Education Code Sections 45260 and 45261

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

REFERENCE: Education Code Section 45260

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

REFERENCE: Education Code Sections 45260 and 45261

21.1.4 TWO WEEK NOTICE OF RESIGNATION: Classified employees are requested to provide the District with at least two (2) weeks notice. Management classified employees are requested to provide at least four (4) weeks notice to the District.

REFERENCE: Education Code Sections 45260 and 45261

21.1.5 ACCEPTANCE OF RESIGNATION: No resignation of a classified employee shall be considered final until accepted by the Board of Education. *Amended 4/3/07*

REFERENCE: Education Code Sections 45260, 45261, and 45201

21.1.6 RESIGNATIONS SHALL BE SUBMITTED IN THE YEAR EFFECTIVE: A resignation shall take effect no later than the close of the fiscal year during which the resignation is received and accepted by the Board of Education.

REFERENCE: Education Code Sections 45201, 45260, and 45261

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

REFERENCE: Education Code Sections 45260 and 45261

21.2 HEALTH BENEFIT CONTINUATION UPON RESIGNATION

21.2.1 C.O.B.R.A. HEALTH CONTINUATION REQUIREMENTS: Under federal law employees and their families are provided a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where coverage under the health plan would otherwise end.

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

21.2.2 EMPLOYEE CONTINUATION UPON REDUCTION ON LAYOFF: A classified employee who is covered by the District's health plans has the right to continuation coverage as outlined in these Rules if the employee loses his/her group health coverage because of a reduction in hours of employment, or the termination of his/her employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations.

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

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

21.2.3.1 The death of the employee.

21.2.3.2 A termination of the covered employee's employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations, or a reduction in the covered employee's hours of employment with the District that results in a loss of health benefits. Amended 4/3/07

21.2.3.3 Divorce or legal separation from the employee.

21.2.3.4 The employee becomes eligible for Medicare.

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

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

21.2.4.1 The death of an employee covered by the plans. Amended 4/3/07

21.2.4.2 The termination of a covered employee's employment for reasons other than disciplinary cause as outlined in Chapter 19 of these Rules and Regulations with the District, or reduction in a covered employee's hours of employment with the District which results in a loss of health benefits. Amended 4/3/07

- 21.2.4.3 A covered employee's divorce or legal separation. Amended 4/3/07
- 21.2.4.4 A covered employee becomes eligible for Medicare. Amended 4/3/07
- 21.2.4.5 The dependent ceases to be a "dependent child."

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

- 21.2.5 RESPONSIBILITY TO NOTIFY DISTRICT IN STATUS CHANGE: The qualified beneficiary is required to notify the District of a divorce, legal separation, or a dependent child ceasing to be a dependent child under the District's health plans. Such notice must be provided within 60 days after the date of such event. Amended 4/3/07

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

- 21.2.6 DISTRICT SHALL SEND NOTIFICATION OF RIGHTS: Upon the occurrence of one of the qualifying events identified in Rules 21.2.2 through 21.2.4, the District shall provide written notice to the qualified beneficiary (covered employee, spouse or dependent) of such qualified beneficiary's eligibility to elect continuation coverage under the District's health plans. Such notice shall be provided within 14 days of any qualifying event described in Rule 21.2.2, and within 14 days from the date on which the District is properly notified of any qualified event described in Rule 21.2.3 or 21.2.4. The qualified beneficiary shall then have 60 days from the date on which coverage terminates under the District's applicable health plan by reason of such qualifying event to notify the District, in writing, that such qualified beneficiary is electing to receive continuation coverage. Amended 4/3/07

REFERENCE: 1. Sections 2205 and 2206 of the Public Health Service Act, 42 U.S.C. § 300bb-5, 300bb-6
2. Education Code Sections 45260 and 45261

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

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

- 21.2.8 REQUIREMENT TO PROVIDE SIMILAR COVERAGE: If an employee or eligible party chooses continuation coverage, the District is required to give health benefit continuation coverage which, as of the time coverage is provided, is identical to the coverage provided under the health plans to similarly situated employees or to family members with respect to whom a qualifying event has not occurred. Amended 4/3/07

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

21.2.9

LENGTH OF CONTINUATION COVERAGE PROVIDED: Upon a qualifying event, a qualified beneficiary eligible to receive continuation coverage under the District's health plans may elect to receive continuation coverage for a certain maximum coverage period. If the loss of coverage was a result of a termination of employment or a reduction in hours for reasons other than disciplinary cause, the maximum coverage period is eighteen (18) months from the date of the qualifying event. If the loss of coverage was a result of death, divorce, legal separation, loss of dependent status, or eligibility for Medicare, the maximum coverage period is thirty-six (36) months from the date of the qualifying event.
Amended 4/3/07

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

- 21.2.9.1 The District no longer provides group health coverage to any of its employees.
- 21.2.9.2 The premium for the continuation coverage is not paid on a timely basis with respect to the qualified beneficiary. Amended 4/3/07
- 21.2.9.3 The qualified beneficiary becomes covered under another group health plan that does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary. Amended 4/3/07
- 21.2.9.4 The qualified beneficiary becomes entitled to Medicare. Amended 4/3/07

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

21.2.10

NO EVIDENCE OF INSURABILITY NECESSARY: A qualified beneficiary is not required to prove insurability to choose continuation coverage. Amended 4/3/07

- REFERENCE:** 1. Section 2202(4) of the Public Health Service Act, 42 U.S.C. § 300bb-2
2. Education Code Sections 45260 and 45261

21.2.11

PAYMENT OF PREMIUM: The qualified beneficiary receiving continuation coverage under the District's health plans is required to pay 102% of the applicable premium for the period of such coverage. The "applicable premium" means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee). Failure to pay the premium within 30 days of the date on which such premium payment is due will result in a termination of the continuation coverage. Amended 4/3/07

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

21.2.12

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

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

CHAPTER 22

APPEAL OF MEDICAL EXAMINATIONS

22.1 APPEALS OF MEDICAL DISQUALIFICATIONS OF CLASSIFIED EMPLOYEES AND ELIGIBLES

22.1.1 MEDICAL DISQUALIFICATION: The Commission's Rules that provide for medical disqualification of eligibles and laid off employees and for disciplinary actions against employees are Chapters 4, 19, and 20. A summary of actions related to medical concerns that may be appealed is as follows:

22.1.1.1 Disqualification of an eligible.

22.1.1.2 Refusal of reemployment, reinstatement, or return from leave of absence based on District health standards.

22.1.1.3 Dismissal for health reasons to the extent permitted by federal and state laws. Amended 4/3/07

22.1.1.4 Placement of an employee on involuntary illness leave to the extent permitted by federal and state laws. Amended 4/3/07

22.1.2 PROCEDURE TO FOLLOW: The procedure set forth below shall be followed in the actions described in 22.1.1 above.

22.1.2.1 The Director-Personnel Commission shall notify the individual in writing of the reason for the action and of the opportunity for written appeal to the Personnel Commission within fourteen (14) days. The notice shall state that appeal may be made on the grounds listed in Chapter 19 or on the basis that the disqualification was not in accord with the health standards or federal and state laws set forth in the Rules of the Board of Education. If a current employee is involved, a copy of the notice shall be provided to the appropriate administrator. Amended 4/3/07

22.1.2.2 If appeal is made to the Commission, the appellant shall be notified that the matter will be investigated and that the appellant bears the burden of proof. The appellant shall be invited to submit, in support of the appeal and at appellant's expense, written medical or laboratory reports, x-rays, photographs, other exhibits or written statements as appropriate.

22.1.2.3 The Personnel Commission shall determine whether the appeal will be the subject of a special investigation or a hearing by a medical examiner.

22.1.3 MEDICAL EXAMINATION: A medical examiner is the representative of the Commission and is authorized to grant or refuse extensions of time, to set proceedings for examination of facts to appoint a medical expert or specialist to examine the appellant, and to perform any and all acts in connection with such

proceedings that may be authorized by these Rules. A medical examiner's findings and recommendations shall be based on health standards established by the Board of Education.

Expenses for the services of the medical examiner shall be in the Personnel Commission's budget.

A medical examiner may appoint a medical expert or specialist to examine the appellant and report finds to the medical examiner or may require additional information from the appellant or the District.

Expense of a special physical examination initiated by the medical examiner shall be paid by the appellant; if the appeal is sustained, the employee shall be reimbursed by the Board of Education for the fees of the medical expert or specialist. The medical examiner shall report its findings and recommendations to the Personnel Commission. The Personnel Commission shall provide copies of the findings and recommendations to the appellant, and, if the appellant is an employee, to the appropriate division head.

22.1.3.1 The appellant shall consent to the release of all medical records requested for review to the extent permitted by federal and state laws. Amended 4/3/07

22.1.4 FINDINGS & RECOMMENDATIONS: The medical examiner's or special investigator's written findings, and recommendation shall be considered by the Commission. The decision of the Personnel Commission shall be rendered in writing. Copies of the decision shall be sent to the appellant, and, if the appellant is an employee, to the Superintendent.

22.1.5 DECISION OF THE PERSONNEL COMMISSION: The decision of the Personnel Commission shall include instructions to the administration regarding the action to be taken as a result of the appeals. If an eligible is given health approval for employment, his/her name shall be restored or added to the eligibility list and retained on the eligibility list for certification for the balance of the life of the list. The adding of names to eligibility lists shall not invalidate appointments made from such lists from the time the lists were established until the names were restored or added.

22.1.6 FAILURE OF APPELLANT TO APPEAR: Failure of the appellant to appear at times established for examination of persons or facts shall be deemed a withdrawal of the appeal, and the case shall be closed.

REFERENCE: Education Code Sections 45122, 45260 and 45261